Social Security Amendments of 1946-48

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79TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No 2526

SOCIAL SECURITY ACT AMENDMENTS OF 1946

JULY 15, 1946.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DOUGHTON of North Carolina, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 7037]

The Committee on Ways and Means, to whom was referred the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

SCOPE OF THE BILL

The scope of the bill is in general indicated by its five titles, which are:

Title I—Social Security Taxes.
Title II—Benefits in Case of Deceased World War II Veterans.
Title III—Unemployment Compensation for Maritime Workers.
Title IV—Technical and Miscellaneous Provisions.
Title V—State Grants for Old-age Assistance, Aid to Dependent Children, and Aid to the Blind.

Title I amends the Federal Insurance Contributions Act so as to fix employer and employee contributions rates at 1 percent each, for the calendar year 1947. It also repeals a section added to the Social Security Act in 1943, authorizing the Congress to make any necessary appropriations to the old-age and survivors insurance trust fund.

Title II amends the old-age and survivors insurance provisions (title II of the Social Security Act) by adding provisions with respect to veterans who die within 3 years after discharge. In general, it guarantees survivors of veterans within its purview the same old-age and survivors insurance benefit rights they would have enjoyed had the veteran died fully insured under old-age and survivors insurance,

with $160 per month average wages and as many years of coverage as the calendar years in which he had military service after September 16, 1940.

Title III amends the Unemployment Compensation Tax Act so as to include maritime employment, and authorizes the States, under specified conditions, to subject maritime employment to State unemployment compensation laws. As credits under regular State coverage will not be effective for some time, the bill also provides for benefits during a temporary period, ending June 30, 1949. During this period unemployed seamen with Federal maritime service credit because of service on vessels operated by the Maritime Commission may receive unemployment compensation, using such credit for benefits under unemployment-compensation laws. Additional costs for paying these temporary benefits will be borne by the Federal Government.

Title IV contains an amendment extending title V of the Social Security Act (child welfare) to the Virgin Islands. The remainder of the provisions are in general technical changes facilitating payments and adjusting certain minor anomalies and inequities under old-age and survivors insurance.

Title V makes temporary changes in old-age assistance, aid to the blind, and aid to dependent children by lifting the ceiling of Federal matching.

An explanation of the purposes, provisions, financial incidents, etc., of each of the above titles is given later in this report. A section-by-section analysis is also given.

Investigation of the Social Security Act

Pursuant to House Resolution 204, adopted on March 26, 1945, the Committee on Ways and Means has made a comprehensive investigation of the Social Security Act. The technical staff employed to review and report on operations under the act and problems of coverage, benefits, and taxes related thereto, filed a comprehensive report in January of this year, and extensive hearings have been held subsequently.

As stated by the chairman on June 7, 1946, the concluding day of the hearings:

> We began these hearings about the 25th of February; the committee has worked with reasonable regularity from then until now. We have heard each and every witness who has asked to appear, and this completes the calendar for today, and unless there is some reason advanced by some member, that we should continue the hearings longer, the Chair will announce the hearings closed as of now.

The printed report of these hearings is 1,510 pages in length, and covers the testimony of 157 witnesses who appeared before the committee, as well as statements of other witnesses.

As a result of the investigation and hearings, the Congress now has available a body of information essential to making needed changes in the various social security programs. The Committee on Ways and Means is impressed, however, with the importance of careful and painstaking consideration of many types of changes, such as fixing an appropriate tax schedule, the extension of coverage under old-age and survivors insurance, the benefit formulas, and the extension of benefits, all of which are interrelated.

Your committee has been faced with pressing matters, such as the Philippine Trade Act, which required extended consideration and necessarily interrupted consideration of social-security legislation. Accordingly, the time for considering and reporting on social-security legislation for immediate enactment by the Congress has been so limited that consideration of various proposed basic changes could not be undertaken at this time.

The bill is limited in scope and deals only with comparatively simple and noncontroversial legislative changes which could be speedily prepared by the committee and enacted by the Congress. The provisions of the bill relating to old-age and survivors insurance tax rates and also those relating to benefits for survivors of veterans and to matching ceilings for the three assistance programs are all for temporary periods. It is contemplated that these matters will be considered along with other proposals for permanent changes in the program as early as practicable.

PURPOSES AND EFFECTS OF THE BILL

TITLE 1—SOCIAL-SECURITY TAXES

The purposes of this title are—

(1) To extend the present rates for employer and employee contributions under the Federal Insurance Contributions Act for a period of 1 year beginning January 1, 1947; and

(2) To repeal the provisions authorizing appropriations to the old-age and survivors' insurance trust fund. This provision was enacted in 1943 in connection with the freezing of the contribution rates of employer and employee at 1 percent of covered wages.

Under the original act, the contribution rates would have advanced to 1½ percent in 1940 and by the 1939 amendments the 1-percent rate was retained for an additional 3 years. Since 1942 the 1-percent rate has been frozen for successive years, but in the absence of legislation will advance to 2½ percent January 1, 1947, and to 3 percent January 1, 1949. It would appear desirable that the present rate should be continued a year pending decision as to various proposed basic changes in the program.

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

The purpose of this title is to bridge the gap in survivorship protection which a serviceman experiences when he shifts from wartime military service to established civilian employment. It undertakes to do this by adding a new section to the Social Security Act, section 210, which provides survivors' insurance protection for a period of 3 years following discharge from the armed forces to veterans who were in active military or naval service of the United States after September 16, 1940, and prior to the termination of World War II.

In general, an individual must fulfill one of two requirements in order to be insured for survivors' benefits under the old-age and survivors insurance program. Either he must have worked in employment under the program for approximately half of the time elapsing after 1936, or after age 21, and prior to the time of his death or he must have worked in covered employment for one-half of the 3 years immediately preceding his death. Since service in the armed

forces is not credited for old-age and survivors insurance purposes, many veterans upon discharge from service will have lost whatever protection they may have acquired under the program or by reason of their military service will have failed to gain the protection they might otherwise have acquired. Moreover, in computing a veteran's "average monthly wage" upon which old-age and survivors insurance benefits are based, it is usually necessary under present law to include in the computation the months in which the veteran was in service, even though wages are not credited for these months. Consequently, even where the veteran does not lose his protection entirely by reason of his military service, his average wage and the benefits based on it will be reduced.

After the veteran has been back in civilian life for a reasonable period, he can be expected to have gained or regained his insurance protection. It is thought that 3 years is a reasonable time within which the veteran may be expected to acquire or reacquire old-age and survivors insurance protection since he need only work during one-half of the 3 years immediately prior to death in order to have survivorship protection. In consequence, this section provides survivorship protection to the veteran's family for 3 years after discharge from service.

The amendment also provides for a minimum "average monthly wage" for the veteran during the 3-year period. This provision is needed to insure payment of adequate benefits.

The proposed new section 210 provides that any veteran who meets its service requirements (which, in general, are similar to those of the Servicemen's Readjustment Act of 1944, as amended) and who dies, or who has died within 3 years after separation from active military or naval service, shall be deemed to have died a "fully insured individual," to have an average monthly wage of not less than $160, and to have been paid wages of $200 in each calendar year in which he had 30 days or more of active military or naval service after September 16, 1940. The fact that the serviceman is deemed to have died a "fully insured" individual will mean that his survivors will be eligible for any of the various types of benefits provided under Old-Age and Survivors' Insurance. The purpose of the $160 average monthly wage is to insure a certain minimum level of benefits. This average monthly wage is believed to be realistic as an average of military pay, including quarters and subsistence allowances, the Government's share of family-allowance payments and other similar benefits. The effect of the provision deeming the veteran to have been paid wages of at least $200 in each year of military service will be to increase the basic amount on which benefits are computed by 1 percent for each such year. Under present law, an individual gets such a 1 percent increment for each year in covered employment and it would seem equitable to treat service in the armed forces on a parity with civilian employment.

The benefits provided will not be available where death occurs in active military or naval service, since other benefits are, in general, payable in such cases. Neither will they be available by reason of the death of a veteran discharged after the expiration of 4 years and 1 day following the termination of World War II. The objective of this bill is to provide protection for those who served during the war and those who reenlist during the war period.

The section provides a further limitation on entitlement to benefits based on the guaranteed insured status. It bars the survivors of a veteran from receiving benefits for any month for which pension or compensation under veterans' laws is determined by the Veterans' Administration to be payable. (This provision does not preclude, however, payment of survivors' insurance benefits based on covered employment before or after the veteran's military service, but only precludes payment of the special benefits provided by the proposed legislation.) This limitation is believed to be necessary to prevent the dependents of certain veterans who survived the hazards of war but die within 3 years after discharge under circumstances entitling such dependents to veteran's pensions, from receiving additional benefits for which the dependents of servicemen who died in line of duty are ineligible, and to avoid duplication by the Government of payments designed to meet comparable objectives. The cost of the section would be borne by the Federal Government rather than by the employers and employees who contribute to the trust fund.

Enactment of this section would assure the survivors of veterans covered by the measure of a guaranteed minimum level of benefits. Under the old-age and survivors insurance program, benefits to survivors are computed as fractions of an amount called the "primary insurance benefit," which is based on the average monthly wage of the individual and on the number of years in which he received $200 or more in wages. A guaranteed average monthly wage of $160 will insure that this primary insurance benefit amount will not be less than $31. In addition, this benefit amount will be increased by 1 percent for each calendar year in which the veteran had at least 30 days' service.

The primary insurance benefit amount for an eligible veteran who served, for example, 4 years in the armed forces, and had no other covered employment, would be $32.24. In the event of his death within 3 years, if no compensation or pension is payable by the Veterans' Administration, his widow, if she has a child of the veteran in her care or upon attainment of age 65, will be eligible to receive a monthly benefit amounting to three-fourths of the primary benefit amount, or $24.18 a month. His children under age 18 will each be eligible for one-half of the primary insurance benefit amount, or $16.12 a month; and his dependent parents, in the absence of a wife or child surviving the veteran, will each be eligible to receive one-half of the primary insurance benefit amount. The maximum amount of benefits payable in any month on the basis of any one veteran's death would be twice his primary insurance benefit amount, or, in the illustration mentioned above, $64.48 a month.

It has been estimated by the Federal Security Agency that the cost of this program through the year 1959 would amount to $175,000,000 and would probably benefit the survivors of approximately 105,000 veterans of World War II.

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

The purposes of this title are—

(1) To effect permanent coverage of maritime employment under State unemployment-compensation systems; and

(2) To provide temporary protection for persons whose maritime employment has been with general agents of the War Shipping Administration and thus has been technically Federal employment.

To accomplish the first of these purposes the Federal Unemployment Tax Act is amended to extend coverage to private maritime employment—with the same definition of maritime employment as was used in extending old age and survivors insurance to maritime employment in 1939.

In addition the bill authorizes the State in which operations of a vessel are regularly supervised, managed, directed, and controlled, to extend its unemployment-compensation law to, and require contribution with respect to employment of, seamen on such vessel. The permission is thus granted in such form as to safeguard the operator of a vessel from possible taxation of employment on the vessel by two or more States.

The permission in addition safeguards various interests by (1) requiring that seamen's service, for purposes of wage credits, shall be treated like other services of covered employees of the employer, and (2) imposing the same conditions on the permission as have been imposed by the Federal authorization to tax Federal instrumentalities.

To accomplish the second purpose of the title, immediate protection is provided seamen whose employment could not have been covered by State laws because they were employed on behalf of the United States by general agents of the War Shipping Administrator. This protection in no event would extend beyond June 30, 1949.

The bill provides in general that these seamen shall receive the same benefits as would have been payable had their Federal maritime employment been under the State unemployment compensation law. Payments normally would be made pursuant to agreements between the State and the Federal Security Administrator, the States being reimbursed for additional costs incurred in making payments under the agreement. Only in case of failure of such an agreement would a direct payment be made the seaman by the Administrator, and in such case the terms, conditions, and amount of the payment would follow the State law. Some of the more important of the provisions of the title are referred to later.

During the war years employment in the maritime industry increased very substantially. According to testimony presented to the committee, the labor force in offshore shipping, which is the largest branch of the trade, numbered between 55,000 to 65,000 in 1939, compared with about 230,000 at present; jobs currently available total 186,000; our staff reported about 52,000 in the second quarter of 1939. On the Great Lakes there are 14,000 to 15,000 seamen; the committee's social-security staff reported an average of 11,310 in the 1939 season. In addition to the offshore and Great Lakes employment, there are maritime workers employed on inland rivers, lakes, and in harbors, aggregating probably approximately the same number as on the Great Lakes.

From the point of view of unemployment compensation the most critical problem is that of deep-sea shipping. If the volume of maritime operations should decline within the next few years to the level of the immediate prewar period there would not be maritime employment for perhaps two-thirds of those who are now employed in it; even if the permanent postwar level is 50 percent above that of prewar, probably not more than one-half of the present labor force would

be needed. At the present time because of the great demand for the products of American industry and agriculture abroad it appears unlikely that a material decline is in prospect in the near future. But when and if such decline does occur it is of great importance, both to those who will become unemployed, to the industry and to the country, that the maritime workers be placed in other industries in jobs for which their training and experience fit them.

In the next few months the States will again become the operators of the United States Employment Service. The use of the facilities of that service will become of great importance if and when it becomes desirable to reduce the size of the maritime labor force because of a permanent fall in the volume of overseas shipping. This possibility of a permanent decline in employment is of the utmost importance in the formulation of a policy with respect to the maritime unemployment insurance system; the need for merging any surplus maritime workers into the general labor force is paramount. The committee believes, therefore, that the coverage of maritime workers under State systems of unemployment compensation is to be preferred to coverage under a separate maritime system.

It is conceivable that the transfer of surplus workers, if the permanent decline develops, may take time; and during the transfer period there might be substantial unemployment. If there were a a maritime unemployment compensation system separate and distinct from all the others, it might be subjected to a heavy drain for benefits. Divided among a number of States, with maritime coverage in none of them constituting an important fraction of the total, such a drain might be almost unnoticed. The committee heard no testimony, however, which would indicate the probability of such a drain materializing in the next 3 years.

The committee recognizes that because of the fact that the great bulk of maritime work has been carried on by employees of the Federal Government since the beginning of the war the mere coverage of private maritime employment under the laws of the several States will not afford full protection for most maritime workers for whatever unemployment may occur in the next 2 or 3 years. The bill therefore authorizes the Federal Security Administrator to make arrangements with the States under the terms of which the States would extend credit for Federal maritime wages in calculating benefits under their own State laws. The bill further provides that the Federal Government will reimburse the States for such costs as are incurred in the process of crediting Federal maritime wages and paying benefits thereon, which would not otherwise have been incurred.

Congress could have created an unemployment-compensation system for maritime workers and exclude from State jurisdiction the workers who were covered by such system. The fact that the Congress has, as a matter of policy, decided not to do so, does not preclude making another choice if the necessity arises at some future time. The Congress has long been concerned with the duty of fostering and protecting the instrumentalities of foreign and interstate commerce. It has, by many enactments, specifically encouraged, if not made possible, the maintenance of an adequate merchant marine. Such adequacy has been fostered not only by laws intended to encourage and enable employers to engage in the trade but also by provisions for the protection for seamen. In making the choice as to a long-time

arrangement the committee believes that the Congress should be concerned to see to it that the peculiarities of the seamen's trade do not result in unwarranted discriminations against them.

When the Congress, in amending the Internal Revenue Code in 1939, authorized the States to lay a tax against national banks and certain other Federal instrumentalities for unemployment insurance purposes, it specified that such authorization was to apply only to the extent that no discrimination was made against the instrumentality, so that if the rate of contribution is uniform upon all other persons subject to the unemployment compensation and tax law of a State on account of having individuals in their employ, and upon all employees of such persons, the contributions required of such instrumentality or the individuals in its employ were not to be at a greater rate than was required of such other persons and such employees. Further, if the rates were determined separately for different classes of persons having individuals in their employ or for different classes of employees, the determination was to be based solely on unemployment experience and other factors bearing a direct relation to unemployment risks. Again, the authorization applied only so long as the State unemployment compensation and tax law was approved by the Social Security Board under section 1603 of the Internal Revenue Code; and only if such law made provision for the refund of any contributions required under such law from an instrumentality of the United States or its employees for any year in the event such State was not certified by the Social Security Board under the said section with respect to such year. Because of the settled policy of fostering and protecting the merchant marine, the committee believes that the Congress should attach the same conditions to the authorization of the States to levy taxes on maritime employers and maritime workers as were attached to the similar grant in connection with certain Federal instrumentalities.

The Congress has also been concerned with the protection of the maritime workers. The laws affecting maritime employment are primarily Federal and not State laws; whereas in the case of the Federal instrumentalities which were affected by section 1606 (b) of the Internal Revenue Code, the statutes affecting employment are mainly those of the States. With respect to seamen, therefore, the Congress is in a somewhat different position than it was with respect to employees of national banks and the other Federal instrumentalities dealt with by section 1606 (b) of the Internal Revenue Code. The Federal interest in maritime employment would appear to afford a basis not only for prohibiting discrimination with respect to contributions but also in assuring equality of treatment of maritime workers with respect to benefits. But the prohibition of discrimination has possible ramifications which require exploration before that course of action could safely be followed. The committee believes, therefore, it would be inadvisable to lay down a blanket prohibition against discrimination or to attempt to fix standards for the benefit of seamen. There has been included in the bill, however, a provision which enunciates the principle of no discrimination as compared with other employees of the same employer as regards wage credits. The language is included as an indication of general intent, subject to review if the occasion warrants, in cases in which actions taken in connection with extending the coverage of State unemployment-compensation laws to

maritime workers are alleged to have resulted in unwarranted and unjust distinctions.

The committee has been concerned with the protection of seamen not only because of the normal interest of the Congress in maritime affairs but also because of testimony presented to the committee indicating a possible tendency to include in State laws special provisions with respect to seamen which would affect them unfavorably as compared with other workers. Such action has in fact already occurred in two States. The committee has, for this reason, thought it important to point out the problem so raised. The committee expresses the hope that the indication of intent will serve as a sufficient guide in the implementation of the long-range objective embodied in the proposed sections 301 to 305.

Testimony before the committee also indicated that one of the major concerns of maritime workers has been the safeguarding of union hiring halls; they feel that the employment system now in effect in the maritime industry has served to prevent abuses from which they suffered in times past. Seamen are concerned at the possibility that the establishment of unemployment insurance will become either the occasion or the means for breaking down existing employment practices.

Under the contracts in effect between the maritime labor unions and the maritime employers the hiring hall is the normal agency through which the employer recruits seamen, and in some cases, licensed personnel. It is no part of the function of unemployment-insurance to break down the established employment procedures of an industry. On the contrary, since the operation of an unemployment-insurance system is intended not only to pay benefits but also to make sure that unemployed workers have every opportunity to obtain employment, it is highly desirable that the unemployment-insurance agencies make use of the normal channels for obtaining employment and not attempt to supplant them.

The cost of the temporary protection which would be afforded under the proposal is most difficult to estimate. The cost will depend on such factors as the degree of unemployment during the reconversion period in the maritime industry and in nonmaritime industries. It will also depend upon the extent persons with Federal maritime credit also have other credit which is used along with their Federal maritime credit in computing their benefits.

Assuming that the general rate of maritime and non-maritime unemployment never gets higher than at present, the cost should not exceed $3,000,000 for the entire reconversion period. On the other hand, if maritime and non-maritime unemployment reaches a higher level, the annual cost of the temporary benefits may be substantially higher.

TITLE IV. TECHNICAL AND MISCELLANEOUS PROVISIONS

The purpose of the first of the amendments under this title is to extend the provisions of title V of the Social Security Act (Child Health and Welfare Services) to the Virgin Islands. The title at present includes Puerto Rico, and testimony before the committee established both the need for and equity of this extension.

The Virgin Islands has a population of about 32,000. There were 609 births in St. Thomas in 1945, and of this number 78 infants died before they were 1 year of age, the rate being 128 per thousand live births, which is much higher than for any State. There were 3 maternal deaths. This is equivalent to a mortality rate of 49 per 10,000 live births. There was no State which had a rate which exceeded this in 1943.

Diarrhea is very prevalent among children, and this disease causes many deaths. Malnutrition among children is great. No real effort has been made to locate crippled children on the islands. Funds are needed for clinic, hospital, and field services.

A high rate of illegitimacy, large numbers of children becoming delinquent—many of them because of neglect and broken homes—much truancy, coupled with lack of provision to cope with these problems, point to a great need for child welfare services.

It has been estimated by the Children's Bureau that the annual cost of the proposed extension will be around $65,000.

The remainder of the amendments in this title are those affecting old-age and survivors insurance.

During the 7 years of operation of Federal old-age and survivors insurance a number of administrative problems have developed. In some cases, technical provisions of the law result in a denial—probably unintended—of benefits in situations where equity would require payment. In other cases, inequalities in benefits, anomalous situations, and provisions which require an undue amount of administrative machinery have come to light. The changes proposed would correct these minor flaws. The section-by-section analysis, which follows this part of the report, points out the purpose and effect of these amendments.

The proposed changes would require no appropriation and would entail comparatively minor additional costs to the Old-Age and Survivors insurance trust fund.

TITLE V.—STATE GRANTS FOR OLD-AGE ASSISTANCE, AND TO DEPENDENT CHILDREN, AND AID TO THE BLIND

The purpose of title V is to increase temporarily Federal participation in old-age assistance, aid to the blind, and aid to dependent children through an increase in the Federal matching maximums.

Increase in amounts subject to Federal matching.—Under the present law, the Federal Government reimburses all States for 50 percent of their assistance payments up to maximums of $40 for old-age assistance and aid to the blind and, for aid to dependent children, $18 for the first child in a family and $12 for each additional child. Thus, at present, Federal funds may represent no more than $20 a month of the payment to an aged or blind person and, for families receiving aid to dependent children, $9 a month for one child receiving aid and $6 additional for each other child aided in the family.

The bill provides that during the period October 1, 1946 to December 31, 1947, inclusive, the Federal matching maximums be raised from $40 to $50 for old-age assistance and aid to the blind and, for aid to dependent children, from $18 and $12 to $27 and $18 for the first and additional children, respectively, in the same family. Thus, for payments to the aged and blind, the maximum Federal contribu-

tion would be $30, and in aid to dependent children, $13.50 for the first child and $9 additional for each other child aided.

Estimated cost of committee amendment.—On the basis of State and local expenditures in 1943–44, it is estimated roughly that the provisions of the bill would have increased the cost to the Federal Government for assistance payments by about $47,538,000. This estimate of the increase assumes that the States would spend all the additional Federal money to raise assistance payments. The additional cost might be more or less than this amount. The cost to the Federal Government would be greater if the States increased the amount of State and local expenditures. Already States have found it necessary to increase expenditures over the amount in 1943–44 because of the rising cost of living and the increase in the number of needy persons since the end of the war. The data on recipients and payments in April 1946 are shown in tables 1 to 3, inclusive.

Effective date of amendments.—To enable the States as quickly as possible to benefit from the increase in Federal funds, the committee proposes that the amendments become effective September 30, 1946. Some States will be required to amend their public-assistance plans to adjust to the changes in relative Federal, State, and local shares in the costs of assistance and administration and to permit payments in excess of current State maximums on individual payments. Some States, however, will be able to benefit from the amendments without changing their plans.

TABLE 1.—*Old-age assistance—Recipients and payments to recipients, by State, April 1946*

State	Number of recipients	Payments to recipients		State	Number of recipients	Payments to recipients	
		Total amount	Average			Total amount	Average
Total	2,088,025	$65,444,935	$31.34	Missouri	103,857	$2,863,602	$27.57
				Montana	10,759	349,777	32.51
Alabama	37,763	638,987	16.92	Nebraska	24,158	775,835	32.12
Alaska	1,357	55,164	40.65	Nevada	1,940	75,170	38.75
Arizona	9,617	372,623	38.75	New Hampshire	6,583	204,188	31.02
Arkansas	26,578	448,385	16.87	New Jersey	22,938	758,458	33.07
California	160,811	7,640,809	47.51	New Mexico	6,475	202.104	31.21
Colorado	40,537	1,681,219	41.47	New York	103,868	3,972,291	38.24
Connecticut	14.525	598,646	41.21	North Carolina	32,703	451,647	13.81
Delaware	1,198	22,558	18.83	North Dakota	8,695	301,800	34.71
District of Columbia	2,308	77,561	33.61	Ohio	116,355	3,668,799	31.53
Florida	44,611	1,347,755	30.21	Oklahoma	84,984	3,006,691	35.38
Georgia	68,643	869,896	12.67	Oregon	20,782	814,224	39.18
Hawaii	1,467	36,375	24.80	Pennsylvania	85,345	2,633,205	30.85
Idaho	9,828	321,865	32.75	Rhode Island	7,503	263,179	35.08
Illinois	124,834	4,211,859	33.74	South Carolina	22,540	361,078	16.02
Indiana	54,162	1,426,508	26.34	South Dakota	12,678	341,816	26.96
Iowa	48,378	1,622,805	33.54	Tennessee	38,026	618,301	16.26
Kansas	29,140	896,409	30.76	Texas	178,806	4,399,652	24.61
Kentucky	44,832	524,919	11.71	Utah	12,792	499,539	39.05
Louisiana	37,264	782.664	21.00	Vermont	5,199	123,282	23.71
Maine	15,097	464,561	30.77	Virginia	14,889	226,608	15.22
Maryland	11,455	323,569	28.25	Washington	64,794	3,443,361	53.14
Massachusetts	78,729	3,638,808	46.22	West Virginia	18,669	319,207	17.10
Michigan	88,618	2,959,507	33.40	Wisconsin	46,093	1,420,930	30.83
Minnesota	54,308	1,807.246	33.28	Wyoming	3,496	136,269	38.98
Mississippi	27,038	443,224	16.39				

TABLE 2.—*Aid to dependent children: Recipients and payments to recipients, by State, April 1946* [1]

State	Number of recipients		Payments to recipients	
	Families	Children	Total amount	Average per family
Total	300,936	772,570	$16,195,053	$53.82
Total, 50 States [2]	300,885	772,472	16,193,465	53.82
Alabama	6,566	18,257	185,746	28.29
Alaska	84	240	4,338	51.64
Arizona	1,749	5,084	70,112	40.09
Arkansas	4,277	11,422	119,027	27.83
California	7,582	19,289	674,750	88.99
Colorado	3,674	10,034	227,774	62.00
Connecticut	2,607	6,486	235,946	90.50
Delaware	272	782	20,320	74.71
District of Columbia	733	2,344	48,796	66.57
Florida	6,563	16,214	223,958	34.12
Georgia	4,500	11,355	120,296	26.73
Hawaii	610	1,922	42,950	70.41
Idaho	1,380	3,738	85,025	61.61
Illinois	21,564	52,176	1,450,997	67.29
Indiana	6,416	15,431	243,695	37.98
Iowa	3,526	9,054	118,962	33.74
Kansas	3,422	8,776	195,953	57.26
Kentucky	5,656	14,910	121,293	21.45
Louisiana	9,324	24,414	330,179	35.41
Maine	1,589	4,514	115,730	72.83
Maryland	3,687	10,619	139,696	37.89
Massachusetts	8,105	20,208	693,825	85.60
Michigan	16,281	39,012	1,122,839	68.97
Minnesota	5,077	12,876	272,445	53.66
Mississippi	3,275	8,623	86,138	26.30
Missouri	14,070	37,145	509,035	36.18
Montana	1,457	3,852	80,380	55.17
Nebraska	2,487	5,916	162,072	65.17
Nevada	*51*	*98*	*1,588*	*31.14*
New Hampshire	920	2,363	65,440	71.13
New Jersey	3,520	8,945	226,077	64.23
New Mexico	2,781	7,338	102,790	36.96
New York	27,632	67,023	2,265,167	81.98
North Carolina	6,404	17,326	178,318	27.84
North Dakota	1,476	4,135	88,774	60.14
Ohio	8,154	22,324	468,217	57.42
Oklahoma	18,395	44,902	644,168	35.02
Oregon	1,377	3,421	116,988	84.96
Pennsylvania	30,474	80,304	2,004,819	65.79
Rhode Island	1,713	4,373	116,740	68.15
South Carolina	4,144	12,102	96,907	23.38
South Dakota	1,642	3,998	64,496	39.28
Tennessee	11,648	30,780	358,042	30.74
Texas	8,290	20,325	232,082	28.00
Utah	2,048	5,522	154,775	75.57
Vermont	607	1,616	21,874	36.04
Virginia	3,812	10,891	130,624	34.27
Washington	4,880	12,020	448,010	100.00
West Virginia	7,733	21,543	243,096	31.44
Wisconsin	6,384	15,646	404,618	63.38
Wyoming	318	882	19,166	60.27

[1] Italic figures represent program administered without Federal participation. Data exclude programs administered without Federal participation in Florida, Kentucky, and Nebraska, which administer such programs concurrently with programs under the Social Security Act; see the Bulletin, April 1945, p. 26. All data subject to revision.

[2] Under plans approved by Social Security Board.

TABLE 3.—*Aid to the blind: Recipients and payments to recipients, by State, April 1946* [1]

State	Number of recipients	Payments to recipients		State	Number of recipients	Payments to recipients	
		Total amount	Average			Total amount	Average
Total	72,738	$2,462,533	$33.85	Mississippi	1,533	$34,909	$22.77
				Missouri	*2,786*	*[4] 83,580*	*[4] 30.00*
Total, 47 States [2]	56,796	1,856,212	32.68	Montana	344	12,231	35.56
				Nebraska	435	14,136	32.50
Alabama	841	14,764	17.56	Nevada	*27*	*1,252*	[3]
Arizona	512	23,961	46.80	New Hampshire	285	9,119	32.00
Arkansas	1,162	21,814	18.77	New Jersey	550	19,155	34.83
California	5,743	333,121	58.00	New Mexico	244	6,900	28.28
Colorado	446	16,314	36.58	New York	3,066	131,641	42.94
Connecticut	137	5,224	38.13	North Carolina	2,543	53,399	21.00
Delaware	40	1,221	[3]	North Dakota	116	4,047	34.89
District of Columbia	198	7,294	36.84	Ohio	3,087	87,004	28.18
Florida	2,325	73,031	31.41	Oklahoma	1,963	71,712	36.53
Georgia	2,060	31,820	15.45	Oregon	369	17,605	47.71
Hawaii	63	1,688	26.79	Pennsylvania	*18,129*	*521,489*	*29.72*
Idaho	200	7,004	35.02	Rhode Island	107	3,685	34.44
Illinois	5,016	175,750	35.04	South Carolina	1,001	21,018	21.00
Indiana	1,920	56,534	29.44	South Dakota	216	5,214	24.14
Iowa	1,212	46,302	38.20	Tennessee	1,549	30,941	19.97
Kansas	1,065	36,020	33.82	Texas	4,775	125,100	26.20
Kentucky	1,552	20,542	13.24	Utah	140	5,828	41.63
Louisiana	1,382	33,567	24.29	Vermont	164	5,192	31.66
Maine	789	25,054	31.75	Virginia	969	18,382	18.97
Maryland	446	14,191	31.82	Washington	629	36,753	58.43
Massachusetts	1,049	49,314	47.01	West Virginia	824	15,997	19.41
Michigan	1,320	47,567	36.04	Wisconsin	1,354	41,964	30.99
Minnesota	941	37,411	39.76	Wyoming	114	4,772	41.86

[1] Italic figures represent programs administered without Federal participation. Data exclude program administered without Federal participation in Connecticut which administered such program concurrently with program under the Social Security Act; see the Bulletin, April 1945, p. 26. Alaska does not administer aid to the blind. All data subject to revision.
[2] Under plans approved by the Social Security Board.
[3] Not computed. Average payment not calculated on base of less than 50 recipients.
[4] Represents statutory monthly pension of $30 per recipient; excludes payments for other than a month.

SECTION-BY-SECTION ANALYSIS OF THE BILL

TITLE I—SOCIAL SECURITY TAXES

SECTION 101. RATES OF TAX ON EMPLOYEES

This section amends clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act, which prescribe the rates of tax on employees with respect to wages received after December 31, 1938 and prior to 1949. Under existing law the rate of tax on employees is scheduled to increase on January 1, 1947, from 1 percent of the wages to 2½ percent. The amendment provides for a 1 percent rate during the calendar year 1947.

SECTION 102. RATES OF TAX ON EMPLOYERS

The amendment made by this section to clauses (1) and (2) of section 1410 of the Federal Insurance Contributions Act, relating to the rates of tax on employers, makes the same change in the rate of tax on employers as is made by the bill in the rate of tax on employees. (See the discussion under sec. 101 of the bill.)

SECTION 103. APPROPRIATIONS TO THE TRUST FUND

This section repeals the last sentence of section 201 (a) of the Social Security Act, which was added by the Revenue Act of 1943. This sentence authorizes appropriations from general funds of the Treasury to the old-age and survivors insurance trust fund.

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

Section 201 amends title II (old-age and survivors insurance) of the Social Security Act, by adding a new section, section 210, at the end thereof.

Subsection (a) of the section provides veterans meeting specified service requirements (in general similar to those of the Servicemen's Readjustment Act) as insured status under old-age and survivors insurance, in the event of death within 3 years after termination of active military or naval service. Surviving wives, children, or parents, if otherwise eligible under the provisions of the old-age and survivors insurance system, would thus be entitled to monthly benefits, and where no monthly benefits are payable lump-sum death payments would under certain circumstances be made. Such benefits would be in the same amounts which would have been paid if the veteran had died a fully insured individual, with average wages of $160, and 1 year of coverage for each calendar year in which he had 30 or more days of military or naval service (in addition to other years of coverage acquired in covered employment). The section does not apply to deaths in service or to cases where separation from active service occurs more than 4 years and a day after the date of termination of World War II. Nor would it reduce any benefits otherwise payable under old-age and survivors' insurance to the survivors of any veteran.

Subsection (b) excludes from the section veterans with respect to whom any veterans' pension or compensation is determined payable, but makes clear that this exclusion does not affect any old-age and survivors' insurance rights arising from covered employment before or after military service. The subsection also contains administrative provisions to facilitate coordination between the Veterans' Administration and the Social Security Board in connection with payments.

Subsection (c) concerns cases in which the veteran died prior to enactment of the legislation. Paragraph (1) of the subsection provides that in such cases benefits conferred by the bill will be paid retroactively if application is filed within 6 months after enactment. Paragraph (2) provides that where an individual having retroactive benefit rights dies before the expiration of the 6 months, filing period, his rights are transferred to any other survivor entitled to benefits arising out of the veteran's death. Paragraph (3) provides for an extension of the time within which survivors of veterans who died prior to enactment may file certain proofs and applications required by the Social Security Act. Paragraph (4) provides for the recomputation of lump-sum death payments awarded prior to enactment.

Subsection (d) authorizes appropriation to the Federal old-age and survivors' insurance trust fund of such sums as may be required to meet the payments contemplated by the section.

Subsection (e) defines the date of the termination of World War II.

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SECTION 301. STATE COVERAGE OF MARITIME WORKERS

This section amends section 1606 of the Federal Unemployment Tax Act by adding thereto a new subsection (f). Subsection (f) grants permission to State legislatures to require private operators of American vessels operating on navigable waters within or within and without the United States and the officers and members of the crew of such vessels to comply with State unemployment compensation laws with respect to the service performed by such officers and members of the crew on or in connection with such vessels to the same extent and with the same effect as though such service was performed entirely within the respective State. Only the legislature of the particular State in which the operator maintains the operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed, and controlled may require such operator and the officers and members of the crew of such vessel to comply with its unemployment compensation law with respect to the service performed by such officers and members of the crew on or in connection with such vessel. The permission granted by subsection (f) to State legislatures is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other covered service performed for the operator in such State and is also subject to the conditions imposed by section 1606 (b) of the Federal Unemployment Tax Act upon permission to State legislatures to require contributions from instrumentalities of the United States. The permission granted State legislatures by subsection (f) is not applicable with respect to service performed in the employ of the United States Government or of an instrumentality of the United States which is either wholly owned by the United States or otherwise exempt from the tax imposed by the Federal Unemployment Tax Act.

SECTION 302. DEFINITION OF EMPLOYMENT

Effective July 1, 1946, this section amends section 1607 (c) of the Federal Unemployment Tax Act, which defines the term "employment" for the purposes of such act. Under the amendment the term "employment" is defined to mean any service performed prior to July 1, 1946, which constituted employment as defined in section 1607 of the Federal Unemployment Tax Act as in force and effect at the time the service was performed; and also to mean any service performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (*a*) within the United States, or (*b*) on or in connection with an American vessel (defined in sec. 1607 (n)) under a contract of service entered into within the United States or during the performance of which the vessel touches at a port therein, if the employee is employed on and in connection with the vessel when outside the United States. No substantive change in existing law is effected by the amendment other than the extension of the definition to include service on or in connection with American vessels. This extension is designed to include, with the qualifications noted, all service which is attached to or connected with the vessel (e. g., service by officers and members of the crew and other employees such as those of concessionaires). Individuals who are passengers on the vessel in the generally accepted

sense, such as an employee of an American department store going abroad, will not be included because such service has no connection with the vessel. Service performed on or in connection with an American vessel within the United States will be on the same basis as regards inclusion as other service performed within the United States.

Under existing law, service performed within the United States (which otherwise constitutes employment) is covered irrespective of the citizenship or residence of the employer or employee. The amendment makes clear that this will be true also in the case of maritime service covered by the amendment, regardless of whether performed within or without the United States. The basic reasons which caused the original coverage to be made without distinction on account of citizenship or residence apply in the case of seamen.

The definition of the term "employment" under the amendment, as applied to service performed prior to July 1, 1946, is subject to the applicable exemptions under the laws in force prior to such date. The definition applicable to service performed on and after that date continues unchanged the exemptions contained in the present law, except as such exemptions are amended by sections 303 and 304 of the bill.

SECTION 303. SERVICE ON FOREIGN VESSELS

Effective July 1, 1946, this section amends paragraph (4) of section 1607 (c) of the Federal Unemployment Tax Act, relating to one of the exclusions from the term "employment" for the purposes of such act. Paragraph (4) of the existing law excludes from the term "employment" service performed as an officer or member of the crew of a vessel on the navigable waters of the United States. The new paragraph (4), which takes the place of the existing exclusion, excludes from the term "employment" service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States. The amendment excludes all service, although performed within the United States, which is rendered by an employee who was rendering service on and in connection with such a vessel upon its entry into the United States or who is rendering such service upon departure of the vessel from the United States. Thus, officers and members of the crew and other employees whose service is rendered both on and in connection with the vessel (such as employees of concessionaires and others whose service is similarly connected with the vessel) when on its voyage are excluded even though the vessel is within the United States, if they come into or go out of the United States with the vessel.

SECTION 304. CERTAIN FISHING SERVICES

Effective July 1, 1946, this section amends section 1607 (c) of the Federal Unemployment Tax Act by adding at the end thereof a new paragraph (17), relating to an additional class of excepted services. Paragraph (17) excludes from the term "employment," for purposes of the Federal Unemployment Tax Act, service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other

aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (*a*) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (*b*) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States).

SECTION 305. DEFINITION OF AMERICAN VESSEL

Effective July 1, 1946, this section amends section 1607 of the Federal Unemployment Tax Act by adding at the end thereof a new subsection (n). Subsection (n) defines the term "American vessel" to mean any vessel documented or numbered under the laws of the United States; and also to include any vessel neither so documented nor numbered nor documented under the laws of any foreign country while the crew is in the employ only of citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

SECTION 306. RECONVERSION-UNEMPLOYMENT BENEFITS FOR SEAMEN

This section amends the Social Security Act by adding thereto a new Title XIII—Reconversion Unemployment Benefits for Seamen. The title consists of six sections—1301 to 1306, inclusive.

Section 1301 provides that the title is to be administered by the Federal Security Administrator.

Definitions

Section 1302 (a) defines the term "reconversion period" to mean the period beginning with the fifth Sunday after the date of enactment of this title and ending June 30, 1949. The significance of the definition is that it defines the period in which benefits under the title may be paid. The actual operation of the program, however, may be for a much shorter period. In a majority of the States of the United States the benefits during a benefit year are based on the wages received in the first four out of the last five completed calendar quarters preceding the beginning of the benefit year. Thus, if a person becomes unemployed for the first time in a benefit year in April, the benefits in most States would be based on the wages of the preceding calendar year. If he becomes unemployed for the first time in a benefit year in July or September, benefits would be based on wages in the 12 months ending on the preceding March 31. If, as is now anticipated, the Federal Government should cease to operate ships through the War Shipping Administration or a successor agency by the end of 1946, in the majority of States no benefits could be payable on the basis of such wages for any benefit year beginning after March 1948, and therefore no benefits could be payable after March 1949. If the presently expected withdrawal of the Federal Government from the operation of ships should be completed in 1946, substantially all payments of benefits based on such wages would be completed by June 1948. The main effect of the limiting date of June 1949 in this section would be to cover the relatively few cases in which base periods of more than four quarters are provided in State laws (there are such provisions in not more than three States) and to pro-

vide against the possibility that the Federal Government may not have been able to withdraw completely from maritime operations by the end of the present year. Irrespective of what happens, benefits under title XIII would cease on June 30, 1949.

Section 1302 (b) defines the term "compensation" to mean cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents). Benefits are payable with respect to dependents only in the States of Nevada, Connecticut, and Michigan, and in the District of Columbia.

Section 1302 (c) defines the term "Federal maritime service" to mean service determined to be employment pursuant to section 209 (o) of the Social Security Act. Section 209 (o) of the Social Security Act was inserted into that act by Public Law 17, Seventy-eighth Congress, and specifies that the term "employment" shall include such service as is determined by the Administrator of the War Shipping Administration to be performed after September 30, 1941, and prior to termination of the First War Powers Act of 1941, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration, or, in respect of such service performed before February 11, 1942, the United States Maritime Commission. By an amendment approved April 4, 1944 (Public Law 285, 78th Cong.), it was made clear that the term "employment" includes neither service performed under a contract entered into without the United States and during the performance of which a vessel does not touch at a port in the United States, nor service on a vessel documented under the laws of any foreign country and bare boat chartered to the War Shipping Administration. The Administrator of the War Shipping Administration makes all determinations with respect to questions relating to employment within the purview of section 209 (o) of the Social Security Act, remuneration therefor, and periods in which or for which paid.

Section 1302 (d) defines "Federal maritime wages" to mean remuneration determined to be wages pursuant to section 209 (o) of the Social Security Act. The Social Security Board has thus recorded on its books the wages paid with respect to Federal maritime service. The records can be used as a source of such wages for the States, though they will frequently require supplementation to bring them sufficiently up to date.

Section 1302 (e) defines the term "State" to include the District of Columbia, Alaska, and Hawaii.

Section 1302 (f) defines the term "United States" when used in the geographical sense to mean the several States, Alaska, Hawaii, and the District of Columbia.

Compensation for seamen

Section 1303 (a): This section authorizes the Federal Security Administrator on behalf of the United States to enter into an agreement with any State or with the unemployment compensation agency of such a State under the terms of which such a State agency will pay compensation in accordance with the law of that State to individuals who have performed Federal maritime service. The agreement must provide that the State will cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by the proposed title.

Section 1303 (b) stipulates the conditions which must be included in any agreement between the Federal Security Administrator and a State or a State agency. The agreement must provide that with respect to unemployment occurring in the reconversion period compensation will be paid to an individual who has had Federal maritime service in the same amounts and on the same terms and subject to the same conditions as the compensation which would be payable to such individuals if the State unemployment compensation law had included Federal maritime service and Federal maritime wages as employment and wages under that law; except that, unless the Administrator prescribes otherwise by regulation, when an individual has once received compensation pursuant to the title in accordance with the law of one State, he shall thereafter be paid only in accordance with that law (though such payments could be made through the agencies in other States), and except that in the event he receives an annuity or retirement pay by virtue of having been retired as an officer or employee of the United States the weekly compensation would be reduced by 15 percent of the amount of the annuity or retirement pay which the individual is entitled to receive unless the State law provides for a different deduction.

This subsection is framed with the ideas, first of preventing any person having Federal maritime service from using any portion of that service more than once in securing benefits under this title, and, second, to avoid unnecessary redeterminations as to rights to benefits.

Section 1303 (c) authorizes the Federal Security Administrator to arrange for payments to individuals having Federal maritime service, even though the State or States to which such individuals would look for benefits fail to enter into an agreement or to make payments in accordance with an agreement of the sort provided for in section 1303 (a). The payments must be, insofar as possible, the same as if an agreement under section 1303 (a) had been entered into. The determinations by the Administrator to entitlement in such cases would be subject to review by the courts in the same manner and to the same extent as provided in title II of the Social Security Act with respect to decisions by the Social Security Board.

Section 1303 (d) directs operators of vessels who are general agents of the War Shipping Administration or of the United States Maritime Commission to furnish such information as may be appropriate to individuals, or to State agencies or to the Administrator for the purpose of carrying out the provisions of the title.

Section 1303 (e) authorizes the Administrator, if he finds that it is not feasible to secure the necessary wage and salary information in time to make prompt determinations, to prescribe regulations pursuant to which he, or a State agency making payments of compensation pursuant to an agreement, may pay benefits on the basis of compensation equal to the seaman's average weekly wages or salary for the last pay period of Federal maritime service which occurred prior to the time he filed his initial claim for unemployment insurance. Further, if neither the exact wages and salaries nor the alternative basis is available promptly, this section authorizes acceptance of a certification, under oath executed by the applicant, as to the facts relating to his Federal maritime service and wages.

Administrative

Section 1304 (a) provides that determination of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent as determinations under the State unemployment-compensation law, and only in such manner and to such extent.

Section 1304 (b) provides that for the purpose of payments made to a State under title III, administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law. Therefore, the Federal Government would bear additional State administrative expenses incurred under an agreement made pursuant to section 1303 (a).

Section 1304 (c) directs the State unemployment compensation agency of each State to furnish to the Social Security Board, for the use of the Administrator, such information as the administrator may find necessary in carrying out the provisions of this title, and such information would be deemed reports required by the Board for the purposes of section 303 (a) (6).

Payments to States

Section 1305 (a) provides that each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of all payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

Thus, where an individual applying for benefits under the law of a particular State is entitled to both nonmaritime and maritime wage credits under the law of that State in the appropriate base period, if the nonmaritime wage credits are a sufficient basis for two-thirds of the aggregate benefits actually paid on the basis of both maritime and nonmaritime wage credits, the Federal Government would reimburse the State for one-third of the benefits paid to such individual. In a case where crediting of Federal maritime wages would serve at most merely to extend the duration of the benefit the Federal Government would make no reimbursement to a State unless the duration of the benefit extends beyond the period which the regular State wage credits would support. In any case where the maximum benefit for the maximum duration is payable without regard to Federal maritime wages, no reimbursement would be payable to the State.

Section 1305 (b) provides that in making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

Section 1305 (c) provides for payments by the Secretary of the Treasury to the States pursuant to certifications by the Administrator.

Section 1305 (d) requires that payments to States for compensation based on Federal maritime employment shall be used only for this purpose, and that any balances remaining at the end of the agreement, or at the end of the reconversion period, if earlier, shall be returned to the Treasury of the United States.

Section 1305 (e) authorizes the bonding of State employees administering benefits provided under the title.

Sections 1305 (f) and (g), to facilitate payments, relieve disbursing and certifying officers from liability in the absence of gross negligence or intent to defraud the United States.

Penalties

Section 1306 provides that giving false statements in connection with claims, fraudulent receipt of payments to which not entitled, and willful refusal to furnish certain information, shall be offenses punishable by fines of not more than $1,000, imprisonment for not more than 1 year (or, in the case of refusal of information, not more than 6 months), or both.

TITLE IV.—TECHNICAL AND MISCELLANEOUS PROVISIONS

SECTION 401. DEFINITION OF "STATE" FOR PURPOSES OF TITLE V OF THE SOCIAL SECURITY ACT

Subsection (a) of this section expands the definition of "State" in section 1101 (a) (1) of the Social Security Act, so as to include, for purposes of title V of the act, the Virgin Islands. The effect of this amendment is to extend to those islands the programs of grants for maternal and child-health services, for services for crippled children, and for child-welfare services. These programs are presently applicable to the 48 States, the District of Columbia, Alaska, Hawaii, and Puerto Rico.

Subsection (b) provides that the sums authorized to be appropriated and directed to be allotted under title V of the act are increased in such amount as may be made equitable or necessary by the inclusion of the Virgin Islands. This provision will permit appropriations sufficient to avoid any reduction of allotments to the 52 "States" to which grants are now being made, as a result of the inclusion of the Virgin Islands; and will direct the Secretary of Labor to allot such increased appropriations among the 53 "States" in the same manner in which he has heretofore made allotments, pursuant to the statutory directions, among 52 "States."

SECTION 402. CHILD'S INSURANCE BENEFITS

Subsection (a) amends subsection 202 (c) (1) of the Social Security Act, as amended, which provides that a child's benefit shall terminate on his or her adoption. Under the amendment these benefits would not be terminated in case of adoption after the death of the wage earner by a stepparent, grandparent, uncle or aunt. Such adoptions are usually undertaken for the purpose of securing to the child the legal and psychological advantages of adoption within a close family group in which the child is to be cared for in any event. Adoption by such relatives seldom changes the financial conditions under which the child is then living, and the prospective loss of benefits as a result of adoption may deter a relative from adopting the child.

Subsection (b) amends subsection 202 (c) (3) (C) to make uniform the conditions under which a child is deemed dependent upon his natural or adopting father. Under existing law, a child neither living with nor receiving contributions for his support from his father, and both living with and being supported by his stepfather, is deemed dependent upon and may draw benefits with respect to the wage record of his father provided the latter is a primary beneficiary. If, however, under the same circumstances, the father dies, the child is not deemed to be his dependent and cannot become entitled to benefits. This section prevents considering a child dependent upon a living father who was in fact not supporting the child, when a stepfather was furnishing his chief support, thus making the rule the same in cases where the father is living as it now is in survivorship cases.

SECTION 403. PARENT'S INSURANCE BENEFITS

This section makes two changes in section 202 (f) (1), both designed to make the limitations on payments of monthly benefits to dependent parents slightly less restrictive. Under existing law, no payment can be made to a dependent parent if the deceased wage earner is survived by a widow or an unmarried child under the age of 18 even though such widow or child might fail to meet the qualifications which would permit entitlement to benefits. The amendment provides that the payment of benefits to such parent will be prevented only if there is a widow or a child who could become entitled to monthly benefits if an application were filed in the month in which the wage earner died or in any subsequent month. This follows the general principle that benefits will be paid to the deceased wage earner's dependent parent in cases where no other monthly benefits will ever be payable on his wage record.

The section also changes the existing requirement that the parent must have been wholly dependent on the deceased wage earner. Under the amendment a parent chiefly, rather than wholly, dependent upon and supported by the worker at the time of the worker's death will be eligible. This intent can be more effectively achieved with less administrative complication by making it necessary for the parent to prove only chief support, rather than entire support, from the deceased wage earner. This would make possible the payment of benefits to parents in the fairly typical situation in which one child has assumed the major support of his parents but other children have contributed some minor part toward it, and the parents suffer a serious financial loss upon the death of the child who was their chief support.

Section 403 (b), relating to the effective date of these amendments, is discussed below, in connection with the effective date of other amendments made by this title.

SECTION 404. LUMP-SUM DEATH PAYMENTS

Section 404 (a) makes two changes in section 202 (g) of the Social Security Act. The first change is that the lump sum will be paid to the widow or widower of the deceased insured worker only if such spouse was living with such deceased worker at the time of the latter's death. This will prevent the payment of a lump sum to an estranged or deserting spouse while those who have assumed the cost of the last

illness and burial receive nothing. It will also avoid administrative complications which now arise when the existence or probable existence of a spouse, whose address may be unknown, prevents or delays the payment to any other person.

The section further provides that if there is no spouse living with the deceased individual at the time of the death, the lump sum shall be paid to the person or persons equitably entitled thereto in the proportion and to the extent that he or they shall have paid the burial expenses. This eliminates children (and individuals entitled to share with them as distributees of intestate property) and parents as beneficiaries of lump-sum payments, except where such person may be equitably entitled because of having borne the burial expenses. This prevents the lump sum from becoming a windfall to persons who may have suffered no economic loss by reason of the wage earner's death. It avoids the situation in which the lump sum has been divided equally among several children although one child had assumed sole financial responsibility for the burial of the worker. It ends the administrative complication which occasionally prevents payment to a worthy claimant merely because of the possible existence of someone with a prior right, whose whereabouts is unknown.

Section 404 also provides for tolling in certain cases the two-year limitation for filing application for lump-sum death payments and extends the period for filing. This amendment would authorize the Board to make payment on applications filed within 2 years after enactment of this bill, for lump-sum death payments based on deaths found by the Board to have occurred outside the United States after December 6, 1941, and before the enactment. Under existing law, no lump-sum death payment may be made unless the application was filed by or on behalf of the claimant prior to the expiration of 2 years after the date of death of the deceased wage earner.

However, in hundreds of known cases and in many others, wage earners have died outside the United States while engaged in construction or other work, usually connected with the war effort, in such Pacific bases as Wake Island and the Philippines, or in Japanese prison camps, as well as in friendly or in neutral countries. Owing to break-down, disruption, or delay of communications, or to negligence of the responsible foreign authorities. the reports of such deaths were frequently transmitted too late for application to have been filed within the 2-year period by the spouse, child, parent, or other person. Such cases must be, and have been, disallowed under the present terms of the act.

Although the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, tolled the 2-year requirement in connection with deaths in military service, no such relief was furnished with respect to civilian deaths. Nevertheless, in many cases, such civilians were in the service of their country abroad at the time of death. Accordingly, a modification of the time for filing applications for benefits would appear to be equitable.

SECTION 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS

This section amends section 202 (h) of the Social Security Act, as amended, to permit a primary beneficiary to receive benefits retroactively for as much as 3 months. It was not anticipated, when section 202 (h) was adopted, extending this retroactive privilege to wives,

widows, children, and parents, that insured workers might also fail to file claims for benefits immediately upon retirement from work at or after age 65, though it was expected that dependents and survivors, through ignorance of their rights or because of the numerous adjustments necessary after the death of the wage earner, might fail to apply in the month when they were first eligible. Experience in administering the act has revealed that retired workers also fail to apply in the month when they are first eligible. Under the amendment primary beneficiaries are, therefore, given the same privilege of receiving retroactive benefits for 3 months, if otherwise entitled, that is now accorded to auxiliary beneficiaries.

Because there are maximum limitations on the total amount that may be paid in monthly benefits on the basis of one wage record, if one dependent or survivor files his claim a month or more after other members of the family, payment of benefits retroactively for those months sometimes results in total family benefits in excess of the maximum. Such overpayments require later adjustments in the benefits of each beneficiary until the entire amount of the excess is repaid. To eliminate unnecessary work in adjusting payments which were correct when made, this section also provides that when retroactive payments are to be made pursuant to section 202 (h), only that amount shall be paid which will not make incorrect any monthly benefit previously paid on the basis of the same wage record.

SECTION 406. DEDUCTIONS FROM INSURANCE BENEFITS

Subsection (a) repeals section 203 (d) (2) of the act, which contains the requirement that children over age 16 attend school, when feasible, in order to avoid deduction from monthly insurance benefits. The number of children between ages 16 and 18 who are not attending school and whose attendance has been found feasible has been too small to justify the cost of the investigation. Many children over 16 who are not in school are in employment and the provision for deduction from benefits for wages in excess of $14.99 operates to suspend their benefits. For many other children over 16 who are not in school, attendance is not feasible because of physical or mental handicap or other reasons.

Subsection (b) amends subsection 203 (g) of the act to provide a less severe penalty for the first occasion on which a penalty is applied because of failure to comply with the provisions with respect to reporting events which require deductions from monthly benefits. In order that the Board may make deductions from benefits as required under subsection 203 (d) or (e), beneficiaries are required to report to the Board the occurrence of the event which occasions a deduction. Failure to make such a report may result in an additional deduction for each month in which such event occurred, if the beneficiary had knowledge of the event and of the provision in the law requiring reporting. Even though a beneficiary may have this knowledge, he may violate the provision negligently or forgetfully and, in the absence of a reminder, he may continue the violation over a number of consecutive months. The number of such penalty deductions, therefore, often depends on the length of time required by the Board to receive and process wage reports, and thus to discover that the beneficiary failed to report the occurrence of an event which requires a deduction.

Deductions can be made only for a month in which the beneficiary would otherwise receive a benefit. The more penalty deductions that have been applied, the more difficult it becomes for the beneficiary to live without benefits until both the normal deductions and the penalty deductions have been completed. This section reduces the penalty to one deduction for the first failure to report as required, regardless of the number of months before the Board discovered the failure to report. A penalty deduction of 1 month, in addition to the normal deductions, for each month for which the beneficiary received a benefit when a deduction should have been made, should be sufficient. Subsequent violations are more likely to be deliberate, and the penalty for such subsequent failures to report, after a penalty has once been imposed, would be one additional deduction, as at present, for each month in which the individual failed to report an event requiring a deduction.

SECTION 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL"

This section amends section 209 (h) in two ways. First, it defines "currently insured individual" in the same terms as that used for "fully insured individual"—namely in terms of quarters of coverage. The present definition of currently insured individual uses the phrase "having been paid wages of not less than $50 for each of not less than 6 of the 12 calendar quarters." But the definition in the act of a quarter of coverage calls for wages paid in a quarter. This amendment will end a troublesome and confusing discrepancy in the two provisions for insured status. The amendment also permits wages paid in the quarter in which death occurs to count toward an individual's qualifying as currently insured, as is now the case for fully insured status. This will extend protection to persons who have had only six recent quarters of coverage and the final quarter of coverage is the quarter of death.

SECTION 408. DEFINITION OF WIFE

This amends subsection 209 (i) to permit a wife, age 65 or over, even though she is not the mother of the wage earner's son or daughter, to qualify for wife's benefits after having been married for at least 36 calendar months. Under the present provisions, such a wife could not qualify for wife's benefits unless she had been married to the wage earner before he attained age 60 or before January 1, 1939. The original provision was intended to prevent exploitation of the fund by claims for benefits from persons who married beneficiaries solely to get wife's benefits. Experience has shown that the requirement is unnecessarily restrictive for this purpose and that, in a number of cases, a wife is permanently barred from benefits even though the marriage was entered into many years before the wage earner became a beneficiary. The amendment, taken with the provision in section 202 (b) that the wife be living wth her husband in order to be eligible for benefits, should be sufficient protection for the trust fund and will remedy situations which now seem inequitable. Few persons are likely to marry because of the prospect of receiving a modest insurance benefit which will not be payable until after 3 years.

SECTION 409. DEFINITION OF CHILD

This section alters the definition of stepchild and adopted child (sec. 209 (k)) to correspond with the amendment proposed in section 408 for the definition of wife. Under the present provisions of the act a stepchild or an adopted child is not a "child" for benefit purposes unless the relationship had existed before a primary beneficiary attained age 60, and for more than a year before an insured worker or primary beneficiary died. Where a worker marries after age 60 a woman with children under 18, no insurance protection is given to the children on the basis of the worker's wages; nor can a child adopted after the worker attained age 60 qualify for child's benefits. This section permits a stepchild of a primary beneficiary to qualify for benefits if the marriage between the child's parent and stepparent has endured for at least 36 calendar months. Likewise, an adopted child of a primary beneficiary may become eligible for child's benefits after the adoptive relationship has existed for 36 calendar months. For a stepchild or an adopted child of a deceased worker, the relationship must have existed for at least 12 months prior to the death, and this provision seems compatible with the amendment.

SECTION 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS

This subsection amends section 209 of the Social Security Act by the addition of subsection (q). The Social Security Board is given authority to compute or recompute the amount of a monthly benefit in cases where there is a delay in filing application or additional wages are earned after a fully insured person reaches 65. It would not authorize the payment of any monthly benefit, or of the increased amount of a recomputed benefit, retroactively for a month for which, apart from this subsection, such payment would not have been made.

The amount of a monthly old-age and survivors insurance benefit depends upon the average monthly wage. This is figured by dividing the total wages a worker has been paid in covered employment before the quarter in which he dies or retires, by all the months after 1936 and before that quarter (with exceptions for the period before age 22). If, because of illness, lack of knowledge or other reason, an aged insured individual does not file his application for benefits until some quarters or years after he has stopped working, his benefit amount will be lower than if he had filed his application at the earliest possible date. Many primary beneficiaries, on the other hand, continue in or return to work in covered employment after their benefit amounts have been figured. Their average wages, if as high or higher than the previous average monthly wage, should be reflected in a higher benefit amount when they stop work and draw benefits. The Social Security Act now permits the recomputation of primary benefits under rigidly limited circumstances. Under the amendment the Social Security Board is given broader authority to compute or recompute the primary insurance benefit in order to prevent unintended losses in the size of monthly benefits resulting solely from the date of application for benefits. The monthly rate of the benefit payable after application for such computation or recomputation will be calculated as though an original application for benefits had been filed at the time most favorable to the claimant. The Board would be authorized to impose reasonable limitations, such as a restriction that recomputation would not be made more frequently than once a year.

SECTION 411. ALLOCATION OF 1937 WAGES

This subsection amends section 209 of the Social Security Act, as amended, by adding subsection (r) to provide a method of allocating to calendar quarters wages paid to an individual during 1937. In that year, wages were reported in semiannual rather than quarterly intervals. The intervals for which wages were reported in any given year were of no importance under the original act, because eligibility depended on total wages. When the act was amended in 1939, eligibility and, under some circumstances, average monthly wage were made dependent on the quarterly distribution of wages. With the passage of time, it has become almost impossible to secure from employers data on the quarter in which certain wages were paid in 1937.

The administrative task of determining in which quarters wages were paid in 1937, in the absence of a statutory authorization to allocate to quarters, the wages reported for half years, is burdensome to employers and the Board and results in delay in payments.

The formula in the amendment for allocation when an individual's wages in either half of 1937 were at least $100, is to credit one-half of the total amount to each of the calendar quarters of that half year. If the total wages paid in either half of 1937 were less than $100, the entire amount would be deemed to have been paid in the latter quarter of that half year. If the individual attained age 65 in either of these half years, all of the wages paid in that half year would be deemed to have been paid before he attained that age. This formula will permit finding an insured status for each person for whom such status could be found on the basis of the actual distribution of his 1937 wages.

SECTION 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE

This section amends the $3,000 limitation contained in the definition of the term "wages" in section 1426 (a) (1) and section 1607 (b) (1) of the Internal Revenue Code for purposes of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, respectively. Under the definition of the term contained in existing law there is excluded from "wages", for such purposes, all remuneration with respect to employment during any calendar year paid to an individual by an employer (irrespective of the year of payment) after remuneration equal to $3,000 has been paid to such individual by such employer with respect to employment during such year. This section amends such definitions, effective January 1, 1947, to constitute as the yardstick the amount paid during the calendar year (with respect to employment to which the taxes under the code are applicable), without regard to the year in which the employment occurred.

Subsection (a) amends section 1426 (a) (1) of the Federal Insurance Contributions Act to effect the above change. Such section as it would be amended contains two exclusions, that is, the one contained in existing law but with a modification making it applicable only to payments of remuneration made before January 1, 1947; and the new exclusion applicable to remuneration payments made after December 31, 1946. The latter of the two excludes from "wages" that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar year after 1946, is paid to such

individual by such employer during such calendar year. Thus in applying the $3,000 limitation on wages, the employer, employee, and those administering the taxes, may, beginning with the calendar year 1947, look only to the amount of remuneration paid by the employer to the employee during the calendar year, and exclude all remuneration paid during the calendar year after $3,000 has been paid during the year with respect to employment performed on or after January 1, 1937 (that is, the employment with respect to which the taxes imposed by sections 1400 and 1410 of the Federal Insurance Contributions Act are applicable). This change conforms with the changes in section 209 (a) of title II of the Social Security Act, which are provided in section 414 of the bill.

Subsection (b) amends section 1607 (b) (1) of the Federal Unemployment Tax Act to effect a corresponding change. Such section as it would be amended contains two exclusions, that is, the one contained in existing law but with a modification making it applicable only to payments of remuneration made before January 1, 1947; and the new exclusion applicable to remuneration payments made after December 31, 1946. The latter of the two excludes from "wages" that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year. Beginning with the calendar year 1947, there is thus excluded all remuneration paid by the employer to the employee during the calendar year after $3,000 has been paid during the year with respect to employment performed on or after January 1, 1939 (that is, the employment with respect to which the tax imposed by section 1600 of the Federal Unemployment Tax Act is applicable).

SECTION 413. SPECIAL REFUNDS TO EMPLOYEES

This section amends section 1401 (d) of the Federal Insurance Contributions Act to conform the special refund provisions to the change in the definition of "wages" made by section 412 (a). Under the existing provisions of section 1401 (d) an employee is permitted to obtain a refund of the employee's tax paid on the aggregate of wages in excess of $3,000 earned after December 31, 1939, by reason of earning wages from more than one employer during a calendar year. Inasmuch as the pertinent exclusion of remuneration from wages will depend upon the amount of wages paid during the calendar year to the employee by each of his employers, rather than the amount earned during the year by the employee, a corresponding change is required in section 1401 (d). Accordingly, section 1401 (d) would be amended to contain two paragraphs. Paragraph (1) constitutes a restatement of the existing section 1401 (d) with the limitation that no refund shall be made under such paragraph with respect to wages received after December 31, 1946. Paragraph (2), relating to wages received after 1946, is new, and provides that if by reason of an employee receiving wages from more than one employer during any calendar year after 1946, the wages received by him during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages, whether or not paid to the collector,

which exceeds the tax with respect to the first $3,000 of such wages received.

SECTION 414. DEFINITION OF WAGES UNDER TITLE II OF THE SOCIAL SECURITY ACT

This section amends section 209 (a) of the Social Security Act, defining the term "wages," to correspond with the amendment of section 1426 (a) (1) of the Internal Revenue Code made by section 412 (a) of the bill. The amendment changes paragraphs (1) and (2) of section 209 (a) by making them inapplicable to payments of remuneration made after December 31, 1946; and inserts a new paragraph (3) prescribing the rule applicable to all such payments after that date. This new paragraph would exclude from the "wages" credited to an individual's account all remuneration paid him in a calendar year after 1946, after $3,000 of remuneration for "employment" (as defined in section 209 (b)) has been paid him during that year, without regard to the year in which the employment occurred.

SECTION 415. TIME LIMITATION OF LUMP-SUM PAYMENTS UNDER 1935 LAW

This section provides a cut-off date for the payment of lump sums under the Social Security Act as originally passed in 1935. The number of these claims has become insignificant but their existence makes necessary the retention by the Board of detailed regulations and procedures, and imposes unjustifiable administrative expense. The wage earner must have died prior to 1940, and it is obvious that the lump-sum death payment is no longer used to meet the costs of his last illness and burial. The lump-sum death payment provided under the 1939 amendments is made only if application is filed within 2 years after date of death, and it seems reasonable to put a limit now to such payments as were provided under the original act.

Effective date of foregoing amendments

Most of the amendments made by title IV of the bill become effective as of January 1, 1947. The committee does not intend that retroactive payments be made to persons who could not qualify under the Social Security Act, as amended, before the effective date of these amendments. However, any individual whose claim was previously disallowed but who can qualify after December 31, 1946, on the basis of having met all requirements, as modified by these amendments, may become entitled to monthly benefits currently upon filing an application. Benefits would thus become available to parents of workers who died less than 2 years before the filing of a new application, when benefits previously had been denied them either because of the existence of a widow or child who could never qualify for monthly benefits, or because they had been chiefly but not wholly supported by the worker. Survivors of workers who died neither fully nor currently insured under present definitions could become eligible for monthly benefits or a lump-sum payment, upon application after December 31, 1946, if they meet all other requirements, and the Board finds the worker died currently insured under the amended definition of that term.

A wife of a primary beneficiary whose claim for monthly benefits was previously denied only because she and the beneficiary had not

been married before he attained age 60, and a stepchild or adopted child of a living primary beneficiary whose benefits were denied because the relationship did not come into being before the beneficiary attained age 60, may now receive benefits for months after December 1946, upon application and if they meet all other requirements, if, at the time of the new application, the relationship has existed for more than 36 months. So, too, a stepchild or an adopted child of a deceased worker who previously could not qualify for monthly benefits only because its relationship to the worker began after he attained age 60, might now qualify upon application after December 31, 1946, if the relationship had lasted for more than 12 months before the worker's death. and if the child met all other requirements.

A child whose benefits were terminated only because of adoption by a stepparent, grandparent, aunt, or uncle after the worker's death, could, if otherwise qualified, become reentitled to monthly benefits upon application at any time after enactment of this bill.

Where a lump sum is payable upon the death of a worker before January 1, 1947, payment will be made as now provided in the Social Security Act. If the worker died after December 31, 1946, the lump sum will be paid in accordance with the amendment in this bill.

Three months' retroactive payments to primary beneficiaries who delayed filing their claims will be made only on claims filed after December 31, 1946. Deductions from benefits will not be made after the effective date of the amendment if a child between ages 16 and 18 fails to attend school, but no payments will be made for benefits suspended for that cause before that date. Nor will benefits be made up where penalty deductions in excess of one were applied before that date for the first failure to report a deduction event.

TITLE V—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

SECTION 501. OLD-AGE ASSISTANCE

The amendment made by section 501 is to increase from $40 to $50 the maximum State expenditure for old-age assistance to any individual recipient for any month, to which the Federal Government will contribute.

SECTION 502. AID TO DEPENDENT CHILDREN

This section amends section 403 of the Social Security Act, relating to grants for aid to dependent children. The limitations presently in the act, $18 a month for the first child and $12 a month for each additional child in the same home, are increased to $27 and $18, respectively.

SECTION 503. AID TO THE BLIND

This section amends section 1003 of the Social Security Act, relating to grants for aid to the blind, in the same respect in which section 501 of the bill amends section 3 of the act. The limitations imposed would be the same as in the case of old-age assistance.

SECTION 504. EFFECTIVE DATE OF TITLE

This section provides that the amendments made by the title shall be applicable only to quarters beginning after September 30, 1946, and ending before January 1, 1948.

CHANGES IN EXISTING LAWS

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE

SEC. 1400. RATE OF TAX.

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 1426 (a)) received by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

(1) With respect to wages received during the calendar years [1939, 1940, 1941, 1942, 1943, 1944, 1945, and 1946,] *1939 to 1947, both inclusive*, the rate shall be 1 per centum.

(2) With respect to wages received during the calendar [years 1947 and] *year* 1948, the rate shall be 2½ per centum.

(3) With respect to wages received after December 31, 1948, the rate shall be 3 per centum.

SEC. 1401. DEDUCTION OF TAX FROM WAGES.

* * * * * * *

(d) SPECIAL [Refund] *REFUNDS.*—

(1) WAGES RECEIVED BEFORE 1947.—If by reason of an employee rendering service for more than one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400, deducted from such wages and paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages [paid] *received*. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless [(1)] (*A*) the employee makes a claim, establishing his right thereto, after the calendar year in which the employment was performed with respect to which refund of tax is claimed, and [(2)] (*B*) such claim is made within two years after the calendar year in which the wages are [paid] *received* with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund. *No refund shall be made under this paragraph with respect to wages received after December 31, 1946.*

(2) WAGES RECEIVED AFTER 1946.—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1946, the wages received by him during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employees' wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax, except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund.

* * * * * * *

SEC. 1410. RATE OF TAX.

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 1426 (a)) paid by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

(1) With respect to wages paid during the calendar years [1939, 1940, 1941, 1942, 1943, 1944, 1945, and 1946,] *1939 to 1947, both inclusive*, the rate shall be 1 per centum.

(2) With respect to wages paid during the calendar [years 1947 and] *year* 1948, the rate shall be 2½ per centum.

(3) With respect to wages paid after December 31, 1948, the rate shall be 3 per centum.

* * * * * * *

SEC. 1426. DEFINITIONS.

When used in this subchapter—

(a) WAGES.—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—

(1) 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] *paid, prior to January 1, 1947*, to such individual by such employer with respect to employment during such calendar year; *or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;*

* * * * * * *

SEC. 1606. * * *

(e) The legislature of any State may, with respect to service to be performed after December 31, 1945, by a laborer, mechanic, or workman, in connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Bonneville Power Administrator (hereinafter called the Administrator), require the Administrator, who for the purposes of this subsection is designated an instrumentality of the United States, and any such employee, to make contributions to an unemployment fund under a State unemployment compensation law approved by the Board under section 1603 and to comply otherwise with such law. Such permission is subject to the conditions imposed by subsection (b) of this section upon permission to State legislaturse to require contributions from instrumentalities of the United States. The Administrator is authorized and directed to comply with the provisions of any applicable State unemployment compensation law on behalf of the United States as the employer of individuals whose service constitutes employment under such law by reason of this subsection.

(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Board under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States.

SEC. 1607. * * *

(b) WAGES.—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—

(1) 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 *after December 31, 1939, and prior to*

January 1, 1947, to such individual by such employer with respect to employment during such calendar year; *or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;*

* * * * * * *

[(c) EMPLOYMENT.—The term "employment" means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—]

(c) *Employment.—The term "employment" means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—*

* * * * * * *

[(4) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;]

(4) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;

* * * * * * *

(15) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; [or]

(16) Service performed in the employ of an international organization[.]

; or

(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other acquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the registered tonnage of merchant vessels under the laws of the United States).

* * * * * * *

(m) CERTAIN EMPLOYEES OF BONNEVILLE POWER ADMINISTRATOR.—The term "employment" shall include such service as is determined by the Bonneville Power Administrator (hereinafter called the Administrator) to be performed after December 31, 1945, by a laborer, mechanic, or workman, in connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Administrator. The term "wages" means, with respect to service which constitutes employment by reason of this subsection, such amount of remuneration as is determined (subject to the provisions of this section) by the Administrator to be paid for such service. The Administrator is authorized and directed to comply with the provisions of the internal revenue laws on behalf of the United States as the employer of individuals whose service constitutes employment by reason of this subsection.

(n) AMERICAN VESSEL.—The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

SOCIAL SECURITY ACT

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 January 1, 1940, (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 needy 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 [$40,] *$50*, 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.

* * * * * * * *

SECTION 201. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund" (hereinafter in this title called the "Trust Fund"). The Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Trust Fund, and, in addition, such amounts as may be appropriated to the Trust Fund as hereinafter provided. There is hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of the taxes (including interest, penalties, and additions to the taxes) received under the Federal Insurance Contributions Act and covered into the Treasury. [There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.]

* * * * * * *

SEC. 202. * * *

(c) (1) Every child (as defined in section 209 (k)) of an individual entitled to primary insurance benefits, or of an individual who died a fully or currently insured individual (as defined in section 209 (g) and (h)) after December 31, 1939, if such child (A) has filed application for child's insurance benefits, (B) at the time such application was filed was unmarried and had not attained the age of 18, and (C) was dependent upon such individual at the time such application was filed, or, if such individual has died, was dependent upon such individual at the time of such individual's death, shall be entitled to receive a child's insurance benefit for each month, beginning with the month in which such child becomes so entitled to such insurance benefits, and ending with the month immediately preceding the first month in which any of the following occurs: such child dies, marries, is adopted (*except for adoption by a step-parent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual*), or attains the age of eighteen.

* * * * * * *

(3) A child shall be deemed dependent upon a father or adopting father, or to have been dependent upon such individual at the time of the death of such individual, unless, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, such individual was not living with or contributing to the support of such child and—

* * * * * * *

(C) such [child, at the time of such individual's death,] *child* was living with and *was chiefly* supported by such child's stepfather.

* * * * * * *

(f) (1) Every parent (as defined in this subsection) of an individual who died a fully insured individual after December 31, 1939, leaving no [widow and no unmarried surviving child under the age of eighteen] *widow or child who would, upon filing application, be entitled to a benefit for any month under subsection (c), (d), or (e) of this section*, if such parent (A) has attained the age of sixty-five, (B) was [wholly] *chiefly* dependent upon and supported by such individual at the time of such individual's death and filed proof of such dependency and support within two years of such date of death, (C) has not married since such individual's death, (D) is not entitled to receive any other insurance benefits under this section, or is entitled to receive one or more of such benefits for a month, but the total for such month is less than one-half of a primary insurance benefit of such deceased individual, and (E) has filed application for parent's insurance benefits, shall be entitled to receive a parent's insurance benefit for each month, beginning with the month in which such parent becomes so entitled to such parent's insurance benefits and ending with the month immediately preceding the first month in which any

of the following occurs: such parent dies, marries, or becomes entitled to receive for any month an insurance benefit or benefits (other than a benefit under this subsection) in a total amount equal to or exceeding one-half of a primary insurance benefit of such deceased individual.

* * * * * * *

LUMP-SUM DEATH PAYMENTS

(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the [following person (or if more than one, shall be distributed among them) whose relationship to the deceased is determined by the Board, and who is living on the date of such determination: To the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children of the deceased and to any other person or persons who are, under the intestacy law of the State where the deceased was domiciled, entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law; or, if no widow or widower and no such child and no such other person be then living, to the parent or to the parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this subsection by reason of the fact that no such named relative survived the deceased or of the fact that no such named relative of the deceased was living on the date of such determination. If none of the persons described in this subsection be living on the date of such determination, such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased.] *person, if any, determined by the Board to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual.* No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent) prior to the expiration of two years after the date of death of such *insured* individual.

(h) An individual who would have been entitled to a benefit under subsection (*a*), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end of the third month immediately succeeding such month. *Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Board has certified for payment for such prior month.*

* * * * * * *

SEC. 203. * * *

(d) Deductions, in such amounts and at such time or times as the Board shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits for any month in which such individual:

* * * * * * *

[(2) if a child under eighteen and over sixteen years of age, failed to attend school regularly and the Board finds that attendance was feasible; or]

* * * * * * *

(g) Any individual in receipt of benefits subject to deduction under subsection (d) or (e) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event enumerated therein, shall report such occurrence to the Board prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred. Any such individual having knowledge thereof, who fails to report any such occurrence, shall suffer an additional deduction equal to that imposed under subsection (d) or (e), *except that the first additional deduction imposed by this subsection in the case of an individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.*

* * * * * * *

SEC. 209. 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—

(1) 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 prior to 1940, is [paid] *paid, prior to January 1, 1947,* to such individual by such employer with respect to employment during such calendar year;

(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such [individual] *individual, prior to January 1, 1947,* with respect to employment during such calendar year;

(3) *That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;*

[(3)] (*4*) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

[(4)] (*5*) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code or (B) of any payment required from an employee under a State unemployment compensation law;

[(5)] (*6*) Dismissal payments which the employer is not legally required to make; or

[(6)] (*7*) Any remuneration paid to an individual prior to January 1, 1937.

* * * * * * *

[(h) The term "currently insured individual" means any individual with respect to whom it appears to the satisfaction of the Board that he has been paid wages of not less than $50 for each of not less than six of the twelve calendar quarters, immediately preceding the quarter in which he died.]

(*h*) *The term "currently insured individual" means any individual with respect to whom it appears to the satisfaction of the Board that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter.*

(i) The term "wife" means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him [prior to January 1, 1939, or if later, prior to the date upon which he attained the age ofsixty] *for a period of not less than thirty-six months immediately preceding the month in which her application is filed.*

* * * * * * *

[(k) The term "child" (except when used in section 202 (g)) means the child of an individual, and the stepchild of an individual by a marriage contracted prior to the date upon which he attained the age of sixty and prior to the beginning of the twelfth month before the month in which he died, and a child legally adopted by an individual prior to the date upon which he attained the age of sixty and prior to the beginning of the twelfth month before the month in which he died.]

(*k*) *The term "child" means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died.*

* * * * * * *

(p) (1) The term "employment" shall include such service as is determined by the Bonneville Power Administrator (hereinafter called the Administrator) to be performed after December 31, 1945, by a laborer, mechanic, or workman, in connection with construction work or the operation and maintenance of electrical facilities, as an employee performing service for the Administrator, but shall not include any service performed by such a laborer, mechanic, or workman, to whom the Act of May 29, 1930 (46 Stat. 468), as amended, applied.

(2) The Social Security Board shall not make determinations as to whether an individual has performed services which are employment by reason of this subsection, the periods of such services, the amounts of remuneration for such services which constitutes "wages" under the provisions of this section, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the Administrator, and such agents as he may designate, as evidence by returns filed by the Administrator as an employer pursuant to section 1426 (j) of the Internal Revenue Code and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(3) The Administrator is authorized and directed, upon written request of the Social Security Board, to make certification to it with respect to any matter determinable for the Board by the Administrator under this subsection, which the Board finds necessary in administering this title.

(q) Subject to such limitation as may be prescribed by regulation, the Board shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed.

(r) With respect to wages paid to an individual in the six month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

SEC. 210. (a) Any individual who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to the date of the termination of World War II, and who has been discharged or released therefrom under conditions other than dishonorable after active service of ninety days or more, or by reason of a disability or injury incurred or aggravated in service in line of duty, shall in the event of his death during the period of three years immediately following separation from the active military or naval service, whether his death occurs on, before, or after the date of the enactment of this section, be deemed—

(1) to have died a fully insured individual;

(2) to have an average monthly wage of not less than $160; and

(3) for the purposes of section 209 (e) (2), to have been paid not less than $200 of wages in each calendar year in which he had thirty days or more of active service after September 16, 1940.

This section shall not apply in the case of the death of any individual occurring (either on, before, or after the date of the enactment of this section) while he is in the active military or naval service, or in the case of the death of any individual who has been discharged or released from the active military or naval service of the United States subsequent to the expiration of four years and one day after the date of the termination of World War II.

(b) (1) If any pension or compensation is determined by the Veterans' Administration to be payable on the basis of the death of any individual referred to in subsection (a) of this section, any monthly benefits or lump-sum death payment payable under this title with respect to the wages of such individual shall be determined without regard to such subsection (a).

(2) Upon an application for benefits or a lump-sum death payment with respect to the death of any individual referred to in subsection (a), the Board shall make a decision without regard to paragraph (1) of this subsection unless it has been notified by the Veterans' Administration that pension or compensation is determined to be

payable by the Veterans' Administration by reason of the death of such individual. The Board shall notify the Veterans' Administration of any decision made by the Board authorizing payment, pursuant to subsection (a), of monthly benefits or of a lump-sum death payment. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, by reason of the death of any such individual, it shall notify the Board, and the Board shall certify no further benefits for payment, or shall recompute the amount of any further benefit payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Board pursuant to subsection (a) to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of sec. 3 of the Act of August 12, 1935, as amended (U. S. C., 1940 edition, title 38, sec. 454a)) be deemed to have been paid to him by the Veterans' Administration on account of such accrued pension or compensation. No such payment certified by the Board, and no payment certified by the Board for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration, shall be deemed by reason of this subsection to have been an erroneous payment.

(c) In the event any individual referred to in subsection (a) has died during such three-year period but before the date of the enactment of this section—

(1) upon application filed within six months after the date of the enactment of this section, any monthly benefits payable with respect to the wages of such individual (including benefits for months before such date) shall be computed or recomputed and shall be paid in accordance with subsection (a), in the same manner as though such application had been filed in the first month in which all conditions of entitlement to such benefits, other than the filing of an application, were met;

(2) if any individual who upon filing application would have been entitled to benefits or to a recomputation of benefits under paragraph (1) has died before the expiration of six months after the date of the enactment of this section, the application may be filed within the same period by any other individual entitled to benefits with respect to the same wages, and the nonpayment or underpayment to the deceased individual shall be treated as erroneous within the meaning of section 204;

(3) the time within which proof of dependency under section 202 (f) or any application under 202 (g) may be filed shall be not less than six months after the date of the enactment of this section; and

(4) application for a lump-sum death payment or recomputation, pursuant to this section, of a lump-sum death payment certified by the Board, prior to the date of the enactment of this section, for payment with respect to the wages of any such individual may be filed within a period not less than six months from the date of the enactment of this section or a period of two years after the date of the death of any individual specified in subsection (a), whichever is the later, and any additional payment shall be made to the same individual or individuals as though the application were an original application for a lump-sum death payment with respect to such wages.

No lump-sum death payment shall be made or recomputed with respect to the wages of an individual if any monthly benefit with respect to his wages is, or upon filing application would be, payable for the month in which he died; but except as otherwise specifically provided in this section no payment heretofore made shall be rendered erroneous by the enactment of this section.

(d) There are hereby authorized to be appropriated to the Trust Fund from time to time such sums as may be necessary to meet the additional cost, resulting from this section, of the benefits (including lump-sum death payments) payable under this title.

(e) For the purposes of this section the term "date of the termination of World War II" means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earrlier.

* * * * * * *

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 commending July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half 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] *$27*, or if there is more than one dependent child in the same home, as exceeds [$18] *$27* for any month. with

respect to one such dependent child and [$12] *$18* for such month with respect to each of the other dependent children.

* * * * * * *

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 January 1, 1940, (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 needy 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 [$40] *$50*, and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Board for the proper and efficient administration of the State plan, which amount 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.

* * * * * * *

SEC. 1101. (a) When used in this Act—

(1) The term "State" includes Alaska, Hawaii, and the District of Columbia, and when used in [Titles V and VI of such Act] *Title V* includes Puerto Rico *and the Virgin Islands*.

* * * * * * *

PENALTY FOR FRAUD

SEC. 1107. (a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this Act, the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act, or of any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Board that he is such individual, or the wife, parent, or child of such individual, or the duly authorized agent of such individual, or of the wife, parent, or child of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

SEC. 1201. * * *

(c) Any amount transferred to the account of any State under this section shall be treated as an advance, without interest, to the unemployment fund of such State and shall be repaid to the Federal unemployment account from the unemployment fund of that State to the extent that the balance in the State's account in the Unemployment Trust Fund, at the end of any calendar quarter, exceeds a sum equal to the total contributions deposited in the Unemployment Trust Fund under the unemployment compensation law of the State during that one of the two calendar years next preceding such day in which such deposits were higher. The Secretary of the Treasury shall, after the end of each calendar quarter, transfer from the unemployment account of each State in the Unemployment Trust Fund to the Federal unemployment account the amount required to be repaid from the unemployment fund of such State at the end of such quarter under this subsection.

TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

SEC. 1301. This title shall be administered by the Federal Security Administrator, hereinafter referred to as "Administrator."

DEFINITIONS

SEC. 1302. When used in this title—

(a) The term "reconversion period" means the period (1) beginning with the fifth Sunday after the date of the enactment of this title, and (2) ending June 30, 1949.

(b) The term "compensation" means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

(c) The term "Federal maritime service" means service determined to be employment pursuant to section 209 (o).

(d) The term "Federal maritime wages" means remuneration determined to be wages pursuant to section 209 (o).

(e) The term "State" includes the District of Columbia, Alaska, and Hawaii.

(f) The term "United States", when used in a geographical sense, means the several States, Alaska, Hawaii, and the District of Columbia.

COMPENSATION FOR SEAMEN

SEC. 1303. (a) The Administrator is authorized on behalf of the United States to enter into an agreement with any State, or with the unemployment compensation agency of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b), to individuals who have performed Federal maritime service, and (2) will otherwise cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compenstion authorized by this title.

(b) Any such agreement shall provide that compensation will be paid to such individuals, with respect to unemployment occurring in the reconversion period in the same amounts, on the same terms, and subject to the same conditions as the compensation which would be payable to such individuals under the State unemployment compensation law if such individuals' Federal maritime service and Federal maritime wages had been included as employment and wages under such law, except that—

(1) in any case where an individual receives compensation under a State law pursuant to this title, all compensation thereafter paid him pursuant to this title, except as the Administrator may otherwise prescribe by regulations, shall be paid him only pursuant to such law; and

(2) the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

(c) If in the case of any State an agreement is not entered into under this section or the unemployment compensation agency of such State fails to make payments in accordance with such an agreement, the Administrator, in accordance with regulations prescribed by him, shall make payments of compensation to individuals who file a claim for compensation which is payable under such agreement, or would be payable if such agreement were entered into, on a basis which will provide that they will be paid compensation in the same amounts, on substantially the same terms, and subject to substantially the same conditions as though such agreement had been entered into and such agency made such payments. Final determinations by the Administrator of entitlement to such payments shall be subject to review by the courts in the same manner and to the same extent as if provided in Title II with respect to decisions by the Board under such title.

(d) Operators of vessels who are or were general agents of the War Shipping Administration or of the United States Maritime Commission shall furnish to individuals who have been in Federal maritime service, to the appropriate State agency, and to the Administrator such information with respect to wages and salaries as the Administrator may determine to be practicable and necessary to carry out the purposes of this title.

(e) Pursuant to regulations prescribed by the Administrator, he, and any State agency making payments of compensation pursuant to an agreement under this section may—

(1) to the extent that the Administrator finds that it is not feasible for Federal agencies or operators of vessels to furnish information necessary to permit exact and reasonably prompt determinations of the wages or salaries of individuals who have performed Federal maritime service, determine the amount of and pay compensation to any individual under this section, or an agreement thereunder, as if the wages or salary paid such individual for each week of such service were in an amount equal to his average weekly wages or salary for the last pay period of such service occurring prior to the time he files his initial claim for compensation; and

(2) to the extent that information is inadequate to assure the prompt payment of compensation authorized by this section (either on the basis of the exact wages or salaries of the individuals concerned or on the basis prescribed in clause (1) of this subsection), accept certification under oath by individuals of facts relating to

their Federal maritime service and to wages and salaries paid them with respect to such service.

ADMINISTRATION

SEC. 1304. (a) Determinations of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

(b) For the purpose of payments made to a State under Title III administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a port of the administration of the State unemployment compensation law.

(c) The Stdte unemployment compensation agency of each State shall furnish to the Board, for the use of the Administrator, such information as the Administrator may find necessary in carrying out the provisions of this title, and such information shall be deemed reports required by the Board for the purposes of section 303 (a) (6).

PAYMENTS TO STATES

SEC. 1305. (a) Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator such sum as the Administrator estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

(c) The Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment, at the time or times fixed by the Administrator, in accordance with certification, from the funds appropriated to carry out the purposes of this title.

(d) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury upon termination of the agreement or termination of the reconversion period, whichever first occurs.

(2) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Administrator may deem necessary, and may provide for the payment of the cost of such bond from appropriations for carrying out the purposes of this title.

(f) No person designated by the Administrator, or designated pursuant to an agreement under this title, as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f).

PENALTIES

SEC. 1306 (a) Whoever, for the purpose of causing any compensation to be paid under this title or under an agreement thereunder where none is authorized to be so paid, shall make or cause to be made any false statement or representation as to any wages paid or received, or whoever makes or causes to be made any false statement of a material fact in any claim for any compensation authorized to be paid under this title or under an agreement thereunder, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(b) Whoever shall obtain or receive any money, check or compensation under this title or an agreement thereunder, without being entitled thereto and with intent to

defraud the United States, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Whoever willfully fails or refuses to furnish information which the Administrator requires him to furnish pursuant to authority of section 1303 (d), or willfully furnishes false information pursuant to a requirement of the Administrator under such subsection, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than six months, or both.

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79TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 2526
2d Session } { Part 2

SOCIAL SECURITY AMENDMENTS OF 1946

JULY 19, 1946.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. EBERHARTER, from the Committee on Ways and Means, submitted the following

SUPPLEMENTAL VIEWS

[To accompany H. R. 7037]

The undersigned member of the Committee on Ways and Means is deeply disappointed at the inadequacies of the provisions of the social-security bill reported out by the committee, H. R. 7037.

It is recognized that the bill contains some provisions which are desirable, such as Title II: Benefits in Case of Deceased World War II Veterans, and Title III: Unemployment Compensation for Maritime Workers.

However, I feel it my duty to point out particular provisions which are not only inadequate, but unfair; and the failure of the committee to include in the bill amendments of pressing and vital national importance.

By House Resolution 204 passed on March 26, 1945, the House authorized the expenditure of $50,000 for the Committee on Ways and Means to make a study of "the need for the amendment and expansion of the Social Security Act, with particular reference to old-age and survivors insurance and the problems of coverage, benefits, and taxes related thereto." Pursuant thereto, the committee selected a competent staff of experts which presented a complete and well documented report early in 1946 on all aspects of the present social-security program, and a future comprehensive expanded program. The committee held executive sessions early in February, and held numerous public hearings beginning on February 25 and continuing over a period of several months.

Numerous witnesses came from all parts of the country to testify, on the expectation that the committee was making a complete revision of our social-security laws. After all this expenditure of time, money, and effort, the committee has reported out a bill which fails to deal with the most important aspects of social security, as covered either in the staff's report or the hearings before the committee.

INADEQUACY AND INCONSISTENCY OF TITLE I: SOCIAL SECURITY TAXES

Title I of the bill freezes for the eighth consecutive year the social-security contributions for the year 1947 at the present rate of 1 percent each on employers and employees. Just 2 weeks before this bill was reported out, the committee voted for an increase in the contributions to 1½ percent. In the committee report on the earlier bill (H. R. 6911) filed July 1, 1946, the committee stated:

> It would appear to be for the best interests of all concerned if the rate could be fixed at this time for a reasonable period rather than that the matter should come up each year (p. 3).

No reasonable explanation for the change in the views of the committee on this important issue has been advanced. The change is contrary to both the previous action of the committee and recommendation No. 10 at the bottom of page 122 of the committee's social-security technical staff in its report, "Issues in Social Security."

The reasons given by the committee's technical staff for an increase in the social-security contribution rates are as follows:

> * * * it is a foregone conclusion that social-security taxes must increase in the future if they are to pay a substantial part of the benefit totals which we know are going to increase in a major way; that we want no irregularities or sudden breaks in our social security tax schedule and that anything that may be undesirable about a modest further growth in the trust fund during favorable economic conditions is far less important than the painful processes of meeting unusually high benefit loads in years of economic depression after we have been somewhat lulled into complacency by an unusually low benefit load and unusually high contribution totals, due to unheard-of employment conditions (top of p. 122).

In addition to freezing the contribution rate, section 103 of the bill provides for repeal of the provision added to the law in 1943, which was inserted for the purpose of guaranteeing the payment of old-age and survivors insurance benefits, in case the contributions to the fund should be inadequate because of the continued freezing of the contribution rates. The repeal of this proviso by the committee bill is absolutely inconsistent with the action taken in freezing the contribution rate.

INADEQUACY OF TITLE V: STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

Title V of the bill increases Federal contributions to States for aid to the needy aged, blind, and dependent children. The maximum Federal contribution to the aged and the blind would be increased from $20 to $25 a month, and for aid to dependent children from $9 to $13.50 for the first child, and from $6 to $9 for each additional child.

Originally the committee voted to increase the Federal contribution from $20 to $30 for the aged and the blind and to provide additional Federal funds to States with low per capita incomes, which would permit a graduated increase in the Federal contribution up to 66⅔ percent of the amount paid to the recipient. These provisions reported out by the committee in H. R. 6911 are omitted from H. R. 7037. We feel this omission is a grave mistake.

The variable matching formula originally adopted by the committee in H. R. 6911 would have given additional Federal funds to 31 States. The 31 States which will lose Federal funds because of the omission

from H. R. 7037 of the variable matching formula, and the Federal proportion of the amounts paid to recipients which they would have received under H. R. 6911 are as follows:

Federal proportion under H. R. 6911

Alabama	66⅔	New Hampshire	58
Arizona	59	New Mexico	66⅔
Arkansas	66⅔	North Carolina	66⅔
Colorado	53	North Dakota	57
Florida	60	Oklahoma	66⅔
Georgia	66⅔	South Carolina	66⅔
Idaho	55	South Dakota	60
Iowa	53	Tennessee	66⅔
Kansas	54	Texas	62
Kentucky	66⅔	Utah	52
Louisiana	66⅔	Vermont	57
Maine	53	Virginia	59
Minnesota	56	West Virginia	66
Mississippi	66⅔	Wisconsin	52
Missouri	56	Wyoming	52
Nebraska	57		

The provisions of title V of H. R. 7037 will cost the Federal Government an additional $47,538,000. Many States will not get one single additional cent of this money from the Government. This is so because at the present time one-half of the States do not make payments to needy aged persons in amounts greater than the maximum of $40 per month for which Federal matching funds are available. Among these States are:

Arizona	Mississippi	South Carolina
Arkansas	Missouri	South Dakota
Delaware	Montana	Tennessee
Florida	Nebraska	Texas
Georgia	Nevada	Vermont
Kentucky	North Carolina	Virginia
Maine	Ohio	West Virginia
Maryland	Oklahoma	Wisconsin

While some States may amend their laws at their next regular session or at a special session of their State legislatures, many States undoubtedly will be discouraged from making such an important permanent change since section 504 of the bill provides that the additional Federal contribution is only for a temporary period—up through December 31, 1947.

The provisions of title V of the bill do nothing to help raise the admittedly inadequate assistance payments in the low-income States such as Kentucky where the average payment was $11.71 in April; in Georgia, $12.67; in North Carolina, $13.81; in Virginia, $15.22; in Mississippi, $16.39, etc.

One State, California, will get 48 percent of the additional Federal funds for the aged. Three States, New York, Massachusetts, and California, will get 76 percent of the additional Federal funds for the aged.

Under the bill 86 percent of the additional Federal funds for old-age assistance will go to the 10 richest States with 29 percent of the aged population, while the 10 poorest States with 14 percent of the aged population will get only 1 percent of the additional Federal funds.

This rank discrimination against the neediest States is shocking. It is unwarranted and unsound.

It results in the Federal Government using revenue raised from persons in the low-income States to help finance assistance in the richest States.

It is a soak-the-poor plan.

It increases the disparity in the amounts of assistance payments between States.

It is a policy of neglecting to improve conditions where the need is the greatest.

It is contrary to every sound principle of public finance, social policy, and justice.

It is contrary to the policy of this country since its establishment: that we are a nation indivisible; that Congress should enact laws for the benefit of all the people.

The very minimum which should be acceptable at this time is the restoration of the provisions of title V as contained in H. R. 6911 as originally reported out by the committee.

IMPORTANT PROVISIONS COMPLETELY OMITTED FROM THE BILL

The bill does not contain any provisions whatsoever on such vital matters covered by the committee's technical staff report or included in the hearings before the committee as:

1. Broadening the coverage of the old-age and survivors insurance program to include at least those groups which it is universally recognized are entitled to inclusion.
2. Increasing the amount of insurance benefits. The amount of insurance benefits was fixed in 1939, and are now inadequate. There has been about a 50-percent increase in the cost of living since 1939, while at the same time the total premiums paid into the fund have increased due to increased employment.
3. Increasing the amount of earnings which a beneficiary is permitted to earn while drawing an insurance benefit.
4. Providing a more flexible retirement age by establishing insurance protection in case of permanent total disability.

Some provisions on each of these matters could and should have been included in the bill. Each year of delay in enacting these provisions into law means hardship and privation for thousands of Americans in every State in the Union.

SUMMARY

Further delay is unjustified. The proper approach to this entire program is to strengthen and broaden the insurance features, and from that base proceed to improve the assistance and related features, and only in that manner can a comprehensive, intelligent and workable program be evolved.

The hearings before the committee conclusively prove that the American people want the Social Security Act broadened and expanded now. The bill reported out by the committee does very little to carry out this objective.

The bill in its present form is a sad disappointment.

HERMAN P. EBERHARTER.

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Union Calendar No. 782

79TH CONGRESS
2D SESSION

H. R. 7037

[Report No. 2526]

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1946

Mr. DOUGHTON of North Carolina introduced the following bill; which was referred to the Committee on Ways and Means

JULY 15, 1946

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Act Amendments of 1946".

TITLE I—SOCIAL SECURITY TAXES

SEC. 101. RATES OF TAX ON EMPLOYEES.

Clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are amended to read as follows:

"(1) With respect to wages received during the

calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 102. RATES OF TAX ON EMPLOYERS.

Clauses (1) and (2) of section 1410 of such Act (Internal Revenue Code, sec. 1410), as amended, are amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 103. APPROPRIATIONS TO THE TRUST FUND.

The sentence added by section 902 of the Revenue Act of 1943 at the end of section 201 (a) of the Social Security Act, which reads as follows: "There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.", is repealed.

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

SEC. 201. The Social Security Act, as amended, is amended by adding after subsection (r) of section 209 of

Title II (added to such section by section 411 of this Act) a new section to read as follows:

"BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

"SEC. 210. (a) Any individual who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to the date of the termination of World War II, and who has been discharged or released therefrom under conditions other than dishonorable after active service of ninety days or more, or by reason of a disability or injury incurred or aggravated in service in line of duty, shall in the event of his death during the period of three years immediately following separation from the active military or naval service, whether his death occurs on, before, or after the date of the enactment of this section, be deemed—

"(1) to have died a fully insured individual;

"(2) to have an average monthly wage of not less than $160; and

"(3) for the purposes of section 209 (e) (2), to have been paid not less than $200 of wages in each calendar year in which he had thirty days or more of active service after September 16, 1940.

This section shall not apply in the case of the death of any individual occurring (either on, before, or after the date of

the enactment of this section) while he is in the active military or naval service, or in the case of the death of any individual who has been discharged or released from the active military or naval service of the United States subsequent to the expiration of four years and one day after the date of the termination of World War II.

"(b) (1) If any pension or compensation is determined by the Veterans' Administration to be payable on the basis of the death of any individual referred to in subsection (a) of this section, any monthly benefits or lump-sum death payment payable under this title with respect to the wages of such individual shall be determined without regard to such subsection (a).

"(2) Upon an application for benefits or a lump-sum death payment with respect to the death of any individual referred to in subsection (a), the Board shall make a decision without regard to paragraph (1) of this subsection unless it has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such individual. The Board shall notify the Veterans' Administration of any decision made by the Board authorizing payment, pursuant to subsection (a), of monthly benefits or of a lump-sum death payment. If the Veterans' Administration in any such case has made an adjudication

or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, by reason of the death of any such individual, it shall notify the Board, and the Board shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Board pursuant to subsection (a) to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of sec. 3 of the Act of August 12, 1935, as amended (U. S. C., 1940 edition, title 38, sec. 454a)) be deemed to have been paid to him by the Veterans' Administration on account of such accrued pension or compensation. No such payment certified by the Board, and no payment certified by the Board for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration, shall be deemed by reason of this subsection to have been an erroneous payment.

"(c) In the event any individual referred to in subsection (a) has died during such three-year period but before the date of the enactment of this section—

"(1) upon application filed within six months after the date of the enactment of this section, any

monthly benefits payable with respect to the wages of such individual (including benefits for months before such date) shall be computed or recomputed and shall be paid in accordance with subsection (a), in the same manner as though such application had been filed in the first month in which all conditions of entitlement to such benefits, other than the filing of an application, were met;

"(2) if any individual who upon filing application would have been entitled to benefits or to a recomputation of benefits under paragraph (1) has died before the expiration of six months after the date of the enactment of this section, the application may be filed within the same period by any other individual entitled to benefits with respect to the same wages, and the nonpayment or underpayment to the deceased individual shall be treated as erroneous within the meaning of section 204;

"(3) the time within which proof of dependency under section 202 (f) or any application under 202 (g) may be filed shall be not less than six months after the date of the enactment of this section; and

"(4) application for a lump-sum death payment or recomputation, pursuant to this section, of a lump-sum death payment certified by the Board, prior to the

date of the enactment of this section, for payment with respect to the wages of any such individual may be filed within a period not less than six months from the date of the enactment of this section or a period of two years after the date of the death of any individual specified in subsection (a), whichever is the later, and any additional payment shall be made to the same individual or individuals as though the application were an original application for a lump-sum death payment with respect to such wages.

No lump-sum death payment shall be made or recomputed with respect to the wages of an individual if any monthly benefit with respect to his wages is, or upon filing application would be, payable for the month in which he died; but except as otherwise specifically provided in this section no payment heretofore made shall be rendered erroneous by the enactment of this section.

"(d) There are hereby authorized to be appropriated to the Trust Fund from time to time such sums as may be necessary to meet the additional cost, resulting from this section, of the benefits (including lump-sum death payments) payable under this title.

"(e) For the purposes of this section the term 'date of the termination of World War II' means the date proclaimed by the President as the date of such termination, or

the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier."

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SEC. 301. STATE COVERAGE OF MARITIME WORKERS.

The Internal Revenue Code, as amended, is amended by adding after section 1606 (e) a new subsection to read as follows:

"(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Board under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to

such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States."

SEC. 302. DEFINITION OF EMPLOYMENT.

That part of section 1607 (c) of the Internal Revenue Code, as amended, which reads as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—"

is amended, effective July 1, 1946, to read as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of what-

ever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—".

SEC. 303. SERVICE ON FOREIGN VESSELS.

Section 1607 (c) (4) of the Internal Revenue Code, as amended, is amended, effective July 1, 1946, to read as follows:

"(4) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;".

SEC. 304. CERTAIN FISHING SERVICES.

(a) Section 1607 (c) (15) of such Code is amended by striking out "or" at the end thereof.

(b) Section 1607 (c) (16) of such Code is amended by striking out the period and inserting in lieu thereof the following: "; or".

(c) Section 1607 (c) of such Code is further amended

by adding after paragraph (16) a new paragraph to read as follows:

"(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States)."

(d) The amendments made by this section shall take effect July 1, 1946.

SEC. 305. DEFINITION OF AMERICAN VESSEL.

Section 1607 of such Code, as amended, is further amended, effective July 1, 1946, by adding after subsection (m) a new subsection to read as follows:

"(n) AMERICAN VESSEL.—The term 'American vessel' means any vessel documented or numbered under the

laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State."

SEC. 306. RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN.

The Social Security Act, as amended, is amended by adding after section 1201 (c) a new title to read as follows:

"TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

"SEC. 1301. This title shall be administered by the Federal Security Administrator, hereinafter referred to as 'Administrator'.

"DEFINITIONS

"SEC. 1302. When used in this title—

"(a) The term 'reconversion period' means the period (1) beginning with the fifth Sunday after the date of the enactment of this title, and (2) ending June 30, 1949.

"(b) The term 'compensation' means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

"(c) The term 'Federal maritime service' means service determined to be employment pursuant to section 209 (o).

"(d) The term 'Federal maritime wages' means remuneration determined to be wages pursuant to section 209 (o).

"(e) The term 'State' includes the District of Columbia, Alaska, and Hawaii.

"(f) The term 'United States', when used in a geographical sense, means the several States, Alaska, Hawaii, and the District of Columbia.

"COMPENSATION FOR SEAMEN

"SEC. 1303. (a) The Administrator is authorized on behalf of the United States to enter into an agreement with any State, or with the unemployment compensation agency of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b), to individuals who have performed Federal maritime service, and (2) will otherwise cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by this title.

"(b) Any such agreement shall provide that compensation will be paid to such individuals, with respect to unemployment occurring in the reconversion period, in the same

amounts, on the same terms, and subject to the same conditions as the compensation which would be payable to such individuals under the State unemployment compensation law if such individuals' Federal maritime service and Federal maritime wages had been included as employment and wages under such law, except that—

"(1) in any case where an individual receives compensation under a State law pursuant to this title, all compensation thereafter paid him pursuant to this title, except as the Administrator may otherwise prescribe by regulations, shall be paid him only pursuant to such law; and

"(2) the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

"(c) If in the case of any State an agreement is not entered into under this section or the unemployment compensation agency of such State fails to make payments in

accordance with such an agreement, the Administrator, in accordance with regulations prescribed by him, shall make payments of compensation to individuals who file a claim for compensation which is payable under such agreement, or would be payable if such agreement were entered into, on a basis which will provide that they will be paid compensation in the same amounts, on substantially the same terms, and subject to substantially the same conditions as though such agreement had been entered into and such agency made such payments. Final determinations by the Administrator of entitlement to such payments shall be subject to review by the courts in the same manner and to the same extent as is provided in Title II with respect to decisions by the Board under such title.

"(d) Operators of vessels who are or were general agents of the War Shipping Administration or of the United States Maritime Commission shall furnish to individuals who have been in Federal maritime service, to the appropriate State agency, and to the Administrator such information with respect to wages and salaries as the Administrator may determine to be practicable and necessary to carry out the purposes of this title.

"(e) Pursuant to regulations prescribed by the Administrator, he, and any State agency making payments of compensation pursuant to an agreement under this section, may—

"(1) to the extent that the Administrator finds that it is not feasible for Federal agencies or operators of vessels to furnish information necessary to permit exact and reasonably prompt determinations of the wages or salaries of individuals who have performed Federal maritime service, determine the amount of and pay compensation to any individual under this section, or an agreement thereunder, as if the wages or salary paid such individual for each week of such service were in an amount equal to his average weekly wages or salary for the last pay period of such service occurring prior to the time he files his initial claim for compensation; and

"(2) to the extent that information is inadequate to assure the prompt payment of compensation authorized by this section (either on the basis of the exact wages or salaries of the individuals concerned or on the basis prescribed in clause (1) of this subsection), accept certification under oath by individuals of facts relating to their Federal maritime service and to wages and salaries paid them with respect to such service.

"ADMINISTRATION

"SEC. 1304. (a) Determinations of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent

as determinations under the State unemployment compensation law, and only in such manner and to such extent.

"(b) For the purpose of payments made to a State under Title III administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law.

"(c) The State unemployment compensation agency of each State shall furnish to the Board, for the use of the Administrator, such information as the Administrator may find necessary in carrying out the provisions of this title, and such information shall be deemed reports required by the Board for the purposes of section 303 (a) (6).

"PAYMENTS TO STATES

"SEC. 1305. (a) Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

"(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator

estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

"(c) The Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment, at the time or times fixed by the Administrator, in accordance with certification, from the funds appropriated to carry out the purposes of this title.

"(d) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury upon termination of the agreement or termination of the reconversion period, whichever first occurs.

"(e) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise par-

ticipating in its performance, to give a surety bond to the United States in such amount as the administrator may deem necessary, and may provide for the payment of the cost of such bond from appropriations for carrying out the purposes of this title.

"(f) No person designated by the Administrator, or designated pursuant to an agreement under this title, as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

"(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f).

"PENALTIES

"SEC. 1306. (a) Whoever, for the purpose of causing any compensation to be paid under this title or under an agreement thereunder where none is authorized to be so paid, shall make or cause to be made any false statement or representation as to any wages paid or received, or whoever makes or causes to be made any false statement of a material fact in any claim for any compensation authorized to be paid under this title or under an agreement thereunder,

or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Whoever shall obtain or receive any money, check or compensation under this title or an agreement thereunder, without being entitled thereto and with intent to defraud the United States, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) Whoever willfully fails or refuses to furnish information which the Administrator requires him to furnish pursuant to authority of section 1303 (d), or willfully furnishes false information pursuant to a requirement of the Administrator under such subsection, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than six months, or both."

TITLE IV—TECHNICAL AND MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITION OF "STATE" FOR PURPOSES OF TITLE V OF SOCIAL SECURITY ACT.

(a) Effective January 1, 1947, section 1101 (a) (1) of the Social Security Act, as amended, is amended to read as follows:

"(1) The term 'State' includes Alaska, Hawaii, and

the District of Columbia, and when used in Title V includes Puerto Rico and the Virgin Islands."

(b) The amounts authorized to be appropriated and directed to be allotted, for the purposes of Title V of the Social Security Act, as amended, by sections 501, 502, 511, 512, and 521 of such Act, are increased in such amount as may be made necessary or equitable by the amendment made by subsection (a) of this section, including the Virgin Islands in the definition of "State".

SEC. 402. CHILD'S INSURANCE BENEFITS.

(a) Section 202 (c) (1) of such Act is amended by striking out the word "adopted" and substituting in lieu thereof the following: "adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual)".

(b) Section 202 (c) (3) (C) is amended to read as follows:

"(C) such child was living with and was chiefly supported by such child's stepfather."

SEC. 403. PARENT'S INSURANCE BENEFITS.

(a) Section 202 (f) (1) of such Act is amended by striking out "no widow and no unmarried surviving child under the age of eighteen" and inserting in lieu thereof "no widow or child who would, upon filing application, be entitled to a benefit for any month under subsection (c),

(d), or (e) of this section"; and by striking out in clause (B) thereof the word "wholly" and inserting in lieu thereof the word "chiefly".

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this Act filed after December 31, 1946.

SEC. 404. LUMP-SUM DEATH PAYMENTS.

(a) Section 202 (g) of such Act is amended to read as follows:

"LUMP-SUM DEATH PAYMENTS

"(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the Board to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No

payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

(c) In the case of any individual who, after December 6, 1941, and before the date of the enactment of this Act, died outside the United States (as defined in section 1101 (b) of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such Act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this Act.

SEC. 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS.

(a) Section 202 (h) of such Act is amended to read as follows:

"(h) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end

of the third month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Board has certified for payment for such prior month."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 406. DEDUCTIONS FROM INSURANCE BENEFITS.

(a) Section 203 (d) (2) of such Act (relating to deductions for failure to attend school) is repealed.

(b) Section 203 (g) of such Act (relating to failure to make certain reports) is amended by inserting before the period at the end thereof a comma and the following: "except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month".

SEC. 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL".

(a) Section 209 (h) of such Act is amended to read as follows:

"(h) The term 'currently insured individual' means any individual with respect to whom it appears to the satisfaction

of the Board that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 408. DEFINITION OF WIFE.

(a) Section 209 (i) of such Act is amended to read as follows:

"(i) The term 'wife' means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him for a period of not less than thirty-six months immediately preceding the month in which her application is filed."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 409. DEFINITION OF CHILD.

(a) Section 209 (k) of such Act is amended to read as follows:

"(k) The term 'child' means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding

the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS.

Section 209 of such Act is amended by adding after subsection (p) a new subsection to read as follows:

"(q) Subject to such limitation as may be prescribed by regulation, the Board shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed."

SEC. 411. ALLOCATION OF 1937 WAGES.

Section 209 of such Act is amended by adding after subsection (q) a new subsection to read as follows:

"(r) With respect to wages paid to an individual in the six month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained."

SEC. 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE.

(a) FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 1426 (a) (1) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1426 (a) (1)) is amended to read as follows:

"(1) 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, prior to January 1,

1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

(b) FEDERAL UNEMPLOYMENT TAX ACT.—Section 1607 (b) (1) of the Federal Unemployment Tax Act (Internal Revenue Code, sec. 1607 (b) (1)) is amended to read as follows:

"(1) 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 after December 31, 1939, and prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

SEC. 413. SPECIAL REFUNDS TO EMPLOYEES.

Section 1401 (d) of the Federal Insurance Contributions

Act (Internal Revenue Code, sec. 1401 (d)) is amended to read as follows:

"(d) SPECIAL REFUNDS.—

"(1) WAGES RECEIVED BEFORE 1947.—If by reason of an employee rendering service for more than one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400, deducted from such wages and paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the employment was performed with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which the wages are received with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund. No refund shall be made under this para-

graph with respect to wages received after December 31, 1946.

"(2) WAGES RECEIVED AFTER 1946.—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1946, the wages received by him during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund."

SEC. 414. DEFINITION OF WAGES UNDER TITLE II OF SOCIAL SECURITY ACT.

(a) So much of section 209 (a) of the Social Security

Act, as amended, as precedes paragraph (3) thereof is amended to read as follows:

"(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—

"(1) 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 prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;

"(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;

"(3) That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;".

(b) The paragraphs of section 209 (a) of such Act

heretofore designated "(3)", "(4)", "(5)", and "(6)" are redesignated "(4)", "(5)", "(6)", and "(7)", respectively.

SEC. 415. TIME LIMITATION ON LUMP-SUM PAYMENTS UNDER 1935 LAW.

No lump-sum payment shall be made under section 204 of the Social Security Act (as enacted in 1935), or under section 902 (g) of the Social Security Act Amendments of 1939, unless application therefor has been filed prior to the expiration of six months after the date of the enactment of this Act.

TITLE V—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

SEC. 501. OLD-AGE ASSISTANCE.

Section 3 (a) of the Social Security Act, as amended, is amended by striking out "$40" and inserting in lieu thereof "$50".

SEC. 502. AID TO DEPENDENT CHILDREN.

Section 403 (a) of such Act is amended by striking out "$18" wherever appearing and inserting in lieu thereof "$27", and by striking out "$12" and inserting in lieu thereof "$18".

SEC. 503. AID TO THE BLIND.

Section 1003 (a) of such Act is amended by striking out "$40" and inserting in lieu thereof "$50".

SEC. 504. EFFECTIVE DATE OF TITLE.

The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946, and ending before January 1, 1948.

Union Calendar No. 782

79TH CONGRESS
2D SESSION

H. R. 7037

[Report No. 2526]

A BILL

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

By Mr. DOUGHTON of North Carolina

JULY 15, 1946
Referred to the Committee on Ways and Means

JULY 15, 1946
Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

SOCIAL SECURITY OR INSECURITY?

Mr. HAND. Mr. Speaker, for a good many weeks the House Committee on Ways and Means has been engaged in an extensive study of our whole social security system. In addition to the large number of witnesses called, the committee has had before it since January 17, a report by its staff relating to nearly all phases of this subject. The report is 742 pages long, so it will be readily seen that the committee has faced an enormous task. Just last week the committee reported, but I think the bill is only a partial approach to the problem.

It has been evident for some time that our whole social-security plan needs readjustment and revision, and I sincerely hope that it will not be much longer before Congress will be able to pass a new Social Security Act. In the first place, the payments now being made to our senior citizens under the so-called old-age benefits are entirely inadequate under present-day circumstances. The cost of living has multiplied to such an extent that payments that once were at least helpful are now inadequate for the bare necessities of living. Of all the correspondence that I have had on this subject, and of all the official reports that I have examined, nothing makes this quite so clear to me as a letter I received, portions of which I here insert:

DEAR SIR: As our representative in Congress, I am writing you in behalf of our social insecurity. My husband and I are Americans, as were our ancestors for many, many generations back. We were born in New Jersey and have lived here for over 50 years. As to our grievance—we positively do not receive enough social security pension each month to afford the bare necessities of life. My husband is 78 years of age. I am 69. He worked every day up to 4 years ago when he was stricken with a cerebral hemorrhage which totally disabled him. For several years before, his pay check had been $17 per week. It took all of that to live--no chance to put any money aside for old age, none. It seems those who earned the least are allotted the lowest pensions—the higher their earnings, the more pension they draw. I can see no justice in that—nor does anyone we've ever talked to about social security.

My husband's pension is $22.16 a month and my own is $11.08. I'm almost ashamed to write it. (Such a mere pittance as it is.) Ashamed for our Government and our wonderful country to expect two people to live, in these times, on $33.24 a month. Why, a soldier's wife is paid $50 a month, and $30 for each child, $80 a month, or more.

We live in a very small bungalow just outside of town for which we have to pay $25 per month rent, which leaves us the small sum of $8.24 to live on for a month. It can't be done. There is fuel, food, light, clothing, medicine, doctor's bills, insurance, etc. We are both ill, under a doctor's care all the time, and need medicine we cannot afford to buy. We do so want to keep our little home together while we do live. If it was not for the kindness of relatives and friends we'd have had to break up long ago and go to the poorhouse. If one asks for relief, they say, "Why don't you draw social security?" Anyone on relief in this vicinity is looked down on and talked of as bums or beggars. Our relatives' and friends' help cannot go on indefinitely. Millions of dollars are being poured into Europe and elsewhere for relief and what not. The Government is spending money and wasting money right and left but nothing is being done to improve conditions for their own old and feeble citizens. The price of everything is rising. Cannot something more be done for us old folks in the low bracket income? There are many of us who are praying for more consideration from our Government. Cannot something be done before it is too late for many of us? Freedom from want would be a godsend. Please try to help us—do.

Respectfully.

Increasing payments to the recipients of old-age assistance will be money wisely spent. A sound social-security system is an investment in the peace, happiness, and welfare of our country. I am not disturbed by the wise expenditure of public funds, but by their foolish dissipation.

Mr. Speaker, sometimes it seems to me that there has developed an attitude that we can afford everything else except the care of our own people. Hundreds of millions, yes, billions of American dollars have been spent in an attempt to bring some measure of health and security to peoples all over the world, but we hesitate about bringing a measure of health and security to our own people. If we can spend upwards of $3,000,000,000—and that probably is a modest estimate—for the necessities of life for foreign people, including our late enemies, we certainly should not quibble over adequate social security for loyal citizens here at home, who have helped materially to bring this country to the great and strong position it now occupies.

In the New York Times of February 13, 1946, there was an editorial which referred to the burning of four homes for the aged in which 44 elderly people lost their lives, probably because of the unsafe conditions of the homes. This kind of thing is a reproach to the American people. The Times suggests that the needed repairs and modernization should be promptly made. I suggest, on the other hand, that it should be our ultimate goal that our elderly people spend their declining years in homes of their own under a humane security system, which will provide the means for living and decent privacy, rather than in institutions.

These older citizens were not covered by the benefits of the Social Security Act during the years when they were wage earners, and most of them now are wholly or partially dependent upon charity because of the inadequacy of payments.

We are obliged to provide adequate allowances for those who are already covered, and we are further obliged to extend coverage so that millions of citizens, who are now wholly outside the benefits of our present law, may be included. The case of the small individual employer is a notable example. He pays social-security taxes, and all of his employees are covered by the benefits of the act, but he himself is not covered, even after paying his full share of contributions, unless he is smart enough to incorporate and pay himself a salary.

Thousands of people throughout the United States are still greatly interested in the Townsend plan, and are convinced that this is the best solution of the problem. The Ways and Means Committee finally held additional hearings on this plan on April 15. Whatever may be the merits or demerits of this legislation as presently written, it is time that the Ways and Means Committee and the Congress itself come to a definite conclusion about it. It is unfair to keep thousands of persons in a state of uncertainty and hope. If the committee feels the plan is not feasible, it should say so directly, or, in the alternative, report it for the consideration of the House. If it comes before the House, the House should take prompt action and determine once and for all whether this plan or anything closely resembling it can work.

Regardless of whether this particular plan receives further consideration it remains our duty to promptly and completely revise our Social Security System, both for the purpose of providing adequate payments to those now covered and to extend coverage to those who are not covered.

Another thing must be considered: I am not an advocate of the theory that we can spend ourselves into prosperity, but the fact remains that the general prosperity is increased, and general business does profit by a proper and reasonable increase in purchasing power. It is far better for the national economy that qualified individuals should have the means to purchase the things that they require rather than dole out a pittance to them or have them exist on private charity.

Since the first of the year, millions of workmen have received substantial increases in their compensation. Within the last month, Congress has increased the pay of Federal employees generally, pay in the Post Office Department, and most recently has started an increased pay schedule for military personnel. The aggregate cost of these increases is hundreds of millions annually, and for the most part they were motivated by the realization that their compensation is no longer adequate to meet increased living costs. The same reason requires us not to fail those who need it most.

AMENDMENT TO SOCIAL SECURITY ACT

Mr. EBERHARTER. Mr. Speaker, I ask unanimous consent that I may have until midnight tomorrow night to file supplementary views on the bill (H. R. 7037) to amend the Social Security Act.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT TO SOCIAL SECURITY ACT

Mr. GORE. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORE. Mr. Speaker, I believe the Members of this body will be very interested, and I know many will be surprised, at an analysis of the compromise bill amending the Social Security Act which it is anticipated will soon be before this body for consideration.

There is something wrong with it, badly wrong. Ninety percent of the new Federal expenditure which it provides for old-age assistance will go to five States; the remaining 10 percent will go to 26 States, while the increase for 17 States will be exactly zero.

Mr. RANDOLPH. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the able gentleman from West Virginia.

Mr. RANDOLPH. Am I correctly informed that no increase will go to West Virginia?

Mr. GORE. That is right. No increase would go to the needy old people of West Virginia and I do not think that is fair, especially so when by the terms of the bill more than $24,000,000 would go to the old people of only five States.

Mr. Speaker, H. R. 7037, the compromise bill amending the Social Security Act, which it is anticipated will be presented for consideration within the next few days, does a great injustice to the needy old people of a great many States.

I have never thought that need stopped with a State line nor that rank discrimination between our citizens should be perpetrated by the Federal Government.

H. R. 7037 increases the inequity of existing disbursement of Federal social-security funds. For instance, I have before me a chart compiled by the Social Security Board which shows that by this bill the old people most direly in need of increased assistance would receive no increase whatsoever. In a great many other States the needy old people would receive very little increase by this bill. But on the other hand, Mr. Speaker, five States would receive very large additional Federal assistance. That would be unfair treatment. That would be discrimination. We must not do it.

By terms of H. R. 7037 increased assistance would be provided for States be-

ginning with October 1, 1946, and running through December 31, 1947—five quarters. I would like to point out that States would have little opportunity, to say nothing of ability, to meet the increased requirements in order to benefit from the provisions of H. R. 7037 before October 1. On the other hand, some States already have State laws and State programs by reason of which they could receive immediate benefit of the augmented Federal funds provided by this bill; but that would be of little consolation to the needy old people in a majority of the States where only a pittance is now being provided and where in a great many cases the States are simply not able to match Federal funds already available. I understand that it was the able young Member from Arkansas on the committee, the Honorable WILBUR MILLS, who insisted that this provision be limited to the five-quarter period.

Before going further, I would like to show the actual amount of increased Federal expenditure provided for each State over the present rate by H. R. 7037 for old-age assistance:

State:	*Increase over 1943–44 rate of expenditure*
Alabama	$4,000
Alaska	25,000
Arizona	355,000
Arkansas	----------
California	13,031,000
Colorado	1,496,000
Connecticut	200,000
Delaware	----------
District of Columbia	5,000
Florida	----------
Georgia	----------
Hawaii	----------
Idaho	14,000
Illinois	271,000
Indiana	----------
Iowa	146,000
Kansas	302,000
Kentucky	----------
Louisiana	126,000
Maine	8,000
Maryland	2,000
Massachusetts	4,969,000
Michigan	72,000
Minnesota	40,000
Mississippi	----------
Missouri	----------
Montana	10,000
Nebraska	----------
Nevada	82,000
New Hampshire	6,000
New Jersey	250,000
New Mexico	155,000
New York	2,810,000
North Carolina	----------
North Dakota	32,000
Ohio	32,000
Oklahoma	60,000
Oregon	71,000
Pennsylvania	58,000
Rhode Island	85,000
South Carolina	----------
South Dakota	----------
Tennessee	----------
Texas	----------
Utah	326,000
Vermont	----------
Virginia	----------
Washington	2,200,000
West Virginia	----------
Wisconsin	34,000
Wyoming	6,000
Total	27,289,000

Source: Social Security Board.

Mr. Speaker, I submit that this is wrong, that by this bill the gross inequity now prevailing is only made worse.

What is the remedy? We must amend the bill. If we are afforded no opportunity of doing so by the terms of the rule presented for the purpose of governing consideration of the bill, then we must vote down the previous question on the rule and amend it so as to give the House an opportunity to correct this wrong. It is said that we cannot write legislation on the floor. Well, Mr. Speaker, I think we can do better than the committee has done on H. R. 7027; certainly no worse. Anyway, I am not one of those who is willing to delegate to one small committee of the House the sole and unquestioned right and responsibility of writing all of the country's laws affecting social security in which the whole people as well as the whole Congress is interested, vitally interested, giving it to us in a confused, jumbled manner, saying merely, "Take it or leave it."

The Social Security Board recommended a formula for correcting some of the rank inequities of the social-security program. The Ways and Means Committee reported a bill on July 1 embodying the variable matching formula for distribution of Federal funds for old-age assistance. But for some reason, unknown to me, the committee has now backed down and on July 15 reported a new bill, H. R. 7037, which worsens instead of bettering the present situation. True, there are some features in the bill which all of us would like to support, particularly the provisions relating to veterans' benefits, but those benefits for veterans need not be adversely affected even though it becomes necessary to defeat outright H. R. 7037, because the Senate has already passed a separate bill embodying these benefits for veterans, and I am sure that the chairman of the committee could call this separate veterans' bill up in the House and pass it by unanimous consent.

There is another feature of the bill in which some Members may be interested, and that is the provision which freezes the social-security tax rate. The Congress appropriated $50,000 for the Ways and Means Committee to employ a technical staff to make a study of this question. The competent Calhoun staff was employed by the committee, and after exhaustive study the staff recommended that the social-security tax rate be increased. The Social Security Board also urgently recommended an increase. At first accepting and acting favorably upon this recommendation, the committee has now done a right-about face, reporting a bill freezing the rate. The freezing of the social-security rate, embodied in H. R. 7037, is contrary to the best judgment of the most competent technical advisers available to the Congress, and yet by the rule we are asked to swallow this bill in toto with no opportunity to dot an "i" or cross a "t."

But however Members feel about freezing or increasing the social-security tax rate, the injustices and inequities of the Federal old-age assistance program should be corrected, at least ameliorated, not worsened.

The variable-matching formula may not be a perfect method for allocation of Federal funds for old-age assistance, but it is a step in the direction of equality of treatment by the Federal Government of the individual aged citizen in need of assistance.

After careful study, technical experts have devised the formula which in their opinion would best meet the needs of the program which after trial has been found to work unfairly and inadequately. Indeed, the Ways and Means Committee, by a heavy majority, I am informed, recommended adoption of the formula in a report accompanying H. R. 6911. I hope the Congress will have an opportunity to consider this formula. Perhaps the House might want to substitute H. R. 6911 for H. R. 7037. In order that Members may know just how it would affect each State's old-age assistance program, I am listing below the amount of Federal expenditures for old-age assistance to each State in 1943–44, the amount which would be provided by H. R. 6911, and a third column which shows the increase provided by H. R. 6911 over the 1943–44 disbursement:

Old-age assistance from Federal funds in 1943–44 and under H. R. 6911

State	1943–44	Total	Increase over 1943–44
Total	$326,870,000	$428,444,000	$101,574,000
Alabama	2,325,000	4,650,000	2,325,000
Alaska	253,000	273,000	20,000
Arizona	2,185,000	3,153,000	968,000
Arkansas	2,470,000	4,944,000	2,474,000
California	36,522,000	52,038,000	15,517,000
Colorado	8,907,000	11,390,000	2,482,000
Connecticut	2,798,000	3,090,000	292,000
Delaware	139,000	139,000	0
District of Columbia	497,000	501,000	4,000
Florida	4,272,000	6,414,000	2,142,000
Georgia	4,412,000	8,827,000	4,415,000
Hawaii	171,000	171,000	0
Idaho	1,683,000	2,055,000	373,000
Illinois	24,609,000	25,706,000	1,097,000
Indiana	8,601,000	8,601,000	0
Iowa	8,268,000	9,446,000	1,177,000
Kansas	4,617,000	5,706,000	1,089,000
Kentucky	3,408,000	6,816,000	3,408,000
Louisiana	4,633,000	9,457,000	4,824,000
Maine	2,273,000	2,564,000	291,000
Maryland	1,884,000	1,919,000	35,000
Massachusetts	16,261,000	20,236,000	3,975,000
Michigan	14,742,000	15,179,000	437,000
Minnesota	9,628,000	12,299,000	2,638,000
Mississippi	1,462,000	2,922,000	1,461,000
Missouri	13,382,000	17,031,000	3,648,000
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Nebraska	3,948,000	5,236,000	1,283,000
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Wisconsin	7,743,000	8,383,000	641,000
Wyoming	640,000	694,000	53,000

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include certain compilations prepared by the Social Security Board.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

nomic freedom, independence, and self-respect of the aged, the individual and the family, can we guard democracy against the world-wide challenge of communism and socialism.

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LEGISLATIVE PROBLEMS FACING THE CONGRESS

Mr. MADDEN. Mr. Speaker, the American people are more interested in congressional legislation today than at any time in our history. Two generations of Americans now living have suffered and endured the sacrifice and grief of two World Wars. The veterans, their families, and all other Americans are concerned with discussions and agreements between nations which will guarantee to their children and future generations a permanent peace.

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SOCIAL SECURITY

The Committee on Ways and Means has, for a number of weeks, been holding hearings on legislation calling for the expansion of our social-security program. Numerous witnesses from all parts of the country testified, urging the necessity for an expansion and complete revision of our social-security laws. Unfortunately the committee has reported out a bill which fails to deal with the most important aspects of social-security expansion. It is my firm hope that one of the first acts of the new Congress will be to pass comprehensive and broad legislation dealing with social security.

Our democracy can thrive only when it adequately respects and preserves the dignity of the common people. Only by strengthening and upholding the economic freedom, independence, and self-respect of the aged, the individual and the family, can we guard democracy against the world-wide challenge of communism and socialism.

AMENDMENTS TO SOCIAL SECURITY ACT

Mr. GORE. Mr. Speaker, on tomorrow, as I understand the present plans, it is anticipated that we shall consider a resolution, or rule, determining the manner of considering a bill amending the Social Security Act. The mere fact that Congress is to consider amending the Social Security Act and to consider the question of increasing direly needed benefits to the needy old people of the country and the blind and the dependent children must gladden the hearts, mu

kindle a flame of hope in the hearts of these unfortunate people; but, Mr. Speaker, that hope will be dimmed in the hearts of those needy people in a great many States and turned into disappointment, disillusionment, and despair if the rule which is proposed is not amended because it is a closed rule, closed tight, airtight, closed so tight that, if adopted unamended, the membership will foreclose themselves from offering amendments or even considering amendments. Indeed, they will foreclose themselves from any opportunity to give adequate consideration to the needs of the millions of these unfortunate of our citizens.

These people who have reached the evening shadows of life and face stark want, these people with unseeing eyes, these dependent children, unable now to speak for themselves, deserve better treatment at our hands. Shall we, by our own votes, put upon ourselves a yoke of impotency to give succor to the wants of the poor old, blind, and dependent children? Not I, Mr. Speaker.

Mr. RAMEY. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Ohio.

Mr. RAMEY. I agree in toto with what the gentleman says. However, is there any need for the Congress having to shackle itself? Have we not an opportunity to take the shackles off and enact proper legislation?

Mr. GORE. We will be afforded the opportunity of determining the manner in which we will consider this bill. The Congress is the master of itself tomorrow on this question. The issue will be between adequate consideration of a problem vital to millions of American people and an inadequate consideration, indeed, a denial of an opportunity to consider. It is also a denial of the rights of these needy old people, the dependent and blind, to have their problems considered by the Congress.

An effort will be made to vote down the previous question on the rule which, if voted by a majority of the Congress, will make the rule subject to amendment and thereby the Congress itself can determine how we will consider this question. The issue is plain. It is an issue between a careful, full consideration of the country's social security needs by Congress on the one hand and a hasty go-home, quick abandonment of our responsibility on the other. It is an issue between tying our own hands or keeping them free to work our majority will on questions affecting the millions of American citizens concerned with social security. It is an issue between fair and more equitable treatment of the country's needy old, the blind, the dependent children, or in increasing the existing discrimination and unequal treatment. Indeed, Mr. Speaker, it is an issue between giving adequate consideration to a vital question and a self-imposed denial of an opportunity to do so.

Even if we, the Members of this body, were willing to deny ourselves the right of full consideration of this question, I say we should not deny the right of these millions of needy old people, the dependent children, and the helpless sightless to have their problems considered by the Congress. This is their problem as well as ours, and I dare say more pressing to them.

Mr. WASIELEWSKI. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Wisconsin.

Mr. WASIELEWSKI. The bill that comes before the House tomorrow provides for an increase in the grants that the Federal Government will make from $20 to $25 and the State is to match the payments made by the Federal Government. There are many States, however, that have not been taking advantage of the full amount that the Federal Government is contributing today.

Mr. GORE. And for that reason it is a snare and a delusion to hold out this hope to the needy old people in those States where the State governments cannot even match that which is already available. How does it operate? It operates only to bring increased benefits to those people who live in States that have already qualified, or in the future qualify, to meet the matching requirements. The program would begin October 1. Only a few States are now qualified to take advantage of the increased benefits and a great many States simply cannot qualify. The bill results in 90 percent of the new Federal expenditures under present circumstances going to five States; in fact nearly half going to one State; while the increase for 17 States is exactly zero.

Mr. WASIELEWSKI. Early in the first session of the Seventy-ninth Congress $50,000 was appropriated by the House for the Ways and Means Committee to make a comprehensive study of the social-security structure.

A committee of experts has been working on this matter for over a year and a half. Last January they brought in a comprehensive study under the leadership of Commander Calhoun, and the committee then went into hearings on this matter late in February and concluded its hearings, I think, early in June. But we were interrupted repeatedly with other important legislation, and as a result the committee has not had adequate time to make a full evaluation of the recommendations of its experts. This legislation is merely temporary to carry us over into the next session when it is expected that a comprehensive social-security study will be made by the committee and a total revision of the whole act will be made. We did not feel that it would be proper for us to do this job in a piecemeal fashion, and for that reason this bill will probably, on its face, seem inadequate and probably is inadequate but was introduced because this was all that could be brought out at this time without getting into an extended controversy.

Mr. GORE. The gentleman is a member of the great Committee on Ways and Means which is headed by a great citizen, a gentleman who is held in the highest esteem, love, and respect by this body, the gentleman from North Carolina, the Honorable ROBERT L. DOUGHTON.

It is true that the Congress authorized this committee to expend $50,000 for the employment of a technical staff to study the social-security program and to make recommendations for needed changes. The gentleman says that this staff of experts gave to the committee a comprehensive report away back last January. And yet, the gentleman pleads inadequate time for consideration. I do not wish to criticize the gentleman's committee; I think it is one of the great committees of the House; but the Congress and the country have a right to expect of the committee expeditious consideration of a problem so pressing as the need for amendments to the Social Security Act. The record of the gentleman's fine committee, however, is not as laggard as this colloquy thus far would indicate, because on July 1 his committee reported a bill much more comprehensive than the one for which a closed rule will be proposed tomorrow. This was H. R. 6911 and, although it did not go far enough, it was a great improvement over the bill which his committee reported on July 15. For reasons unknown to me, the gentleman's committee reversed its position within this 2-week period which, incidentally, shows that the gentleman's committee can act with dispatch under certain circumstances. I think the first bill which the gentleman's committee reported received the most careful consideration. Indeed, according to the gentleman's statement, his committee considered the question for 5 months and then after this diligent consideration reported H. R. 6911, so this bill must have represented the best judgment of the Ways and Means Committee. I am not acquainted with the executive sessions of the gentleman's committee, but I have heard it said several times that H. R. 6911 was reported by the Ways and Means Committee by the overwhelming vote of 17 to 8. On the other hand, the last bill reported by the committee on which a closed rule is now reported of necessity must have been conceived rather hastily.

So, Mr. Speaker, the Ways and Means Committee has reported two bills amending the Social Security Act within a 2-week period. It is unreasonable, then, to ask that the House be allowed to consider the contents of both of these bills? This seems entirely reasonable. And, yet, by the rule we would not only be denied the right to consider both bills but we would not even be allowed to select the bill which must have represented the best judgment of the Ways and Means Committee after an unusually long period of consideration.

If the rule is amended so as to permit it, I propose to offer H. R. 6911, the better and more comprehensive of the two bills reported by the Ways and Means Committee, as a substitute for the hastily contrived, inadequate bill, H. R. 7037, which only worsens the existing unfairness and inequity.

H. R. 7037 is wholly inadequate. It gives more to those who need it less, and nothing to those who need help most.

It increases the present inequity and discrimination in treatment of the country's needy citizens.

It increases rather than diminishes the disparity in the amount of Federal grants for old-age assistance, aid to the blind, and aid for dependent children.

It will do nothing to help raise the admittedly inadequate assistance payments in those low-income States which are unable to match Federal funds already available.

It but beguiles the majority of our old citizens and the blind by showing them the promised land which they can never reach because they live in the wrong State.

It is contrary to every sound principle of social justice, equality of treatment, public finance, and national policy.

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. GORE. Mr. Speaker, I ask unanimous consent to proceed for five additional minutes.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Kansas.

Mr. REES of Kansas. I am in accord with the gentleman's view that this legislation should not come before the House under a closed rule. I have at other times objected or found fault with the Committee on Ways and Means for bringing legislation to the floor under a closed rule. But I think that this legislation, of all legislation that we have had, ought to come out on the floor and be fully and completely discussed, and above all things, the Members ought to certainly have a right to offer amendments. As the gentleman has suggested, the only way to get at it now is to vote down the previous question on the rule. I think also that it is extremely unfortunate that this great committee of ours, for whose members we have the highest respect, should bring this legislation to the floor at this late hour. It should have come up before now so that we would have had a chance to get at it and discuss it and know what it contains, because as I view it, in looking at the tables already placed in the RECORD it is certainly inequitable.

Mr. GORE. The able gentleman is eminently correct. You know, when I hear it said here that this great House of Representatives cannot consider by an open rule a bill dealing with the Social Security program, I wonder how the great august body on the other side of the Capitol ever manages to pass a Social Security bill. They have no gag rules. They have open debate. Cloture is only voted about once every decade. They can consider any and all amendments that any Member offers. And yet, by some legislative miracle I suppose, they succeed in passing every bill that becomes law. I resist the suggestion that this House is incapable of giving adequate consideration to a measure so vitally affecting millions of people.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentlewoman from Massachusetts.

Mrs. ROGERS of Massachusetts. Can the gentleman tell me, is there a provision in the bill that would allow the widows of veterans to collect the sums that would be due their husbands if they had lived?

Mr. GORE. I yield to the gentleman from Wisconsin.

Mr. WASIELEWSKI. Yes; it gives them the same rights as would go to anyone under the Social Security Act.

Mrs. ROGERS of Massachusetts. I mean that if the veteran had lived he probably would have had certain moneys coming to him. This bill takes care of that? Up to now the widow could not collect that money.

Mr. WASIELEWSKI. It takes care of his social-security credit for 3 years after he leaves the Army.

Mrs. ROGERS of Massachusetts. Then it accrues to her?

Mr. WASIELEWSKI. That is right.

Mr. GORE. Both H. R. 6911 and H. R. 7037 contain these provisions. And I understand that a separate bill embodying those features of this bill which affect veterans passed the Senate. It could be called up by the Chairman and I am sure passed by unanimous consent.

Mrs. ROGERS of Massachusetts. I have introduced a bill myself for that purpose, in connection with the accrued money.

Mr. GORE. I congratulate the gentlewoman.

Mr. SMITH of Ohio. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Ohio.

Mr. SMITH of Ohio. Do I correctly understand this bill will not be subject to amendment under the rule?

Mr. GORE. If the rule is adopted unamended, but I propose that we vote down the previous question in order that we can offer amendments to this bill, which is vital to our people. Even if we ourselves are willing to foreclose our own rights, we ought not to be willing to foredoom the right of these needy people to have the problem of increasing their benefits considered in the House.

Mr. SMITH of Ohio. I am not defending a closed rule, but it is a fact that this whole problem of social security is extraordinarily intricate and complicated. It is not an easy matter to understand unless you make a special study of it. Is not that a fact?

Mr. GORE. It certainly is, but I think the gentleman from Ohio and every Member of this House have made a special study, because it affects so vitally the people whom they represent. I know the gentleman, for instance, has given long hours of study to the whole question of social security in order that he can represent the best interests of the many elder citizens in his district who need assistance and also the best interests of his blind and dependent children constituents.

Mr. SMITH of Ohio. Yes, but the gentleman from Ohio does not claim to understand it.

Mr. GORE. The gentleman is modest.

Mr. HOBBS. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Alabama.

Mr. HOBBS. I simply wish to voice my appreciation, both personally and officially, for the leadership which the distinguished gentleman from Tennessee is giving us in this matter. I hope that he may rally the support which I am sure his zeal and his knowledge of this subject challenge and demand.

Mr. GORE. I thank the distinguished gentleman from Alabama. His great State, for instance, would receive only a measly $4,000 increase over the 1943–44 rate of Federal expenditure for old age assistance for the entire State. This might be a nickel apiece.

Before going further I would like to insert a table which shows the actual amount of increased Federal expenditure provided for each State by H. R. 7037 for old age assistance.

State:	*Increase over 1943–44 rate of expenditure*
Alabama	$4,000
Alaska	25,000
Arizona	355,000
Arkansas	----------
California	13,031,000
Colorado	1,496,000
Connecticut	200,000
Delaware	----------
District of Columbia	5,000
Florida	----------
Georgia	----------
Hawaii	----------
Idaho	14,000
Illinois	271,000
Indiana	----------
Iowa	146,000
Kansas	302,000
Kentucky	----------
Louisiana	128,030
Maine	8,000
Maryland	2,000
Massachusetts	4,969,000
Michigan	72,000
Minnesota	40,000
Mississippi	----------
Missouri	----------
Montana	10,000
Nebraska	----------
Nevada	82,000
New Hampshire	6,000
New Jersey	$250,000
New Mexico	155,000
New York	2,810,000
North Carolina	----------
North Dakota	32,000
Ohio	32,000
Oklahoma	60,000
Oregon	71,000
Pennsylvania	58,000
Rhode Island	85,000
South Carolina	----------
South Dakota	----------
Tennessee	----------
Texas	----------
Utah	326,000
Vermont	----------
Virginia	----------
Washington	2,200,000
West Virginia	-------
Wisconsin	34,000
Wyoming	6,000
Total	27,289,000

Source: Social Security Board.

Mr. Speaker, I submit that this is wrong; that by this bill the gross inequity now prevailing is only made worse.

I am not opposed to providing an increased Federal grant to the more favored States, nor am I trying to defeat it. Indeed, I favor a greater increase than is provided in H. R. 7037. H. R. 6911 provides larger increases in benefits for all States than H. R. 7037, but recognizes, also, differences in the ability of

the States to finance their share of public assistance.

I object, and I think my objection is reasoned, to any bill which further increases the disparity, inequity, and unfair discrimination by the Federal Government between its citizens. Already the Federal Government is paying more than three times as much in assistance grants to citizens of one State as to citizens of some other State. Under the 50–50 matching system the Federal Government grants most assistance to the States which need it least and grants least to the States which need it most. Both the Social Security Board and the committee's technical staff recommended that the formula be modified so as to correct these gross inequities. After long and diligent consideration, the Ways and Means Committee itself said in its report on July 1, 1946:

Increase in Federal share in low-income States: Federal grants-in-aid for public assistance are intended to help in aiding needy aged and blind persons and dependent children in all parts of the country and to some extent to equalize the financial burden throughout the Nation. The present system of equal matching, however, has not adequately fulfilled these objectives. The present 50-percent basis for Federal participation does not recognize differences in the ability of States to finance public assistance, nor does it recognize the greater incidence of poverty in States with low economic resources. To assist their needy people, the low-income States must make greater tax effort than States with larger resources where relatively fewer persons are in need. This is illustrated by the fact that, in 1942, the latest year for which complete information is available, two-thirds of the States with less than average per capita income appreciably exceeded the average for all States in tax effort to finance the special types of public assistance. In contrast, only one-sixth of the States with per capita income above the national average exerted above-average tax efforts for this purpose.

The variable matching formula is not a perfect method for allocation of Federal funds for old-age assistance, but, at least, it is an improvement over the present method, and an even greater improvement over the provision of H. R. 7037. It is a step in the direction of equality of treatment.

I would like to quote an explanation of the variable matching formula from the Ways and Means Committee report of July 1:

For States with per capita income below the average for the Nation, the committee proposes an increase in the proportion of assistance costs borne by the Federal Government. The share of the cost to be paid by each low-income State will depend upon how its per capita income compares with that for the country as a whole. The State proportion will be equal to one-half the percentage which its per capita income is of the national per capita income. For example, a State whose per capita income is only 80 percent of the national per capita income would contribute 40 percent of its expenditures for assistance; the Federal share would be 60 percent in this State. All States whose per capita income falls below two-thirds of the national per capita income will pay 33⅓ percent of assistance costs from State and local funds and will receive 66⅔ percent of such costs from Federal funds.

No change in relative State and Federal shares of assistance payments is proposed for the States with per capita income equal to or greater than that for the Nation. In no State will the increased Federal share apply to individual payments in excess of $60 in old-age assistance and aid to the blind, and, in aid to dependent children, in excess of $27 for the first child in the home and $18 for each additional child. Though the Federal Government stands ready to pay a larger percentage of the cost of individual payments in low than in high-income States, it will not contribute a larger sum to any payment in low-income States than in those with relatively more resources.

The bill provides that the relative State and Federal shares shall be published by the Social Security Board in even-numbered years, to take effect the following July, so that the public-assistance agencies and State legislatures will have ample time to plan their requirements and to make appropriations. Legislatures in 39 States meet only every other year in odd-numbered years. Such shares shall be determined on the basis of the per capita income figures determined by the Department of Commerce and shall be computed from figures for the three most recent years for which data are available. The percentages of Federal and State participation, based on per capita income data for the 3 years 1941 to 1943, are given for each State in table 1.

The variable matching formula would give additional Federal funds, varying in amounts, to 31 States. These States and the proportion of Federal assistance funds under H. R. 6911 are as follows:

Federal proportion under H. R. 6911

Alabama	66⅔
Arizona	59
Arkansas	66⅔
Colorado	53
Florida	60
Georgia	66⅔
Idaho	55
Iowa	53
Kansas	54
Kentucky	66⅔
Louisiana	66⅔
Maine	53
Minnesota	56
Mississippi	66⅔
Missouri	56
Nebraska	57
New Hampshire	58
New Mexico	66⅔
North Carolina	66⅔
North Dakota	57
Oklahoma	66⅔
South Carolina	66⅔
South Dakota	60
Tennessee	66⅔
Texas	62
Utah	52
Vermont	57
Virginia	59
West Virginia	66
Wisconsin	52
Wyoming	52

Both H. R. 6911 and H. R. 7037 contain provisions relating to World War II veterans and unemployment compensation for maritime workers.

There is another big difference, however, between H. R. 6911 and H. R. 7037. H. R. 6911 provides an increase in the Federal contribution of from $20 to $30 to those States which will match same, while H. R. 7037 increases the Federal contribution to $25. In order that the Members may see just how H. R. 6911 would apply to each State, I am inserting below the amount of Federal expenditures for old-age assistance to each State in the 1943–44 period, and the amount which would be provided by H. R. 6911:

Old-age assistance from Federal funds in 1943–44 and under H. R. 6911

State	1943–44	H. R. 6911	H. R. 6911 increase to each State
Total	$326,870,000	$428,444,000	$101,574,000
Alabama	2,325,000	4,650,000	2,325,000
Alaska	253,000	273,000	20,000
Arizona	2,185,000	3,153,000	968,000
Arkansas	2,470,000	4,944,000	2,474,000
California	36,522,000	52,038,000	15,517,000
Colorado	8,907,000	11,390,000	2,482,000
Connecticut	2,798,000	3,090,000	292,000
Delaware	139,000	139,000	0
District of Columbia	497,000	501,000	4,000
Florida	4,272,000	6,414,000	2,142,000
Georgia	4,412,000	8,827,000	4,415,000
Hawaii	171,000	171,000	0
Idaho	1,683,000	2,055,000	373,000
Illinois	24,609,000	25,706,000	1,097,000
Indiana	8,601,000	8,601,000	0
Iowa	8,268,000	9,446,000	1,177,000
Kansas	4,617,000	5,706,000	1,089,000
Kentucky	3,408,000	6,816,000	3,408,000
Louisiana	4,633,000	9,457,000	4,824,000
Maine	2,273,000	2,564,000	291,000
Maryland	1,884,000	1,919,000	35,000
Massachusetts	16,261,000	20,236,000	3,975,000
Michigan	14,742,000	15,179,000	437,000
Minnesota	9,658,000	12,299,000	2,638,000
Mississippi	1,462,000	2,922,000	1,461,000
Missouri	13,382,000	17,031,000	3,648,000
Montana	1,886,000	1,946,000	60,000
Nebraska	3,948,000	5,236,000	1,283,000
Nevada	457,000	528,000	72,000
New Hampshire	1,082,000	1,496,000	414,000
New Jersey	4,003,000	4,203,000	200,000
New Mexico	920,000	1,846,000	926,000
New York	20,205,000	22,458,000	2,253,000
North Carolina	2,276,000	4,549,000	2,273,000
North Dakota	1,380,000	1,865,000	485,000
Ohio	21,390,000	21,710,000	320,000
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South Carolina	1,667,000	3,336,000	1,669,000
South Dakota	1,796,000	2,695,000	899,000
Tennessee	3,693,000	7,380,000	3,686,000
Texas	22,357,000	36,509,000	14,153,000
Utah	2,828,000	3,452,000	625,000
Vermont	627,000	831,000	204,000
Virginia	1,185,000	1,706,000	521,000
Washington	13,537,000	15,582,000	2,045,000
West Virginia	1,741,000	3,380,000	1,639,000
Wisconsin	7,743,000	8,383,000	641,000
Wyoming	640,000	694,000	53,000

While H. R. 7037 provides a freezing of the social security tax rate, H. R. 6911 provides that the social security tax rate be modestly increased. That, too, was recommended by the supporting staff which the Ways and Means Committee employed. Along with the recommendations of the committee's technical staff and of the social security order, I hold it imperative that the social security tax rate undergo a gradual increase. Other Members, however, may feel differently about this question. Surely this simple question of whether the social security tax rate should be increased is not too complicated for the Congress to pass judgment upon it. I see no reason why we should deny or shield ourselves the responsibility of reaching a decision upon the question apart from other considerations. If the rule is amended so as to permit it, the majority could easily determine this question. That is our right and that is our responsibility.

Mr. Speaker, I see no reason why we should be asked to delegate all responsibility for righting the country's social-security laws to one committee and then gag our own selves out of an opportunity to represent the will of our constituents on so vital a subject.

ask us to decide this issue without an opportunity to amend, with only 1 hour of debate on a "take it or leave it" basis.

Mr. Speaker, I hope the Members of this House will vote down the previous question and give us an opportunity to consider the social-security amendments, a measure of the most vital importance to all of the people of this country.

AMENDMENTS TO THE SOCIAL SECURITY ACT

Mr. EBERHARTER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EBERHARTER. Mr. Speaker, the House consumed nearly 4 hours in the consideration of the railroad reorganization bill yesterday. The House will consume several more hours today on that same bill with opportunity to amend it. Promptly after that the House will consider the Social Security Act. This measure, Mr. Speaker, will affect 10,000 times the number of persons that the railroad reorganization bill will affect. It will have 10 times the effect on the economy of this country that a railroad organization bill will have, and yet they

SOCIAL-SECURITY LEGISLATION

Mr. CLARK. Mr. Speaker, I call up House Resolution 710 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill, and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but such amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.

Mr. CLARK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN].

I now yield myself 5 minutes.

Mr. Speaker, I have a very poor disposition for speaking to people who do not want to be spoken to and try not to do it. I thought there might be some interest in the legislative situation that confronts the House now.

This rule, if adopted, will make in order consideration of social-security legislation and is what is frequently referred to as a gag rule. It is a closed rule, that permits amendments to be offered only by members of the legislative committee, which in this instance is the Ways and Means Committee.

As a matter of fact, there is not any power that can gag this House except a majority of the House itself. On this rule you can pursue one of three courses. You can accept the rule as written, you can vote down the rule, or you can vote down the previous question and amend the rule to suit your own taste. That is true in every case. I have never seen an instance in which the majority of this House could not work its will in a matter presented here, if it is of a mind to do so.

The Ways and Means Committee at first sharply divided on the original bill that was reported. They felt that the situation was so complicated and the legislation in question was so involved that it should be considered on the floor under a closed rule. The Rules Committee was reluctant, with a divided legislative committee, to grant a closed rule. Eventually, the Ways and Means Committee was able to get together and unanimously asked us to grant a closed rule on this particular legislation. The House does not have to accept that, but if you do not accept the judgment of your Ways and Means Committee, which is certainly one of the great committees of this House, you will then yourselves undertake to write legislation on the floor; legislation of a very involved and complicated nature. I think practically all the Members have seen that in the Congress and know what confusion and poor results were arrived at in that way.

It may be suggested by some who are opposed to the adoption of this rule that they only want to substitute a bill adopted by the Ways and Means Committee prior to this bill and that on that they want a closed rule. Either we must have a closed rule for the consideration of this bill or the previous bill or we must throw the whole situation open to any kind of amendment that anybody may wish to offer.

I cannot see how it is logical for Members to oppose this rule because it is a closed rule on this particular bill and then advocate substituting the other bill under a closed rule, for exactly the same situation would prevail.

Mr. McGREGOR. Mr. Speaker, will the gentleman yield?

Mr. CLARK. I yield.

Mr. McGREGOR. Does not the gentleman feel that it would be logical, though, to vote against any closed rule so we could all be given an opportunity to vote our sincere opinions on legislation?

Mr. CLARK. My own opinion is, sir, if you do that and open up this subject under present conditions we will not be able to accomplish much of anything.

Mr. EBERHARTER. Do you not think it would be better to let the House vote on the matters that are in controversy in the committee?

Mr. CLARK. That is entirely up to the House.

The SPEAKER. The gentleman from North Carolina has consumed 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER. The gentleman from Ohio is recognized.

Mr. BROWN of Ohio. Mr. Speaker, as has been explained by the gentleman from North Carolina, this resolution makes in order H. R. 7037 under a closed rule which would prohibit any amendments to the measure being considered. The Rules Committee was very reluctant, as it always is, to grant a closed rule on this legislation, and the rule was granted simply because of the realization that this legislation is very complicated. It deals with the whole field of social security, and if a closed rule is not adopted and an open rule becomes in order, then all sorts of amendments and substitute measures could be considered in the most controversial fields. In fact, when this bill was first presented to the Rules Committee there was a controversy existing within the Ways and Means Committee over some of the provisions of the bill, and the Rules Committee, feeling that a controversial measure, on which the great Ways and Means Committee itself could not agree, should not be sent to the floor under a closed rule, held several hearings and discussed this matter rather fully. In the meantime the Ways and Means Committee had subsequent meetings and reached an agreement on H. R. 7037, as it now appears before us, whereby the committee eliminated the controversial sections of the original bill so as to permit the Congress to give certain very necessary relief under the social security laws at this time. In these closing days of the session I believe it is often necessary for us to compromise our differences and try to work out some sort of a program upon which all of us can agree. I, therefore, compliment the Ways and Means Committee of the House for the manner in which they met this particular problem, worked out their differences, and presented to the House agreed legislation of this type. For that reason the Rules Committee has granted a closed rule so that this matter can be decided quickly by passing a bill that I believe is not controversial.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield.

Mr. EBERHARTER. I want the gentleman to name one single controversial section that has been eliminated in the bill reported by the House. Every section that was in the previous bill is still in this bill in a different form.

Mr. BROWN of Ohio. No. The gentleman is a member of this great committee, but he will find that the section providing for variable grants is not in this bill.

Mr. EBERHARTER. You change the formula, that is all.

Mr. BROWN of Ohio. The provision is not the same. I am sorry that the gentleman has not given more careful study to a bill that has been reported by his own committee.

Mr. EBERHARTER. I would like to reply to that. The section is still in the bill.

Mr. BROWN of Ohio. It certainly is not in the bill in the same form, and the controversy over that provision has been eliminated.

Mr. DOUGHTON of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from North Carolina.

Mr. DOUGHTON of North Carolina. In response to the statement of the gentleman from Pennsylvania may I say there are many controversial matters in the bills which were worked out in the committee. It was a matter of give and take. There are other amendments that are still in controversy.

Mr. BROWN of Ohio. The gentleman is correct.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. MICHENER. May I ask the gentleman from Ohio if this is not the situation: An effort will be made to vote down the previous question. If the previous question is voted down, the gentleman from Tennessee [Mr. GORE] may offer a motion to amend the rule, if he is recognized by the Speaker. He will then have 1 hour. The Rules Committee will lose control. Then the next gentleman who is recognized will have 1 hour. This procedure will continue until the previous question is ordered. We might be here indefinitely if the previous question is voted down.

Mr. BROWN of Ohio. I thank the gentleman for his comment. That is exactly the thing as I expected to say in connection with this measure. If the previous question is voted down and this bill is considered under an open rule, then we will have before the House, immediately, all sorts of controversial legislation on the general subject of social security. We will be endeavoring to consider such important matters on the floor of the House where technical and intricate legislation cannot be considered logically and properly.

Mr. LYNCH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. LYNCH. It was brought out before the Rules Committee that there were some eighty-odd bills introduced into the present Congress with respect to social security. If this is considered under an open rule all of these eighty-odd bills may be offered as amendments?

Mr. BROWN of Ohio. The gentleman from New York is entirely correct, and let me go one step further and say to the House that the presentation of this bill by the Ways and Means Committee does not mean that that great committee has completed its work on social security, but instead is only presenting to the House legislation which it can approve and recommend at this time. In the

next session it will continue the study of social security legislation.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Minnesota.

Mr. KNUTSON. Carrying the suggestion of the gentleman from New York one step further, if the rule is voted down the chances are we will turn out a legislative Mother Hubbard that will cover everything and produce nothing.

Mr. D'ALESANDRO. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD at this point and include a letter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. D'ALESANDRO. The letter by J. Milton Patterson, director, State Department of Public Welfare of Maryland, is as follows:

Re H. R. 6911: Amendments to Social Security Act.

STATE DEPARTMENT OF PUBLIC WELFARE,
Baltimore, Md. July 3, 1946.

Hon. THOMAS D'ALESANDRO,
House Office Building,
Washington, D. C.

DEAR CONGRESSMAN D'ALESANDRO: The Ways and Means Committee has reported H. R. 6911, which is a bill prepared to cover amendments to the Social Security Act, including some amendments to our public assistance program.

While it does not cover all of the things that the public welfare people have been recommending, it does include provision for raising ceilings that will make it possible for us to provide more adequately for those people who receive public assistance.

I notice that there has already been some attack upon the bill on account of the variable grant provision that would make additional funds available to the low-income States. Maryland, of course, would not be the beneficiary under this provision, but it is a philosophy that we believe in within the State, whereby we make funds available to the low-income counties to enable them to meet their actual need.

The point has been raised that if something isn't done to make available funds to these low-income States and we get into an emergency situation, we will have another WPA where the Federal Government pays the entire bill.

I am sure that you will give this matter your serious consideration when you have the opportunity to act on it.

Kindest regards.

Sincerely,

J. MILTON PATTERSON,
Director.

Mr. CLARK. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi [Mr. COLMER].

Mr. RABAUT. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Michigan.

Mr. RABAUT. The way this strikes me is this: We had the OPA bill and it was considered under a wide-open rule. It was of interest to the whole of the Nation. Now, every time we get a bill from the Ways and Means Committee the House is prevented from offering any amendment. We can just take it or leave it. Then we go before the country and brag that the House writes this type of legislation. We have been handing it to the Senate and that body amends it as it pleases. For one, I am tired of such procedure.

Mr. COLMER. Mr. Speaker, this question of the adoption of the rule as granted by my distinguished Committee on Rules is most important. It affects the lives of many thousands of our aged needy and the blind.

This rule was granted by the Rules Committee at a time when I was unfortunately detained in Mississippi in a primary election contest. Had it been possible for me to have been here and in attendance at the Rules Committee, as I should like to have done, when this rule was granted, I would have exercised myself to see that a different type of rule was granted. For, Mr. Speaker, I am most concerned about this matter of increasing the amounts paid to the aged needy of this great country of ours. Particularly am I interested in seeing the inequalities which now exist in the Federal contributions to this worthy cause righted.

For several years, in fact from the time that the first social-security bill was passed, I have vigorously opposed this formula by which the several States are required to match dollar for dollar the amount contributed by the Federal Government. In fact, when that bill was first considered by the Ways and Means Committee, I appeared before that committee and pointed out with all of the logic and force that I could command that such a formula was unjust and unfair to the so-called poorer States. I emphasized that States like Mississippi in the deep South, where agriculture predominated and where the State revenue was small as compared with the industrial States, that these less wealthy States could not match the amount then proposed of $15 per month. I emphasized that the result would be that the aged of the wealthier States would receive larger pensions than the needy aged in the southern or agricultural States.

When my efforts did not prevail before the committee and when the bill reached the floor of the House, I offered an amendment there to equalize these payments by requiring the Federal contribution of $15 to be paid in all States regardless of State contribution. Had my amendment prevailed those qualified to receive pensions in these so-called poorer States then would have received $19 as against $8 which they received under the bill as finally passed.

Again, Mr. Speaker, when this matter was up in 1939 I appealed to the Ways and Means Committee to adopt a more just and equitable program so that the pensioners throughout the country would have received a more uniform pension. At that time I asked that the States only be required to contribute $1 for every $4 that the Federal Government put up, up to the Federal Government's limit of $20, as proposed in the 1939 bill.

Under this formula thus proposed by me, if adopted, in a State that was only able to put up $5 the Federal Government would have put up $20 and the aged needy of States like mine would have received a pension of $25. Moreover, under this formula every other State that was unable to match the $20 Federal contribution would have benefited. At that time there was only one State, California, that was fully matching the Federal contribution. But again the powerful Ways and Means Committee of the House rejected my amendment.

Thereupon, I issued an invitation to all Members of the House interested in this worthy subject to meet with me and join with me in the fight that I then proposed to make upon the floor of the House. At that meeting there were some 86 Members present and others expressed sympathy with our efforts. At this point, Mr. Speaker, I quote from an extension of my remarks in the Appendix of the CONGRESSIONAL RECORD, volume 84, part 13, at page 2489, as follows:

Mr. COLMER. Mr. Speaker, under leave to extend my remarks, I desire to call the attention of the Members of the House to the developments that have taken place in the last 24 hours with reference to the concerted effort that is being made by those of us who are interested in seeing benefits for the aged needy liberalized.

Mr. Speaker, there is a disposition upon the part of this Congress to liberalize these benefits to the aged needy. The bill as reported out by the powerful Ways and Means Committee, with all due deference to the distinguished gentleman of that committee, does not in any sense liberalize these pensions over and above that provided in the existing law. The increase granted from $15 of Federal contribution to $20 is at the most a gesture. The truth of this statement can readily be verified by glancing at the chart which I placed in the RECORD on June 6, showing that at present there is only one State in the Union that matches the present $15. So far as the aged needy are concerned, the Ways and Means Committee could just as well have provided a Federal contribution of $100 provided the States matched it.

The membership realizing this status of affairs, and desiring to see these benefits increased for these aged people, is giving this matter considerable thought and study. In response to a few hours' notice which I gave from the floor yesterday, and by letter this morning, there were 86 Members who met in the caucus room of the Old House Office Building this morning to consider this proposition of liberalizingf the old-age pensions. In spite of the short notice and the fact that Their Majesties the King and Queen of England were expected on the Capitol Grounds this morning, this large number appeared and discussed this momentous question.

After a discussion thereof the following things were done. The group—

First. Adopted a resolution favoring the Colmer amendment.

Second. Resolved itself into a steering committee to foster a liberal amendment.

Third. Elected a chairman and a secretary. WILLIAM M. COLMER (Mississippi) and John J. Dempsey (New Mexico), respectively.

Fourth. Authorized the chairman to appoint a committee of not less than 15 members from the steering committee to serve as an executive committee.

The following Members of the House were present and constituted the steering committe:

Alabama: Sam Hobbs, Pete Jarman, John J. Sparkman, Joe Starnes.

Arizona: John R. Murdock.

Arkansas: W. F. Norrell, David D. Terry, Wade Kitchens, E. C. Gathings, Clyde T. Ellis.

California: Lee E. Geyer, Richard J. Welch, H. Jerry Voorhis, Harry R. Sheppard, Thomas

F. Ford, Thomas M. Eaton, Leland M. Ford, Albert E. Carter.

Connecticut: Thomas R. Ball.

Florida: Millard F. Caldwell.

Georgia: Robert Ramspeck, Paul Brown, Stephen Pace.

Illinois: Frank W. Fries, Anton J. Johnson.

Indiana: Gerald W. Landis.

Iowa: Henry O. Talle.

Kansas: John M. Houston.

Kentucky: John M. Robsion.

Louisiana: René L. DeRouen, A. Leonard Allen, Overton Brooks, John K. Griffith.

Maine: James C. Oliver.

Michigan: Clarence J. McLeod.

Minnesota: H. Carl Andersen.

Mississippi: John E. Rankin, Aaron Lane Ford, Dan R. McGehee, Will M. Whittington, William M. Colmer, Ross A. Collins, Wall Doxey.

Missouri: C. Arthur Anderson.

Montana: James F. O'Connor.

Nevada: James G. Scrugham.

New Hampshire: Foster Stearns.

New Mexico: John J. Dempsey.

New York: Pius L. Schwert, Caroline O'Day.

North Carolina: Harold D. Cooley.

North Dakota: William Lemke.

Ohio: John F. Hunter.

Oklahoma: Jed Johnson, Phil Ferguson, Sam Massingale, Jack Nichols, Will Rogers, Wilburn Cartwright, Mike Monroney.

Oregon: James W. Mott, Homer D. Angell.

Pennsylvania: Guy L. Moser, Ivor D. Fenton, Charles L. Gerlach.

South Carolina: Hampton P. Fulmer, Butler B. Hare, Joseph R. Bryson, James P. Richards.

South Dakota: Karl E. Mundt.

Tennessee: J. Will Taylor, Joseph W. Byrns, Jr., Herron Pearson.

Texas: Wright Patman, W. R. Poage, Clyde L. Garrett.

Utah: J. W. Robinson, Abe Murdock.

Virginia: Howard W. Smith.

Washington: Charles H. Leavy, Knute Hill.

West Virginia: Jennings Randolph, A. C. Schiffler.

Wisconsin: Merlin Hull, Lewis D. Thill.

Wyoming: Frank O. Horton.

Many others who did not have an opportunity to attend due to the shortness of the notice and other unavoidable circumstances have expressed a desire to foster this legislation and be considered on the steering committee. Their names will be added to the list and will appear in a future issue of the RECORD.

Unfortunately, we have not been able to get an accurate figure as to what the additional cost to the Federal Government would be if this amendment is adopted. The best figures obtainable upon the basis which the Social Security Board is now operating indicate that the additional cost to the Federal Government would be $114,000,000. Of course, if more people qualified it would cost more, just as it would cost more if more people qualified under the bill as reported out by the Ways and Means Committee. But in no event will the additional cost amount to more than the additional cost of the present bill under consideration, providing for a $20 Federal contribution, if the several States matched that $20 Federal contribution. In fact, it would not amount to nearly as much.

Mr. Speaker, for the benefit of the membership and the country at large, I have secured a statement, which was prepared by an officer of the Federal Social Security Board, which shows how our amendment would affect the aged who qualify under the bill. This chart discloses that upon the present basis, with the adoption of our amendment, the aged needy of every State of the Union would be benefited and their pensions increased, as follows:

Average amount of old-age assistance per aged needy individual for April 1939, by States, compared with maximum possible average amount under a revised plan of four-fifths Federal matching on $25 per month per aged individual

[Based upon assumption that States continue to expend as much as they now expend and use all the additional Federal funds for increased grants to the aged]

	Average amount paid for April 1939	Maximum possible amount payable under revised four-fifths plan
Region I:		
Connecticut	$25.88	$32.94
Maine	20.54	30.27
Massachusetts	28.57	34.29
New Hampshire	23.54	31.77
Rhode Island	18.85	29.43
Vermont	15.04	27.52
Region II: New York	24.20	32.10
Region III:		
Delaware	10.89	25.45
New Jersey	19.52	29.76
Pennsylvania	17.65	28.83
Region IV:		
District of Columbia	25.62	32.81
Maryland	17.28	28.64
North Carolina	9.55	23.90
Virginia	9.64	24.10
West Virginia	13.89	26.95
Region V:		
Kentucky	8.67	21.70
Michigan	16.64	28.32
Ohio	22.55	31.28
Region VI:		
Illinois	18.97	29.49
Indiana	17.01	28.51
Wisconsin	21.09	30.55
Region VII:		
Alabama	9.38	18.76
Florida	13.83	26.92
Georgia	8.55	21.40
Mississippi	7.22	18.05
South Carolina	7.79	19.50
Tennessee	13.22	26.61
Region VIII:		
Iowa	19.85	29.93
Minnesota	20.65	30.33
Nebraska	15.72	27.86
North Dakota	17.66	28.83
South Dakota	18.98	29.49
Region IX:		
Arkansas	6.05	15.15
Kansas	18.71	29.36
Missouri	18.67	29.34
Oklahoma	19.79	29.90
Region X:		
Louisiana	10.46	25.23
New Mexico	11.80	25.90
Texas	14.02	27.01
Region XI:		
Arizona	26.26	33.13
Colorado	28.12	34.06
Idaho	21.31	30.66
Montana	16.99	28.50
Utah	20.66	30.33
Wyoming	21.85	30.93
Region XII:		
California	32.46	36.23
Nevada	26.57	33.29
Oregon	21.32	30.66
Washington	22.16	31.08
Territories:		
Alaska	27.50	38.75
Hawaii	12.69	26.35

NOTE.—The average payments shown for the revised plan are made on the assumption that each State maintains the number of recipients as at present and uses all the additional Federal funds for increased grants to the aged. Those States which wish to put additional individuals on the rolls and also raise the payment somewhat would have different averages than shown above.

In conclusion, allow me to say that there are many who favor a larger pension. There are some who do not favor as much. All legislation is a compromise. Many Members who have bills pending and who are prepared to offer amendments have, out of their very fine and broad spirit, seen fit to subjugate their own private opinions and bills on the theory that this is the best that we can hope to do. In other words, they have realized that this is a common ground upon which we who favor a more adequate pension can all get together. They are willing to lay aside pride of opinion and authorship. Moreover, they are willing to agree upon the principle that this is an opportunity to render some real service to the aged needy of this country rather than to render lip service. We respectfully submit our views to the House Members as a whole and ask you to go along with us.

Again, Mr. Speaker, on June 6, 1939, when the social-security bill was under consideration on the floor of the House, I addressed the House in support of my amendment, in part, as follows (CONGRESSIONAL RECORD, vol. 84, pt. 6, at p. 6683):

Mr. COLMER. The gentleman is entirely correct. This bill does not help the needy of his State one dollar.

Mr. DEMPSEY. In other words, the people who need help most are to receive no benefits by it.

Mr. COLMER. Quite so.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. COLMER. Yes.

Mr. RANKIN. Not only will this not benefit the old people in those States, what are called the poor States, but the poor States off which the other States have grown rich are agricultural States, where the social-security part of this bill and the social-security part of the original bill left the farmers out of it entirely.

Mr. COLMER. Quite so.

Mr. RANKIN. So the only thing the people in the farming States get is the privilege of paying the bill?

Mr. COLMER. I thank my colleague for his contribution. When this bill is considered under the 5-minute rule—and we have an open rule on this bill and will have an opportunity to legislate, as we did not have the other day—I will offer an amendment on page 3, line 9, strike out "one-half" and insert "four-fifths"; on page 4, line 6, strike out "one-half" and insert "fourth-fifths"; and in line 15, strike out the word "forty" and insert the words "twenty-five."

That would do simply this: That would say that for every dollar that the States put up the Federal Government would match it by $4 up to the $20 limitation of the Federal Government. In other words, it would not cost the Federal Government one cent more as far as those States that are able to match it are concerned; but it would benefit the aged needy of the less wealthy States by increasing their present pittance by $4 for every dollar their State now contributes. The need of the aged in New Mexico is just as great as it is in California or Massachusetts.

Mr. VOORHIS of California. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield.

Mr. VOORHIS of California. Since I come from California, I would like to say that I would be glad to support the gentleman's amendments.

Mr. COLMER. I appreciate the gentleman's statement. He is always fair and broad-minded.

Mr. LEAVY. Mr. Speaker, will the gentleman yield?

Mr. COLMER. In just a moment. Not only that but let me call the attention of the gentleman from California to the fact that if my amendment is adopted the aged people of his State, which now matches the full $15 that the Federal Government puts up, will get $5 more per capita than they are now getting. In other words, they would get $20 for the $15 contributed where they are now getting $15 from the Federal Government.

I now yield to the gentleman from Washington.

Mr. LEAVY. Under the gentleman's plan, as I understand it, if a State matched fully the $20, the maximum pension would be $25 per month.

Mr. COLMER. Oh, no, not at all. The maximum pension would be $40, as it is now

written in the bill, where the State puts up $20.

Mr. LEAVY. But in order to get $20 from the Federal Treasury a State would only be required to put up $5?

Mr. COLMER. That is correct.

Mr. LEAVY. And that would make a $25 pension?

Mr. COLMER. Quite so.

Mr. O'CONNOR. Will the gentleman yield?

Mr. COLMER. I yield.

Mr. O'CONNOR. In my State of Montana where the State and counties put $10, under the gentleman's amendment, how much pension would go to my qualified people in Montana, assuming that they continue to put up the amount of money they are now advancing, namely, approximately $10?

Mr. COLMER. If they put up $10 they would get a maximum of $20 from the Federal Government. That would make a $30 pension.

Mr. O'CONNOR. That is, under your proposed amendment?

Mr. COLMER. Under my proposed amendment; yes.

Now, let me say that we had before this House the other day a utopian scheme that would give people as much as $200 a month; $400 for an aged couple. This House, by an overwhelming vote, turned down that proposition, as was expected. Aged pensions are something new in our governmental scheme. I think it is cruel to attempt to lead these old people to believe that a $200 or $300 pension is an attainable goal. But I say to you that this question of pensions for the aged is one of the most pertinent questions, one of the most pressing questions that confronts this country today. I want to say to you further, you people from Massachusetts and California, if you think you are getting something out of this and the other States are not, let me remind you that if this continues you are going to have the same proposition in pensions for the aged that you now have in the WPA and these other relief agencies.

You are going to have the aged and needy from those States that cannot match this proposition coming to your State to live with you, and you are going to have to take care of them. That is what is being done in the WPA. That is what is being done in the other relief agencies. We ask by this amendment that you treat the aged needy of these so-called less wealthy States not as well as they are treated in Massachusetts and California and some of the other States, but to give them a break; give them an opportunity to get something. They should in justice all receive the same treatment. In my own State of Mississippi it would require more money than all of the money that is now collected for general revenue purposes in the State of Mississippi, to match the proposition of $20 with $20. It is therefore apparent that it is impractical and not feasible for them to match it on an equal basis.

I want you to think seriously about this proposition, which I am advocating. It is something this House ought to consider and correct.

[Here the gavel fell.]

Mr. CLARK. Mr. Speaker, I yield the gentleman one additional minute.

Mr. COLMER. Mr. Speaker, I would like to call attention, in conclusion, to the fact that the Senate committee on relief and unemployment recognized the justice of this cause which I am advocating, in its Report No. 2, part 1, submitted by Senator Byrnes on January 4, 1939, wherein it is stated:

"In certain States this grant is so inadequate as to be of little value. It is recommended that the contribution of the United States for public assistance to the aged, the blind, and dependent children be 50 percent of the amount paid, but that in those States where the average per capita income is less than the average per capita income of the United States, the Federal contribution be increased in proportion to such differences, and that a provision of the grant should be the guaranty of certain minimum payments, as follows: To the aged, $15; to the blind, $15; to the dependent children, $20."

For the benefit of the membership and for their consideration between now and the time that we vote on the bill, I want to quote the amendment again, as follows:

"Amendment: On page 3, line 9, strike out 'one-half' and insert 'four-fifths'; and in line 15 strike out the figure '40' and insert the figure '25', and on page 4, line 6, strike out 'one-half' and insert 'one-fifth.'"

This report recommends a minimum to the aged of $15, to the blind $15, and to dependent children $20 as the Federal Government's contribution.

The President's Board recognized this principle in its report to the President which the President sent to this Congress with this statement:

"The Board believes it is essential to change the present system of uniform percentage grants to a system whereby the percentage of the total cost in each State made through a Federal grant would vary in accordance with the relative economic capacity of that State."

Mr. Speaker, the following table graphically describes the unjust discrepancies in the amount received under the present set-up which this amendment would tend to equalize:

Region and State	Number of recipients	Amount of obligations incurred for payments to recipients	Average per recipient
Total	1,641,151	$31,173,700	$19.00
Region I:			
Connecticut	15,122	402,252	26.60
Maine	12,182	253,560	20.81
Massachusetts	73,212	2,058,656	28.12
New Hampshire	3,856	88,336	22.91
Rhode Island	6,296	118,283	18.79
Vermont	5,273	76,177	14.45
Region II: New York	108,644	2,615,043	24.07
Region III:			
Delaware	2,581	27,901	10.81
New Jersey	26,971	514,883	19.09
Pennsylvania	88,958	1,891,833	21.27
Region IV:			
District of Columbia	3,241	81,808	25.27
Maryland	17,205	301,282	17.51
North Carolina	31,193	288,806	9.26
Virginia	4,770	39,848	8.35
West Virginia	17,925	246,711	13.76
Region V:			
Kentucky	43,128	380,003	8.81
Michigan	68,889	1,192,436	17.31
Region VI:			
Illinois	123,078	2,252,393	18.30
Indiana	49,139	805,562	16.39
Wisconsin	42,482	867,860	20.43
Region VII:			
Alabama	15,599	149,803	9.60
Florida	31,908	444,025	13.92
Georgia	35,176	310,654	8.83
Mississippi	17,996	121,381	6.74
South Carolina	22,306	160,371	7.19
Tennessee	22,599	299,040	13.23
Region VIII:			
Iowa	49,879	988,714	19.82
Minnesota	64,462	1,305,075	20.25
Nebraska	26,631	411,883	15.47
North Dakota	7,720	132,782	17.20
South Dakota	16,010	321,339	20.07
Region IX:			
Arkansas	17,731	74,832	4.22
Kansas	21,172	396,818	18.74
Missouri	73,142	1,329,955	18.18
Oklahoma	64,949	987,382	15.20
Region X:			
Louisiana	27,082	273,122	10.08
New Mexico	3,763	41,816	11.11
Texas	113,342	1,566,540	13.82
Region XI:			
Arizona	6,598	171,510	25.99
Colorado	37,417	1,081,663	28.91
Idaho	8,741	188,286	21.54
Montana	12,415	253,430	20.41
Utah	13,281	270,098	20.34
Wyoming	2,940	63,345	21.55
Region XII:			
California	123,734	4,008,326	32.39
Nevada	2,053	54,438	26.52
Oregon	18,603	395,890	21.28
Washington	36,946	816,705	22.11
Territories:			
Alaska	1,045	28,546	27.32
Hawaii	1,766	22,208	12.58

In conclusion, Mr. Speaker, let me say that I have given much thought and consideration to this subject. I was never more convinced of anything in my life than I am of the injustice of this set-up. Pensions for the aged needy will eventually be recognized as a national problem. We are not going that far here. We are merely asking for a little better treatment for those aged, needy people who live in the less densely populated areas of the country. This is by no means as far as I would like to see the Congress go, but this is as far as I have any assurance or the right to feel that the Congress will go at this time. And so far as I am concerned, I would prefer to get something tangible like this than to render lip service to these poor, aged people, as has been such a popular pastime with so many of our public people, and especially candidates for office. [Applause.]

[Here the gavel fell.]

Mr. Speaker, I have referred to this past history of this legislation to impress upon the membership here today that this fight is not a new one. Today we are faced with the practical proposition of an effort to give this House an opportunity to pass upon this question again. The learned Ways and Means Committee, as has already been pointed out, first reported H. R. 6911 of the so-called variable grant provision which is in effect and principle the same system for which I have been fighting for these past 6 or 7 years.

But something happened in that Committee which is not clear to the House. It is charged that our Republican brethren brought sufficient pressure to change the minds of some gentlemen on the Committee, and as a result the Ways and Means Committee reported out H. R. 7037, which embodies the old principle of requiring the States to match the Federal Government's contribution dollar for dollar. It is true that H. R. 7037 increases the Federal Government's contribution from $20 to $25, but this is purely an idle gesture so far as those States, like my own, are concerned where they are unable because of the lack of revenue to match the $20 now provided.

Under the provisions of H. R. 6911 all of the States would benefit, whereas under provision of H. R. 7037, which the Committee is now trying to jam down our throats under a closed rule, only one or two States who are now able to match the present Federal contribution of $20 would benefit.

The following table, computed by the Social Security Board, illustrates how the Federal expenditures for old age assistance to each State in the 1943–44 period would be provided by H. R. 6911. I quote:

Old-age assistance from Federal funds in 1943–44 and under H. R. 6911

State	1943-44	H. R. 6911	H. R. 6911 increase to each State
Total	$326,870,000	$428,444,000	$101,574,000
Alabama	2,325,000	4,650,000	2,325,000
Alaska	253,000	273,000	20,000
Arizona	2,185,000	3,153,000	968,000
Arkansas	2,470,000	4,944,000	2,474,000
California	36,522,000	52,038,000	15,517,000
Colorado	8,907,000	11,390,000	2,482,000
Connecticut	2,798,000	3,090,000	292,000
Delaware	139,000	139,000	0
District of Columbia	497,000	501,000	4,000
Florida	4,272,000	6,414,000	2,142,000
Georgia	4,412,000	8,827,000	4,415,000

Old-age assistance from Federal funds in 1943–44 and under H. R. 6911—Continued

State	1943–44	H. R. 6911	H. R. 6911 increase to each State
Hawaii	$171,000	$171,000	0
Idaho	1,683,000	2,055,000	$373,000
Illinois	24,609,000	25,706,000	1,097,000
Indiana	8,601,000	8,601,000	0
Iowa	8,268,000	9,446,000	1,177,000
Kansas	4,617,000	5,706,000	1,089,000
Kentucky	3,408,000	6,816,000	3,408,000
Louisiana	4,633,000	9,457,000	4,824,000
Maine	2,273,000	2,564,000	291,000
Maryland	1,884,000	1,919,000	35,000
Massachusetts	16,261,000	20,236,000	3,975,000
Michigan	14,742,000	15,179,000	437,000
Minnesota	9,658,000	12,299,000	2,638,000
Mississippi	1,462,000	2,922,000	1,461,000
Missouri	13,382,000	17,031,000	3,648,000
Montana	1,886,000	1,946,000	60,000
Nebraska	3,948,000	5,236,000	1,283,000
Nevada	457,000	528,000	72,000
New Hampshire	1,082,000	1,496,000	414,000
New Jersey	4,003,000	4,203,000	200,000
New Mexico	920,000	1,846,000	926,000
New York	20,205,000	22,458,000	2,253,000
North Carolina	1,276,000	4,549,000	2,273,000
North Dakota	1,380,000	1,865,000	485,000
Ohio	21,390,000	21,710,000	320,000
Oklahoma	11,409,000	22,812,000	11,403,000
Oregon	3,525,000	3,731,000	206,000
Pennsylvania	14,872,000	15,250,000	378,000
Rhode Island	1,271,000	1,339,000	69,000
South Carolina	1,667,000	3,336,000	1,669,000
South Dakota	1,796,000	2,695,000	899,000
Tennessee	3,693,000	7,380,000	3,686,000
Texas	22,357,000	36,509,000	14,153,000
Utah	2,828,000	3,452,000	625,000
Vermont	627,000	831,000	204,000
Virginia	1,185,000	1,706,000	521,000
Washington	13,537,000	15,582,000	2,045,000
West Virginia	1,741,000	3,380,000	1,639,000
Wisconsin	7,743,000	8,383,000	641,000
Wyoming	640,000	694,000	53,000

Mr. DOUGHTON of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from North Carolina.

Mr. DOUGHTON of North Carolina. I am reliably informed that those figures the gentleman now alludes to are statistics for 1943 and that later statistics for the last part of 1945 would not support those figures.

Mr. GORE. Mr. Speaker, if the gentleman will yield, the source of that information was the Social Security Board.

Mr. DOUGHTON of North Carolina. I still stand by my statement.

Mr. COLMER. It will be noted that under this provision the aged needy of my State would receive as a Federal contribution $2,922,000 if H. R. 6911 is adopted, whereas under the present system it receives only $1,462,000, just a little more than double. Now, I am convinced that if this House is permitted to work its will, it will adopt H. R. 6911 with the variable grant provision and not H. R. 7037 as finally voted out of the Ways and Means Committee.

Mr. Speaker, there is only one thing for the House to do if it wants to do that, and that is to vote down the previous question on the rule. If this is done, as a member of the Rules Committee, I propose to offer H. R. 6911 as an amendment in lieu of H. R. 7037. Then if this is adopted, the aged needy and the blind of all States will benefit rather than just those in a few States. This is simple justice. It should be done. Need is not confined to States. It should not be hampered by State lines. All aged needy citizens should receive equal and fair treatment at the hands of their Federal Government, regardless of State lines.

Mr. Speaker, should we fail in this, I have reason to believe that the Senate will make the correction. In fact, I have already contacted that distinguished and able southern Senator, Senator WALTER F. GEORGE, of Georgia, who has promised me that he would use his best efforts to that end.

Mr. CLARK. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. ROBERTSON].

Mr. ROBERTSON of Virginia. Mr. Speaker, as the distinguished gentleman from Ohio has said, this is a compromise bill. A compromise seldom suits anyone in toto. This bill does not completely suit any member of our committee, and we would not expect it to completely suit any Member of the House. But I tell you in all sincerity that after we have spent nearly 6 months in hearings and study and then were unable to bring you a complete bill on the subject of social security, those of you who so far have spent no time on it need not expect that you can write a bill on the floor. It cannot be done.

There are two practical things you can do. If you do not like this bill, vote the rule down. If you do like this bill, vote the rule up, which will mean that you are going to vote for the bill.

The bill does three things that most people will like to see done. It freezes the social-security tax for another year at 1 percent. Otherwise on January 1 it goes up to 2½ percent on both industry and the employees.

It covers maritime workers, and everybody has conceded for the past 2 or 3 years that they are richly entitled to be covered by unemployment compensation benefits.

It covers veterans for 3 years on the same basis as if they had been in covered industry during their war service.

Those three things I think everybody would like to see done. Bear in mind that when you vote this bill down you take a chance on whether or not on January 1 the tax goes up to 2½ percent.

The controversial matter is the $25 maximum, which benefits a few States. It will benefit more than 5; it will benefit about 39 States on the basis of 1945 figures. In the case of dependent children it will benefit all except five States. Virginia, for instance, will gain about $153,000 and more as State contributions are increased. I asked the distinguished chairman of the Finance Committee of the Senate about 10 days ago what would be the action in the Senate if we sent them a bill with variable grants. He said, "It is so highly controversial we will not even consider it." We will be engaging in a futility to debate variable grants on this floor, and no one knows, if you vote the previous question down, whether the only amendment that will be adopted will be one dealing with variable grants. I tell you, if you have a lot of amendments added to this bill, the chairman of our committee will never, with my consent, ask for the bill to be called up for any action at all.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. ROBERTSON of Virginia. I yield to the gentleman from Minnesota.

Mr. KNUTSON. In the event we do not get legislation, the pay-roll tax goes up to 2½ percent on the worker as well as the employer?

Mr. ROBERTSON of Virginia. That is true.

Mr. KNUTSON. Better remember that when you vote.

Mr. ROBERTSON of Virginia. It is up to you whether you want that to go up or not, but we thought it was of sufficient importance to bring a compromise measure out which does not satisfy us and does not satisfy you, but it was the best we could do in a limited time.

Mr. LYNCH. Mr. Speaker, will the gentleman yield?

Mr. ROBERTSON of Virginia. I yield to the gentleman from New York.

Mr. LYNCH. The increase to $25 carries only for the period up until December 31, 1947.

Mr. ROBERTSON of Virginia. That is correct. Next year we expect to go into the full subject of proper treatment for the aged, for the blind, for dependent children, for increased coverage, and the other things we did not have time to go into now. It was just too big a subject for the few days we had in executive session.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. ROBERTSON of Virginia. I yield to the gentleman from Nebraska.

Mr. CURTIS. I call the attention of the gentleman to the fact that this does increase the allowance for the blind and for dependent children.

Mr. ROBERTSON of Virginia. Yes; and more, if you match it.

Mr. CURTIS. It will benefit them in a good many States.

Mr. ROBERTSON of Virginia. Yes; in all except five.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Speaker, naturally I am of the minority side. We are trying to cooperate with the majority side, and we have gone a long way in an endeavor to do that. I say to you, and I think every man on the floor will agree with me, that we hold your chairman in the highest admiration, respect, and esteem. I marvel at the work he has been able to do. It has been no easy matter to work out this bill, for this very reason, that we have had 157 witnesses who were heard during the last 6 months. Here is a book that is literally a textbook for everybody in this country who is interested in social legislation. It is so comprehensive and has so many problems in it that for us to attempt, even after the completion of the hearings and a study of this book with the aid of the experts, to frame a bill is utterly impossible. What we have done is to bring forth a few essential things that could be passed by this House and eventually be passed in the Senate in the short period which remains of this Seventy-ninth Congress. Every man on this floor knows from his experience here that you just cannot write a bill of this character on

the floor of the House. This bill lends itself naturally to the heart throbs of every man in the House.

Another thing: At this season of the year when people are interested in politics there is a great temptation to offer every type of amendment that will bring some of this money to the deserving blind, the children, the aged, and what not. If this bill is opened up to amendment and we start in on that kind of a program, we will not only render the committee ridiculous but render the House of Representatives ridiculous before the country. Here is a great study by experts. It is only a question of time when each one of the problems brought forth by this intensive study will be brought to the floor. They have broad implications because they relate to the financial ability and stability of this country to meet all these problems. Every one of us knows that the social security bill is a bill of discriminations. There are large groups of people which would like to be covered under social security. I would like to see them covered.

Well, now is the time when pressure groups are very effective, but under an open rule you will load the bill down with provisions which have not been thought out. The result will be that if amendments are permitted you may work an injury to the whole social-security plan. We have lined up here to help your distinguished chairman and the majority to bring in a bill that can be passed and which will accomplish great good to a large number of people. It will accomplish some good for the elderly people, the veterans, and for the blind and dependent children. All of us would like to do more. Each of us would like to go home and say, "I offered an amendment to the social security bill to pay you a large pension." We would love to do that. We would be champions of the unfortunate. We would get their votes. There would not be any question about that, but let us be realistic about this and let us realize that our job here is to treat the people fairly who are covered in the bill. Let us look forward to the time when we can take this study that has been brought out here and frame a bill that will work justice, equality, and equity to those folks who should eventually be covered. I hope the rule as brought in will be supported by the House in the interest of just legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. SIMPSON).

Mr. SIMPSON of Pennsylvania. Mr. Speaker, I hope very much that this rule is adopted. I fear, that if it is not adopted we will not have any Social Security Act amendments during the present session of Congress. If we adopt this rule and pass the bill as it is before us, we will accomplish a great deal of good. We will not do the best we could have done if at the beginning of the session we had available the information that we now have, but I suggest to you that as the committee found, as we studied this legislation, it is too late for us today to attempt to write in detail the full amendments needed to properly amend the Social Security Act.

By adopting this bill we will settle for another year the question of social security taxes. We will temporarily provide some benefits to the survivors and heirs of deceased soldiers, men who died in action during the war just closed or die within 3 years of its close. I hope very much that we may give that benefit to those people in the near future. We will provide unemployment compensation for that great mass of maritime workers who are today without unemployment-compensation coverage, and we will increase, under certain conditions, the old-age and survivors' assistance payments.

Mr. COOLEY. Mr. Speaker, will the gentleman yield?

Mr. SIMPSON of Pennsylvania. I yield.

Mr. COOLEY. Will the gentleman explain to the House how it happened that on July 1 the great Ways and Means Committee reported one bill and then on July 15 they reported another bill substantially different? Under the first bill the State of North Carolina would have received in excess of $2,250,000 and under the bill before the House the old-age people of the State of North Carolina do not receive a dime.

Mr. SIMPSON of Pennsylvania. If I might suggest to the gentleman, if the State of North Carolina saw fit to increase by its own legislative action pensions payable to its old-age citizens who are eligible for old-age assistance, the State of North Carolina would under this bill, and under existing law today, receive from the Federal Government the amount of money the gentleman suggests.

Mr. COOLEY. The fact is that our legislature does not meet until January.

Mr. SIMPSON of Pennsylvania. The fact is that your legislature, when it met in years past, saw fit to overlook what you now suggest are the needs of the citizens of your State.

Mr. COOLEY. This bill goes into effect on October 1. That is right, is it not?

Mr. SIMPSON of Pennsylvania. The bill goes into effect on October 1; yes.

Mr. COOLEY. So it means that North Carolina gets not a dime under this bill, whereas it would have gotten $2,250,000 under the former bill.

Mr. SIMPSON of Pennsylvania. It means specifically that those States which in the past have seen fit to recognize the needs existing in those States for old-age citizens will immediately receive benefits. It means further that in the gentleman's State, if your legislature either in October, or subsequently, sees fit to increase the benefits to the aged citizens of your State, they will then receive increased benefits from the Federal Government.

Mr. COOLEY. Is it not unreasonable for the General Assembly of North Carolina to anticipate the acts of the Ways and Means Committee, when they change their minds in a 15-day period?

Mr. SIMPSON of Pennsylvania. Let me suggest that under the bill as it was on the 1st day of July, there would have been required in many States legislative acts before they would have received any benefits. May I also say that the gentleman's State, and any of the States which do not begin to receive benefits under this bill immediately on its passage, may if the demand within that State is sufficiently great, call its legislature together and change their law and immediately, on a matching basis, begin to receive benefits under this law. It is the States obligation to declare the needs of its citizens.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. SIMPSON of Pennsylvania. I yield.

Mr. GORE. But the difficulty is there are many States in the Union which are simply not financially able to match the Federal funds already available. So this merely holds a delusion and an empty snare before the people, promising them something they can never obtain.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. SIMPSON] has expired.

Mr. CLARK. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee [Mr. GORE].

Mr. GORE. Mr. Speaker, this is a very unusual situation. After 5 months of study and after the employment of a fine technical staff and deliberate consideration extending over this entire year, on July 1 the great Ways and Means Committee reported a bill embodying some of the recommendations of this expert technical staff which the Congress had authorized them to employ. Then 2 weeks later, for some reason unknown to me, the committee has completely changed its mind on two very important matters and now it is said that we shall put upon ourselves a yoke, self-imposed, to deny ourselves even the right and privilege of considering the two bills which the Ways and Means Committee has reported. What manner of men are we? I resist the suggestion that this House is incapable of giving consideration to the problems of the old and needy people of this country, of the blind, and of the dependent children. I do not know how it ever happens, unless it is by some legislative miracle, that the body at the other end of the Capitol, with no gag rule, ever succeeds in passing a social security bill. Mr. Speaker, we considered a bill on the OPA applying to 8,000,000 commodities and yet no closed gag rule was requested. The issue here is whether this Congress wants to dodge its responsibility or whether they want to keep their hands free to work their majority will on fundamental questions of social security.

The question is—the issue is—between adequate consideration, on the one hand, of a problem vital to millions of people in this country or a go-home-quick abandonment of our responsibility, on the other. Why hold up this empty delusion to the millions of old people and dependent children who cannot speak for themselves and to those with sightless eyes—this delusion that we will increase the Federal appropriation if it is matched? The fundamental fact stands—and the committee in their report of July 1 gave eloquent recognition of the fact—that in many States the program is operating inequitably, unjustly, and unfairly, for the simple reason that many States cannot match Fed-

eral funds already available, though the record shows that the poor States are making a relatively greater effort than the rich States. How does it operate? The proof of the pudding is in the eating. The Federal Government is now paying more than three times as much to a needy old man or woman or a blind person in one State as in another, and this bill would but worsen that inequity. Need cannot be measured by State lines.

Mr. Speaker, the issue here is whether the Congress wants to stay on the job long enough to give adequate consideration to a pressing human problem and to consider giving succor to the wants of the people who so direly need assistance or shackle our ability and right to do so.

Mr. CASE of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield.

Mr. CASE of New Jersey. If the previous question is voted down would the amendment suggested by the gentleman from Tennessee permit the bill to be amended so as to require equal treatment for persons who receive aid on the basis of no discrimination on account of race, creed, or condition of servitude?

Mr. GORE. I understand the gentleman's question. The Congress, as pointed out by the distinguished gentleman from North Carolina, has three choices: One is to vote down the previous question. If the previous question is voted down then the rule by which this bill will be considered is within the hands of Congress. We can then amend it as majority desires.

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. CLARK. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. EBERHARTER].

Mr. EBERHARTER. Mr. Speaker, it is ironic that a member of the committee gets but 2 minutes in which to discuss this very important measure under this proposed gag rule. Mr. Speaker, how can the Committee on Ways and Means after sending a report to you on July 1 recommending the adoption of a bill and asking for a closed rule, come to you 2 weeks later and ask for a closed rule on a bill that reverses the position it took 2 weeks before? It reversed itself after 6 months of study and now wants you to accept, and ram it down your throats, an entirely different proposition without having an opportunity to amend it. If this House accepts that proposal, Mr. Speaker, it might as well adjourn right this minute. It is a proposition of take it or leave it. What are you going to do, stand up or lay down?

Mr. Speaker, if we are going to legislate on matters in that way we better quit. We appropriated $50,000 to study this subject. In 2 weeks the committee reverses itself. Let it report a bill here on which there was unanimous agreement in the committee, those provisions on which there was a unanimous agreement. I dare them to do that, then let them ask for a closed rule.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from Tennessee.

Mr. GORE. Does not this mean that the increased Federal expenditures to the extent of about 90 percent will go to five States?

Mr. EBERHARTER. It means, according to the figures I have, that 76 percent will go to 3 States; 84 percent will go to the 10 richest States and the 10 poorest States will not get one cent. Are we going to legislate that way under a gag rule?

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. CLARK. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. VOORHIS].

Mr. VOORHIS of California. Mr. Speaker, I shall vote against the previous question so as to try to secure an open rule on this bill for the following reasons:

In the first place, because the cost of living has risen and many of us believe that the old-age provisions of this bill ought to be more generous than they are. We believe the House should have an opportunity to vote on amendments that would give this Nation a true national old-age-pension system.

In the second place, the freezing of the taxes in this bill is wrong from an economic standpoint and unsound from every point of view. I think these taxes ought to have been allowed to go up at the beginning of the war. I believe with economic conditions as they are now the taxes should to be allowed to go up at this time.

Further I believe the coverage of the act should be extended to those groups not now covered, farmers, agricultural workers the self-employed and others.

In the next place I should like to see a provision in the bill so that the blind people will be encouraged to make earnings besides their pension. I have introduced such a bill.

I come from a State that would benefit under the provisions of the bill as written and I am certainly for the bill with the exception of the tax provisions. However, I believe the variable grant feature is a sound feature and is socially desirable.

In the next place I want to say that several States in the Union have passed disability insurance laws. California is one of them. I believe those States ought to be able to recover their own tax money so that they may make those disability payments.

I fully realize I cannot have my way about all the things. But I do think the House should have a chance to consider them.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. CLARK. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may desire to the gentleman from Oregon [Mr. ANGELL].

Mr. ANGELL. Mr. Speaker, I regret that the social-security bill now under consideration was brought up under closed rule. I will vote against the rule and against the previous question. This is putting a gag upon all the Members of the House who desire to offer amendments to the bill and particularly those of us who are urging modification of the social-security program in order to provide a reasonable allowance for our elderly citizens who are now denied a sufficient income to keep body and soul together. I urge that this rule be voted down so that we may then offer amendments to the social-security legislation, providing for increased allowances to the old people of our country who are in dire need.

On February 16, 1945, I introduced H. R. 2230 which was a companion bill to H. R. 2229 and which had for its purpose the providing of monthly annuities to the aged as well as to certain disability and hardship cases. These bills were referred to the Ways and Means Committee. Eighty-seven Members of this House filed a petition with the Ways and Means Committee urging that a hearing be granted on these bills and the legislation reported out for consideration on the floor. The hearing was granted and extensive testimony was taken on the merits of the legislation. However, the Ways and Means Committee has taken no action to date on the bills, and with the imminent recess of the Congress, we will not have an opportunity to pass upon the legislation.

At the hearings I exhibited petitions signed by citizens throughout the United States in almost every State of the Union, aggregating 14,000 petitions requesting that legislation of this type be passed. In my own State alone an excess of 35,000 citizens signed the petition. These petitions show the widespread interest throughout the Nation for the enactment of old age security legislation. If this rule is voted down and the social-security bill is thereupon considered under an open rule, it is our purpose to offer this legislation as an amendment so that the House may have an opportunity to express its will on this most important legislation.

The Social Security Board reports that for August 1945 the average monthly allowance for aid to the aged in all the States of the Union was $29.97. It ranged from the high of $49.25 to the low of $12.79. In these postwar days, with high costs prevailing for the necessities of life, it does not require argument to demonstrate that such a niggardly payment for the care of our old folks is not only indefensible but a blot upon the good name of America which is presumed to be foremost in providing care for its citizens. We are expending billions from the Federal Treasury for relief in foreign countries, but we permit our old people to eke out an existence in this land of plenty on the miserly sum of $29.97 a month, which is wholly insufficient to maintain an old person in decency and health.

Under the provisions of these proposed bills, all of our people would contribute

in proportion to their income in providing funds to meet these monthly payments, and every citizen, on attaining the age of 60 years and not gainfully employed, would be entitled to share on equality with every other citizen in like circumstances in the fund. Furthermore, it would replace many elderly citizens with younger men in the industrial and commercial work of our country and thereby give additional jobs to those on the unemployed rolls.

Before our entry into the war, it was estimated that in 1941 of the persons 60 years of age and over in the United States, 54.9 percent were supported wholly or partially by public or private social agencies or were dependent on children, relatives, or friends for their subsistence and care. A considerable proportion of the remainder received part or all of their support from various pension systems—Federal, State, municipal, industrial, or private.

Mr. Speaker, it is not my intention or purpose in this brief statement to discuss the merits of this or similar legislation, but merely to call the attention of my colleagues to the necessity of action now upon this important legislation which was sidetracked during the war. As a result of our ingenuity and accomplishments in adapting scientific processes and power machinery for mass production, our workers have not only been able to produce a much greater volume and variety of goods than heretofore to provide food, clothing and shelter, as well as a higher standard of living for our people, but in the process we have eliminated a large segment of our population from participation in the processes. As a result, together with other contributing factors, from 1929 to the beginning of our national defense program, some 10,000,000 or more of our workers were unable to find employment in productive enterprise, and even now with the increased demand for manpower in postwar production, we still have many unemployed workers. These calculations in the main do not take into consideration that larger group of unemployed who are 60 years of age or over, most of whom are denied the right to participate in productive enterprise. It is interesting to note that the United States census for 1890 shows at that time 75 percent of all our people over 65 years of age were gainfully employed. At the present time, 80 percent of our citizens 60 years of age or over are unable to obtain the minimum for decency and health.

The science of production has submerged the science of distribution. The very achievement of our goal, maximum of production with minimum of employment, has undermined our economy by reason of our failure to provide that distribution shall keep pace with production.

If we are to preserve the American way of life and protect our own democracy from disintegration and collapse, we must find a solution for our unemployment problems as well as providing a decent living for those of our citizens who under our economy are unable to be provided with remunerative employment in our system of production. The severest indictment that has been lodged against us is that while we are the richest and most favored Nation on earth, and while we have developed the greatest and most effective productive enterprise the world has ever known for providing the necessities of life—more than sufficient for all—we have failed miserably to provide a method by which the fruits of our industry may be shared equitably by all groups of our people.

National recovery without inflation in the United States is entirely dependent upon full production and an adequate and sustained purchasing power in the hands of the American people. If business and industry are to be assured of opportunity for the steady production of goods with reasonable profits, and if labor is to be assured stable and sufficient employment, with fair wages, purchasing power must keep pace with production. Economic stability depends today almost entirely upon the expansion of demand balanced with full production. With the adequate purchasing power available, demand for commodities and services will come naturally, and this demand will force increased production and in turn stabilize employment and make more work available.

The aged, through no fault of their own, cannot take part in production. In this age it is almost impossible for a man to get a job after he reaches the age of 60. This group over 60 years of age, who have toiled the longest, should not be deprived of taking part in the consumption of goods. They are the victims of an industrial system for which they are not responsible. We owe a duty to our old folks, and we can perform this duty by establishing a national annuity system on a pay-as-you-go basis.

Mr. Speaker, the present bill, as finally reported by the Ways and Means Committee, provides only $5 per month increase to our elderly citizens in the way of Federal help. This is a ridiculously low sum and with the existing allowances, will be wholly insufficient to provide for the bare necessities of life. We must not overlook the fact that they, too, must pay the high and inflated prices now prevailing for their needs and to provide a roof over their heads. I hope the rule will be voted down and an opportunity given to do justice to our elderly citizens. I am willing to forego our recess and stay in session until we pass legislation along the lines of H. R. 2230 and do justice to our old people who are in dire need.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, I am sorry that my distinguished colleague on the Ways and Means Committee, the gentleman from Pennsylvania [Mr. EBERHARTER] was not able to be present at the last session of the Ways and Means Committee, when this bill was reported out.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. JENKINS. I am glad to yield to my distinguished friend, the gentleman from Pennsylvania.

Mr. EBERHARTER. I may say to the gentleman that I was present and voted on every proposition before the committee up until the time it reported the first bill. It is too bad that the committee reversed its position on the other proposition.

Mr. JENKINS. Yes; I know that the gentleman was there quite regularly at first but the gentleman was not there when the bill was finally passed on by the committee. That is the only point I want to establish.

Mr. Speaker, the Ways and Means Committee is made up of 15 Members from the Democratic side and 10 Members from the Republican side. That committee is usually set up so as to give the party in power in the House a good working majority, for the Ways and Means Committee is considered the most important committee of the House.

The committee has worked for months on these social-security matters. It became evident a few weeks ago that we were not going to be able to bring out a bill that would deal with all phases of the social-security laws, so we decided to bring out a bill covering the most pressing matters and those that were noncontroversial. We went along pretty well and agreed on the first four sections of this bill. Then we decided that we should do something for the aged who draw old-age assistance and for the blind and for the dependent children. Of course I was strong for this plan as I had always voted for assistance for the aged and the dependent children; and if you will pardon me, I am proud to say that I am generally considered as having been the author of the blind pension. We decided to raise the Federal contribution to the aged by $5 per month and the blind by the same amount, and to raise the allowance for dependent children by a proportionate amount, when we had gotten this far, some members sought to adopt a new plan for distributing these amounts to these recipients. The plan is known as variable grants. This means that they would abandon the principle that has obtained from the beginning which was the principle of requiring the States to match every dollar that the Government paid. The new principle would require the Government in many instances to put up $2 while the State was only putting up $1. This precipitated a terrific battle in the committee which finally ended by the advocates of the new principle giving up the fight. We agreed unanimously to bring in the present bill and to ask for a closed rule. Many members of the committee today who are supporting this rule were on a different side, as it were, previously.

One of my colleagues who has preceded me made a remark or asked the question, "Why did the Ways and Means Committee change its mind?" The Ways and Means Committee changed its mind because there was involved in this proposition that some were advising a departure from any principle ever before announced in any social-security legislation. I think that the social-security legislation is one of the most comprehensive pieces of legislation that has

ever been passed since the Constitution was adopted. Frequently the Ways and Means Committee is criticized for asking for closed rules. It may be that the Ways and Means Committee should be criticized for asking for a closed rule. But it does not request closed rules only when a complicated bill is being considered. When the original social-security bill was before the House no closed rule was requested. It took the House 2 weeks to write that bill that the committee had considered for 9 weeks.

As I have said this is not a gag rule. Here is what happened. Some members of the committee sought to inject a new principle, a principle we call the variable grant theory. That is the principle that the gentleman from Tennessee wants incorporated in this law. He wants to beat the previous question and then have the right to offer his new plan as a part of the bill. He in his own power wants to supplant in a few minutes here this afternoon what 24 members of the committee declined to ask for after months of study. Many of you who would like to offer the Townsend plan or any one of about 80 amendments that might be made, all of which are sensible and right proper, you have been led to believe that you could have that right if the rule is voted down, will not get a chance to put your plans before the House. You may think that you will have the chance, but may I say neither time nor expediency will permit as we are nearing the close of this session. You know how things move here. It is not the intention of those who are most active in their attempt to defeat this rule to permit the Townsend leaders to get a vote on their bill. I say this because all of you who know the history of Doctor Townsend and his efforts to get hearings before this House know that these hearings were had more because of the insistence of Republicans than that of the New Dealers. You well remember the flippant remarks made by Mrs. Roosevelt when Dr. Townsend first came to Washington in behalf of his plan. I know and the Townsend leaders of the early days will know what the Republican Members on the Ways and Means Committee did to procure hearings for him and his friends. I know because I did my humble part in securing complete hearings for them.

Now, Mr. Speaker, let me devote a minute or two to the matter of the Ways and Means Committee changing its mind—I refer to the remarks made by the gentleman from Tennessee [Mr. GORE].

Do you mean that our good friend, the gentleman from North Carolina [Mr. DOUGHTON] did not have a right to change his mind? Do you mean to say that the gentleman from North Carolina had to come to you and ask you if he could change his mind? I say to you that we Republican members of the committee are defending the action of the gentleman from North Carolina and the 13 other Democratic members of this committee. They saw that if any legislation was to be passed it must be legislation without any new-fangled doctrines.

Now then, let us talk about this social-security section of this bill. Some are disappointed because of a table of figures that has been passed around and placed in the RECORD by the gentleman from Tennessee [Mr. GORE]. It shows that if this bill is passed some States will receive more Government funds than others—that is only natural. The States with larger populations should have more than the small States. But, my friends, do not forget that no State will get this $5 increase from the Government unless and until that State has matched it with a $5 contribution.

The State that will receive little or nothing are those that have declined to pay the aged and blind the limit of $20 that is now paid by the Government. If those States only want to pay $8 or $10 to their recipients then they cannot complain if the Government only pays $8 or $10. The Government stands ready to match up to $20 per month and under this bill, if passed, the Government is willing to raise its matching up to $25. If the State will do the same the recipient will then receive $25 per month from the Government and $25 from the State.

Mr. Speaker, if the gentleman from Tennessee will go down to his State and have his State legislature raise the State payments up to $25 and will pay $25 then he will get as much for his State per capita as any other State. This chart of figures shows that Ohio will receive a certain sum from this law. Let me say to my good friend from Tennessee that Ohio will not receive $1 from this law unless the legislature of our State meets and raises the State contribution from $20 to $25. In order to receive we must first be ready to pay.

What are you complaining about? Do you want to get something for nothing? Do you expect the people in my State to provide for the people of your State? Why does not your legislature get together and act? As I have heretofore said several times, the great commanding principle of social security is that the State determines who is entitled to receive benefits and how much he is to receive; that the Government will then pay one-half of that amount if the State will pay the other half. Your distinguished floor leader was a member of the Ways and Means Committee when the original social-security bill was written, and he knows what I am saying is true. The very basic principle of it is matching. The Federal Government said to every State, "If you want to get money out of the Federal Government, you go back to your State and you pass a law meeting the requirements prescribed by the Federal law and when you come forward with $5 we will come forward with $5, and if you will come forward with any sum up to $20 we will do the same.

I appreciate that some States are not as wealthy as others, but it is not expected that those States will pay as much as some others, but it is left to the people of each State to determine for themselves. It is strictly a home rule local matter to decide how much they want to pay to those people.

Somebody referred to California. California having so many visitors has a very difficult problem and that State pays an allowance to its aged and blind and certainly is entitled to a larger contribution from the Government. They have more social-security problems than we have in many of these States in the interior.

In conclusion to you who say you will not get anything let me say that you should throw the responsibility on the shoulders of the members of the legislatures of your respective States. You may not know it, but it is to the credit of all of your States that gradually year by year your States are becoming more liberal to your aged and blind and unfortunates. The passage of this bill will encourage them to increase their contribution in order to secure the amount which the Government is ready to pay under this matching system.

Mr. BROWN of Ohio. Mr. Speaker, I yield the remainder of my time to the gentleman from Minnesota [Mr. KNUTSON].

Mr. KNUTSON. Mr. Speaker, the gentleman from Tennessee is trying to get us all into an old skin game; you know the old game of put one and take two, and he is grousing because we reported out a bill that will not permit him to get away with it. He has not been entirely fair with the House in presenting the figures that he did. He presented figures for 1943 to 1944. If he had called up the Social Security Board and asked for the figures for 1945, he would have found a considerably different picture presented.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I do not yield. The gentleman has had his time.

We might just as well face this thing frankly. It is either this bill or nothing. From a political angle, if I wanted to play politics, I would join the gentleman from Tennessee and help kill this legislation, but there is too much involved. You are taking care of the soldiers in this bill; you are taking care of the seamen in this bill; you are taking care of the aged in this bill, the blind, and the dependent children. It is either this bill or nothing. The gentleman is willing to sacrifice everything in order to play the old skin game of put one and take two.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from Ohio.

Mr. JENKINS. Is it not true that the Senate has already passed the provision with reference to the soldiers, and we must do this out of justice to ourselves?

Mr. KNUTSON. Certainly.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. No; I do not yield.

Mr. WASIELEWSKI. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from Wisconsin.

Mr. WASIELEWSKI. Is it not true that prior to 1935 the Federal Government made no contribution to old-age assistance, and it is only since 1935 that the Federal Government has stepped into the picture? It stepped in then at a time when the States were practically broke; but today the picture is reversed;

it is the Federal Government that probably needs some help from the States.

Mr. KNUTSON. Of course. As usual, the gentleman is right. When I say that I mean it. He is a valuable member of the Committee on Ways and Means.

Mr. GEARHART. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from California.

Mr. GEARHART. The point that seems to be overlooked by everybody who has talked on the other side of this question is that the amount of money that should be paid to every oldster is fixed by the State Legislature of the State and not by the Congress of the United States.

Mr. KNUTSON. That is absolutely true.

Mr. GEARHART. The only thing is that they want the Federal Government to come in and reimburse the State for one-half of what the State fixed by its own legislature. Every State would get the same if they fixed the maximum that is now allowed by law.

Mr. KNUTSON. That is right. I may say to the gentleman from North Carolina that our great chairman would not have consented to bring in a bill that would work an injustice on his own State. If the gentleman will also call up the Social Security Board and ask for the 1945 figures instead of juggling around with a lot of old chestnuts, the gentleman will be better informed.

Mr. COOLEY. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. No; I cannot, my time is so limited. I think I have been pretty generous.

Mr. BRADLEY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I am going to yield to my good friend from Pennsylvania.

Mr. BRADLEY of Pennsylvania. Is there any truth to the report that the Committee on Rules refused a rule on the original recommendation of the Committee on Ways and Means and said they would not give a rule unless this bill embodied such provisions?

Mr. KNUTSON. I do not know. I am not a member of the Committee on Rules, neither am I in the confidence of the great Committee on Rules.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. As a member of the Committee on Rules, may I advise the gentleman from Pennsylvania that that report is absolutely false.

Mr. KNUTSON. I thought it was but I could not speak authoritatively. I try to be careful with my facts.

Mr. LYNCH. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from New York.

Mr. LYNCH. May I say that the Committee on Rules heard us on four or five different occasions, I think, and gave us every consideration.

Mr. KNUTSON. The committee was most generous.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from Pennsylvania.

Mr. EBERHARTER. Why did they not grant you a rule on the bill on which you requested a rule? Why did they refuse?

Mr. KNUTSON. The gentleman is asking a leading question and the speaker is not informed.

Mr. BROWN of Ohio. If the gentleman will yield, I can answer the gentleman from Pennsylvania by saying that the Committee on Rules did grant the rule that was requested by the Committee on Ways and Means, and we are now asking for the adoption of that rule.

Mr. KNUTSON. I think that is the reason we have all this griping.

There is another thing I want to say in the brief time that is left. If we do not pass this legislation the pay-roll tax automatically goes up to 2½ percent on the worker and the employer. Personally, I strongly feel that we now take altogether too much in the way of taxes out of the toiler's pay envelope. They already have a surplus of $7,000,000,000 in the fund. The committee took that into consideration when they reversed themselves and arranged to freeze the present rate of 1 percent on both employer and employee for another year.

Mr. COOLEY. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I must yield to the gentleman, of course.

Mr. COOLEY. If the Committee on Ways and Means exercises their right to change their mind why does the committee want to prevent the House from exercising the right to change its mind and adopt the first bill that you approved in committee? I assume the committee did that.

Mr. KNUTSON. If the gentleman would give the matter some study he would know that we cannot write tax legislation on the floor of the House.

Mr. COOLEY. The committee reported the bill out on July 1 and said it was a good bill.

Mr. KNUTSON. Your party came into power in 1931. You then tried to pass a tax bill with an open rule. The result was so disastrous that the bill had to be recommitted to the Ways and Means Committee.

Mr. COOLEY. You reported the bill out after 5 months' study.

Mr. KNUTSON. Yes; but I cannot yield further.

Mr. Speaker, I hope the rule will be adopted. I may say that there is less friction and less politics in the Committee on Ways and Means than any other committee in the House with the possible exception of the Committee on Banking and Currency, which seems to think along with its chairman on any and all questions. But in our case, it is a matter of meeting of minds. There is no politics. We went before the Committee on Rules and both majority and minority members joined in asking for the rule. I do not recall a single vote had on this measure in the Committee on Ways and Means that was along party lines. Majority and minority members were found voting on both sides of each question. So when I appear before you today and urge you to adopt this rule I am merely carrying on the spirit of nonpartisanship that is always practiced among ourselves when we are in committee.

The SPEAKER. The time of the gentleman has expired.

Mr. CLARK. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina, the distinguished chairman of the Committee on Ways and Means, my colleague [Mr. DOUGHTON].

Mr. DOUGHTON of North Carolina. Mr. Speaker, we are dealing today with a condition and not with an opinion. It is a question of either this bill which the Committee on Rules has reported for the consideration of the House or it is no legislation or worse than none. That is my honest opinion about the situation. I yield to no one so far as my physical and mental track goes in my desire to do everything that is reasonably possible for the blind, dependent children, and needy old people. I have lived with this subject of social security since 1935 and I am acquainted with all its ups and downs. I know something about it. I tried to have something provided in this bill that would do more to help my State and other States similarly situated in providing more adequate help to needy old people, the blind, and dependent children. I found that it was impossible to go further at this time than is provided in the bill and that we would fail to do anything and the other desirable provisions of this bill would be lost and the work of the committee for months and months would be lost unless this bill were accepted.

The House was good enough to allow us $50,000 for expenditures for a technical study. We secured as good a staff as we could have obtained for twice this sum but spent less than $20,000. We have more to show for our work than any other committee that I have ever known. We have a report by the staff that will be an invaluable asset to the future work on this subject. The gentleman from Tennessee [Mr. GORE] with great zeal and enthusiasm has been going around here buttonholing Members for 3 days and has made two long speeches in the RECORD. I should like to ask where he was when we were laboring and holding public hearings on this subject? Why did he not appear before our committee and state his position then? We were doing all we could. He was as absent as the dead. We never heard from him.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON of North Carolina. No; I do not yield at this time.

After reporting H. R. 6911 on July 1 on a divided vote, we encountered a minority report, signed by six members of the Committee, and when we applied to the Rules Committee for a rule, those who had signed the minority report appeared in opposition to the type of rule we had agreed from the outset would be necessary if any legislation on the subject were to be adopted before the recess or adjournment of Congress.

In fact, owing to the long time required by our special staff studying social security, and the lengthy hearings, beginning February 25 and running until June 7, it was recognized and agreed by all, I think, at least that was the under-

standing in our committee that it would be impossible to enact a bill which was controversial and for the consideration of which a special rule could not be obtained and adopted. Those of the majority had hoped and expected that we would be able to reach an agreement with the minority on the type of rule which we could operate under, but failing in this after three different appearances before the Rules Committee, and the opposition apparently more and more determined that a rule should not be granted that would make possible the enactment of the bill, we then realized that we were dealing with a stubborn condition and not with an opinion or a hope.

Those of us who were so anxious to have some legislation before Congress adjourned realized that unless a compromise was reached, it was futile to attempt to go ahead with an effort to pass the bill. So, after different conferences, the committee unanimously reported the bill under consideration, H. R. 7037, and the Rules Committee granted the type of rule we requested.

I believe if those who are opposing the bill in its present form and the adoption of the rule had been present in our efforts to agree on a bill which we could hope to have enacted, that they would have been convinced that the bill now under consideration was the best that could possibly be secured at this time. Unfortunately, the gentleman from Pennsylvania [Mr. EBERHARTER] who has submitted a minority report, was not to be found and did not attend the various meetings and conferences from that time until after the bill now under consideration was agreed upon and a rule secured for its consideration. The trouble with the position taken by the gentleman from Pennsylvania [Mr. EBERHARTER] is that he is dealing with things as he would like to have them and not as they actually are. He is at least one Congress ahead of what it is possible to do. We have not finished our work, and the provisions of the bill to which he so strenuously objects in the minority report are only temporary and for 1 year, 1947, until the committee can have time and opportunity to go into the matter more fully and until the House could have time to debate and consider a bill containing the objectives which not only the gentleman from Pennsylvania [Mr. EBERHARTER] but many of us earnestly favor and for which we fought as long as there was hope of success. To consider this bill under a rule other than the one under consideration would mean I plan no legislation or worse than no legislation. There are now before our committee some 87 bills dealing with changes in the social-security law, and if the previous question should be voted down and the rule open to amendments, then every one of these 87 bills could be offered as an amendment, and perhaps others might be, requiring days of debate.

Of course I would not take the responsibility of calling up the bill or giving the matter further consideration if the House should take this action. There are many good provisions in the bill concerning which there were no objections and upon which we all agreed, and if the House wants to take the responsibility of having no legislation whatever rather than what is contained in the bill, that is its responsibility.

Those of us who have struggled with the matter day in and day out for months have done the best we could. We do not claim the bill is perfect nor contains all we would like for it to contain. We know it does not. Neither is our task completed, as it will be the duty and responsibility of the Committee on Ways and Means, either in the present or in the new Congress, to take up this legislation where we left off and to consider the subjects which we did not have time to deal with and to legislate permanently on the controversial provisions omitted from the bill.

No one could possibly more strongly favor more than is being done for the old people than myself.

The SPEAKER. The time of the gentleman from North Carolina [Mr. DOUGHTON] has expired.

Mr. CLARK. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MCCORMACK].

Mr. MCCORMACK. Mr. Speaker, the gentleman from North Carolina [Mr. DOUGHTON] made an observation in relation to legislation of this kind that those of us who have served on the Ways and Means Committee and lived through the development of the original Social Security Act, as he and I and the Members in 1935 did, know merits the deep consideration of the House, that "we are confronted with a condition and not a theory." I served on the Ways and Means Committee for 10 years before I was elected by my Democratic colleagues as majority leader. I served on that committee when we drafted the original Social Security Act which is the keystone of social reform in America. The members of the committee at that time and later when we made the important changes in 1938 or 1939, both Republicans and Democrats, have made marked contributions to the best interests of the average person in America.

Now, this is a condition and not a theory. There are important matters in this bill whereby people will be benefited. I think it is either this bill or nothing. The gentleman from Tennessee [Mr. GORE] has exercised his rights under the rules. There is no finer Member than he, in my opinion. He is exercising his rights, but I think he took the wrong course. If I were in his position, I would have taken the course of action that while I regretted the closed rule, I would not oppose it, and then I would state in debate what I thought should be done and that I hoped when the bill went to the Senate, an amendment along such lines would be incorporated in the bill and then the House could either agree or the bill could go to conference.

In 1938, when changes were made, I took the position then, not departing from the matching system, which I would not want to do, that this should not be taken away from local control. We do not want to get away from local control in the handling of applications, and in the determination of the amounts that the aged applicant should receive and leaving it to the local people to handle the problems. I suggested that two-thirds of the first $15 should be contributed by the Federal Government, without regard to the States. I considered it favorably as a member of the Ways and Means Committee. At that time I could not see my way clear to support this variable plan. If that bill came up with the variable plan, this House would be engaged in debate for a long while.

Under the circumstances I doubt very much if we would get any legislation through. As I understand it, the committee did not change its course, but they adopted the practical course that any legislators would, wanting to get the best they could through in the closing days of the session, eliminated the controversial features of the bill first reported out and then reported this bill knowing that there is no controversial feature in it.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. MCCORMACK. I yield.

Mr. JENKINS. Is it not a fact that all through the social-security theory runs the matching basis?

Mr. MCCORMACK. You cannot get away from it. If you get away from it you get into the Federal Government with its vast machinery in absentia, away from the fellow who gets the benefit and whom we want to have the benefit. The local people must administer it. That is the basis of the social-security system.

I hope the rule will be adopted and then if in the Senate an amendment is put in somewhat along the lines consistent with the matching system we can consider it when it comes back from the Senate.

Mr. HAND. Mr. Speaker, it is regrettable that on such a very important matter as the social-security bill the debate on the rule has been limited to 1 hour, which means that even members of the committee are extremely limited in time, and other Members of the House have little or no opportunity to discuss the question.

This rule is, of course, a closed rule, and it provides that no amendments may be offered to the pending social-security bill, except those offered by the Committee on Ways and Means. Two arguments are advanced in favor of such a procedure: One is that the House is unable to properly write this bill on the floor, and the other is, as I understand it, that it would take too long.

Now, Mr. Speaker, I am certainly as anxious as any other Member to close this session of Congress at the earliest possible time, but I am not willing to sacrifice social-security legislation for that purpose. The truth is that the bill unamended—as has been admitted by members of the committee—is a very little approach to a very big problem.

The bill only attempts to make a few minor changes. Title I freezes the rate of contribution at 1 percent instead of permitting it to go up to 2½ percent. Title II provides some benefits for deceased veterans, but gives no consideration to veterans who are fortunately alive as contemplated by my bill, H. R. 5487, which was referred to the Committee on Ways and Means on February 14, 1946. Title III includes maritime

workers, but continues to leave out millions of other workers in the United States. Title IV makes a number of technical and miscellaneous provisions. Title V makes a few minor increases in grants for old-age assistance, dependent children, and aid to the blind.

Mr. Speaker, it can be truly said of this legislation that the mountain has labored and brought forth a mouse. Granting the difficulty and complexity of the subject, the present bill, as I have said, is an inconsequential approach to a very great social problem. That such a bill has to be either passed or rejected without the opportunity of any one of our 435 Members to offer the important amendments it needs is a position which I cannot subscribe to, and I, therefore, must oppose this gag rule.

I can only say, in conclusion, that this is one more piece of unfinished business which I hope the Eightieth Congress will dispose of in its earlier days instead of putting it off for haphazard and brief consideration at the end of the session.

Mr. REES of Kansas. Mr. Speaker, this legislation providing for amendments to the Social Security Act came to the floor this afternoon under what is known as a closed rule—a better name is gag rule. I realize it is rather unpopular to criticize the action of the great Ways and Means Committee of the House with respect to legislation it has proposed as well as the manner in which it is submitted. I have the highest regard for every member of that committee. It is composed of leading Members from both sides of the aisle. But, Mr. Speaker, I think it is unfortunate, I think it is wrong that the committee has seen fit to bring this important bill comprising more than 60 pages to the floor of the House under a rule whereby no amendments, no changes, no substitute measures are permitted to be offered. We are told by the leadership of this committee that we must either vote for or against this bill exactly as written or there will be no legislation dealing with social security this year.

Mr. Speaker, it is unfair to the people of this country, and especially to the millions affected by this legislation, that this bill should come to the House during the last few days of the session with only 2 hours during which to consider and debate it. The bill affects the welfare of millions of needy people. It ought to have been presented several months ago instead of being brought to the floor at the eleventh hour with a demand that we either pass it or have no legislation. The rule should be voted down and opportunity given to offer amendments. Why should the Members of this House surrender their right to amend legislation if they see fit to do so? This is no ordinary measure. It is entitled to full and complete discussion.

Only a few weeks ago this House spent many hours discussing legislation whose importance did not begin to compare with this proposal. If the Membership of the House is not in favor of amendments that may be offered, then it could vote them down but it ought not to foreclose itself by failing to permit a right to which it is entitled. Now I want to call your attention somewhat briefly to some of the inequities in this legislation. There are four titles. I call especial attention to the grants for old-age assistance. At the present time expeditures for old-age assistance amount to $327,000,000. These funds are, of course, matched by the States. This bill provides for an increase of Federal old-age assistance in the sum of $27,000,000. Now let us see how it is divided. Under the present bill, Kansas will receive an increase of $302,000. Colorado, with no more population than our State, will get four times as much or $1,496,000. Massachusetts has a population of three times that of Kansas but she will get 15 times as much money or $4,960,000. The State of Washington, which compares in size with my State, will get $2,200,000 which is seven times as much as my State will receive. Now take a look at California. Of course, it is a big State. It is larger than Kansas but not so much larger that it should receive over $13,000,000 which is almost one-half of all the increase under this bill. You are giving 90 percent of all of the increased funds to 10 States. Mr. Speaker, I submit that this is wrong. The bill is a gross inequity and absolutely unfair. It is not right that the people of Kansas and other States should receive small allocations but are required to pay Federal taxes in order to take care of the allowances in the favored States. The formula in this bill is wrong. It ought to be corrected.

I was given to understand that the membership of the Ways and Means Committee at the beginning of this year were going to give careful study to the whole problem of old-age assistance and aid to dependent people. Fifty thousand dollars was appropriated to furnish advice and information to this committee so it could be carefully studied, but at this late hour we are handed a piece of legislation that is wholly inadequate, inequitable, and disappointing.

Mrs. DOUGLAS of California. Mr. Speaker, here again we have another tragic case where the mountain has labored and brought forth a mouse. H. R. 7037, presented to us under a closed rule today, is totally inadequate from any point of view.

I happen to come from one of the 10 richest States in the country whose aged would get 90 percent of the increase in old-age-assistance money we are asked to vote on today. Of course, I will vote for the bill. Naturally I want our needy old people in California to get $50 a month instead of $40 a month. But I cannot help thinking of the old people in Georgia whose average monthly grant is $11.31 and will remain there under this bill. Or the old people in Kentucky who can look forward to no improvement in their present average of $11.67, or in North Carolina with $13.78, or Alabama with $15.86.

The Ways and Means Committee reported to this House a bill, H. R. 6911, which, while far from adequate, at least was equitable in that it gave some benefit to all States through a larger Federal contribution to the poorer States and was reasonably realistic in recognizing the increase in cost of living by raising ceilings in old-age assistance and aid to the blind to $60 a month.

But where is H. R. 6911? Why do we have to vote today on this miserable substitute?

Even H. R. 6911 was a pitiful answer to the crying need of our people for security. Last year we appropriated $50,000 to the Ways and Means Committee for a comprehensive social-security study so that never again would we have to be confronted with a last-minute expedient on the ground that our time was too short, our knowledge too inadequate. The committee produced an excellent technical survey, 742 pages of analyses, statistics and graphs, all going to show—so that even a child could scarcely be confused—the inadequacy of our whole social-security system; the need for broader coverage and more adequate benefits in the insurance programs, the need for new kinds of benefits and the need for a comprehensive assistance program which would really put a floor under poverty in this country. The committee held hearings that lasted for months. Group representatives of every interest in this country—business, labor, churches, welfare administrators, women's clubs, veterans, assistance recipients and dozens of others plead with the committee for a more liberal social-security program.

And what did they get? A modest little bill, H. R. 6911, which was so inadequate that many of those interested in a real social-security program ignored it. It's one real contribution to an improvement in our total situation was the recognition of the need for more equitable distribution of Federal assistance funds. But now it appears that we in the House are not to be permitted to vote even on this modest improvement in our social-security program.

I have never been an advocate of any pension system other than the social-security program. I have felt that we must protect the interest of those who have contributed to our old-age and survivors' program and make that program adequate both as to coverage and benefits. I want to see everybody under that system, even—if it is humanly possible—those elder citizens who have already retired from the labor market. I want them to get benefits which are adequate to live on in decency, dignity and health and to get them as a matter of legal right. I want the assistance program to take its rightful role as the comprehensive, residual program to take care of the unusual situation, to put a safety net under the insurance program and a floor under poverty as contemplated in H. R. 5686, the Forand bill.

But what are we who want a reasonable progressive liberalization of our social-security program to do? Where are we to turn for action if even the majority of the Ways and Means Committee cannot bring us a bill in which to express the wishes of our people?

Mr. CLARK. Mr. Speaker, I move the previous question on the resolution.

The question was taken; and on a division (demanded by Mr. GORE) there were—ayes 163, noes 82.

Mr. EBERHARTER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H. R. 7037, to amend the Social Security Act and the Internal Revenue Code, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 7037, with Mr. THOMASON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I appreciate very much the action of the House in making possible the consideration of this bill reported by the Ways and Means Committee, and that is said with no criticism whatever of those who took a different view. The matter of changing the social-security law and amending it is a controversial subject. As I stated previously, I have lived with this subject ever since 1935. I had the honor and privilege of being chairman of the Committee on Ways and Means when that committee reported to the House the first bill ever reported by any committee on social security and I have always felt very proud of that. At that time we set up the social-security system and, while the law has been amended from time to time since, while not yet perfect, it still retains its original framework as that has been tested and found sound. The present bill is the best we can get under the conditions that obtain today, the conditions under which we were compelled to work.

Mr. Chairman, we held lengthy hearings on this matter from the 25th of February to about the 5th of June. It is said that we had months and months. Of course, there were months and months occupied in the consideration of this matter, but most of that time was used by our staff, a very competent and efficient staff, which we selected as the result of the generosity of the House in implementing our committee with funds to make the study. I think we had the most competent staff I have ever known.

After the staff had completed their work and made their report, which has been mentioned here today, we began then an extensive consideration of the subject. The reason we got at it rather late was not because we were slow in getting out a report. While our committee is not perfect, it does work. Our committee would have been able to report a bill earlier had it not been for the fact that we had to consider the Reciprocal Trade Act and that took quite a lot of time. It was a very controversial subject. Then we had the Philippine Independence Act, on which we worked for months. We found when we went to work on it that it was not as simple as we at first thought. Then we found that the departments were not in agreement, so we took a little time to work that out, in order to report a bill that we could truly be responsible for.

We began work on the social-security bill as early as we could and worked as continuously as it was reasonably possible. We realized that due to the early adjournment of Congress, the limited time, and the importance of the subject that it would be impossible to get anything enacted during the remainder of this session of the Congress that was of a controversial nature or upon which disagreement could not be reconciled by members of our committee. We proceeded all the way with that understanding; that is, that we would have to leave controversial matters for future study and future determination. We proceeded that way until we had completed our work, completed our hearings, completed our executive sessions, and got ready to report out our bill, and when we did that we found that there was a difference of opinion as to what we could get through, as to what should go in the bill. When we reported the bill out after extended executive sessions we had a minority which was unyielding and inflexible, but just as sincere as the majority. They believed that certain provisions the majority wanted should not go into the bill. But we reported the bill with these provisions. We thought perhaps we could reconcile those differences. The minority submitted a very strong minority report, so we could not reach an agreement on the bill as reported. Finally, to make possible enactment of legislation, we made changes in two titles of the bill. If we had not done this it would have been impossible to get through any legislation and we could not assume responsibility for it.

I should like to explain briefly the provisions of H. R. 7037. At the outset, I want to make it plain that this bill does not represent the final consideration of social-security legislation by the Committee on Ways and Means. Instead, it should be regarded largely as a temporary measure designed to freeze the old-age and survivors' insurance tax rate and to somewhat liberalize old-age assistance, aid to dependent children, and aid to the blind for the next year while permanent changes in both the insurance and assistance programs are being perfected. The legislation also takes care, for the time being, of old-age and survivors' insurance protection of families of veterans who die within 3 years after discharge.

I share with many of you the feeling that both the insurance and the assistance provisions in the bill fall far short of what is desirable for permanent legislation. Public assistance recipients, particularly those in low-income States, receive inadequate assistance under existing law and there should be some basic changes to remedy this situation.

The bill does, however, contain several permanent provisions which are worthy of note.

For many years coverage of maritime service for unemployment compensation has been a troublesome issue before the Congress. Numerous bills have been introduced on the subject, and there has been a great division of opinion as to what would be appropriate legislation in this field. Your committee believes that the problem is effectively solved by the provisions of H. R. 7037, which have been cooperatively worked out among the several interested groups. Enactment of these provisions has been recommended by representatives of the State unemployment compensation agencies, ship owners, maritime employees, the social-security administration, and the chairman of the subcommittee of the Committee on the Merchant Marine and Fisheries who has long and faithfully endeavored to perfect legislation in this field.

The bill also has amendments which would extend child welfare services to the Virgin Islands, thus placing them on a par under the Social Security Act with Puerto Rico.

In addition, the legislation contains a substantial number of perfecting amendments which correct anomalies and inequities in the old-age and survivors' insurance system.

Thus H. R. 7037 attains valuable permanent changes as well as temporary provisions, and is a bill which should be speedily enacted.

I might summarize the pending bill very briefly by titles. Title I amends the Federal Insurance Contributions Act so as to fix employer and employee contribution rates at 1 percent each for the calendar year 1947. It also repeals a section added to the Social Security Act in 1943 authorizing the Congress to make any necessary appropriations to the old-age and survivors' insurance trust fund.

Title II amends the old-age and survivors' insurance provisions by adding provisions with respect to veterans who die within 3 years after their discharge. In general, it guarantees survivors of veterans within its purview the same old-age and survivors' insurance benefit rights they would have enjoyed had the veteran died fully insured under old-age and survivors' insurance with $160 per month average wage and as many years of covered employment as the calendar years in which he had military service after September 16, 1940.

Title III amends the Unemployment Compensation Tax Act so as to include maritime employment and authorizes the States to subject maritime employment to their State unemployment compensation laws. It also provides during a temporary period ending June 30, 1949, credit for maritime service with the Federal Government on vessels operated by the Maritime Commission, and provides for using this credit for benefits under State unemployment compensation laws.

Title IV extends title V of the Social Security Act, Child Welfare Services to the Virgin Islands, and contains technical changes facilitating payments and adjusting certain minor anomalies and

inequities under old-age and survivors' insurance.

Title V, for the last quarter of this year and for next year, raises the ceiling on old-age assistance and aid to the blind from the present $40 maximum to a $50 maximum. It also raises the ceiling for aid to dependent children from the present $18 for the first child in a family to $27 and the $12 ceiling for other children in the family to $18.

The estimated costs for providing social-security benefits for families of deceased servicemen through the year 1959 would amount to some $175,000,000, according to estimates of the Social Security Board. The cost of extending title V of the Social Security Act to the Virgin Islands would be some $65,000 per year. The cost of the temporary protection extended to maritime employees should not exceed $3,000,000 if the general rate of maritime and nonmaritime unemployment gets no higher than at present. This amount would, of course, be substantially increased in case unemployment gets higher than at present during the reconversion period.

The cost of raising the ceilings on public assistance may be estimated roughly as from $47,000,000 to $50,000,000. The actual cost, of course, will depend upon the State expenditures under the public-assistance programs. The cost to the Federal Government would be substantially greater if the States increase the amount of State and local expenditures much beyond the expenditures for the fiscal year 1943–44, upon which the estimates are based.

I should like at this point to report briefly on the investigation of the Social Security Act which has been made by the Committee on Ways and Means pursuant to House Resolution 204, adopted on March 26, 1945.

The committee was very careful in its selection of a technical staff which was employed to review and report on operations under the act and problems of coverage, benefits, and taxes related thereto. This staff filed a comprehensive report in January of this year, covering all these matters, and extensive hearings have been held subsequently. There hearings were started toward the end of February of this year and completed on June 7. As I stated on the concluding day, the committee worked with reasonable regularity during the entire period and heard each and every witness who asked to appear. The hearing was in three parts—the first part on old-age and survivors' insurance, the second on public assistance, and the third on unemployment compensation. The printed report of these hearings is 1,510 pages in length and covers the testimony of 157 witnesses, some of whom appeared more than once. In addition to the witnesses who appeared a large number submitted statements to the committee.

As a result of the investigation and hearings, the Congress now has available a body of information essential to making needed changes in the various social-security programs. The Committee on Ways and Means is impressed with the importance of very careful and painstaking consideration of many types of permanent changes such as fixing an appropriate tax schedule, extension of coverage, the benefit formulas, the improvement and extension of benefits, and other matters which will improve the system, all of which are found to be most closely interrelated.

The committee has, of course, from time to time been faced with pressing matters other than social security, such as the Philippine Trade Act, which required extended consideration and necessarily interrupted the work on social-security legislation. The committee was also faced with the fact that an early adjournment of the Congress is in prospect. Accordingly, the time for consideration of social-security legislation has been quite limited and the committee has been in full agreement that it would be unwise to effect any basic changes on a piecemeal basis. Consequently, as I have above outlined, H. R. 7037 is limited in scope and deals only with comparatively simple and noncontroversial legislative changes which could be speedily considered and enacted by the Congress.

All of us know that basic changes must and will be made in the programs and many of us wish that the pending legislation could contain those permanent changes. However, we are faced with an actuality of limited time and the necessity for noncontroversial legislation if its passage is to be secured within that time. Each member of the Committee on Ways and Means gave up insistence on some provisions which he felt important so as to insure that the legislation would be unanimously reported by the committee. I feel certain that each Member of the House will likewise be relinquishing consideration of provisions which he feels to be important. But members of the Committee on Ways and Means—and, I am sure, Members of the House as well—feel that it is highly important that the provisions of H. R. 7037 should be speedily enacted into law and will vote accordingly.

While there is hardly a State in this Union, in my opinion, that is not able to do more for the needy old people than it is doing, they are very inadequately provided for in many States. Many of us wanted to change the law to make it so that low-income States, under a variable grant formula, would not have to put up 50 percent but the matching would be done on a more liberal basis than the 50 percent. This would have given the needy old people additional benefits. I shall continue to fight for this more liberal approach in Federal grants.

Mr. KNUTSON. Mr. Chairman, will the gentleman yield?

Mr. DOUGHTON of North Carolina. I yield to the gentleman from Minnesota.

Mr. KNUTSON. Is it not a rather peculiar thing that the Members who want to rewrite the bill on the floor of the House failed to come before us and give us the benefit of their wisdom while we were considering this legislation?

Mr. DOUGHTON of North Carolina. Of course, that would have been equally as appropriate and possibly more helpful, but they did not do it. Those that are making the greatest noise about it now and have been exercising themselves so strenuously for the last few days, we did not hear a word from them. But now it is close to the election. I do not impugn anybody's motives; I do not do that. But if they had been as anxious and as much interested and as zealous then, and if their zealousness had been accompanied by knowledge, and they had appeared before our committee, possibly they could have converted the members of the committee.

Mr. KNUTSON. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. GEARHART].

Mr. GEARHART. Mr. Chairman, the instant bill does not satisfy any member of the Committee on Ways and Means. Every one of us, upon whatever side of the aisle we sit, would like to have brought in a more comprehensive measure. The party conventions of both political parties in 1940 declared in favor of an expanded and a more generous old-age security program. But the time consumed in the preparatory investigations—the preliminary studies which would make it possible for us to formulate that kind of legislation—was so great that there simply was not enough time left when we commenced our labors—our efforts to write the kind of a bill which every one of us hoped we would be able to write at the beginning of the year. However, we have done pretty well. We have brought in some constructive amendments which, when added to the social-security law, will greatly improve the system, I am quite sure. A great deal of dissatisfaction has been expressed today because a few States—among them my own—will be allotted much more money by increasing the Federal contribution from $20 to $25 than others. Every State in the Union can get just as much as the States which now get more money if they are willing to contribute more themselves. In other words, the amount to be paid to each individual oldster under our social-security scheme is determined not by the Congress but by the legislature of the particular State. California has decreed that pensions can be paid up to $50 per month to each oldster. That sets in motion the Federal law. Depending, therefore, on what the State does, the Federal Government will contribute to the extent of 50 percent up to a maximum of $25. The point I make is simply that the amount to be paid every State is not to be determined by the Congress of the United States but is determined by the legislature of each particular State, and that is the way it ought to be.

I yield to my colleague the gentleman from California [Mr. JOHNSON].

Mr. JOHNSON of California. My colleague has studied this problem for a number of years. May I inquire from his knowledge of the subject, whether he believes the principle of matching contributions on a 50–50 basis should be retained permanently or whether it should be abandoned at this time, as some advocate?

Mr. GEARHART. I think that it can be said after all these years that we have had a Federal Social Security System, this, insofar as old-age assistance is concerned, that the matching principle is sound, since it has worked so well all

these years it ought to be adhered to, at least until a better system is devised, and, certainly, the variable grant, with all of its inequities, cannot be so regarded.

Mr. JOHNSON of California. Also, is it not a good principle to keep that contributory system close to the people who get the benefits? They know what the local conditions are. California has one condition. Tennessee has another. By adhering to this matching principle, we leave the problem to each State to solve in its own way, this as they understand their own problems.

Mr. GEARHART. Each individual State under this system reserves the right to determine for itself just how much is to be paid to its own oldsters in the form of old-age assistance. And this, it would seem to me, is the way it should be, at least until we embark upon a Federal system which is supported by a Federal tax based upon the principle of pay as you go.

I yield to the gentleman from Virginia [Mr. ROBERTSON].

Mr. ROBERTSON of Virginia. I believe, in view of the fact that previous figures were printed in our report and we now have the figures based on 1945, it should be brought out and stressed that with respect to dependent children all the States in the Union except five will receive benefits. With respect to old-age assistance, 39 of the States will receive benefits under the pending bill.

Mr. GEARHART. I thank the gentleman from Virginia [Mr. ROBERTSON] for that contribution.

Under the aid-to-the-blind system, that, too, is based upon equal contributions by the Federal Government and the States, a just system which leaves to each of the States the privilege of determining for itself what it thinks should be paid to its blind citizens. It is a form of decentralization of which we have too little these days. It is State's rights at its best, establishing a balance in State and Federal relationships which is highly desirable.

So let us go a little slow when it comes to taking from the individual States the right to determine what shall be done within the boundaries of the States, especially in respect to a subject matter so intimately related to the general welfare and the ability of the State to operate within the limitations of its own economy.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. REED of New York. Mr. Chairman, I yield such time as he may desire to the gentleman from Kansas [Mr. CARLSON].

Mr. CARLSON. Mr. Chairman, I think it is most unfair to consider this legislation under a closed rule. We must remember this legislation affects, directly or indirectly, the present and future welfare of every citizen of our Nation. This legislation should be considered under an open rule where every Member has an opportunity to offer amendments. There are many who believe we should have a Federal old-age insurance program that is federally supported. Under the rule their proposal cannot be voted on by the House.

We have had 10 years' experience with a social-security program—a program that so vitally affects every citizen that in future years it might become more powerful and influential in our national economy than the Government itself.

A social-security program must be geared to the national economy. It cannot remain static. Benefit payments made either under the contributory title or under the Federal-State matching provisions of the law must meet changing economic conditions. Social security based on conditions of 10 years ago may not only be impractical but may be insolvent. The retired worker, the needy aged, the dependent children and the blind of our Nation must buy the necessities of life with present-day purchasing power of the dollar, not the dollar of 10 years ago. Every other group in the Nation has received pay increases and the beneficiaries of this program must have the same consideration. There are many features of this bill that I do not approve but as Congress is going to recess within the next few days, it is this legislation or nothing. Personally, I am disappointed.

The Members of the House of Representatives, realizing the great importance of this legislation, adopted, on March 26, 1945, House Resolution No. 204, which authorized the Ways and Means Committee to hire a technical staff and make a complete study of the present social-security program. The committee was fortunate in securing the services of Leonard J. Calhoun, who, together with other members of his staff, have made a complete study and report to the committee. With this background the Ways and Means Committee began open hearings on proposed changes in the legislation. These hearings were concluded on June 7 of this year. Our committee heard 157 witnesses and their testimony covers over 1,500 printed pages.

It had been my hope that Congress would, as a result of this study and committee hearings, enact legislation which would correct inequities and injustices to millions of our people who qualify or who fail to qualify under the provisions of this act.

OLD-AGE ASSISTANCE

While our present social-security program is recognized as national in scope, it is, in reality, national in theory only. For instance, the payments to over 2,000,000 needy aged persons under title I averaged in 1945 $31.20. These average payments ranged from $11.64 in Kentucky to $52.86 in the State of Washington. Not only do the payments vary among the States of the Nation, but they vary among counties within States. In one State, for example, the average old-age-assistance payment varied from a low of $13 in one county to a high of $36 in another county.

While it is true that economic conditions and costs of living vary in different sections of the Nation and in different States, surely no one would contend that the difference is as wide as is demonstrated by the above figures. The ability of the richer States to provide more adequately for their aged and needy brings about another glaring discrimination among the aged of the different States. While a number of States are able to take advantage of the full 50 percent matching of the $20 per person under existing law, low-income States are unable to do so. The average Federal contribution for old-age assistance in the States ranges from $5.80 to $19.45. One State alone drew nearly three times as much from the Federal funds for old-age assistance as five poorer States which had about the same aged population.

The pending bill increases from $40 to $50 the maximum State expenditure for old-age assistance to any individual on the basis of equal matching by the Federal Government. The increase in Federal contribution for the entire Nation is some over $27,000,000. As many States are unable to take advantage of this increased Federal contribution the inequalities in distribution is further exemplified. For instance, of this total amount California will receive $13,000,000, or approximately one-half of the entire amount carried in the bill. The pending bill increases the Federal contribution for dependent children by 50 percent and increases the payments to the blind on the same basis as the aged. Under the bill as drawn Kansas will receive a total for the three programs of approximately $1,000,000.

Under unanimous consent, I include the following tables:

TABLE 1.—*Old-age assistance: Recipients and payments to recipients, by State, April 1946*

State	Number of recipients	Payments to recipients	
		Total amount	Average
Total	2,088,025	$65,444,935	$31.34
Alabama	37,763	638,987	16.92
Alaska	1,357	55,164	40.65
Arizona	9,617	372,623	38.75
Arkansas	26,578	448,385	16.87
California	160,811	7,640,809	47.51
Colorado	40,537	1,681,219	41.47
Connecticut	14,525	598,646	41.21
Delaware	1,198	22,558	18.83
District of Columbia	2,308	77,561	33.61
Florida	44,611	1,347,755	30.21
Georgia	68,643	869,896	12.67
Hawaii	1,467	36,375	24.80
Idaho	9,828	321,865	32.75
Illinois	124,834	4,211,859	33.74
Indiana	54,162	1,426,508	26.34
Iowa	48,378	1,622,805	33.54
Kansas	29,140	896,409	30.76
Kentucky	44,832	524,919	11.71
Louisiana	37,264	782,664	21.00
Maine	15,097	464,561	30.77
Maryland	11,455	323,569	28.25
Massachusetts	78,729	3,638,808	46.22
Michigan	88,618	2,959,507	33.40
Minnesota	54,308	1,807,246	33.28
Mississippi	27,038	443,224	16.39
Missouri	103,857	2,863,602	27.57
Montana	10,759	349,777	32.51
Nebraska	24,158	775,835	32.12
Nevada	1,940	75,170	38.75
New Hampshire	6,583	204,188	31.02
New Jersey	22,938	758,458	33.07
New Mexico	6,475	202,104	31.21
New York	103,868	3,972,291	38.24
North Carolina	32,703	451,647	13.81
North Dakota	8,695	301,800	34.71
Ohio	116,355	3,668,799	31.53
Oklahoma	84,984	3,006,691	35.38
Oregon	20,782	814,224	39.18
Pennsylvania	85,345	2,633,205	30.85
Rhode Island	7,503	263,179	35.08
South Carolina	22,540	361,078	16.02
South Dakota	12,678	341,816	26.96
Tennessee	38,026	618,301	16.26
Texas	178,206	4,399,652	24.61
Utah	12,792	499,539	39.05
Vermont	5,199	123,282	23.71
Virginia	14,889	226,608	15.22
Washington	64,794	3,443,361	53.14
West Virginia	18,669	319,207	17.10
Wisconsin	46,093	1,420,930	30.83
Wyoming	3,496	136,269	38.98

TABLE 2.—*Aid to dependent children: Recipient and payments to recipients, by State, April 1946* [1]

State	Number of recipients		Payments to recipients	
	Families	Children	Total amount	Average per family
Total	300,936	772,570	$16,195,053	$53.82
Total, 50 States[2]	300,885	772,472	16,193,465	53.82
Alabama	6,566	18,257	185,746	28.29
Alaska	84	240	4,338	51.64
Arizona	1,749	5,084	70,112	40.09
Arkansas	4,277	11,422	119,027	27.83
California	7,582	19,289	674,750	88.99
Colorado	3,674	10,034	227,774	62.00
Connecticut	2,607	6,486	235,946	90.50
Delaware	272	782	20,320	74.71
District of Columbia	733	2,344	48,796	66.57
Florida	6,563	16,214	223,958	34.12
Georgia	4,500	11,355	120,296	26.73
Hawaii	610	1,922	42,950	70.41
Idaho	1,380	3,738	85,025	61.61
Illinois	21,564	52,176	1,450,997	67.29
Indiana	6,416	15,431	243,695	37.98
Iowa	3,526	9,054	118,962	33.74
Kansas	3,422	8,776	195,953	57.26
Kentucky	5,656	14,910	121,293	21.45
Louisiana	9,324	24,414	330,179	35.41
Maine	1,589	4,514	115,730	72.83
Maryland	3,687	10,619	139,696	37.89
Massachusetts	8,105	20,208	693,825	85.60
Michigan	16,281	39,012	1,122,839	68.97
Minnesota	5,077	12,876	272,445	53.66
Mississippi	3,275	8,623	86,138	26.30
Missouri	14,070	37,145	509,035	36.18
Montana	1,457	3,852	80,380	55.17
Nebraska	2,487	5,916	162,072	65.17
Nevada	*61*	*98*	*1,588*	*51.14*
New Hampshire	220	2,363	65,440	71.13
New Jersey	3,520	8,945	226,077	64.23
New Mexico	2,781	7,338	102,790	36.96
New York	27,632	67,023	2,265,167	81.98
North Carolina	6,404	17,326	178,318	27.84
North Dakota	1,476	4,135	88,774	60.14
Ohio	8,154	22,324	468,217	57.42
Oklahoma	18,395	44,902	644,168	35.02
Oregon	1,377	3,421	116,988	84.96
Pennsylvania	30,474	80,304	2,004,819	65.79
Rhode Island	1,713	4,373	116,740	68.15
South Carolina	4,144	12,102	96,907	23.38
South Dakota	1,642	3,998	64,496	39.28
Tennessee	11,648	30,780	358,042	30.74
Texas	8,290	20,325	232,082	28.00
Utah	2,048	5,522	154,775	75.57
Vermont	607	1,616	21,874	36.04
Virginia	3,812	10,891	130,624	34.27
Washington	4,880	12,020	448,010	100.00
West Virginia	7,733	21,543	243,096	31.44
Wisconsin	6,384	15,646	404,618	63.38
Wyoming	318	882	19,166	60.27

[1] Italic figures represent program administered without Federal participation. Data exclude programs administered without Federal participation in Florida, Kentucky, and Nebraska, which administer such programs concurrently with programs under the Social Security Act; see the Bulletin, April 1945, p. 26. All data subject to revision.

[2] Under plans approved by Social Security Board.

TABLE 3.—*Aid to the blind: Recipients and payments to recipients, by State, April 1946* [1]

State	Number of recipients	Payments to recipients	
		Total amount	Average
Total	72,738	$2,462,533	$33.85
Total 47 States[2]	56,796	1,856,212	32.68
Alabama	841	14,764	17.56
Arizona	512	23,961	46.80
Arkansas	1,162	21,814	18.77
California	5,743	333,121	58.00
Colorado	446	16,314	36.58
Connecticut	137	5,224	38.13

[1] Italic figures represent programs administered without Federal participation. Data exclude program administered without Federal participation in Connecticut which administered such program concurrently with program under the Social Security Act; see the Bulletin, April 1945, p. 26. Alaska does not administer aid to the blind. All data subject to revision.

[2] Under plans approved by the Social Security Board.

TABLE 3.—*Aid to the blind: Recipients and payments to recipients, by State, April 1946*—Continued

State	Number of recipients	Payments to recipients	
		Total amount	Average
Delaware	40	$1,221	(3)
District of Columbia	198	7,294	$36.84
Florida	2,325	73,031	31.41
Georgia	2,060	31,820	15.45
Hawaii	63	1,688	26.79
Idaho	200	7,004	35.02
Illinois	5,016	175,750	35.04
Indiana	1,920	56,534	29.44
Iowa	1,212	46,302	38.20
Kansas	1,065	36,020	33.82
Kentucky	1,552	20,542	13.24
Louisiana	1,382	33,567	24.29
Maine	789	25,054	31.75
Maryland	446	14,191	31.82
Massachusetts	1,049	49,314	47.01
Michigan	1,320	47,567	36.04
Minnesota	941	37,411	39.76
Mississippi	1,533	34,909	22.77
Missouri	*2,786*	[4] *85,680*	[4] *30.00*
Montana	344	12,231	35.56
Nebraska	435	14,136	32.50
Nevada	*27*	*1,258*	(3)
New Hampshire	285	9,119	32.00
New Jersey	550	19,155	34.83
New Mexico	244	6,900	28.28
New York	3,066	131,641	42.94
North Carolina	2,543	53,399	21.00
North Dakota	116	4,047	34.89
Ohio	3,087	87,004	28.18
Oklahoma	1,963	71,712	36.53
Oregon	369	17,605	47.71
Pennsylvania	*13,129*	*521,489*	*39.78*
Rhode Island	107	3,685	34.44
South Carolina	1,001	21,018	21.00
South Dakota	216	5,214	24.14
Tennessee	1,549	30,941	19.97
Texas	4,775	125,100	26.20
Utah	140	5,828	41.63
Vermont	164	5,192	31.66
Virginia	969	18,382	18.96
Washington	629	36,753	58.43
West Virginia	824	15,997	19.41
Wisconsin	1,354	41,964	30.99
Wyoming	114	4,772	41.86

[3] Not computed. Average payment not calculated on base of less than 50 recipients.

[4] Represents statutory monthly pension of $30 per recipient; excludes payments for other than a month.

OLD-AGE AND SURVIVORS' INSURANCE

Title II of the Social Security Act is the contributory section on which employers and employees contribute equal amounts toward a fund for payments to aged workers. It has been supported for the past few years by a contribution of 1 percent by the employee and 1 percent by the employer. Under this program over 30,000,000 of our workers are in covered employment and over 20,000,000 in uncovered employment. In other words, it extends coverage to about three jobs out of five.

This program is most unfair to millions of our citizens and is especially unfair to the agricultural sections of the Nation. The employer's contribution to this fund is no doubt passed on to the purchasers of the commodities manufactured. This means that those in the agricultural States who purchased tractors, automobiles, farm machinery, and other items manufactured by those under covered employment must pay into an insurance fund for which they can receive no benefit. This situation should be corrected.

The average benefit payment under this program is now $24 to $25 per month. As these payments are less than payments made under the old-age assistance program, 10 percent of the beneficiaries of this insurance are receiving additional support from the old-age assistance section. Many are asking: Why should we contribute a percentage of our income to this fund when at the age of 65 we will receive less in the form of a monthly annuity than those who receive benefits under the old-age assistance? In my opinion, this differential in payments between these two programs may have far-reaching effects on the entire social-security program in years to come.

The pending bill does not increase the benefit payments under title II but it does freeze the present 1 percent rate on employer and employee for one more year.

There has been much discussion on the future effects of this low rate in view of the accruing liabilities for future years. We must remember that when Congress enacted this title of the Social Security Act it in reality wrote $50,000,000,000 worth of annuity insurance. Every actuary will admit it is not a 1 percent program. Rates will have to be increased.

During the hearings I discussed this with Dr. Altmeyer and am including his testimony:

Mr. CARLSON. Doctor, I would like to ask a question. Let us assume now that we do not change this coverage, nor do we change the present 2-percent tax, and using as a basis an annual average wage of $1,500 for men and $900 for women, which is one of the low estimates submitted to this committee, in what year will the benefits catch up with the receipts on the basis of that income?

Mr. ALTMEYER. Would you repeat that question, please? I don't know whether I got it all.

Mr. CARLSON. I probably didn't express it correctly. My thought is this: Using the low estimate submitted on average income of $1,500 for men, and $900 for women, and following through with the present tax, 1 percent on employer, and 1 percent on employee, in what year will the benefit payments catch up with the receipts?

Mr. ALTMEYER. You mean if no changes were made in benefits at all?

Mr. CARLSON. No changes at all.

Mr. ALTMEYER. Well, I would assume probably in 10 years.

Mr. CARLSON. That would be 1955.

Mr. ALTMEYER. Yes.

Mr. CARLSON. Could you give me an estimate as to how much the reserve fund would be at that time?

Mr. ALTMEYER. I made an estimate running 5 years, and it would be about $11,000,000,000 at the end of 5 years, as I recall, at the present rate.

Mr. CARLSON. Then we can legislate on the basis that if we do not increase the coverage, do not change the rates, that we will have in reserve in 1955, or approximately then, $11,000,000,000?

Mr. ALTMEYER. I said 5 years from now. That would be 1952.

Mr. CARLSON. In 1952?

Mr. ALTMEYER. Yes.

Mr. CARLSON. Is it your thought then that the line would cross the benefits?

Mr. ALTMEYER. The lines would not cross, as I say, until possibly 10 years from now at the very earliest, so that the reserve would be higher than $11,000,000,000 before the lines crossed.

Mr. CARLSON. What will it be, then, in 1955, if that is when the lines cross?

Mr. ALTMEYER. I haven't made any calculations beyond 5 years, but it probably might increase another two to three billion, between 1952 and 1955.

Mr. CARLSON. Let us assume $12,000,000,000——

Mr. ALTMEYER. I would say it would be close to $13,000,000,000 to $14,000,000,000 in about 10 years.

Mr. CARLSON. All right. Then if the lines cross in 1955, the benefits equal the receipts, when will we dissipate this $14,000,000,000 reserve we anticipate will accrue

Mr. ALTMEYER. I will have to make some calculations on that basis.

Mr. CARLSON. In other words, anyone who follows it closely can plainly see——

Mr. ALTMEYER. Excuse me, you mean on a 1-percent basis?

Mr. CARLSON. The present rates.

Mr. ALTMEYER. It might run at least 20 years, if you exhausted the reserve in the meantime.

Mr. CARLSON. That is the problem we are facing then, if we are going to keep the program solvent. There must be, in my opinion, either increased taxes or Federal contribution.

Mr. ALTMEYER. If we keep the present taxes, yes; there is no question about it.

VETERANS' BENEFITS

Title II of the pending bill provides benefits in case of deceased World War II veterans. This provision is very limited in scope and is of no benefit to dependents of veterans until after the death of the veteran. This is a step in the right direction but in my opinion the act should be extended so as to give full coverage to men and women for the time they spent in the military service. These credits should be added to credits they had previously earned or credits they are building up after their return from the service.

CONCLUSION

I have endeavored to point out the injustices and inequities in the present social-security program. Changes must be made in it from time to time and we will not have a program that is fully accepted by our people until we make changes that provide equal consideration for all. Need and payments for aged people are not a matter of geography but security should be provided on a national basis. It can only be done with many important amendments to the law. It is unfortunate we did not have an opportunity to write them into this bill.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. EBERHARTER].

Mr. EBERHARTER. Mr. Chairman, those who are present, of course, know I am not going to make any prepared statement right now. During the several minutes that have elapsed since I made any remarks, my mind has been in a rather confused state.

I will say it is my considered judgment that I believe every Member of this House should have at least respect for the other Members of the House. I believe it has been the rule of this House for many years that what transpires in executive sessions of the committee is confidential. That rule is not always adhered to, but in the 10 years that I have been a Member of this House, and I have been in attendance at a great portion of the sessions of this House, I have never heard the chairman of any committee of this House vilify another Member by calling attention to the fact that he was not present at a meeting or two that was held, or try to emphasize that a particular certain named Member did not perform his duties as he should have performed them. Naturally, when that circumstance happened to me I resented it. Nothing that I have said in my colloquy today will I change in the RECORD. The RECORD will stand just as I made the remarks.

This is a body in which I think we earn the respect of each other. We want to have the respect of the country. We all try to do our duty as we see it. I need not enter any defense of my conduct and my attendance at committee hearings. The record will show that. My constituents know whether I work faithfully in their interests; whether I follow their wishes, or whether I try to chart a course which is in the best interest of the Nation at large.

I may say that on June 27 I voted for various provisions that appeared in the bill which was reported out by this committee. I am only saying that to correct any impression that the membership may have gotten from the remarks heretofore made that I was not present. I do not think I was absent from a single executive session of the committee from January 1946 until June 27, 1946, except perhaps—I will change that word "single," I will say not more than two or three times. I am just saying this to emphasize my belief that the attack that was made upon me was not justified by the facts, was contrary to the rules of the House, and was not in consonance with the customs of this House; and I leave it to the membership to draw whatever conclusions they may under the circumstances.

Mr. Chairman, I yield back the balance of my time.

Mr. DOUGHTON of North Carolina. Mr. Chairman; the amendments extend the present rates for employer and employee contributions under the Federal Insurance Contributions Act for a period of 1 year beginning January 1, 1947. It would appear desirable that the present rate should be continued a year pending decision as to various proposed basic changes in the old-age and survivors' insurance program.

BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

The amendments bridge temporarily the gap in survivorship protection which a serviceman experiences when he shifts from wartime military service to established civilian employment. It provides survivors' insurance protection for a period of 3 years following discharge from the armed forces to veterans of World War II.

In general, an individual must fulfill one of two requirements in order to be insured for survivors' benefits under the old-age and survivors' insurance program. Either he must have worked in employment under the program for approximately half of the time elapsing after 1936, or after age 21, and prior to the time of his death or he must have worked in covered employment for one-half of the 3 years immediately preceding his death. Since service in the armed forces is not credited for old-age and survivors' insurance purposes, many veterans, upon discharge from service, will have lost whatever protection they may have acquired under the program or by reason of their military service will have failed to gain the protection they might otherwise have acquired. Moreover, in computing a veteran's average monthly wage upon which old-age and survivors' insurance benefits are based, it is usually necessary under present law to include in the computation the months in which the veteran was in service, even though wages are not credited for 3 months. Consequently, even where the veteran does not lose his protection entirely by reason of his military service, his average wage and the benefits based on it will be reduced.

The veteran who engages in covered employment after discharge will have old-age and survivors' insurance protection after gaining the necessary amount of coverage. It is thought that 3 years is a reasonable time within which the veteran may be expected to acquire or reacquire old-age and survivors' insurance protection. In consequence, this section provides survivorship protection to the veteran's family for 3 years after discharge from service.

The veteran who meets the requirements and who dies, or who has died within 3 years after separation from active military or naval service, is deemed insured. His survivors will be eligible for any of the various types of benefits provided under old-age and survivors' insurance. The benefits will be the amount based on the $160 average monthly wage. The basic amount will be increased for each year of military service by 1 percent. Enactment of H. R. 7037 thus assures the survivors of veterans covered by the measure of a guaranteed minimum level of benefits. In the event of death within 3 years, if no compensation or pension is payable by the Veterans' Administration, his widow, if she has a child of the veteran in her care or upon attainment of age 65, will be eligible to receive a monthly benefit amounting to around $24 a month. His children under age 18 will each be eligible for around $16 a month; and his dependent parents, in the absence of a wife or child surviving the veteran, will each be eligible to receive the same amount. The maximum amount of benefits payable in any month on the basis of any one veteran's death would be around $64 a month.

In concluding this brief description of benefits for the deceased World War II veterans, I should like to add that further study will be given to the problem of crediting military service for old-age and survivors' insurance purposes. Unquestionably there will be cases where death occurs more than 3 years after discharge where benefits will depend whether or not military service is credited for old-age and survivors' insurance. The amount of benefits will also depend upon whether military service has been credited. The 1946 amendments do not cover situations like this, nor do these amendments cover cases of retirement in the years to come. Thus, the present amendments, while affording satisfactory temporary solution, do not afford a permanent solution to the problem arising because of military service.

UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

The amendments are designed, first, to effect permanent coverage of maritime employment under State unemployment-compensation systems; and, second, to provide temporary protection for persons whose maritime employment has been with general agents of the War Shipping Administration and thus has been technically Federal employment.

To accomplish the first of these purposes the Federal Unemployment Tax Act is amended to extend coverage to private maritime employment—with the same definition of maritime employment as was used in extending old-age and survivors' insurance to maritime employment in 1939.

In addition the bill authorizes the State in which operations of a vessel are regularly supervised, managed, directed, and controlled, to extend its unemployment-compensation law to, and require contribution with respect to employment of, seamen on such vessel.

To accomplish the second purpose of the title, immediate protection is provided seamen whose employment could not have been covered by State laws because they were employed on behalf of the United States by general agents of the War Shipping Administrator. This protection in no event would extend beyond June 30, 1949.

The bill provides in general that these seamen shall receive the same benefits as would have been payable had their Federal maritime employment been under the State unemployment compensation law. Payments normally would be made pursuant to agreements between the State and the Federal Security Administrator, the States being reimbursed for additional costs incurred in making payments under the agreement. Only in case of failure of such an agreement would a direct payment be made the seaman by the Administrator, and in such case the terms, conditions, and amount of the payment would follow the State law.

CHILD HEALTH AND WELFARE

The amendments extend the provisions of title V of the Social Security Act—child health and welfare services—to the Virgin Islands. The amendments also authorize increased appropriations for maternal and child welfare. The authorization for maternal and child health service grants is increased from the present amount of $5,820,000; services to crippled children from the present amount of $3,870,000; child welfare grants are increased from $1,510,000 or a total of $11,200,000 to a total of $23,000,000.

PUBLIC ASSISTANCE

The amendments increase the existing ceilings on the Federal share of old-age assistance payments from $20 to $25, make the same change in the case of aid to the blind, and in the case of aid to dependent children increase the Federal share from $9 for the first child in the home and $6 for additional children to $13.50 and $9, respectively. The amendments also provide a formula under which the Federal share will be two-thirds of the first $15 of monthly payments of old-age assistance or aid to the blind and one-half the remainder of the payment up to the over-all Federal maximum share of $25. Similarly, in the case of aid to dependent children, the Federal share would be two-thirds of the first $9 of the payment and one-half of the balance up to the over-all Federal maximum share of $13.50 or $9.

I will not at this point go further than to say that the temporary provisions for public assistance I have above referred to will be found very helpful during the period ending December 31, 1947, during which it is in effect. I shall outline later the practical effect of this provision on grants which States such as my own State, North Carolina, will receive. I shall also point out the principal of the variable grant provision, and the advantages of that approach as a permanent solution of the problem.

HISTORY OF THE SOCIAL SECURITY ACT

To many of us who are members of the Committee on Ways and Means, the Social Security Act represents much labor, including three major hearings, one in 1935, one in 1939, and one which we have just concluded.

On January 17, 1935 I introduced H. R. 4120, which was the administration bill on social security, and beginning January 21, 1935, as chairman of the Committee on Ways and Means, I presided over the first hearings ever held by Congress on social security. The committee held extended hearings from January 21 to February 12, at which more than 1,100 pages of testimony was taken. At the conclusion of the hearings the measure had received the constant attention of the committee and numerous changes in the content and form were agreed upon. These changes required a complete revision of the original bill and introduction by me of H. R. 7260 on April 4, 1935. H. R. 7260 was enacted as the Social Security Act.

The committee had worked, literally night and day, for 3 months when this bill was reported out by it. The measure was practical, workable, and met a situation which in those times of unemployment and destitution was particularly pressing. What is more important the measure set up a permanent program for dealing with the problems of old-age security, security for the needy blind, and for dependent children. This program is so sound that during the decade it has been in operation there has been no departure from its basic principles.

At this point I should like to quote from our 1935 report to the Congress which accompanied our bill H. R. 7260, the Social Security Act.

We said this about old-age assistance:

To encourage States to adopt old-age-pension laws and to help them carry the burden of providing support for their aged dependents, this bill proposed that the Federal Government shall match the expenditures of the State and local governments for old-age pensions, except that the Federal share is not to exceed $15 per month per individual. A few standards are prescribed which the States must meet to entitle them to Federal aid, but these impose only reasonable conditions and leave the States free of arbitrary interference from Washington.

We also said:

Experience, both in this country and in other lands, has demonstrated that the best way to provide for old people who are dependent upon the public for support is through old-age-assistance grants, more commonly called old-age pensions. Twenty-nine States and the Territories, Alaska and Hawaii, have old-age pension laws. Approximately 200,000 old people are now in receipt of old-age assistance under these laws, and while the grants are often inadequate, the lot of the pensioners is distinctly less hard than that of old people on relief. But due in part to restrictive provisions in the State laws, and still more to the financial embarrassment of many State and local governments, the old-age pension laws are limited in their application and do not provide adequately for all old people who are dependent upon the public for support.

Since enactment of the Social Security Act in 1935, old-age-assistance laws have been enacted by every State, and despite the fact that times are much better now, destitution in old age is such that there are now more than 10 times as many old-age recipients on the rolls as there were prior to the Social Security Act. The report showed that the average pension of the 200,000 on the rolls was $16.48, while figures for April 1946, show that the average pension for the 2,088,025 now on the rolls is $31.54, or almost twice that figure.

North Carolina had no old-age assistance in 1935, but with the encouragement of Federal grants under the Social Security Act, soon enacted one. Today, under the North Carolina plan about 32,700 needy old people are receiving assistance. Unfortunately, their benefits average only $13.81, according to the figures for April of this year. This is less than the $16.48 average paid in States with systems in 1935 and less than half of the present national average of $31.54, and less than a fourth of the $47.51 paid by California.

It might be mentioned at this point that payments to recipients of assistance for the blind for North Carolina are also substantially below the average paid in the entire United States. The national average is $32.50, while payments in North Carolina average $21. North Carolina is also far below the national average per family in the case of dependent children. The national average is $53.32, while in North Carolina the April 1946 payments were $27.84 per family.

Under all of these programs the State and not the Federal Government determines the amount which will be paid. Even prior to the amendments the Federal Government was prepared to match Federal expenditures up to $40 per month per recipient in the case of both the aged and the blind. The figures I have given for North Carolina are typical for a very great number of the States whose per capita income is less than the per capita income of the United States as a whole. Studies conducted by the technical staff of the Committee on Ways and Means indicated clearly that a large percentage of total public expenditures of the State which goes for public assistance in these States is as large if not larger than the percentage of public revenue in States which paid much larger benefits. The

study also indicated rather clearly that from the viewpoint of tax effort the States with low per capita income were making at least as much effort in raising more as were the more wealthy States.

There were many of us on the Committee on Ways and Means who felt and still feel that the only equitable solution is for the Federal Government to match a larger part of the public assistance expenditures of the low per capita income States than is matched for the high per capita income States. In furtherance of this belief, the committee reported out by a large majority of the committee H. R. 6911, which provided for grants varying from half of the expenditures to two-thirds of the expenditures, depending upon the per capita income of the State as measured by the National per capita income. If it were possible to have this bill enacted North Carolina would receive two-thirds of its public assistance costs from Federal grants. I fought for this principle and will continue to do so.

The legislative situation was such that no rule could be obtained on the bill I have just mentioned, and in an effort to get the necessary social-security legislation covering protection of persons who had been discharged from military service, maritime employment and other important aspects of social security, as well as to prevent the tax rate from rising to 2½ percent on employer and on employee, it was found necessary by our committee to scrap the variable grant provision in the original bill and to report out a new bill which could be unanimously agreed upon by the members of the Committee on Ways and Means.

This new bill, H. R. 7037, was enacted by the House and, as I had hoped, was amended by the Senate by providing for variable grants taken from the original House bill. The amended bill, however, was returned to the House only 3 days prior to adjournment and it was impossible to get a rule without compromising the variable grant provisions, as the legislative situation permitted the entire legislation to be blocked unless a rule could be won permitting a conference with the Senate and a vote on the conference report.

In order to obtain a conference report, a temporary provision effective for 1 year was agreed upon as a temporary compromise on the question of variable grants. Under the temporary provision, the State of North Carolina will get for the coming year almost as much as would have been obtained under the variable-grant proposal. If the State of North Carolina continues to spend from its own funds for public-assistance expenditures the same monthly amounts that were spent from State funds the last half of 1945, the State of North Carolina will receive an increase in Federal funds of some $2,682,000. About $1,969,000 of this would be an increased amount for the aged, about $570,000 an increase in assistance for children, and about $143,000 an increase in assistance for the blind. In the case of the aged and blind, this increase will amount to almost the 66⅔ percent which would have been obtained under the variable-grant formula for the same period.

I do not believe the principle of the temporary proposal which was adopted is as satisfactory as the variable-grant principle. For example, so long as assistance payments for the aged do not exceed $15 under the temporary proposal, the State of North Carolina would receive two-thirds of its old-age-assistance payments from the Federal Government, but to the extent that the average assistance payments exceed $15 the State of North Carolina would receive only a 50–50 matching on the excess. I do not believe that it is a good principle for the Federal Government by this matching approach to put a premium, so to speak, on the assistance payments down to a $15 level. It would seem equitable and fair that the Federal Government should pay two-thirds of the cost in the lower-income States so long as the total Federal share for those States does not exceed the $25 maximum put on the Federal contribution per recipient and applicable to the several States. I do feel particularly happy, however, that with the recent change in the law it will be possible to increase very substantially the benefits payable to our old people. The average increase can be $5 per case without requiring additional expenditures of State funds over the amount which is being currently spent. I am also happy for the similar increases in the case of children and the needy blind people.

The comments I have made with respect to the recent changes in the provisions relating to old-age assistance are in general applicable to the temporary liberalization in the case of needy blind people. The ceiling is similarly raised to $25 and the first $15 of assistance payments is matched two to one by Federal grants.

Similarly in the case of aid to dependent children the ceilings are raised by 50 percent over those existing prior to the amendments, and the first $9 of assistance payments is subject to matching on a two for one basis.

I have consistently fought for and will continue to fight for a permanent change in the law which will give more liberal and equitable treatment for the blind, for dependent children, and for the needy old people of my State and of the United States as a whole. I believe that the approach of variable grants is a suitable and equitable approach to this end, and it is my hope that the Congress will adopt this approach permanently correcting the inequities which have existed since the inauguration of these Federal-State programs.

OLD-AGE AND SURVIVORS' INSURANCE

Inasmuch as the 1939 amendments to the Social Security Act made no substantial changes as to old-age assistance, aid to the needy blind, and aid to dependent children except changes raising the ceiling for Federal participation, I have not so far referred to the 1939 amendments to the Social Security Act. However, in 1939 very substantial changes were made in the old-age and survivors' insurance, and I should like at this point to refer briefly to those changes.

In January 1939, the President transmitted to the Congress a report of the Social Security Board recommending changes in the old-age and survivors' insurance program. The basic changes recommended were along the lines unanimously recommended by the Advisory Council on Social Security consisting of some 25 outstanding representatives of employees, employers, and the general public. These recommendations included proposals for increasing early benefit payments and the establishment of survivors' benefits. Hearings commenced the first of February 1939, and witnesses were heard on some 50 separate days.

The report of the hearings covered over 2,500 pages and contained the statements of nearly 200 witnesses.

Following the hearings the Committee on Ways and Means basically modified old-age and survivors' insurance, changing the basis of benefits from a formula based on the total amount of wages in covered employment to a formula basing benefits on average wages, with a 1 percent increase for each year of coverage.

Further, the system was changed from one which provides benefits only for retired wage earners to one which provided in addition benefits payable to wives and children of retired wage earners and to widows, orphans, and parents of deceased wage earners.

Under the system so changed, at present more that a million of the aged are eligible for benefits under old-age and survivors' insurance. A large part of these are presently working and accordingly are not receiving benefits, but will receive benefits at any time they cease gainful employment. This number will be enormously increased within the next few years as a larger and larger portion of our working population is becoming eligible for old-age and survivors' insurance on reaching retirement age.

One of the most important effects of the 1939 amendments is the protection offered children. At the present, over a third of a million children are receiving benefits under the system and an increase in this number will likewise occur in later years. Rough estimates are that even if coverage of gainful employment is not extended some million four thousand children will be receiving benefits in the year 1960.

A most important question presented to the committee at the hearings held this year is the question of extending the scope of employment covered under old-age and survivors' insurance. Under the existing limited coverage of the system, it is possible for people to make substantinal contributions without becoming eligible for monthly benefits in case of their retirement or without their widow, parents, or orphans becoming eligible in case of death. The present restrictive eligibility requirements were established because otherwise benefits in large amounts might be payable in the case of persons who had been under and contributed to the system only a small part of the period since the system was established. It is apparent that broadly extending coverage would permit modification in the present eligibility requirements. It would also permit other equitable changes to be made in the system. Extending coverage to some employment

not now covered of course likewise raises many very important and controversial questions. Due to the short period elapsing after the hearings and before the adjournment of the Congress, it was accordingly felt that it would be unwise to make substantial changes in the old-age and survivors insurance system.

It is my hope that early in the next Congress legislation can be perfected by the Committee on Ways and Means which will greatly improve old-age and survivors' insurance, as well as permanently improve old-age and assistance aid to the blind and aid to dependent children.

The social-security program is of great importance to all the people of the United States. It is a program which requires intense and long-continued study prior to making basic changes. The Committee on Ways and Means has learned through the years that the system is far from perfect and doubtless will be much improved as time goes on. It is important that it be improved. It is also of great importance that changes be made only after long and careful consideration. Often changes which, when first viewed, seem highly desirable may be found undesirable after careful study. That is why the committee insists upon such careful consideration before taking action. I believe that this cautious procedure is the only safe procedure to follow.

The people of this country may rest assured that while the system upon which they rely for their protection will be from time to time improved, any changes which may be made will be given careful consideration so as to avoid jeopardizing the integrity and soundness of the system.

Mr. REED of New York. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, I ask unanimous consent to revise the remarks I made earlier this afternoon and to revise and extend the remarks I am about to make at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. JENKINS. Mr. Chairman, I hope I shall not take 5 minutes but I should like to take just a little time to impress on you what this bill really does. In the heat of debate over the rule I am afraid we may have forgotten some things that we ought to know about. I am glad that the rule passed, because it is very evident from the debate on the rule what would happen if we had failed to pass a rule and tried to legislate on the floor of the House.

There are five sections in this bill. I am not going to talk about all five of them but just want to touch on them.

Two of these sections we were just almost morally and parliamentarily bound to do something about, and one of these is a subject that has been discussed but very little. The Senate of the United States passed a bill with reference to benefits to veterans. Here is what it does—and when I say soldiers, I mean servicemen. Here is what it does. It gives a serviceman who was away in the service the right to come under social security. He gets a chance to come under social security. The veterans are very much interested in this, and all the different veterans' organizations, we understand, have agreed on it. All agree on it. Therefore we must do something about it.

Let us take title I, that refers to freezing the pay-roll tax for another year. The law now provides that the employer pays 1 percent and the employee pays 1 percent. If we had increased this to 1½ percent for each that would mean that the employers and the employees would each pay an additional $250,000,000. If we do not do anything with reference to this matter then next year at the beginning of January the employer would pay 2½ percent, and so would the employee. This would be more than is necessary at this time. It would not be wise to increase the contributions of the employers or the employees unless we are going to include more persons under the coverage of the law. When we decide to increase coverage then we will be compelled to increase the amount of money collected. As I said in my remarks when I spoke on the rule there are some Members here very much interested in the Townsend program and I am sorry they were deluded into a belief they might have a chance this afternoon; they did not have a chance at all, and I hope that they may have a chance when we take up the social security laws for general amendments. Mr. Chairman, this social security that we talk so much about and that we take pride in does not provide as much in benefits as we generally think. It is actually rather pitiful. For example, a man who starts in working when he is 20 years old would have to earn $3,000 a year until he is 65 in order that he might be entitled to draw $85 a month retirement. Suppose a man without children pays in 20 years, what does his wife get? Very little. Just enough to bury him, and then she must wait until she is 65 before she can secure her benefits. I am not trying to give exact figures here but I am just trying to state the principle. We have a long way to go before we have this matter worked out completely. If we were to increase the amount of contribution to 2½ percent by each party we would have to provide more adequate benefits. We could not do that here on this floor today.

I may say to you that we have taken only one new group under the coverage of the law in this bill. That is the group known as maritime workers. I shall not discuss this further. I am sure my good friend from New York [Mr. LYNCH] will discuss that proposition. Here is what I would have done this afternoon if this bill had been thrown open for consideration under a wide open rule. I would have been bound to ask that the nurses of the country be covered under social security; also this large group of girls and men who work in the canning factories as agricultural employees; I would have been bound to ask that the State and city employees who want to come in be taken in. Many of them want to come in. There are literally thousands if not more than a million additional persons who want to come in. If we had thrown this bill open for amendments whom would you leave out and whom would you take in? This is a very important matter and cannot be handled on the floor. There are many groups that I have not mentioned that would deserve consideration.

Mr. COOLEY. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I was sorry that I could not yield to the gentleman earlier today, and I gladly yield to the gentleman from North Carolina.

Mr. COOLEY. I would like to ask the gentleman to tell the committee why it was that the Ways and Means Committee abandoned the bill that was reported on July 1 and now seems to be unanimously supporting the one reported on July 15?

Mr. JENKINS. I think I told the gentleman. At least I tried to answer this question when I spoke earlier today.

Mr. COOLEY. No one has answered it.

Mr. JENKINS. I will give you my opinion. Of course, I cannot speak for the other 24 members of the committee. Here was the problem: We went along in the beginning to include within the bill only those matters that were noncontroversial. This variable-grants matter was a controversial matter and we decided not to include it. Then there was the 1½-percent matter. When we were giving consideration to increasing this contribution to 1½ percent we were considering bringing additional groups under coverage. When we decided not to bring in these additional groups we decided not to raise the contribution to 1½ percent. These are some reasons why the committee changed its mind.

Further I might say to the gentleman that the first bill that the committee discussed did not contain any pension for the aged and the blind or the dependent children. But this bill does do something for these groups. This bill provides $5 more for the old people in every State that will match it. It provides for the blind and it provides for the dependent children. That was not in the original bill. Our distinguished chairman has worked hard on this matter. Everybody knows how he feels toward these groups, as do all of us. If an open rule had been adopted here this afternoon with the result that this bill would not pass, somebody would have had to answer to the people of this country why we declined to do anything for the aged, and the blind, and the dependent.

As the gentleman well knows that the relief heretofore accorded these deserving groups has always been on a matching basis; any attempt to change this basis that would have resulted in no bill being passed would have called for an explanation to these groups.

When the variable grants principle was first suggested some of us made it clear that we would oppose it vigorously on the floor, we also stated that we would oppose a closed rule. Thus the issue was well defined and we prepared for the fight. We threshed that out for days in the committee. The final decision was to abandon this variable grants system from consideration in this legislation.

What is the basis of this variable grants proposition? It is a new theory. It is based on income. The States in which the people have a large total income will be compelled to assist the aged and blind in the States which have a small average income. They will take the national income as the basis and then will average the income of the various States and then determine how much each State should pay. Some States would pay in $2 and get out $1, and some States would pay in $1 and take out $2. This would inevitably result finally in the Government paying the whole amount and then the Government would have the full control of all relief to the aged, the blind, and the dependents. This is in line with the socialistic trend of the country under the New Deal.

Let me speak about the South for a minute, without saying that there is anything wrong about it at all. Why is it that in the South they do not pay as much as they do in other States? I do not unduly criticize them for that. They do not need to pay as much. It is not as cold down there, it does not cost so much to live down there; conditions are not the same down there. Take an aged couple living in Milwaukee for instance on the fifth floor of a big apartment house. They must have to pay for electric lights, and to pay for water. And in the winter their coal bill is heavy. They must wear heavy clothes. But a couple that live in the South do not have to pay so much. There is a difference. We must recognize that difference. It will always be there. You cannot solve it on the basis of earnings. You have to solve it on some other basis. If the States in the warm sections of the country do not desire to pay their aged and blind as much as the people in other States want to pay to their aged and blind then why should the Federal Government seek to coerce them? And if these States fix a sum that they think is adequate why do they try to force the passage of a law that will compel the Government to pay them more than what they think is adequate?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KNUTSON. Mr. Chairman, I yield the gentleman one additional minute.

Mr. COOLEY. I want to get it clear. I understand that the proposal has merit and I can understand that it might have some evils, as the gentleman has stated.

Mr. JENKINS. That is right.

Mr. COOLEY. But the proposition before the House is why did the Ways and Means Committee change its mind? Nobody has answered that.

Mr. JENKINS. I am surprised at the gentleman's persistence when I think I have answered his question several times. How can I speak for the other 24? I can assure the gentleman that I did not change my mind.

Mr. COOLEY. I know, but the gentleman convinced the others. Some changed their minds.

Mr. JENKINS. As far as this is concerned, I did not change my mind. I stand where I always stood. It is true that this variable grant theory is provocative of much discussion and I am glad that those who sought to inject it into the discussion this afternoon failed miserably.

Mr. DOUGHTON of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to my chairman the distinguished gentleman from North Carolina.

Mr. DOUGHTON of North Carolina. I will fight for variable grants as long as there is a reasonable possibility of getting them.

Mr. JENKINS. Certainly, and the gentleman from North Carolina put out a magnificent fight to get it.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KNUTSON. Mr. Chairman, I yield the gentleman two additional minutes.

Mr. PACE. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to my friend, the gentleman from Georgia.

Mr. PACE. The gentleman from Ohio said that if the opportunity presented itself he would include the cannery workers and agricultural workers under the coverage. Would not the gentleman want to go further and include those who produce the commodities that are canned, the farmers of this Nation, so that they might have some hope for the future?

Mr. JENKINS. The gentleman is asking another question, that is very controversial. His question is a very appropriate one that shows how broad this problem of coverage really is. In his question he takes in all the farm help. Maybe that is the right thing to do. I am not attempting to decide that. Agriculture labor includes a large number of people. This large group and the domestics, the girls that work in the homes at house work are also to be considered as needing social-security coverage.

Mr. PACE. Does not the gentleman think that the man that works in the sun, and by the sweat of his brow produces food, is entitled to the same protection as the girl that works in a place that cans food?

Mr. JENKINS. That makes me think of the days when I used to walk up and down the long corn rows behind a cultivator, and it makes me think of how hard it was on a hot day to drive three or four horses hitched to a wheat binder. I am sure that then I would have thought that I was a very useful individual.

Mr. DOUGHTON of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from North Carolina.

Mr. DOUGHTON of North Carolina. Is it not a fact that there were a lot of things that we would have considered if we had time? It is left as unfinished business, and we will continue it in the future.

Mr. JENKINS. Surely. Nobody says that this is the last day. We will have social security with us for a long time.

Mr. CLASON. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from Massachusetts.

Mr. CLASON. Do I understand from the gentleman's remarks, which are also backed up by the words of the Chairman, that in another year the Congress will pursue this matter further and report further legislation to extend coverage under this particular bill and further to increase payment to those persons who are covered, and that ultimately all persons will be covered?

Mr. JENKINS. I cannot make any promises, but I said in the committee if this was an open rule I was going to go on this floor and ask that many more groups be included under coverage.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to my distinguished friend, the gentleman from New York.

Mr. REED of New York. The question was raised by the gentleman from North Carolina [Mr. COOLEY], I believe, in regard to the difference between this bill and the other bill. There was a principle involved. We had always with us the matter of 50–50 matching. Then there was advanced the variable grants, and that created a very serious controversy among the Members, so the bill was finally compromised on the present formula which is 50–50. That is the answer to that question.

Mr. JENKINS. The gentleman is correct.

Mr. Chairman, I hope the bill is speedily passed.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield such time as he may desire to the gentleman from Washington [Mr. JACKSON].

Mr. JACKSON. Mr. Chairman, I am not satisfied with many of the provisions in this bill. I do not think it has gone far enough, but I do want to compliment the committee for the fine job it did in connection with the amendment to title III, namely, unemployment compensation for maritime workers. I want to compliment the chairman, and particularly the gentleman from New York [Mr. LYNCH] who introduced the original bill providing for unemployment insurance for seamen.

The bill reported out by the committee in my opinion is inadequate in many respects.

It continues freezing the social-security contributions when everyone knows that the present 1-percent contributions will not be sufficient in the long run to pay even the existing low level of benefits.

The bill does nothing to improve the old-age and survivors insurance system either by broadening coverage, increasing the amount of benefits, reducing the retirement age, or extending insurance protection to cover permanent total disability.

The public assistance provisions in title V of the bill are grossly inadequate. Nothing is done to help raise assistance payments in the States which now make payments of $10, $12, or $15 a month. How can anyone live on such inadequate amounts?

Many months ago I introduced a social-security bill, H. R. 4551, which was referred to the Ways and Means Committee. The bill improved and extended the

insurance program. The following is a statement I presented some time ago to the Ways and Means Committee on H. R. 4551:

STATEMENT BY HON. HENRY M. JACKSON, REPRESENTATIVE IN CONGRESS FROM THE SECOND DISTRICT OF WASHINGTON, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS IN SUPPORT OF H. R. 4551, A BILL TO AMEND THE SOCIAL SECURITY ACT

I appreciate this opportunity to present to the Committee on Ways and Means the reasons why I am urging the broadening and liberalization of the Federal old-age and survivors' insurance provisions of the Social Security Act as provided in the bill which I have introduced, H. R. 4551.

The Social Security Act was signed by President Roosevelt on August 14, 1935. The passage of the act was a historic milestone in social legislation in this country. It marked the beginning of a new era in our concern for the welfare of human beings; it established the fundamental principle that the Federal Government has a basic responsibility for providing for the general welfare through social insurance.

We now have bad 10 years of experience in the administration of the present law. Much experience has been gained and ways have been worked out to overcome difficulties which seemed insurmountable in 1935. The time has come, therefore, to revise, amend, and extend the law so as to better meet the needs of the American people.

The bill which I have introduced provides for extending the coverage of the existing Federal old-age and survivors' insurance program, liberalizing the benefits, and providing insurance benefits in case of permanent disability. I am attaching a summary of the major provisions of the bill to the end of this statement.

I believe that it is essential that we take the present insurance program as a starting point and improve it as much as possible. The American people are the most insurance-minded people in the world. I believe that they want a system of social insurance which will give substantial protection to the aged, to widows and dependent children, and to the disabled. I believe they want insurance protection as a matter of right—not charity, nor a dole.

SURVIVORS' INSURANCE BENEFITS

Few people appreciate that the existing Federal old-age and survivors' program provides very valuable life-insurance benefits in the form of monthly survivors' benefits to the widow and children of a deceased insured worker. These survivors' benefits under the existing law already have a face value totaling in excess of $50,000,000,000. This is more than any private life insurance in the world. The bill which I have introduced would increase the life-insurance protection to survivors so that the total face value of protection to all policyholders would probably be in excess of $75,000,000,000.

Even under the present law if a worker earning $200 a month should die leaving a widow and two children after being in the insurance system for 10 years the monthly benefit payable to the family would be $67.38 per month. This amount would be equivalent to $808.56 per year. If the children were 8 years old the benefits would continue for 10 years, making a total of over $8,000. If the children were still younger and the payments continued for 15 years, the total payable to the family would be $12,000. These calculations of the life-insurance protection available to the family do not include any amount for the old-age benefit payable to the widow when she becomes 65.

The bill which I have introduced increases these benefits so that in the case cited above the family would receive $82.25 per month or $987 per year, making a total payment of nearly $10,000 in the case of payments lasting for 10 years, and $15,000 in the case of payments lasting 15 years.

The bill provides for maximum family benefits of $120 per month in which case the maximum total family payments could be more than $25,000.

OLD-AGE INSURANCE

The present level of old-age and survivors' insurance benefits as provided in the existing law was enacted in 1939. Since that time the cost of living has increased by at least one-third. The cost of food and clothing, the basic elements in the cost of living for most low-income groups, has increased at least 50 percent. Various studies made by the Social Security Board have shown present benefits were inadequate even before the increase in cost of living took place. It is essential, therefore, that the present system be amended to provide more adequate benefits.

The bill which I have introduced provides for a general modification of the method by which the insurance benefits will be determined so that all insured persons would receive higher benefits than those provided under the existing law. In addition, my bill provides that the minimum benefit for a retired worker is increased from $10 to $40 a month and for a man and his wife from $15 to $60 a month. Similarly, minimum benefits for the child and parent are increased to $20 per month and for the widow to $30 a month. The maximum amount which may be paid on one worker's record is increased from $85 a month to $120. There is attached to this statement two tables which show illustrative benefits which would be paid under the bill which I have introduced.

The bill also provides that retirement benefits would be payable at age 60 instead of age 65 as is provided in existing law. This would enable many workers who cannot now keep up with the pace of modern industry to retire on a modest, guaranteed insurance benefit. The bill does not require an individual to retire at age 60 but merely gives the individual the opportunity to do so if he wishes. Thus, persons who wish to continue to work will be able to do so while those persons unable to continue working will be eligible for benefits.

The bill also extends coverage to several million persons now excluded from the insurance system. The new groups included in the bill would be self-employed persons, lay employees of religious organizations, persons employed by nonprofit and educational institutions, and States and local governments. The latter would be permitted to cover their employees by voluntary compacts with the Social Security Board.

Several States have already enacted legislation which would enable them to take advantage of the opportunity to cover State and local employees. The State of Washington enacted legislation in 1941 (ch. 205, laws 1941) to permit the State and local subdivisions to participate in the program in the event the Social Security Act is amended to permit such participation. In addition Bellingham, and King County enacted resolutions in 1941 favoring the extension of the insurance program to public employees.

State employees who have talked to me are anxious to obtain the protection afforded by the Federal insurance program since it gives them substantial protection at a minimum cost. In the first place the cost of administering the Federal insurance program is very low because of its broad and compulsory coverage. At the present time administrative costs for the entire program are less than 2 percent of premiums collected. State and local employees as well as other employees brought into the insurance system will gain the advantage of the low administrative costs as compared with the administrative costs of other forms of insurance, public and private, which are now available to them.

Nothing in the bill would prevent State or local employees or any other group from having supplementary pension plans of their own to provide more adequate benefits than those of the Federal program. At the present time it is estimated there are over 8,000 companies which have private pension plans which supplement the benefits provided under the Federal system. There is no reason why the same arrangement cannot apply to State and local employees as well as to other groups covered by the insurance program.

In addition credit for military service is given in my bill, the cost to be borne entirely by the Federal Government. Thousands of families of deceased servicemen would receive insurance benefits under this provision. Many servicemen lost their insurance protection by going into military service. It is only fair and proper that the Federal Government should safeguard the social-security rights of those who served our country.

DISABILITY INSURANCE

At the present time the United States is the only industrial country in the world which has an old-age insurance plan which does not include disability benefits. Disability is among the most important causes of insecurity. According to the Social Security Board 3,500,000 persons are suffering from disability for 6 months or more, and 1,500,000 are in the ages of 15 to 65 and but for their disability would have been engaged in productive work. In general all groups are in favor of the addition of disability-benefit provisions to the existing program. The AFL and the CIO, the United States Chamber of Commerce, and the American Medical Association, as well as a number of other groups, have recommended that permanent disability insurance be included under the existing law.

At the present time if a person becomes disabled prior to age 65 he not only does not receive any benefits during his period of disability but his old-age benefits may be reduced or even completely lost. The bill which I have introduced corrects all of these defects not only by providing insurance benefits to the individual and additional benefits to his family, but also safeguards the old-age and survivors rights during the entire period of disability. The only alternative for a disabled person without other resources at the present time is to apply for general relief when he has exhausted any savings he might have. The amendment to the present law to provide permanent disability benefits would, therefore, provide benefits to an individual as a matter of right without having to take a means test. At the same time it would reduce the cost of relief which now must be borne entirely by States and localities which in many parts of the country fall on the small home owner and the farmer.

COSTS

Much has been said about the costs of a broad and comprehensive system of social insurance such as is contained in my bill. During the course of the hearings before the Committee on Ways and Means, it has been pointed out that actuaries have estimated that the annual cost of the present insurance program will reach about 10 percent of pay roll in about 50 years. I believe that these actuarial estimates are unrealistic and much too high for the simple reason that they assume a static wage for all employees for the next 50 years. This is an assumption contrary to all historic fact. If we are going to maintain an economy of continually increasing productivity per worker, then wages must—and will—increase. Mr. Altmeyer, Chairman of the Social Security Board, has

already stated to this committee that "as the average wages of insured persons increase, the relative costs of the present benefits will decrease as a percentage of pay roll."

I believe, therefore, that the long-run annual cost of the present law will not be 10 percent of pay rolls but will be closer to 6 percent of pay rolls.

Mr. Altmeyer has also pointed out:

"In addition, comprehensive coverage would cover all the wages of many individuals who are already under the insurance system part of the time, thus increasing their taxable wages and reducing the relative cost of the insurance plan."

In my opinion, the long-run eventual annual cost of the present law if amended to provide comprehensive coverage—would be closer to 5 percent than to 10 percent.

Under the bill that I have introduced the contributions would be 2 percent each on employer and employee, self-employed persons would pay the total 4 percent on their net income. Provision is made in the bill, as under the existing law, for the Government to make contributions to the system if the pay roll contributions from employer and employee are not sufficient to finance the benefits under the system. With the broad coverage provided it is entirely possible and logical for the Government to contribute to the cost of the insurance system since a comprehensive insurance plan reduces the cost of assistance and relief which would otherwise have to be borne by Federal, State, and local governments. Most foreign systems provide for Government, employer, and employee contributions to the system.

Thus, when the cost of the benefits provided in my bill reach 6 percent of pay rolls, employers, employees, and the Federal Government would each be contributing 2 percent. The bill provides, as does existing law, for the Board of Trustees of the Insurance Fund to make annual reports to the Congress on the status of the fund. In this way the Congress can have all the information to make any necessary changes in the financing of the program as experience indicates may be desirable.

SUMMARY OF MAJOR PROVISIONS OF THE JACKSON BILL

The bill which I have introduced modifies title II of the Social Security Act and related provisions. The following major changes in the Federal old-age and survivors insurance program would result from the enactment of the bill.

1. Disability benefits would be payable to insured permanently disabled workers and their dependents.

2. Retirement benefits would be payable to all insured workers at age 60, and old-age dependents' benefits to wives, widows, and parents would be payable at age 60.

3. The amount of money a beneficiary can earn without deduction from benefits would be increased to $25 a month.

4. Benefits would be computed on the basis of a liberalized formula with the following minima:

(a) Benefit for the insured worker, $40.

(b) Wife, child, parent, $20.

(c) Widow, $30.

5. Maximum family benefits would be $120 a month, or 80 percent of average monthly wage, but the 80 percent maximum would never operate to reduce benefits below $60 monthly.

6. Coverage would be extended to self-employed persons, to lay employees of religious organizations, and to persons employed by nonprofit or educational institutions. State and local governments would be permitted to cover their employees by voluntary compacts with the Social Security Board. Changes in eligibility and average monthly wage provisions would remove the handicap of late entrance for persons covered under the program after 1936.

7. Credit under the program would be given for military service.

8. Technical and minor changes would be made to liberalize and simplify the program and to remove, insofar as possible, any existing anomalies and inequities.

DETAILED SUMMARY OF PROVISIONS OF THE BILL

Disability

The bill provides protection against disability which lasts 6 months or more, in addition to the protection for death and retirement now provided under the Federal old-age and survivors' insurance program. Benefits for disabled workers would be figured in the same way as benefits for retired workers, and dependents would receive the same proportionate amounts whether the worker was disabled or retired.

Benefits increased

Changes proposed by the bill in the benefits formula and method of determining the average monthly wage would result in benefits that are in general higher than those now provided under the existing insurance program. The minimum benefit for the disabled or retired worker is increased from $10 to $40, and for his wife from $5 to $20, and benefits under the retirement program will be payable at age 60, rather than at age 65, as at present. The maximum amount which may be paid on one worker's wage record is increased from $85 a month to $120, or 80 percent of his average monthly wage, if that is less. However, the maximum of 80 percent would not apply if it would make the benefits for a family less than $60. The minimum and maximum provisions apply to old-age, survivors', and disability benefits.

In death cases, a lump-sum payment equal to six times the amount computed as the worker's primary insurance benefit would be paid to the widow or widower of the worker. If there is no widow or widower, the payment would be made to the person or persons paying the burial expenses. Under the present law, lump-sum payments are made only if no one survives who is eligible in the month of death for monthly benefits. Under the bill, the payment would be made whether or not monthly benefits are paid.

Eligibility liberalized

The bill would change the provisions for determining eligibility of an individual, so that all persons engaged in Government arsenals, or any other type of work not covered by the insurance program would not have the period before the effective date of the bill count against them in determining their eligibility for retirement, survivors, and extended disability insurance benefits.

Under the present act, beneficiaries may not receive their benefits for any month in which they earn more than $14.99. Under the bill, this amount is raised to $25.

Credit for military service

Men and women in the armed service would receive credit for wages of $160 a month for the entire period of their military service, but there would be no deductions from their pay during military service. The cost of this insurance protection would be borne by the Federal Government out of general revenue.

Coverage of insurance system

In addition to the workers now covered by the insurance program the bill would bring into the insurance system all persons in industry and commerce (except railroad workers), seamen, and employees of nonprofit institutions (except ministers and members of religious orders), and self-employed individuals (persons owning small businesses, farmers, and professional persons). Employees of State or local governments may come into the program by a voluntary compact made between the appropriate State or local governmental unit and the Social Security Board. Federal employees, except hourly employees of the Tennessee Valley Authority, are not covered by the bill.

Social insurance contributions

The bill provides for contributions of 2 percent of wages on employees and 2 percent of wages paid on employers. Self-employed individuals would pay the total 4 percent on their net income.

TABLE 1.—*Illustrative monthly old-age retirement or total disability benefits under the bill*

Number of years of coverage	Insured person	Insured person and wife	Insured person, wife, 1 child	Insured person, wife, 2 children
	Average monthly wage, $100			
10 years' coverage	$40	$60.00	$80	$80.00
20 years' coverage	40	60.00	80	80.00
30 years' coverage	43	64.50	80	80.00
40 years' coverage	46	69.00	80	80.00
	Average monthly wage, $200			
10 years' coverage	$47	$70.50	$94	$117.50
20 years' coverage	51	76.50	102	120.00
30 years' coverage	56	84.00	112	120.00
40 years' coverage	60	90.00	120	120.00
	Average monthly wage, $300			
10 years' coverage	$58	$87.00	$116	$120.00
20 years' coverage	63	94.50	120	120.00
30 years' coverage	69	103.50	120	120.00
40 years' coverage	74	111.00	120	120.00

TABLE 2.—*Illustrative monthly survivors benefits under the bill*

Number of years of coverage	Widow	Widow and 1 child	Widow and 2 children	1 child or 1 parent
	Average monthly wage, $100			
10 years' coverage	$30.00	$50.00	$80.00	$20.00
20 years' coverage	30.00	50.00	80.00	20.00
30 years' coverage	32.25	53.75	80.00	21.50
40 years' coverage	34.50	57.50	80.00	23.00
	Average monthly wage, $200			
10 years' coverage	$35.25	$58.75	$105.75	$23.50
20 years' coverage	38.25	63.75	114.75	25.50
30 years' coverage	42.00	70.00	120.00	28.00
40 years' coverage	45.00	75.00	120.00	30.00
	Average monthly wage, $300			
10 years' coverage	$43.50	$72.50	$120.00	$29.00
20 years' coverage	47.25	78.75	120.00	31.50
30 years' coverage	51.75	86.25	120.00	34.50
40 years' coverage	55.50	92.50	120.00	37.00

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield such time as he may desire to the gentleman from Massachusetts [Mr. LANE].

Mr. LANE. Mr. Chairman, we now have under consideration a measure which is domestic, one which is clearly related to our national welfare and the welfare of our own citizens, whose intent is the elimination of want, of insecurity and fear. H. R. 7037, the bill which proposes strengthening amendments to the Social Security Act and the Internal Revenue Code, is concerned with the extension of further assurances of security to our own people.

We Americans have accepted the responsibility of mitigating the world's suffering after having shared the responsibility of eliminating the world's oppressors. We have recognized the necessity of participating with the other nations of the world in an international organization, the United Nations, in a common effort to secure peace, to assure international harmony and to promote international welfare. We bave added our resources, talents, and efforts to those of other nations politically, economically, scientifically, and culturally. We have responded to our duty to bring relief to the war-ravaged, suffering peoples of the world through UNRRA and through countless private relief organizations. We have proposed to share the weapon of the atomic bomb with the other nations in an effort to forever outlaw its use as a weapon of destruction. And we have loaned great sums of money to other nations to enable them to rescue their economies from the shattering impact of war. The people of the United States have renounced isolationalism and have resolved henceforth to share with the other nations of the world the mutual responsibility of seeking peace and international welfare. For without the participation of the world's wealthiest nations, peace would surely be but a fool's dream, world relief merely a bitter token and the "four freedoms" would surely be overthrown by the Four Horsemen of the Apocalypse.

But what a harsh anomaly it would be if we crusaded for the "four freedoms" around the globe and let them perish, any one of them, at home. How incongruous it would be if the hope of many millions throughout the war-scarred globe should be the despair of her people at home. What a mockery it would be if the richest Nation in the world were again to be stricken by a depression in which she could not assure her own people the minimum requirements of subsistence. The most destructive weapon the world has known we possess and have used for destruction. But in our productive capacity, our inventive skill, our natural resources, and our democratic respect for the dignity of the common people we possess the elements required for the greatest instrument for hope and peace to be gained, in the words of Franklin D. Roosevelt, "by so ordering society as to assure the masses of men and women reasonable security and hope for themselves and their children."

Yet we have no assurance sufficient to dispel grave doubts and fears that the possession of these elements guarantees security for all our people. The memory of the depression of the last decade sticks relentlessly with us and casts its shadow before us. For our productive capacity was great then, as were our resources, our inventive genius, yes, and our democratic respect for the dignity of the common people. Yet we suffered in those days and many people went without the primary needs of life and more than a few even gave up the very life itself.

We have made no conclusive changes in our economy or way of life to assure that such a depression shall not occur again, and certainly the great majority of our people are not a little apprehensive that such a stagnation of our vitality with its accompanying privations may strike again. We are resolved, it is true, that however crippled our economy may be, that none of our people will be bereft of all security nor denied the essentials of life again. We know that our economy cannot be permanently crippled nor our national vitality permanently impaired.

Our reconversion from the total-war economy to the peacetime economy has been, despite dire predictions and great difficulties, remarkably rapid and reassuring. An accurate measure of the speed and vigor of that reconversion is evident in the national employment figures. Early in 1947 we will have achieved the goal of 60,000,000 employed, which was regarded as a courageous but daring and optimistic challenge when first set by President Roosevelt. By the first part of 1947 there will be 13,000,000 more employed in civilian jobs than in 1939. Here is the measure of what we can achieve. However, we now must face simultaneously a sharp rise in prices—so sharp that unless we can control them they threaten to wipe out within a relatively short period the savings of 60 percent of our people—and ultimately we will again face the uncomfortable dilemma of full production and inadequate purchasing power to consume what we produce. The consequences, as we know, are a sharp curtailment in production, the exodus of goods and capital to foreign markets and investment, unemployment, and depression. This is the over-all picture. It is not an inevitable result and we have, in fact, taken some steps to prevent the recurrence or to lessen its impact.

Not the least of these are the Social Security Act and the Federal Unemployment Tax Act, which give some measure of security to our people. But we know, or we should recognize, that present social-security provisions are not sufficient. They need strengthening and integrating Our great need is a comprehensive, basic national system of social security, covering all major risks to economic independence and all workers and their dependents to whom such risks apply, and as Franklin D. Roosevelt said in his message to Congress on social security in June 1934:

> This seeking for a greater measure of welfare and happiness does not indicate a change of values. It is rather a return to values lost in the course of our economic development and expansion.

H. R. 7037 does not provide for the comprehensive, basic national system of social insurance of which I spoke. It fails, primarily, to initiate comprehensive insurance protection against the leading cause of poverty and dependency in our country, the costs and losses occasioned by sickness and disability. It fails to extend coverage for unemployment insurance and old-age and survivors insurance to great numbers of our people who are still without such fundamental protection. It does not recommend increases in benefits which are now inadequate, particularly as measured by current prices.

But the amendments which are proposed to the Social Security Act by H. R. 7037 are designed to strengthen the provisions of the original act, to remedy existing inequities and provide another progressive step toward the full security of our people which must be the goal of all believers in democracy. While I continue to look forward to the day when all our people will be protected against the vicissitudes of our money economy in a coordinated program of national social security, I endorse the present measure as a step forward and urge its passage.

The provisions of H. R. 7037 are specific, if inadequate. None will deny, I think, the necessity of the provision which would guarantee survivors of veterans within the purview of the Social Security Act the same old-age and survivors' insurance benefit rights they would have enjoyed had the veteran died fully insured under old-age and survivors' insurance, this with respect to veterans who die within 3 years after discharge. Since service in the armed forces is not credited for such purposes, many veterans upon discharge will have lost whatever protection they may have acquired under the program or by means of their military service will have failed to gain the protection they would otherwise have acquired. In 3 years the veteran may reasonably be expected to acquire protection since he need only work during one-half of the 3 years immediately prior to death in order to have survivorship protection. An average monthly wage of $160 is provided to insure a certain minimum level of benefits. Certainly this provision is not as liberal as it might be, yet it corrects an inequity immediately consequent on military service. Yet, as a reminder of the over-all inadequacy of present rates it should be noted that the maximum amount of benefits payable in any month on the basis of any one veteran's death would be, if he had no other covered employment, for a widow and child, $64.48 a month. Perhaps by approaching the problem of security for all our people through the sympathetic attention we are more likely to give to the veteran, we may realize more forcibly the pressing need for the extension and increase of benefits.

The bill further provides for the permanent coverage of maritime employment under State employment-compensation systems and temporary protection for persons whose maritime employment has been with general agents of the War Shipping Administration and thus has been technically Federal employment. The substantial increase in wartime employment heightened the necessity of including merchant mariners in the scope of social security. I have frequently in the past introduced and endorsed legislation to accord equivalent benefits to these men, for the nature of their employment and service has often caused them to be overlooked. The possibility of a permanent decline in employment in the maritime labor force enforces our present decision to extend insurance coverage to them. And the technicality of Federal service of the men who were nominally under the War Shipping Administrator is prevented from being a deterrent to proper protection by this provision. The extension of social-security coverage to merchant seamen should be a precedent which would

lead us eventually to completely correct the present inequity under which less than 2 out of every 5 of our workers are included and under which one-half of the 72,000,000 who have been covered are not now insured against old age. It should be pointed out, however, that this provision can only grant permission to State legislatures to include maritime workers. It remains for the several States to carry out the intent of Congress in this matter.

Other provisions of H. R. 7037 include the Virgin Islands within the purview of the Social Security Act and provide an increase in the Federal share of assistance payments in States with per capita income below the average of the Nation and an increase in the Federal matching maximums. The Ways and Means Committee has deemed it necessary to extend the provisions of the Social Security Act to the Virgin Islands for reasons similar to those which earlier dictated the inclusion of Puerto Rico. And in order to guarantee help in aiding needy aged and blind persons and dependent children in States with low economic resources where the need is greater, it is provided that there shall be an increase in the Federal share of assistance payments in such States.

Once again dispute has arisen over the necessity of increasing the contribution rates under the Federal Insurance Contribution Act. The bill originally provided that the rate during the calendar years 1947 to 1951 should be 1½ percent and that after December 31, 1951, the rate should be 3 percent for both employees and employers. Although there has been a substantial increase in the balance in the trust fund, it is even more pertinent to note that there has been a substantial increase in prospective benefits which must be paid from the fund. It seems manifest that orderly and sound financing of the insurance system makes appropriate an immediate increase in the present contribution rates. Contributions levied under social security represents a method of distributing the burden of already existing costs. And it is significant to note that the average age of our people is increasing. By 1950 more than 30 percent of our population will be over 45 years of age and almost 15 percent over 60. We must be ready with an adequate insurance plan for our older people before mounting social and economic tensions create a new and disruptive minority.

Of more immediate concern with reference to our older people is the present and pressing necessity of reducing the age requirements for old-age assistance from 65 to 60 years. Such a reduction is a matter of practical necessity, first because it guarantees protection for the older worker when his productive capacity is impaired and when it is near impossible for him to obtain employment when he is out of work. For a great number of men and women who were employed in defense plants during the war have been replaced by veterans. Not only because of their valuable service during our period of peril, but because of their inability to gain employment now we should lower the age for their protection.

Such a reduction would work the further advantage of relieving many thousands more of older men who continue working only because they are not now eligible for public assistance. If the security provisions were extended to them now by reducing the age to 60 the further advantage would accrue of opening employment opportunities to a corresponding number of veterans. Such a plan, which would benefit the aged worker and the veteran seeking employment would have the further merit of increasing our productive capacity and efficiency. It would be in harmony with our common desire to provide security for the old and opportunity for the young.

These are the provisions of the present proposal to amend the Social Security Act. Each amendment has merit, furthers our policy of extending security and should be voted. But as I have stated before, and here repeat, we are still far from the goal of a comprehensive, basic national system of social insurance. Toward that goal we shall continue to strive, warned by the grim experience of the past and not content with the achievements thus far obtained. For an antidote to social disease, by which I mean privation, malnutrition, insecurity, and fear, which applies only to a limited number of our people is not sufficient. Medical science would never be content with an antidote, a remedy to disease which could but counteract the effects of a death-dealing disease in a few organs of the body, leaving the other vital organs susceptible to its deadly effect.

Unprotected by social security today are 1,000,000 domestic servants, 4,000,000 farm workers, excluding farm owners; 9,000,000 self-employed persons; 1,000,000 employees of nonprofit organizations; 3,000,000 State and local government employees; and 2,000,000 Federal employees.

More than 20,000,000 workers including many whose employment conditions are most uncertain, whose pay is lowest, who are least able to safeguard themselves, are presently deprived of a fundamental right to security.

Moreover, we have not yet provided against the major cause of poverty in American families, except for mass unemployment, namely, sickness and disability. On an average day there are 7,000,000 disabled by sickness or injury and unable to work. The loss of earnings each year from temporary disability amounts to between 3 and 4 billion dollars. One half of the 7,000,000 disabled are so disabled for more than 6 months. It is not necessary for me to remind my colleagues that such disability not only cuts off the income of the victim but is paralleled by the extraordinary medical and hospital expenses.

It is against such gross impacts on our people that we must build defenses. Even in prosperous times insecurity haunts our country in the persistence of sickness and death, old age, and sporadic employment. We cannot afford to be without complete and adequate social security. We must more than match our record of wealth with one of deep respect for the dignity and worth of each of our citizens. If we are to be called the world's hope, let us be at least the citizen's safeguard. If we are to stump for democracy, let us apply it unequivocally at home.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield such time as he may desire to the gentleman from Arizona [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, many of my constituents have appealed to me in recent days and weeks, asking that I exert my influence in this body toward incorporating in any social-security legislation proposed either the principles of H. R. 2229 and H. R. 2230 for the benefit of our elderly citizens; or legislation so broadened in its scope as to include some large group of labor now excluded under existing law; or more aid to dependent children; or some special legislation favoring the blind; or at the least some improvement of the Social Security Act benefits for old age assistance. I am pleased to note that H. R. 7037, which is before us today, on pages 32 and 33 contains these latter provisions. I know it will be regarded by many as not enough, but after listening carefully to the debates today, I do know that it is all we may expect to get at this session of Congress.

I do not know when I have heard, during the 10 years of my membership in the House, more bitter argument than we have heard this afternoon. I have refrained from engaging in it. I simply hope that I may be able to explain to the elder citizens who have appealed to me why it is impossible to expect more than title V of this bill provides for them. Not being a member of the Ways and Means Committee, I can only surmise the heated arguments and struggle which must have gone on in the committee's executive sessions by what I have heard on the floor this afternoon.

I am personally not well pleased with this bill, but I know it is the best we can get. I want my constituents to know that it is brought to the House under a closed rule, which permits of no amendment. We must either vote for it or against it, and I propose to vote for it. Of course, a half loaf is better than no loaf at all, and I might expand that simile by saying that a quarter loaf, or even a slice, is better than no bread at all.

Naturally, many of our citizens, especially the old folks, will demand to know why we cannot amend this bill to make it more liberal. That of course is a long explanation, too long to be gone into here. The parliamentary situation is such that with the ending of the session so near we cannot hope for a broader and more generous social-security measure at this time.

The first provision under title V of this measure amends section 111 (a) of the Social Security Act, by striking out $40 and inserting in lieu thereof $50. In a State like Arizona, that will mean a substantial increase in old age assistance. My State has been more generous than the average among the 48, in matching the Federal allowance, and while Arizona now, by law, provides for

only $20 to match the Federal $20 as a maximum for the individual, I feel sure that soon after the enactment of this Federal law, Arizona will modify her law so as to match $25 for the Federal $25 contribution.

While the increase of aid for dependent children and aid to the blind may be heartily approved in this measure, we cannot overlook the fact that there are some serious omissions in this bill. We have been assured by more than one speaker that it will take time to work out some of the other provisions we have hoped for and which are needed, and we may confidently hope that early action in the next Congress may be had in remedying the defects and omissions of this bill. With that understanding I shall vote for this measure.

Mr. KNUTSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Chairman, of course, I shall support this bill. If it does nothing else, the fact that it freezes the social-security tax at present rates for another year is ample justification for its enactment.

Additional benefits are provided in case of deceased World War II veterans. Marine workers receive unemployment compensation. There are additional grants for old-age assistance and aid to dependent children and the blind. Numerous miscellaneous provisions in the bill clarify present law and are most salutary in their effect.

In short, the bill is most commendable so far as it goes, but candor compels me to say that there is disappointment because the Ways and Means Committee has not found it possible to develop the field of social security as had been contemplated by the committee and earnestly anticipated by the people.

Mr. Chairman, present provisions of law providing assistance to our elderly people are entirely inadequate. I supported social security when it was initiated, and I have continued to support its expansion down through the years. As an experiment, it has worked well. It is necessary, if social security is to serve the purposes for which it was intended, that it be kept financially and actuarially sound. The Ways and Means Committee is to be congratulated on its insistence upon this fundamental principle.

The past several months have been given by that committee to an intensive study of the possibilities of expanding the coverage under the law so that additional groups of our people may enjoy its benefits. This must and will be done; therefore, if eventually, why not now? I do not mean that literally because I know this committee has worked hard and long, and I am not unmindful of the obstacles in its way. While there is disappointment, yet I entertain fervent hope that in the next Congress a more comprehensive law can and will be written, and that these groups now outside of the social-security fold will be covered or that other provisions be made for their old-age security. This is simple justice. Yes; it is more than that. It is necessary if all of our people are to be treated alike.

Many of our elderly people are being neglected. Times have changed. The cost of living has skyrocketed. Old-age benefits and old-age assistance, which were adequate a few years ago, will not furnish the necessities of life at the moment. It seems strange to me that in the view of some we have plenty of money to spend for other things, but the cupboard is bare when we look for anything for the aged. These people are not asking charity. They should not be made to feel that they are receiving alms, and the sooner our legislatures and our people in general appreciate that more reasonable allowances must be made for this worthy group the sooner we will be doing our duty and paying off an obligation which we rightfully owe.

The fact that there have been lobbyists and exploiters of some of these groups should not militate against them. Too many false hopes and extravagant promises have been made by promoters and selfish interests. Our job is to do something about this condition in a fair, reasonable and adequate fashion. I believe and hope that when Congress reconvenes one of the first things embarked upon should be proper consideration for those aged people who have been so long neglected.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. LYNCH].

Mr. LYNCH. Mr. Chairman, it may appear to some that this bill is not as extensive as it might be, yet it should be borne in mind that after all it is what might really be called a temporary expedient. The committee intends to go further next year with respect to coverage of various classes of people, particularly those referred to by the gentleman from Georgia, the agricultural workers, and domestic workers and the self-employed. There appeared to be some controversy during our executive sessions with respect to whether or not it is feasible or possible to cover agricultural workers and whether or not it is desirable to cover agricultural workers. For my own part I feel that as many people as possible should be covered, but not being very familiar with the agricultural situation I was willing to defer voting upon that question until next year.

Mr. PACE. Mr. Chairman, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from Georgia.

Mr. PACE. All the millions who process the farm commodities are covered by the law, but the people who work in the fields, who produce the commodities that provide the jobs and the security for the other fellow, are left out. Certainly I believe the distinguished gentleman from New York can find some way to overcome the administrative difficulties in order that they, too, may have some hope for security in their old age.

Mr. LYNCH. I think it is to the advantage not only of the agricultural workers but of the entire social-security system that agricultural workers and all other workers, including the self-employed, be covered under this law. I can assure the gentleman that every effort will be made to cover them next year if I have anything at all to say with respect to them.

Mr. PACE. I am delighted with the response of the gentleman from New York.

Mr. COOLEY. Mr. Chairman, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from North Carolina.

Mr. COOLEY. Can the gentleman tell the House why it was the committee changed its mind and abandoned the bill of July 1? I still have not had an answer.

Mr. LYNCH. Yes. The answer is that we got our tail in a crack and we had to get out of it. The only way we could get out of it was by coming in here with a bill that would not be controversial. I think that answers the question as fairly as it can be answered.

Mr. COOLEY. It does.

Mr. LYNCH. Let me say further that there are things in this bill with which I do not agree. I do not agree with title I, but rather than have everything go overboard, especially the maritime workers, in whom I am particularly interested, I was willing to go along for 1 year to carry this tax at 1 percent. As to the variable grants, that involves a new procedure or departure, as the gentleman from Ohio so aptly described it. Instead of a 50–50 matching it involved a 66⅔ percent contribution, which likewise was controversial.

Mr. COOLEY. I know that, but if the gentleman thinks the Committee on Ways and Means had a perfect right to change its mind on this fundamental proposition, why is it that the committee is unwilling for me to change my mind or the other members to change their minds and elect between the two bills?

Mr. LYNCH. I do not think the committee has any objection to your changing your mind.

Mr. COOLEY. I cannot change it. I cannot do anything about it. That is all.

Mr. LYNCH. As a matter of fact, we would like you to change your mind and vote for this bill.

Mr. COOLEY. I probably will, but that still does not give me a chance to elect as between the two propositions.

Mr. LYNCH. I appreciate that very much.

Now, with respect to the maritime workers, there are two problems involved with respect to these seafaring men. The first has to do with permanent unemployment compensation. For some 9 years the maritime workers have been without unemployment compensation. Thanks to the splendid cooperation of the members of the committee, both Democrats and Republicans, we were finally able to get title III in this bill which was, strangely enough, unanimously agreed upon. I might further state that these provisions with respect to maritime workers met with the approval of the labor unions, the ship operators, and the State agencies.

There is in this bill also a temporary feature with respect to those maritime

workers who for the past 3 years have been in reality employed by the War Shipping Administration. The Federal Government agrees to reimburse the State agencies for payments made by them to the maritime workers who earned credits as employees of the War Shipping Administration.

I regret that time does not permit me to go into more detailed elaboration of the maritime provisions of this bill. However, I cannot let this opportunity pass without a word of thanks to my colleagues on the committee, to the technical staff, and to Mr. Jackson, of Washington, for their splendid cooperation and assistance.

Mr. KNUTSON. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. CURTIS].

Mr. CURTIS. Mr. Chairman, I am not very happy about this legislation. There is merit in the variable-grant proposal. Neither am I very happy about everything that has taken place preliminary to bringing legislation on the floor of the House. I shall vote for it, however. It covers some things that must have attention. It will bring to the State of Nebraska, according to the figures of the Social Security Board, based upon the last half of 1945, an additional amount of approximately $334,000. The greater share of this $270,000 will go to our fund for aid for dependent children. It raises the ceiling to $27 for the first child and $18 for each additional child on a Federal 50-50 matching basis. It also will give some help to old people and to the blind. It raises the ceiling to $50 for both programs. However, my State happens to be one of those States that has a fixed ceiling on old-age assistance of $40 and probably nothing can be done until the legislature meets. In reference to this bill, there are a few things that I would like to point out. We are doing something for the soldiers here but not all that should be done. Under the provisions of the old age and survivors insurance section, there are two parts—one pays a benefit when the wage earner reaches 65 years of age, and another one takes care of the situation when he dies while covered. We extend to the veterans 3 years' coverage of the survivors' insurance only. If there is anything Congress needs to revamp, revise, and restudy, it is our treatment of the aged. In most of our communities you can find about four categories of old people. First, there is the individual over 65 who is covered and who is paid benefits regardless of need. Then you find another group who have paid in and have had the deductions made from their pay checks but they have not been in covered employment long enough to get any benefit and they do not even get the taxes back. They may have the pay-roll deductions for 8 or 9 years and still they do not even get the taxes back. They are paid nothing. Then you have the other group who because of a needs test can be paid under old-age assistance. Then you have the fourth group that are not covered and are never paid anything. It is full of discrimination throughout. I certainly want to see a better and more equitable deal for our older citizens. Today we are dealing only with the old-age assistance. The ceiling is raised from $40 to $50, one-half of which is paid by the Federal Government if the State can match it.

Our social-security program is not sound. It is class legislation and it will be costly. It has been stated that if the tax goes up some of the Members will insist on increased benefits. If you do not increase the benefits but leave them as at present levels, 50 years from now your pay-roll tax will equal 10 percent—5 percent on employer and 5 percent on employees. This whole matter of the care for our aged must be treated at one time and a program worked out that is fair to the individual who is covered and who is not covered, and that is fair to the public. At the present time that is not the situation. Under our social-security program the president of the greatest corporation in the United States is covered. The cobbler, or the individual merchant in your home town, or the farmer is not covered. Perhaps the farmers do not want it.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. CURTIS] has expired.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I am not disposed to strongly defend the pending bill (H. R. 7037) amending the Social Security Act, because I am obliged to make apologies for it. The bill is not altogether bad and it does contain some good provisions. In fact, according to the study made by the experts, it never should have provided for the freezing of the social-security tax at 1 percent. The grants-in-aid for old-age assistance, aid to dependent children, and aid to the blind should have been more liberal.

The benefits under title II for World War II veterans are, in my estimation, insufficient. They should have been provided at least on a permanent, not a temporary, basis. It seems to me that the veteran, in order to obtain the benefit for his dependents, must die to conform with the objectives contained in the bill.

The freeze of the tax, if kept at 1 percent, weakens the fund and makes it, as the actuaries would say, actuarially unsound.

We tried to put into the bill what is known as a variable grant, which should be of particular assistance to the aged and needy pensioners, and which would do most good in the States where the wealth of the citizens is below the average. This was stricken out because it was said to be a new departure and unfair to the more fortunate States which are able to carry their own full load. But according to actual figures, the provisions of this bill, supposedly, without a variable grant to the States does in fact give the bulk of the aid of Federal moneys to a very few privileged and wealthy States. The amount of assistance to be granted to Michigan, on the other hand, is ridiculously low, as pointed out in the supplemental views submitted to the House by our distinguished colleague, Mr. EBERHARTER, of Pennsylvania, to which I subscribe in principle and which I desire to make a part of my remarks:

SUPPLEMENTAL VIEWS

[To accompany H. R. 7037]

The undersigned member of the Committee on Ways and Means is deeply disappointed at the inadequacies of the provisions of the social-security bill reported out by the committee, H. R. 7037.

It is recognized that the bill contains some provisions which are desirable, such as title II: Benefits in Case of Deceased World War II Veterans, and title III: Unemployment Compensation for Maritime Workers.

However, I feel it my duty to point out particular provisions which are not only inadequate, but unfair; and the failure of the committee to include in the bill amendments of pressing and vital national importance.

By House Resolution 204 passed on March 26, 1945, the House authorized the expenditure of $50,000 for the Committee on Ways and Means to make a study of "the need for the amendment and expansion of the Social Security Act, with particular reference to old-age and survivors insurance and the problems of coverage, benefits, and taxes related thereto." Pursuant thereto, the committee selected a competent staff of experts which presented a complete and well documented report early in 1946 on all aspects of the present social-security program, and a future comprehensive expanded program. The committee held executive sessions early in February, and held numerous public hearings beginning on February 25 and continuing over a period of several months.

Numerous witnesses came from all parts of the country to testify, on the expectation that the committee was making a complete revision of our social-security laws. After all this expenditure of time, money, and effort, the committee has reported out a bill which fails to deal with the most important aspects of social security, as covered either in the staff's report of the hearings before the committee.

INADEQUACY AND INCONSISTENCY OF TITLE I: SOCIAL-SECURITY TAXES

Title I of the bill freezes for the eighth consecutive year the social-security contributions for the year 1947 at the present rate of 1 percent each on employers and employees. Just 2 weeks before this bill was reported out, the committee voted for an increase in the contributions to 1½ percent. In the committe report on the earlier bill (H. R. 6911) filed July 1, 1946, the committee stated:

"It would appear to be for the best interests of all concerned if the rate could be fixed at this time for a reasonable period rather than that the matter should come up each year (p. 3)."

No reasonable explanation for the change in the views of the committee on this important issue has been advanced. The change is contrary to both the previous action of the committee and recommendation No. 10 at the bottom of page 122 of the committee's social-security technical staff in its report, "Issues in Social Security."

The reasons given by the committee's technical staff for an increase in the social-security contribution rates are as follows:

"It is a foregone conclusion that social-security taxes must increase in the future if they are to pay a substantial part of the benefit totals which we know are going to increase in a major way; that we want no irregularities or sudden breaks in our social-security tax schedule and that anything that may be undesirable about a modest further growth in the trust fund during favorable economic conditions is far less important than the painful processes of meeting unusually high benefit loads in years of economic depression after we have been somewhat lulled into complacency by an unusually low benefit load and unusually high contribution totals, due to unheard-of employment conditions (top of p. 122)."

In addition to freezing the contribution rate, section 103 of the bill provides for repeal of the provision added to the law in 1943, which was inserted for the purpose of guaranteeing the payment of old-age and survivors insurance benefits, in case the contributions to the fund should be inadequate because of the continued freezing of the contribution rates. The repeal of this proviso by the committee bill is absolutely inconsistent with the action taken in freezing the contribution rate.

INADEQUACY OF TITLE V: STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

Title V of the bill increases Federal contributions to States for aid to the needy aged, blind, and dependent children. The maximum Federal contribution to the aged and the blind would be increased from $20 to $25 a month, and for aid to dependent children from $9 to $13.50 for the first child, and from $6 to $9 for each additional child.

Originally the committee voted to increase the Federal contribution from $20 to $30 for the aged and the blind and to provide additional Federal funds to States with low per capita incomes, which would permit a graduated increase in the Federal contribution up to 66⅔ percent of the amount paid to the recipient. These provisions reported out by the committee in H. R. 6911 are omitted from H. R. 7037. We feel this omission is a grave mistake.

The variable matching formula originally adopted by the committee in H. R. 6911 would have given additional Federal funds to 31 States. The 31 States which will lose Federal funds because of the omission from H. R. 7037 of the variable matching formula, and the Federal proportion of the amounts paid to recipients which they would have received under H. R. 6911 are as follows:

Federal proportion under H. R. 6911

Alabama	66⅔
Arizona	59
Arkansas	66⅔
Colorado	53
Florida	60
Georgia	66⅔
Idaho	55
Iowa	53
Kansas	54
Kentucky	66⅔
Louisiana	66⅔
Maine	53
Minnesota	56
Mississippi	66⅔
Missouri	56
Nebraska	57
New Hampshire	58
New Mexico	66⅔
North Carolina	66⅔
North Dakota	57
Oklahoma	66⅔
South Carolina	66⅔

Federal proportion under H. R. 6911—Con.

South Dakota	60
Tennessee	66⅔
Texas	62
Utah	52
Vermont	57
Virginia	59
West Virginia	66
Wisconsin	52
Wyoming	52

The provisions of title V of H. R. 7037 will cost the Federal Government an additional $47,538,000. Many States will not get one single additional cent of this money from the Government. This is so because at the present time one-half of the States do not make payments to needy aged persons in amounts greater than the maximum of $40 per month for which Federal matching funds are available. Among these States are Arizona, Arkansas, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin.

While some States may amend their laws at their next regular session or at a special session of their State legislatures, many States undoubtedly will be discouraged from making such an important permanent change since section 504 of the bill provides that the additional Federal contribution is only for a temporary period—up through December 31, 1947.

The provisions of title V of the bill do nothing to help raise the admittedly inadequate assistance payments in the low-income States such as Kentucky where the average payment was $11.71 in April; in Georgia, $12.67; in North Carolina, $13.81; in Virginia, $15.22; in Mississippi, $16.39, etc.

One State, California, will get 48 percent of the additional Federal funds for the aged. Three States, New York, Massachusetts, and California, will get 76 percent of the additional Federal funds for the aged.

Under the bill 86 percent of the additional Federal funds for old-age assistance will go to the 10 richest States with 29 percent of the aged population, while the 10 poorest States with 14 percent of the aged population will get only 1 percent of the additional Federal funds.

This rank discrimination against the neediest States is shocking. It is unwarranted and unsound.

It results in the Federal Government using revenue raised from persons in the low-income States to help finance assistance in the richest States.

It is a soak-the-poor plan.

It increases the disparity in the amounts of assistance payments between States.

It is a policy of neglecting to improve conditions where the need is the greatest.

It is contrary to every sound principle of public finance, social policy, and justice.

It is contrary to the policy of this country since its establishment—that we are a Nation indivisible; that Congress should enact laws for the benefit of all the people.

The very minimum which should be acceptable at this time is the restoration of the provisions of title V as contained in H. R. 6911, as originaly reported out by the committee.

IMPORTANT PROVISIONS COMPLETELY OMITTED FROM THE BILL

The bill does not contain any provisions whatsoever on such vital matters covered by the committee's technical staff report or included in the hearings before the committee as:

1. Broadening the coverage of the old-age and survivors insurance program to include at least those groups which it is universally recognized are entitled to inclusion.

2. Increasing the amount of insurance benefits. The amount of insurance benefits was fixed in 1939, and are now inadequate. There has been about a 50-percent increase in the cost of living since 1939, while at the same time the total premiums paid into the fund have increased due to increased employment.

3. Increasing the amount of earnings which a beneficiary is permitted to earn while drawing an insurance benefit.

4. Providing a more flexible retirement age by establishing insurance protection in case of permanent total disability.

Some provisions on each of these matters could and should have been included in the bill. Each year of delay in enacting these provisions into law means hardship and privation for thousands of Americans in every State in the Union.

SUMMARY

Further delay is unjustified. The proper approach to this entire program is to strengthen and broaden the insurance features, and from that base proceed to improve the assistance and related features, and only in that manner can a comprehensive, intelligent, and workable program be evolved.

The hearings before the committee conclusively prove that the American people want the Social Security Act broadened and expanded now. The bill reported out by the committee does very little to carry out this objective.

The bill in its present form is a sad disappointment.

HERMAN P. EBERHARTER.

The figures, however, are somewhat deficient and are subject to slight corrections.

Later and more authentic figures were made available by the Social Security Board and I desire to make these figures a part of my remarks.

Public assistance: Annual cost to Federal Government under Federal-matching maximums[1] proposed in H. R. 7037 with 50-50 matching and increase over current expenditure rate

[Based on operation in July-December 1945]

State	Amount from Federal funds under 50-50 matching							
	All programs		Old-age assistance		Aid to dependent children		Aid to the blind	
	Amount from Federal funds	Increase over current expenditure rate[2]	Amount from Federal funds	Increase over current expenditure rate[2]	Amount from Federal funds	Increase over current expenditure rate[2]	Amount from Federal funds	Increase over current expenditure rate[2]
Total	$464,258,000	$56,179,000	$384,943,000	$37,136,000	$68,703,000	$17,877,000	$10,611,000	$1,166,000
Alabama	3,984,000	37,000	3,069,000	7,000	841,000	30,000	74,200	0
Alaska	342,000	70,000	331,000	68,000	11,000	2,000		
Arizona	3,030,000	892,000	2,547,000	354,000	346,000	8,000	137,200	29,700
Arkansas	3,315,000	3,000	2,567,000	0	621,000	3,000	126,700	0
California	51,270,000	11,717,000	47,542,000	10,568,000	2,110,000	738,000	1,617,800	411,300
Colorado	12,280,000	2,655,000	11,148,000	2,315,000	1,023,000	330,000	109,100	10,000
Connecticut	4,199,000	805,000	3,482,000	552,000	656,000	249,000	31,100	4,200
Delaware	216,000	25,000	127,000	0	89,000	25,000	400	0
District of Columbia	802,000	122,000	548,000	66,000	203,000	47,000	51,500	8,800
Florida	9,078,000	147,000	7,411,000	105,000	1,239,000	30,000	428,300	11,900
Georgia	5,411,000	3,000	4,640,000	0	597,000	3,000	173,900	0

See footnotes at end of table.

Public assistance: Annual cost to Federal Government under Federal-matching maximums[1] proposed in H. R. 7037 with 50–50 matching and increase over current expenditure rate—Continued

State	Amount from Federal funds under 50–50 matching							
	All programs		Old-age assistance		Aid to dependent children		Aid to the blind	
	Amount from Federal funds	Increase over current expenditure rate[2]	Amount from Federal funds	Increase over current expenditure rate[2]	Amount from Federal funds	Increase over current expenditure rate[2]	Amount from Federal funds	Increase over current expenditure rate[2]
Hawaii	$383,000	$55,000	$209,000	$7,000	$164,000	$48,000	$9,600	0
Idaho	2,352,000	294,000	1,924,000	159,000	385,000	130,000	43,200	$4,800
Illinois	32,083,000	3,963,000	24,576,000	1,453,000	6,419,000	2,443,000	1,088,200	67,100
Indiana	10,270,000	360,000	8,461,000	40,000	1,458,000	315,000	351,000	5,300
Iowa	10,556,000	728,000	9,722,000	688,000	562,000	9,000	271,600	31,500
Kansas	6,347,000	800,000	5,206,000	422,000	929,000	354,000	211,700	23,500
Kentucky	3,980,000	0	3,220,000	0	638,000	0	122,400	0
Louisiana	7,834,000	871,000	5,122,000	113,000	2,488,000	747,000	223,600	10,800
Maine	3,295,000	193,000	2,701,000	57,000	439,000	130,000	155,000	6,200
Maryland	2,720,000	48,000	1,975,000	31,000	674,000	14,000	80,700	3,000
Massachusetts	25,145,000	7,408,000	22,512,000	6,484,000	2,339,000	847,000	294,400	76,800
Michigan	21,167,000	2,110,000	16,624,000	494,000	4,262,000	1,597,000	280,500	18,500
Minnesota	12,181,000	1,032,000	10,460,000	459,000	1,479,000	523,000	241,900	50,000
Mississippi	3,223,000	[3]	2,563,000	[3]	463,000	0	196,800	0
Missouri	17,528,000	88,000	15,068,000	33,000	2,460,000	55,000	73,700	5,100
Montana	2,554,000	197,000	2,070,000	44,000	410,000	148,000	81,600	1,400
Nebraska	5,116,000	324,000	4,345,000	63,000	689,000	270,000	82,000	600
Nevada	522,000	80,000	522,000	80,000	256,000	92,000	52,000	1,600
New Hampshire	1,515,000	122,000	1,207,000	28,000	1,032,000	389,000	116,900	17,800
New Jersey	5,760,000	795,000	4,611,000	288,000	659,000	159,000	42,000	600
New Mexico	1,869,000	263,000	1,168,000	103,000	7,023,000	2,621,000	839,800	228,200
New York	32,819,000	7,467,000	24,956,000	4,618,000	942,000	5,000	275,400	0
North Carolina	3,786,000	5,000	2,569,000	0	450,000	154,000	23,700	3,800
North Dakota	2,363,000	450,000	1,889,000	292,000	2,389,000	804,000	503,200	6,400
Ohio	24,222,000	990,000	21,330,000	180,000	3,371,000	107,000	445,500	37,900
Oklahoma	21,522,000	1,017,000	17,705,000	872,000	396,000	144,000	112,700	30,100
Oregon	5,411,000	802,000	4,902,000	628,000	7,656,000	2,518,000	21,800	3,500
Pennsylvania	23,123,000	2,950,000	15,467,000	432,000	442,000	160,000	117,600	0
Rhode Island	2,077,000	382,000	1,613,000	218,000	518,000	0	50,100	100
South Carolina	2,647,000	0	2,011,000	0	380,000	106,000	183,600	0
South Dakota	2,385,000	108,000	1,975,000	2,000	2,025,000	14,000	653,900	0
Tennessee	5,857,000	14,000	3,648,000	0	1,367,000	0	34,500	7,100
Texas	26,819,000	0	24,798,000	0	589,000	196,000	31,800	1,500
Utah	3,788,000	537,000	3,164,000	334,000	121,000	3,000	107,100	0
Vermont	871,000	4,000	718,000	0	747,000	153,000	175,600	38,700
Virginia	2,155,000	153,000	1,301,000	0	1,219,000	422,000	89,000	0
Washington	19,955,000	4,610,000	18,560,000	4,149,600	1,223,000	3,000	249,000	4,200
West Virginia	3,067,000	3,000	1,755,000	0	1,780,000	704,000	29,700	4,700
Wisconsin	10,141,000	850,000	8,112,000	142,000	91,000	27,000		
Wyoming	911,000	116,000	790,000	84,000				

[1] $50 for old-age assistance and aid to the blind; for aid to dependent children, $27 for first child in family and $18 for each additional child.
[2] Based on operation in July–December 1945 of current provisions of titles I, IV, and X.
[3] Less than $500.

At any rate, I shall have to vote for the bill because it provides unemployment compensation for the maritime workers and limited benefits for World War II veterans, and the additional financial assistance under title V to the aged, to the dependent children, and to the blind. I want to say, Mr. Chairman, that I have been advocating and fighting for the inclusion of maritime workers from the time the Social Security Act was proposed.

The disappointment of the bill comes to me through the fact we have not included other deserving elements of our people in the Social Security Act, such as casual employees, domestics, those employed in charitable and institutions of the church, and various other classifications, not to forget the farmer, who may well have been included under the beneficent provisions of the act. So I shall vote for the bill because it does provide some additional coverage and some additional benefits for certain limited classes of our people. I hope that in the new year we shall be able to increase the number of our people who insist upon their rights as citizens and who should not be discriminated against by exclusion because they are unorganized, or because in their particular classification there may be some little difficulty in levying and collecting the premium or tax, for certainly there never will be any trouble granting them the benefits to which they are entitled.

Mr. DOUGHTON of North Carolina. Mr. Chairman, I yield such time as he may desire to the gentleman from Louisiana [Mr. LARCADE].

Mr. LARCADE. Mr. Chairman, I wish to join my colleagues who have spoken in opposition to some of the provisions of the bill under consideration.

Speaking for my State, I wish to quote from a telegram which I have received in regard to the amendment proposed in regard to the social-security law, as follows:

> The Louisiana State Board of Public Welfare has considered the most recent proposal of the House Ways and Means Committee to amend the social-security law by merely increasing maximum grants for Federal participation without including variable grant feature. The board considers this proposal as being detrimental to the interests of Louisiana since it would obviously increase the amount of Federal money to the wealthier States without making any material change in amount of Federal funds available to Louisiana. The board has instructed me to request you to oppose such an amendment unless variable grant formula can be included.

Mr. Chairman, the rule granted for the consideration of this H. R. 7037 is a closed rule—closed tight, airtight—closed so tight that it is not possible under the rule to offer any amendment or amendments, and therefore, the membership of the House is precluded from any opportunity to give consideration to amendments which would give proper consideration to the needs of thousands of unfortunate people who are desperately in need of consideration.

Mr. Chairman, since my time is limited it is impossible for me to discuss the subject any further; however, I think that the reason for my opposition, and the opposition of others from the South is fully covered in the discussion on yesterday by my colleague, the gentleman from Tennessee [Mr. GORE].

Mr. Chairman, I regret exceedingly that the House granted this closed rule and as a result makes it impossible for me and others to offer amendments, and I am sorry that more consideration was not given by the committee to this important and serious matter; however, we hope that when the bill reaches the Senate that this bill will be given further consideration and the inequities and discrimination of which we complain will be adjusted.

Mr. MILLS. Mr. Chairman, I yield such time as he may desire to the gentleman from Arkansas [Mr. HAYS].

Mr. HAYS. Mr. Chairman, I shall support this bill although I regret very much that under the rules we are not free to consider amendments to provide a more equitable allocation of funds to the respective States. It is obviously unfair that States with a higher per capita income should receive a greater amount from the Federal Treasury than the States that are less able to take care of their aged citizens. There is a discrimination against the agricultural States growing out of the higher incomes enjoyed by industrial States. The difficulties are not altogether limited to the South although if Texas and Florida are

left out of consideration the Southern State making the highest payment for old-age assistance is still unable to pay as much as the State outside the South making the lowest payment. This should not be regarded as a sectional issue since three States in the Northeast, Vermont, New Hampshie, and Maine—all agricultural States—are confronted with the same difficulties and there are Western States equally discriminated against. As stated in the debate, sooner or later the Congress must decide this issue and I insist that if full justice is accorded the States with low per capita incomes there must be a new formula for social-security payments.

Mr. MILLS. Mr. Chairman, I yield such time as he may desire to the gentleman from Pennsylvania [Mr. KELLEY].

Mr. KELLEY of Pennsylvania. Mr. Chairman, I have for some time hoped that the Congress would seize the opportunity to broaden the scope of the Social Security Act in order to provide ample funds for the aged, as well as lower the age limit from 65 to, supposedly, 55. While this bill, H. R. 7037, has made some needed improvements, in general it falls far short of providing for the needs of the aged.

The Congress could do nothing more beneficial for the vast group of our citizens than to think seriously of the dependency of the aged people, and in many, many cases their destitution. Since the bill as enacted will carry for a year, my efforts shall be directed toward having the committee grant serious recognition to the interests of the aged. The time will come when the Congress must enact legislation to keep these people in decency and comfort when they have passed the age of physical usefulness.

Mr. KNUTSON. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Chairman, relative to the social security legislation, I am just going to discuss one point, because I am vitally interested in it. I think when the country thoroughly understands it, the people of this country will demand a great reform in the social security legislation. We are simply following the example that was set by Louis XVI of France. When they were very hard pressed for finances and facing bankruptcy, his Minister of Finance devised a plan, with his collaborators, to put in an annuity system to raise money. The people of France went wild over the idea of buying annuities for their babies and for other members of the families. The result was that the government took this money and spent it. So that after a time when the government faced bankruptcy and the King let his Finance Minister go, the people realized that their fund was bankrupt. That, in many respects led to the French Revolution and the ultimate removal of the head of Louis XVI.

Under our social security program that is precisely what we have been doing. We have a fake reserve. It has taken a long time for the people to realize it, and there are still millions of people who do not realize that the money that has been collected, some $7,000,000,000 or more, has been spent. All there is of the reserve are some certificates or bonds. But when the benefits have to be paid the people will be taxed again to pay them. Of course that will be another group of persons than have paid the pay-roll taxes. But if our country should face another war, if it should face bad crops and insolvency, then the trouble would begin. It might ultimately weaken this Republic or even destroy it.

It did that to France where they finally in desperation confiscated the church property and then went the complete limit of fiat money and ultimately bloody revolution. The point here is we must put the finances of social security in order. If you read the report now of the tax foundation in New York you will find that its experts point out very clearly that this money has been spent and that the people will have to be taxed over again. So there is great work ahead for the Ways and Means Committee to do to put this social security on a sound fiscal basis. It is actuarially sound now, but it must be made actuarially sound so as not to cause trouble in the future.

Mr. THOM. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. I yield.

Mr. THOM. The Bell Telephone Co. has a private pension system and its funds collected from workmen and employees are invested in United States bonds; so it has the same base as the social security funds; it is a first charge against the country's income.

Mr. REED of New York. That does not make any difference because these moneys which went into the Treasury of the United States have been spent on boondoggling, war, and a lot of other things, whatever they wanted to appropriate it for. It is the laborers and the manufacturers who have to pay this tax. I just want to make that point perfectly clear as to why you should not increase this social security payroll tax, because there is enough there to pay the benefits. There is no reason to collect one dollar more to pour into the ratholes and the wild program of spending that has been carried on here over a long period of time.

I present the findings of the Tax Foundation of New York:

The so-called reserve in both the Federal old-age and the Federal unemployment-compensation accounts is obviously nothing except the Government's debt to these funds. What actually is happening is: (a) taxes in excess of current benefit payments are being collected; (b) these excess receipts are borrowed from the fund and spent for general governmental purposes; and (c) if and when the reserve must be drawn upon through liquidation, funds to meet the draft must be obtained by selling to the public some of the fund assets. This would result in transferring the Government's debt from the fund to the public. If the traditional policy with respect to that debt should be followed, namely, to retire it at maturity, it would, therefore, become necessary to levy taxes for amortization as well as for interest. Hence, the taxation whereby the reserve had been created originally would have been in vain, for a second tax levy would eventually become necessary in order to provide the money for the future social-security payments. This second levy would be, directly, for interest and amortization of the bonds taken from the reserve. But the existence of these bonds is evidence that someone had already contributed the money to buy them and is supposed to be proof that no further taxation would be required to pay the benefits represented by the bonds.

The plain truth is that the program which is now operative in the United States involves, for a considerable period, a tax levy used in part for general purposes and in part for bona fide security payments. The taxes now being collected are principally devoted to general purposes and only in minor degree to genuine social-security purposes. (Social Security, the Tax Foundation.)

Public assistance: Cost to Federal Government under Federal matching maximums [1] proposed in H. R. 7037 with 50-50 matching and increase over current expenditure rate

[Based on operation in July to December 1945]

State	Amount from Federal funds under 50-50 matching							
	All programs		Old-age assistance		Aid to dependent children		Aid to the blind	
	Amount from Federal funds	Increase over current expenditure rate [2]	Amount from Federal funds	Increase over current expenditure rate [2]	Amount from Federal funds	Increase over current expenditure rate [2]	Amount from Federal funds	Increase over current expenditure rate [2]
Total	$464,258,000	$56,179,000	$384,943,000	$37,136,000	$68,703,000	$17,877,000	$10,611,000	$1,166,000
Alabama	3,984,000	37,000	3,069,000	7,000	841,000	30,000	74,200	0
Alaska	342,000	70,000	331,000	68,000	11,000	2,000		
Arizona	3,030,000	992,000	2,547,000	854,000	346,000	8,000	137,300	29,700
Arkansas	3,315,000	3,000	2,567,000	0	621,000	3,000	126,700	0
California	51,270,000	11,717,000	47,542,000	10,568,000	2,110,000	738,000	1,617,800	411,300
Colorado	12,280,000	2,655,000	11,148,000	2,315,000	1,023,000	330,000	109,100	10,000
Connecticut	4,199,000	805,000	3,482,000	552,000	686,000	249,000	31,100	4,200
Delaware	216,000	25,000	127,000	0	89,000	25,000	400	0
District of Columbia	802,000	122,000	548,000	66,000	203,000	47,000	51,500	8,800
Florida	9,078,000	147,000	7,411,000	105,000	1,239,000	30,000	428,300	11,900
Georgia	5,411,000	3,000	4,640,000	0	597,000	3,000	173,900	0
Hawaii	383,000	55,000	209,000	7,000	164,000	48,000	9,600	0

Footnotes at end of table.

Public assistance: Cost to Federal Government under Federal matching maximums [1] proposed in H. R. 7037 with 50-50 matching and increase over current expenditure rate—Continued

[Based on operation in July to December 1945]

State	Amount from Federal funds under 50-50 matching							
	All programs		Old-age assistance		Aid to dependent children		Aid to the blind	
	Amount from Federal funds	Increase over current expenditure rate [2]	Amount from Federal funds	Increase over current expenditure rate [2]	Amount from Federal funds	Increase over current expenditure rate [2]	Amount from Federal funds	Increase over current expenditure rate [2]
Idaho	$2,352,000	$294,000	$1,924,000	$159,000	$385,000	$130,000	$43,200	$4,800
Illinois	32,083,000	3,963,000	24,576,000	1,453,000	6,419,000	2,443,000	1,088,200	67,100
Indiana	10,270,000	360,000	8,461,000	40,000	1,458,000	315,000	351,000	5,300
Iowa	10,556,000	728,000	9,722,000	688,000	562,000	9,000	271,600	31,500
Kansas	6,347,000	800,000	5,206,000	422,000	929,000	354,000	211,700	23,500
Kentucky	3,980,000	0	3,220,000	0	638,000	0	122,400	0
Louisiana	7,834,000	871,000	5,122,000	113,000	2,488,000	747,000	223,600	10,800
Maine	3,295,000	193,000	2,701,000	57,000	439,000	130,000	155,000	6,200
Maryland	2,730,000	48,000	1,975,000	31,000	674,000	14,000	80,700	3,000
Massachusetts	25,145,000	7,408,000	22,512,000	6,484,000	2,339,000	847,000	294,400	76,800
Michigan	21,167,000	2,110,000	16,624,000	494,000	4,262,000	1,597,000	280,800	18,500
Minnesota	12,181,000	1,032,000	10,460,000	459,000	1,479,000	523,000	241,900	50,000
Mississippi	3,223,000	(3)	2,563,000	(3)	463,000	(	196,800	0
Missouri	17,528,000	88,000	15,068,000	33,000	2,460,000	55,000		
Montana	2,554,000	197,000	2,070,000	44,000	410,000	148,000	73,700	5,100
Nebraska	5,116,000	334,000	4,345,000	63,000	689,000	270,000	81,600	1,400
Nevada	522,000	80,000	522,000	80,000				
New Hampshire	1,515,000	122,000	1,207,000	28,000	256,000	92,000	52,000	1,600
New Jersey	5,760,000	795,000	4,611,000	388,000	1,032,000	389,000	116,900	17,800
New Mexico	1,869,000	263,000	1,168,000	103,000	659,000	159,000	42,000	600
New York	32,819,000	7,467,000	24,956,000	4,618,000	7,023,000	2,621,000	839,500	228,200
North Carolina	3,786,000	5,000	2,569,000	0	942,000	5,000	275,400	0
North Dakota	2,363,000	450,000	1,889,000	292,000	450,000	154,000	23,700	3,800
Ohio	24,222,000	990,000	21,330,000	180,000	2,389,000	804,000	503,200	6,400
Oklahoma	21,522,000	1,017,000	17,705,000	572,000	3,371,000	107,000	445,500	37,900
Oregon	5,411,000	802,000	4,902,000	628,000	396,000	144,000	112,700	30,100
Pennsylvania	23,123,000	2,950,000	15,467,000	432,000	7,656,000	2,518,000		
Rhode Island	2,077,000	382,000	1,613,000	218,000	442,000	160,000	21,800	3,500
South Carolina	2,647,000	0	2,011,000	0	518,000	0	117,600	0
South Dakota	2,385,000	108,000	1,975,000	2,000	380,000	106,000	30,100	100
Tennessee	5,857,000	14,000	3,648,000	0	2,025,000	14,000	183,600	0
Texas	26,819,000	0	24,798,000	0	1,367,000	0	653,900	0
Utah	3,788,000	537,000	3,164,000	334,000	589,000	196,000	34,500	7,100
Vermont	871,000	4,000	718,000	0	121,000	3,000	31,800	1,500
Virginia	2,155,000	153,000	1,301,000	0	747,000	153,000	107,100	0
Washington	19,955,000	4,610,000	18,560,000	4,149,000	1,219,000	422,000	175,600	38,700
West Virginia	3,067,000	3,000	1,755,000	0	1,223,000	3,000	89,000	0
Wisconsin	10,141,000	850,000	8,112,000	142,000	1,780,000	704,000	249,000	4,200
Wyoming	911,000	116,000	790,000	84,000	91,000	27,000	29,700	4,700

[1] $50 for old-age assistance and aid to the blind; for aid to dependent children, $27 for first child in family and $18 for each additional child.
[2] Based on operation in July-December 1945 of current provisions of titles I, IV, and X.
[3] Less than $500.

Mr. MILLS. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. WASIELEWSKI].

Mr. WASIELEWSKI. Mr. Chairman, when the Social Security Act was adopted in 1935 about one-third of the States had old-age assistance provisions in their laws. In 1935, as we all recall, we were in the middle of a depression and many of the States had considerable financial difficulties. Today the situation is in reverse. In order to help the States along, the Federal Government stepped into the picture by offering to match the State payments of benefits, dollar for dollar, up to $20, thus making it possible in very needy cases to pay up to $40. Individual States might pay more if they so desired, but the matching runs only up to a total of $40. The bill before the committee increases this sum to $50.

Old-age assistance is on a sound basis. For example, in the State of Wisconsin any citizen 65 years of age may make application by applying to the county court of the county in which he resides. The county court holds hearings, investigates the needs of the individual, and checks to see whether his family can contribute to his support. If the individual members of the family cannot contribute, the State determines the needs of the individual applicant and sets the benefits. If the family members are able and willing to contribute to the support of the applicant, the court authorizes a supplementation of the amounts that are contributed by members of the family as the situation warrants.

Early last session the Committee on Ways and Means was authorized to make a complete study of the social-security structure in order to determine whether it was actuarially sound and also to determine what liberalizing steps were warranted. In January of 1946 a report was prepared under the guidance of Mr. Calhoun. It consists of over 700 pages and is about as complete a study of this subject matter as can be found anywhere.

Subsequently, your committee conducted hearings over a period of 4 or 5 months. These hearings, however, were interrupted intermittently by consideration of other legislation such as the Philippine Trade Act, reciprocal trade agreements, and a number of other important measures. In the hearings over 157 witnesses testified and the hearings numbered some 1,160 printed pages.

These hearings were completed early in June. Your committee appreciated that a comprehensive bill on this subject could not be worked out in the time remaining in the session. It was therefore agreed that at this time we would only deal with those phases of the subject as were urgent and noncontroversial, thus leaving to future consideration those matters involving a change in policy and practical mechanics that required further study. It is important because of the interrelation of the various phases of the subject that it be dealt with in the whole rather than piece-meal fashion.

The bill before the committee is not a perfect one, it falls short in several respects as I see it, but a majority of the committee members have agreed on its separate provisions and I am willing to go along in view of the fact that this is mere stopgap legislation and not intended to be the last word of your committee on this subject.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired. All time has expired.

Under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. THOMASON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 7037) to amend the Social Security Act and Internal Revenue Code, and for other purposes, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

79TH CONGRESS
2D SESSION

H. R. 7037

IN THE SENATE OF THE UNITED STATES

JULY 25 (legislative day, JULY 5), 1946
Read twice and referred to the Committee on Finance

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Act Amendments of 1946".

TITLE I—SOCIAL SECURITY TAXES

SEC. 101. RATES OF TAX ON EMPLOYEES.

Clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are amended to read as follows:

"(1) With respect to wages received during the

calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 102. RATES OF TAX ON EMPLOYERS.

Clauses (1) and (2) of section 1410 of such Act (Internal Revenue Code, sec. 1410), as amended, are amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 103. APPROPRIATIONS TO THE TRUST FUND.

The sentence added by section 902 of the Revenue Act of 1943 at the end of section 201 (a) of the Social Security Act, which reads as follows: "There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.", is repealed.

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

SEC. 201. The Social Security Act, as amended, is amended by adding after subsection (r) of section 209 of

Title II (added to such section by section 411 of this Act) a new section to read as follows:

"BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

"SEC. 210. (a) Any individual who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to the date of the termination of World War II, and who has been discharged or released therefrom under conditions other than dishonorable after active service of ninety days or more, or by reason of a disability or injury incurred or aggravated in service in line of duty, shall in the event of his death during the period of three years immediately following separation from the active military or naval service, whether his death occurs on, before, or after the date of the enactment of this section, be deemed—

"(1) to have died a fully insured individual;

"(2) to have an average monthly wage of not less than $160; and

"(3) for the purposes of section 209 (e) (2), to have been paid not less than $200 of wages in each calendar year in which he had thirty days or more of active service after September 16, 1940.

This section shall not apply in the case of the death of any individual occurring (either on, before, or after the date of

the enactment of this section) while he is in the active military or naval service, or in the case of the death of any individual who has been discharged or released from the active military or naval service of the United States subsequent to the expiration of four years and one day after the date of the termination of World War II.

"(b) (1) If any pension or compensation is determined by the Veterans' Administration to be payable on the basis of the death of any individual referred to in subsection (a) of this section, any monthly benefits or lump-sum death payment payable under this title with respect to the wages of such individual shall be determined without regard to such subsection (a).

"(2) Upon an application for benefits or a lump-sum death payment with respect to the death of any individual referred to in subsection (a), the Board shall make a decision without regard to paragraph (1) of this subsection unless it has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such individual. The Board shall notify the Veterans' Administration of any decision made by the Board authorizing payment, pursuant to subsection (a), of monthly benefits or of a lump-sum death payment. If the Veterans' Administration in any such case has made an adjudication

or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, by reason of the death of any such individual, it shall notify the Board, and the Board shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Board pursuant to subsection (a) to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of sec. 3 of the Act of August 12, 1935, as amended (U. S. C., 1940 edition, title 38, sec. 454a)) be deemed to have been paid to him by the Veterans' Administration on account of such accrued pension or compensation. No such payment certified by the Board, and no payment certified by the Board for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration, shall be deemed by reason of this subsection to have been an erroneous payment.

"(c) In the event any individual referred to in subsection (a) has died during such three-year period but before the date of the enactment of this section—

"(1) upon application filed within six months after the date of the enactment of this section, any

monthly benefits payable with respect to the wages of such individual (including benefits for months before such date) shall be computed or recomputed and shall be paid in accordance with subsection (a), in the same manner as though such application had been filed in the first month in which all conditions of entitlement to such benefits, other than the filing of an application, were met;

"(2) if any individual who upon filing application would have been entitled to benefits or to a recomputation of benefits under paragraph (1) has died before the expiration of six months after the date of the enactment of this section, the application may be filed within the same period by any other individual entitled to benefits with respect to the same wages, and the nonpayment or underpayment to the deceased individual shall be treated as erroneous within the meaning of section 204;

"(3) the time within which proof of dependency under section 202 (f) or any application under 202 (g) may be filed shall be not less than six months after the date of the enactment of this section; and

"(4) application for a lump-sum death payment or recomputation, pursuant to this section, of a lump-sum death payment certified by the Board, prior to the

date of the enactment of this section, for payment with respect to the wages of any such individual may be filed within a period not less than six months from the date of the enactment of this section or a period of two years after the date of the death of any individual specified in subsection (a), whichever is the later, and any additional payment shall be made to the same individual or individuals as though the application were an original application for a lump-sum death payment with respect to such wages.

No lump-sum death payment shall be made or recomputed with respect to the wages of an individual if any monthly benefit with respect to his wages is, or upon filing application would be, payable for the month in which he died; but except as otherwise specifically provided in this section no payment heretofore made shall be rendered erroneous by the enactment of this section.

"(d) There are hereby authorized to be appropriated to the Trust Fund from time to time such sums as may be necessary to meet the additional cost, resulting from this section, of the benefits (including lump-sum death payments) payable under this title.

"(e) For the purposes of this section the term 'date of the termination of World War II' means the date proclaimed by the President as the date of such termination, or

the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier."

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SEC. 301. STATE COVERAGE OF MARITIME WORKERS.

The Internal Revenue Code, as amended, is amended by adding after section 1606 (e) a new subsection to read as follows:

"(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Board under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to

such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States."

SEC. 302. DEFINITION OF EMPLOYMENT.

That part of section 1607 (c) of the Internal Revenue Code, as amended, which reads as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—"

is amended, effective July 1, 1946, to read as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of what-

ever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—".

SEC. 303. SERVICE ON FOREIGN VESSELS.

Section 1607 (c) (4) of the Internal Revenue Code, as amended, is amended, effective July 1, 1946, to read as follows:

"(4) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;".

SEC. 304. CERTAIN FISHING SERVICES.

(a) Section 1607 (c) (15) of such Code is amended by striking out "or" at the end thereof.

(b) Section 1607 (c) (16) of such Code is amended by striking out the period and inserting in lieu thereof the following: "; or".

(c) Section 1607 (c) of such Code is further amended

by adding after paragraph (16) a new paragraph to read as follows:

"(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States)."

(d) The amendments made by this section shall take effect July 1, 1946.

SEC. 305. DEFINITION OF AMERICAN VESSEL.

Section 1607 of such Code, as amended, is further amended, effective July 1, 1946, by adding after subsection (m) a new subsection to read as follows:

"(n) AMERICAN VESSEL.—The term 'American vessel' means any vessel documented or numbered under the

laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State."

SEC. 306. RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN.

The Social Security Act, as amended, is amended by adding after section 1201 (c) a new title to read as follows:

"TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

"SEC. 1301. This title shall be administered by the Federal Security Administrator, hereinafter referred to as 'Administrator'.

"DEFINITIONS

"SEC. 1302. When used in this title—

"(a) The term 'reconversion period' means the period (1) beginning with the fifth Sunday after the date of the enactment of this title, and (2) ending June 30, 1949.

"(b) The term 'compensation' means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

"(c) The term 'Federal maritime service' means service determined to be employment pursuant to section 209 (o).

"(d) The term 'Federal maritime wages' means remuneration determined to be wages pursuant to section 209 (o).

"(e) The term 'State' includes the District of Columbia, Alaska, and Hawaii.

"(f) The term 'United States', when used in a geographical sense, means the several States, Alaska, Hawaii, and the District of Columbia.

"COMPENSATION FOR SEAMEN

"SEC. 1303. (a) The Administrator is authorized on behalf of the United States to enter into an agreement with any State, or with the unemployment compensation agency of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b), to individuals who have performed Federal maritime service, and (2) will otherwise cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by this title.

"(b) Any such agreement shall provide that compensation will be paid to such individuals, with respect to unemployment occurring in the reconversion period, in the same

amounts, on the same terms, and subject to the same conditions as the compensation which would be payable to such individuals under the State unemployment compensation law if such individuals' Federal maritime service and Federal maritime wages had been included as employment and wages under such law, except that—

"(1) in any case where an individual receives compensation under a State law pursuant to this title, all compensation thereafter paid him pursuant to this title, except as the Administrator may otherwise prescribe by regulations, shall be paid him only pursuant to such law; and

"(2) the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

"(c) If in the case of any State an agreement is not entered into under this section or the unemployment compensation agency of such State fails to make payments in

accordance with such an agreement, the Administrator, in accordance with regulations prescribed by him, shall make payments of compensation to individuals who file a claim for compensation which is payable under such agreement, or would be payable if such agreement were entered into, on a basis which will provide that they will be paid compensation in the same amounts, on substantially the same terms, and subject to substantially the same conditions as though such agreement had been entered into and such agency made such payments. Final determinations by the Administrator of entitlement to such payments shall be subject to review by the courts in the same manner and to the same extent as is provided in Title II with respect to decisions by the Board under such title.

"(d) Operators of vessels who are or were general agents of the War Shipping Administration or of the United States Maritime Commission shall furnish to individuals who have been in Federal maritime service, to the appropriate State agency, and to the Administrator such information with respect to wages and salaries as the Administrator may determine to be practicable and necessary to carry out the purposes of this title.

"(e) Pursuant to regulations prescribed by the Administrator, he, and any State agency making payments of compensation pursuant to an agreement under this section, may—

"(1) to the extent that the Administrator finds that it is not feasible for Federal agencies or operators of vessels to furnish information necessary to permit exact and reasonably prompt determinations of the wages or salaries of individuals who have performed Federal maritime service, determine the amount of and pay compensation to any individual under this section, or an agreement thereunder, as if the wages or salary paid such individual for each week of such service were in an amount equal to his average weekly wages or salary for the last pay period of such service occurring prior to the time he files his initial claim for compensation; and

"(2) to the extent that information is inadequate to assure the prompt payment of compensation authorized by this section (either on the basis of the exact wages or salaries of the individuals concerned or on the basis prescribed in clause (1) of this subsection), accept certification under oath by individuals of facts relating to their Federal maritime service and to wages and salaries paid them with respect to such service.

"ADMINISTRATION

"SEC. 1304. (a) Determinations of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent

as determinations under the State unemployment compensation law, and only in such manner and to such extent.

"(b) For the purpose of payments made to a State under Title III administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law.

"(c) The State unemployment compensation agency of each State shall furnish to the Board, for the use of the Administrator, such information as the Administrator may find necessary in carrying out the provisions of this title, and such information shall be deemed reports required by the Board for the purposes of section 303 (a) (6)

"PAYMENTS TO STATES

"SEC. 1305. (a) Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

"(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator

estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

"(c) The Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment, at the time or times fixed by the Administrator, in accordance with certification, from the funds appropriated to carry out the purposes of this title.

"(d) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury upon termination of the agreement or termination of the reconversion period, whichever first occurs.

"(e) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise par-

ticipating in its performance, to give a surety bond to the United States in such amount as the administrator may deem necessary, and may provide for the payment of the cost of such bond from appropriations for carrying out the purposes of this title.

"(f) No person designated by the Administrator, or designated pursuant to an agreement under this title, as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

"(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f).

"PENALTIES

"SEC. 1306. (a) Whoever, for the purpose of causing any compensation to be paid under this title or under an agreement thereunder where none is authorized to be so paid, shall make or cause to be made any false statement or representation as to any wages paid or received, or whoever makes or causes to be made any false statement of a material fact in any claim for any compensation authorized to be paid under this title or under an agreement thereunder,

or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Whoever shall obtain or receive any money, check or compensation under this title or an agreement thereunder, without being entitled thereto and with intent to defraud the United States, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) Whoever willfully fails or refuses to furnish information which the Administrator requires him to furnish pursuant to authority of section 1303 (d), or willfully furnishes false information pursuant to a requirement of the Administrator under such subsection, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than six months, or both."

TITLE IV—TECHNICAL AND MISCELLANEOUS PROVISIONS

SEC. 401. DEFINITION OF "STATE" FOR PURPOSES OF TITLE V OF SOCIAL SECURITY ACT.

(a) Effective January 1, 1947, section 1101 (a) (1) of the Social Security Act, as amended, is amended to read as follows:

"(1) The term 'State' includes Alaska, Hawaii, and

the District of Columbia, and when used in Title V includes Puerto Rico and the Virgin Islands."

(b) The amounts authorized to be appropriated and directed to be allotted, for the purposes of Title V of the Social Security Act, as amended, by sections 501, 502, 511, 512, and 521 of such Act, are increased in such amount as may be made necessary or equitable by the amendment made by subsection (a) of this section, including the Virgin Islands in the definition of "State".

SEC. 402. CHILD'S INSURANCE BENEFITS.

(a) Section 202 (c) (1) of such Act is amended by striking out the word "adopted" and substituting in lieu thereof the following: "adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual)".

(b) Section 202 (c) (3) (C) is amended to read as follows:

"(C) such child was living with and was chiefly supported by such child's stepfather."

SEC. 403. PARENT'S INSURANCE BENEFITS.

(a) Section 202 (f) (1) of such Act is amended by striking out "no widow and no unmarried surviving child under the age of eighteen" and inserting in lieu thereof "no widow or child who would, upon filing application, be entitled to a benefit for any month under subsection (c),

(d), or (e) of this section"; and by striking out in clause (B) thereof the word "wholly" and inserting in lieu thereof the word "chiefly".

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this Act filed after December 31, 1946.

SEC. 404. LUMP-SUM DEATH PAYMENTS.

(a) Section 202 (g) of such Act is amended to read as follows:

"LUMP-SUM DEATH PAYMENTS

"(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the Board to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No

payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

(c) In the case of any individual who, after December 6, 1941, and before the date of the enactment of this Act, died outside the United States (as defined in section 1101 (b) of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such Act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this Act.

SEC. 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS.

(a) Section 202 (h) of such Act is amended to read as follows:

"(h) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end

of the third month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Board has certified for payment for such prior month."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 406. DEDUCTIONS FROM INSURANCE BENEFITS.

(a) Section 203 (d) (2) of such Act (relating to deductions for failure to attend school) is repealed.

(b) Section 203 (g) of such Act (relating to failure to make certain reports) is amended by inserting before the period at the end thereof a comma and the following: "except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month".

SEC. 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL".

(a) Section 209 (h) of such Act is amended to read as follows:

"(h) The term 'currently insured individual' means any individual with respect to whom it appears to the satisfaction

of the Board that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 408. DEFINITION OF WIFE.

(a) Section 209 (i) of such Act is amended to read as follows:

"(i) The term 'wife' means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him for a period of not less than thirty-six months immediately preceding the month in which her application is filed."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 409. DEFINITION OF CHILD.

(a) Section 209 (k) of such Act is amended to read as follows:

"(k) The term 'child' means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding

the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS.

Section 209 of such Act is amended by adding after subsection (p) a new subsection to read as follows:

"(q) Subject to such limitation as may be prescribed by regulation, the Board shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed."

SEC. 411. ALLOCATION OF 1937 WAGES.

Section 209 of such Act is amended by adding after subsection (q) a new subsection to read as follows:

"(r) With respect to wages paid to an individual in the six month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained."

SEC. 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE.

(a) FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 1426 (a) (1) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1426 (a) (1)) is amended to read as follows:

"(1) 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, prior to January 1,

1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

(b) FEDERAL UNEMPLOYMENT TAX ACT.—Section 1607 (b) (1) of the Federal Unemployment Tax Act (Internal Revenue Code, sec. 1607 (b) (1)) is amended to read as follows:

"(1) 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 after December 31, 1939, and prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

SEC. 413. SPECIAL REFUNDS TO EMPLOYEES.

Section 1401 (d) of the Federal Insurance Contributions

Act (Internal Revenue Code, sec. 1401 (d)) is amended to read as follows:

"(d) SPECIAL REFUNDS.—

"(1) WAGES RECEIVED BEFORE 1947.—If by reason of an employee rendering service for more than one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400, deducted from such wages and paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the employment was performed with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which the wages are received with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund. No refund shall be made under this para-

graph with respect to wages received after December 31, 1946.

"(2) WAGES RECEIVED AFTER 1946.—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1946, the wages received by him during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund."

SEC. 414. DEFINITION OF WAGES UNDER TITLE II OF SOCIAL SECURITY ACT.

(a) So much of section 209 (a) of the Social Security

Act, as amended, as precedes paragraph (3) thereof is amended to read as follows:

"(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—

"(1) 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 prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;

"(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;

"(3) That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;".

(b) The paragraphs of section 209 (a) of such Act

heretofore designated "(3)", "(4)", "(5)", and "(6)" are redesignated "(4)", "(5)", "(6)", and "(7)", respectively.

SEC. 415. TIME LIMITATION ON LUMP-SUM PAYMENTS UNDER 1935 LAW.

No lump-sum payment shall be made under section 204 of the Social Security Act (as enacted in 1935), or under section 902 (g) of the Social Security Act Amendments of 1939, unless application therefor has been filed prior to the expiration of six months after the date of the enactment of this Act.

TITLE V—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

SEC. 501. OLD-AGE ASSISTANCE.

Section 3 (a) of the Social Security Act, as amended, is amended by striking out "$40" and inserting in lieu thereof "$50".

SEC. 502. AID TO DEPENDENT CHILDREN.

Section 403 (a) of such Act is amended by striking out "$18" wherever appearing and inserting in lieu thereof "$27", and by striking out "$12" and inserting in lieu thereof "$18".

SEC. 503. AID TO THE BLIND.

Section 1003 (a) of such Act is amended by striking out "$40" and inserting in lieu thereof "$50".

SEC. 504. EFFECTIVE DATE OF TITLE.

The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946, and ending before January 1, 1948.

Passed the House of Representatives July 24, 1946.

Attest: SOUTH TRIMBLE,

Clerk.

79TH CONGRESS
2D SESSION

H. R. 7037

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

JULY 25 (legislative day, JULY 5), 1946
Read twice and referred to the Committee on Finance

Calendar No. 1906

79TH CONGRESS } SENATE { REPORT
2d Session } { No. 1862

SOCIAL SECURITY ACT AMENDMENTS OF 1946

JULY 27 (legislative day, JULY 5), 1946.—Ordered to be printed

Mr. GEORGE, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 7037]

The Committee on Finance, to whom was referred the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

SCOPE OF THE BILL

The scope of the bill is in general indicated by its seven titles, which are:

Title I—Social Security Taxes.
Title II—Benefits in Case of Deceased World War II Veterans.
Title III—Unemployment Compensation for Maritime Workers.
Title IV—Technical and Miscellaneous Provisions.
Title V—State Grants for Old-age Assistance, Aid to Dependent Children, and Aid to the Blind.
Title VI—Study by Joint Committee on Internal Revenue Taxation of All Aspects of Social Security.
Title VII—Income-Tax Provisions.

Title I amends the Federal Insurance Contributions Act so as to fix employer and employee contributions rates at 1 percent each, for the calendar year 1947.

Title II amends the old-age and survivors insurance provisions (title II of the Social Security Act) by adding provisions with respect to veterans who die within 3 years after discharge. In general, it guarantees survivors of veterans within its purview the same old-age and survivors insurance benefit rights they would have enjoyed had the veteran died fully insured under old-age and survivors insurance, with $160 per month average wages and as many years of coverage as

the calendar years in which he had military service after September 16, 1940.

Title III amends the Unemployment Compensation Tax Act so as to include maritime employment, and authorizes the States, under specified conditions, to subject maritime employment to State unemployment compensation laws. As credits under regular State coverage will not be effective for some time, the bill also provides for benefits during a temporary period, ending June 30, 1949. During this period unemployed seamen with Federal maritime service credit because of service on vessels operated by the Maritime Commission may receive unemployment compensation, using such credit for benefits under unemployment-compensation laws. Additional costs for paying these temporary benefits will be borne by the Federal Government.

Title IV contains amendments enlarging the authorizations of appropriations for grants, under title V of the Social Security Act, for maternal and child welfare; and also extending such grants to the Virgin Islands. The remainder of the provisions are, in general, technical changes facilitating payments and adjusting certain minor anomalies and inequities under old-age and survivors insurance.

Title V raises the ceiling of Federal matching for old-age assistance, aid to the blind, and aid to dependent children, and provides for an increased percentage of Federal matching in States with per capita incomes below the national average.

Title VI provides for a comprehensive study by the Joint Committee on Internal Revenue Taxation of all phases of the social-security program.

Title VII amends section 22 (b) (2) (B) of the Internal Revenue Code, relating to the taxation of annuities purchased by employers for their employees.

Your committee recognizes, as did the Ways and Means Committee, that many other changes in the social-security legislation demand earnest consideration. Extension of coverage of the social insurances, the adoption of a long-range program for financing these insurances, revision of the benefit formula, protection against additional risks, and many other amendments of the present legislation must receive the attention of Congress at an early date. Such changes as these are so interrelated and far reaching, however, that it would be unwise to undertake to deal with them until there is opportunity to review the whole subject and to be certain that amendments proposed on one phase of the program are consistent with those recommended on another, and with the creation of a balanced and stronger system for the protection of the people of the Nation. The committee has, therefore, included in the bill a provision authorizing the Joint Committee on Internal Revenue Taxation to make a full and complete study of all aspects of social security and to report its recommendations to the Congress not later than October 1, 1947. The joint committee is authorized to appoint an advisory committee of persons with special knowledge of social security to advise the joint committee with respect to its study. On the basis of the joint committee's study and recommendations the Committee on Finance hopes to make comprehensive recommendations for the revision of the social-security program.

PURPOSES AND EFFECTS OF THE BILL

TITLE 1—SOCIAL-SECURITY TAXES

The purpose of this title is to extend the present rates for employer and employee contributions under the Federal Insurance Contributions Act for a period of 1 year beginning January 1, 1947.

Under the original act, the contribution rates would have advanced to 1½ percent in 1940 and by the 1939 amendments the 1-percent rate was retained for an additional 3 years. Since 1942 the 1-percent rate has been frozen for successive years, but in the absence of legislation will advance to 2½ percent January 1, 1947, and to 3 percent January 1, 1949. It would appear desirable that the present rate should be continued a year pending decision as to various proposed basic changes in the program.

In the form in which the bill was passed by the House of Representatives, section 103 would have repealed a provision authorizing appropriations to the Federal old-age and survivors' insurance trust fund. This provision was added in 1943, in recognition of the fact that freezing of the tax at the 1-percent rate, if long continued, will result in a reserve which will ultimately be insufficient to meet the liability for benefits, and that contributions from general revenues, therefore, may eventually be necessary to make up this deficiency. To repeal this provision, as proposed by the House of Representatives, while continuing to freeze the tax, might be taken to imply an unwillingness of Congress to underwrite the solvency of the system. The committee has omitted section 103 of the House bill as being inconsistent with the continued freezing of the tax.

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

The purpose of this title is to bridge the gap in survivorship protection which a serviceman experiences when he shifts from wartime military service to established civilian employment. It undertakes to do this by adding a new section to the Social Security Act, section 210, which provides survivors insurance protection for a period of 3 years following discharge from the armed forces to veterans who were in active military or naval service of the United States after September 16, 1940, and prior to the termination of World War II.

In general, an individual must fulfill one of two requirements in order to be insured for survivors' benefits under the old-age and survivors insurance program. Either he must have worked in employment under the program for approximately half of the time elapsing after 1936, or after age 21, and prior to the time of his death or he must have worked in covered employment for one-half of the 3 years immediately preceding his death. Since service in the armed forces is not credited for old-age and survivors insurance purposes, many veterans upon discharge from service will have lost whatever protection they may have acquired under the program or by reason of their military service will have failed to gain the protection they might otherwise have acquired. Moreover, in computing a veteran's "average monthly wage" upon which old-age and survivors insurance benefits are based, it is usually necessary under present law to include in the computation the months in which the veteran was in service,

even though wages are not credited for these months. Consequently, even where the veteran does not lose his protection entirely by reason of his military service, his average wage and the benefits based on it will be reduced.

After the veteran has been back in civilian life for a reasonable period, he can be expected to have gained or regained his insurance protection. It is thought that 3 years is a reasonable time within which the veteran may be expected to acquire or reacquire old-age and survivors' insurance protection since he need only work during one-half of the 3 years immediately prior to death in order to have survivorship protection. In consequence, this section provides survivorship protection to the veteran's family for 3 years after discharge from service.

The amendment also provides for a minimum "average monthly wage" for the veteran during the 3-year period. This provision is needed to insure payment of adequate benefits.

The proposed new section 210 provides that any veteran who meets its service requirements (which, in general, are similar to those of the Servicemen's Readjustment Act of 1944, as amended) and who dies, or who has died within 3 years after separation from active military or naval service, shall be deemed to have died a "fully insured individual," to have an average monthly wage of not less than $160, and to have been paid wages of $200 in each calendar year in which he had 30 days or more of active military or naval service after September 16, 1940. The fact that the serviceman is deemed to have died a "fully insured" individual will mean that his survivors will be eligible for any of the various types of benefits provided under old-age and survivors' insurance. The purpose of the $160 average monthly wage is to insure a certain minimum level of benefits. This average monthly wage is believed to be realistic as an average of military pay, including quarters and subsistence allowances, the Government's share of family-allowance payments, and other similar benefits. The effect of the provision deeming the veteran to have been paid wages of at least $200 in each year of military service will be to increase the basic amount on which benefits are computed by 1 percent for each such year. Under present law, an individual gets such a 1-percent increment for each year in covered employment and it would seem equitable to treat service in the armed forces on a parity with civilian employment.

The benefits provided will not be available where death occurs in active military or naval service, since other benefits are, in general, payable in such cases. Neither will they be available by reason of the death of a veteran discharged after the expiration of 4 years and 1 day following the termination of World War II. The objective of this bill is to provide protection for those who served during the war and those who reenlist during the war period.

The section provides a further limitation on entitlement to benefits based on the guaranteed insured status. It bars the survivors of a veteran from receiving benefits for any month for which pension or compensation under veterans' laws is determined by the Veterans' Administration to be payable. (This provision does not preclude, however, payment of survivors' insurance benefits based on covered employment before or after the veterans' military service, but only precludes payment of the special benefits provided by the proposed

legislation.) This limitation is believed to be necessary to prevent the dependents of certain veterans who survived the hazards of war but die within 3 years after discharge under circumstances entitling such dependents to veteran's pensions, from receiving additional benefits for which the dependents of servicemen who died in line of duty are ineligible, and to avoid duplication by the Government of payments designed to meet comparable objectives. The cost of the section would be borne by the Federal Government rather than by the employers and employees who contribute to the trust fund.

Enactment of this section would assure the survivors of veterans covered by the measure of a guaranteed minimum level of benefits. Under the old-age and survivors insurance program, benefits to survivors are computed as fractions of an amount called the "primary insurance benefit," which is based on the average monthly wage of the individual and on the number of years in which he received $200 or more in wages. A guaranteed average monthly wage of $160 will insure that this primary insurance benefit amount will not be less than $31. In addition, this benefit amount will be increased by 1 percent for each calendar year in which the veteran had at least 30 days' service.

The primary insurance benefit amount for an eligible veteran who served, for example, 4 years in the armed forces, and had no other covered employment, would be $32.24. In the event of his death within 3 years, if no compensation or pension is payable by the Veterans' Administration, his widow, if she has a child of the veteran in her care or upon attainment of age 65, will be eligible to receive a monthly benefit amounting to three-fourths of the primary benefit amount, or $24.18 a month. His children under age 18 will each be eligible for one-half of the primary insurance benefit amount, or $16.12 a month; and his dependent parents, in the absence of a wife or child surviving the veteran, will each be eligible to receive one-half of the primary insurance benefit amount. The maximum amount of benefits payable in any month on the basis of any one veteran's death would be twice his primary insurance benefit amount, or, in the illustration mentioned above, $64.48 a month.

It has been estimated by the Federal Security Agency that the cost of this program through the year 1959 would amount to $175,000,000 and would probably benefit the survivors of approximately 105,000 veterans of World War II.

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

The purposes of this title are—

(1) To effect permanent coverage of maritime employment under State unemployment-compensation systems; and

(2) To provide temporary protection for persons whose maritime employment has been with general agents of the War Shipping Administration and thus has been technically Federal employment.

To accomplish the first of these purposes the Federal Unemployment Tax Act is amended to extend coverage to private maritime employment—with the same definition of maritime employment as was used in extending old-age and survivors insurance to maritime employment in 1939.

In addition the bill authorizes the State in which operations of a vessel are regularly supervised, managed, directed, and controlled, to extend its unemployment-compensation law to, and require contribution with respect to employment of, seamen on such vessel. The permission is thus granted in such form as to safeguard the operator of a vessel from possible taxation of employment on the vessel by two or more States.

The permission in addition safeguards various interests by (1) requiring that seamen's service, for purposes of wage credits, shall be treated like other services of covered employees of the employer, and (2) imposing on the permission the same prohibition against discriminatory taxation as has been imposed by the Federal authorization to tax Federal instrumentalities.

To accomplish the second purpose of the title, immediate protection is provided seamen whose employment could not have been covered by State laws because they were employed on behalf of the United States by general agents of the War Shipping Administrator. This protection in no event would extend beyond June 30, 1949.

The bill provides in general that these seamen shall receive the same benefits as would have been payable had their Federal maritime employment been under the State unemployment compensation law. Payments normally would be made pursuant to agreements between the State and the Federal Security Administrator, the States being reimbursed for additional costs incurred in making payments under the agreement. Only in case of failure of such an agreement would a direct payment be made the seaman by the Administrator, and in such case the terms, conditions, and amount of the payment would follow the State law. Some of the more important of the provisions of the title are referred to later.

During the war years employment in the maritime industry increased very substantially. The labor force in offshore shipping, which is the largest branch of the trade, is reported to have numbered between 55,000 and 65,000 in 1939, compared with about 230,000 at present; jobs currently available total 186,000. On the Great Lakes there are 14,000 to 15,000 seamen as compared to an average of 11,310 in the 1939 season. In addition to the offshore and Great Lakes employment there are maritime workers employed on inland rivers, lakes, and in harbors, aggregating probably approximately the same number as on the Great Lakes.

From the point of view of unemployment compensation the most critical problem is that of deep-sea shipping. If the volume of maritime operations should decline within the next few years to the level of the immediate prewar period there would not be maritime employment for perhaps two-thirds of those who are now employed in it; even if the permanant postwar level is 50 percent above that of prewar, probably not more than one-half of the present labor force would be needed. At the present time because of the great demand for the products of American industry and agriculture abroad it appears unlikely that a material decline is in prospect in the near future. But when and if such decline does occur it is of great importance, both to those who will become unemployed, to the industry, and to the country, that the maritime workers be placed in other industries in jobs for which their training and experience fit them.

Congress could have created an unemployment-compensation system for maritime workers and exclude from State jurisdiction the workers who were covered by such system. The fact that the Congress has, as a matter of policy, decided not to do so, does not preclude making another choice if the necessity arises at some future time. The Congress has long been concerned with the duty of fostering and protecting the instrumentalities of foreign and interstate commerce. It has, by many enactments, specifically encouraged, if not made possible, the maintenance of an adequate merchant marine. Such adequacy has been fostered not only by laws intended to encourage and enable employers to engage in the trade but also by provisions for the protection for seamen. In making the choice as to a long-time arrangement the committee believes that the Congress should be concerned to see to it that the pecularities of the seamen's trade do not result in unwarranted discriminations against them.

When the Congress, in amending the Internal Revenue Code in 1939, authorized the States to lay a tax against national banks and certain other Federal instrumentalities for unemployment insurance purposes, it specified that such authorization was to apply only to the extent that no discrimination was made against the instrumentality, so that if the rate of contribution is uniform upon all other persons subject to the unemployment compensation and tax law of a State on account of having individuals in their employ, and upon all employees of such persons, the contributions required of such instrumentality or the individuals in its employ were not to be at a greater rate than was required of such other persons and such employees. Further, if the rates were determined separately for different classes of persons having individuals in their employ or for different classes of employees, the determination was to be based solely on unemployment experience and other factors bearing a direct relation to unemployment risks. Again, the authorization applied only so long as the State unemployment compensation and tax law was approved by the Social Security Board under section 1603 of the Internal Revenue Code. Because of the settled policy of fostering and protecting the merchant marine, the committee believes that the Congress should attach these same conditions to the authorization of the States to levy taxes on maritime employers and maritime workers. Your committee, however, recommends the elimination of a requirement that the State law provide for refund of contributions to maritime employers and employees if the State law should fail to be certified for a year by the Federal Security Administrator. Such a requirement would necessitate changes in the law of those States which have already covered maritime employment.

The Congress has also been concerned with the protection of the maritime workers. The laws affecting maritime employment are primarily Federal and not State laws; whereas in the case of the Federal instrumentalities which were affected by section 1606 (b) of the Internal Revenue Code, the statutes affecting employment are mainly those of the States. With respect to seamen, therefore, the Congress is in a somewhat different position than it was with respect to employees of national banks and the other Federal instrumentalities dealt with by section 1606 (b) of the Internal Revenue Code. The Federal interest in maritime employment would appear to afford a

basis not only for prohibiting discrimination with respect to contributions but also in assuring equality of treatment of maritime workers with respect to benefits. But the prohibition of discrimination has possible ramifications which require exploration before that course of action could safely be followed. The committee believes, therefore, it would be inadvisable to lay down a blanket prohibition against discrimination or to attempt to fix standards for the benefit of seamen. There has been included in the bill, however, a provision which enunciates the principle of no discrimination as compared with other employees of the same employer as regards wage credits. The language is included as an indication of general intent, subject to review if the occasion warrants, in cases in which actions taken in connection with extending the coverage of State unemployment-compensation laws to maritime workers are alleged to have resulted in unwarranted and unjust distinctions.

The committee has been concerned with the protection of seamen not only because of the normal interest of the Congress in maritime affairs but also because of indications of a possible tendency to include in State laws special provisions with respect to seamen which would affect them unfavorably as compared with other workers. The committee expresses the hope that the indication of intent will serve as a sufficient guide in the implementation of the long-range objective embodied in the proposed sections 301 to 305.

The provision is not intended to preclude treating certain maritime service, notably that on the Great Lakes, as seasonal employment, and denying compensation based on such service for unemployment occurring outside the season, if this is done on terms comparable to those applied to other seasonal occupations in the State. At least one State law, however, apparently denies to seamen engaged in seasonal employment the right, in determining their eligibility and benefit amounts, to have their maritime wage credits combined with other wage credits earned during the season; but permits such combination in all other cases, including other seasonal employment. In order to afford opportunity for the correction of such discrimination, your committee recommends an amendment to the effect that no provision of State law presently in force shall be rendered invalid on this account prior to July 1, 1947.

One of the major concerns of maritime workers has been the safeguarding of union hiring halls; they feel that the employment system now in effect in the maritime industry has served to prevent abuses from which they suffered in times past. Seamen are concerned at the possibility that the establishment of unemployment insurance will become either the occasion or the means for breaking down existing employment practices.

Under the contracts in effect between the maritime labor unions and the maritime employers the hiring hall is the normal agency through which the employer recruits seamen, and in some cases, licensed personnel. It is no part of the function of unemployment insurance to break down the established employment procedures of an industry. On the contrary, since the operation of an unemployment-insurance system is intended not only to pay benefits but also to make sure that unemployed workers have every opportunity to obtain employment, it is highly desirable that the unemployment-insurance agencies make use of the normal channels for obtaining employment and not attempt to supplant them.

The cost of the temporary protection which would be afforded under the proposal is most difficult to estimate. The cost will depend on such factors as the degree of unemployment during the reconversion period in the maritime industry and in nonmaritime industries. It will also depend upon the extent persons with Federal maritime credit also have other credit which is used along with their Federal maritime credit in computing their benefits.

Assuming that the general rate of maritime and nonmaritime unemployment never gets higher than at present, the cost should not exceed $3,000,000 for the entire reconversion period. On the other hand, if maritime and nonmaritime unemployment reaches a higher level, the annual cost of the temporary benefits may be substantially higher.

TITLE IV. TECHNICAL AND MISCELLANEOUS PROVISIONS

The purpose of the amendment in section 401 (a) of this title is to extend the provisions of title V of the Social Security Act (Child Health and Welfare Services) to the Virgin Islands. The title at present includes Puerto Rico, and testimony has established both the need for and equity of this extension.

The Virgin Islands has a population of about 32,000. There were 609 births in St. Thomas in 1945, and of this number 78 infants died before they were 1 year of age, the rate being 128 per thousand live births, which is much higher than for any State. There were 3 maternal deaths. This is equivalent to a mortality rate of 49 per 10,000 live births. There was no State which had a rate which exceeded this in 1943.

Diarrhea is very prevalent among children, and this disease causes many deaths. Malnutrition among children is great. No real effort has been made to locate crippled children on the islands. Funds are needed for clinic, hospital, and field services.

A high rate of illegitimacy, large numbers of children becoming delinquent—many of them because of neglect and broken homes—much truancy, coupled with lack of provision to cope with these problems, point to a great need for child welfare services.

The purpose of the amendment in section 401 (b) of this title is to increase the amount of the appropriations authorized to be made pursuant to title V of the Social Security Act to provide for increased grants to States for maternal and child health services, services for crippled children, and child-welfare services.

The sole effect of the amendment to title V of the Social Security Act would be to increase the amounts now authorized to be appropriated for the purposes of the maternal and child health, crippled children, and child-welfare services now provided in parts 1, 2, and 3 of title V of the Social Security Act and to authorize an increase in the amount for administrative expenses under that title. The conditions of allotment in parts 1, 2, and 3 remain unchanged.

Half of the total appropriations for maternal and child health and for crippled children's services would be matched dollar for dollar by the States. The other half of the appropriation would be distributed among the States in accordance with the provisions of the act. State funds would thus constitute one-third of the total expenditures for all States.

For maternal and child health services the method of allotment of the matched funds as defined in the Social Security Act, except for the minimum allotment, is on the basis of the relative number of live births in each State, and allotment of the unmatched funds would be according to the financial need of each State for assistance in carrying out its State plan, as determined after taking into consideration the number of live births in the State. The method of allotment of the matched portion of the appropriation for crippled children's services, except for the minimum allotment, takes into consideration the number of crippled children in each State in need of the services and the cost of furnishing the services. The allotment of unmatched funds would be made according to the financial need of each State for assistance in carrying out its State plan, as determined after taking into consideration the number of crippled children in each State in need of such services and the cost of furnishing the services to them.

The following table shows the amounts presently authorized to be appropriated by the respective parts of title V of the Social Security Act, and the new amounts which would be authorized by the proposed amendment:

Part	Present total authorization	Proposed new authorization
Part 1: Maternal and Child Health	$5,820,000	$15,000,000
Part 2: Crippled Children	3,870,000	10,000,000
Part 3: Child Welfare	1,510,000	5,000,000
Part 5: Administration	[1] 574,500	1,500,000

[1] Appropriated, 1947.

The proposed amendment increases the minimum amounts required to be allotted to the States under parts 1, 2, and 3. The minimum for part 1 is increased from $20,000 to $50,000, and the minimum for part 2 from $20,000 to $40,000. These minimum allotments are subject to the matching requirements. The minimum under part 3 is increased from $10,000 to $30,000.

The proposed amendment has been recommended to your committee by the Committee on Education and Labor. That committee has held extensive hearings on maternal and child welfare and has advised that the testimony and evidence presented to it demonstrate the need for extending the services now provided by States under title V of the Social Security Act. Among these are medical, dental, hospital, and other services for maternity patients, health and medical services for children, including school health programs and preventive mental health services, and special services for crippled and otherwise physically handicapped children.

Maternal and infant mortality rates have been reduced greatly over the past 10 years. There is good reason to believe that these rates could again be cut in half. The lives of at least one-half of the babies who die in their first year could be saved if they were provided the kind of care medical science knows how to give. In 1944, however, there were still more than 188,000 mothers delivered without a medical attendant. These 188,000 newborn babies, therefore, did not have medical care at birth.

At the end of the last fiscal year, there were 20,000 crippled children known to State agencies to be in need of care who were not receiving

such care because of lack of funds. There are 20 States which have initiated programs under the provisions of the Social Security Act for the care of children with rheumatic heart disease. These programs are small and should be expanded. In addition, at least 20 other States wish to initiate programs as soon as funds are available. There are 10 States which have small programs for the care of children with cerebral palsy, the so-called spastic children. Many other States would begin to organize such programs as soon as money becomes available.

At least one out of every three counties now has no public health nurse to give advice and care to mothers and children. Three out of four rural counties have no regularly established prenatal clinics, and there are still two out of three rural counties which have no child health clinics.

During recent months the State health agencies responsible for the maternal and child-health program have reviewed their existing services and estimated the amounts of Federal funds that they will need during the current fiscal year to carry these services forward. For extension of the maternal and child-health program, 46 State health agencies have reported that their immediate needs for 1947 would require $7,000,000 more than the total grants now authorized. It is estimated that the needs of the remaining six States and Territories would bring the total to more than the $15,000,000 authorized in the amendment. There are now requests from the States for funds for the fiscal year 1947 for crippled children's services in the amount of $6,245,000 in excess of funds now available.

In connection with the child-welfare provisions of the Social Security Act, the Committee on Education and Labor reports that additional funds are required to expand child-welfare services for dependent and neglected children and children in danger of becoming delinquent, including foster care, day care, detention and other temporary care for children as essential parts of a child-welfare program.

In State after State the demand for services of local child-welfare workers is greater than the supply. Approximately 5 out of 6 counties do not now have the services of a full-time child-welfare worker. Increased funds for extending the child-welfare service program to these counties is urgently needed.

Recently 39 States reported the need for funds for foster care. Many States report lack of facilities suitable for the detention of children coming to the attention of the courts and the police. Many States report the need for funds to establish day-care services for children of working mothers; a majority of places outside of the large cities are entirely without such services. Reports from the State agencies responsible for administering child welfare services indicate immediate need for at least the amount of the increased authorization for child welfare.

The Committee on Education and Labor has advised us that the whole problem of a health and welfare program would have to be given thorough study at the next session. Because of the immediate need for additional funds to expand the present programs of title V of the Social Security Act, however, it is recommended that, pending study of a more complete program, the funds authorized to be made available under parts 1, 2, 3, and 5 should be increased in the amounts set forth in the Committee amendment.

The remainder of the amendments in this title, except for sections 416 and 417, are those affecting old-age and survivors' insurance.

During the 7 years of operation of Federal old-age and survivors' insurance a number of administrative problems have developed. In some cases, technical provisions of the law result in a denial—probably unintended—of benefits in situations where equity would require payment. In other cases, inequalities in benefits, anomalous situations, and provisions which require an undue amount of administrative machinery have come to light. The changes proposed would correct these minor flaws. The section-by-section analysis which follows this part of the report, points out the purpose and effect of these amendments.

The proposed changes would require no appropriation, and would entail comparatively minor additional costs to the old-age and survivors' insurance trust fund.

Section 416, added by your committee, permits States which have collected payments from employees under their unemployment compensation laws to withdraw the amount of such payments from the Federal unemployment trust fund and use it to finance disability compensation payments.

Section 417, also a committee addition, authorizes the Federal Security Agency during the fiscal year 1947 to expend existing appropriations, both for administration of the Social Security Act and for payments to the States, at faster than the normal rate where the necessary expenditures have been increased by this bill. Some portions of the bill will impose substantial new costs, and it is deemed wise to make clear that these may be met, at such times as the several amendments require, from existing appropriations.

TITLE V.—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

The purpose of title V is to increase Federal participation in old-age assistance, aid to the blind, and aid to dependent children and accordingly to increase the protection afforded by these programs. The title will result in additional Federal funds for all States.

The bill provides (1) an increase in the Federal share of assistance payments in States with per capita income below the average for the Nation; and (2) an increase in the Federal matching maximums.

Under the bill as passed by the House of Representatives, 11 States would not have received any additional Federal funds for the aged, 4 States would not have received anything additional for dependent children, and 13 States would not have received anything more for the blind. Under the bill as reported out by the committee, however, every State will receive additional Federal funds.

Table 1 shows the amounts which would be received by each State under the bill as passed by the House and under the bill as reported out by your committee.

TABLE 1.—*Comparison of increased annual cost to Federal Government for old-age assistance, aid to dependent children, and aid to the blind, over current expenditures under title V of bill* [1] *as passed by the House and bill as reported to the Senate, and Federal matching percentages under Senate bill*

[Based on operations July-December 1945]

State	Increased cost under—		Federal matching percentages under Senate bill [2]
	Bill as passed by House	Bill as reported to Senate	
Total	$56,179,000	$144,876,000	54
Alabama	37,000	4,014,000	66⅔
Alaska	70,000	70,000	50
Arizona	392,000	798,000	59
Arkansas	3,000	3,320,000	66⅔
California	11,717,000	11,717,000	50
Colorado	2,655,000	3,595,000	53
Connecticut	805,000	805,000	50
Delaware	25,000	25,000	50
District of Columbia	122,000	122,000	50
Florida	147,000	4,681,000	60
Georgia	3,000	5,413,000	66⅔
Hawaii	55,000	55,000	50
Idaho	294,000	731,000	55
Illinois	3,963,000	3,963,000	50
Indiana	360,000	360,0000	50
Iowa	728,000	2,079,000	53
Kansas	800,000	1,745,000	54
Kentucky	0	3,980,000	66⅔
Louisiana	871,000	6,554,000	66⅔
Maine	193,000	583,000	53
Maryland	48,000	48,000	50
Massachusetts	7,408,000	7,408,000	50
Michigan	2,110,000	2,110,000	50
Minnesota	1,032,000	3,932,000	56
Mississippi	(3)	3,224,000	66⅔
Missouri	88,000	4,878,000	56
Montana	197,000	197,000	50
Nebraska	334,000	1,776,000	57
Nevada	80,000	80,000	50
New Hampshire	122,000	602,000	58
New Jersey	795,000	795,000	50
New Mexico	263,000	1,105,000	66⅔
New York	7,467,000	7,467,000	50
North Carolina	5,000	3,788,000	66⅔
North Dakota	450,000	1,073,000	57
Ohio	990,000	990,000	50
Oklahoma	1,017,000	9,151,000	66⅔
Oregon	802,000	802,000	50
Pennsylvania	2,950,000	2,950,000	50
Rhode Island	382,000	382,000	50
South Carolina	0	2,646,000	66⅔
South Dakota	108,000	1,200,000	60
Tennessee	14,000	5,397,000	66⅔
Texas	0	16,914,000	62
Utah	537,000	805,000	52
Vermont	4,000	288,000	57
Virginia	153,000	1,099,000	59
Washington	4,610,000	4,610,000	50
West Virginia	3,000	2,810,000	66
Wisconsin	850,000	1,552,000	52
Wyoming	116,000	184,000	52

[1] Maximum Federal payment of $25 for old-age assistance and aid to the blind; for aid to dependent children, $13.50 for the first child and $9 for each additional child.
[2] Based on per capita incomes of 1941–43 as reported by the Department of Commerce.
[3] Less than $500.

The committee is strongly of the opinion that raising the Federal matching maximums on individual payments as proposed in the House bill, without simultaneously providing special Federal aid to low-income States, will only serve to increase the very inequities we are seeking to minimize. Under the House bill, the already large disparity in payments between the high- and low-income States would

be widened. Under the House bill, the richer States, i. e., most of those that are now making payments in excess of the present Federal matching maximums on individual payments, will receive additional Federal funds to assist them in making such payments. The low-income States, on the other hand, for the most part are unable to make payments that even approach the present Federal matching maximums. Their limited resources are already strained to the utmost in taking care of the increased number of individuals who have sought aid since VJ-day; they have no margin of funds available to raise payments to take full advantage of even the present Federal maximums; in fact, in recent months some of these States have had to cut the payments of those receiving assistance so that new cases could be placed on the rolls.

Under the House bill, almost 60 percent of the additional Federal expenditures required to meet the cost of raising the maximums on individual payments as proposed, would flow to the 10 States with highest per capita income; in sharp contrast, the 10 lowest-income States would receive but 2 percent of the additional Federal funds. Three of the 10 States with lowest per capita income would receive no increase under the House bill. The committee believes that giving more money to those States which now have most, at the expense of those which have least, will not serve the best interests of the Nation.

In May 1946, average payments for old-age assistance ranged from a low of less than $20 in 11 States (Alabama, Arkansas, Delaware, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia) to highs of more than $40 in the States of California, Colorado, Connecticut, Massachusetts, and Washington. Of the 11 States in which average payments were less than $20, all but Delaware is among the States with per capita income lower than the national average. Similarly in aid to dependent children, average payments per family in May 1946 amounted to $75 or more in the States of California, Delaware, Massachusetts, New York, Oregon, Utah, and Washington. In sharp contrast average payments of less than $35 per month per family—which usually averages at least 3.5 members including the adult who cares for the children—were made in 13 States (Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia). As in old-age assistance, the majority of States in which payments are lowest are those with low per capita income. The picture is essentially the same in aid to the blind.

To those who claim that these low payments reflect differences in living costs, the committee wishes to point out that though some difference in living costs exists between high- and low-income States, the differences in levels of assistance are far greater than can be justified on this ground alone. In support of this statement the difference in cost of living in certain cities included in the index of the Bureau of Labor Statistics was compared with the difference in average payments of old-age assistance. The cost of living in Boston, for example, was only 3 percent higher than that in Memphis. But the average payment of old-age assistance in Boston was more than two and a half times the average in Memphis. The cost of living in Los Angeles was only about 1 percent higher than that in Atlanta, but a recipient of old-age assistance in Los Angeles got nearly three times as much as a recipient in Atlanta.

A review of recent trends in some of the low-income States shows their immediate need for more funds for public assistance. In these States as in others the end of the war brought an upturn in the number of persons applying for assistance and an increase in the amount of money required to provide minimum necessities.

Some of the low-income States in the South have been able to add new persons to the rolls only if they reduced payments. One of these States has recently cut each payment by $3.35 per person. Several States, which have never been able to give 100 percent of the amounts which they found that recipients needed, have had to cut the fraction still further, especially for aid to dependent children The common practice in the low-income States of making payments on the basis of only a fraction of the amount found to be needed is evidence of the fact that lower payments in these States result chiefly from less adequate assistance rather than from lower cost of living

When they have insufficient funds, assistance agencies have to choose between aiding fewer persons more adequately although they refuse aid to other needy people, and making still smaller payments to more recipients.

In the fiscal year 1944–45, the 12 States with the lowest per capita income had 21 percent of the population of the country but received only 15 percent of the total amount granted by the Federal Government for public assistance.

Increase in Federal share in low-income States.—Federal grants-in-aid for public assistance are intended to help in aiding needy aged and blind persons and dependent children in all parts of the country and to some extent to equalize the financial burden throughout the Nation. The present system of equal matching, however, has not adequately fulfilled these objectives. The present 50-percent basis for Federal participation does not recognize differences in the ability of States to finance public assistance, nor does it recognize the greater incidence of poverty in States with low economic resources. To assist their needy people, the low-income States must make greater tax effort than States with larger resources where relatively fewer persons are in need. This is illustrated by the fact that, in 1942, the latest year for which complete information is available, two-thirds of the States with less than average per capita income appreciably exceeded the average for all States in tax effort to finance the special types of public assistance. In contrast, only one-sixth of the States with per capita income above the national average exerted above-average tax effort for this purpose.

In all but 2 of the 12 States with highest per capita income, the average old-age assistance payment in November 1945 exceeded $32. In all but 2 of the 12 States with lowest per capita income, the average payment was under $24. Similarly, in aid to dependent children, the 12 States with highest per capita income included only 1 with average payments per family below $60, while the 12 States with

income compares with that for the country as a whole. The State proportion will be equal to one-half the percentage which its per capita income is of the national per capita income. For example, a State whose per capita income is only 80 percent of the national per capita income would contribute 40 percent of its expenditures for assistance; the Federal share would be 60 percent in this State. All States whose per capita income falls below two-thirds of the national per capita income will pay 33⅓ percent of assistance costs from State and local funds and will receive 66⅔ percent of such costs from Federal funds.

No change in relative State and Federal shares of assistance payments is proposed for the States with per capita income equal to or greater than that for the Nation. In no State will the increased Federal share apply to individual payments in excess of $50 in old-age assistance and aid to the blind, and, in aid to dependent children, in excess of $27 for the first child in the home and $18 for each additional child. Though the Federal Government stands ready to pay a larger percentage of the cost of individual payments in low- than in high-income States, it will not contribute a larger sum to any payment in low-income States than in those with relatively more resources.

The bill provides that the relative State and Federal shares shall be published by the Federal Security Administrator in even-numbered years, to take effect the following July, so that the public-assistance agencies and State legislatures will have ample time to plan their requirements and to make appropriations. Legislatures in 39 States meet only every other year in odd-numbered years. Such shares shall be determined on the basis of the per capita income figures determined by the Department of Commerce and shall be computed from figures for the three most recent years for which data are available. The percentages of Federal participation, based on per capita income data for the 3 years 1941 to 1943, are given for each State in table 1.

Increase in amounts subject to Federal matching.—Under the present law, the Federal Government reimburses all States for 50 percent of their assistance payments up to maximums of $40 for old-age assistance and aid to the blind and, for aid to dependent children, $18 for the first child in a family and $12 for each additional child. Thus, at present, Federal funds may represent no more than $20 a month of the payment to an aged or blind person and, for families receiving aid to dependent children, $9 a month for one child receiving aid and $6 additional for each other child aided in the family. Because of the maximums, the Federal Government is unable to match payments in excess of these amounts in States with relatively large resources that are able and willing to put up larger sums. The effect of the Federal maximums has been to force many States to shoulder much more than half the cost of assistance. On the other hand, the amount of Federal funds that goes to low-income States is small because the amounts these States are able to appropriate are small, and payments do not in general reach even the present Federal matching maximums.

The bill provides that the Federal matching maximums be raised from $40 to $50 for old-age assistance and aid to the blind and, for

aid to dependent children, from $18 and $12 to $27 and $18 for the first and additional children, respectively, in the same family; but adds a new limitation, that, for payments to the aged and blind, the maximum Federal contribution would be $25, and in aid to dependent children, $13.50 for the first child and $9 additional for each other child aided. One or other of these maximums will limit the Federal contribution in each State, whatever the relative State and Federal matching percentages. In the States in which it is proposed that the Federal share shall be more than 50 percent, the provisions would have the effect of establishing ceilings on Federal matching below the maximums applicable in the States that would continue to receive 50 percent matching. For example, in old-age assistance, a State with two-thirds Federal matching could get no more than $25 from Federal funds. Its contribution of one-third would bring the maximum payment subject to full Federal matching to $37.50 instead of $50. Thus, in any State, regardless of per capita income, the Federal share of a $50 payment would be $25.

Many persons testifying before the committee recommended removal of Federal maximums. The committee believe, however, that it is appropriate to retain the principle of the maximums.

State experience has demonstrated the urgent necessity of raising the maximums on individual payments subject to Federal matching. Year after year the number of States making payments entirely from their own funds to meet need in excess of the Federal matching limits has increased. As living costs have mounted in recent years, ceilings have become increasingly inadequate. At the end of 1945, some payments exceeded the Federal maximums, in 26 States for old-age assistance, 23 States for aid to the blind, and 36 States for aid to dependent children. Payments in excess of the amounts matchable from Federal funds comprised about 18 percent of all payments for old-age assistance and aid to the blind, and 51 percent of all payments for aid to dependent children. In the States with lowest per capita income, very few payments for old-age assistance and aid to the blind even reach the Federal matching maximums. In aid to dependent children, however, with its considerably lower Federal ceilings, payments in some of the lowest-income States are above these ceilings.

As a result, the Federal share of total assistance payments is considerably less than half in a large number of States. In 1945, the Federal share for old-age assistance was less than 50 percent in 29 States and for aid to the blind, less than 50 percent in 23 States. In aid to dependent children, the Federal share was less than 50 percent in 34 States, less than one-third in 20 States, and even fell below 20 percent in 1 State.

Over-all, the Federal share of assistance payments in 1945 was 47.2 percent for old-age assistance, 46.3 percent for aid to the blind, and 33.5 percent for aid to dependent children. Had the proposed Federal ceilings been in effect at the end of 1945 with the 50 percent matching, the Federal Government could have shared equally with the States the cost of about 99 percent of all payments of old-age assistance, about

98 percent of all payments for aid to the blind, and in a large proportion of the payments for aid to dependent children.

Increase in Federal participation in cost of administration.—The committee proposes that the State and Federal shares of administrative expenses for aid to the aged, as well as for aid to dependent children and aid to the blind, be determined on the same basis as for assistance payments. Thus, the Federal share would continue to be one-half in all States with per capita income equal to or greater than the per capita income of the Nation. The Federal share would also be one-half for the District of Columbia, Alaska, and Hawaii. For States with per capita income below the national average, the Federal share would vary up to 66⅔ percent. The increase in the Federal share of administrative costs should result in improved administration in low-income States that have found it difficult to raise adequate funds for administering their programs.

Estimated cost of committee amendment.—On the basis of State and local expenditures in 1945, it is estimated roughly that the provisions of the bill would have increased the cost to the Federal Government for assistance payments by about $144,876,000. This estimate of the increase assumes that the States would spend all the additional Federal money to raise assistance payments.

The additional cost might be more or less than this amount. The cost to the Federal Government would be greater if the States increased the amount of State and local expenditures or used the additional Federal funds to raise the number of needy persons aided. Already States have found it necessary to increase expenditures over the amount in 1945 because of the rising cost of living and the increase in the number of needy persons since the end of the war. The data on recipients and payments in April 1946 are shown in tables 2 to 4.

If the States should spend less from State and local funds, the additional cost to the Federal Government would be less than the estimate and might be as low as $100,000,000. This seems a reasonable estimate for the first year. When the percent of Federal participation for aid to dependent children was raised by the 1939 amendments, a temporary decline in State and local expenditures occurred during the period when the necessary legal and administrative changes to implement the new Federal provisions were being made in the States. After such changes were made, however, State and local expenditures again increased. In the light of past experience, it is unlikely that the full effect of the amendments on the Federal cost will be felt during the first year of their operation, because some States will have to amend State plans to take advantage of the provisions of this bill.

In addition, in future years, operations under the old-age and survivors insurance program will permit a reduction in expenditures for public assistance. The extent of the reduction will depend upon the provisions and maturity of operation under the old-age and survivors insurance program.

Of the total estimated increase of 144.8 million dollars, the amount for old-age assistance is 110.9 million dollars, for aid to dependent children, 30.1 million dollars, and for aid to the blind, 3.8 million dollars.

It is estimated that the provisions in the bill for matching the costs of administering the programs would increase annual Federal expenditures by an additional 7 million dollars

Effective date of amendments.—To enable the States as quickly as possible to benefit from the increase in Federal funds so that assistance may be made more nearly adequate for the nearly 3,000,000 persons aided by old-age assistance, aid to dependent children, and aid to the blind, the committee proposes that the amendments become effective September 30, 1946. Some States will be required to amend their public assistance plans to adjust to the changes in relative Federal, State, and local shares in the costs of assistance and administration and to permit payments in excess of current State maximums on individual payments. Some States, however, will be able to benefit from the amendments without changing their plans. In many States, the committee believes, the changes will be effected promptly because of the acute need which generally prevails to increase the incomes of recipients in the fact of mounting prices.

TABLE 2.—*Old-age assistance—Recipients and payments to recipients, by State, April 1946*

State	Number of recipients	Payments to recipients		State	Number or recipients	Payments to recipients	
		Total amount	Average			Total amount	Average
Total	2,088,025	$65,444,935	$31.34	Missouri	103,857	$2,863,602	$27.57
				Montana	10,759	349,777	32.51
Alabama	37,763	638,987	16.92	Nebraska	24,158	775,835	32.12
Alaska	1,357	55,164	40.65	Nevada	1,940	75,170	38.75
Arizona	9,617	372,623	38.75	New Hampshire	6,583	204,188	31.02
Arkansas	26,578	448,385	16.87	New Jersey	22,938	758,458	33.07
California	160,811	7,640,809	47.51	New Mexico	6,475	202,104	31.21
Colorado	40,537	1,681,219	41.47	New York	103,868	3,972,291	38.24
Connecticut	14,525	598,646	41.21	North Carolina	32,703	451,647	13.81
Delaware	1,198	22,558	18.83	North Dakota	8,695	301,800	34.71
District of Columbia	2,308	77,561	33.61	Ohio	116,355	3,668,799	31.53
Florida	44,611	1,347,755	30.21	Oklahoma	84,984	3,006,691	35.38
Georgia	68,643	869,896	12.67	Oregon	20,782	814,224	39.18
Hawaii	1,467	36,375	24.80	Pennsylvania	85,345	2,633,205	30.85
Idaho	9,828	321,865	32.75	Rhode Island	7,503	263,179	35.08
Illinois	124,834	4,211,859	33.74	South Carolina	22,540	361,078	16.02
Indiana	54,162	1,426,508	26.34	South Dakota	12,678	341,816	26.96
Iowa	48,378	1,622,805	33.54	Tennessee	38,026	618,301	16.26
Kansas	29,140	896,409	30.76	Texas	178,806	4,399,652	24.61
Kentucky	44,832	524,919	11.71	Utah	12,792	499,539	39.05
Louisiana	37,264	782,664	21.00	Vermont	5,199	123,282	23.71
Maine	15,097	464,561	30.77	Virginia	14,889	226,608	15.22
Maryland	11,455	323,569	28.25	Washington	64,794	3,443,361	53.14
Massachusetts	78,729	3,638,808	46.22	West Virginia	18,669	319,207	17.10
Michigan	88,618	2,959,507	33.40	Wisconsin	46,093	1,420,930	30.83
Minnesota	54,308	1,807,246	33.28	Wyoming	3,496	136,269	38.98
Mississippi	27,038	443,224	16.39				

TABLE 3.—*Aid to dependent children: Recipients and payments to recipients, by State, April 1946* [1]

State	Number of recipients		Payments to recipients	
	Families	Children	Total amount	Average per family
Total	300,936	772,570	$16,195,053	$53.82
Total, 50 States [2]	300,885	772,472	16,193,465	53.82
Alabama	6,566	18,257	185,746	28.29
Alaska	84	240	4,338	51.64
Arizona	1,749	5,084	70,112	40.09
Arkansas	4,277	11,422	119,027	27.83
California	7,582	19,289	674,750	88.99
Colorado	3,674	10,034	227,774	62.00
Connecticut	2,607	6,486	235,946	90.50
Delaware	272	782	20,320	74.71
District of Columbia	733	2,344	48,796	66.57
Florida	6,563	16,214	223,958	34.12
Georgia	4,500	11,355	120,296	26.73
Hawaii	610	1,922	42,950	70.41
Idaho	1,380	3,738	85,025	61.61
Illinois	21,564	52,176	1,450,997	67.29
Indiana	6,416	15,431	243,695	37.98
Iowa	3,526	9,054	118,962	33.74
Kansas	3,422	8,776	195,953	57.26
Kentucky	5,656	14,910	121,293	21.45
Louisiana	9,324	24,414	330,179	35.41
Maine	1,589	4,514	115,730	72.83
Maryland	3,687	10,619	139,696	37.89
Massachusetts	8,105	20,208	693,825	85.60
Michigan	16,281	39,012	1,122,839	68.97
Minnesota	5,077	12,876	272,445	53.66
Mississippi	3,275	8,623	86,138	26.30
Missouri	14,070	37,145	509,035	36.18
Montana	1,457	3,852	80,380	55.17
Nebraska	2,487	5,916	162,072	65.17
Nevada	*51*	*98*	*$1,588*	*$31.14*
New Hampshire	920	2,363	65,440	71.13
New Jersey	3,526	8,945	226,077	64.23
New Mexico	2,781	7,338	102,790	36.96
New York	27,632	67,023	2,265,167	81.98
North Carolina	6,404	17,326	178,318	27.84
North Dakota	1,476	4,135	88,774	60.14
Ohio	8,154	22,324	468,217	57.42
Oklahoma	18,395	44,902	644,168	35.02
Oregon	1,377	3,421	116,988	84.96
Pennsylvania	30,474	80,304	2,004,819	65.79
Rhode Island	1,713	4,373	116,740	68.15
South Carolina	4,144	12,102	96,907	23.38
South Dakota	1,642	3,998	64,496	39.28
Tennessee	11,648	30,780	358,042	30.74
Texas	8,290	20,325	232,082	28.00
Utah	2,048	5,522	154,775	75.57
Vermont	607	1,616	21,874	36.04
Virginia	3,812	10,891	130,624	34.27
Washington	4,880	12,020	448,010	100.00
West Virginia	7,733	21,543	243,096	31.44
Wisconsin	6,384	15,646	404,618	63.38
Wyoming	318	882	19,166	60.27

[1] Italic figures represent program administered without Federal participation. Data exclude programs administered without Federal participation in Florida, Kentucky, and Nebraska, which administer such programs concurrently with programs under the Social Security Act; see the Bulletin, April 1945, p. 26. All data subject to revision.

[2] Under plans approved by Social Security Board.

TABLE 4.—*Aid to the blind: Recipients and payments to recipients, by State, April 1946* [1]

State	Number of recipients	Payments to recipients		State	Number of recipients	Payments to recipients	
		Total amount	Average			Total amount	Average
Total	72,738	$2,462,533	$33.85	Mississippi	1,533	$34,909	$22.77
				Missouri	*2,786*	*[4] 83,580*	*[4] 30.00*
Total, 47 States [2]	56,796	1,856,212	32.68	Montana	344	12,231	35.56
				Nebraska	435	14,136	32.50
Alabama	841	14,764	17.56	Nevada	*27*	*1,252*	[3]
Arizona	512	23,961	46.80	New Hampshire	285	9,119	32.00
Arkansas	1,162	21,814	18.77	New Jersey	550	19,155	34.83
California	5,743	333,121	58.00	New Mexico	244	6,900	28.28
Colorado	446	16,314	36.58	New York	3,066	131,641	42.94
Connecticut	137	5,224	38.13	North Carolina	2,543	53,399	21.00
Delaware	40	1,221	[3]	North Dakota	116	4,047	34.89
District of Columbia	198	7,294	36.84	Ohio	3,087	87,004	28.18
Florida	2,325	73,031	31.41	Oklahoma	1,963	71,712	36.53
Georgia	2,060	31,820	15.45	Oregon	369	17,605	47.71
Hawaii	63	1,688	26.79	Pennsylvania	*13,129*	*521,489*	*39.72*
Idaho	200	7,004	35.02	Rhode Island	107	3,685	34.44
Illinois	5,016	175,750	35.04	South Carolina	1,001	21,018	21.00
Indiana	1,920	56,534	29.44	South Dakota	216	5,214	24.14
Iowa	1,212	46,302	38.20	Tennessee	1,549	30,941	19.97
Kansas	1,065	36,020	33.82	Texas	4,775	125,100	26.20
Kentucky	1,552	20,542	13.24	Utah	140	5,828	41.63
Louisiana	1,382	33,567	24.29	Vermont	164	5,192	31.66
Maine	789	25,054	31.75	Virginia	969	18,382	18.97
Maryland	446	14,191	31.82	Washington	629	36,753	58.43
Massachusetts	1,049	49,314	47.01	West Virginia	824	15,997	19.41
Michigan	1,320	47,567	36.04	Wisconsin	1,354	41,964	30.99
Minnesota	941	37,411	39.76	Wyoming	114	4,772	41.86

[1] Italic figures represent programs administered without Federal participation. Data exclude program administered without Federal participation in Connecticut which administered such program concurrently with program under the Social Security Act; see the Bulletin, April 1945, p. 26. Alaska does not administer aid to the blind. All data subject to revision.
[2] Under plans approved by the Social Security Board.
[3] Not computed. Average payment not calculated on a base of less than 50 recipients.
[4] Represents statutory monthly pension of $30 per recipient; excludes payments for other than a month.

SECTION-BY-SECTION ANALYSIS OF THE BILL

TITLE I—SOCIAL SECURITY TAXES

SECTION 101. RATES OF TAX ON EMPLOYEES

This section amends clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act, which prescribe the rates of tax on employees with respect to wages received during the calendar years 1939 to 1948, both inclusive. Under existing law the rate of tax on employees is scheduled to increase on January 1, 1947, from 1 percent of the wages to 2½ percent. The amendment provides for a 1-percent rate during the calendar year 1947, but leaves unaffected the 2½ percent rate for 1948 and the 3-percent rate thereafter.

SECTION 102. RATES OF TAX ON EMPLOYERS

The amendment made by this section to clauses (1) and (2) of section 1410 of the Federal Insurance Contributions Act, relating to the rates of tax on employers, makes the same change in the rate of tax on employers as is made by the bill in the rate of tax on employees. (See the discussion under sec. 101 of the bill.)

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

Section 201 amends title II (old-age and survivors insurance) of the Social Security Act, by adding a new section, section 210, at the end thereof.

Subsection (a) of the section provides veterans meeting specified service requirements (in general similar to those of the Servicemen's Readjustment Act) as insured status under old-age and survivors insurance, in the event of death within 3 years after termination of active military or naval service. Surviving wives, children, or parents, if otherwise eligible under the provisions of the old-age and survivors insurance system, would thus be entitled to monthly benefits, and where no monthly benefits are payable lump-sum death payments would under certain circumstances be made. Such benefits would be in the same amounts which would have been paid if the veteran had died a fully insured individual, with average wages of $160, and 1 year of coverage for each calendar year in which he had 30 or more days of military or naval service (in addition to other years of coverage acquired in covered employment). The section does not apply to deaths in service or to cases where separation from active service occurs more than 4 years and a day after the date of termination of World War II. Nor would it reduce any benefits otherwise payable under old-age and survivors insurance to the survivors of any veteran.

Subsection (b) excludes from the section veterans with respect to whom any veterans' pension or compensation is determined payable, but makes clear that this exclusion does not affect any old-age and survivors insurance rights arising from covered employment before or after military service. The subsection also contains administrative provisions to facilitate coordination between the Veterans' Administration and the Federal Security Administrator in connection with payments.

Subsection (c) concerns cases in which the veteran died prior to enactment of the legislation. Paragraph (1) of the subsection provides that in such cases benefits conferred by the bill will be paid retroactively if application is filed within 6 months after enactment. Paragraph (2) provides that where an individual having retroactive benefit rights dies before the expiration of the 6 months' filing period, his rights are transferred to any other survivor entitled to benefits arising out of the veteran's death. Paragraph (3) provides for an extension of the time within which survivors of veterans who died prior to enactment may file certain proofs and applications required by the Social Security Act. Paragraph (4) provides for the recomputation of lump-sum death payments awarded prior to enactment.

Subsection (d) authorizes appropriation to the Federal old-age and survivors' insurance trust fund of such sums as may be required to meet the payments contemplated by the section.

Subsection (e) defines the date of the termination of World War II.

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SECTION 301. STATE COVERAGE OF MARITIME WORKERS

This section amends section 1606 of the Federal Unemployment Tax Act by adding thereto a new subsection (f). Subsection (f) grants permission to State legislatures to require private operators

of American vessels operating on navigable waters within or within and without the United States and the officers and members of the crew of such vessels to comply with State unemployment compensation laws with respect to the service performed by such officers and members of the crew on or in connection with such vessels to the same extent and with the same effect as though such service was performed entirely within the respective State. Only the legislature of the particular State in which the operator maintains the operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed, and controlled may require such operator and the officers and members of the crew of such vessel to comply with its unemployment compensation law with respect to the service performed by such officers and members of the crew on or in connection with such vessel. The permission granted by subsection (f) to State legislatures is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other covered service performed for the operator in such State and, as your committee recommends that the bill be amended, is also subject to the same conditions as those imposed by the second sentence of section 1606 (b) (other than clause (2)) of the Federal Unemployment Tax Act upon permission to State legislatures to require contributions from instrumentalities of the United States. The permission granted State legislatures by subsection (f) is not applicable with respect to service performed in the employ of the United States Government or of an instrumentality of the United States which is either wholly owned by the United States or otherwise exempt from the tax imposed by the Federal Unemployment Tax Act.

Your committee recommends an amendment to the effect that no presently existing provision of State law shall be invalidated by this subsection prior to July 1, 1947.

SECTION 302. DEFINITION OF EMPLOYMENT

Effective July 1, 1946, this section amends section 1607 (c) of the Federal Unemployment Tax Act, which defines the term "employment" for the purposes of such act. Under the amendment the term "employment" is defined to mean any service performed prior to July 1, 1946, which constituted employment as defined in section 1607 of the Federal Unemployment Tax Act as in force and effect at the time the service was performed; and also to mean any service performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (*a*) within the United States, or (*b*) on or in connection with an American vessel (defined in sec. 1607 (n)) under a contract of service entered into within the United States or during the performance of which the vessel touches at a port therein, if the employee is employed on and in connection with the vessel when outside the United States. No substantive change in existing law is effected by the amendment other than the extension of the definition to include service on or in connection with American vessels. This extension is designed to include, with the qualifications noted, all service which is attached to or connected with the vessel (e. g., service by officers and members of the crew and other employees such as those of concessionaires). Individuals who are passengers on the vessel in the generally accepted

sense, such as an employee of an American department store going abroad, will not be included because such service has no connection with the vessel. Service performed on or in connection with an American vessel within the United States will be on the same basis as regards inclusion as other service performed within the United States.

Under existing law, service performed within the United States (which otherwise constitutes employment) is covered irrespective of the citizensbip or residence of the employer or employee. The amendment makes clear that this will be true also in the case of maritime service covered by the amendment, regardless of whether performed within or without the United States. The basic reasons which caused the original coverage to be made without distinction on account of citizenship or residence apply in the case of seamen.

The definition of the term "employment" under the amendment, as applied to service performed prior to July 1, 1946, is subject to the applicable exemptions under the laws in force prior to such date. The definition applicable to service performed on and after that date continues unchanged the exemptions contained in the present law, except as such exemptions are amended by sections 303 and 304 of the bill.

SECTION 303. SERVICE ON FOREIGN VESSELS

Effective July 1, 1946, this section amends paragraph (4) of section 1607 (c) of the Federal Unemployment Tax Act, relating to one of the exclusions from the term "employment" for the purposes of such act. Paragraph (4) of the existing law excludes from the term "employment" service performed as an officer or member of the crew of a vessel on the navigable waters of the United States. The new paragraph (4), which takes the place of the existing exclusion, excludes from the term "employment" service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States. The amendment excludes all service, although performed within the United States, which is rendered by an employee who was rendering service on and in connection with such a vessel upon its entry into the United States or who is rendering such service upon departure of the vessel from the United States. Thus, officers and members of the crew and other employees whose service is rendered both on and in connection with the vessel (such as employees of concessionaires and others whose service is similarly connected with the vessel) when on its voyage are excluded even though the vessel is within the United States, if they come into or go out of the United States with the vessel.

SECTION 304. CERTAIN FISHING SERVICES

Effective July 1, 1946, this section amends section 1607 (c) of the Federal Unemployment Tax Act by adding at the end thereof a new paragraph (17), relating to an additional class of excepted services. Paragraph (17) excludes from the term "employment," for purposes of the Federal Unemployment Tax Act, service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming

of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (*a*) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (*b*) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States).

SECTION 305. DEFINITION OF AMERICAN VESSEL

Effective July 1, 1946, this section amends section 1607 of the Federal Unemployment Tax Act by adding at the end thereof a new subsection (n). Subsection (n) defines the term "American vessel" to mean any vessel documented or numbered under the laws of the United States; and also to include any vessel neither so documented nor numbered nor documented under the laws of any foreign country while the crew is in the employ only of citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

SECTION 306. RECONVERSION-UNEMPLOYMENT BENEFITS FOR SEAMEN

This section amends the Social Security Act by adding thereto a new title XIII—Reconversion Unemployment Benefits for Seamen. The title consists of six sections—1301 to 1306, inclusive.

Section 1301 provides that the title is to be administered by the Federal Security Administrator.

Definitions

Section 1302 (a) defines the term "reconversion period" to mean the period beginning with the fifth Sunday after the date of enactment of this title and ending June 30, 1949. The significance of the definition is that it defines the period in which benefits under the title may be paid. The actual operation of the program, however, may be for a much shorter period. In a majority of the States of the United States the benefits during a benefit year are based on the wages received in the first four out of the last five completed calendar quarters preceding the beginning of the benefit year. Thus, if a person becomes unemployed for the first time in a benefit year in April, the benefits in most States would be based on the wages of the preceding calendar year. If he becomes unemployed for the first time in a benefit year in July or September, benefits would be based on wages in the 12 months ending on the preceding March 31. If, as is now anticipated, the Federal Government should cease to operate ships through the War Shipping Administration or a successor agency by the end of 1946, in the majority of States no benefits could be payable on the basis of such wages for any benefit year beginning after March 1948, and therefore no benefits could be payable after March 1949. If the presently expected withdrawal of the Federal Government from the operation of ships should be completed in 1946, substantially all payments of benefits based on such wages would be completed by June 1948. The main effect of the limiting date of June 1949 in this section would be to cover the relatively few cases in which

base periods of more than four quarters are provided in State laws (there are such provisions in not more than three States) and to provide against the possibility that the Federal Government may not have been able to withdraw completely from maritime operations by the end of the present year. Irrespective of what happens, benefits under title XIII would cease on June 30, 1949.

Section 1302 (b) defines the term "compensation" to mean cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents). Benefits are payable with respect to dependents only in the States of Nevada, Connecticut, and Michigan, and in the District of Columbia.

Section 1302 (c) defines the term "Federal maritime service" to mean service determined to be employment pursuant to section 209 (o) of the Social Security Act. Section 209 (o) of the Social Security Act was inserted into that act by Public Law 17, Seventy-eighth Congress, and specifies that the term "employment" shall include such service as is determined by the Administrator of the War Shipping Administration to be performed after September 30, 1941, and prior to termination of the First War Powers Act of 1941, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration, or, in respect of such service performed before February 11, 1942, the United States Maritime Commission. By an amendment approved April 4, 1944 (Public Law 285, 78th Cong.), it was made clear that the term "employment" includes neither service performed under a contract entered into without the United States and during the performance of which a vessel does not touch at a port in the United States, nor service on a vessel documented under the laws of any foreign country and bare boat chartered to the War Shipping Administration. The Administrator of the War Shipping Administration makes all determinations with respect to questions relating to employment within the purview of section 209 (o) of the Social Security Act, remuneration therefor, and periods in which or for which paid.

Section 1302 (d) defines "Federal maritime wages" to mean remuneration determined pursuant to section 209 (o) of the Social Security Act to be remuneration for service referred to in that subsection. The Federal Security Agency has thus recorded on its books the wages paid with respect to Federal maritime service. The records can be used as a source of such wages for the States, though they will frequently require supplementation to bring them sufficiently up to date.

Definitions of "State" and "United States" have been eliminated by your committee because identical definitions already appear in section 1101 of the Social Security Act.

Compensation for seamen

Section 1303 (a): This section authorizes the Federal Security Administrator on behalf of the United States to enter into an agreement with any State or with the unemployment compensation agency of such a State under the terms of which such a State agency will pay compensation in accordance with the law of that State to individuals who have performed Federal maritime service. The agreement must provide that the State will cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by the proposed title.

Section 1303 (b) stipulates the conditions which must be included in any agreement between the Federal Security Administrator and a State or a State agency. The agreement must provide that with respect to unemployment occurring in the reconversion period compensation will be paid to an individual who has had Federal maritime service in the same amounts and on the same terms and subject to the same conditions as the compensation which would be payable to such individuals if the State unemployment compensation law had (subject to regulations relating to the allocation of such wages among the States) included Federal maritime service and Federal maritime wages as employment and wages under that law; except that in the event an employee receives an annuity or retirement pay by virtue of having been retired as an officer or employee of the United States the weekly compensation would be reduced by 15 percent of the amount of the annuity or retirement pay which the individual is entitled to receive unless the State law provides for a different deduction. The committee amendments to this subsection give the Administrator broad discretion in establishing regulations for the allocation of maritime services among the several States. Such discretion will permit allocations to be made so as to facilitate the prompt payment of benefits to seamen, and to prevent the splitting of one seaman's Federal maritime wages among several States.

Section 1303 (c) authorizes the Federal Security Administrator to arrange for payments to individuals having Federal maritime service, even though the State or States to which such individuals would look for benefits fail to enter into an agreement or to make payments in accordance with an agreement of the sort provided for in section 1303 (a). The payments must be, insofar as possible, the same as if an agreement under section 1303 (a) had been entered into. The determinations by the Administrator to entitlement in such cases would be subject to review by the courts in the same manner and to the same extent as provided in title II of the Social Security Act with respect to decisions by the Federal Security Administrator.

Section 1303 (d) directs operators of vessels who are general agents of the War Shipping Administration or of the United States Maritime Commission to furnish such information as may be appropriate to individuals, or to State agencies or to the Administrator for the purpose of carrying out the provisions of the title.

Section 1303 (e) authorizes the Administrator, if he finds that it is not feasible to secure the necessary wage and salary information in time to make prompt determinations, to prescribe regulations pursuant to which he, or a State agency making payments of compensation pursuant to an agreement, may pay benefits on the basis of compensation equal to the seaman's average weekly wages or salary for the last pay period of Federal maritime service which occurred prior to the time he filed his initial claim for unemployment insurance. Further, if neither the exact wages and salaries nor the alternative basis is available promptly, this section authorizes acceptance of a certification, under oath executed by the applicant, as to the facts relating to his Federal maritime service and wages.

Administrative

Section 1304 (a) provides that determination of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review

in the same manner and to the same extent as determinations under the State unemployment-compensation law, and only in such manner and to such extent.

Section 1304 (b) provides that for the purpose of payments made to a State under title III, administration by the unemployment-compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment-compensation law. Therefore, the Federal Government would bear additional State administrative expenses incurred under an agreement made pursuant to section 1303 (a).

Section 1304 (c) directs the State unemployment-compensation agency of each State to furnish to the Federal Security Administrator such information as he may find necessary in carrying out the provisions of this title, and such information would be deemed reports required for the purposes of section 303 (a) (6).

Payments to States

Section 1305 (a) provides that each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of all payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

Thus, where an individual applying for benefits under the law of a particular State is entitled to both nonmaritime and maritime wage credits under the law of that State in the appropriate base period, if the nonmaritime wage credits are a sufficient basis for two-thirds of the aggregate benefits actually paid on the basis of both maritime and nonmaritime wage credits, the Federal Government would reimburse the State for one-third of the benefits paid to such individual. In a case where crediting of Federal maritime wages would serve at most merely to extend the duration of the benefit the Federal Government would make no reimbursement to a State unless the duration of the benefit extends beyond the period which the regular State wage credits would support. In any case where the maximum benefit for the maximum duration is payable without regard to Federal maritime wages, no reimbursement would be payable to the State.

Section 1305 (b) provides that in making payments pursuant to subsection (a) of this section there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

Section 1305 (c) provides for payments by the Secretary of the Treasury to the States pursuant to certifications by the Administrator. Your committee recommends an amendment which, for the current fiscal year, would make available for this purpose funds already appropriated for grants to the States under title III of the Social Security Act. It is contemplated that the title III appropriations should be reimbursed when an appropriation under this new title becomes available.

Section 1305 (d) requires that payments to States for compensation based on Federal maritime employment shall be used only for this purpose, and that any balances remaining at the end of the agreement, or at the end of the reconversion period, if earlier, shall be returned to the Treasury of the United States.

Section 1305 (e) authorizes the bonding of State employees administering benefits provided under the title.

Sections 1305 (f) and (g), to facilitate payments, relieve disbursing and certifying officers from liability in the absence of gross negligence or intent to defraud the United States.

Penalties

Section 1306 provides that giving false statements in connection with claims, fraudulent receipt of payments to which not entitled, and willful refusal to furnish certain information, shall be offenses punishable by fines of not more than $1,000, imprisonment for not more than 1 year (or, in the case of refusal of information, not more than 6 months), or both.

TITLE IV.—TECHNICAL AND MISCELLANEOUS PROVISIONS

SECTION 401. AMENDMENTS OF TITLE V OF THE SOCIAL SECURITY ACT

Subsection (a) of this section expands the definition of "State" in section 1101 (a) (1) of the Social Security Act, so as to include, for purposes of title V of the act, the Virgin Islands. The effect of this amendment is to extend to those islands the programs of grants for maternal and child-health services, for services for crippled children, and for child-welfare services. These programs are presently applicable to the 48 States, the District of Columbia, Alaska, Hawaii, and Puerto Rico.

Subsection (b) increases the authorization of appropriations for the grants under title V of the Social Security Act, as described in the general discussion in an earlier part of this report. Subsection (c) postpones the making of new allotments for the fiscal year 1947 until additional appropriations become available, and directs that such additional allotments be made as provided in the appropriation act.

SECTION 402. CHILD'S INSURANCE BENEFITS

Subsection (a) amends subsection 202 (c) (1) of the Social Security Act, as amended, which provides that a child's benefit shall terminate on his or her adoption. Under the amendment these benefits would not be terminated in case of adoption after the death of the wage earner by a stepparent, grandparent, uncle, or aunt. Such adoptions are usually undertaken for the purpose of securing to the child the legal and psychological advantages of adoption within a close family group in which the child is to be cared for in any event. Adoption by such relatives seldom changes the financial conditions under which the child is then living, and the prospective loss of benefits as a result of adoption may deter a relative from adopting the child.

Subsection (b) amends subsection 202 (c) (3) (C) to make uniform the conditions under which a child is deemed dependent upon his natural or adopting father. Under existing law, a child neither living with nor receiving contributions for his support from his father, and

both living with and being supported by his stepfather, is deemed dependent upon and may draw benefits with respect to the wage record of his father provided the latter is a primary beneficiary. If, however, under the same circumstances, the father dies, the child is not deemed to be his dependent and cannot become entitled to benefits. This section prevents considering a child dependent upon a living father who was in fact not supporting the child, when a stepfather was furnishing his chief support, thus making the rule the same in cases where the father is living as it now is in survivorship cases.

SECTION 403. PARENT'S INSURANCE BENEFITS

This section makes two changes in section 202 (f) (1), both designed to make the limitations on payments of monthly benefits to dependent parents slightly less restrictive. Under existing law, no payment can be made to a dependent parent if the deceased wage earner is survived by a widow or an unmarried child under the age of 18 even though such widow or child might fail to meet the qualifications which would permit entitlement to benefits. The amendment provides that the payment of benefits to such parent will be prevented only if, at the date of the wage earner's death, there is a widow or a child who could, either immediately or at a later time, become entitled to monthly benefits. Your committee has revised and clarified the language to accomplish this result. This follows the general principle that benefits will be paid to the deceased wage earner's dependent parent in cases where no other monthly benefits will ever be payable on his wage record.

The section also changes the existing requirement that the parent must have been wholly dependent on the deceased wage earner. Under the amendment a parent chiefly, rather than wholly, dependent upon and supported by the worker at the time of the worker's death will be eligible. This intent can be more effectively achieved with less administrative complication by making it necessary for the parent to prove only chief support, rather than entire support, from the deceased wage earner. This would make possible the payment of benefits to parents in the fairly typical situation in which one child has assumed the major support of his parents but other children have contributed some minor part toward it, and the parents suffer a serious financial loss upon the death of the child who was their chief support.

Section 403 (b), relating to the effective date of these amendments, is discussed below, in connection with the effective date of other amendments made by this title.

SECTION 404. LUMP-SUM DEATH PAYMENTS

Section 404 (a) makes two changes in section 202 (g) of the Social Security Act. The first change is that the lump sum will be paid to the widow or widower of the deceased insured worker only if such spouse was living with such deceased worker at the time of the latter's death. This will prevent the payment of a lump sum to an estranged or deserted spouse while those who have assumed the cost of the last illness and burial receive nothing. It will also avoid administrative complications which now arise when the existence or probable existence

of a spouse, whose address may be unknown, prevents or delays the payment to any other person.

The section further provides that if there is no spouse living with the deceased individual at the time of the death, the lump sum shall be paid to the person or persons equitably entitled thereto in the proportion and to the extent that he or they shall have paid the burial expenses. This eliminates children (and individuals entitled to share with them as distributees of intestate property) and parents as beneficiaries of lump-sum payments, except where such person may be equitably entitled because of having borne the burial expenses. This prevents the lump sum from becoming a windfall to persons who may have suffered no economic loss by reason of the wage earner's death. It avoids the situation in which the lump sum has been divided equally among several children although one child had assumed sole financial responsibility for the burial of the worker. It ends the administrative complication which occasionally prevents payment to a worthy claimant merely because of the possible existence of someone with a prior right, whose whereabouts is unknown.

Section 404 also provides for tolling in certain cases the 2-year limitation for filing application for lump-sum death payments and extends the period for filing. This amendment would authorize the Administrator to make payment on applications filed within 2 years after enactment of this bill, for lump-sum death payments based on deaths found by the Administrator to have occurred outside the United States after December 6, 1941, and before the enactment. Under existing law, no lump-sum death payment may be made unless the application was filed by or on behalf of the claimant prior to the expiration of 2 years after the date of death of the deceased wage earner.

However, in hundreds of known cases and in many others, wage earners have died outside the United States while engaged in construction or other work, usually connected with the war effort, in such Pacific bases as Wake Island and the Philippines, or in Japanese prison camps, as well as in friendly or in neutral countries. Owing to break-down, disruption, or delay of communications, or to negligence of the responsible foreign authorities, the reports of such deaths were frequently transmitted too late for application to have been filed within the 2-year period by the spouse, child, parent, or other person. Such cases must be, and have been, disallowed under the present terms of the act.

Although the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, tolled the 2-year requirement in connection with deaths in military service, no such relief was furnished with respect to civilian deaths. Nevertheless, in many cases, such civilians were in the service of their country abroad at the time of death. Accordingly, a modification of the time for filing applications for benefits would appear to be equitable.

SECTION 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS

This section amends section 202 (h) of the Social Security Act, as amended, to permit a primary beneficiary to receive benefits retroactively for as much as 3 months. It was not anticipated, when section 202 (h) was adopted, extending this retroactive privilege to wives,

widows, children, and parents, that insured workers might also fail to file claims for benefits immediately upon retirement from work at or after age 65, though it was expected that dependents and survivors, through ignorance of their rights or because of the numerous adjustments necessary after the death of the wage earner, might fail to apply in the month when they were first eligible. Experience in administering the act has revealed that retired workers also fail to apply in the month when they are first eligible. Under the amendment primary beneficiaries are, therefore, given the same privilege of receiving retroactive benefits for 3 months, if otherwise entitled, that is now accorded to auxiliary beneficiaries.

Because there are maximum limitations on the total amount that may be paid in monthly benefits on the basis of one wage record, if one dependent or survivor files his claim a month or more after other members of the family, payment of benefits retroactively for those months sometimes results in total family benefits in excess of the maximum. Such overpayments require later adjustments in the benefits of each beneficiary until the entire amount of the excess is repaid. To eliminate unnecessary work in adjusting payments which were correct when made, this section also provides that when retroactive payments are to be made pursuant to section 202 (h), only that amount shall be paid which will not make incorrect any monthly benefit previously paid on the basis of the same wage record.

SECTION 406. DEDUCTIONS FROM INSURANCE BENEFITS

Subsection (a) repeals section 203 (d) (2) of the act, which contains the requirement that children over age 16 attend school, when feasible, in order to avoid deduction from monthly insurance benefits. The number of children between ages 16 and 18 who are not attending school and whose attendance has been found feasible has been too small to justify the cost of the investigation. Many children over 16 who are not in school are in employment and the provision for deduction from benefits for wages in excess of $14.99 operates to suspend their benefits. For many other children over 16 who are not in school, attendance is not feasible because of physical or mental handicap or other reasons.

Subsection (b) amends subsection 203 (g) of the act to provide a less severe penalty for the first occasion on which a penalty is applied because of failure to comply with the provisions with respect to reporting events which require deductions from monthly benefits. In order that the Administrator may make deductions from the benefits as required under subsection 203 (d) or (e), beneficiaries are required to report to him the occurrence of the event which occasions a deduction. Failure to make such a report may result in an additional deduction for each month in which such event occurred, if the beneficiary had knowledge of the event and of the provision in the law requiring reporting. Even though a beneficiary may have this knowledge, he may violate the provision negligently or forgetfully and, in the absence of a reminder, he may continue the violation over a number of consecutive months. The number of such penalty deductions, therefore, often depends on the length of time required by the Administrator to receive and process wage reports, and thus to discover that the beneficiary failed to report the occurrence of an event which requires a deduction.

Deductions can be made only for a month in which the beneficiary would otherwise receive a benefit. The more penalty deductions that have been applied, the more difficult it becomes for the beneficiary to live without benefits until both the normal deductions and the penalty deductions have been completed. This section reduces the penalty to one deduction for the first failure to report as required, regardless of the number of months before the Administrator discovered the failure to report. A penalty deduction of 1 month, in addition to the normal deductions, for each month for which the beneficiary received a benefit when a deduction should have been made, should be sufficient. Subsequent violations are more likely to be deliberate, and the penalty for such subsequent failure to report, after a penalty has once been imposed, would be one additional deduction, as at present, for each month in which the individual failed to report an event requiring a deduction.

SECTION 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL"

This section amends section 209 (h) in two ways. First, it defines "currently insured individual" in the same terms as that used for "fully insured individual"—namely in terms of quarters of coverage. The present definition of currently insured individual uses the phrase "having been paid wages of not less than $50 for each of not less than 6 of the 12 calendar quarters." But the definition in the act of a quarter of coverage calls for wages paid in a quarter. This amendment will end a troublesome and confusing discrepancy in the two provisions for insured status. The amendment also permits wages paid in the quarter in which death occurs to count toward an individual's qualifying as currently insured, as is now the case for fully insured status. This will extend protection to persons who have had only six recent quarters of coverage and the final quarter of coverage is the quarter of death.

SECTION 408. DEFINITION OF "WIFE"

This amends subsection 209 (i) to permit a wife, age 65 or over, even though she is not the mother of the wage earner's son or daughter, to qualify for wife's benefits after having been married for at least 36 calendar months. Under the present provisions, such a wife could not qualify for wife's benefits unless she had been married to the wage earner before he attained age 60 or before January 1, 1939. The original provision was intended to prevent exploitation of the fund by claims for benefits from persons who married beneficiaries solely to get wife's benefits. Experience has shown that the requirement is unnecessarily restrictive for this purpose and that, in a number of cases, a wife is permanently barred from benefits even though the marriage was entered into many years before the wage earner became a beneficiary. The amendment, taken with the provision in section 202 (b) that the wife be living with her husband in order to be eligible for benefits, should be sufficient protection for the trust fund and will remedy situations which now seem inequitable. Few persons are likely to marry because of the prospect of receiving a modest insurance benefit which will not be payable until after 3 years.

SECTION 409. DEFINITION OF CHILD

This section alters the definition of stepchild and adopted child (sec. 209 (k)) to correspond with the amendment proposed in section 408 for the definition of wife. Under the present provisions of the act a stepchild or an adopted child is not a "child" for benefit purposes unless the relationship had existed before a primary beneficiary attained age 60, and for more than a year before an insured worker or primary beneficiary died. Where a worker marries after age 60 a woman with children under 18, no insurance protection is given to the children on the basis of the worker's wages; nor can a child adopted after the worker attained age 60 qualify for child's benefits. This section permits a stepchild of a primary beneficiary to qualify for benefits if the marriage between the child's parent and stepparent has endured for at least 36 calendar months. Likewise, an adopted child of a primary beneficiary may become eligible for child's benefits after the adoptive relationship has existed for 36 calendar months. For a stepchild or an adopted child of a deceased worker, the relationship must have existed for at least 12 months prior to the death, and this provision seems compatible with the amendment.

SECTION 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS

This subsection amends section 209 of the Social Security Act by the addition of subsection (q). The Administrator is given authority to compute or recompute the amount of a monthly benefit in cases where there is a delay in filing application or additional wages are earned after a fully insured person reaches 65. It would not authorize the payment of any monthly benefit, or of the increased amount of a recomputed benefit, retroactively for a month for which, apart from this subsection, such payment would not have been made.

The amount of a monthly old-age and survivors insurance benefit depends upon the average monthly wage. This is figured by dividing the total wages a worker has been paid in covered employment before the quarter in which he dies or retires, by all the months after 1936 and before that quarter (with exceptions for the period before age 22). If, because of illness, lack of knowledge or other reason, an aged insured individual does not file his application for benefits until some quarters or years after he has stopped working, his benefit amount will be lower than if he had filed his application at the earliest possible date. Many primary beneficiaries, on the other hand, continue in or return to work in covered employment after their benefit amounts have been figured. Their average wages, if as high or higher than the previous average monthly wage, should be reflected in a higher benefit amount when they stop work and draw benefits. The Social Security Act now permits the recomputation of primary benefits under rigidly limited circumstances. Under the amendment the Administrator is given broader authority to compute or recompute the primary insurance benefit in order to prevent unintended losses in the size of monthly benefits resulting solely from the date of application for benefits. The monthly rate of the benefit payable after application for such computation or recomputation will be calculated as though an original application for benefits had been filed at the time most favorable to the claimant. The Administrator would be author-

ized to impose reasonable limitations, such as a restriction that recomputation would not be made more frequently than once a year.

SECTION 411. ALLOCATION OF 1937 WAGES

This subsection amends section 209 of the Social Security Act, as amended, by adding subsection (r) to provide a method of allocating to calendar quarters wages paid to an individual during 1937. In that year, wages were reported in semiannual rather than quarterly intervals. The intervals for which wages were reported in any given year were of no importance under the original act, because eligibility depended on total wages. When the act was amended in 1939, eligibility and, under some circumstances, average monthly wage were made dependent on the quarterly distribution of wages. With the passage of time, it has become almost impossible to secure from employers data on the quarter in which certain wages were paid in 1937.

The administrative task of determining in which quarters wages were paid in 1937, in the absence of a statutory authorization to allocate to quarters, the wages reported for half years, is burdensome to employers and the Administrator and results in delays in payments.

The formula in the amendment for allocation when an individual's wages in either half of 1937 were at least $100, is to credit one-half of the total amount to each of the calendar quarters of that half year. If the total wages paid in either half of 1937 were less than $100, the entire amount would be deemed to have been paid in the latter quarter of that half year. If the individual attained age 65 in either of these half years, all of the wages paid in that half year would be deemed to have been paid before he attained that age. This formula will permit finding an insured status for each person for whom such status could be found on the basis of the actual distribution of his 1937 wages.

SECTION 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE

This section amends the $3,000 limitation contained in the definition of the term "wages" in section 1426 (a) (1) and section 1607 (b) (1) of the Internal Revenue Code for purposes of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, respectively. Under the definition of the term contained in existing law there is excluded from "wages," for such purposes, all remuneration with respect to employment during any calendar year paid to an individual by an employer (irrespective of the year of payment) after remuneration equal to $3,000 has been paid to such individual by such employer with respect to employment during such year. This section amends such definitions, effective January 1, 1947, to constitute as the yardstick the amount paid during the calendar year (with respect to employment to which the taxes under the code are applicable), without regard to the year in which the employment occurred.

Subsection (a) amends section 1426 (a) (1) of the Federal Insurance Contributions Act to effect the above change. Such section as it would be amended contains two exclusions, that is, the one contained in existing law but with a modification making it applicable only to payments of remuneration made before January 1, 1947; and the new exclusion applicable to remuneration payments made after December

31, 1946. The latter of the two excludes from "wages" that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year. Thus in applying the $3,000 limitation on wages, the employer, employee, and those administering the taxes, may, beginning with the calendar year 1947, look only to the amount of remuneration paid by the employer to the employee during the calendar year, and exclude all remuneration paid during the calendar year after $3,000 has been paid during the year with respect to employment performed on or after January 1, 1937 (that is, the employment with respect to which the taxes imposed by secs. 1400 and 1410 of the Federal Insurance Contributions Act are applicable). This change conforms with the changes in section 209 (a) of title II of the Social Security Act, which are provided in section 414 of the bill.

Subsection (b) amends section 1607 (b) (1) of the Federal Unemployment Tax Act to effect a corresponding change. Such section as it would be amended contains two exclusions, that is, the one contained in existing law but with a modification making it applicable only to payments of remuneration made before January 1, 1947; and the new exclusion applicable to remuneration payments made after December 31, 1946. The latter of the two excludes from "wages" that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year. Beginning with the calendar year 1947, there is thus excluded all remuneration paid by the employer to the employee during the calendar year after $3,000 has been paid during the year with respect to employment performed on or after January 1, 1939 (that is, the employment with respect to which the tax imposed by section 1600 of the Federal Unemployment Tax Act is applicable).

SECTION 413. SPECIAL REFUNDS TO EMPLOYEES

This section amends section 1401 (d) of the Federal Insurance Contributions Act to conform the special refund provisions to the change in the definition of "wages" made by section 412 (a). Under the existing provisions of section 1401 (d) an employee is permitted to obtain a refund of the employee's tax paid on the aggregate of wages in excess of $3,000 earned after December 31, 1939, by reason of earning wages from more than one employer during a calendar year. Inasmuch as the pertinent exclusion of remuneration from wages will depend upon the amount of wages paid during the calendar year to the employee by each of his employers, rather than the amount earned during the year by the employee, a corresponding change is required in section 1401 (d). Accordingly, section 1401 (d) would be amended to contain two paragraphs. Paragraph (1) constitutes a restatement of the existing section 1401 (d) with the limitation that no refund shall be made under such paragraph with respect to wages received after December 31, 1946. Paragraph (2), relating to wages received after 1946, is new, and provides that if by reason of an employee receiving wages from more than one employer during any calendar

year after 1946, the wages received by him during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages, whether or not paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages received.

SECTION 414. DEFINITION OF WAGES UNDER TITLE II OF THE SOCIAL SECURITY ACT

This section amends section 209 (a) of the Social Security Act, defining the term "wages," to correspond with the amendment of section 1426 (a) (1) of the Internal Revenue Code, made by section 412 (a) of the bill. The amendment changes paragraphs (1) and (2) of section 209 (a) by making them inapplicable to payments of remuneration made after December 31, 1946; and inserts a new paragraph (3) prescribing the rule applicable to all such payments after that date. This new paragraph would exclude from the "wages" credited to an individual's account all remuneration paid him in a calendar year after 1946, after $3,000 of remuneration for "employment" (as defined in section 209 (b)) has been paid him during that year, without regard to the year in which the employment occurred.

SECTION 415. TIME LIMITATION OF LUMP-SUM PAYMENTS UNDER 1935 LAW

This section provides a cut-off date for the payment of lump sums under the Social Security Act as originally passed in 1935. The number of these claims has become insignificant but their existence makes necessary the retention by the Administrator of detailed regulations and procedures, and imposes unjustifiable administrative expense. The wage earner must have died prior to 1940, and it is obvious that the lump-sum death payment is no longer used to meet the costs of his last illness and burial. The lump-sum death payment provided under the 1939 amendments is made only if application is filed within 2 years after date of death, and it seems reasonable to put a limit now to such payments as were provided under the original act.

Effective date of foregoing amendments

Most of the amendments made by title IV of the bill become effective as of January 1, 1947. The committee does not intend that retroactive payments be made to persons who could not qualify under the Social Security Act, as amended, before the effective date of these amendments. However, any individual whose claim was previously disallowed but who can qualify after December 31, 1946, on the basis of having met all requirements, as modified by these amendments, may become entitled to monthly benefits currently upon filing an application. Benefits would thus become available to parents of workers who died less than 2 years before the filing of a new application, when benefits previously had been denied them either because of the existence of a widow or child who could never qualify for monthly benefits, or because they had been chiefly but not wholly supported by the worker. Survivors of workers who died neither fully nor currently insured under present definitions could become eligible for monthly benefits or a lump-sum payment, upon

application after December 31, 1946, if they meet all other requirements, and the Administrator finds the worker died currently insured under the amended definition of that term.

A wife of a primary beneficiary whose claim for monthly benefits was previously denied only because she and the beneficiary had not been married before he attained age 60, and a stepchild or adopted child of a living primary beneficiary whose benefits were denied because the relationship did not come into being before the beneficiary attained age 60, may now receive benefits for months after December 1946, upon application and if they meet all other requirements, if, at the time of the new application, the relationship has existed for more than 36 months. So, too, a stepchild or an adopted child of a deceased worker who previously could not qualify for monthly benefits only because its relationship to the worker began after he attained age 60, might now qualify upon application after December 31, 1946, if the relationship had lasted for more than 12 months before the worker's death, and if the child met all other requirements.

A child whose benefits were terminated only because of adoption by a stepparent, grandparent, aunt, or uncle after the worker's death, could, if otherwise qualified, become reentitled to monthly benefits upon application at any time after enactment of this bill.

Where a lump sum is payable upon the death of a worker before January 1, 1947, payment will be made as now provided in the Social Security Act. If the worker died after December 31, 1946, the lump sum will be paid in accordance with the amendment in this bill.

Three months' retroactive payments to primary beneficiaries who delayed filing their claims will be made only on claims filed after December 31, 1946. Deductions from benefits will not be made after the effective date of the amendment if a child between ages 16 and 18 fails to attend school, but no payments will be made for benefits suspended for that cause before that date. Nor will benefits be made up where penalty deductions in excess of one were applied before that date for the first failure to report a deduction event.

SECTION 416. WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS FOR DISABILITY BENEFITS

This section, which was added by your committee, makes three amendments to permit the withdrawal from the Federal unemployment trust fund, for the payment by a State of disability compensation, of any payments which that State may have collected from employees under its unemployment compensation law and deposited in the trust fund, or which it may in the future collect and deposit. The present Federal definition of a State "unemployment fund" will not be affected except in the one particular noted. Withdrawals from the trust fund other than those specifically authorized by the amendments will still be permissible only for the same purposes as in the past.

SECTION 417. EXPENDITURES NECESSITATED BY THIS ACT IN THE FISCAL YEAR 1947

This section, which was added by your committee, authorizes the Federal Security Agency during the fiscal year 1947 to expend existing appropriations, both for administration of the Social Security Act and

for payments to the States, at faster than the normal rate where the necessary expenditures have been increased by this bill.

TITLE V.—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

SECTION 501. OLD-AGE ASSISTANCE

This section makes several amendments to section 3 of the Social Security Act.

In lieu of the present provision that the United States will pay each State one-half of its expenditures (within stated limits) for old-age assistance, the amendment substitutes the phrase "Federal percentage" as the measure of the payment to the State. This change incorporates the variable matching formula, added to title XI of the Social Security Act by section 504 of the bill, and thus requires the Federal Government to pay an increased percentage of State expenditures in those States having average per capita incomes less than the average for the Nation as a whole.

The second amendment made by section 501 is to increase from $40 to $50 the maximum State expenditure, for any individual recipient for any month, to which the Federal Government will contribute; and to add a further limitation, that the Federal contribution is not to exceed $25 for any individual recipient for any month. This additional limitation will have no effect in those States which will continue to be entitled to only 50 percent matching, but will furnish the effective limitation on Federal contributions in States entitled to a higher "Federal percentage." Thus, in States in which the matching ratio is 2 to 1 (that is, in which the "Federal percentage" is 66⅔), this limitation means that the maximum State payment in which the Federal Government will participate is $37.50 for any individual recipient for any month.

This section also amends the provision in section 3 of the Social Security Act respecting the method of determining the amounts paid to the States for administration of old-age assistance, to provide that the "Federal percentage" of such expenses will be paid by the Federal Government, instead of the payment, under present law of 5 percent of the grant for assistance.

SECTION 502. AID TO DEPENDENT CHILDREN

This section amends section 403 of the Social Security Act, relating to grants for aid to dependent children, in the first two respects in which section 501 of the bill amends section 3 of the act. The limitations presently in the act, $18 a month for the first child and $12 a month for each additional child in the same home, are increased to $27 and $18, respectively; and the limitations upon the Federal payment to the State, for any individual recipient for any month, are set at $13.50 and $9.

SECTION 503. AID TO THE BLIND

This section amends section 1003 of the Social Security Act, relating to grants for aid to the blind, in the first two respects in which section 501 of the bill amends section 3 of the act. The limitations imposed would be the same as in the case of old-age assistance.

SECTION 504. DEFINITIONS

This section adds a new section to title XI of the Social Security Act, defining, for purposes of titles I, IV, and X, the terms "Federal percentage" and "State percentage." Paragraph (1) of subsection (a) provides that for States with average per capita income equal to or greater than that for the continental United States as a whole, the Federal and State percentages shall each be 50. Paragraph (2) provides that for States with per capita incomes of two-thirds of the national average or less, the Federal percentage shall be 66⅔ and the State percentage 33⅓. Paragraph (3) provides that for States with per capita incomes less than the national average but greater than two-thirds of the national average, the State percentage shall be one-half of the percentage which the State per capita income is of the national per capita income, rounded to the nearest whole percent; and the Federal percentage shall be 100 percent minus the State percentage. Thus, the State percentage will be 50 for the group of wealthiest States and 33⅓ for the group of least wealthy States, and for the intermediate group will vary so as to bear the same ratio to 50 percent as the per capita income of the State bears to the national per capita income.

Subsection (b) provides that the Federal and State percentages shall be promulgated by the Federal Security Administrator in July or August of each even-numbered year, on the basis of computations of per capita income by the Department of Commerce. Each computation is to be based on the three most recent years for which satisfactory data are available. The percentages promulgated in any even-numbered year are to be conclusive for the 2-year period beginning July 1 next following the promulgation, and in the case of the percentages promulgated in 1946 are also to be conclusive for the last three quarters of the fiscal year 1947.

Subsection (c) defines "continental United States" to include the 48 States and the District of Columbia.

SECTION 505. EFFECTIVE DATE OF TITLE

This section provides that the amendments made by the title shall apply to grants for quarters beginning after September 30, 1946. Thus, while initial determination of grants under the amendments, and promulgation of matching ratios, can be made immediately, the initial liberalized grants will be for the quarter beginning October 1, 1946.

TITLE VI—STUDY BY JOINT COMMITTEE ON INTERNAL REVENUE TAXATION OF ALL ASPECTS OF SOCIAL SECURITY

SECTION 601

This section authorizes and directs the Joint Committee on Internal Revenue Taxation to make a full and complete study and investigation of all aspects of social security. The committee is required to report to the Congress not later than October 1, 1947, the results of its study and investigation, together with its recommendations.

SECTION 602

This section authorizes the joint committee to appoint an advisory committee of individuals having special knowledge concerning matters involved in the study to assist, consult with, and advise the joint committee. Members of the advisory committee will serve without compensation.

SECTION 603

This section gives the joint committee, for the purposes of its study and investigation, the usual powers to hold hearings, to require by subpena the attendance of witnesses and the production of documents, and to make expenditures necessary in conducting the study and investigation.

SECTION 604

This section authorizes the joint committee to employ such personnel as may be necessary to enable it to conduct the study and investigation.

SECTION 605

This section limits the expenses of the committee in conducting the study and investigation to $10,000 and provides for payment of the expenses from the contingent funds of the Senate and House of Representatives.

TITLE VII—INCOME TAX PROVISIONS

SECTION 701. EMPLOYEES' ANNUITIES

This section, for which there appears no corresponding provision in the House bill, would amend section 22 (b) (2) (B) of the Internal Revenue Code, relating to the taxation of annuities purchased by employers for their employees. The present provisions of this section are to the effect that, in the case of such an annuity contract other than one purchased by an employer under a plan meeting certain requirements prescribed by section 165 and other than one purchased by an employer exempt from the income tax under section 101 (6), if the employee's rights under the contract are nonforfeitable except for the failure to pay premiums, the amount contributed by the employer for such annuity contract is required to be included in the income of the employee in the year in which the amount is contributed. The amendment contained in this section of the bill would add a proviso to the foregoing provision so that amounts contributed by an employer to a trust for the purchase of annuity contracts for the benefit of an employee shall not be included in the income of the employee in the year in which the contribution is made, if the contribution is made pursuant to a written agreement between the employer and the employee, or between the employer and the trustee, prior to October 21, 1942, and if the terms of such agreement entitle the employee to no rights, except with the consent of the trustee, under the annuity contracts other than the right to receive annuity payments.

This amendment would become effective with respect to taxable years beginning after December 31, 1938.

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Calendar No. 1906

79TH CONGRESS
2D SESSION

H. R. 7037

[Report No. 1862]

IN THE SENATE OF THE UNITED STATES

JULY 25 (legislative day, JULY 5), 1946
Read twice and referred to the Committee on Finance

JULY 27 (legislative day, JULY 5), 1946
Reported, under authority of the order of the Senate of July 27 (legislative day, July 5), 1946, by Mr. GEORGE, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Act Amendments of 1946".

TITLE I—SOCIAL SECURITY TAXES

SEC. 101. RATES OF TAX ON EMPLOYEES.

Clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are amended to read as follows:

"(1) With respect to wages received during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 102. RATES OF TAX ON EMPLOYERS.

Clauses (1) and (2) of section 1410 of such Act (Internal Revenue Code, sec. 1410), as amended, are amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar year 1948, the rate shall be 2½ per centum."

~~**SEC. 103. APPROPRIATIONS TO THE TRUST FUND.**~~

~~The sentence added by section 902 of the Revenue Act of 1943 at the end of section 201 (a) of the Social Security Act, which reads as follows: "There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.", is repealed.~~

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

SEC. 201. The Social Security Act, as amended, is amended by adding after subsection (r) of section 209 of

Title II (added to such section by section 411 of this Act) a new section to read as follows:

"BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

"SEC. 210. (a) Any individual who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to the date of the termination of World War II, and who has been discharged or released therefrom under conditions other than dishonorable after active service of ninety days or more, or by reason of a disability or injury incurred or aggravated in service in line of duty, shall in the event of his death during the period of three years immediately following separation from the active military or naval service, whether his death occurs on, before, or after the date of the enactment of this section, be deemed—

"(1) to have died a fully insured individual;

"(2) to have an average monthly wage of not less than $160; and

"(3) for the purposes of section 209 (e) (2), to have been paid not less than $200 of wages in each calendar year in which he had thirty days or more of active service after September 16, 1940.

This section shall not apply in the case of the death of any individual occurring (either on, before, or after the date of the enactment of this section) while he is in the active

military or naval service, or in the case of the death of any individual who has been discharged or released from the active military or naval service of the United States subsequent to the expiration of four years and one day after the date of the termination of World War II.

"(b) (1) If any pension or compensation is determined by the Veterans' Administration to be payable on the basis of the death of any individual referred to in subsection (a) of this section, any monthly benefits or lump-sum death payment payable under this title with respect to the wages of such individual shall be determined without regard to such subsection (a).

"(2) Upon an application for benefits or a lump-sum death payment with respect to the death of any individual referred to in subsection (a), the ~~Board~~ *Federal Security Administrator* shall make a decision without regard to paragraph (1) of this subsection unless ~~it~~ *he* has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such individual. The ~~Board~~ *Federal Security Administrator* shall notify the Veterans' Administration of any decision made by ~~the Board~~ *him* authorizing payment, pursuant to subsection (a), of monthly benefits or of a lump-sum death payment. If the Veterans' Administration in any such case has made an

adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, by reason of the death of any such individual, it shall notify the ~~Board~~ *Federal Security Administrator*, and the ~~Board~~ *Administrator* shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the ~~Board~~ *Federal Security Administrator* pursuant to subsection (a) to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of sec. 3 of the Act of August 12, 1935, as amended (U. S. C., 1940 edition, title 38, sec. 454a)) be deemed to have been paid to him by the Veterans' Administration on account of such accrued pension or compensation. No such payment certified by the ~~Board~~ *Federal Security Administrator*, and no payment certified by ~~the Board~~ *him* for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration, shall be deemed by reason of this subsection to have been an erroneous payment.

"(c) In the event any individual referred to in subsection (a) has died during such three-year period but before the date of the enactment of this section—

"(1) upon application filed within six months after the date of the enactment of this section, any monthly benefits payable with respect to the wages of such individual (including benefits for months before such date) shall be computed or recomputed and shall be paid in accordance with subsection (a), in the same manner as though such application had been filed in the first month in which all conditions of entitlement to such benefits, other than the filing of an application, were met;

"(2) if any individual who upon filing application would have been entitled to benefits or to a recomputation of benefits under paragraph (1) has died before the expiration of six months after the date of the enactment of this section, the application may be filed within the same period by any other individual entitled to benefits with respect to the same wages, and the nonpayment or underpayment to the deceased individual shall be treated as erroneous within the meaning of section 204;

"(3) the time within which proof of dependency under section 202 (f) or any application under 202 (g) may be filed shall be not less than six months after the date of the enactment of this section; and

"(4) application for a lump-sum death payment or

recomputation, pursuant to this section, of a lump-sum death payment certified by the ~~Board,~~ *Board or the Federal Security Administrator*, prior to the date of the enactment of this section, for payment with respect to the wages of any such individual may be filed within a period not less than six months from the date of the enactment of this section or a period of two years after the date of the death of any individual specified in subsection (a), whichever is the later, and any additional payment shall be made to the same individual or individuals as though the application were an original application for a lump-sum death payment with respect to such wages.

No lump-sum death payment shall be made or recomputed with respect to the wages of an individual if any monthly benefit with respect to his wages is, or upon filing application would be, payable for the month in which he died; but except as otherwise specifically provided in this section no payment heretofore made shall be rendered erroneous by the enactment of this section.

"(d) There are hereby authorized to be appropriated to the Trust Fund from time to time such sums as may be necessary to meet the additional cost, resulting from this section, of the benefits (including lump-sum death payments) payable under this title.

"(e) For the purposes of this section the term 'date of the termination of World War II' means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier."

SEC. 202. When used in the Social Security Act, as amended by this Act, the term "Administrator", except where the context otherwise requires, means the Federal Security Administrator.

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SEC. 301. STATE COVERAGE OF MARITIME WORKERS.

(a) The Internal Revenue Code, as amended, is amended by adding, after section 1606 (e) a new subsection to read as follows:

"(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the ~~Board~~ *Federal Security Administrator (or approved by*

the Social Security Board prior to July 17, 1946) under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the ~~conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States~~ *same limitation, with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (2) thereof) of subsection (b) of this section with respect to contributions required from instrumentalities of the United States and from individuals in their employ.*"

(b) The amendment effected by subsection (a) shall

not operate, prior to July 1, 1947, to invalidate any provision, in effect on the date of enactment of this Act, in any State unemployment compensation law.

SEC. 302. DEFINITION OF EMPLOYMENT.

That part of section 1607 (c) of the Internal Revenue Code, as amended, which reads as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—"

is amended, effective July 1, 1946, to read as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the

vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—".

SEC. 303. SERVICE ON FOREIGN VESSELS.

Section 1607 (c) (4) of the Internal Revenue Code, as amended, is amended, effective July 1, 1946, to read as follows:

"(4) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;".

SEC. 304. CERTAIN FISHING SERVICES.

(a) Section 1607 (c) (15) of such Code is amended by striking out "or" at the end thereof.

(b) Section 1607 (c) (16) of such Code is amended by striking out the period and inserting in lieu thereof the following: "; or".

(c) Section 1607 (c) of such Code is further amended by adding after paragraph (16) a new paragraph to read as follows:

"(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea,

sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States)."

(d) The amendments made by this section shall take effect July 1, 1946.

SEC. 305. DEFINITION OF AMERICAN VESSEL.

Section 1607 of such Code, as amended, is further amended, effective July 1, 1946, by adding after subsection (m) a new subsection to read as follows:

"(n) AMERICAN VESSEL.—The term 'American vessel' means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State."

SEC. 306. RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN.

The Social Security Act, as amended, is amended by adding after section 1201 (c) a new title to read as follows:

"TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

"SEC. 1301. This title shall be administered by the Federal Security Administrator~~, hereinafter referred to as 'Administrator'~~.

"DEFINITIONS

"SEC. 1302. When used in this title—

"(a) The term 'reconversion period' means the period (1) beginning with the fifth Sunday after the date of the enactment of this title, and (2) ending June 30, 1949.

"(b) The term 'compensation' means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

"(c) The term 'Federal maritime service' means service determined to be employment pursuant to section 209 (o).

~~"(d) The term 'Federal maritime wages' means remuneration determined to be wages pursuant to section 209 (o).~~

"(d) The term 'Federal maritime wages' means ~~remu-~~

neration determined pursuant to section 209 (o) to be remuneration for service referred to in section 209 (o) (1).

~~"(c) The term 'State' includes the District of Columbia, Alaska, and Hawaii.~~

~~"(f) The term 'United States', when used in a geographical sense, means the several States, Alaska, Hawaii, and the District of Columbia.~~

"COMPENSATION FOR SEAMEN

"SEC. 1303. (a) The Administrator is authorized on behalf of the United States to enter into an agreement with any State, or with the unemployment compensation agency of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b), to individuals who have performed Federal maritime service, and (2) will otherwise cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by this title.

"(b) Any such agreement shall provide that compensation will be paid to such individuals, with respect to unemployment occurring in the reconversion period, in the same amounts, on the same terms, and subject to the same conditions as the compensation which would be payable to such individuals under the State unemployment compensation law if such individuals' Federal maritime service and Federal

maritime wages had *(subject to regulations of the Administrator concerning the allocation of such service and wages among the several States)* been included as employment and ~~wages under such law, except that—~~

~~"(1) in any case where an individual receives compensation under a State law pursuant to this title, all compensation thereafter paid him pursuant to this title, except as the Administrator may otherwise prescribe by regulations, shall be paid him only pursuant to such law; and~~

~~"(2) the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.~~

wages under such law; except that the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States re-

lating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

"(c) If in the case of any State an agreement is not entered into under this section or the unemployment compensation agency of such State fails to make payments in accordance with such an agreement, the Administrator, in accordance with regulations prescribed by him, shall make payments of compensation to individuals who file a claim for compensation which is payable under such agreement, or would be payable if such agreement were entered into, on a basis which will provide that they will be paid compensation in the same amounts, on substantially the same terms, and subject to substantially the same conditions as though such agreement had been entered into and such agency made such payments. Final determinations by the Administrator of entitlement to such payments shall be subject to review by the courts in the same manner and to the same extent as is provided in Title II with respect to decisions by the ~~Board~~ *Administrator* under such title.

"(d) Operators of vessels who are or were general agents of the War Shipping Administration or of the United States Maritime Commission shall furnish to individuals who

have been in Federal maritime service, to the appropriate State agency, and to the Administrator such information with respect to wages and salaries as the Administrator may determine to be practicable and necessary to carry out the purposes of this title.

"(e) Pursuant to regulations prescribed by the Administrator, he, and any State agency making payments of compensation pursuant to an agreement under this section, may—

"(1) to the extent that the Administrator finds that it is not feasible for Federal agencies or operators of vessels to furnish information necessary to permit exact and reasonably prompt determinations of the wages or salaries of individuals who have performed Federal maritime service, determine the amount of and pay compensation to any individual under this section, or an agreement thereunder, as if the wages or salary paid such individual for each week of such service were in an amount equal to his average weekly wages or salary for the last pay period of such service occurring prior to the time he files his initial claim for compensation; and

"(2) to the extent that information is inadequate to assure the prompt payment of compensation authorized by this section (either on the basis of the exact wages or salaries of the individuals concerned or on the

basis prescribed in clause (1) of this subsection), accept certification under oath by individuals of facts relating to their Federal maritime service and to wages and salaries paid them with respect to such service.

"ADMINISTRATION

"SEC. 1304. (a) Determinations of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

"(b) For the purpose of payments made to a State under title III administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law.

"(c) The State unemployment compensation agency of each State shall furnish to the ~~Board, for the use of the Administrator, such~~ *Administrator such* information as the Administrator may find necessary in carrying out the provisions of this title, and such information shall be deemed reports required by the ~~Board~~ *Administrator* for the purposes of section 303 (a) (6).

"PAYMENTS TO STATES

"SEC. 1305. (a) Each State shall be entitled to be

paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

"(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

"(c) The Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment, at the time or times fixed by the Administrator, in accordance with certification, from the funds ~~appropriated to carry out~~ *for carrying out* the purposes of this title. *During the fiscal*

year ending June 30, 1947, funds appropriated for grants to States pursuant to title III shall be available for carrying out the purposes of this title.

"(d) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury upon termination of the agreement or termination of the reconversion period, whichever first occurs.

"(e) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the ~~administrator~~ *Administrator* may deem necessary, and may provide for the payment of the cost of such bond from appropriations for carrying out the purposes of this title.

"(f) No person designated by the Administrator, or designated pursuant to an agreement under this title, as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

"(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable

with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f).

"PENALTIES

"SEC. 1306. (a) Whoever, for the purpose of causing any compensation to be paid under this title or under an agreement thereunder where none is authorized to be so paid, shall make or cause to be made any false statement or representation as to any wages paid or received, or whoever makes or causes to be made any false statement of a material fact in any claim for any compensation authorized to be paid under this title or under an agreement thereunder, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Whoever shall obtain or receive any money, check or compensation under this title or an agreement thereunder, without being entitled thereto and with intent to defraud the United States, shall, upon conviction thereof, be find not more than $1,000 or imprisoned for not more than one year, or both.

"(c) Whoever willfully fails or refuses to furnish information which the Administrator requires him to furnish pursuant to authority of section 1303 (d), or willfully fur-

nishes false information pursuant to a requirement of the Administrator under such subsection, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than six months, or both."

TITLE IV—TECHNICAL AND MISCELLANEOUS PROVISIONS

SEC. 401. ~~DEFINITION OF "STATE" FOR PURPOSES~~ *AMENDMENTS* OF TITLE V OF SOCIAL SECURITY ACT.

(a) Effective January 1, 1947, section 1101 (a) (1) of the Social Security Act, as amended, is amended to read as follows:

"(1) The term 'State' includes Alaska, Hawaii, and the District of Columbia, and when used in Title V includes Puerto Rico and the Virgin Islands."

~~(b) The amounts authorized to be appropriated and directed to be allotted, for the purposes of Title V of the Social Security Act, as amended, by sections 501, 502, 511, 512, and 521 of such Act, are increased in such amount as may be made necessary or equitable by the amendment made by subsection (a) of this section, including the Virgin Islands in the definition of "State".~~

(b) Effective with respect to the fiscal year ending June 30, 1947, and subsequent fiscal years, title V of the Social Security Act, as amended, is amended as follows:

(1) Section 501 is amended by striking out "$5,820,000" and inserting in lieu thereof "$15,000,000".

(2) Section 502 (a) is amended to read as follows:

"SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Federal Security Administrator shall allot $7,500,000 as follows: He shall allot to each State $50,000, and shall allot to each State such part of the remainder of the $7,500,000 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 Administrator has available statistics."

(3) Section 502 (b) is amended by striking out "$1,980,000" and inserting in lieu thereof "$7,500,000".

(4) Section 511 is amended by striking out "$3,870,000" and inserting in lieu thereof "$10,000,000".

(5) Section 512 (a) is amended to read as follows:

"SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Federal Security Administrator shall allot $5,000,000 as follows: He shall allot to each State $40,000, and shall allot the remainder of the $5,000,000 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."

(6) Section 512 (b) is amended by striking out "$1,000,000" and inserting in lieu thereof "$5,000,000".

(7) Section 521 (a) is amended by striking out "$1,510,000" and inserting in lieu thereof "$5,000,000" and is further amended by striking out "$10,000" and inserting in lieu thereof "$30,000".

(8) Section 541 (a) is amended to read as follows:

"SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1947, the sum of $1,500,000 for all necessary expenses of the Federal Security Agency in administering the provisions of this title."

(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until appropriations have been made in accordance with such amendments, and allotments from such appropriations shall be made in such manner as may be provided in the act making such appropriations.

SEC. 402. CHILD'S INSURANCE BENEFITS.

(a) Section 202 (c) (1) of such Act is amended by striking out the word "adopted" and substituting in lieu thereof the following: "adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual)".

(b) Section 202 (c) (3) (C) is amended to read as follows:

"(C) such child was living with and was chiefly supported by such child's stepfather."

SEC. 403. PARENT'S INSURANCE BENEFITS.

(a) Section 202 (f) (1) of such Act is amended by striking out "*leaving* no widow and no unmarried surviving child under the age of eighteen," and inserting in lieu ~~therefor "no widow or child who would, upon filing application, be entitled to a benefit for any month under subsection (c), (d), or (e) of this section"~~ *thereof "if such individual did not leave a widow who meets the conditions in subsection (d) (1) (D) (E) or an unmarried child under the age of eighteen deemed dependent on such individual under subsection (c) (3) or (4), and*"; and by striking out in clause (B) thereof the word "wholly" and inserting in lieu thereof the word "chiefly".

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this Act filed after December 31, 1946.

SEC. 404. LUMP-SUM DEATH PAYMENTS.

(a) Section 202 (g) of such Act is amended to read as follows:

"LUMP-SUM DEATH PAYMENTS

"(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the ~~Board~~ *Administrator* to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

(c) In the case of any individual who, after December 6, 1941, and before the date of the enactment of this Act, died outside the United States (as defined in section 1101 ~~(h)~~ *(a) (2)* of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such Act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this Act.

SEC. 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS.

(a) Section 202 (h) of such Act is amended to read as follows:

"(h) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end of the third month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the ~~Board~~ *Administrator* has certified for payment for such prior month."

(b) The amendment made by subsection (a) of this

section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 406. DEDUCTIONS FROM INSURANCE BENEFITS.

(a) Section 203 (d) (2) of such Act (relating to deductions for failure to attend school) is repealed.

(b) Section 203 (g) of such Act (relating to failure to make certain reports) is amended by inserting before the period at the end thereof a comma and the following: "except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month".

SEC. 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL".

(a) Section 209 (h) of such Act is amended to read as follows:

"(h) The term 'currently insured individual' means any individual with respect to whom it appears to the satisfaction of the ~~Board~~ *Administrator* that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 408. DEFINITION OF WIFE.

(a) Section 209 (i) of such Act is amended to read as follows:

"(i) The term 'wife' means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him for a period of not less than thirty-six months immediately preceding the month in which her application is filed."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 409. DEFINITION OF CHILD.

(a) Section 209 (k) of such Act is amended to read as follows:

"(k) The term 'child' means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died."

(b) The amendment made by subsection (a) of this

section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS.

Section 209 of such Act is amended by adding after subsection (p) a new subsection to read as follows:

"(q) Subject to such limitation as may be prescribed by regulation, the ~~Board~~ *Administrator* shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed."

SEC. 411. ALLOCATION OF 1937 WAGES.

Section 209 of such Act is amended by adding after subsection (q) a new subsection to read as follows:

"(r) With respect to wages paid to an individual in the six month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were

paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained."

SEC. 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE.

(a) FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 1426 (a) (1) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1426 (a) (1)) is amended to read as follows:

"(1) 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, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar

year after 1946, is paid to such individual by such employer during such calendar year;".

(b) FEDERAL UNEMPLOYMENT TAX ACT.—Section 1607 (b) (1) of the Federal Unemployment Tax Act (Internal Revenue Code, sec. 1607 (b) (1)) is amended to read as follows:

"(1) 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 after December 31, 1939, and prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

SEC. 413. SPECIAL REFUNDS TO EMPLOYEES.

Section 1401 (d) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1401 (d)) is amended to read as follows:

"(d) SPECIAL REFUNDS.—

"(1) WAGES RECEIVED BEFORE 1947.—If by reason of an employee rendering service for more than

one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400, deducted from such wages and paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the employment was performed with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which the wages are received with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund. No refund shall be made under this paragraph with respect to wages received after December 31, 1946.

"(2) WAGES RECEIVED AFTER 1946.—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1946, the wages received by him during such year

exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund."

SEC. 414. DEFINITION OF WAGES UNDER TITLE II OF SOCIAL SECURITY ACT.

(a) So much of section 209 (a) of the Social Security Act, as amended, as precedes paragraph (3) thereof is amended to read as follows:

"(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—

"(1) 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 prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;

"(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any clendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;

"(3) That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;".

(b) The paragraphs of section 209 (a) of such Act heretofore designated "(3)", "(4)", "(5)", and "(6)" are ~~designated~~ *redesignated* "(4)", "(5)", "(6)", and "(7)", respectively.

SEC. 415. TIME LIMITATION ON LUMP-SUM PAYMENTS UNDER 1935 LAW.

No lump-sum payment shall be made under section 204 of the Social Security Act (as enacted in 1935), or under section 902 (g) of the Social Security Act Amendments of 1939, unless application therefor has been filed prior to the expiration of six months after the date of the enactment of this Act.

SEC. 416. WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS FOR DISABILITY BENEFITS.

(a) Paragraph (4) of subsection (a) of section 1603 of the Federal Unemployment Tax Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ": Provided, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

(b) The last sentence of subsection (f) of section 1607 of the Federal Unemployment Tax Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": Provided, That an amount equal to the amount of employee payments into the unem-

ployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration."

(c) Paragraph (5) of subsection (a) of section 303 of the Social Security Act, as amended, is amended by striking out the semicolon immediately before the word "and" at the end thereof and inserting in lieu of such semicolon the following: ": Provided, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

SEC. 417. EXPENDITURES NECESSITATED BY THIS ACT IN THE FISCAL YEAR 1947.

Expenditures to meet the increase, resulting from this Act, in the cost of administering the Social Security Act, and payments to the States pursuant to titles I, III, IV, V, X, and XIII of the Social Security Act, as amended by this Act, may be made during the fiscal year ending June 30, 1947, from appropriations available for these respective purposes, without regard to the apportionments required by section 3679 of the Revised Statutes (31 U. S. C. 665).

TITLE V—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

~~SEC. 501. OLD-AGE ASSISTANCE.~~

~~Section 3 (a) of the Social Security Act, as amended, is amended by striking out "$40" and inserting in lieu thereof "$50".~~

~~SEC. 502. AID TO DEPENDENT CHILDREN.~~

~~Section 403 (a) of such Act is amended by striking out $18 wherever appearing and inserting in lieu thereof "$27", and by striking out "$12" and inserting in lieu thereof "$18".~~

~~SEC. 503. AID TO THE BLIND.~~

~~Section 1003 (a) of such Act is amended by striking out "$40" and inserting in lieu thereof "$50".~~

~~SEC. 504. EFFECTIVE DATE OF TITLE.~~

~~The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946, and ending before January 1, 1948.~~

SEC. 501. OLD-AGE ASSISTANCE.

(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"(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 (1)

an amount, which shall be used exclusively as old-age assistance, equal to the Federal percentage (as defined in section 1108) of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each needy 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 $50, but the amount payable to the State by the United States with respect to any individual for any month shall not exceed $25; and (2) an amount equal to the Federal percentage of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose.".

(b) Section 3 (b) of such Act is amended (1) by striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)"; (2) by striking out "clause (1). of" wherever it appears in such subsection; (3) by striking out "in accordance with the provisions of such clause" and inserting in lieu thereof "in accordance with the provisions of such subsection"; and (4) by striking out ", increased by 5 per centum".

SEC. 502. AID TO DEPENDENT CHILDREN.

(a) Section 403 (a) of such Act is amended to read as follows:

"(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, an amount, which shall be used exclusively for carrying out the State plan, equal to the Federal percentage (as defined in section 1108) 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 $27, or if there is more than one dependent child in the same home, as exceeds $27 with respect to one such dependent child and $18 with respect to each of the other dependent children; but the amount payable to the State by the United States with respect to any dependent child for any month shall not exceed $13.50, or, if there is more than one dependent child in the same home, shall not exceed $13.50 for any month with respect to one such dependent child and $9 for such month with respect to each of the other dependent children."

(b) Section 403 (b) (1) of such Act is amended by striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)".

SEC. 503. AID TO THE BLIND.

(a) Section 1003 (a) of such Act is amended to read as follows:

"(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 (1) an amount, which shall be used exclusively as aid to the blind, equal to the Federal percentage (as defined in section 1108) of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each needy 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 $50, but the amount payable to the State by the United States with respect to any individual for any month shall not exceed $25; and (2) an amount equal to the Federal percentage of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) (1) of such Act is amended by

striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)".

SEC. 504. DEFINITIONS.

Such Act is amended by adding after section 1107 a new section to read as follows:

"'FEDERAL PERCENTAGE' AND 'STATE PERCENTAGE'

"SEC. 1108. (a) DEFINITION.—For the purposes of Titles I, IV, and X the 'Federal percentage' and 'State percentage' therein referred to shall be percentages determined as follows:

"(1) In the case of a State the per capita income of which is equal to or greater than the per capita income of the continental United States, and in the case of Alaska, Hawaii, and the District of Columbia, regardless of the per capita income, the Federal percentage shall be 50 per centum and the State percentage 50 per centum.

"(2) In the case of a State the per capita income of which is not more than 66⅔ per centum of the per capita income of the continental United States, the Federal percentage shall be 66⅔ per centum, and the State percentage shall be 33⅓ per centum.

"(3) In the case of every other State, the State percentage shall be one-half of the percentage which its per capita income is of the per capita income of the

continental United States (except that a fraction of one-half per centum or less shall be disregarded, and a fraction of more than one-half per centum shall be increased to 1 per centum), and the Federal percentage shall be 100 per centum minus the State percentage. In no case under this paragraph shall the State percentage be less than 33⅓ per centum or the Federal percentage greater than 66⅔ per centum.

"(b) ASCERTAINMENT OF PER CAPITA INCOME.—The Federal percentage and State percentage for each State shall be promulgated by the Administrator between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the continental United States as computed by the Department of Commerce for the three most recent years for which satisfactory data are available. Such promulgation shall for the purposes of this section be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation, and also, in the case of the percentages promulgated in 1946, for the three quarters beginning October 1, 1946, January 1, 1947, and April 1, 1947.

"(c) 'CONTINENTAL UNITED STATES'.—For the purposes of this section the term 'continental United States' does not include Alaska or Hawaii."

SEC. 505. EFFECTIVE DATE OF TITLE.

The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946.

TITLE VI—STUDY BY JOINT COMMITTEE ON INTERNAL REVENUE

TAXATION OF ALL ASPECTS OF SOCIAL SECURITY.

SEC. 601. The Joint Committee on Internal Revenue Taxation is authorized and directed to make a full and complete study and investigation of old-age and survivors insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto. The Joint Committee shall report to the Congress not later than October 1, 1947, the results of its study and investigation, together with such recommendations as it may deem appropriate.

SEC. 602. The Joint Committee is hereby authorized, in its discretion, to appoint an advisory committee of individuals having special knowledge concerning matters involved in its study and investigation to assist, consult with, and advise the Joint Committee with respect to such study and investigation. Members of the advisory committee shall not receive any compensation for their services as such members, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in connection with the performance of the work of the advisory committee.

SEC. 603. For the purposes of this title the Joint Committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

SEC. 604. The Joint Committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary in the performance of its duties under this title, but the compensation so fixed shall not exceed the compensation prescribed under the Classification Act of 1923, as amended, for comparable duties.

SEC. 605. The expenses of the Joint Committee under this title, which shall not exceed $10,000, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman.

TITLE VII—INCOME TAX PROVISIONS

SEC. 701. EMPLOYEES' ANNUITIES.

(a) Section 22 (b) (2) (B) of the Internal Revenue Code is amended by inserting before the period at the end thereof a colon and the following: "Provided, however, That

the amount contributed by an employer to a trust to be applied by the trustee for the purchase of annuity contracts for the benefit of an employee of said employer, shall not be included in the income of the employee in the year in which the amount is contributed if (i) the amount is contributed to the trustee pursuant to a written agreement entered into prior to October 21, 1942, between the employer and the trustee, or between the employer and the employee, and (ii) under the terms of the trust agreement the employee is not entitled, except with the consent of the trustee, during his lifetime to any rights under annuity contracts purchased by the trustee other than the right to receive annuity payments".

(b) The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1938.

Calendar No. 1906

79TH CONGRESS
2D SESSION

H. R. 7037

[Report No. 1862]

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

JULY 25 (legislative day, JULY 5), 1946
Read twice and referred to the Committee on Finance

JULY 27 (legislative day, JULY 5), 1946
Reported with amendments

them, jointly, to the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE—AMENDMENT

Mr. PEPPER. Mr. President, I ask unanimous consent to submit for reference to the Committee on Finance an amendment intended to be proposed by me to the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, and I request that an explanatory statement of the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, the amendment will be received and referred to the Committee on Finance, and the explanatory statement will be printed in the RECORD.

The explanatory statement is as follows:

EXPLANATION OF PROPOSED AMENDMENT TO H. R. 7037

TITLE VI. INCREASE IN AMOUNT OF INSURANCE BENEFITS

The amendment adding a new title VI to the bill increases the primary Federal old-age and survivors' insurance benefits under title II of the Social Security Act by an average of about $7 or $8 per month.

At the present time these insurance benefits average about $24 a month for an aged retired worker, $38 for a retired worker and wife, $20 for a widow, and $13 for a child.

The basis for computing these amounts was established in the law in 1939. Although the cost of living has incresed at least 40 to 50 percent since then. the insurance benefits have not been increased.

The amendment increases the average primary benefit of $24 a month by about $8, or one-third. The other benefits are increased proportionately.

Under the present law, the primary benefit is calculated by taking 40 percent of a person's average monthly wage up to $50 per month and 10 percent of the next $200 of average monthly wage. The amendment increases the benefit by allowing the full 40 percent on the first $75 instead of only $50. All other provisions in the law remain as they are now.

This amendment has been recommended by the Social Security Administration. Since the wages upon which contributions are paid under the insurance system have increased since 1939, there would be no relative increase in cost by this amendment based upon the 1939 actuarial estimates.

Under title V of the bill, provision is made for increasing the maximum payment for assistance to the aged, upon which Federal funds are available, from $40 to $50 a month. In this connection it should be noted that assistance payments to the aged have increased over 60 percent since 1939 while the insurance payments have not been increased.

It would seem only just to take account of these facts and increase the insurance benefits by the modest amount provided in the amendment.

TITLE VII. TOTAL DISABILITY INSURANCE BENEFITS

Title VII provides insurance benefits for total permanent disability under title II of the Social Security Act. The payment of such benefits would remove an anomaly in the existing old-age and survivors' insurance program. Benefits are now paid when the family's income is discontinued owing to the breadwinner's death or retirement after age 65, but not when the loss of wages is due to permanent total disability. Disability insurance would also remove a handicap under which the disabled worker is now placed under the present system. Prolonged disability impairs or destroys the rights he has accumulated under old-age and survivors' insurance, so that when he attains age 65 or dies his insurance benefits will be reduced or may not even be payable. With disability insurance this could not occur. His old-age and survivors' benefits could not lapse or diminish during his disability.

PRESENT LACK OF DISABILITY PROTECTION

Insurance against the loss of wages when the individual is incapacitated for work is the most common form of social insurance. At this time the United States is the only nation which insures workers against old age but not against permanent disability.

Disability insurance has long been available in this country through fraternal organizations and labor unions, commercial insurance carriers and pension plans instituted by employers for their employees. A very small proportion of workers, however, are covered by these schemes. Public permanent disability programs are at present limited to Federal and certain State and municipal employees and to work-connected accidents and injuries. For most wage earners in the United States, disability insurance exists only for work-connected disabilities under State and Federal workmen's compensation laws. Permanent disabilities of work-connected origin constitute not more than 5 percent of all permanent disabilities.

THE EXTENT OF PERMANENT TOTAL DISABILITY

On any day approximately 1,500,000 persons between the ages of 16 and 64 who would normally be in the labor force have been disabled 6 months or longer. Were it not for their long-continued disability, they would presumably be employed or seeking work. There is ample evidence that permanent total disability occurs more frequently and is more severe among families of very low incomes than among those with higher incomes. The burden of invalidity falls most heavily on those least able to bear it.

THE ECONOMIC BURDEN OF EXTENDED DISABILITY

To the worker the cost of extended disability is likely to be fourfold—the cessation of income, the cost of medical care and related items, the reduction or complete loss of his old-age and survivors' insurance protection, and, in many instances the constant services of an attendant, usually the wife or some other member of the family. Therefore, the threat to income security resulting from permanent disability is more catastrophic than that from old age or even premature death of the breadwinner. Disability, unlike old age, is unpredictable. It comes often prior to the termination of the productive years of life, even long before the individual has had a chance to make any substantial savings. Its victims are, by and large, individuals in the prime of life, often with family responsibilities, including young children. Its economic consequences, especially at present when there is no benefit protection, are much more burdensome than even death. At present, when the insured worker dies, the family with young children can look forward to some aid from social insurance, but in case of disability there is no

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE—AMENDMENTS

Mr. DOWNEY (for himself, Mr. O'MAHONEY, Mr. MURDOCK, Mr. MAGNUSON, and Mr. MITCHELL) submitted amendments intended to be proposed by

such aid, yet the family has the added burden of caring for the disabled breadwinner, meeting his medical costs, and frequently providing constant attendance to the disabled.

DESIRABILITY OF THE INSURANCE METHOD FOR DISABILITY

The insurance method is a desirable one for dealing with the risk of permanent disability. The cost of such disability falls with overwhelming effect on most families who are so unfortunate as to have the wage earner incapacitated for work. The unpredictability of the incidence of permanent disability and sometimes the suddenness of its onset make it an emergency for which individual foresight and saving are inadequate except through insurance. Only by this means can extended disability become a budgetable expense for the vast majority of wage earners. The risks of old age and death have been made a budgetable expense for these workers through the Federal old-age and survivors' insurance program, whereby they, with the help of their employers, can provide an income for themselves and their dependents after they have retired from gainful work, and for their survivors in the event of their death. The social insurance method is as applicable to the risk of disability as to that of old age or of death. Cash benefits paid in the event of total, permanent disability would enable the disabled wage earner and his family to live on income from his insurance and avoid resort to relief and public assistance. Thus, by enacting disability insurance the Congress would substitute dignified insurance benefits for relief based on a means test.

PUBLIC SUPPORT FOR PERMANENT DISABILITY INSURANCE

The need for partial wage replacement when the breadwinner is incapacitated and the reasonableness of social insurance as a method of dealing with the risk of permanent disability has been generally recognized. The Social Security Administration has long recommended such a program. The Advisory Council on Social Security, appointed by Congress in 1938, agreed unanimously on the social desirability of insurance protection against permanent disability.

The major labor groups—American Federation of Labor and the Congress of Industrial Organizations—have continuously urged the establishment of a program giving social insurance protection to permanently disabled wage earners.

The Chamber of Commerce of the United States, through a membership referendum of 1944, went on record in favor of a public system of cash insurance benefits for permanently disabled workers. Approval of a social-insurance program for workers forced to retire from work prematurely owing to total and permanent disability was expressed in 1945 by the Social Security Committee of the American Life Convention, the Life Insurance Association of America, and the National Association of Life Underwriters.

The American Medical Association, through its House of Delegates, in 1938 expressed unreserved endorsement of the principle of cash compensation for loss of earnings owing to disability. This was reaffirmed in recent years.

Representatives of agriculture, business, and labor, under the auspices of the National Planning Association, stated in 1944 that income losses attributable to disability should be provided against by social insurance. Many other religious, civic, fraternal, professional, and other organizations, such as the Council for Social Action of the Congregational Christian Churches; National Conference of Catholic Churches; National Council of Jewish Women in Washington, D. C.; National Farm Labor Union; National Farmers' Union; National Veterans' Committee; American Public Welfare Association; Fraternal Order of Eagles; National Federation of Settlements; and New York Academy of Medicine have endorsed a Federal insurance program against permanent disability. Experience under old-age and survivors' insurance has revealed to workers a serious gap in their protection left by lack of disability benefits, and an illogical distinction between provision for two similar economic risks of their employees—retirement owing to age and retirement owing to disablement.

DISABILITY PROVISIONS OF TITLE VII

Insurance protection against permanent total disability is provided in title VII by adding a new section at the end of title II of the Social Security Act. Disability insurance is thereby linked with old-age and survivors' insurance and fitted into the framework of that system. A primary insurance benefit would be payable to the insured wage earner who is determined to be incapable of work by reason of disability, and who has been disabled for at least 6 months. The amount of the primary benefit payable for disability will be calculated by the identical formula which applies in calculating the primary benefit payable for retirement, i. e., in relation to the average monthly wage of the insured person and his length of time under the insurance system. The individual's wife and child, and, in the event of his death, his survivors, would also receive benefits based on the primary insurance benefit. To be eligible the claimant must have both fully insured status, which assures his having had substantial attachment to covered employment, and currently insured status, which assures recent attachment. The disability benefit will terminate when the beneficiary recovers or when he dies. Thus, insurance protection will be available and benefits will be payable partially to replace the wage income which is discontinued owing to disability as well as owing to death or old age.

The bill, furthermore, provides for the continuation of old-age and survivors' insurance protection for the disabled person. The period of his disability is excluded in determining his average monthly wage and his insured status. Thus the absence of wage credits during the period of disability will not impair the rights of his survivors, should he die, nor his own rights to old-age benefits, should he recover and later reach retrement age.

The disability benefits provided in title VII are estimated to cost an average of about one-half of 1 percent of pay rolls to 1 percent of pay rolls over the long run of the insurance system. The actual disbursements in the early years would be less while they would be somewhat more 20 to 30 years from now.

HOUSE BILL REFERRED

The bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

OLD-AGE VARIABLE GRANTS

During the delivery of Mr. RUSSELL'S speech,

Mr. FULBRIGHT. Mr. President, will the Senator from Georgia yield to me?

Mr. RUSSELL. I yield.

Mr. FULBRIGHT. Mr. President, I just learned a moment ago that the Committee on Finance has ordered to be reported out House bill 7037, a bill to amend the Social Security Act and the Internal Revenue Code, and for other purposes, and has adopted to that bill an amendment, the substance of the bill which I introduced last December 4 in the form of Senate bill 1653.

I ask unanimous consent to have inserted in the RECORD an explanation by me of Senate bill 1653, which is applicable to the amendment to the bill (H. R. 7037), which has been ordered to be reported by the Committee on Finance. I also ask that immediately following the explanation there may be printed in the RECORD a letter from the Chairman of the Social Security Board, of date April 10, 1946, which also explains the purpose of the amendment, and that there also may be printed in the RECORD two letters—one from the Honorable Robert S. Kerr, Governor of the State of Oklahoma, and one from the Honorable Jim McCord, Governor of the State of Tennessee—giving what I think are typical statements by many governors regarding this bill. In fact, I have 23 or 24 letters similar to these, but I see no reason to have them all inserted in the RECORD at this time.

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

OLD-AGE VARIABLE GRANTS

(Statement by Senator J. W. FULBRIGHT, of Arkansas, in behalf of an amendment to H. R. 7037, to provide for more equitable Federal contributions to States for old-age assistance based on the per-capita income in each State in proportion to the national income)

The amendment I have introduced and which has been approved by the Committee on Finance is designed to relieve existing inequalities in the application of Federal old-age assistance to citizens residing in States where local governments are unable to meet the Federal contributions available in more wealthy States.

There should be no penalty on the aged needy because they happen to reside in a section of the Nation where the per capita income will not permit the State and local governments to meet Federal contributions. The cost of living is practically the same, and in many sections of our country these old people do not now receive an amount sufficient to provide the bare necessities of life. In these communities the local taxpayers already pay mare in proportion to those residing in more wealthy sections, and it is beyond their ability to meet the increased taxes required to provide actual needs. If provision is made so they may take advantage of the Federal contributions available, it will go a long way to relieve this deplorable condition.

Under present laws, with the Federal Government contributing an amount equal to that appropriated or authorized by the State in which a claimant happens to live without regard to the cost of living or what the pensioner needs for a minimum standard of living, persons residing in the poorer States are denied the essentials of life. For the entire Nation, the average monthly payment to needy old people is $31.32 per month, but in 9 of the 12 lowest-income States the average, in spite of substantial increases in recent years which has cost the local taxpayer a far greater percentage of their income than in the wealthier States, the average is less than $20; and in 5 of those 9 States it is less than $15. In my own State the average is only $16.87.

Cost of living studies do not show large or clearly defined differences among the States and regions in the costa of identical essential needs in food, clothing, and housing. Yet, when the need is as great and the fiscal ability is low, local officials have no recourse but to reduce the payment of old-age assistance below the actual minimum cost of living. Because the welfare of each section of the country is of concern to all sections, it is believed that in meeting the actual welfare needs of our aged needy, no matter where they happen to live, the general public welfare of all the people will be improved.

The principle of granting more State aid to poorer localities has already been well established in Federal aid to education, and it would seem that, admitting the importance of aid to education, our aged poor, no matter where they live, should be given the same consideration, to enable them to secure food, clothing, and housing that is essential to human needs.

This principle has been endorsed by the Council of State Governments, the American Public Welfare Association, and other interested and informed groups. The Social Security Board has recommended to Congress that the Federal Government provide special aid for public assistance to States with low economic capacity on an objective basis.

The Chairman of the Social Security Board, in commenting on this proposal, stated that it was "in essential agreement with recommendations made by the Social Security Board for amendment of the Federal matching provisions of the Social Security Act, not only for old-age assistance but also for aid to dependent children and aid to the blind."

The Ninth Annual Report of the Social Security Board for the fiscal year 1943–44 included the following statement regarding the basis of Federal grants to States:

"Under the Social Security Act, the Federal Government matches, dollar for dollar up to a given amount a month, the assistance payment made to a needy old or blind person or a dependent child under a State plan approved by the Social Security Board. Within the limits on Federal matching, the amount of the Federal grant to the State for any of these assistance programs, therefore, is fixed by the amount provided by the State, or the State and its localities. States differ greatly in income and therefore in potential capacity to finance adequate assistance programs. In 1943 per capita income ranged from $1,452 in the high State to $484 in the State where average income was least. Average income increased in 1943 in all but one State, where it already was high, but the range and ranking remained about the same as in 1943. States with a high level of income can make relatively large appropriations for public assistance and thus qualify for relatively large Federal grants, though the extent of need among their people may be less than it is in States which can afford only small amounts and get only small Federal grants.

"Studies of the Board have led to the conclusion that differences in the economic and fiscal capacity of States are the greatest single cause of the even wider variations in levels of assistance. Among States administering public assistance under the Social Security Act, average payments for each of the three special types of assistance in June 1944 were about four times as much in the highest State as in the State where the average was lowest. In general assistance, financed wholly from State and local funds, differences were even greater, and the average in the highest State was more than six times that in the lowest.

"The average assistance payment in each State is made up, of course, of differing individual amounts, since the payment to a recipient supplements what resources he himself may have: individual assistance payments under these four programs range from a few dollars a month to—in a very few States—more than $100 for an occasional recipient in exceptional circumstances. A low average for a State might be due to the fact that the recipients on the rolls needed only small amounts to supplement what they themselves had. Actually, however, the low averages occur almost without exception in States where per capita income and fiscal resources are low. The low averages result, in general, from the meagerness of payments to persons who have little or nothing but their payments. In such States, moreover, some needy persons eligible under the State law may get no aid whatever because funds are lacking.

"The Social Security Board reaffirms a recommendation made in earlier reports that special Federal aid for public assistance be provided on an objective basis to States with low economic and fiscal capacity. Such provision is essential if standards of assistance are to be equitable and more nearly adequate in all States. Just as the Board believes that the Federal share should vary with economic capacity of the States, it believes that Federal and State funds should be distributed to localities in relation to their needs and, where the localities participate in financing, also in relation to their financial ability."

When this bill was before the House of Representatives it was pointed out by Representative COOLEY, of North Carolina, that those States which are unable to increase their appropriations for assistance to the aged residing in such States would receive no benefits whatever from the authorization

in this bill; in order to qualify, they must match the Federal contributions dollar for dollar, which is simply impossible, so far as some of our poorer States are concerned. My amendment would correct this inequality.

Representative GORE, of Tennessee, in speaking in the House on this phase of the bill, commented:

"The fundamental fact stands—and the committee in their report of July 1 gave eloquent recognition of the fact—that in many States the program is operating inequitably, unjustly, and unfairly, for the simple reason that many States cannot match Federal funds already available, though the record shows that the poor States are making a relatively greater effort than the rich States. How does it operate? The proof of the pudding is in the eating. The Federal Government is now paying more than three times as much to a needy old man or woman or a blind person in one State as in another, and this bill would but worsen that inequity. Need cannot be measured by State lines."

Representative JOHN M. ROBSION, of Kentucky, stated that:

"Only a very limited number of States under the present law have been able to match the $20 of the Federal Government. Very few States pay as much as $40 for the needy aged. Kentucky, under its laws, cannot pay more than $30. It can be seen at once that Kentucky does not come up to the requirements of the present law, and this law increasing the Federal matching to $25 would not benefit the needy aged of Kentucky at all.

"I wish also to point out that under this amendment there would be approximately $27,000,000 of benefits go to the needy aged of the various States. However, the State of California would get approximately one-half of this $27,000,000, and only a very limited number of rich States would receive any benefits. An overwhelming majority of the States would be cut out entirely. I regret to say that Kentucky, on an average, pays only about $11 to the needy aged. I have stated many times that this sum is totally inadequate and there should be a substantial increase, for a real needy old person should not receive less than $30 a month, and, under the present law, they could receive $40 a month if the State of Kentucky would put up $20 a month to match the Federal funds."

The able Senator from Arizona [Mr. MCFARLAND], speaking in the Senate last January in behalf of increased aid to the aged, blind, and dependent children, said:

"What has happened in this country is that several million people—adults and children—are forced to live on an amount which in these days, of higher prices is insufficient to provide the bare necessities of life. Even supposing that every aged person or every blind person who depends upon social security payments for a living receives the maximum amount of $40 a month, will anyone contend that one can live on $40 a month in these days. Where can one buy 30 days' supply of food for $40, with staples costing what they do now? And where are rent, clothing, and the many other necessities to come from?

"Because they are not represented nationally by a union or a chamber of commerce or a trade association, we in Congress have been blind to their plight.

"I believe that when Congress passed the social-security legislation it meant what it said—social security. Certainly, the present scale of payments—even the maximum payments—do not mean social security to millions of people in this country.

"If it was social security 10 years ago, it certainly is not social security today. That much is perfectly obvious to anyone who knows anything at all about the cost of living today.

"I, for one, will not sit idly by, silently and unprotesting, while American citizens—honest, decent, worthy Americans who have worked all their lives and have reached old age without the means to live decently—are permitted to starve in a genteel manner. That is what is happening to many of them today."

I agree entirely with the observations of the Senator from Arizona, and feel that, as much as I am in favor of this Nation giving aid to starving peoples all over the world, wherever there is hunger and need, I, nevertheless, believe that such aid should be granted on a basis of actual need and not because of their geographical homes. It is only logical, therefore, that the same principle should apply in our own Nation, and that our own people who need food, clothing and other essentials should have our first consideration.

The formula for additional Federal aid to the aged needy contained in my amendment is essentially the same as that in the Hospital Survey and Construction Act recently approved by the Senate. I submit herewith, for the information of the Senate, a letter from the Chairman of the Social Security Board explaining the proposal, and also a chart showing the application of the amendment to the various States. This table shows that at present 17 States would have an income that is above the average national income, and would receive no additional benefits under such a formula, but the remainder of the States would qualify for increased Federal contributions, running up to as high as 75 percent, in the case of the State of Mississippi. My own State of Arkansas would receive 74 percent Federal contributions instead of the present 50 percent.

This is not, however, a sectional issue, since Vermont and New Hampshire, New England States, are confronted with the same discrimination, qualifying for 57 and 60 percent contribution, respectively, under this amendment, as are some of the Western States, such as Arizona, South Dakota (59 percent) and others where there is the same essential need as in the Southern States. I believe that Members of the Senate who take the time to study this problem and its ramifications will agree that it is unfair that States with a higher per capita income should receive a greater amount from the Federal Government for the benefit of its needy citizens than other States which are less able to take care of the residents of these particular States—they are all citizens of the United States and entitled to equal consideration and treatment under the law.

The present discrimination against citizens who happen to reside in agricultural States, as against those who live in industrial areas where the income is higher, is not in accordance with the accepted American traditions. If these people who have devoted their lives to supplying the Nation with food and raw materials for their essential requirements have been underpaid and received less than a fair return for their labors during a lifetime, certainly our Nation should not continue to deny them the adjustments to which they have long been entitled, or be so callous as to deprive them of the very necessities of life when they are no longer able to work the long hours at hard labor to which they have been accustomed all their lives. We have always given an ear and a helping hand to the needy, no matter from whence they came; it is time we acted to help our own.

If the amendment, providing for old-age variable grants, is approved by the Congress, I shall then endeavor to procure the enactment of similar amendments to the Social Security Act for the blind, and for dependent children, to bring about a more equitable system of Federal aid to these groups as well as to our aged needy.

FEDERAL SECURITY AGENCY,
SOCIAL SECURITY BOARD,
Washington, D. C., April 10, 1946.

Hon. J. W. FULBRIGHT,
United States Senate,
Washington, D. C.

DEAR SENATOR FULBRIGHT: This is in reply to your letter of March 14. The particular formula for Federal grants to the States used in the bill which you introduced (S. 1653) is the same for all low-income States as that used in S. 191, the Hospital Survey and Construction Act, recently passed by the Senate. I am attaching a copy of the Senate committee report which shows on page 16 in the column headed "Federal percentage" that Arkansas would receive from the Federal Government 74 percent of its total expenditures. Under your bill, of course, no State would receive less than 50 percent from the Federal Government while under S. 191 the minimum is 33⅓ percent.

It is my personal opinion that the particular formula included in your bill is the best of all the various formulas I have seen which use per capita income as a basis of varying the Federal Government's contribution. Of course, the question as to the minimum and maximum amounts of the Federal contribution is a question of broad policy which the Congress must decide in the light of various considerations, such as the relation to other Federal-State programs, and cost to the Federal Treasury.

Sincerely yours,

A. J. ALTMEYER,
Chairman.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, Okla., December 17, 1945.

Hon. J. W. FULBRIGHT,
United States Senator,
Washington, D. C.

DEAR SENATOR FULBRIGHT: I want to thank you for your letter of December 7 with which you sent me a copy of a bill (S. 1653) which you have introduced in the United States Senate, together with your statement—the bill and your statement relating to the matter of computing the amounts of grants to States for old-age assistance on the basis of the financial resources of the several States.

You are to be commended for introducing this bill. Such legislation, making provision for a substantial increase in old-age assistance allowances, through additional Federal computation and without further cost to the States, will be appropriately helpful.

I will indeed be glad to go over the matter of your bill with our Oklahoma delegation.

With all good wishes, I am,

Sincerely yours,

ROBT. S. KERR.

TENNESSEE EXECUTIVE OFFICE,
Nashville, December 14, 1945.

Hon. J. W. FULBRIGHT,
Senate Office Building,
Washington, D. C.

DEAR BILL: I have your letter and copy of bill S. 1653 and the very interesting statement.

I have gone over this bill with the Commissioner of the department of public welfare and we feel that there is a world of merit in it. There is to be a meeting of welfare commissioners of several Southern States in Birmingham in the near future and at this meeting most serious consideration will be given to the endorsement of your bill. I appreciate very much your thoughtfulness in sending me this copy and I am glad to tell you that the welfare department of my State is pleased with it.

Thank you for the personal note, and while I am glad I am not in Washington at this time, I must admit there is a lot going on around here all the time. I hope that you

can drop in sometime and have a little visit with us.

With sincere good wishes for a happy holiday season, I am

Sincerely,

JIM
(Jim McCord).

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE

The bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, was announced as next in order.

Mr. TAFT. Mr. President, I think I must object to having the bill taken up during the call of the calendar. I think this matter is of such tremendous importance that we should have more time to discuss it, rather than be limited by the 5-minute rule, as we are during the call of the calendar.

I have no objection to taking up the bill now, if the Senator in charge of the bill wishes to make such a motion. But I think there should be some discussion of the amendments.

Mr. GEORGE. Mr. President, if this measure is to be passed at this session, it is necessary that quick action be taken upon it, so that it may be returned to the House of Representatives. Even now it is doubtful whether the House will have an opportunity to pass on the amendments which may be adopted by the Senate. Of course, I am frank to concede that the measure is important.

Let me make a statement about it. While there are seven titles to the bill, title I simply freezes the social security tax at 1 percent, rather than to have it increased to 2½ percent next January. The Senate has acted upon that matter three or four times.

The language of title II of the bill was passed by the Senate approximately 6 or 8 weeks ago, and there have been no changes made in it by the House except those of purely technical nature.

Title III of the bill provides for unemployment compensation for maritime workers. That is merely a provision of a bill which the Senate passed 12 months ago, and which has been before the Ways

and Means Committee of the House of Representatives since then.

Title V is purely technical. It relates to State grants for old-age assistance, aid to dependent children, and aid to the blind. The matters contained under that title present an important subject matter for the consideration of the Senate.

The present rate of $40 would be increased to $50. That, of course, would create a liability on the Federal Government for an additional $10 a month in the case of old-age assistance, aid to dependent children, and aid to the blind.

Title VI of the bill simply provides for a study to be made by the Joint Committee on Internal Revenue Taxation of all aspects of social security, and a report be made to the Congress next year. The language under that title is substantially the same as that contained in a measure which was introduced by the distinguished Senator from Michigan [Mr. VANDENBERG], and was passed by the Senate sometime last year.

Mr. President, three of the titles of the bill have already been acted upon by the Senate. Title I of the bill is not at all new to the Senate. It merely involves freezing for the calendar year 1947 the Federal contribution tax of 1 percent against the employer and 1 percent against the employee.

Title V of the bill, which introduces the variable-grant principle, is, of course, important.

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

Mr. GEORGE. I shall be glad to have the Senate proceed to the consideration of the bill at this time without regard to the 5-minute rule, if I can obtain unanimous consent of the Senate that consideration of the bills be proceeded with. I may say to the Senator from Kentucky that I understand his program, and I shall be willing to have the bill laid aside, if necessary, in order to carry out his program.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. DOWNEY. Mr. President, reserving the right to object, I was not present when the distinguished Senator began speaking. I do not know what are the intentions of the majority leader and the Senator from Georgia. But some of us have certain amendments which we desire to propose, and there will be some argument which we shall feel compelled to make.

Mr. GEORGE. That is why I ask unanimous consent that the bill be taken up without regard to the 5-minute rule.

Mr. DOWNEY. Would it then be the desire of the majority leader and the distinguished Senator from Georgia to attempt to complete consideration of the bill tonight?

Mr. GEORGE. If possible, yes; because unless the bill goes to the House by tomorrow there will be no liklihood of the House acting upon it. I may say to the Senator from California that there is a high probability that the House will not act upon it in any event.

Mr. DOWNEY. Mr. President, still reserving the right to object, while it is my own intention to make my argument on the bill as brief as possible, the subject matter of the bill is of great importance to millions of our people. I should like to see an arrangement made to take up the bill tomorrow rather than tonight. I see no chance of finishing it by 7:30 tonight. The unanimous-consent request of the Senator would not limit us in our debate, would it?

Mr. GEORGE. Not at all. We could proceed as far as possible with the consideration of the bill.

Mr. DOWNEY. I would make no objection to the request of the Senator from Georgia.

Mr. FERGUSON. Mr. President, if the unanimous consent request of the Senator from Georgia is granted, will it result in interfering with the Senate's consideration of a bill on the calendar which was temporarily passed over.

Mr. GEORGE. I would be entirely willing to consent that consideration of the bill be temporarily laid aside in order to take up other bills.

Mr. FERGUSON. Mr. President, I ask unanimous consent that the Senate recur to Calendar No. 1864, Senate bill 2127. I made an objection to the Senate considering the bill when it was called in the first instance.

Mr. GEORGE. If I can obtain unanimous consent that the Senate proceed this afternoon to the consideration of the bill to which I have been referring, I will agree temporarily to lay aside consideration of the bill in order to take up and consider other bills.

Mr. FERGUSON. Consideration of the bill to which I refer would take only a moment.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. KNOWLAND. Mr. President, I object at this time.

Mr. GEORGE. Mr. President, I shall be compelled to move that the Senate proceed to consider the bill because I will not assume the responsibility of permitting the bill to die in the Senate. Although the House did not message the bill to the Senate until last Friday, the Senate Finance Committee expected that the bill would be acted upon by the Senate. The committee examined the bill carefully and made a study of it.

Mr. KNOWLAND. Mr. President, I did not object to the Senate proceeding to consider the bill about which the Senator from Georgia has been talking. I had reference to the request of the Senator from Michigan.

Mr. FERGUSON. Will the Senator be willing to receive an explanation as to how some of us wish to have the bill amended?

Mr. KNOWLAND. I shall be glad to hear an explanation.

Mr. FERGUSON. Mr. President, will the Senator from Georgia yield to me in order that I may make such explanation?

Mr. GEORGE. I yield.

The PRESIDENT pro tempore. The time of the Senator from Georgia has expired. The question is on agreeing to the unanimous consent request of the Senator from Georgia that the Senate proceed to consider House bill 7037.

Mr. McCARRAN. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McCARRAN. As I understand the parliamentary situation, we have not yet concluded the call of the Consent Calendar.

The PRESIDENT pro tempore. We are now discussing the last bill on the calendar.

Mr. GEORGE. Yes; we had reached the last bill. I will renew my request after the bills which have been temporarily passed over on the calendar are disposed of by the Senate.

Mr. BARKLEY. Mr. President, under a reservation to object, I wish to make a statement to the Senator from Georgia and to other Senators.

It had been my purpose to move, at the conclusion of the call of the calendar, to proceed to the consideration of Calendar No. 628, House bill 7, known as the poll tax bill. It was also my purpose to file a petition for cloture after the bill had been made the unfinished business. The petition would be voted upon next Wednesday. It has appeared to me that if I am permitted to file the petition today there will be no need between now and Wednesday for the Senate to debate the matter. If permitted to make the bill the unfinished business and to file my petition, I believe the Senate could then temporarily lay the bill aside for the consideration of such other bills as may be urgent, until a vote is had on the cloture petition on Wednesday, at which time we would know whether we could bring the bill to a vote.

I realize the importance of the bill about which the Senator from Georgia has been speaking. It was voted for by the Committee on Finance a few days ago, and should be considered. But I believe that under such an arrangement as the one which I have proposed, we could have practically all day tomorrow for the consideration of bills of the nature of those to which I have referred, including the bill of the Senator from Georgia.

Mr. MAYBANK. Mr. President——

Mr. GEORGE. Mr. President, I ask unanimous consent that I may yield to the Senator from South Carolina.

Mr. MAYBANK. Mr. President, before the Senator from Kentucky made the statement which he has just made, I thought I would state, and I now do, that the bill of which the Senator from Georgia speaks is one of the most important bills ever to come before this body. The Senator from Georgia said that he did not know what the House might or might not do with regard to the bill. I hope that the Senate will never recess or adjourn until it has given consideration to this bill, which means so much to the poor people of this country. It is far more important to the working people and the poor people in the South than are such measures as the poll-tax bill.

Mr. BARKLEY. Mr. President, in my judgment the program which I have suggested would not only not interfere with the consideration of the bill which the Senator from Georgia has discussed, but it would actually facilitate its disposal. It was for that reason that I felt that

I should make the statement which I have made.

Mr. JOHNSON of Colorado. Mr. President, reserving the right to object, I am very much in favor of the bill which the Senator from Georgia has discussed. I hope that the Senate will consider it. But when he refers to the Consent Calendar, does he mean that such bills as the Senate has passed over are still to be considered on the unanimous-consent basis?

Mr. GEORGE. I referred to those bills which had been temporarily passed over.

Mr. JOHNSON of Colorado. But still there are bills to be considered on the unanimous-consent basis?

Mr. GEORGE. Yes; under the rule.

Mr. ANDREWS. Mr. President, I have given notice that I am going to call up Calendar No. 494, Senate bill 1250, for the relief of certain claimants who suffered losses and sustained damages as the result of the campaign carried out by the Federal Government for the eradication of the Mediterranean fruitfly in the State of Florida. I trust that no arrangements at this time will interfere with that notice. If I have to do so, I shall move that the bill be taken up at the present time, to be considered in due order. I do not know what the arrangement is for the business of the Senate. As I stated this morning, an identical bill is on the House Calendar, and can be considered now and passed, and this is the last opportunity I shall have. I have sponsored this measure for the past 7 years, much time has been devoted to it, and much money spent in examining into the claims. A joint committee has recommended that the claims be paid. I shall have to insist that the bill be considered at this time, or tomorrow.

The PRESIDENT pro tempore. The question before the Senate is the request of the Senator from Georgia [Mr. GEORGE] for unanimous consent to proceed with House bill 7037, proposing an amendment to the Social Security Act. Is there objection?

Mr. DOWNEY. Mr. President, I understand that coupled with that statement is the request that the 5-minute limitation shall not apply to any of the arguments on the bill.

Mr. GEORGE. Exactly. The request is made in lieu of a formal motion.

The PRESIDENT pro tempore. Without objection——

Mr. GUFFEY. Mr. President, I know of one Senator who desires to make a 2-hour speech on the bill, and I should like to know from the majority leader what effect that would have on legislation this week.

Mr. BARKLEY. Mr. President, I never know what effect a 2-hour speech from any Senator will have on legislation.

Mr. GUFFEY. I am not going to make the speech.

Mr. BARKLEY. Our legislative program is in such condition that I hope no Senator will feel compelled to make a 2-hour speech.

Mr. GUFFEY. He can do it.

Mr. BARKLEY. I ask the Senator from Georgia to withhold his request for a moment, to see whether I can carry out the program I had in mind, by moving that another bill be made the unfinished business, and, then, if that motion carries, asking that it be temporarily laid aside until the Senator's bill can be considered.

The PRESIDENT pro tempore. Is there objection?

Mr. RUSSELL. Reserving the right to object, I wish to submit a parliamentary inquiry. In the event the Senator from Kentucky moved to take up the bill he has mentioned, and my distinguished colleague were to ask to proceed to the consideration of his bill, what would be the status of a bill on the calendar that was temporarily passed over? What right would the sponsors of that bill have?

The PRESIDENT pro tempore. The right at any time to ask that it be taken up by unanimous consent. That would be the only way it could be taken up.

Mr. BARKLEY. Unanimous consent could be requested just as well as if we were proceeding under the call of the calendar.

Mr. RUSSELL. We always have a right to ask unanimous consent to take up a bill, but as a rule when other legislation is pending it is more difficult to get it up than on a call of the calendar.

Mr. McCARRAN. Mr. President, if the matter in the hands of the Senator from Michigan could be cleared away, that would remove one hurdle, and it would take only a minute.

Mr. BARKLEY. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 628, House bill 7, the bill relating to the prepayment of poll taxes as a prerequisite for voting.

Mr. TAFT. Mr. President, a point of order.

The PRESIDENT pro tempore. The Senator will state it.

Mr. TAFT. The call of the calendar has not yet been completed, has it?

The PRESIDENT pro tempore. Yes; it has been completed.

Mr. TAFT. Objection was made to the last bill on the calendar?

The PRESIDENT pro tempore. Objection was made to the last bill.

The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 7) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.

Mr. BARKLEY. Mr. President, I submit a petition under rule XXII.

The PRESIDENT pro tempore. The Parliamentarian advises the Chair that

it is the duty of the Chair to read the petition to the Senate. It is as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (H. R. 7) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers.

ALBEN W. BARKLEY, H. M. KILGORE, ELBERT D. THOMAS, ROBERT M. LA FOLLETTE, Jr., JAMES M. TUNNELL, JAS. E. MURRAY, JOSEPH F. GUFFEY, HOMER FERGUSON, A. H. VANDENBERG, ROLT. A. TAFT, SHERIDAN DOWNEY, ROBERT F. WAGNER, CLAUDE PEPPER, JAMES W. HUFFMAN, DAVID I. WALSH, BRIEN MCMAHON, SCOTT W. LUCAS, THEODORE FRANCIS GREEN, WM. F. KNOWLAND, KENNETH S. WHERRY, ARTHUR CAPPER, H. ALEXANDER SMITH, WARREN G. MAGNUSON, JAS. M. MEAD, HUGH B. MITCHELL, WALLACE H. WHITE, Jr., GEORGE D. AIKEN, GLEN TAYLOR.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BARKLEY. Under the rule, this motion will be voted upon 1 hour after the Senate convenes on Wednesday. Is that correct?

The PRESIDENT pro tempore. That is correct, provided the Senate is in session tomorrow.

Mr. DONNELL. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. DONNELL. As I understand, the motion is one to bring about a close of debate. My parliamentary inquiry is twofold. First, is a debate in progress, and second, is a motion at this time in order if there is no debate in progress?

The PRESIDENT pro tempore. The Chair is advised that the motion is in order. There is a debate going on at this time. The Chair does not believe the Senate was ever in session when there was no debate going on.

Mr. DONNELL. I had not heard the debate begin, but perhaps I was in error.

Mr. BARKLEY. Mr. President, in view of the situation, I now ask unanimous consent that the unfinished business be temporarily laid aside so that the Senator from Georgia [Mr. GEORGE] may bring up Calendar No. 1906, House bill 7037.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Kentucky that the unfinished business be temporarily laid aside?

Mr. MORSE. Mr. President, reserving the right to object, if I may, I wish to make a very brief comment on the filing of the cloture petition, because I think it a very extraordinary procedure that a cloture petition, usually filed for the purpose of bringing to an end a filibuster, should be filed before a debate in fact proceeds on H. R. 7. I want to say in all sincerity that I think the procedure is not only extraordinary but a clear subterfuge. I do not think this occasion should pass without calling attention to exactly the parliamentary procedure and strategy that is being used in the Senate at this time.

For months past there has been a desire and an attempt to bring up H. R. 7 for debate and consideration on its merits in the Senate of the United States. Every time that attempt has been made the opponents have found ways and means of preventing its consideration on the merits. But now apparently, in order to close the session and make a political record, so to speak, on paper, with respect to H. R. 7, the people of this country are witnessing this very interesting procedure in the Senate this afternoon. I think it would be better if the Senate simply served notice on the people of this country that there is no real intention in this body to present H. R. 7 and have a full debate on its merits. I think the filing of the cloture petition clearly shows that. Certainly I would sign a cloture petition to stop a filibuster on this measure, but when the cloture petition was presented to me for signature this afternoon, I refused to sign it, because I do not believe in taking part in what is in this case nothing but a pure farce.

I think it is well known that on Wednesday this petition is going to be voted down, because there is no intention on the part of the majority of the Members of the Senate, in my honest judgment, to stay here long enough to reach a vote on the merits and maintain a quorum so that we can have a consideration of this matter on its merits. To do that we must stay here and break a filibuster. I think it is our duty to do so. I am not interested in making a so-called political record on H. R. 7 for election purposes as is the Democratic Party, but I am interested any time that the Senate is ready to give careful consideration of H. R. 7, to debate it on its merits, and urge its passage on the merits.

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

Mr. BARKLEY. I yield.

Mr. DONNELL. I desire to make a very brief word of comment on this procedure. I made the inquiry a few moments ago because in my judgment there has not been started any debate upon this question. I have heard not one word of debate upon it since the bill was made the unfinished business.

Mr. President, it seems to me the theory of cloture is that after debate has proceeded, it is proper to file a motion in order that the debate may be confined within reasonable limits.

Mr. President, no debate has taken place. Not one word of utterance on this bill, so far as I have heard, has taken place. Without expressing an opinion whatsoever upon the merit of the proposed legislation, I want to protest most vigorously and in utmost sincerity against the use of this cloture petition at this time, when no debate is in fact in progress.

I ask the President pro tempore of the Senate again for a further statement on the parliamentary inquiry; First, is a debate in progress; and, second, is the filing of the petition for cloture under the present state of procedure in order?

Mr. McFARLAND. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. Let the Chair answer the first inquiry. The bill has been taken up, and since it was taken up Senators, in their usual way, talked about everything else except the bill. Whether that is debate on the bill or not the Chair does not attempt to say. Each Senator will have to decide that for himself. There have been no speeches made on either side of the question, of course. We all know that. Consideration of the measure just began a little while ago. We all understand the situation.

Mr. DONNELL. The parliamentary inquiry further was whether or not the filing of petition for cloture was in order at the moment when it was presented?

The PRESIDENT pro tempore. The Parliamentarian advises the Chair, and advised the Chair previously, that the filing of the petition is in order at any time, under the rule.

Mr. DONNELL. I thank the Chair.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McCLELLAN. May I inquire, Mr. President, if Senators fear that within the time now given to discussion of the measure, before we have to vote on cloture, the measure cannot be adequately discussed on its merits? Is there anything in the rules to prevent them from voting against cloture so that debate may be continued?

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

Mr. BARKLEY. I yield.

Mr. FERGUSON. As I read the rules of the Senate there are two ways by which the Senate can limit debate. One is by unanimous consent. The other is by filing a cloture motion, which must be adopted by a two-thirds vote of the Senate. I think it is well within the discretion of the Members of the Senate to attempt either method of limiting debate. It appeared to me, as I think it appeared to other Senators who have been in the Senate for any length of time, that there would be a filibuster, or, call it what we may, there would be a debate which would continue on into the future indefinitely, unless the Senate limited debate by one of the two methods. The Senate, I am sure, would not feel that it could obtain unanimous consent to limit debate. So the Senate used the next method, which was that of filing a cloture petition.

A sufficient number of signatures have been affixed to the petition which was submitted after the bill was made the unfinished business. The debate may go on until 1 hour after the opening of the session on the second day from now and if any Senator feels that there has not been a proper debate during that period, then, as has been suggested, he would have the right to vote against the cloture petition. But I hope that the necessary number of Senators, that is, two-thirds of those present at the time, will feel that it is folly for the Senate to continue on in the future with a debate which they know very well in the absence of cloture will last indefinitely, because we

have had past experience on this particular bill.

I shall not be a party to any political maneuvering in order that we may simply show that we would like to have a vote on this bill. I was never any more earnest in my life than I am in saying that I want a vote taken on this bill. I think the Senate should vote on the bill, and I hope we will have full debate on it. I am satisfied, in view of the number of times the bill has been considered, that we can have a full debate within the time allowed under the cloture petition; that we can then vote to close the debate, with the 1-hour limitation as provided in the cloture petition, and thus we may obtain a vote during the present session of Congress upon this important legislation.

The PRESIDENT pro tempore. The Chair at this point feels that it is his duty to read the rule. I read rule XXII:

> If at any time a motion, signed by 16 Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and 1 hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by an aye-nay vote the question:
>
> "Is it the sense of the Senate that the debate shall be brought to a close?"

Under that rule there was nothing for the Chair to do but to read the petition for cloture to the Senate, so as to acquaint every Senator with it. That is all there is to it. The Parliamentarian advised the Chair that it was his duty to do so, and it has been done.

Mr. BARKLEY. Mr. President, the ruling of the Chair is eminently correct. The petition for cloture is not to close debate. It is to limit debate two days from now, if it receives the required two-thirds majority. So if the petition is adopted by a two-thirds majority the limitation of debate will begin on that day.

Mr. President, it is well known in the Senate that I have favored this legislation, and I have voted for cloture petitions whenever they have been filed with reference to it. It has so happened that in connection with legislation which has been pending up until the present time, which had a time limit fixed upon it, it was impossible for the Senate to undergo the luxury of a lengthy debate on this problem. I have no doubt that every Senator knows how he will vote, not only upon the cloture petition, but upon the bill itself. It seemed to me that the Senate was entitled to an opportunity to vote on the bill under the rule. The only opportunity to vote on the bill, as everyone recognizes, is by the adoption, by a two-thirds vote, of the motion to close debate under rule XXII. Therefore I felt justified, upon the bill being made the unfinished business, in filing the petition for cloture, which will be voted upon on Wednesday. So we may determine, as the result of that vote, whether it is worth while to make a further attempt to bring the legislation to a vote. Therefore, under the existing parliamentary situation, not only do I believe that the ruling of the chair was justified, and eminently correct, but it seems to me that this is the only time up to the present in this session when it would have been possible to have made this bill the unfinished business without an interminable discussion. If it had been made the unfinished business, there would have been a further interminable discussion unless a cloture petition had been approved by a two-thirds vote. If it could not be, we could not bring the bill to a vote.

I hope there will be a full attendance of the Senate on Wednesday, and that it will express itself with respect to this rule, as to whether debate shall be closed.

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

Mr. BARKLEY. I yield.

Mr. TUNNELL. It seems to me that no matter whether the vote on cloture is that the debate shall be limited, or whether it is a vote that it shall not be limited, it does not change the fact that House bill 7 is the unfinished business at this time. Is that correct?

Mr. BARKLEY. That is correct.

Mr. TUNNELL. So there will be opportunity for debate, either under cloture or without cloture.

Mr. BARKLEY. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside in order that the Senator from Georgia may proceed with a request to consider House bill 7037, Calendar No. 1906.

Mr. MORSE. Mr. President, I object.

Mr. GEORGE. Mr. President, I move that the Senate proceed to the consideration of House bill 7037.

Mr. BARKLEY. I hope the Senator will move that it be done without prejudice to the unfinished business.

Mr. GEORGE. I make the motion without prejudice to the unfinished business.

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

Mr. CORDON. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CORDON. I should like to understand just where we are in this picture. If I correctly understand, the poll-tax bill has been made the unfinished business. Am I correct in the understanding that if any motion is made to displace it, it is equivalent to a motion to lay it on the table?

The PRESIDENT pro tempore. The Chair is advised that that is not correct.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MORSE. Does the motion to proceed with the bill suggested by the Senator from Georgia, without prejudice to the unfinished business, require unanimous consent?

The PRESIDENT pro tempore. The Senator from Georgia has a right to make the motion. Unanimous consent was first asked, and there was objection.

Mr. MORSE. My inquiry is this: Does his motion require unanimous consent as to that part of the motion providing that it shall not prejudice the unfinished business?

The PRESIDENT pro tempore. Unanimous consent is required to lay the unfinished business aside.

Mr. MORSE. I shall object to laying it aside.

Mr. PEPPER. Mr. President, will the Senator allow me to make a statement before the objection is announced as final?

I appeal to the Senator from Oregon. He can call my appeal whatever he will. Historically I do not defer to any Member of this body in advocacy of repeal of the poll tax. I introduced the first bill that was introduced in the Senate, as I think the records of the Senate will show, to abolish the poll tax. It was reported from the Senate Committee on the Judiciary with amendments which were worked out by the great Senator George W. Norris as chairman of a subcommittee of that committee which considered the bill. I share with the able Senator from Oregon the desire that this proposed legislation be enacted if that is possible.

The procedure which has been followed is as fair to every one as any procedure that could be adopted, taking into account the practicalities of the situation in the Senate. What the able leader has done has been the result of long and tedious effort on his part, taking into account the situation as it existed in the Senate. He has consulted both proponents and opponents of the bill in devising that procedure. What might be called the organized advocates of the legislation have been consulted, and they thoroughly understand and have acquiesced in the procedure which the majority leader has followed this afternoon.

Many of us are in favor of both the anti-poll-tax and the social-security bill which the able Senator from Georgia is now trying to bring before the Senate. If we do not take up the social-security bill we shall not get any social-security legislation during this session of Congress. The bill which the able Senator from Georgia seeks to bring before the Senate contains the variable-grant provision, in which many of us are vitally interested. It increases social-security benefits to the aged, to children, and to mothers, in respect to their health. It extends welfare benefits to crippled children and many other groups. I am sure that none of us—least of all the Senator from Oregon—wishes to see those groups denied the benefits of the social-security bill.

The Senator from Oregon can accomplish both his purposes by going along with the procedure proposed by the majority leader and not objecting to the unanimous-consent request, because there will be an hour for each Senator to speak if he chooses to speak on the anti-poll-tax bill, even after cloture is adopted. That would provide 96 hours of debate. If every Senator could not have a fair opportunity to debate the question in an hour, I think that would

be extraordinary under the circumstances.

So there is time between now and 1 o'clock on Wednesday to debate the anti-poll-tax bill; and then, if the cloture petition is adopted, there will still be an hour for each Senator to speak after that. So I feel that the greatest good to the public interest would be served, and I am sure that both objectives which the Senator from Oregon wishes to accomplish would be accomplished, if he would cooperate with the leader and allow the Senator from Georgia to bring up the social-security bill, with the understanding that the unfinished business, which is only temporarily laid aside, shall be the anti-poll-tax bill. I am sure that the Senator from Oregon will have plenty of time to speak on that bill before Wednesday. Other Senators who may wish to speak for it, as I do, will have plenty of time, and the opposition will have plenty of time.

Furthermore, if cloture is adopted, we shall each have an hour of which we can avail ourselves after 1 o'clock on Wednesday. If a contrary course is followed, it will simply mean that we shall probably lose an opportunity to vote on the anti-poll-tax bill, or we shall lose the social-security bill; and there is no need for us to lose either. It seems to me that we can accomplish both purposes if we will accommodate ourselves to the procedure suggested by the able majority leader, who is trying to act in the best interests of the Senate and of the country.

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

Mr. GEORGE. Mr. President, before the motion is put, let me say that I had hoped that unanimous consent would be granted for the consideration of House bill 7037. I am very much opposed to taking up the anti-poll-tax bill. In my judgment neither political party will profit by it. I doubt if any individual Senator on either side of the aisle will profit by it. Therefore I had hoped that when the bill was taken up—which seems to have been a matter of negotiation between the majority leader and those opposed to the bill—there would be no objection to the unanimous-consent request of the majority leader that it be temporarily laid aside, without prejudice, of course, to the status of the bill as the unfinished business, and without prejudice to the notice for cloture which was filed and read under the rule.

I should like to have a ruling from the Chair on this question: Is it in order for me to move, without prejudice to the bill known as the anti-poll-tax bill, and without prejudice to the cloture petition, to proceed with the consideration of House bill 7037?

The PRESIDENT pro tempore. The Parliamentarian advises the Chair that the Senator may make his motion without prejudice to the cloture petition, but not without other prejudice.

Mr. GEORGE. I did not understand the ruling of the Chair.

The PRESIDENT pro tempore. This statement may throw light on the question: No matter what business is before the Senate, 1 hour after it meets on Wednesday next the cloture petition, under the rule, must be laid before the Senate.

Mr. GEORGE. In other words, the motion I propose to make is in order.

The PRESIDENT pro tempore. It is in order.

Mr. GEORGE. Otherwise, I would make a motion to lay aside the unfinished business, which would be debatable motion, and let the filibuster start from now, and let it go.

So far as I am concerned, I am perfectly willing to have it go that way, regardless of whether the Senate adjourns this week or not. If there are Senators here who desire to interfere with the qualifications of electors in some six or seven States of the Union, without regard to the very plain and obvious language and purpose of the provisions of the Constitution, let them take that position.

But if I may make the motion without prejudice to the bill which has been taken up and without prejudice to the cloture notice, I make it at this time, because the unanimous-consent agreement has failed of adoption.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LA FOLLETTE. As I understand the precedents of the Senate in this particular situation, the only difference between having the Senator from Georgia obtain unanimous consent to proceed with the consideration of the amendments to the Social Security Act and to temporarily lay aside the unfinished business, or having the Senator from Georgia make his motion, is this: If the Senator obtains unanimous consent, then, upon disposition of the amendments to the Social Security Act, House bill 7 will then come back before the Senate for consideration.

The PRESIDENT pro tempore. That is correct.

Mr. LA FOLLETTE. If the Senator makes the motion, not being able to obtain unanimous consent, it is true that House bill 7 will be displaced as the unfinished business, and the amendments to the Social Security Act, House bill 7037, will become the unfinished business. But if that is still the unfinished business, nevertheless, despite that fact, on next Wednesday, at 1 o'clock, a vote will be taken on the cloture motion to bring debate upon House bill 7 to a close.

The PRESIDENT pro tempore. The Senator is correct.

Mr. LA FOLLETTE. If the amendments to the Social Security Act are disposed of before that time, it will be in order for any Senator who can secure recognition to move that the Senate again proceed to the consideration of House bill 7, and make it the unfinished business.

So, as a matter of fact, it is as broad as it is long.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BARKLEY. Mr. President, I was about to make a statement in accord with what has just been said by the Senator from Wisconsin. A motion to proceed to the consideration of another bill, while one bill is the unfinished business, does displace the unfinished business. In this case, however, it would not displace the motion for cloture. So, no matter what might be pending on Wednesday, when the time came to vote on the cloture motion, the Chair would be required to lay it before the Senate for a vote.

The PRESIDENT pro tempore. That is correct.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MORSE. If that is the ruling of the Chair, I should like to know whether the motion of the Senator from Georgia is debatable. If it is debatable, I should like to make a very brief reply to the Senator from Florida; and then, if that is the parliamentary situation, and if the cloture motion automatically would come up on Wednesday, at 1 o'clock, to be voted upon, I shall give consideration to withdrawing my objection to the unanimous-consent request.

The PRESIDENT pro tempore. The motion of the Senator from Georgia is debatable.

Does the Senator from Georgia yield to the Senator from Oregon?

Mr. GEORGE. I yield. I am quite content to let the motion remain and to be pending when the Senate convenes tomorrow, if the Senator from Kentucky desires to move that the Senate take a recess at this time, because I think it is too late in the day to get the social-security legislation through today, in time for the House to consider it.

Mr. BARKLEY. I agree that it is too late to proceed with it this afternoon.

But if the Senator from Oregon were to feel constrained to proceed, after withdrawing objection, then the Senator's bill would be the unfinished business when we meet tomorrow; and I am satisfied that it can be disposed of tomorrow. Then we would automatically recur to the consideration of House bill 7.

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

Mr. BARKLEY. I yield.

Mr. TAFT. Will the Senator state that, under any circumstances, upon the conclusion of action on the amendments to the Social Security Act, the Senator would move that the Senate resume the consideration of House bill 7?

Mr. BARKLEY. Yes; I intended to make that statement. Mr. President, under any circumstances, after the amendments to the Social Security Act have been disposed of, I would move to have the Senate resume the consideration of House bill 7.

But if the Senator from Oregon will withdraw his objection, such a motion will not be necessary.

I earnestly hope the Senator will withdraw his objection, because regardless of whatever happens in the meantime, the cloture motion will automatically come up for a vote.

Mr. GEORGE. Mr. President, as I understand the situation, the pending business is my motion to proceed with the consideration of the amendments to the Social Security Act.

The PRESIDENT pro tempore. That is correct.

Mr. GEORGE. Objection has already been made to the unanimous-consent request.

The PRESIDENT pro tempore. That is correct.

Mr. MORSE. Mr. President, I wish to reply very briefly what I understand to be the essence of the remarks of the Senator from Florida [Mr. PEPPER]. I am not going to accept what I understood to be his invitation to characterize or call whatever I might wish to call the point of view which he presented to the Senate on this parliamentary maneuver. I shall reserve that for private conversation with the Senator from Florida.

Mr. PEPPER. Mr. President, will the able Senator speak louder? We cannot hear him very well.

Mr. MORSE. I merely wish to say that I think it should be pointed out very clearly for the RECORD just what has happened in the past on House bill 7 and what is happening now to House bill 7. It is my judgment that we shall not be able to obtain Senate consideration of House bill 7 on the merits and to vote on the merits, unless behind it at all times is some very important proposed legislation waiting for consideration by the Senate. In other words, as I have said before, if we are really going to beat a filibuster on House bill 7 when it is raised on the floor of the Senate, strategically our only chance of beating that filibuster is to raise the question early enough in the session so that there is enough important proposed legislation behind House bill 7 to finally convince a majority of the Members of this great body that for once they must stand up and vote on the merits of House bill 7. That is why I indicated the other day that if we waited until this hour with the strategy now proposed which I predicted would be proposed, we would find ourselves in exactly the position in which we now find ourselves in regard to House bill 7, namely, the bill would fail for want of a vote on the merits because a majority of the Senate will not remain to break a filibuster.

When I offered H. R. 7 the other day as a rider to the tidelands bill, there was still a great deal of proposed legislation to be passed by the Senate. Insofar as the parliamentary strategy is concerned, I say to the Senator from Florida [Mr. PEPPER], and I have told him privately, and I have indicated as much on the floor of the Senate, and I repeat it to him now, that when I offered my anti-poll-tax amendment the other day that was the time when the Senator from Florida [Mr. PEPPER], who has been one of the leaders in the anti-poll-tax-bill drive, should have backed me in my attempt to get consideration of it on the merits. But, instead of that, the Senator from Florida stood up on the floor of the Senate and joined with the majority leader in suggesting that I withdraw the anti-poll-tax bill as an amendment to the tidelands bill. I refused to follow such an unsound suggestion because I knew that my amendment offered the last chance to secure a real fight in favor of the anti-poll-tax bill.

I stated then that this hour would arrive, when practically the whole legislative program of the majority leader for this session would have been completed, and then we would find the anti-poll-tax bill would be brought before us at the end of the session for political reasons. However, it would be an empty gesture with everything done and everyone ready to go home. I pointed out that of course under those circumstances Senators would not make a fight for the bill or for the cloture motion. I repeat now that the cloture petition will fail and the Senator from Florida [Mr. PEPPER] knows it. However, he is apparently determined to make a political record.

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

Mr. MORSE. I yield.

Mr. PEPPER. I may be in error about the parliamentary situation, but my opinion is that the advocates of the anti-poll-tax bill are in a far better position at this time in the Senate than they were at the time when the able Senator from Oregon offered the amendment to the tidelands bill. In other words, aside from the propriety of offering it at that time, I am of the opinion that cloture would not have lain, in view of the situation at that time, and that filibuster would have been possible against the bill and the Senator's amendment.

Now the cloture petition has been filed, and the Chair has already informed the Senate that a vote will be had on cloture at 1 o'clock on Wednesday, or 1 hour after the Senate convenes on Wednesday, assuming that it convenes at noon.

So here we have the anti-poll tax before the Senate. We have assurance that there will be a vote on cloture on Wednesday. So I cannot see that we are any worse off: We have not agreed to a resolution for sine die adjournment, to my knowledge. The anti-poll-tax bill is before the Senate, and the majority leader has stated that if it is temporarily laid aside, he will move to have it taken up again; and the Chair has stated that no matter what is pending, at 1 o'clock on Wednesday the cloture motion will be taken up, and then each Senator can speak for 1 hour, and I think that will be sufficient time for each Senator to express his views.

Mr. MORSE. Mr. President, with all due respect to the Senator from Florida, whom I admire very much, but with whom I am in complete disagreement on this matter, I wish to state that in regard to the parliamentary situation, I think he is entirely in error insofar as being in an effective position to secure passage of the anti-poll-tax bill is concerned. He is in error because the chances of obtaining a vote on that bill have been greatly reduced by the fact that the majority leader's legislative program or calendar has been practically completed. It makes a great deal of difference, when we come to count noses on the cloture motion, whether there is still piled up back of the bill some very important proposed legislation which greatly concerns the Members of this body, or whether most of the important legislative proposals have already been voted upon.

Come Wednesday, that is exactly the position in which the Senator from Florida will find himself. It is a position with regard to which he was given due notice several days ago. It is a position which he voluntarily and knowingly walked into. His chances of getting a two-thirds vote for cloture on Wednesday are practically nil, and I think the Senator from Florida knows it as well as does the Senator from Oregon.

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

Mr. MORSE. I will yield in just a moment. The result will be that some Members of the Congress will be able to go before the electorate next November and say, "Oh, we did everything we could do to get the bill brought up. We finally got a cloture petition but it failed of adoption." But what the voters need to know is the strategy behind this whole movement, and that is why I said a few moments ago that the whole strategy is a farce, and I repeat that it is. It is a move of election politics.

Mr. PEPPER and Mr. BILBO addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Oregon yield; and, if so, to whom?

Mr. MORSE. I yield to the Senator from Florida.

Mr. PEPPER. Mr. President, I have no hesitancy in allowing the Senator from Oregon to characterize the Senate in any way he chooses to do so. But what I wish to say is that I think good faith has been employed by all of us, including the able majority leader, who was required merely to take into account the legislative situation as it now exists. It is always easy to urge perfection, but it is sometimes more practical to take practicalities into cognizance. That is what was done by the leader. Our able leader has been a better friend of this measure than has been the able Senator from Oregon, if I may say so, under the present circumstances.

Mr. MORSE. Mr. President, as far as I am concerned the Senator from Florida is perfectly welcome to express any value judgment he may care to concerning my contribution to the fight for an anti-poll-tax bill. I am happy to rest my case on the record. The Senator from Oregon raises no question with regard to good faith but he recognizes political strategy when he sees it. I am sorry that the Senator from Florida is engaging in it on this bill. The Senator from Oregon makes this assertion for the RECORD that the Senator from Florida must shoulder a large share of the responsibility for the situation in which we find ourselves with regard to House bill 7.

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE

Mr. BARKLEY. Mr. President, I now renew my request which I made a moment ago that the Senate temporarily lay aside the unfinished business and proceed to the consideration of Calendar No. 1906, House bill 7037.

Mr. TAFT. Mr. President, reserving the right to object, what is the bill to which the Senator refers?

Mr. BARKLEY. It is the social security bill in charge of the Senator from Georgia.

Mr. TAFT. I thank the Senator.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. MORSE. Mr. President, I wish to inform the majority leader that, having made clear my position on House bill 7, I withdraw my objection to the unanimous-consent request which has been made.

There being no objection, the Senate proceeded to consider the bill H. R. 7037, which had been reported from the Committee on Finance with amendments.

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE

The Senate resumed the consideration of the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will proceed to state the amendments of the Committee on Finance.

The first amendment of the Committee on Finance was, under the heading "Title I—Social security taxes," on page 2, after line 14, to strike out:

SEC. 103. Appropriations to the trust fund.

The sentence added by section 902 of the Revenue Act of 1943 at the end of section 201 (a) of the Social Security Act, which reads as follows: "There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.", is repealed.

Mr. GEORGE. Mr. President, that amendment simply restores the language which was heretofore inserted, and leaves the language in the act as follows:

There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.

The House repealed that provision, and the effect of striking out section 103 is to restore the language.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment on page 2, after line 14.

The amendment was agreed to.

The next amendment was, under the heading "Title II—Benefits in case of deceased World War II veterans," on page 4, line 15, after the word "the", to strike out "Board" and insert "Federal Security Administrator"; in line 17, after the word "unless", to strike out "it" and

insert "he"; in line 21, after the word "The", where it occurs the first time, to strike out "Board" and insert "Federal Security Administrator"; in line 22, after the word "by", to strike out "the Board" and insert "him"; on page 5, line 4, after the word "the", to strike out "Board" and insert "Federal Security Administrator"; in line 5, after the word "the", to strike out "Board" and insert "Administrator"; in line 9, before the word "pursuant", to strike out "Board" and insert "Federal Security Administrator"; in line 17, after the word "the", to strike out "Board" and insert "Federal Security Administrator"; and in line 18, after, the word "by", to strike out "the Board" and insert "him."

Mr. GEORGE. Mr. President, these are technical amendments, made necessary as a result of the President's reorganization order.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The next amendment was, on page 7, line 2, after the words "by the", to strike out "Board," and insert "Board or the Federal Security Administrator."

The amendment was agreed to.

The next amendment was, on page 8, after line 6, to insert:

SEC. 202. When used in the Social Security Act, as amended by this act, the term "Administrator," except where the context otherwise requires, means the Federal Security Administrator.

The amendment was agreed to.

The next amendment was, under the heading "Title III—Unemployment compensation for maritime workers," on page 8, line 25, after the words "approved by the", to strike out "Board" and insert "Federal Security Administrator (or approved by the Social Security Board prior to July 17, 1946)"; on page 9, line 14, after the words "to the", to strike out "conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States", and to insert "same limitation, with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (2) thereof) of subsection (b) of this section with respect to contributions required from instrumentalities of the United States and from individuals in their employ.' "

Mr. SMITH. Mr. President, I should like to ask the Senator from Georgia a question with regard to the interpretation of the language appearing on page 9, lines 10 to 14. In New Jersey, at the 1945 session of our legislature, we extended our unemployment compensation law to cover the services of seamen. In view of the nature and characteristics of such employment, the legislature provided that seamen should be ineligible for benefits for a 2-week period following the termination of employment under shipping articles. This period of ineligibility is not applicable to other employees covered by the law. Would this difference of treatment conflict with the provisions of the pending bill on page 9, lines 10 to 14?

Mr. GEORGE. I will say to the Senator from New Jersey that I do not think so. I am advised that there is no conflict. The whole purpose of the language beginning at line 10 relates to wage credits, and therefore benefits, and does not raise any discrimination against the State of New Jersey, which may have a different wage period in the case of seamen. My understanding is also that the representatives of all the States very carefully went over these provisions, and that no conflict exists between this provision and the New Jersey State law.

Mr. SMITH. I thank the Senator. I thought probably that would be the construction, but I wished to ask the question for the RECORD.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment on page 8, beginning in line 25.

The amendment was agreed to.

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

Mr. GEORGE. I am glad to yield.

Mr. LANGER. Referring to page 3, as I read section 210, if a soldier were hurt during the war and died within 3 years, his family would be protected. Is that correct?

Mr. GEORGE. His dependents are given the benefit of the old-age and survivors insurance. The whole of title II was passed as a separate bill by the Senate some time ago, went to the House, and the House has incorporated the bill passed by the Senate as title II of this bill, with only certain minor technical changes.

Mr. LANGER. In other words, the soldier's dependents would be protecteed, would they?

Mr. GEORGE. His dependents would be protected if he died within 3 years after discharge.

Mr. LANGER. Will the Senator tell me this: If a young man was killed in actual combat during the war, what would be the amount of protection which his wife and children would receive, as compared to the benefits received by the dependents of a soldier who died after the war ended?

Mr. GEORGE. He is covered by the laws with respect to the Veterans' Administration. Generally speaking, in the case of a soldier who is killed in action, the benefits paid to his wife and children are greater than the old-age and survivors benefits which would accrue to the dependents of soldiers who died within 3 years after the war ended.

This title does not cover the beneficiaries or dependent wife or children of a soldier who was killed in action, because his case is handled under laws administered by the Veterans' Administration. The compensation paid to the widow is $60 a month, I believe, with an allowance for each child under 18 years of age, which on the whole would be above the benefits received by the survivors of a veteran who died within 3 years after the war ended, but who had not been able to reestablish his position under the Social Security System and had not obtained employment or had not acquired sufficient credits to reinstate him. This provision gives to each veteran who dies within 3 years after discharge the status of a covered employee on the basis of a salary of $160 a month and on the basis of $200 earned during any quarter of a year in which he served 30 days or more.

Mr. LANGER. Then as I read line 16, which provides—

to have died a fully insured individual—

That means insured under the Social Security Act; does it?

Mr. GEORGE. That is correct.

Mr. LANGER.. It has nothing to do with his own insurance policy?

Mr. GEORGE. It has nothing to do with his insurance policy.

The PRESIDENT pro tempore. The clerk will state the next amendment of the committee.

The next amendment was, on page 9, after line 23, to insert:

(b) The amendment effected by subsection (a) shall not operate, prior to July 1, 1947, to invalidate any provision, in effect on the date of enactment of this Act, in any State unemployment compensation law.

Mr. GEORGE. That is a saving clause, which is intended to cover particularly a situation in Ohio.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 13, line 8, after "Federal Security Administrator,", to strike out "hereinafter referred to as 'Administrator'."

The amendment was agreed to.

The next amendment was, on page 13, after line 21, to strike out:

(d) The term "Federal maritime wages" means remuneration determined to be wages pursuant to section 209 (o).

And in lieu thereof, to insert the following:

(d) The term "Federal maritime wages" means remuneration determined pursuant to section 209 (o) to be remuneration for service referred to in section 209 (o) (1).

The amendment was agreed to.

The next amendment was, on page 14, after line 2, to strike out:

(c) The term "State" includes the District of Columbia, Alaska, and Hawaii.

The amendment was agreed to.

The next amendment was, on page 14, after line 4, to strike out:

(f) The term "United States," when used in a geographical sense, means the several States, Alaska, Hawaii, and the District of Columbia.

The amendment was agreed to.

The next amendment was, on page 15, line 1, after the word "had", to insert "(subject to regulations of the Administrator concerning the allocaton of such service and wages among the several States)".

Mr. GEORGE. Mr. President, the amendment has occasioned some comment and has given rise to a fear that it was the purpose and intention of the committee to subject the administration of funds going to the maritime workers to more rigid control by the Federal Administrator in Washington. That is not

the purpose. This provision is a temporary one. It goes into effect almost immediately—with approximately 5 weeks, I believe. The purpose is to make sure that administration may be possible without any undue embarrassment.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment on page 15, beginning in line 1.

The amendment was agreed to.

The PRESIDENT pro tempore. The clerk will state the next amendment of the committee.

The next amendment was, on page 15, in line 4, after the word "and", to strike out:

wages under such law, except that—

(1) in any case where an individual receives compensation under a State law pursuant to this title, all compensation thereafter paid him pursuant to this title, except as the Administrator may otherwise prescribe by regulations, shall be paid him only pursuant to such law; and

(2) the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 percent of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

And in lieu thereof to insert:

wages under such law; except that the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 percent of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

The amendment was agreed to.

The next amendment was, on page 16, line 22, after the words "by the", to strike out "Board" and insert "Administrator"

The amendment was agreed to.

The next amendment was, on page 18, line 18, after the words "to the", to strike out "Board, for the use of"; in line 19, after the word "the", to strike out "Administrator, such" and insert "Administrator such", and in line 22, after the words "by the", to strike out "Board" and insert "Administrator".

The amendment was agreed to.

The next amendment was, on page 19, in line 24, after the word "funds", to strike out "appropriated to carry out" and insert "for carrying out"; in line 25, after the word "title" and the period, to insert "During the fiscal year ending June 30, 1947, funds appropriated for grants to States pursuant to title III shall be available for carrying out the purposes of this title."

The amendment was agreed to.

Mr. GEORGE. Mr. President, I ask unanimous consent that wherever the word "Board" occurs in the bill, the appropriate change to "Administrator" may be made, so as to conform to the President's reorganization order—unless the context, of course, clearly indicates to the contrary.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the next amendment of the committee.

The next amendment was, on page 20, line 14, after the words "as the", to strike out "administrator" and insert "Administrator."

The amendment was agreed to.

The next amendment was under the hearing "Title IV—Technical and miscellaneous provisions", on page 22, line 7, after "Sec. 401.", to strike out "Definition of 'State' for Purposes" and insert "Amendments."

The amendment was agreed to.

The next amendment was, on page 22, after line 14, to strike out:

(b) The amounts authorized to be appropriated and directed to be allotted, for the purposes of title V of the Social Security Act, as amended, by sections 501, 502, 511, 512, and 521 of such act, are increased in such amount as may be made necessary or equitable by the amendment made by subsection (a) of this section, including the Virgin Islands, in the definition of "State."

And in lieu thereof to insert the following:

(b) Effective with respect to the fiscal year ending June 30, 1947, and subsequent fiscal years, title V of the Social Security Act, as amended, is amended as follows:

(1) Section 501 is amended by striking out "$5,820,000" and inserting in lieu thereof "$15,000,000."

(2) Section 502 (a) is amended to read as follows:

"SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Federal Security Administrator shall allot $7,500,000 as follows: He shall allot to each State $50,000, and shall allot to each State such part of the remainder of the $7,500,000 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 Administrator has available statistics."

(3) Section 502 (b) is amended by striking out "$1,980,000" and inserting in lieu thereof "$7,500,000."

(4) Section 511 is amended by striking out $3,870,000" and inserting in lieu thereof "$10,000,000."

(5) Section 512 (a) is amended to read as follows:

"SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Federal Security Administrator shall allot $5,000,000 as follows: He shall allot to each State $40,000, and shall allot the remainder of the $5,000,000 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."

(6) Section 512 (b) is amended by striking out "$1,000,000" and inserting in lieu thereof "$5,000,000."

(7) Section 521 (a) is amended by striking out "$1,510,000" and inserting in lieu thereof "$5,000,000" and is further amended by striking out "$10,000" and inserting in lieu thereof "$30,000."

(8) Section 541 (a) is amended to read as follows:

"SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1947, the sum of $1,500,000 for all necessary expenses of the Federal Security Agency in administering the provisions of this title."

(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until appropriations have been made in accordance with such amendments, and allotments from such appropriations shall be made in such manner as may be provided in the act making such appropriations.

The amendment was agreed to.

Mr. GEORGE. Mr. President, the object of this series of amendments which were offered by the distinguished Senator from Ohio [Mr. TAFT] and, I believe, by the distinguished Senator from Florida [Mr. PEPPER], is simply to increase the grants for maternal aid and child health from $5,820,000 to $15,000,000, for crippled children from $3,870,000 to $10,000,000, and for child welfare from $1,510,000 to $5,000,000. The administrative provision is merely an authorization for an appropriation which would have to be made subsequently.

The PRESIDENT pro tempore. The clerk will state the next amendment of the committee.

The next amendment was, on page 25, line 7, after the words "striking out", to insert "leaving", and in line 9, after the words "in lieu" to strike out "therefor 'no widow or child who would, upon filing application, be entitled to a benefit for any month under subsection (c), (d), or (e) of this section'," and insert "thereof 'if such individual did not leave a widow who meets the conditions in subsection (d) (1) (D) (E) or an unmarried child under the age of 18 deemed dependent on such individual under subsection (c) (3) or (4), and'."

The amendment was agreed to.

The next amendment was, on page 26, line 10, after the words "by the", to strike out "Board" and insert "Administrator."

The amendment was agreed to.

Mr. KNOWLAND. Mr. President, I wonder if the distinguished chairman of the Finance Committee would direct his attention on page 26 to line 20. I have received some correspondence from officials in California who have handled the matter of lump-sum death benefits for the families of veterans. It has been pointed out to me that the 2-year period which is now in the present law is a rather short period of time. The suggestion has been made that, as a matter of equity, the time should be extended to cover a longer period, and 5 years has been suggested to me. I ask the distinguished chairman of the Finance Committee whether there would be any objection to an amendment on page 26 in line 20, after the words "expiration of", to strike out "two" and insert "five", in order to afford protection to families of veterans who have not had an opportunity, because of their lack of knowledge, perhaps, to file their claims.

Mr. GEORGE. I may say to the distinguished Senator from California that this language makes no change in the existing law. The Finance Committee made no change in the text as it was reported to the House and passed by the House.

On page 31 of the report will be found a statement with reference to the suggested change of the period of 2 years to

a period of 5 years. The statement reads as follows:

Although the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, tolled the 2-year requirement in connection with deaths in military service, no such relief was furnished with respect to civilian deaths. Nevertheless, in many cases such civilians were in the service of their country abroad at the time of death. Accordingly, a modification of the time for filing applications for benefits would appear to be equitable.

The military personnel is already cared for by the Soldiers' and Sailors' Civil Relief Act of 1940. This provision relates to the civilians who were in the employ of the Government.

It was the opinion of the committee, I may say to the Senator from California, that the hardship cases were being reasonably cared for in the Soldiers' and Sailors' Civil Relief Act, and it is not believed in the case of the individuals with whom this provision of the bill deals, that the 2-year period is inadequate or would work any undue hardship.

Mr. KNOWLAND. Mr. President, that is not the information I have received. I will see if I can find the correspondence to which I have referred. What I am particularly interested in is a case in which the veteran would be entitled to payment under this section. The information furnished me was to the effect that, due to the 2-year limitation, some persons were not filing under rights which they had, and that a longer period of time would evidently be equitable under the circumstances.

Mr. GEORGE. I have no objection to taking an amendment to conference and giving it fuller consideration. It is a matter which had not been brought to my attention.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that, on page 26, in line 20, after the words "expiration of," the word "two" be stricken out and that the word "five" be substituted.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the amendment is agreed to.

The clerk will state the next amendment of the committee.

The next amendment was, on page 27, line 4, after the numerals "1101", to strike out "(b)" and insert "(a) (2)."

The amendment was agreed to.

The next amendment was, on page 27, line 22, after the word "the", where it occurs the second time, to strike out "Board" and insert "Administrator."

The amendment was agreed to.

The next amendment was, on page 28, line 19, after the words "of the", to strike out "Board" and insert "Administrator."

The amendment was agreed to.

The next amendment was, on page 30, line 8, after the word "the", to strike "Board" and insert "Administrator."

The amendment was agreed to.

The next amendment was, on page 35, line 23, after the word "are", to strike out "designated" and insert "redesignated."

The amendment was agreed to.

The next amendment was, on page 36, after line 8, to insert:

SEC. 416. Withdrawal of employee contributions for disability benefits.

(a) Paragraph (4) of subsection (a) of section 1603 of the Federal Unemployment Tax Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ": *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

(b) The last sentence of subsection (f) of section 1607 of the Federal Unemployment Tax Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration."

(c) Paragraph (5) of subsection (a) of section 303 of the Social Security Act, as amended, is amended by striking out the semicolon immediately before the word "and" at the end thereof and inserting in lieu of such semicolon the following: ": *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

Mr. GEORGE. Mr. President, I will say with reference to that amendment that the entire section 416 was inserted in order to assist particularly the State of California, as I recall, which State now recognizes disability or total disability as a basis for payment out of funds of the State. The section does not affect Federal funds at all, but merely permits the State to draw down its own funds which, of course, are deposited in the Treasury here in a separate account.

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The PRESIDENT pro tempore. The clerk will state the next committee amendment.

The next amendment was on page 37, after line 12, to insert:

SEC. 417. Expenditures necessitated by this act in the fiscal year 1947.

Expenditures to meet the increase, resulting from this act, in the cost of administering the Social Security Act, and payments to the States pursuant to titles I, III, IV, V, X, and XIII of the Social Security Act, as amended by this act, may be made during the fiscal year ending June 30, 1947, from appropriations available for these respective purposes, without regard to the apportionments required by section 3679 of the Revised Statutes (31 U. S. C. 665).

The amendment was agreed to.

The next amendment was, under the heading "Title V—State grants for old-age assistance, aid to dependent children, and aid to the blind," on page 38 after line 3, to strike out:

SEC. 501. Old-age assistance.

Section 3 (a) of the Social Security Act, as amended, is amended by striking out "$40" and inserting in lieu thereof "$50."

SEC. 502. Aid to dependent children.

Section 403 (a) of such act is amended by striking out $18 wherever appearing and inserting in lieu thereof "$27", and by striking out "$12" and inserting in lieu thereof "$18."

SEC. 503. Aid to the blind.

Section 1003 (a) of such act is amended by striking out "$40" and inserting in lieu thereof "$50."

SEC. 504. Effective date of title.

The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946, and ending before January 1, 1948.

And in lieu thereof to insert:

SEC. 501. Old-age assistance.

(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"(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 (1) an amount, which shall be used exclusively as old-age assistance, equal to the Federal percentage (as defined in section 1108) of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each needy 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 $50, but the amount payable to the State by the United States with respect to any individual for any month shall not exceed $25; and (2) an amount equal to the Federal percentage of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 3 (b) of such act is amended (1) by striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)"; (2) by striking out "clause (1) of" wherever it appears in such subsection; (3) by striking out "in accordance with the provisions of such clause" and inserting in lieu thereof "in accordance with the provisions of such subsection"; and (4) by striking out ", increased by 5 percent."

Mr. LANGER. Mr. President, I ask unanimous consent on line 6, page 39, to strike out "65" and insert "62." The reason for my suggested amendment is this: Under the Reorganization Act which was adopted by both the House and the Senate a few days ago Representatives and Senators are eligible to old-age retirement at 62 years. I do not believe we ought by legislation to say that citizens and veterans have to be 65 years of age in order to secure old-age assistance when Senators and Members of the House can be retired at 62.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota?

Mr. GEORGE. Mr. President, I shall be compelled to object to that amendment, I will say to the Senator from North Dakota, and I desire to make a brief explanation to him. In the first place, if we were to reduce the age for old-age assistance we would, of course, add considerably to the cost. I have no estimate of how much the cost would be but it would be considerable.

In the second place the last title of this bill provides for a complete study and investigation by the Joint Committee on Internal Revenue Taxation of the whole question "of old age and survivors insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto." Furthermore, it requires a report to the Congress not later than October 1, 1947.

The committee is as conscious as anyone else that the whole question of social security, social-security benefits, old-age

assistance, benefits to the blind and to dependent children must be reexamined. If we were now to change the 65-year limitation there would be not the slightest chance to get the House in these closing days of the Congress to agree to the bill. It would simply foredoom the bill. We may have great difficulty anyway because of the parliamentary situation.

I hope the Senator will not insist on his amendment because all questions relating to social security and old-age pensions must be reexamined if this bill passes and becomes law as the committee has written it and the report must be submitted, not at some far-distant year, but by October 1 of next year.

I again say that the committee is entirely conscious of the need for a complete restudy and general revision and overhauling of our whole security system.

Mr. LANGER. Mr. President, I should like to ask the distinguished Senator a question. Are there not some States where old-age benefits are payable at 60 years?

Mr. GEORGE. I believe that is true of a few States, but I am not sure of that.

Mr. DOWNEY. Mr. President, if the Senator will yield let me say that Colorado is the only State that provides old age benefits or retirement benefits at 60; but the Government does not match any payment between 60 and 65 years.

Mr. LANGER. That is what I was going to inquire about. In other words, the State would have to pay the total sum between the ages of 60 and 65.

Mr. GEORGE. Exactly, because the Federal act fixes the age 65.

Mr. LANGER. I was wondering how the distinguished Senator could defend the fact that under the Reorganization Act, Senators and Members of the House will be able to get retirement compensation at 62, but here we say 65 for others.

Mr. GEORGE. We have various ages for retirement of Federal employees. We go as low as 55 years in some instances in the case of Federal employees, and in the Army and Navy at 64. But the old-age benefits do not carry any contributory feature at all; where the recipient is otherwise qualified, he gets the assistance without regard to any contributions. In the case of Representatives and Senators, if any of us should take advantage of the reorganization law, we would have to make a contribution.

Mr. LANGER. I understand that, but here is the situation: Take an old pioneer, or, for example, a farmer in Kentucky or Georgia, who paid his taxes year after year but lost his money in a closed bank some years ago. He contributed taxes during all these years, which is, of course, a form of contribution. Now we say that a Senator or Member of the House may get his retirement benefit at 62, but others have to be 65 before they can secure old-age assistance. That does not seem to be fair.

Mr. GEORGE. I agree with the Senator that the whole question must be restudied and I think undoubtedly the whole security system as we have developed it will have to be overhauled. The purpose of the Finance Committee has been to do that. More than a year ago the distinguished Senator from Michigan offered a resolution calling for a joint study between the House and Senate. The House committee preferred to make their own individual study.

We are now seeking to put in this bill itself a provision for a joint study, to the end that we may cover all the questions the Senator raises. There are many troublesome questions, let me say, in the Social Security System that cannot be answered altogether to the satisfaction of anyone.

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

Mr. GEORGE. I yield.

Mr. DOWNEY. Mr. President, I want to applaud the suggestion of the distinguished Senator from North Dakota. This is another example of his warm, human heart, his understanding, and the common-sense view he takes of this problem as it affects the American people.

The figures, Mr. President, are these: About 10,000,000 of our people are past 65 and 5,000,000 are between 60 and 65. The percentage of unemployment because men can no longer hold jobs is almost as great between the ages of 60 and 65 as among those exceeding 65 years. The anguish, the misery, and the destitution of many hundreds of thousands of the group under 65 and over 60 is almost as great as among those over 65. Any common-sense plan would recognize that the breaking point of workers physically, and in their inability to get jobs, often comes at about 60. As a matter of fact, 90 percent of the American people, as disclosed in the Gallup polls, have recognized something which Congress has been too blind to recognize, that is, that the age limit should be 60 instead of 65.

I should like to say to the distinguished Senator that later in the debate there will be offered as an amendment to this unfortunate bill, the Townsend plan, and the Senator will have a chance to vote for that, and in that the age limit is reduced to 60 years.

Mr. TAFT. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield.

Mr. TAFT. I wish to raise a question about this whole section, because the committee has placed in the bill what is known as the variable grants section. Heretofore the old-age pensions and the other two grants, to the blind and to dependent children, have been on a 50–50 basis. That has been so from the beginning of the Social Security Act. An effort was made to change it in 1940, as I recall the year, but it was defeated. It is a fundamental change in the whole basis of distribution. Since the committee acted I have been informed that in the Committee on Ways and Means of the House it has been the subject of a very bitter controversy. The plan included in the bill was proposed and was turned down, and there was a general agreement finally to leave it out. It seems to me that to include it now not only has the disadvantage of making a fundamental change at a time when we are dealing with a temporary bill, but I believe it is going to weaken the chances of the whole bill in the House of Representatives.

The Senator raised an objection to the amendment offered by the Senator from North Dakota, but this amendment is a far more fundamental change than the change from 65 years to 62. It seems to me that if we put this in the bill it will defeat the bill. I do not believe the House will ever consider the bill with that in it, under the existing circumstances. I do not know whether the Senator hopes to have the bill sent to conference or not, nor do I know what hope there is of securing the passage of the bill if this variable grants provision remains in it.

Mr. GEORGE. I had hoped we might send the bill to conference. It is not certain that the House will accept this provision. But I may state to the Senator that the Ways and Means Committee did itself approve the variable grants principle. This provision was taken out of the original bill considered by the House Ways and Means Committee because of the inability of the committee to secure a close rule, or a rule satisfactory to the committee. In order to secure such a rule, the committee then decided to increase merely the ceilings, and otherwise leave undisturbed the existing old age and blind and dependent children formula.

Mr. TAFT. As I understand, one objection in the House would prevent the bill going to conference. If anything as controversial as this provision is included, I doubt if there is any chance of the passage of the bill.

I am not very much opposed to the variable-grants provision, but it seems to me so fundamental a change as that should be dropped, in view of the other rather important provisions contained in the bill, because I am afraid it will defeat the whole bill.

Mr. LANGER. Mr. President, I should like to ask the distinguished Senator from Ohio if he believes the House would object to reducing the age from 65 years to 62.

Mr. TAFT. I am not informed as to that. I think they would, because the difficulty is that the House has generally pursued the policy of making no fundamental changes, waiting until next year. I think it is most unfortunate that they did not make a complete study, and try to bring the entire system up to date. There are many other things which should be done to the Social Security System, but the House did not do them, and, in effect, they have taken the position that they are going to consider this subject on the return of Congress the 1st of January, and I imagine any fundamental change in the act would meet with their disapproval. They increased the total from $40 to $50. That the House did, and that is the only important change they made in the Social Security System. I think we are much safer if we do not make any fundamental changes, except in the creation of the committee to study the whole subject and make a prompt and effective report next year.

Mr. LANGER. Does the Senator believe that since the House accepted the retirement age of 62 for Senators and Representatives in the Reorganization

Act we have just passed we should fix the retirement age for the pioneers who made this country at 65 years?

Mr. TAFT. I do not think the two are parallel. I do not say the age should not be 62, but I do not think the two are parallel, particularly as the other plan is a contributory plan, and the one here under consideration is not. That is one reason. There are other reasons. I do not care to argue the merits of the Senator's proposal or the merits of the variable grants provision. I think that if this provision is included in the bill, there will not be any bill, and, in my opinion, it is unfortunate to insist on it at this time.

Mr. DOWNEY. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield.

Mr. DOWNEY. I wish to say, in reference to what has been said by the distinguished Senator from Ohio, that very probably he may be right in his political analysis of the conditions in the House, but I say that the bill as it comes from the House is largely a worthless bill, and should be defeated. It seems to me that the variable grants provision at least is an attempt to do something decent.

Senators may be rather surprised when I say this, but the bill as it comes to the Senate will probably give California 50 percent of all the additional sums provided in the bill, and will almost certainly give to five States, which are liberal in their pension laws and in their payments, 90 percent of any additional money that may be payable under the bill.

The State of California now receives more money from the Federal Treasury in old-age assistance than 11 Southern States combined. California will immediately take advantage of the proposal to add $5 for great groups of its citizens because we are already paying $50 a month in California, and I think we are destined to pay $60 or $75 shortly. Consequently this bill as it comes from the House will not benefit any of the Southern States; it will not benefit any of the States in which smaller pensions are paid; it will not benefit a single anguished heart in Georgia or Kentucky or elsewhere in the South. So far as I am concerned, I hope the distinguished chairman of the Committee on Finance will stand out for this variable grants provision, and either win that concession from the House of Representatives, or let the bill go to defeat.

Mr. McFARLAND. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield.

Mr. McFARLAND. I wish to compliment the Senator from Georgia for the work he has done in securing the adoption of the variable-grant amendment in this bill. I think the variable-grants formula is an improvement. I am not satisfied with the pending amendment, but I feel that it is a step in the right direction. The cost of living has increased at least 35 percent and the increase provided in this connection is not sufficient to meet this increase, but it will help. A group of us, including the Senator from Georgia and myself, joined in an amendment to H. R. 5626 which would have increased the Federal share to old people by $5, to the blind by $5, to dependent children by $3. The House, instead of accepting this amendment, adopted the provisions of the bill under consideration. The variable-grants amendment is an improvement of the bill as it is more equitable. I am hopeful that the House will adopt the amendment. The time has come when we have to do something for the old people, and I cannot conceive that the House will refuse to adopt this amendment.

Mr. GEORGE. I thank the Senator. I recognize the force of the suggestion made by the distinguished Senator from Ohio. Yet I believe that the committee should insist upon its amendments, and take the bill to conference, if the House will grant a conference; and if not, then the responsibility will rest where it properly should rest. This bill has been under consideration in the House for quite a long time, and the Senate Finance Committee has had to await action by the House. The bill reached the Senate only the end of last week, on Friday. The Senate committee had obtained a committee print of the bill prior to its actual passage, and began its study of the bill. The one important amendment made in the bill is the variable-grants provision. I think the distinguished Senator from Ohio is not arguing so much the merits of the grant, because he says frankly that he might not oppose the variable grants. The parliamentary situation which he points out undoubtedly exists, and it may be very difficult and may prove even impossible to complete action on the bill. But somehow I have the hope that we may be able to get the House to agree to the bill if we can pass the bill and let it go to the House sometime during the day for further consideration.

Mr. President, I do not know that it is necessary to read all of the amendment dealing with the variable grants, because all the amendment undertakes to accomplish is, first, to raise the present ceiling for old-age assistance from $40 to $50, to raise the assistance to the blind from $40 to $50, and to raise the ceilings for dependent children, which is the same provision as was contained in the House bill. Then it adopts the variable grants on the basis of the per capita income of each State as compared to the per capita income of the Nation as a whole.

It is a provision which presents an equitable principle, and it would give some relief to a very large number of States that now are receiving very meager benefits. As the Senator from California properly points out, the House bill would simply aggravate and continue the inequities and hurt all the States whose average per capita income is below the average of the national per capita income.

The PRESIDENT pro tempore. Does the Senator from Georgia ask that the remainder of the amendment, down to and including line 4 on page 44, be not read?

Mr. GEORGE. I ask that the reading of it be dispensed with.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and, without objection, the amendment will be considered without further reading.

The amendment was, at the top of page 40, to insert sections 502, 503, 504, and 505, as follows:

SEC. 502. Aid to dependent children.

(a) Section 403 (a) of such act is amended to read as follows:

"(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, an amount, which shall be used exclusively for carrying out the State plan, equal to the Federal percentage (as defined in sec. 1103) 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 $27, or if there is more than one dependent child in the same home, as exceeds $27 with respect to one such dependent child and $18 with respect to each of the other dependent children; but the amount payable to the State by the United States with respect to any dependent child for any month shall not exceed $13.50, or, if there is more than one dependent child in the same home, shall not exceed $13.50 for any month with respect to one such dependent child and $9 for such month with respect to each of the other dependent children."

(b) Section 403 (b) (1) of such act is amended by striking out "one-half," and inserting in lieu thereof "the State percentage (as defined in sec. 1108)."

SEC. 503. Aid to the blind.

(a) Section 1003 (a) of such act is amended to read as follows:

"(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 (1) an amount, which shall be used exclusively as aid to the blind, equal to the Federal percentage (as defined in section 1108) of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each needy 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 $50, but the amount payable to the State by the United States with respect to any individual for any month shall not exceed $25; and (2) an amount equal to the Federal percentage of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) (1) of such act is amended by striking out "one-half," and inserting in lieu thereof the State percentage (as defined in section 1108)."

SEC. 504. Definitions.

Such act is amended by adding after section 1107 a new section to read as follows:

"'FEDERAL PERCENTAGE' AND 'STATE PERCENTAGE'

"SEC. 1108. (a) Definition.—For the purposes of titles I, IV, and X the 'Federal percentage' and 'State percentage' therein referred to shall be percentages determined as follows:

"(1) In the case of a State the per capita income of which is equal to or greater than the per capita income of the continental United States, and in the case of Alaska, Hawaii, and the District of Columbia, regardless of the per capita income, the Federal percentage shall be 50 percent and the State percentage 50 percent.

"(2) In the case of a State the per capita income of which is not more than 66⅔ percent of the per capita income of the con-

tinental United States, the Federal percentage shall be 66⅔ percent, and the State percentage shall be 33⅓ percent.

"(3) In the case of every other State, the State percentage shall be one-half of the percentage which its per capita income is of the per capita income of the continental United States (except that a fraction of one-half percent or less shall be disregarded, and a fraction of more than one-half percent shall be increased to 1 percent), and the Federal percentage shall be 100 percent minus the State percentage. In no case under this paragraph shall the State percentage be less than 33⅓ percent or the Federal percentage greater than 66⅔ percent.

"(b) Ascertainment of per capita income: The Federal percentage and State percentage for each State shall be promulgated by the Administrator between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the continental United States as computed by the Department of Commerce for the three most recent years for which satisfactory data are available. Such promulgation shall for the purposes of this section be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation, and also, in the case of the percentages promulgated in 1946, for the three quarters beginning October 1, 1946, January 1, 1947, and April 1, 1947.

"(c) 'Continental United States': For the purposes of this section the term 'continental United States' does not include Alaska or Hawaii."

SEC. 505. Effective date of title.

The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946.

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

Mr. GEORGE. I yield.

Mr. LANGER. Would the Senator from Georgia be willing to take to conference a change of age, to make the age 62 years, and see what the House will do about it?

Mr. GEORGE. The Senator from California proposes to offer an amendment which will incorporate that principle.

Mr. LANGER. His amendment provides for the change of age to 60 years. My proposal is 62 years. I wonder if the Senator would not be willing to take my proposal to conference, in view of the fact that under the reorganization act Senators and Representatives can retire at 62? I wonder if the Senator would not attempt to have proposal accepted?

Mr. GEORGE. I will say to the Senator from North Dakota that if the bill passes and goes to conference, the age question could easily be in conference, because all these provisions will be in conference. I shall be glad to suggest the proposal to the House conferees, and if the House is willing to consider it at all, it will not be objectionable to me, I will say.

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

Mr. GEORGE. I yield.

Mr. PEPPER. I desire to make a brief observation. I first wish to commend very highly the able Senator from Georgia, the chairman of the Committee on Finance, and the committee, for having reported to the Senate this variable-grants amendment. There have been many of us who have been advocating, as has the able Senator from Georgia, this formula for a long time. It was reported to the House of Representatives by the House Ways and Means Committee, and therefore has the authority of that great committee behind it.

The question, Mr. President, is simply this: Shall we appropriate more money from the Federal Treasury which shall be fairly and equitably distributed over the country and enjoyed by the recipients of this service, or shall we appropriate money which shall go into a very few States and not into the great majority of States to the same class of people? An intolerable situation prevails at the present time, where one or two States secure the major part of the money, although the people who are the recipients of it individually are in the same category in the several States. That discrimination is due to the disparity and the ability of some States to match dollar for dollar these Federal funds for the aged and for the other classes affected, and the inability of other States to match 50–50 the Federal funds.

There can be only two arguments made, it seems to me, for the matching principle at all. One is that States should be required to do their part for their own people, and the other is that States should have a direct interest in the administration of these funds so that they shall add their own careful supervision to the expenditure of the funds. But, Mr. President, those two principles do not require any State to do more than its relative share or to do more than it can do. And the Southern States particularly, in which I am most vitally concerned, simply are unable to put up as much money as are the rich States, because they do not have the money. They should not be penalized for their inability, and yet that is what the present law does. As the able Senator from California has, with his characteristic generosity and public spiritedness, pointed out, his State would get, I believe, about 90 percent of the increase in the Federal appropriation, and would get more money than all the Southern States put together out of this increased Federal appropriation.

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

Mr. PEPPER. I yield.

Mr. DOWNEY. California is already getting more money from the Federal Treasury in the way of grants of this nature than the 11 Southern States.

Mr. PEPPER. Mr. President, it is most gracious of the Senator from California to disclose that fact, because he, of course, is thinking of the public interest in this matter.

Senators will recognize that that is an intolerable situation, and it forces some of us to the statement that I made before the Finance Committee the other day when I appeared with the Senator from California in behalf of this principle, that if we cannot bring about equity and fair dealing in the distribution of Federal funds in these categories we will have to oppose the matching principle entirely and insist that the whole appropriation be from the Federal Treasury, so that people in the same category of need throughout our great country shall get the same amount of Federal money.

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

Mr. PEPPER. I yield.

Mr. McCLELLAN. I wish to express myself as being in agreement with the statement made by the able Senator from Florida. It is true that a number of States, and particularly States in the South, simply cannot possibly match the Federal money. Yet the Federal Government, under existing law, is in the position of favoring a citizen of one State by reason of the fact that he happens to live and have citizenship in a State of wealth, and penalizing a citizen who happens to live in a State whose per capita income and the general wealth do not permit taxation to such extent that the State can raise the revenue necessary to match the Federal funds.

Mr. PEPPER. Exactly.

Mr. McCLELLAN. I served as a Member of the House at the time this law was first enacted. The matching provision seems to have rather an appeal in itself, as the Senator said, in order to cause the States to do their part. But I would say that today that requirement is no longer necessary, because the citizens of the States and the States themselves will go just as far as they can to implement any contribution made by the Federal Government. I say that, as a matter of justice and equity, according to every proper standard, we ought to eliminate the requirement of matching and whenever the Federal Government makes contribution of aid, especially of this character, to individual citizens who need it for the sustenance for life, it should be provided on the basis of the Government dealing with its citizens, and not on the basis of the Federal Government dealing with the citizen of this State or another State, for under that formula discrimination is bound to exist.

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

Mr. PEPPER. I yield to the Senator from Texas.

Mr. CONNALLY. I wish to reinforce, if I can, what the Senator from Arkansas has said. If the Federal Government owes any obligation to the aged, it owes it directly to the citizen, and it ought not to be conditioned on what some other agency does or does not do. The result of the present law is that if one of these dependents lives in a rich State he receives a large amount of assistance, and the man who lives in a poor State which does not contribute much receives a much smaller rate. So the system aggravates the situation by helping the one who lives in a State which makes a heavy contribution, and penalizes the man who lives in a poor State by cutting down his allowance. If the Federal Government owes anything, it owes a person in one State just as much as it owes a citizen in another State. Geography has nothing to do with the obligation.

I thoroughly agree with the Senator from Arkansas that sooner or later we shall have to do away with the principle of matching and let the Federal Government make a direct grant. Then if the State wishes to supplement what the

Federal Government pays, it may do so. But so far as the Federal grant is concerned, it ought to be on the same basis as all other pensions. It is in the nature of a pension, and it ought to be on the same basis as all other pensions. In granting allowances to veterans of World War I, World War II, or the Spanish American War, we do not discriminate on the basis of where a man lives. If he fought for the flag he is given a pension, regardless of his residence. Under the civil service retirement plan we do not ask a man what State he comes from. We grant retirement on the basis that it is a Federal obligation. The old-age pension should be on the same basis as other grants. We must come to the principle of making it a direct Federal grant.

Mr. PEPPER. I thank the Senator. I know that for a long time he has been an advocate of this principle.

Mr. CONNALLY. I once introduced a bill providing that the Federal Government should contribute two-thirds, letting the States match one-third. That would not have met the situation, but it would have gone a long way toward making it possible for the poorer States to receive their share of the benefits.

Mr. PEPPER. I thank the Senator.

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

Mr. PEPPER. I yield.

Mr. WALSH. As a Senator coming from a so-called rich State, I wish to emphasize my approval of the remarks made by the Senator from Florida, the Senator from Texas, and the Senator from Arkansas. For some time I have felt that justice and equity require a change. I commend the Senator from Florida for his persistency in advocating the new formula. I know that he has been working on the problem for several years. During the past two or three years he has appeared before the Committee on Finance a number of times.

What is suggested by the Senator from Florida is the humane thing to do. The citizen of a poor State ought not to be discriminated against by the National Government when it comes to old-age assistance and other benefits. They should be treated all alike. I wish to express my hearty approval of the remarks of the Senator from Florida, the Senator from Arkansas, and the Senator from Texas.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. I am very happy to hear what the Senator from Texas, the Senator from Arkansas, the Senator from Massachusetts, and the Senator from Florida have said. For a long time I have felt that sooner or later the Federal Government would be required, as a matter of good morals and obligation, to deal with all its older citizens in the same way, without discrimination because of geographical location. It costs just as much for an old man, an old woman, or a couple to live in Arkansas as it does to live in Kentucky, Missouri, Illinois, or any other State similarly situated. And yet, either because of the indifference or lack of comprehension of the legislature, which fixes the maximum payment, only one-half of which the Federal Government now matches, a person in Arkansas, where it costs just as much to live as in Kentucky or Missouri, may receive not more than half as much as a citizen of Kentucky or some other State may receive.

Mr. PEPPER. We have been talking about the aged, but we must also bear in mind that what we are saying relates as well to dependent children and the blind. I wish to make that clear.

Mr. BARKLEY. That is undoubtedly true. For a long time I have felt that some of these days the Federal Government would have to come to the point of recognizing its uniform obligation to all citizens in the same category. As the Senator from Texas has indicated, if, in addition, a State wishes to supplement what the Federal Government pays, all well and good. I have no doubt that many of the States, especially the less rich States, could find ample opportunity to spend well the amount which they might contribute in addition to what the Federal Government puts up; but that would be a matter for their discretion. I feel that some of these days—and I hope the time will not be far distant—the Federal Government must inaugurate a uniform system all over the United States for the same kind of people, regardless of geography and regardless of anything else which now depends upon whim, poverty, indifference, or any other reason why one State cannot make as large a contribution as some other State makes. I am very glad to have these excellent statements from Senators confirming the feeling I have entertained for a long time.

Mr. PEPPER. I thank the Senator from Kentucky very much.

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

Mr. PEPPER. I yield.

Mr. CONNALLY. The striking inequality and injustice of the present system is illustrated by the following example: We take the money from the Federal Treasury. We owe the old people and other dependents a certain obligation. We say to one of them, "Where are you from?" He replies, "I am from Massachusetts." We say to him, "All right, old man. You are in need. We will give you $35 or $40 because you are from Massachusetts."

We say to another, "Where are you from?" He replies, "I am from Arkansas."

Mr. PEPPER. If the Senator will allow me to give him the figures, in the case of Massachusetts the payment would be $46.22 a month.

Mr. CONNALLY. We are studying geography. We say to each applicant, "What State are you from?" Of course the obligation of the Federal Government is the same to all its citizens, but one of them has the misfortune to live in Arkansas or Texas.

Mr. PEPPER. In Arkansas the rate is $16.87.

Mr. CONNALLY. We give the citizen of Massachusetts $46.22, and the citizen of Arkansas $16.87. We say to him, "That is all you need."

Mr. BARKLEY. How much do I get? I am from Kentucky.

Mr. CONNALLY. I do not know what the Senator will get after he is off the roll here.

Mr. PEPPER. The Kentucky applicant receives only $11.71.

Mr. CONNALLY. No wonder the Senator favors an increase.

Mr. BARKLEY. I will give it to Arkansas. [Laughter.]

Mr. PEPPER. The figure for Texas is $24.61.

Mr. CONNALLY. Texas is a little better off than some of the other States. The rate in Texas ought to be higher. Texas is a great, rich State. However, this program is new to us.

These figures illustrate the injustice of the situation. If the Federal Government does not owe these people anything, let us not pay them a cent. But if it does owe an obligation, it owes the same obligation to every citizen under the flag, whether he lives in Podunk or on Fifth Avenue. So if we have any conception of justice and equality, the system proposed is bound to be adopted sooner or later.

I thank the Senator from Florida for yielding.

Mr. PEPPER. That is indeed a very interesting and dramatic showing of the disparity which we have been complaining about.

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

Mr. PEPPER. I yield.

Mr. MAGNUSON. I merely wish to add to what has been said—and I think I can do so with as good grace as can any other Member of the Senate—that the State of Washington pays the highest old-age assistance benefits that are paid in the United States. The average payment made in our State is $53.14. That is the highest figure shown in the table. We have been very progressive about this matter. We also make the highest payments for children.

In table 3, on page 20 of the report, in the column marked "average per family", it will be seen that the figure for the State of Washington is 100, whereas in the case of some other States it is 26.30 or 36.18 or 27.84 or 23.38.

My position on this matter is similar to that of the Senators who have spoken on this point. I think the State of Washington makes the highest payments and our people receive the largest payments under the Federal fund. Our people receive more because our State matches more. My opinion is that the sooner we make the system uniform throughout the Nation, the better it will be for the aged people of the United States.

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

Mr. PEPPER. I yield.

Mr. DOWNEY. I wish to call attention to the fact that no State gets less than $20. Any State that pays $40 gets the full amount.

Mr. PEPPER. That is correct.

Mr. President, my position is that whatever the Federal Government gives, the sooner it is done in a uniform way, the sooner the other States will increase their payments to the amounts paid by

the State of Washington, and the sooner we shall treat all people in such circumstances in a uniform manner.

Mr. DOWNEY. Mr. President, the Senator from Washington said that Washington makes the largest payments. Of course, that is true on the basis of the amount received by each person. But on the basis of the total amount paid, California pays a larger total amount, of course, because her population is considerably larger.

Mr. MAGNUSON. I understand. I mean to say that the State of Washington pays the full amount, and the State contributions are matched by the Federal Government.

I agree that the sooner old age assistance funds are made uniform throughout the Nation, the sooner the States will treat their people properly. I am glad to see the amendment adopted.

Mr. WILLIS. Mr. President, will the Senator yield to me now?

Mr. PEPPER. I yield.

Mr. WILLIS. I was going to ask the Senator from Texas how long the money he was handing out so freely would last. I observe that it has already disappeared.

Mr. CONNALLY. All the money the Senator gets disappears quickly, I will say. [Laughter.]

Mr. WILLIS. I think the Federal money that we devote to this purpose will disappear.

Mr. CONNALLY. I thank the Senator. However, if it is going to disappear anyway, I would much rather have it go to the older people who have borne the burden and the heat of the day in the past. I cannot get out of my mind the fact that when the Federal Government distributes these gratuities—because that is what these payments are—when an old fellow comes up and says, "I have only one leg", under the present system he is not asked very much about that, but he is asked, "What State are you from?" If he comes from one State, he receives only $5 or $6, but if he comes from another State he receives $20 or $40, or whatever the amount may be.

So I wish to adhere to the position I have held for many years.

Let me say to the Senator from Indiana that if Indiana wishes to cooperate with the Federal Government and to make a grant in addition to whatever amount the Federal Government pays, it will be proper to do so, under Indiana's sovereignty as a State and under States' rights, and so forth.

Mr. MAGNUSON. Mr. President, let me say that this change also will help do away with another evil which has arisen because of the difference in payments. It happens that many of the elderly people will move to States where greater payments are made—and I do not blame them, of course—and they will establish residence there. That results in placing a greater burden on those States. So any tendency to equalize the payments as between the various States not only will be fairer to the people concerned but will be fairer to the States.

Mr. McFARLAND. Mr. President, will the Senator yield to me?

Mr. PEPPER. I yield.

Mr. McFARLAND. I concur in the statements which have been made about payments by the Federal Government. I have, ever since I have been in the Senate, advocated adequate old-age assistance. It should be paid entirely or at least largely by the Federal Government.

There is another step which I think we should take; namely, do away with the need clause, or at least modify and improve it. I think these people should not have to feel that they are in poverty. They should feel that they are getting something which they have earned by the payment of taxes during their lifetime. I hope that will be the next step, and that we can do something in regard to the troublesome need clause.

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

Mr. PEPPER. I yield.

Mr. LANGER. I wish to call the attention of the Senate to another matter which is very discriminatory against some of the States. For example, in my State in connection with every dollar we receive from the Federal Government for this purpose, we have what we call in our law a reimbursement clause. I have seen a situation, a few years ago, where all an old man had was a wedding ring and a cot; but before he could receive any old-age assistance he had to turn them in. I investigated and took up the matter with the Social Security System, and I found that the reimbursement clause applies in only 17 States. In other words, in the State of Minnesota, right next to the State of North Dakota, a person receiving such assistance can have a life-insurance policy or can own a certain amount of property and he does not have to reimburse either the State or the Federal Government. But in North Dakota such a person has to reimburse both the State and the Federal Government to the extent of his ability to pay. Before he can receive any old-age assistance at all, he has to deed over to the State and the Federal Government, on the basis of an equal division everything he possesses.

So when this law is finally drawn up, I hope that discriminations will be removed insofar as the particular 17 States are concerned.

Mr. PEPPER. I thank the Senator, and I shall comment on that matter a little later.

Mr. ANDREWS. Mr. President, will the Senator yield to me?

Mr. PEPPER. I yield to my colleague.

Mr. ANDREWS. I wish to express my appreciation of what the senior Senator from Georgia [Mr. GEORGE] has done, as far as he has gone, and I hope he will do better. Ten years ago when I was elected to the Senate, I was criticized severely by those who opposed me because I favored old-age assistance. The junior Senator from Florida will recall that.

The reason why the matter affects Florida so definitely is that we have more elderly people there per capita than has any other State of the Union. Elderly people go there when they retire. In many cases after they went to Florida they found that in 1930 their industrial bonds suddenly became worthless, and they lost all they had. I have seen many of them in tears.

So I have been pledged to aid in this situation, ever since I came to Washington. I helped the Senator from Texas, who referred to the fact that he tried to get the law amended 4 or 5 years ago. I am deeply in sympathy with trying to do something for these elderly people, without classifying them as paupers. They have lived to be 60 or 62 years of age or more, and they have paid their taxes and they have carried this Government on their shoulders, and by the eternal, we ought to try to do something for them when they are in trouble. It is our duty to do it.

Mr. PEPPER. Mr. President, I attest to everything the able senior Senator from Florida has said about his long advocacy of this principle.

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE

The Senate resumed consideration of the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code and for other purposes.

Mr. PEPPER. Mr. President, I rose to add my own support and advocacy to the adoption of the variable grant amendment. But I am speaking only in relation to the law as it now exists. I am glad that Senators have pointed out that even if we adopted the variable grant amendment it will fall far short of the principle of unanimity which Senators have advocated today.

I wish to take occasion publicly to commend the able Senator from Massachusetts, the able Senator from Washington, and the able Senator from California, all of whom come from States where high rates are paid to the recipients of the benefits to which we have referred. I know of the humane sentiments of the able Senator from Massachusetts which were written into the laws of his State, and it is not new for him to hear his friends express their approval.

But, Mr. President, allow me to make this observation with reference to the shortcomings even of this matching amendment. In the first place, in no case will the recipient in any State receive the entire $50 without the State, however poor it may be, being required to put up dollar for dollar with Federal money, to the extent of $25. It is only in respect to the lower amounts that the Federal Government will put up a larger share. But when we get up toward the top amount of $50, still the State will be required to match dollar for dollar in order that recipients may receive the meager pittance of $50 a month for their support.

The second thing which I wish to observe is that in spite of the fact that we may secure this variable means, grant amendment, the odious means test, as it has been pointed out, is still in the law. That means that the so-called needy are the only ones who can get it. That means that in many of our States they will receive as little as $5 a month, $7.50 a month, and $10 a month, because some social worker has decided that that is all that can be made available. A State senator in my State, Mr. Raymond Sheldon, called me on the telephone a few days ago and said that in the city of Tampa he knew of cases on the same street where one old person was receiving $2.50 a month, another $5 a month, and another another amount, when all were alike needy.

Mr. President, what I should like to see, and what the able Senator from California, the able Senator from Idaho, and the junior Senator from Florida will attempt to provide for by means of an amendment which will be considered later, is the principle of universality, not only geographically, but for all of the people in the same category. That is to say, that every person 60 years of age in every State in the Union, in every family in the Nation, would receive the same amount of money. That is the American principle of universality and equality under the law. That is the only way in which we will give equal justice to all our people. However, as compared with the present law, the Senator from Georgia and the Committee on Finance are entitled to the commendation of all of us for the improvement they have suggested in the bill.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The clerk will state the next amendment of the committee.

The next amendment was, on page 44, after line 3, to insert:

TITLE VI—STUDY BY JOINT COMMITTEE ON INTERNAL REVENUE

TAXATION OF ALL ASPECTS OF SOCIAL SECURITY

SEC. 601. The Joint Committee on Internal Revenue Taxation is authorized and directed to make a full and complete study and investigation of old-age and survivors insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto. The Joint Committee shall report to the Congress not later than October 1, 1947, the results of its study and investigation, together with such recommendations as it may deem appropriate.

SEC. 602. The Joint Committee is hereby authorized, in its discretion, to appoint an advisory committee of individuals having special knowledge concerning matters involved in its study and investigation to assist, consult with, and advise the Joint Committee with respect to such study and investigation. Members of the advisory committee shall not receive any compensation for their services as such members, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in connection with the performance of the work of the advisory committee.

SEC. 603. For the purposes of this title the Joint Committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

SEC. 604. The Joint Committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary in the performance of its duties under this title, but the compensation so fixed shall not exceed the compensation prescribed under the Classification Act of 1923, as amended, for comparable duties.

SEC. 605. The expenses of the Joint Committee under this title, which shall not exceed $10,000, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman.

Mr. DOWNEY. Mr. President, I desire to offer an amendment to the committee amendment. On page 44, in line 10, after the words "social security," I move to amend by inserting the words "including the Townsend plan."

The PRESIDENT pro tempore. The amendment offered by the Senator from California will be stated.

The LEGISLATIVE CLERK. On page 44, in line 10, after the words "social security" and the comma, it is proposed to insert the words "including the Townsend plan."

Mr. PEPPER. Mr. President, allow me to say that I shall support the amendment. It does not commit the investigating committee to the adoption of the plan, but any plan which has as its advocates several million American citizens is entitled to consideration. I hope the able Senator from Georgia will be agreeable to accepting the amendment and allow the conference committee to have the matter before it for its attention.

Mr. GEORGE. I was about to say, Mr. President, that the committee amendment is broad enough to include the Townsend plan and all other plans.

Mr. VANDENBERG. Mr. President, will the Senator yield.

Mr. DOWNEY. I yield.

Mr. VANDENBERG. I entirely agree with the viewpoint of the Senator from Georgia. This language is the exact language of a resolution which I submitted in January 1945 and which was agreed to by the Senate, requiring a report to be filed not later than October 1, 1945. The House declined to agree to the resolution, and as a result of that disagreement we have lacked the benfit of this study. As a result of the lack of the study we find ourselves at the end of another session of Congress without an adequate base on which to do the things which are so obviously necessary in expanding coverages and benefits in connection with social security.

Mr. President, I make this frank statement to the Senator: My opinion again is that it will be very difficult to obtain the acquiescence of the House in connection with title VI. The language of it is an exact duplicate of the resolution to which the House objected 2 years ago. I offered it then, and I offered it again in connection with this bill. I do not believe we will ever make substantial progress in liberalizing social-security coverages and benefits until a study of this nature is made. I do not have too much hope that the House will agree with us this time. I am perfectly sure that the House will not agree with us if we undertake to write any specifications in the text.

In my opinion, the Joint Committee on Internal Revenue Taxation will be obligated to include the Townsend plan in an investigation of old-age and survivors' insurance, "and all other aspects of social security." I would want them to do it. I totally agree with the Senator that they should do it. I simply submit to him that, in my opinion, in view of our previous experience with the

House on precisely the same proposition, we will probably fail to get anything except as we cling to the general language indicated.

After making that statement, if the Senator wants to insist upon the inclusion of the language he indicates, I shall not resist it. I think it is already included. I believe the Senator endangers the entire study by insisting upon its textual inclusion. I leave the matter in the Senator's hands, so far as I am concerned.

Mr. DOWNEY. Mr. President, of course I can never help but be influenced by the distinguished Senator from Michigan, because he is always logical, always most persuasive, always most vigorous and right in what he says, and I cannot help but admit the general truth of what he has said. Yet, at the end of it, I come to a totally different conclusion than does he.

I am strongly of the opinion that unless this language, "the Townsend plan," is included in this amendment the persons carrying on the investigation—I do not now refer of course to any Senator—will hold the Townsend plan up to scorn and contempt, and there will be no true and sympathetic attempt to understand the simple common sense necessity of Dr. Townsend's program.

I am only asking that this language be included so that whatever group of men may carry on this investigation they will be compelled to recognize that here is a great program close to the hearts of many millions of Americans, and at least some attempt to understand and evaluate it must be made.

I wish to say to the distinguished Senator that, in my opinion, a majority of the 15,000,000 unfortunate senior citizens, past 60, hold in their hearts a hope that still keeps them going that sometime a more merciful government may relieve them of their poverty and their anguish by reducing the age limit to 60, and granting them a decent payment, free of heartache and the humiliation of the means test.

Just one word further and I shall be through.

Mr. VANDENBERG. Mr. President, I should like to interrupt the Senator at that point, if he will allow me.

Mr. DOWNEY. Certainly.

Mr. VANDENBERG. The Senator, of course, is discussing the merits of social dividends and social security, and I do not wish his comments, since they are elicited by my remarks, to indicate that I am in disagreement and that he has challenged my own point of view regarding social security. I would reduce the age to 60 this afternoon, if I could. I totally agree that the benefits have to be expanded by way of value and coverage in many directions, and I completely agree, regardless of the merits of the Townsend plan, that it has achieved the attachment of millions of our people and that most emphatically and undoubtedly it ought to be included, not as a byproduct but as a main consideration, in any such investigation as this. But I say to the Senator that if this title is passed as indicated, the Senator from Georgia, and I, of course, will be members of the joint committee—we are now members of the Joint Committee on Internal Revenue Taxation—and I think we can both say that we shall insist that the Townsend plan be given every fair consideration along with other aspects of social security and social-security benefits.

I beg the Senator not to seem to indicate that I am resisting in any way a movement for the expansion of social security. On the contrary, I am trying, and I have tried for 2 years, to lay the basis for actually achieving results. This language was my language 2 years ago when the Senate adopted it and the House declined it. It is again my language, and I am simply saying to the Senator now that, in my view, since the House declined the language before, I very much fear it will decline it again, and that particularly it will decline the language if we undertake to make textual changes. I submit to the Senator that if we arrive at the same place today, namely, having again failed to create a special responsibility and obligation for this investigation, we will again have just that much longer postponed the better days to which the able Senator from California has so earnestly dedicated himself and for which he fights so valiantly.

Mr. GEORGE. Mr. President——

Mr. DOWNEY. Does the Senator from Georgia want me to yield to him?

Mr. GEORGE. No. I wished to say a few words, but might say at this time that I hope the Senator from California will not insist upon his amendment because the Townsend and any and all other plans are clearly contemplated by the text of the bill, and undoubtedly will be fully and carefully explored.

The Senator from Michigan has already indicated that both of us happen to be members of the Joint Committee on Internal Revenue Taxation. At the present time I am chairman of that committee, and I can assure the Senator that the Townsend plan will be specifically studied, along with any other plan that may be presented, and certainly our whole Social Security System program. So I hope the Senator will not insist on his amendment because I think the House would be very likely to say that they do not want to be committed to study any particular phases.

Mr. DOWNEY. Mr. President, let me first express my appreciation of what both distinguished Senators have said. I clearly understand the Senator from Michigan, he is expressing no opinion on the Townsend plan and no opposition to a better Social Security System, but that on the contrary he is anxious for it. I agree with him that the language is sufficient to call for an investigation of the Townsend plan, but, of course, we are dealing with an unusual condition. By his opponents Dr. Townsend has been branded as charlatan, a demagog, a half-wit, and an opportunist. I believe that Dr. Townsend is 20 or 30 years ahead of the actuarial professors here in Washington. I believe old-age assistance and old-age security are steadily breaking down and that we are going to come to his simple, common-sense, inspired plan of reducing the age to 60, so that that great group now too old to get jobs and too young for pensions will be relieved of their desperation and poverty. I believe we will come to his idea of basic and sufficient social dividends to free from humiliation and anguish those who would be its beneficiaries. I believe we will come to his plan, a pay-as-you-go plan, with no great reserve built up, but involving a monthly tax, paid out in monthly dividends. I believe we will come to all those features of his program. They are simple; they are necessary; they appeal to the common heart of humanity. But as I have said the men who have built up this vast actuarial system hold Dr. Townsend in contempt as a fool and an opportunist, and so far these same groups have closed their minds and hearts to any fair or sympathetic consideration of his plan.

The House Ways and Means Committee recently had an investigation that cost $50,000. It resulted in a book almost as large as this I hold in my hand—the Calhoun report. I read every word in it and was discouraged by its defects.

The Calhoun report contained imperfect and untrue tables, illogical deductions, facts were suppressed, there was no facing of realities, no fair consideration of the basic provision of the Townsend plan. I am at least determined to do what I can, as long as I remain a Member of the Senate, to attempt to get some fair consideration of the Townsend plan.

Mr. President, I have the highest admiration for the ability of the two Senators who have been speaking to me, and entire confidence in their integrity, and upon the basis of their statements to me that they will undertake to see that if this amendment becomes law, and there is the investigation contemplated in the pending proposal, there will be a fair and just consideration and investigation of the Townsend plan, I withdraw my amendment.

The PRESIDING OFFICER. The Senator withdraws the amendment.

Mr. GEORGE. I thank the Senator.

Mr. PEPPER. Mr. President, I concur in that. I supported the Senator from California, and I concur in every tribute he pays Dr. Townsend. As I said before the Committee on Finance a few days ago, I am not ashamed to say that I see the merit and virtue in the Townsend proposal. I think the Senator from California has paid Dr. Townsend a deserved tribute, and that the time will come when he will be considered as a forerunner in giving to the people of this country the security which they deserve, and in contributing to the humanitarian betterment of the citizens of this Nation in a signal way through his plan.

Mr. JOHNSTON of South Carolina. Mr. President, I merely wish to add to what the Senator from Florida has said, that the Senator from California has used the words I would have employed about the Townsend plan. But as I see it, under the bill now pending, there will be a right to investigate in that particular field without any amendment to the bill. But if any amendment is needed to insure that the plan shall be investigated along with the others, I think the bill should be amended, for we

want to do what is right and just to the old people of the United States.

The amendment which has just been adopted, the variable-grants amendment, will help out in a great many of the States, the poorer States of the Nation. It is badly needed at this time. This will encourage them to put in even more money, in order that the beneficiaries may get more, and it is going to start an increase in the benefits for the old people throughout the United States. I am glad to see it done at this time, even before the investigation is made.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I wish to ask the Senator from Georgia a question. The Senator from Georgia will recall that at the time the act was before the Senate, the Senator from Arizona and myself submitted an amendment adding a flat $5 to the Federal contribution, regardless of what the States contributed. That was changed in the conference, was it not?

Mr. GEORGE. The variable grants principle did add a little more than $5.

Mr. MAGNUSON. As the bill reads, it is raised from $20 to $25?

Mr. GEORGE. That is correct.

Mr. MAGNUSON. But it must be matched?

Mr. GEORGE. That is correct.

Mr. MAGNUSON. The amendment of the Senator from Arizona and myself added $5 to the Federal contribution regardless, so it has been changed in that respect?

Mr. GEORGE. In that respect, yes.

The PRESIDING OFFICER. The Clerk will state the next amendment of the committee.

The next amendment was, on page 45, after line 20, to insert the following:

TITLE VII—INCOME TAX PROVISIONS

SEC. 701. Employees' annuities.

(a) Section 22 (b) (2) (B) of the Internal Revenue Code is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however*, That the amount contributed by an employer to a trust to be applied by the trustee for the purchase of annuity contracts for the benefit of an employee of said employer, shall not be included in the income of the employee in the year in which the amount is contributed if (i) the amount is contributed to the trustee pursuant to a written agreement entered into prior to October 21, 1942, between the employer and the trustee, or between the employer and the employee, and (ii) under the terms of the trust agreement the employee is not entitled, except with the consent of the trustee, during his lifeime to any rights under annuity contracts purchased by the trustee other than the right to receive annuity payments."

(b) The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1938.

The amendment was agreed to.

The PRESIDENT pro tempore. That completes the committee amendments.

Mr. DOWNEY. Mr. President, I have at the desk an amendment in the nature of a substitute which will embody the so-called Townsend plan as a part of the pending measure, and I wish to call the amendment up at this time.

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

Mr. DOWNEY. I yield.

Mr. MURDOCK. I should like to call a situation to the attention of the distinguished Senator from Georgia. Under the Veterans' Emergency Housing Act of 1946 all the regulations, directives, and orders made under the act come under the provisions of the administrative act which was passed some weeks ago. It has been found that the program for the veterans' housing is hampered, impeded, and almost hamstrung, to such an extent that something must be done to alleviate the situation.

This morning I conferred with the Senator from Ohio [Mr. TAFT]; the minority leader, the Senator from Maine [Mr. WHITE]; and the majority leader, the Senator from Kentucky [Mr. BARKLEY], about an amendment I have to present, and they have all indicated that they have absolutely no objection to it. It has nothing whatever to do with the subject matter of the pending bill, but it is absolutely necessary at this late hour in the session that some legislative vehicle be made available in order to carry this amendment.

The amendment merely provides that the administrative act shall not be applicable to the Veterans' Emergency Housing Act. The Housing Act, as we all understand, will expire on December 31, 1947, and the administrative act was never intended to cover emergency legislation. We have in the act itself—and I think since then—exempted from its provisions certain emergency laws.

I ask the Senator from Georgia at this time if he will allow me to use the social security bill as a vehicle to carry this amendment.

Mr. GEORGE. Mr. President, I shall be delighted to do so.

Mr. BARKLEY. Mr. President, I am familiar with the situation. I know that if the Veterans' Emergency Housing Act should come under the strict interpretation of the administrative law, which requires 30 days' notice, and the like, to which attention was called, it would materially interfere with the efficient administration of the Veterans' Emergency Housing Act. I hope the Senator from Georgia will agree to the amendment going on the bill.

Mr. GEORGE. I shall be glad to take the amendment to conference. But, frankly, I am very much inclined to believe that the House will be more reluctant to accept the bill if we add anything to it. I shall not object to its going in if there is no objection to the amendment. I understand it is an unobjectionable amendment.

Mr. MURDOCK. The Senator from Ohio [Mr. TAFT] assured me he had no objection, the minority leader gave me similar assurance, and the majority leader did likewise.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 46, after line 15, it is proposed to add a new section, as follows:

SEC. 702. Section 2 (a) of the act of June 11, 1946 (Public Law 404, 79th Cong.), is amended by striking out the period at the end thereof and inserting a semicolon and the following: "and the Veterans' Emergency Housing Act of 1946."

Mr. MURDOCK. Mr. President, I ask that the clerk be directed to number the section appropriately.

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

The question is on agreeing to the amendment offered by the Senator from Utah [Mr. MURDOCK].

The amendment was agreed to.

Mr. MURDOCK. Mr. President, I ask unanimous consent to insert at this point in the RECORD an explanation of why the amendment is necessary.

The PRESIDING OFFICER. Is there objection?

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

NECESSITY FOR THE PROPOSED AMENDMENT

The Veterans' Emergency Housing Act of 1946 is a temporary statute. For a limited period, it grants powers necessary to expedite the production of building materials, to allocate building materials for house construction and other essential purposes, and to provide that veterans of World War II shall have preference in purchasing or renting the housing produced with these materials.

The provisions of the act, and all regulations and orders issued thereunder, terminate on December 31, 1947.

The Veterans' Emergency Housing Act of 1946 is centered directly on providing the legal basis for dealing swiftly and expeditiously with the production and allocation of materials needed to provide housing for veterans. To subject these functions to the requirements of the Administrative Procedures Act as to 30 days' notice and formal hearings would defeat the objective of the Veterans' Emergency Housing Act of 1946.

The Administrative Procedures Act specifically recognizes that this type of temporary emergency function should not be included within the scope of provisions which are necessary and desirable in the case of permanent and continuing functions. Under section 2 (a) of the Administrative Procedures Act there are exempted from all the provisions of the act, except those relating to publication of organization, delegations, procedures, and rules and regulations in the Federal Register:

1. Functions which by law expire within any fixed period after the termination of hostilities,

2. Functions which expire on or before July 1, 1947, and

3. Functions conferred by the Selective Training and Service Act, the Contract Settlement Act of 1944, and the Surplus Property Act of 1944.

The amendment would merely add the Veterans' Emergency Housing Act temporary emergency functions to these temporary emergency functions already exempted by section 2 (a) of the Administrative Procedures Act. Thus, like the temporary emergency functions already excepted, similar functions under the Veterans' Emergency Housing Act would be excepted from the time consuming provisions which would defeat the accomplishment of the purposes thereof, but would remain subject to the requirements as to publication in the Federal Register.

TYPICAL EXAMPLES SHOWING THE NEED FOR THE PROPOSED AMENDMENT

Under the Veterans' Emergency Housing Act, the Housing Expediter is authorized to issue orders or regulations allocating, or establishing priorities for the delivery of, materials or facilities suitable for the construction and completion of housing for veterans. He also has power to issue directives to other

agencies (including the OPA) to exercise their powers, to the extent authorized by law, in such manner as will increase the supply of housing accommodations.

There may arise the situation where it is necessary to issue a directive to the Office of International Trade to place under export licensing control certain grades of construction lumber urgently needed to complete housing for veterans. If the functions under the Veterans' Emergency Housing Act were not excepted from the Administrative Procedure Act, it would be necessary to give 30 days' notice of the proposed issuance of this directive and to hold formal hearings thereon. Thus, by the time that the directive was issued, large quantities of construction lumber sought to be retained for, and which otherwise would have been channeled into, the construction of housing for veterans would be exported during this waiting period.

Another typical example would be in the case of construction plywood which is in extremely short supply and which is urgently needed for the veterans' housing program. As the production of peeler logs is increased through the use of premium payments being made under the Veterans' Emergency Housing Act, it may be possible, without adversely affecting users of other types of plywood, to issue a direction requiring that the set-aside of construction plywood shall be increased from 60 to 75 percent. If this directive were subject to the requirements of 30 days' notice and formal hearings large quantities of peeler logs which otherwise would have been channeled into construction plywood required for the construction of homes for veterans would be diverted into other types of nonresidential construction.

The same would be true with respect to building materials declared surplus to the War Assets Administration. In this case it might be desirable to issue a directive requiring that these building materials be sold only to the holders of priorities issued for the construction of housing for veterans. If notice of the issuance of such a directive had to be given 30 days before it became effective, the major portion of these surplus building materials would be drained away from house construction into other types of nonresidential construction.

It is also pertinent to note that the Second War Powers Act, which, administratively, ties in very closely with the priority and allocation functions under the Veterans' Emergency Housing Act, expires prior to July 1, 1947. Thus, regulations and directives bearing on allocations and set-asides issued under the Second War Powers Act are not subject to the requirements of the Administrative Procedure Act as to 30 days' notice. If a similar exception were not made in the case of the functions under the Veterans' Emergency Housing Act, there could arise the altogether undesirable situation where regulations and orders issued under the Second War Powers Act and relating to matters involved in nonresidential construction would not be subject to the requirement of 30 days' prior notice, while all regulations relating to housing and the allocation of materials therefor would be subject to the 30-day requirement. The failure to except the functions under the Veterans' Emergency Housing Act from the requirement of 30 days' prior notice would tend to divert building materials from house construction into nonresidential construction and thus defeat the intent of the Congress to give the construction of housing for veterans first preference.

Mr. MURDOCK. I thank the Senator from Georgia.

Mr. GEORGE. Mr. President, I wish to submit a unanimous-consent request that mere technical changes or corrections, and the renumbering of the sections in the bill, and the like, be permitted.

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

Mr. GEORGE. Mr. President, I also ask consent that there be inserted in the RECORD at this point a three-page statement of the practical effect of the variable grants provision. The practical effect of that provision will not be so much to raise the actual benefits paid to recipients, though some will be raised, of course; but to enable many States to place on the rolls persons who are now entirely off the rolls.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia?

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

PRACTICAL EFFECTS OF VARIABLE GRANTS

There are two things which may be done with the extra Federal funds from variable grants. First, the State may use the funds to increase the amount of assistance given those already on the State rolls. Second, the State may use the funds to put additional needy persons on their rolls. Actually the States will use the funds for both purposes.

Increased cost of living means that those on the rolls need more assistance. Increased cost of living also means that some persons with small fixed incomes which were sufficient for them to get by on in normal times now have insufficient income and should be put on the rolls for enough assistance to enable them to meet the increase in living costs.

I should like to point out that the proposed variable grants would not bring up the average of assistance in the low-income States to the level of assistance in the high-income States, nor would it even bring up the Federal expenditure per recipient in the low-income States to the Federal expenditure per recipient in the high-income States.

The average of old-age assistance in the lowest income States for April 1946 was $19.54 and even if all the additional Federal funds were used to increase the size of benefits the average payment would still be under $30 and Federal funds per recipient under $20. On the other hand, the average payment in the high-income States is already around $38, even though a considerable part of benefit cost is unmatched by Federal funds. With the ceiling lifted, as is proposed, Federal funds in large amounts will be made available to match these expenditures and doubtless these average payments will rise to at least $42 or $43. Thus in these States Federal funds per recipient will continue to exceed Federal funds per recipient in low-income States.

The general level of assistance in high-income States will continue to be at least 25 percent above that of low-income States. I believe, in view of the necessity of taking more on the rolls in the low-income States, that the difference in average payments will remain even greater than I have indicated. But even a 25 percent difference is much greater than is the difference in the cost of living in the high-income and low-income States.

I have so far been referring to the 11 States whose per capita income is so much below the national average that they will receive two-for-one matching under the bill. Twenty other States will receive more than dollar-for-dollar matching but less than two-for-one matching. We might take New Hampshire as an example. The Federal share, 58 percent, is about halfway between the 50 percent minimum and the 66⅔ percent maximum. New Hampshire payments at present average about $31 per capita. The State would receive around $6.80 additional funds per recipient, so its average payments would be around the present average of the high-income States, but less than the new average which the rise in ceilings should give the high-income States.

A further example of a State around the halfway mark is Texas, with a 62-percent Federal share. Texas payments at present average about $24.60 per recipient. The variable matching would average about $7.60 per recipient, bringing the average payment up to around $32.20, still some $5 below the present average of the highest-income States, and around $8 below the probable future average of the highest-income States. The Federal funds per recipient would remain less for Texas than for the high-income States.

No system for measuring grants to States is a perfect system. I believe, however, that the approach of lifting the ceilings and providing variable grants based on per capita income works out more equitably than any other proposal. I feel certain that in its practical effects it is a much more equitable arrangement than presently exists. At present aged citizens of the United States in the lower-income States receive only about half the assistance—and half the Federal funds—that is received by other aged citizens in the higher-income States. Thus dollar-for-dollar matching may be equitable from some viewpoints but not from the viewpoint of equitably providing assistance to the aged. The pending bill is designed to lessen the present inequity and should accordingly be enacted.

Mr. MAGNUSON. Mr. President, I desire the RECORD at this point to show, from the committee report, that the State of Washington for old-age assistance pays to 64,794 recipients the sum of $3,443,361, or an average of $53.14, the highest in the Nation. Very few States come anywhere near that average, with the exception of the State of California.

I should also like to have the RECORD show with respect to the other important section of Federal aid and State aid to dependent children, that the State of Washington pays to 4,880 families with 12,020 children, the sum of $448,010, or an average of $100 per family, which is more than double the average paid by most States, and again is the highest in the Nation.

I wish the RECORD to show further that in its aid to the blind the State of Washington pays to 629 recipients $36,752, or an average of $58.43, which again is the highest in the entire Nation.

So in all three features of social security aid I am proud to point out that my own State, with respect to all three of them, pays the highest average in the Nation to recipients thereof.

Mr. President, I wish to say that my State legislature has not only been humanitarian and progressive with respect to these matters, but ours was the first legislature to make such provisions. I myself in 1932 served in the first State legislature that abolished the poor houses in the State and adopted a State social security law which provided for the payment in aid to these three great classes of our citizens. We have come a long way since that day. I think the pending bill is a step forward. I hope we can go further. I hope some of the ideas of the Senator from California [Mr. DOWNEY] can in the future be incorporated in Government aid to these three great groups of individuals.

I hope the day will come when our great rich Nation can abolish the so-called needs test. My State had a great deal of trouble with the Federal Government respecting the needs test. We have raised the money and we want to pay these high amounts. We want to pay higher average amounts than are paid by any other State in the Nation. But we find that because we receive the maximum in matching funds, namely $20, the Federal Government has laid down certain tests which it feels that our State should also incorporate in our needs test before the Federal Government will pay the matching funds. We have been far more liberal in that respect than has the Federal Government. For that reason the officials of my State who are in charge of the social security program have had to wage a constant fight. They come to Washington three or four time a year and always have to struggle with the Social Security Board so we may be allowed to pay the amount of money we want to pay, and to establish the test we want to establish. I hope the needs test can be abolished in a very short time.

In the early days of this program, social snoopers, as they have been called on the floor of the Senate, used to go around to the elder people who were in need, and to embarrass them by doing many things that should not have been done. If the program is right in the beginning, if we should make payments to our elderly citizens, we should pay with the minimum of a needs test. The so-called social snoopers did many things to elderly people that caused them embarrassment. Some of that procedure has been abolished. But we found in the early days that in many States, including my own State, the administrative cost of trying to find out whether an elder person was entitled to old-age assistance far exceeded the amount that in might cost the State if the State actually paid old people after they reached a certain age.

Mr. President, the country which has had the greatest experience in this matter is Sweden. Sweden long ago abolished the so-called needs test. Sweden says to her citizens, "When you have reached the age of 65 years you can come to your Government and we will give you some assistance." I suppose there are chiselers in Sweden as there are in this country, but we are spending a great portion of this social-security fund to hire persons to try to find out whether the elderly people need assistance. I hope the joint committee will go into that question, and I believe they will find that in the long run the administrative cost of qualifying the applicant for assistance is far greater than if the money were paid out in a flat sum at a certain age.

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

Mr. MAGNUSON. I yield.

Mr. DOWNEY. I think there is a great deal of truth in that statement. Sometimes I myself have spoken harshly about the social-security agents who go into the homes of these unfortunate people, inquiring about all their personal affairs to determine whether or not they are entitled to pensions. They are merely operating under the law. I could tell of hundreds of cases involving such humiliation and anguish as to make one almost cry over the situation. I know of one woman who was on the old-age assistance roll. She required a serious operation. Over a period of 2 or 3 years, out of her scanty payments she had saved several hundred dollars to have the operation performed. Unfortunately the social-security agent found out about it. She had broken the law. She could receive no more benefits until her excess money—I believe any sum above $500—had been used up. The anguish, the humiliation, and the heartbreak of that particular woman were beyond description. It is impossible for me to understand how, in the wealthiest, most fertile land in the world, we have surrounded our retired workers, who built this Nation for the rest of us, with the aroma of the poorhouse and the humiliation attendant upon such a status. I congratulate the Senator from Washington and his State. They are the pioneers in these great movements. We in California are proud that our State is one of the Pacific-coast States which are leading the way, with Washington and the other Western States, toward at least a certain degree of decent and generous treatment of our retired citizens.

Mr. MAGNUSON. I thank the Senator from California. I share his opinion. I know that the social-security agents are required by law to do certain things. I am hoping that the day will soon come when we can change the law. Probably some persons would accept old-age assistance after reaching a certain age, even though they did not need it; but I believe that the number of such persons would be so small that the amounts paid to them would not come anywhere near equaling the administrative cost of trying to find out who can qualify under the act. As I previously stated, Sweden and some of the other progressive countries in Europe—Sweden being the leader in this field—learned that lesson 28 years ago; and since that time the cost of the program has been less.

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

Mr. MAGNUSON. I yield.

Mr. DOWNEY. It is rather sad for a patriotic American to reflect upon our boasting about our great benevolence, and to learn, as the Senator has indicated, that many other nations in the world, with little wealth compared with ours, have pension systems very much superior to ours. I do not mean that they have better pension systems in amounts than have California and Washington, but judged by our national average, the United States has nothing to be proud of when we consider what it does—or rather what it does not do—for retired and elderly people.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

Mr. DOWNEY. Mr. President, I offer the amendment which I send to the desk and ask to have printed in the RECORD. I ask unanimous consent that the reading of the amendment, which is very long, be waived. I shall make a brief explanation of the meat of the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

The amendment offered by Mr. DOWNEY is as follows:

Beginning with line 3 on page 1, strike out down to and including line 3, on page 8, and in lieu thereof insert the following:

"TITLE I—DEFINITIONS

"SEC. 101. When used in this act—

"(a) The term 'gross income' means the gross receipt of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, or the sale of tangible or intangible property, and including interest, dividends, discounts, rentals, royalties, fees, commissions, bonuses, or prizes or any other emoluments however designated and without any deductions on account of the cost of property sold, the costs of materials used, labor cost, taxes, royalties, interest or discount paid, or any other expenses whatsoever;

"(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 'Secretary of the Treasury' or 'Secretary' means the Secretary of the Treasury of the United States of America;

"(d) The term 'property' means real or personal property and includes stocks, bonds, and choses in action, and includes also any right, interest, equity, easement, appurtenance, or privilege and commercial value in such property or related thereto;

"(e) The term 'persons' or 'companies' shall include every individual, partnership, society, unincorporated association, joint adventure, group, joint-stock company, corporation, trustee, executor, administrator, trust estate, decedent's estate, trust, or other entity, whether doing business for themselves or in a fiduciary capacity, and whether the individuals are residents or nonresidents of the United States and whether the corporation or other association is created or organized under the laws of the United States or of another jurisdiction;

"(f) The term 'United States' when used in geographical sense means all land possessions of the United States; and

"(g) The term 'employee' includes an officer of a corporation.

"TITLE II—GROSS INCOME TAX

"SEC. 201. In addition to all other excises, duties, or taxes, there shall be levied, collected, and paid a tax of 3 percent of the gross income of all persons or companies derived from any and all sources, except in personal incomes there shall be an exemption up to $100 per month.

"RULES AND REGULATIONS

"SEC. 202. 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.

"SEC. 203. The Secretary of the Treasury may distrain upon any goods, chattels, or intangibles represented by negotiable evidences of indebtedness of any taxpayer delinquent under this title for the amount of all taxes, penalties, and interest accrued and unpaid hereunder.

"SEC. 204. The Secretary of the Treasury shall be empowered to designate the manner and place for filing returns and payment of tax and shall provide such forms and instructions as may be necessary for the proper administration of this act.

"SEC. 205. The tax shall be computed on the total gross income of all persons and companies at the end of each calendar month and a complete return filed with the Secretary of the Treasury before the 20th day

of the calendar month following the month in which the tax accrues, unless no tax is due under the exemptions as provided in section 201.

"SEC. 206. All remittances of taxes imposed by this act shall be made to the place designated by the Secretary of the Treasury on or before the 20th day of the second month after they accrue; such returns shall be verified by the oath of the taxpayer if an individual or by oath of an officer or director, if made on behalf of a company. If made on behalf of a partnership, firm, society, unincorporated association, group, joint adventure, joint-stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by such partnership, firm, society, unincorporated association, group, joint adventure, joint-stock company, corporation, trust estate, decedent's estate, trust, or other entity shall make the oath on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to make the oath, the same may be made by any duly authorized agent, who shall then be held entirely responsible for the correctness of such return.

"COLLECTIONS, ASSESSMENTS, AND APPEALS

"SEC. 207. If the taxpayer shall make any error in computing the tax assessable against him, the Secretary of the Treasury shall correct such error, reassess the proper amount of taxes, and notify the taxpayer of his action by mailing to him promptly, by registered mail, return receipt requested, a copy of the correct assessment, and any additional tax for which such taxpayer may be liable shall be paid within 10 days after the receipt of such notice.

"SEC. 208. If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer by the Secretary of the Treasury out of the funds collected under this act. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing hereunder.

"SEC. 209. If any person having made the return and paid the tax as provided by this act feels aggrieved by any assesment so made upon him for any specified period by the Secretary of the Treasury, he may appeal from said assessment by filing a petition in the manner provided by section 871 of the Internal Revenue Code. The provisions of chapter 5 of the Internal Revenue Code shall be applicable to proceedings with respect to any such petition, except that where final judgment is in favor of the taxpayer for the repayment to him in whole or in part of taxes paid the Secretary of the Treasury shall, upon the presentation by the taxpayer to him of a certified copy of such final judgment, issue his warrant against any funds collected under this act.

"SEC. 210. The Secretary of the Treasury shall enforce the payment of the excises, taxes, or duties required by this act to be paid, and shall promptly deposit in the United States Treasury all moneys received by him through or from the collection of such excises, taxes, or duties.

"SEC. 211. For the purpose 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 201 shall be allowed as a deduction to the taxpayer in computing his net income for the year in which such tax is deducted.

"SEC. 212. 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.

"SEC. 213. All Federal officers or agents making contracts on behalf of the United States or its instrumentalities or any political subdivision thereof shall withhold payment in the final settlement of any contracts until the receipt of a certificate from the Secretary of the Treasury or his duly appointed agent to the effect that all taxes levied or accrued under this title against such contractor have been paid.

"EXEMPTIONS

"SEC. 214. The provisions of this title shall not apply to the following: (1) All moneys received by individuals or institutions and held in custody or as a deposit for others; (2) fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, or other benefits to the members of such societies, orders, or associations, and to their dependents or beneficiaries; (3) corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes; (4) business leagues, chambers of commerce, labor organizations, boards of trade, civic leagues, and other similar organizations operated exclusively for the benefit of the community and for the promotion of social welfare, and not for commercial trading in any form, and from which no profit inures to the benefit of any private stockholder or individual; (5) hospitals, infirmaries, and sanatoria, from which no profit inures to the benefit of any private stockholder or individual; (6) amounts received by any person as a benefit payment so-called or like payments by virtue of acts passed by the Congress of the United States relating thereto and disbursed to others as such benefit payment; but the Secretary of the Treasury may by regulation require any such deductions to be set forth specially by the taxpayer in his return: *Provided, however,* That exemptions (2) to (6), inclusive, shall apply only to the gross income received from nonprofit activities.

"PENALTIES

"SEC. 215. It shall be unlawful for any person to refuse to make any returns provided for in this title; or to make any false or fraudulent return or false statement in any return with intent to defraud the United States, or to evade the payment of the tax, or any part thereof, imposed by this title; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this title; or for any officer or director of any company to make, or permit to be made, or any company, corporation, association, or other legal entity to make any false return, or any false statement in any return required by this title, with the intent to evade the payment of any tax hereunder. Any person violating any of the provisions of this title shall be guilty of a felony, and, upon conviction, shall be fined not more than $5,000, or by imprisonment not exceeding 5 years, or by both such fine and imprisonment. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury, and, on conviction thereof, shall be punished in the manner provided by law. Any corporation for which a false return, or a return containing a false statement, as aforesaid, shall be made, shall be guilty of a felony and shall be punished by a fine of not more than $10,000. If the tax imposed under this title 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.

"SEC. 216. The Federal Insurance Contributions Act is hereby repealed.

"TITLE III—ANNUITIES

"SEC. 301. There is hereby created an account in the Treasury of the United States to be known as the business, employment, and security insurance account (hereinafter referred to as the 'account'). There are hereby authorized to be appropriated annually amounts to be equal to the estimated revenue derived under title II of this act. On the 20th day of the month succeeding the month in which this act is enacted, and on the 20th day of each calendar month thereafter, there shall be credited to the account an amount equal to the amount of revenue to be collected under the provisions of such title as indicated by the returns filed during the preceding calendar month. Such amounts shall be available for making the payments as hereinafter provided. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the appropriations to be credited to the account.

"SEC. 302. Amounts estimated by the Secretary of the Treasury to be necessary for monthly expenditures in the administration of this title shall be deducted from amounts credited to the account for each month and all funds not so deducted shall be prorated and paid monthly to the number of annuitants per capita.

"QUALIFICATIONS

"SEC. 303. Every citizen who is 60 years of age or over shall upon filing an application under oath, as hereinafter provided, be entitled to receive an annuity payable in monthly installments during the remainder of the life of such person.

"SEC. 304. Every citizen between the ages of 18 and 60 who is disabled for a period longer than 6 months, every mother who is a citizen and who has the care of one or more children under 18 years of age, shall, upon filing application under oath, as hereinafter provided, be entitled to receive an annuity payable in monthly installments so long as their incapacity for employments exists, or so long as they have the care of one or more children under 18 years of age.

"SEC. 305. (a) The annuity shall be spent within the confines of the United States, its Territories, and possessions.

"(b) Each installment of the annuity shall be spent by the annuitant within 30 days after the time of its receipt, except that this subsection shall not become operative until 6 months following cessation of hostilities of the present war.

"(c) An annuitant shall not engage in any occupation, business, or other activity from which a profit, wage, or other compensation is realized or attempted, except that nothing in this title shall be construed to prohibit an annuitant from collecting interest, rents, or other revenues from his own investments. No annuitant shall support an able-bodied person in idleness except a spouse.

"(d) Any annuitant may waive all or any part of his right to annuity under this title by filing a notice thereof with the Secretary of the Treasury in such manner as the Secretary of the Treasury shall prescribe. Any such waiver shall not affect the right of any person to apply for an annuity at any time thereafter.

"(e) Any sum received by an annuitant which represents the proceeds of a sale of any real property acquired through the use of money received as an annuity under this title shall be expended by the annuitant within 6 months after the receipt of such proceeds of such a sale, except that this subsection shall not become operative until 6 months following the cessation of hostilities of the present war.

"(f) Each annuitant by accepting his annuity hereunder agrees in his application for an annuity to comply with all the provisions of this title and all rules and regulations prescribed by the Secretary of the

Treasury to carry out the provisions of this title.

"REGULATIONS

"SEC. 306. (a) Payments of the amounts due each annuitant under this title shall be made at regular monthly intervals in such manner as will provide for such payments to be in the hands of each annuitant as near the first day of each month as possible.

"(b) The Secretary of the Treasury shall furnish application blanks and other necessary forms to the Post Office Department for distribution to persons by local post offices for the purpose of applying for the benefits of this title.

"SEC. 307. (a) The Secretary of the Treasury is authorized and directed to prescribe such rules and regulations as may be necessary to carry out the provisions of this title.

"(b) The Secretary of the Treasury is hereby empowered to call upon now existing departments or agencies of the United States to aid in the administration of this title.

"(c) The Secretary of the Treasury is also empowered to make adjustments with respect to the time in which installments shall be expended in case payments to any person may have been delayed and there is an accumulation of two or more installments.

"SEC. 308. The right to receive any 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. 309. Whoever in any application or any payment under this title knowingly or willfully makes any false statement of a material fact, or fails or refuses to obey any rule, or regulation, issued by the Secretary of the Treasury under this title, or violates any provisions of this title shall be prosecuted by the United States attorney in the United States district court in the district in which the offense occurred, and upon conviction, the annuitant shall forfeit each month for the remainder of his life up to one-fourth of the annuity to which he would otherwise be entitled.

"TITLE IV—GENERAL PROVISIONS

"SEC. 401. Titles I and II of the Social Security Act, as amended, are hereby repealed.

"SEC. 402. All acts or parts of acts in conflict with the provisions of this act are hereby repealed to the extent of such conflict.

"SEC. 403. If any part of this act is for any reason held to be unconstitutional, it shall not affect any other part of this act.

"SEC. 404. This act may be cited as the 'Business, Employment, and Security Insurance Act.'"

On page 21, beginning with line 10, strike out down to and including line 11 on page 32.

On page 32, strike out lines 15 to 18, inclusive.

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

Mr. DOWNEY. I yield.

Mr. REED. May I inquire of the Senator from California if this is the amendment which is lying on the desks of Senators?

Mr. DOWNEY. Yes. It embodies the Townsend plan. I have attached to the amendment the measure which is now pending in the House of Representatives. As a matter of fact, there are two identical bills in that body. I have been given to understand that more than 40 percent of the Members of the House have been anxious to bring those bills to the floor, but so far have been unsuccessful.

Stated generally, the amendment embodies the principles of the so-called Townsend plan. The age at which the retired worker could enjoy his benefit is reduced to 60 years. The means test is abolished; and any retired citizen not engaged in a gainful occupation would be entitled to receive benefits whether he were rich or poor. As the distinguished Senator from Washington has already pointed out, there is such a small percentage of rich persons that that element is not very important.

The amendment provides for the levying of a 3-percent tax on gross incomes, to be collected monthly. The fund would then be paid out in monthly benefits to the beneficiaries entitled to benefits. So the amount of benefits would fluctuate with the national income. In periods of inflation and prosperity the retired senior citizen would be entitled to more than in periods of deflation and depression. In order to finance the plan a 3-percent gross income tax is provided for in this amendment.

Mr. President, in my opinion the two parallel pension systems which we have in the United States are steadily collapsing. I shall attempt to prove, by data of the Social Security Board itself, the almost complete futility and inefficiency of these two plans. I think one of the reasons why we have plans which are so worthless and illogical is that the whole subject is so complicated and abstruse that Senators and Representatives, living under almost unremitting pressure of consideration of matters of great moment, have not been able intellectually to understand the lack of logic, inhumanity, indecency, and absurdity of our two pension plans.

We have two parallel systems. One is called old-age assistance, which I shall hereafter refer to as the assistance program. It is the matching program, the charity program, only for the indigent. The other program is called old-age and survivors' insurance. It is the so-called contributory plan, under which certain workers in covered occupations are presently contributing 1 percent of their pay, up to a maximum of $3,000 in wages or salaries a year, the employer paying an additional 1 percent upon the same pay.

The first thing that greets the human mind as it begins to examine into these pension systems is that the benefits generally paid under both plans are so meager as to leave the recipients living in a state of insecurity and poverty.

The second phase of the two plans which immediately attracts the attention of any intellectual person is that under the contributory plan the workers, those who pay taxes, are receiving substantially less than the beneficiaries of the indigency program. In other words, in this case it pays not to be a contributor to a plan, but rather to have nothing, and to come under the plan in a state of destitution.

Mr. President, in order that we may have definite and precise figures in the RECORD, I now ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a table to be found on page 32 of the February, 1946, Social Security Bulletin, showing old age assistance payments, by States, for December, 1945.

The PRESIDENT pro tempore. Without objection, the table will be printed in the RECORD.

(See exhibit A.)

Mr. DOWNEY. Mr. President, this table shows that the payment to the recipients varies from a high of approximately $50 in Washington, California, and one or two other States, down to approximately $10 a month in Georgia, Kentucky, and several other States. So it will be immediately noted that the range is from $10 up to a high of $50 a month. The average payment, taking into consideration all the States and all the recipients, is $30.82.

It should also be noted, and I emphasize this for later use, that in the event one of the beneficiaries of the assistance is married and has a wife who is past 65 years of age, his wife is entitled to receive the same amount. Again Mr. President, an absurdity which is so grotesque, to me, that it approaches sheer idiocy, appears in the plan.

In the assistance plan, where the recipient makes no contribution, if his wife is entitled to receive a pension by reason of being 65 years of age, the amount of the pension is therefore doubled. But under the contributory system, where the worker pays taxes, if he has a wife who is entitled to receive such payments, only 50 percent is added. Can the human mind make any sense out of such an arrangement? Can there possibly be any defense for giving to a person under the assistance program double the amount, in the event he has a wife who is entitled to receive such payments, but under the old-age insurance system giving to a worker whose wife is entitled to receive such payments only a 50 percent increase, even though he makes contributions by way of taxation?

Mr. President, I desire to have printed in the RECORD at the conclusion of my remarks a table showing the average monthly primary old-age insurance benefits in force, by States, on December 31, 1945, and I ask unanimous consent to have that done.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit B.)

Mr. DOWNEY. Mr. President, I may say that this table, like the other one, was prepared by the Social Security Board. It shows the amount of benefits paid to beneficiaries under the contributory system. Immediately we are attracted by the rather extraordinary fact that the average payment in the case of old-age insurance is only $24.14, whereas in the case of old-age assistance it is $30; and, as I have already stated, under the contributory system only 50 percent is added when the wife is also 65, as against double the amount under the old-age assistance program.

In the case of the old-age assistance program, we see a variation in the payments to recipients of from $10 to $50. In the case of the contributory system the variation in payments is from $19.04 in Mississippi up to approximately $26 in one of the more fortunate States.

Mr. President, the old-age insurance system is allegedly based, in respect to the payments to the recipients, upon the contributions made by the workers, the employees. A vast actuarial scheme has been set up, requiring the attention and deliberation of highly trained actuaries. Great shelves are being filed with volumes of statistics, weighted averages, median lines, maximums, minimums, involved and intricate forms. At the end, what happens? At the end, the average worker comes out with about $24 a month, far less than he would get if he were under the old-age assistance program. Mr. President, this plan actually contemplates that these actuarial calculations will become effective against a boy 16 years of age who is in a covered occupation, and that for 50 years, until he is 65 years of age, the Social Security Board will keep track of his employers and of the tax payments made from his wages; also of his wife, his children, his job, and his compensation; and then, as a result of those calculations, it will determine what that young man will receive 50 years from now. In other words, these actuarial calculators are now calculating whether 50 years from now that boy will get $10.50 or $12.13 or $19, or $20.

Mr. President, in the next 10 years or 20 years we are going to have crisis after crisis; what these crises may be, no one can readily predict; but certain it is that many of them will bring widespread economic dislocation. And here is a group of men who solemnly assert that by means of this actuarial system they are at this time determining how much workers will be paid 10 or 20 or 30 or 40 or 50 or even 100 years from now. The sad and pathetic aspect of it is that these payments will amount to only approximately $10 a month, which is the minimum, or up to approximately $60 a month, which is the maximum. As a matter of fact, Mr. President, these payments are so meager and so low that they nauseate and sicken the human heart. I have already submitted for the RECORD a statement of the average payment made to these beneficiaries by each State, showing an average payment of approximately $24 a month. Now I wish to offer for the RECORD a more definite statement showing the entire futility and absurdity of this whole law. I have before me a letter from the Social Security Administration, and I ask that the entire letter be included in the RECORD at the end of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit C.)

Mr. DOWNEY. The letter is dated July 9, 1946. It shows that of the total number of recipients under the contributory plan, 8.3 percent are receiving a minimum of $10 a month. Mr. President, what good is any pension system which affords to a man only $10 a month? Can he even starve to death on that sum of money? Of what value is it? Why should we have this vast and complicated system, these great actuarial tables and these records which are now occupying whole warehouses? I understand that the Social Security Administration now is approaching 100,000,000 records of various wage earners. Somewhat less than 10 percent of recipients are receiving the minimum of $10 a month. As a matter of fact, from the standpoint of social security, that is putting the situation far too optimistically. Almost one-half of the workers whose records are laboriously kept, and which follow them from job to job, and from year to year, will never even qualify. From the record it is apparent that from 40 percent to 50 percent of them, who will pay very scanty contributions into this plan, will receive nothing in return.

Let us take one great group which we all recognize immediately, namely, the young women who are coming forth from the schools and colleges. Most of them, when starting to work, are employed in covered occupations. They pay their scanty contributions. In order to be entitled to any dividends, the worker must remain under the contributory plan for 40 calendar quarters, or approximately 10 years. The women to whom I refer, who come out of high schools and colleges and work in covered occupations for 4, 5, 7, 8, or 9 years, and make faithfully their payments during all that time, will be totally excluded if they never complete the entire 40 quarters. There are many men who are approaching ages 50 and 55, who pay year after year, who will be excluded because they are not employed a sufficient amount of time in covered occupations.

So, Mr. President, as the plan is working out, almost half of the men whose records now fill warehouses, and will soon amount to hundreds of millions in number, will never receive anything under this plan although they pay their taxes regularly. But, to those who are fortunate enough—if I may bring myself to use that word—to be beneficiaries, let us go down the line and see what tragic and miserable sums the Government pays. I do not know of any American professing Christian principles who can advocate payments of only $20 or $30 a month. Some payments are so low that the persons receiving them live in worse circumstances of destitution and starvation than do the starving peoples of Europe. They are living on from 500 to 1,000 calories a day. Yes, Senators, we pretend to represent principles of benevolence and Christianity, and yet we degrade our workers with payments so miserly that I wonder that the senior citizen wants to continue his struggle to live; and, indeed, Mr. President, many of them do not; many of them die by their own hands, by malnutrition, or by gradually wasting away.

Mr. President, am I exaggerating? Let us go over the figures once again. Almost 10 percent receive the minimum of $10 a month, another 10 percent receive from $10 to $15 a month, 28 percent receive between $20 and $25 a month, and 21 percent receive between $25 and $30 a month. As a matter of fact, a large percentage of the beneficiaries under old-age insurance are receiving less than $30 a month—and that in a land of great wealth and vast yearly production.

Suppose we were so fortunate, or unfortunate, as to be living among savages in some part of the world. Let us take, for example, the Eskimos. The Eskimo hunters come in from their hunting grounds at night with the meat which they have captured during the day. The elders of the tribe sit around and do not engage in the hunting. What would we think of Eskimos if they threw perhaps only 5 percent or 10 percent of their catch to the elders of the tribe who no longer can go hunting. No; Mr. President, savages do not do that kind of a thing. When a man has completed his life's work among the savage tribes he lives in the same dignity and under the same security as does the worker. But this Christian country—there are some others of course—has worked out a method which gives a pension of approximately 10 percent or 15 percent of the income of the average working population—scarcely sufficient to keep body and soul together. We love to boast of our benevolences and our generosity to foreign lands. We love to tell of our wealth and fertility. But we lack either the will or the desire to work out for our senior citizens a method by which they may receive more than $10 or $20 or $30 a month.

Mr. President, there are so many harsh and cruel things in this law that I shall not take the time of the Senate to explain them. But let me show another harsh joker in the law. As I have already said, if a man on the assistance rolls is married and has a wife 65 years of age, the amount of money which he will receive will be doubled. If he is under the contributory system, where he pays taxes, the amount is not the same. Why we penalize a man because he pays taxes, I do not know, but that is the law which was passed by the Congress of the United States. Congress has provided for an average old-age assistance of $30 when the unfortunate has nothing else upon which to live, or $24 under the insurance plan. That, in fact, is the plain result of our experience for practically a decade under these two plans.

Now, suppose the insurance-plan beneficiary is married. You may say, Mr. President, "Well, he gets at least something more." But that is not so in the majority of cases. Why? Because the average man at age 60 or 65 has a wife who is 5 years younger than he is. So here we are giving an average benefit of $24 a month. We add $12 a month to it if the recipient has a wife. We are generous. But the average man will not receive it until he has reached the age of 70 years. Does it make any difference to that man, as he watches his poor helpmate slowly starve, whether she is 57 or 58 or 61 or 62 years of age? Oh, Mr. President, in these pension laws we have divorced our system from any reality, from any decency, from any generosity, and we have a strangely bad system.

There is another thing which I cannot understand. I cannot understand the reasoning of the actuaries in connection with this contributory system. I suppose that what they were trying to do with their sharp pencils, their logarithms, and their involved calculations, was to try to cut a certain piece of cloth in a certain way, and if they had to add

here or cut there in order to reach the results which they were trying to achieve, they did it without any thought of the human heart or of giving any consideration to realities. Mr. President, allow me to show you to what absurd lengths they went.

As I have said, in the assistance program, where no tax is paid, in the event the wife is 65 the amount is doubled. That makes some sense. If we were paying fifty or sixty or seventy-five a month to a man and he had a wife who was entitled to have him paid that much, that would make some sense.

How did the Social Security Board figure out that an elderly woman married to a contributor would need only 50 percent more than her husband? They used an argument that had a certain degree of plausibility. The argument is that two living together, husband and wife, can, relatively speaking, live for less than one. In other words, for two living together it does not cost as much to live as for two living apart, relatively. There is a certain degree of plausibility in that. Just how they can apply that rule to these miserable dividends of ten, twenty, or thirty dollars a month, I do not know. I do not know how any human beings could envisage a husband living on $20 and a wife on $10 more. But there is a certain degree of plausibility in that, as I have said.

Let us take up the next case, where the primary beneficiary has the entitled wife, and the two of them have been getting 50 percent additional because two can live cheaper than one. The husband dies. Then what should the widow get? The Social Security Board then figures that one can live for half as much as two, and will pay the widow 75 percent of what her husband got. So in this futile, miserable, abominable law, the average payments to the widow are about $18 or $19 a month, while those to the primary beneficiary, the male, are about $24 a month. That is the kind of logic that is used; 50 percent to the wife, 75 percent to the widow, 100 percent to the primary beneficiary, and none of them getting enough to live on with any degree of human decency.

Mr. President, if some of the Social Security Board experts were here they could not deny the validity of any of my figures, because my figures all came from them. I wish to digress at this point in my argument to thank the actuaries and the heads of the Social Security Agency for having very laboriously, patiently, and courteously furnished me with my figures, which they knew I would use here in an argument against them. So I say they cannot deny these figures I am using, because they are the figures of the Social Security Board.

How does the Social Security Board justify giving a much smaller payment than old-age assistance to the man who pays a tax under insurance? The Social Security Board says that assistance is based on indigency, and the recipient can have no other source of income beyond a certain amount fixed for the standard of living. Why? The contributory system envisions a social dividend which the worker may collect without any humiliation, and then add to it whatever income he himself may have.

To show how extreme is the difference in the amount taken between the two systems, let us take a case in California as an example. Under the insurance system a husband and his entitled wife, in an average case in California, will get somewhat more than $30 a month. Under old-age assistance they would get $100. So the assistance program pays almost three times as much in California, and in several other States of the Nation, as the contributory system.

I have said the Social Security Board will attempt to justify that by claiming that the contributory system produces a social dividend, an insurance policy, which the worker may add to when he wishes.

I have heretofore spoken of and condemned in very strong language the so-called Calhoun report. That is a report prepared under a special House resolution and under direction of the House Ways and Means Committee. The report is a large volume, almost as large as the volume of hearings on the pending bill, and contains more misleading facts than any other document of which I know.

The Calhoun report attempts to face this problem by saying that we have created a charity system which gives substantially more than the contributory system, and then it attempts to answer that charge. I read now from page 78 of that report:

> If OASI beneficiaries as a group were persons dependent entirely on insurance benefits to meet living costs, the problem of liberalizing benefits within the general framework and relationships of the present system to meet all these costs would appear formidable if not hopeless.

But listen to this:

> But, by and large, the great majority have some other sources of support. The economic status of various classes of recipients and potential recipients and the significance of OASI payments to them are most important in appraising the present benefit schedule and proposals for this change.

I skip certain language and continue quoting:

> If the old-age-assistance means test as applied in the several States is taken as a guide, it would appear from OASI benefit statistics that fewer than 1 in 10 of the aged OASI recipients may presently be expected to fall in the group with no private income or resources. In large eastern cities only about 8 percent of the male primary beneficiaries were receiving old-age assistance in 1944. In southern cities the percentage was much smaller—only a little above 2 percent: in Los Angeles, where public-assistance eligibility conditions are relatively lenient, the percentage of OASI beneficiaries receiving old-age assistance runs well over 20 percent.

Let us see exactly what the authors of the Calhoun report are there attempting to show and attempting to prove. If workers in receipt of insurance benefits do not get enough to live on they are entitled to claim old-age assistance, and in Los Angeles, as it is stated, over 24 percent of them are already doing so. The Calhoun report finds that only a minor proportion of these people are getting old-age assistance. Therefore they reach the conclusion that 9 out of 10 of the contributors to the insurance system have other means of support which they can add to their social dividends and have enough for a decent living.

In the Calhoun report there are three tables in an appendix cited in support of that. I examined those three tables for hours, and they do not support the statement at all. I called into consultation one of the best experts in social security, and I was advised that they realized those tables, which are imperfect, loosely thrown together, and totally irrelevant, do not support the statement in the Calhoun report.

The reason why this question is of life-and-death interest to the Social Security Board is that if we have now reached the condition in which the great number of our people will get more from assistance than they would from the contributory program, the contributory program is going to be swept out of our laws, because what would be the use of maintaining thousands of calculators trained in the intricacies of the law and the scores of hair-splitting decisions of the Social Security Board as well as tens of thousands of other employees to work the benefits of a complicated system, if the great proportion of contributors are to get less than under old-age assistance and would have to go on old-age assistance to enable them to live?

Mr. President, if the Calhoun report had gone into reports of the Social Security Board itself, it could have found unlimited statistics indicating that 80 percent of these unfortunate people have no other income from investments of any kind after they are retired. They would have found that 80 percent have an insufficient amount for any decent living, even when added to their social security benefits.

Now let us read these figures, which should strike at any man's heart with the slight kindness or Christian principles in it. I read from the Social Security Bulletin of July, 1943, the top of page 4. This is a report on the financial condition of many thousands of beneficiaries under old-age insurance who were interviewed in Baltimore, St. Louis, Philadelphia, and Los Angeles.

I have carefully examined this bulletin and I think it is a very fine piece of work. Incidentally Mr. President, it agrees very much with polls taken in the investigation I made in California, and, to anticipate what it says, it is to the effect that 20 percent had hardly any income at all and 80 percent had virtually nothing. I will read the statement and then it will be plain:

> Only a small proportion in each survey appeared to have sources of income which could be expected to provide lifelong security. For example, slightly less than one-fifth of the male beneficiary groups had incomes of $600 or more which were derived solely from old-age and survivors insurance benefit plus retirement pay, private annuity, veterans' pension, or yield on investments or savings.

It should be noted that they speak of the male beneficiary groups, and in the definition that includes the wives. What the statement I have just read means is that less than 20 percent of these

beneficiaries, with all their income, including old-age insurance, had as much as $50 a month, and in one-third of the cases the wife was receiving something, too, and the other 80 percent ranged from $50 a month down to $10 a month.

We have also another most interesting report from the Social Security Board. The Board interviewed recipients in middle-sized cities in Ohio, and in St. Louis, to determine the permanent money income of beneficiaries groups in addition to benefits, and this is what the results show. Forty percent of those interviewed had no source of income except their benefits. This does not include old-age assistance. Of course, they were entitled to aid and many of them did receive old-age assistance as a supplement but outside of that they had nothing. Thirty-seven percent had less than $25 a month. So there, Mr. President, is the dismal figure—40 percent with not 1 cent of their own private income and almost 40 percent with less than $25 a month.

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

Mr. DOWNEY. I yield.

Mr. WILLIS. I have been interested in what the Senator has been saying as to the amount these people are now receiving. What is the Senator's estimate of what a person over 60 years of age would receive under this plan, with 3 percent gross income tax, with certain exemptions, and cost of administration, and then the remainder to be divided per capita?

Mr. DOWNEY. I would expect that with our present national income it would give an individual from $75 to $90 a month.

Mr. WILLIS. On what does the Senator base those figures?

Mr. DOWNEY. They are based on statistics we have secured, I will say to the Senator. I would also say that the most valuable statistics we have are from the State of Indiana. As the Senator knows, Indiana has a partial gross income tax, and the results which the State of Indiana has developed are most interesting. In California we believe it should be $75 a month for one individual and $125 a month for two. That is the minimum amount on which any individual or couple can live in human decency.

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

Mr. DOWNEY. I am glad to yield.

Mr. CORDON. Does the Senator have any figures as to the relationship between the annual amount of transactions to which the proposed tax would be applied and the annual business of the country which, we understand, now is around $150,000,000,000 a year?

Mr. DOWNEY. I think it is generally thought that for every dollar of net income, the total of which is approximately $150,000,000,000, there would probably be $3, $3.50 or $4 of gross income.

Mr. CORDON. The gross income is the taxable amount under the Senator's proposed amendment?

Mr. DOWNEY. Yes.

As I have already stated, the Calhoun report, judging by the standard of old-age assistance, reached the conclusion that 9 out of 10 of these contributors had some other source of income than the old-age insurance benefits. When I dug through the tables in the Calhoun report I found that they considered even the sum of $5 a month, if given by a child, as the source of income. If the children were farmers' children and brought in $5 worth of groceries, that was considered. If they had even a room in the barn or outdoors or some other building outside the home, that was considered a resource. As a matter of fact, in one of the reports from which I have been reading the representatives of the Social Security Board interviewed unfortunate people trying to live on $10, $20, or $30 a month to try to find out what other sources of income they had, and how they could live at all on those amounts. I simply wish to read to the Senate some of these facts dredged up out of the depths of misery, despair, and anguish, and then ask if Senators are proud that they are Americans. In the cases I am going to read will be found the support of the Calhoun report that these unfortunate people, attempting to live on $20, $30, or $40 a month had other sources of support. Let us see the tragic character of them.

Mr. and Mrs. G. would like assistance in getting clothes, as their monthly benefit check of $31.65 is used entirely for rent ($12 a month) and food, leaving them nothing for clothes, medical care or miscellaneous items. They bought what they could and when the money was gone they went without.

Those two people, Mr. President, count on second- and third-hand clothing received through charity as an additional source of income. That is a resource, according to the social-work concept—a resource, Mr. President, in a country which has just demonstrated its ability to fight a global war and not only to turn out what we needed for our own vast Army but for those of our allies.

Mr. President, when I was before the Finance Committee I recited four lines from the great philosopher and poet Pope, and the majority leader corrected me in the use of one word. What I quoted is as follows:

Vice is a monster of so frightful mien,
As to be hated needs but to be seen;
Yet seen too oft, familiar with her face,
We first endure, then pity, then embrace.

That, Mr. President, is the position of the Social Security Administration. It has looked at this frightful condition of poverty and misery for so long that it now embraces it as an inevitable fact when all the circumstances of our national life demonstrate how much our social vision lags behind our ability to banish poverty if we will only do so. Mr. President, it is beyond my understanding—I believe it is beyond human understanding—how social security experts could sit around a table and carry on investigations to find out how a decent man and woman in America past 65 years of age could live on $31.65, and then say they had other sources of income because they could go to some charity and get some second- or third-rate clothing. Is that the kind of thing we have to do in rich, fertile America? The savages do not do it.

I now read another case:

The only income of the beneficiary, an unmarried man, was his insurance benefit. He had lived with his son, daughter-in-law, and two grandchildren for a long time, and after retirement he turned over his entire income to his son.

Later it appeared that this entire income is $18.75 a month.

His son's annual income was $1,820. The beneficiary felt that his monthly benefit of $17.50 helped, and doubted that without it his son would have been willing to support him.

Mr. President, this particular case exemplifies a condition of tragedy in most of the homes of America. One-half our unfortunate people in their later years are dependent upon their children. It may be said "That is perfectly decent and proper. If the parents cannot support themselves in their old age, let the children do it."

Yes, Mr. President, and here is a typical case which I have read. The average worker in the United States supporting one or two or three parents of himself and his wife is making $150 a month. He has two to three children, and his wife, living in a two-bedroom house. Just think of the tragedy and the anguish and the unhappiness of bringing into an already overcrowded house one or two elderly parents. Just think of children trying to get any happiness for themselves, when their parents bring one or two elderly persons into the two-bedroom house, which the man has to keep up on $150 a month, and also support all his dependents. That is the kind of additional resource that the Social Security Board relies upon to show that this plan will work out. I can imagine the investigator trying to justify his use of this miserable $18.75 as an additional resource. He may say, "But do you not believe your son would take you in if you did not have that additional resource?" The poor old gentleman would perhaps say, "Well, maybe he would. Maybe in the kindness of his heart he would, yes."

Mr. President, if a man is well-to-do, or a wealthy man, if he has a large or spacious house, with servants, he can take care of his parents without any trouble. But if he is a man with an income insufficient to support his own children and wife, living in a small house, to be burdened with one or more parents creates a condition which to my mind is little short of tragedy.

Let us read another of these miserable, tragic statements dredged out of the depths.

Mr. and Mrs. Y's chief source of income was $602 a year from roomers, but rent took $360 of this amount. The monthly benefit amounted to $288 a year. Unemployment compensation payments of $171 paid for the winter's coal.

I should like to have the attention of Senators to this:

Mrs. Y remarked that she had had to pawn her wedding ring and other jewelry for coal prior to the receipt of unemployment compensation. They had previously cashed in two insurance policies.

Yes, Mr. President, in the wedding ring—I suppose treasured for 40 or 50 years—the woman found another resource of two or three dollars with which to eke out her existence. I sometimes think that men of great wealth and

large income in some way lack the penetrating imagination to understand the misery, the humiliation, and the degradation of people trying to live on $20, $30, or $40 a month. Apparently the greater incomes men have the less they can understand destitution and degradation. I say to any Senator who is interested in the preservation of capitalism and free enterprise that he had best be about it to see that some decent, humane, sufficient social-dividend plan is worked out so that retired workers, who do our jobs for us, will not be cast into insecurity and degradation when their life's work is done and they can do no more work.

Here is another example of a common tragedy:

Mr. and Mrs. S. reported income during the survey year as follows: $277 from wages, $240 from unemployment compensation, and $123 from insurance benefit. Their daughter, who lived with them, earned $1,373. She expected to marry soon and move from the household. Mr. and Mrs. S. had no assets and owed $257. They did not know how they would manage, as they could not qualify for old-age assistance because of the State residence requirements.

That case is typical of hundreds of thousands, and perhaps millions of cases today in America. Aged parents are being supported by a daughter or son who is making $125, $150, or $200 a month. The son or daughter must choose between the tragedy of leaving the parents to destitution and giving up marriage. But do we care? Apparently not. We are willing to let millions of young women take the burden of supporting their parents, even though that burden forbids the most priceless experience of any woman, namely, marriage. Many of the reports show such a condition. The son or daughter wishes to marry and is unable to do so because his small income is supporting his parents.

Here is another example:

Mr. and Mr. T. were in desperate financial straits. Mr. T. had earned good wages, but had been able to save nothing. He borrowed $400 from a finance company during the survey year, on which he had to make monthly payments of $39.20, including $5 interest. Their income during the survey year was $72 from unemployment compensation, $150 from a son outside the household, and $737 from monthly benefit. There were no assets. The son was captured at Corregidor.

Mr. and Mrs. W. withdrew $500 from their savings during the survey year, leaving a balance of $400. They owned their home, valued at $1,857. Their income during the year was $480, all but $13 of which was derived from insurance benefit. The $13 represented interest paid on their savings account. Two hundred dollars of their savings was used for doctor and dentist bills, as Mr. W. required constant medical care because of tuberculosis. The balance of the savings was used to pay the taxes and to meet current expenses.

Mr. and Mrs. A. depleted their assets substantially during the survey year. Their income, derived from noncovered employment, assets, and insurance benefit, totaled $420. Mr. A. had sold some property several years earlier for which he received $37.50 a month. This money, in addition to cash savings of $720, was spent to meet living expenses. When their cash assets are depleted to the point where they are eligible for old-age assistance, they plan to apply. The big fear of Mr. and Mrs. A. was that taxes and upkeep on their home could not be paid out of their small monthly income.

Mr. and Mrs. B. owned their home, valued at $3,000. This was their only asset. Their income during the survey year was $126 from earnings from employment, and $180 from insurance benefit. Their son, who lived with them, paid $60 a month toward household expenses. He had been drafted and expected to leave soon. Mr. and Mrs. B. then planned to apply for old-age assistance. The passage of the Servicemen's Dependents Allowance Act may have made their application for old-age assistance unnecessary.

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

Mr. DOWNEY. I yield.

Mr. LANGER. Does the Senator know that up until a short time ago, if one of those aged people did some work on the side and earned enough to bring his income up to a little more than the amount required to make him liable for payment of income tax, the calculation of the income tax included the old-age pension?

Mr. DOWNEY. I had not supposed that our Government was so parsimonious. The Senator has brought out a most interesting fact, and I appreciate his contribution.

Mr. LANGER. I took the question up with the Bureau of Internal Revenue, and a ruling was issued to the effect that income tax calculations should not include old-age pensions, but up to that time they were included.

Mr. President, will the Senator yield to me for the purpose of suggesting the absence of a quorum?

Mr. DOWNEY. I yield.

Mr. LANGER. 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:

Andrews	Hill	Overton
Austin	Hoey	Pepper
Ball	Huffman	Radcliffe
Barkley	Johnson, Colo.	Reed
Bilbo	Johnston, S. C.	Revercomb
Bridges	Knowland	Russell
Burch	La Follette	Shipstead
Byrd	Langer	Smith
Capper	Lucas	Stewart
Chavez	McCarran	Swift
Connally	McClellan	Taft
Cordon	McFarland	Taylor
Donnell	McKellar	Thomas, Okla.
Downey	McMahon	Thomas, Utah
Eastland	Magnuson	Tunnell
Ferguson	Maybank	Vandenberg
Fulbright	Mead	Wagner
George	Millikin	Walsh
Gerry	Mitchell	Wheeler
Gossett	Moore	Wherry
Green	Morse	White
Guffey	Murdock	Wiley
Gurney	Murray	Willis
Hart	Myers	Young
Hawkes	O'Daniel	
Hayden	O'Mahoney	

The PRESIDENT pro tempore. Seventy-six Senators having answered to their names, a quorum is present.

The Senator from California [Mr. DOWNEY] is recognized.

Mr. KNOWLAND. Mr. President, will the Senator yield to me?

Mr. DOWNEY. I yield.

Mr. KNOWLAND. Let me say, first of all, that earlier in the day I offered an amendment from the floor, and the able chairman of the Finance Committee accepted it, and it was adopted. It appears on page 26, in line 20, and by the amendment we struck out the word "two" and inserted the word "five."

However, since that was done, I have discussed the matter with representatives of the Social Security Board, and they have pointed out that due to subsequent changes in the language of the original act, the amendment would not do what was intended to be done. Furthermore, they have assured me that the protection to the families of veterans in regard to the filing of claims under this measure is taken care of by a provision at another place.

So, Mr. President, under those circumstances, at their request, I ask unanimous consent that the vote by which the amendment was adopted earlier in the day be reconsidered and then I shall withdraw the amendment, and thereby restore the word "two" at the point indicated.

The PRESIDENT pro tempore. Is there objection? Without objection, the vote by which the amendment on page 26, in line 20, was adopted is reconsidered, and the amendment is before the Senate.

Mr. KNOWLAND. Mr. President, I now withdraw the amendment.

The PRESIDENT pro tempore. The amendment is withdrawn.

Mr. KNOWLAND. Mr. President, at this point I should like to address a question to the able chairman of the Finance Committee, regarding a matter in which the unemployment authorities in the State of California are greatly interested. I understand that one feature of the bill under discussion recently proposes to pay reconversion unemployment benefits to seamen performing services on vessels operated by the War Shipping Administration through general agents. Although I understand that the War Shipping Administration has taken the position that such seamen are employees of the Federal Government, the Attorney General of California in an opinion issued December 17, 1943, under No. NS 5261 held that such seamen were employees of the general agents in California, rather than employees of the Federal Government, and that such general agents were required to report such employment and to play the California unemployment tax upon such wages. My question is this, Is not it the intent of Congress in passing this bill to provide these benefits throughout the United States to such seamen as were employed on those War Shipping Administration vessels operated through such general agents, and in the event this bill is enacted into law, would not the Federal Security Administrator in respect to the State of California pay for the reconversion benefits provided for in section 306 of the bill?

Mr. GEORGE. Mr. President, section 1505 of the bill, starting near the bottom of page 18, reads in part as follows:

Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

I would say that it is undoubtedly the theory of the bill that the employees in

the employ of the general agent of the War Shipping Administration were employees of the Federal Government, and that the Federal Government would, under the bill, assume responsibility for the payments on the account of such workers, and that none of the States, including California, would be expected to make payments of benefits out of their own compensation fund.

I do not know that I quite understand the situation. I should like to make this point very clear. If the State of California has, in fact, collected from the general agent payments for and on account of the employees of the general agent, and the State of California retains the sums of money so paid, I would not think that the State of California would have the right to expect the Federal Government to reimburse it because, in effect, it would be double payment. But if the State of California should return the money to the general agent, or the general agent had not, in fact, paid it, it is undoubtedly the intent of this bill to put the employees of the general agent on the basis of Federal employees, and the Government itself becomes responsible for the payment.

Mr. KNOWLAND. I thank the Senator from Georgia for his explanation. It will clarify an important issue in the minds of the people of California. So far as I am aware, all other States, in dealing with this problem, have considered such seamen to be employees of the Federal Government, and it has always seemed fair that in providing for these payments the proposed program should operate in the same way in all States of the Union.

Mr. GEORGE. Yes; that is correct.

Mr. DOWNEY. Mr. President, I have already occupied the floor for some time. I desire to conclude my remarks as rapidly as possible, and therefore if it suits my colleagues I would prefer not to be interrupted during the remainder of my remarks.

Mr. President, I wish to say to all my colleagues that if, in what I have already said, I have seemed at times too emotional and too vehement, I ask their pardon.

I have no doubt that if he once fully understands the difficulties in the present pension plan, each Senator will be willing, sincerely, and immediately to address himself to a solution of our difficulties.

Mr. President, when the old-age insurance law was first being considered by the Finance Committee, several of the Senators were most reluctant to accept it. Among these was the senior Senator from Wisconsin [Mr. LA FOLLETTE] who repeatedly cautioned that the prophecies of its sponsors as to how it would work out were much too optimistic and doomed to failure. It is most unfortunate that the committee did not more carefully scrutinize the questions raised by the Senator concerning certain aspects of the insurance measure, for his discriminating judgment in emphasizing coming difficulties has been all too well demonstrated.

On this subject, as on all others which involve the welfare of the masses of our people, the Senator from Wisconsin has been consistently on the side of those whose daily bread is earned by daily toil; whose weekly pay envelopes are never fat enough to buy more than the necessities of a decent living and who inevitably must face a jobless retirement, living at the mercy of society itself.

The distinguished Senator from Wisconsin was a member of the Special Committee to Investigate the Old-Age Pension System, of which I had the honor to serve as chairman. From our association on that committee I know the disappointment which the Senator must share with me that the Congress should have been so negligent in dealing with the economic distress of our senior citizens.

While I am speaking of the attitude toward pensions of the Senator from Wisconsin, I should like to take the opportunity to pay him a tribute for his dynamic and effective leadership in bringing through to a successful conclusion the congressional reorganization plan. Throughout the Nation's press for the past several days there have appeared hundreds of editorials in high praise of this measure. With its passage, this Congress turned its back upon a large part of its cumbersome committee system and its antiquated procedures—some of which go back almost to the founding of the Republic.

Great credit belongs to all those who actively sponsored and worked this measure through the many legislative difficulties that confronted it, but there can be no doubt that the major part of the credit belongs to the distinguished senior Senator from Wisconsin [Mr. LA FOLLETTE] who served from its inception as chairman of the Special Committee on the Organization of Congress. Although the Senator has already had a long and illustrious career in the Senate, he is still young and is destined, I am sure, to render even greater service to his State and Nation.

Mr. President, the distinguished Senator from Florida [Mr. PEPPER] and the distinguished Senator from Idaho [Mr. TAYLOR] have joined with me in sponsoring an amendment to the pending bill in the nature of a substitute, by which the Townsend plan would be embodied in the bill.

For well over a decade Dr. Francis E. Townsend has been the great leader of millions of our aged citizens. In him millions of our elder citizens who have been subjected to the finely spun cruelties of social workers have found some hope for a dignified and comfortable retirement when working days are over.

Both Senators who have joined with me in this bill have long and fervently been committed to the pension cause, and I am most happy to be associated with them in this amendment.

As perhaps every other Senator knows, the Townsend plan would reduce to 60 years the age at which persons would receive pensions, it would eliminate the means test, provide a social dividend, by the levy of a gross income tax payable monthly, the proceeds of which would be disbursed equally to the beneficiaries monthly.

The Townsend plan will cost money, yes, but when we contrast the few billions which it might entail with the national income we can expect next year—around $150,000,000,000—we see the expenditure in its true perspective. Measured against our resources, it is a negligible amount. Measured against our older citizens' needs, it is even more negligible. To give only this much is barely fair; to give less would be folly. Our intention, I believe, is not to distribute penury. It is to share abundance.

No one doubts by this time, I feel sure, the capacity of our farms and factories to produce that abundance. We have demonstrated it in war; we are proceeding to demonstrate it in peace. Our real question has been, and will be again, how to distribute our purchasing power in such a way as to prevent the accumulation of excess savings and to provide a steady market for all our goods and services. An adequate Federal program of pensions is an instrument to that end. To some it may seem an expensive instrument to buy. I think they are wholly wrong for we can be well assured that it will pay for itself in the end, many times over.

Nevertheless, there will be many in the Senate, I have no doubt, as there are in the House, who will raise shocked eyebrows at even the suggestion of the Townsend program. They number not merely those who have never acknowledged the need of any social security system, who affect to believe that anyone of moderate virtue and moderate ability can save enough to support a serene old age, and who are content that those who fail should die in poverty. They number also those politicians who approve of a Government security program in principle, but who shut their minds to the brutal facts of its operation. They find it more comfortable to assume that passage of the Social Security Act ended the problem of the indigent aged; they ignore the blatant reality that it has only made poverty official.

Let us get the shameful data out in the open, where they belong. Let us strip aside the propaganda by which the Social Security Board has concealed the facts showing the total failure of the insurance scheme.

First. How many senior citizens have we? About 15,000,000 men and women over 60 years of age; about 10,240,000 over 65.

Second. How many of these are usually able to support themselves by their earnings? According to the Social Security Board, only 19 percent of those over 60; only 12 percent of those over 65.

Third. How many of them have usually been able to save enough to retire independently? In 1937 the Social Security Board found that of an average group of 1,000 Americans over 65, only 128 had current earnings, only 150 had any savings at all, and only 73 had public or private pensions, while 203 were depending wholly or in part on private or public charity, and 446 were living on the handouts of friends and relatives or just starving slowly. Again, in 1942, another Social Security investigation of 2,571 families receiving old-age insurance benefits showed that less than a fifth of the male beneficiaries and their wives had total incomes from all sources—including their old-age insurance payments—

of more than $50 a month. And the rest had anywhere from $50 down to $10 monthly.

Fourth. Have not the high wages of wartime permitted most people to make substantial savings toward their retirement? A study by the Federal Reserve Board in 1945 shows that 17 percent of the families who were investigated were going into debt, 13 percent were not saving anything at all, and 40 percent had managed to put by an average of only $40 worth of Government bonds, savings deposits, and demand deposits. It is tempting for the well-to-do to assume that these low savings can be attributed to spendthriftiness and improvidence. The temptation should be resisted. Remember that 80 percent of our urban workers earn less than $200 a month. How much can a city family save on that?

Fifth. How much would our workers have to have in order to retire on their investments? We have about 75,000,000 adult citizens. Suppose that just half of them—37,500,000 saved enough to return to each of them an annual income of $1,000 at 4 percent. That would imply a debt structure of $937,500,000,000. And the debt structure of the whole country in 1940, private, corporate, and banking, for young and for old was only about $200,000,000,000. Of course, war indebtedness has increased this by another $300,000,000,000. But who owns this? As the above Federal Reserve report shows, 20 percent of our savers own 75 percent of our savings.

Sixth. Granted that most of our people can neither earn a living after 60 or 65, nor have savings to retire on, is it not true that at least most of them are generally covered by the old-age insurance provision of the Social Security Act? It is not true. As the special committee of the Senate declared in its 1941 report:

> Our present provisions for old-age insurance and assistance have tragically failed to reach more than a small fraction of our retired workers. Of the 14,000,000 people now above age 60, nearly 12,000,000 remain outside the scope of the present program.

Seventh. But certainly those who are covered by the Social Security Act are well provided for; are they not? It depends on the criteria. Many of the beneficiaries are doing about as well as starving Europeans. In terms of what Americans have come to regard as decent, they are faring miserably indeed.

Eighth. Just what is the average benefit paid to a retired worker under the insurance provisions? According to the latest compiled figures, the average single male beneficiary is getting $24 per month. That comes to less than $6 a week.

Ninth. What about the old-age assistance payments? In September 1945 they averaged $30.17 per month for the whole country. In June of that year the three lowest States—Georgia, Kentucky, and North Carolina—were paying $11.42, $11.46, and $12.50, respectively.

Tenth. Do these old-age insurance benefits and old-age assistance payments bear any relation to (a) the minimum cost of keeping body and soul together; (b) the fraction of the national income which we could afford to set aside for our retired workers; or (c) the principles of Christianity we pretend to uphold? Answer to all three questions: None whatever.

Yet, there are men administering this program so blind to the power of our industrial plant, so smug in their isolation from the human struggle that with straight faces they can assert that any larger pensions and allowances may weaken the moral fiber of our people by making life too easy and too secure. No man could speak those complacent and fatuous words who had ever eaten the bitter bread of poverty; none but the deluded could suggest that the prospect of decent security after 65 could debauch the character of our youth or of the American workingman. It has always been the precious privilege of the rich to worry over the morals of the unfortunates; this right should not be usurped by Government officials.

What are we to do? It seems to me that we have two broad choices: To continue to tinker with the present Social Security Act, as we are now doing, or to scrap it and build afresh. The present pension laws are futile, cruel, and worthless—a sham and an abomination. I hope the day is not far distant when we will forever obliterate them and enact a truly sound and sensible program fitted both to our resources and to our responsibilities.

Such a program would rest upon two main pillars: The concept of tax-as-you-go, and the concept of social dividends. It would do away with the phony actuarial system beloved by the Federal Security Agency's bureaucrats; it would eliminate the odious means test. It would provide for ample monthly benefits, and it would provide them for all retired citizens—not just that fraction of the population which the Federal Security Agency has found it administratively feasible, under its complex and cumbersome scheme, to cover. It would found its taxation upon the broad, dependable base of our national gross income. It would give more to more people; give it simply and less expensively; give it without the humiliation which now shadows Government assistance; in effect, give it sufficiently, decently, and fairly as contemplated in the Townsend plan.

Cost: To many people, the bugbear of any proposal to alter or replace the Social Security Act is the question of cost. The hobgoblins of congressional profligacy and Federal bankruptcy prey upon their imaginations. That is natural. But it is not realistic.

For it has become by now a truism among all reputable economists that the underlying problem of our modern American economy is that of savings: the problem of how to prevent our national savings from swelling higher than our year-to-year capacity to invest them. Conversely, our problem is how to maintain a purchasing power in the hands of our consuming public adequate to take off the flood of goods streaming from our productive plant.

A full-scale pension plan is one major answer to this double problem. By providing security for everyone's old age, it reduces the urge to save—and the collective tendency to save more than our businesses can invest. By distributing purchasing power to groups formerly impoverished, it puts strong underpinnings beneath the demand for consumers goods and significantly lessens the danger of mounting inventories and subsequent "recession."

The cost of a decent security program must be measured against this crucial role which pensions can play in maintaining the equilibrium of our economy. It must also be measured against the income which we as a nation can expect to enjoy.

In 1947, it is estimated, our national income will approximate $150,000,000,000. A reasonably generous, comprehensive pension program of the sort I have outlined would cost about $10,000,000,000—or about 6 percent of our national income. Our senior citizens over 60 comprise about 10 percent of the population. Is it unsound or unjust to set aside 6 percent of our income for 10 percent of our people?

Only those can think so who are so deeply imbued with the niggardly philosophy of the Social Security Act that they would rather preserve an inadequate, pinch-penny program which starves and humiliates millions than to run the risk of paying a few thousand exceptional elderly people a little more money than they need. Only those can think so who are frightened by abundance, who have no conception of the meaning of social dividends in terms of purchasing power. Only those can think so who imagine that they can tackle the problem of excess savings and inadequate consumer demand through disbursing pensions of $10 or $20 or $30 a month. These are amounts suited to the age of the wheelbarrow, not the steam shovel. In our era of Aladdin-like production in all fields—industry, commerce, agriculture—the notion of stemming the onrush of a business crisis with such puny sums is as pathetic as that of any army defending itself with butterfly nets against a shower of atomic bombs.

I ask the Senate: Will we never be able to apply mathematical rules to our economic thinking? Will we never be able to realize that to the extent that some men cannot buy, other men cannot work? Will we never act upon the certainty that depleted purchasing power and underconsumption will necessarily build and maintain armies of unemployed? Will we never decide to distribute a social buying power sufficient to consume the products that would so bountifully flow from general employment?

Certainly, we never can produce to full capacity, never abolish unemployment, never relieve penury under the philosophy of poverty that imbues the Social Security Act. So long as its meager bounties are the chief purchasing power of the retired workers of America, thus long must they despair, thus long unemployment must remain a menace, thus long must all society be afflicted with insecurity.

The Townsend plan which I am offering as an amendment to the pending measure holds out an offer of assistance and security to every group. To labor, first, for it will shift a large share of the

pension costs from its back to the financially stronger shoulders of the big income class. To many a burdened family, for it will lift from it the support of unfortunate parents no longer able to finance themselves. To youth, for by enabling hundreds of thousands of senior citizens to retire each year, it will open up as many jobs for newcomers upon the employment market. To businessmen, for though individually they may pay more and get a bit less in pensions, the plan's effect of reducing the excess savings of all age groups and of stimulating the buyer power of the senior citizenry will give such a boost to the economy as will more than compensate in rising profits for any personal tax losses.

Last, and most pertinently, to the older partners of our Nation, the plan promises their heart's wish—dignity and security. Neither the stigma of charity nor the aroma of poverty will surround their pensions. The Government will finally have recognized that it was they who by honest sweat built the cities, the factories, the highways, the utilities, by virtue of which the rest of us now live, and it is they who are entitled to ample social dividends from the vast wealth they helped to create.

EXHIBIT A

TABLE 2.—*Old-age assistance: Recipients and payments to recipients, by State, December 1945*[1]

State	Number of recipients	Payments to recipients		Percentage change from—			
		Total amount	Average	November 1945 in—		December 1944 in—	
				Number	Amount	Number	Amount
Total	2,055,851	$63,361,293	$30.82	+0.4	+0.8	−0.5	+7.9
Alabama	34,076	529,138	15.53	+.8	+1.1	+10.3	+7.7
Alaska	1,341	52,367	39.05	−.3	+.9	+.4	+19.0
Arizona	9,505	367,801	38.70	+.3	+.3	−.2	+.4
Arkansas	25,801	428,407	16.60	−.4	−.1	−8.9	−15.5
California	159,565	7,569,864	47.44	+.5	+.5	+.8	+1.2
Colorado	40,408	1,675,607	41.47	+.3	+.4	−.9	−.5
Connecticut	14,239	562,991	39.54	+.8	+.5	+.7	+13.4
Delaware	1,213	21,606	17.81	−.4	+2.3	−14.8	+1.5
District of Columbia	2,317	81,620	35.23	−1.4	−6.2	−9.6	−4.6
Florida	42,623	1,261,416	29.59	+.9	+1.4	+7.2	+11.1
Georgia	66,642	783,850	11.76	−.1	+.1	−1.5	+3.5
Hawaii	1,461	36,240	24.80	+.6	+2.5	+.3	+11.0
Idaho	9,699	314,469	32.42	+.2	+.7	−.7	+6.3
Illinois	122,525	4,078,235	33.28	+.5	+1.1	−1.2	+5.5
Indiana	54,354	1,417,175	26.07	+.4	+.8	−5.4	−1.0
Iowa	48,694	1,598,062	32.82	−.1	+.5	−3.4	+4.3
Kansas	28,465	862,745	30.31	+.6	+1.6	+.4	+4.8
Kentucky	46,066	534,073	11.59	−.3	−.2	−11.5	−9.3
Louisiana	36,910	856,673	23.21	+3.0	+2.7	+1.2	+5.2
Maine	14,950	452,227	30.25	+.4	+.9	−.3	+5.6
Maryland	11,557	328,684	28.44	(2)	+.4	−3.2	+2.2
Massachusetts	75,900	3,350,341	44.14	+.3	+.5	+.3	+7.1
Michigan	86,527	2,837,708	32.80	+.8	+1.4	+1.5	+11.3
Minnesota	54,278	1,772,039	32.65	+.1	+.9	−3.3	+8.0
Mississippi	26,791	431,440	16.10	−.3	+.3	−5.9	+2.4
Missouri	101,589	2,657,886	26.16	+.5	+2.3	−.5	+14.1
Montana	10,719	343,638	32.06	+.5	+.8	−1.5	+5.5
Nebraska	23,967	762,336	31.91	+.4	+1.5	−2.8	+11.1
Nevada	1,936	74,716	38.59	−.1	(3)	−1.1	−.4
New Hampshire	6,579	201,222	30.59	+.6	+1.3	−.6	+6.0
New Jersey	23,189	757,379	32.66	−.2	+.3	−5.8	+.5
New Mexico	6,162	190,486	30.91	+1.0	+.9	+10.7	+6.0
New York	103,851	3,929,751	37.84	+.2	+.3	−2.0	+7.3
North Carolina	32,974	447,316	13.57	+.3	+2.2	−.1	+14.7
North Dakota	8,640	202,952	33.91	(3)	(3)	−1.3	+4.0
Ohio	117,107	3,620,961	30.92	(3)	+.6	−4.1	+1.1
Oklahoma	81,956	2,884,565	35.20	+.9	+1.0	+6.3	+30.8
Oregon	20,528	791,620	38.56	+.8	+1.5	+3.6	+15.7
Pennsylvania	83,871	2,585,269	30.82	+.7	+.8	−.3	+5.8
Rhode Island	7,426	257,012	34.61	+.5	+.9	+2.9	+8.4
South Carolina	21,977	348,678	15.87	+.6	+.8	+2.7	+17.0
South Dakota	12,712	336,678	26.49	+.4	+1.0	−1.3	+8.8
Tennessee	37,967	612,194	16.12	+.1	+.3	−.9	−3.7
Texas	173,690	4,243,712	24.43	+.6	+1.5	+2.4	+15.1
Utah	12,797	496,993	38.84	(3)	(3)	−2.7	+2.2
Vermont	5,149	120,387	23.38	−1.0	−.6	+1.3	+13.8
Virginia	14,971	224,715	15.01	+.2	+1.4	−4.2	+9.2
Washington	62,689	3,159,806	50.40	−.3	−.1	+4.5	+39.0
West Virginia	18,413	309,409	16.80	+.3	+.4	−1.2	−8.7
Wisconsin	45,652	1,372,911	30.07	+.7	+1.1	−1.4	+4.8
Wyoming	3,433	133,923	39.01	+.5	+8.1	+1.7	+21.3

[1] For definitions of terms see the Bulletin, July 1945, pp. 27–28. All data subject to revision.
[2] Increase of less than 0.05 percent.
[3] Decrease of less than 0.05 percent.

EXHIBIT B

Average monthly primary old-age insurance benefit in force, by State, Dec. 31, 1945[1]

Alabama	$20.80
Alaska	25.00
Arizona	25.33
Arkansas	19.40
California	24.56
Colorado	23.78
Connecticut	25.87
Delaware	24.24
District of Columbia	22.58
Florida	23.85
Georgia	20.74
Hawaii	20.96
Idaho	22.18
Illinois	$25.26
Indiana	23.81
Iowa	21.96
Kansas	21.84
Kentucky	21.85
Louisiana	21.39
Maine	22.30
Maryland	23.10
Massachusetts	24.79
Michigan	25.73
Minnesota	24.33
Mississippi	19.04
Missouri	23.44
Montana	24.33
Nebraska	21.22
Nevada	24.48
New Hampshire	23.09
New Jersey	25.85
New Mexico	21.88
New York	24.42
North Carolina	19.94
North Dakota	$21.81
Ohio	25.47
Oklahoma	22.91
Oregon	24.04
Pennsylvania	24.93
Rhode Island	24.61
South Carolina	20.34
South Dakota	22.78
Tennessee	20.41
Texas	21.67
Utah	23.78
Vermont	21.42
Virginia	22.03
Washington	24.81
West Virginia	23.63
Wisconsin	24.71
Wyoming	23.31
Total	[2] 24.14

[1] The cautions with regard to the use of old-age and survivors insurance benefit data, indicated in the Mar. 29, 1946, release attached, should be observed with respect to these data.

[2] Average for continental United States, Alaska, and Hawaii.

EXHIBIT C

FEDERAL SECURITY AGENCY,
SOCIAL SECURITY BOARD,
Washington, D. C., July 9, 1946.

Hon. SHERIDAN DOWNEY,
United States Senate,
Washington, D. C.

DEAR SENATOR DOWNEY: We are furnishing herewith replies to three of the questions among the nine which Mr. Bowie of your office left with Mr. Fisher July 8.

1. Among workers who have at any time earned wage credits under old-age and survivors insurance, what proportion has retired from the labor force with no eligibility for primary benefit?

It is difficult to furnish a definitive reply to this question because retirement from the labor force is not necessarily a permanent condition for many persons. This lack of permanency is particularly true for women, many of whom leave the labor force on marriage but reenter it at a later date because of the husband's death or for other reasons. Under conditions of acute labor shortages, such as we experienced during the war, many persons reentered the labor force who had thought of themselves as retired for all practical purposes.

An approximation of the magnitudes you are seeking may be attempted, however, from the insured status of persons 65 years and over with wage credits. The Bureau of Old-Age and Survivors Insurance estimates that on January 1, 1946, there were 2,489,000 living persons 65 years and over who had earned some wage credits since January 1, 1937, distributed by insurance status as follows:

	Number	Percent
Total	2,489,000	100
Not fully insured	1,063,000	43
Fully insured	1,426,000	57
Primary beneficiaries	611,000	25
In current-payment status	518,000	21
In deferred or conditional payment status	93,000	4
Potential primary beneficiaries	815,000	33

It should be pointed out that the 1,063,000 persons who lacked fully insured status included an unknown number of workers still in the labor force, some of them in covered employment, who might in time acquire fully insured status. Not all of them had retired from the labor force. The 57 percent with fully insured status should be viewed, therefore, as a minimum estimate of the proportion who might eventually become eligible for primary benefit.

2. What is the distribution of primary benefits, by size of benefit, for the latest available date?

The distribution of primary benefits in force on December 31, 1945, follows:

Total number	610,842
Percent	100.0
$10	8.3
$10.01–$14.99	9.4
$15–$19.99	9.6
$20–$24.99	28.4
$25–$29.99	21.4
$30–$34.99	12.3
$35–$39.99	7.0
$40–$44.99	3.6

The maximum primary benefit possible in 1945 under the act was $43.60.

The Board believes that since old-age and survivors insurance is a family benefit program, somewhat more significance attaches to a distribution by size of family benefit (primary plus supplementary in this instance) than by size of primary benefit only. We therefore give below a distribution of family benefits in force on December 31, 1945, for families containing a primary beneficiary.

	Primary only		Primary and wife	Primary and 1 child
	Male	Female		
Total number	338,500	78,400	181,100	8,300
Percent	100.0	100.0	100.0	100.0
$10.00	7.7	15.7	----------	----------
$10.01–$14.99	9.0	15.5	----------	----------
$15.00–$19.99	9.3	15.2	11.0	13.2
$20.00–$24.99	27.5	36.6	5.3	6.5
$25.00–$29.99	22.4	11.6	5.3	6.5
$30.00–$34.99	13.1	3.5	17.0	19.7
$35.00–$39.99	6.4	1.2	18.1	18.6
$40.00–$44.99	[1] 4.6	[1] .7	14.9	12.5
$45.00–$49.99	----------	----------	11.0	9.4
$50.00–$54.99	----------	----------	6.9	6.5
$55.00–$59.99	----------	----------	4.4	3.3
$60.00–$64.99	----------	----------	5.6	3.1
$65.00–$69.99	----------	----------	[2] .6	[2] .7

[1] $43.60 maximum possible in 1945.
[2] $65.40 maximum possible in 1945.

3. What are the latest figures on the number of persons in the United States aged 60 years and over?

The latest estimates released by the Bureau of the Census are for July 1, 1945 (series P-46, No. 2):

Total	15,416,576
Men	7,528,690
Women	7,887,886

We hope to have replies to additional questions ready for you later in the week.

Sincerely yours,

I. S. FALK,
Director.

EXHIBIT D

A. PERMANENT MONEY INCOME OF BENEFICIARY GROUPS IN ADDITION TO BENEFITS: PERCENTAGE DISTRIBUTION BY ANNUAL MONEY INCOME FROM PERMANENT ECONOMIC SOURCES IN ADDITION TO BENEFITS. MEAN AND MEDIAN INCOME

NOTE.—From 33 to 66 percent of the different types of beneficiary groups in the two surveys reported receiving no cash income from permanent economic sources such as assets, retirement pay, veterans' pensions, and private annuities, other than old-age and survivors insurance benefits. The amount derived from these economic sources indicates how much the beneficiaries could have counted upon as permanent cash income if they had not received insurance benefits.

Income from permanent economic sources other than old-age and survivors insurance benefits was frequently low; half of each of the different types of male primary beneficiary groups reported such income amounting to not more than $221 in Ohio and $400 in St. Louis. Only 6 to 8 percent of the nonmarried men and 15 to 22 percent of the two types of married men reported $600 or more. Female primary beneficiaries, aged widows, and widows with entitled children had less cash income from such sources than the men beneficiaries. The median incomes of these groups ranged from $20 to $120; only 1 to 8 percent received as much as $600.

Type of beneficiary group and money income from permanent economic sources in addition to benefits	Percent of beneficiary groups with specified income from permanent economic sources in addition to benefits	
	Ohio middle-sized cities	St. Louis resurvey
Male primary beneficiaries, total	100.0	100.0
None	40.6	47.0
Less than $300	37.9	26.7
$300 to $599	7.8	11.7
$600 to $899	5.1	5.9
$900 or more	8.6	8.7
Mean income	$275	$309
Median income	7	4
Median income for beneficiary groups having income	164	296

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from California [Mr. DOWNEY].

The amendment was rejected.

Mr. GEORGE. Mr. President, there is one brief amendment which the Senator from Ohio [Mr. HUFFMAN] wishes to present at this time. I am willing to accept the amendment. It simply treats Alaska and Hawaii as States under this measure.

Mr. HUFFMAN. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 42, after line 10, it is proposed to strike out all down to and including line 22, and insert in lieu thereof the following:

(1) In the case of a State the per capita income of which is equal to or greater than the per capita income of the continental United States, the Federal percentage shall be 50 percent and the State percentage 50 percent; and in the cases of Alaska and Hawaii, until satisfactory data concerning average per capita income for three successive years have become available from the Department of Congress, the Federal percentage shall be 50 percent and the State percentage should be 50 percent.

(2) In the case of a State per capita income of which is not more than 66⅔ percent of the per capita income of the continental United States, the Federal percentage shall be 66⅔ percent, and the State percentage shall be 33⅓ percent.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Ohio [Mr. HUFFMAN].

The amendment was agreed to.

The PRESIDENT pro tempore. If there be no further amendments to be offered, the question is on the engrossment of the amendments, and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read for a third time.

The bill (H. R. 7037) was read the third time and passed.

79TH CONGRESS
2D SESSION

H. R. 7037

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1946

Ordered to be printed with the amendments of the Senate numbered

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Act Amendments of 1946".

TITLE I—SOCIAL SECURITY TAXES

SEC. 101. RATES OF TAX ON EMPLOYEES.

Clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are amended to read as follows:

"(1) With respect to wages received during the

calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 102. RATES OF TAX ON EMPLOYERS.

Clauses (1) and (2) of section 1410 of such Act (Internal Revenue Code, sec. 1410), as amended, are amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar year 1948, the rate shall be 2½ per centum."

~~(1) SEC. 103. APPROPRIATIONS TO THE TRUST FUND.~~

~~The sentence added by section 902 of the Revenue Act of 1943 at the end of section 201 (a) of the Social Security Act, which reads as follows: "There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.", is repealed.~~

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

SEC. 201. The Social Security Act, as amended, is amended by adding after subsection (r) of section 209 of

Title II (added to such section by section 411 of this Act) a new section to read as follows:

"BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

"SEC. 210. (a) Any individual who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to the date of the termination of World War II, and who has been discharged or released therefrom under conditions other than dishonorable after active service of ninety days or more, or by reason of a disability or injury incurred or aggravated in service in line of duty, shall in the event of his death during the period of three years immediately following separation from the active military or naval service, whether his death occurs on, before, or after the date of the enactment of this section, be deemed—

"(1) to have died a fully insured individual;

"(2) to have an average monthly wage of not less than $160; and

"(3) for the purposes of section 209 (e) (2), to have been paid not less than $200 of wages in each calendar year in which he had thirty days or more of active service after September 16, 1940.

This section shall not apply in the case of the death of any individual occurring (either on, before, or after the date of the enactment of this section) while he is in the active

military or naval service, or in the case of the death of any individual who has been discharged or released from the active military or naval service of the United States subsequent to the expiration of four years and one day after the date of the termination of World War II.

"(b) (1) If any pension or compensation is determined by the Veterans' Administration to be payable on the basis of the death of any individual referred to in subsection (a) of this section, any monthly benefits or lump-sum death payment payable under this title with respect to the wages of such individual shall be determined without regard to such subsection (a).

"(2) Upon an application for benefits or a lump-sum death payment with respect to the death of any individual referred to in subsection (a), the ~~(2) Board~~ *Federal Security Administrator* shall make a decision without regard to paragraph (1) of this subsection unless ~~(2½) it~~ *he* has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such individual. The ~~(3) Board~~ *Federal Security Administrator* shall notify the Veterans' Administration of any decision made by ~~(4) the Board~~ *him* authorizing payment, pursuant to subsection (a), of monthly benefits or of a lump-sum death payment. If the Veterans' Administration in any such case has made an

adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, by reason of the death of any such individual, it shall notify the (5)~~Board~~ *Federal Security Administrator*, and the(6)~~Board~~ *Administrator* shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the (7)~~Board~~ *Federal Security Administrator* pursuant to subsection (a) to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of sec. 3 of the Act of August 12, 1935, as amended (U. S. C., 1940 edition, title 38, sec. 454a)) be deemed to have been paid to him by the Veterans' Administration on account of such accrued pension or compensation. No such payment certified by the (8)~~Board~~ *Federal Security Administrator*, and no payment certified by (9)~~the Board~~ *him* for any month prior to the first month for which any pension or compensation is paid by the Veterans Administration, shall be deemed by reason of this subsection to have been an erroneous payment.

"(c) In the event any individual referred to in subsection (a) has died during such three-year period but before the date of the enactment of this section—

"(1) upon application filed within six months after the date of the enactment of this section, any monthly benefits payable with respect to the wages of such individual (including benefits for months before such date) shall be computed or recomputed and shall be paid in accordance with subsection (a), in the same manner as though such application had been filed in the first month in which all conditions of entitlement to such benefits, other than the filing of an application, were met;

"(2) if any individual who upon filing application would have been entitled to benefits or to a recomputation of benefits under paragraph (1) has died before the expiration of six months after the date of the enactment of this section, the application may be filed within the same period by any other individual entitled to benefits with respect to the same wages, and the nonpayment or underpayment to the deceased individual shall be treated as erroneous within the meaning of section 204;

"(3) the time within which proof of dependency under section 202 (f) or any application under 202 (g) may be filed shall be not less than six months after the date of the enactment of this section; and

"(4) application for a lump-sum death payment or

recomputation, pursuant to this section, of a lump-sum death payment certified by the (10)~~Board,~~ *Board or the Federal Security Administrator*, prior to the date of the enactment of this section, for payment with respect to the wages of any such individual may be filed within a period not less than six months from the date of the enactment of this section or a period of two years after the date of the death of any individual specified in subsection (a), whichever is the later, and any additional payment shall be made to the same individual or individuals as though the application were an original application for a lump-sum death payment with respect to such wages.

No lump-sum death payment shall be made or recomputed with respect to the wages of an individual if any monthly benefit with respect to his wages is, or upon filing application would be, payable for the month in which he died; but except as otherwise specifically provided in this section no payment heretofore made shall be rendered erroneous by the enactment of this section.

"(d) There are hereby authorized to be appropriated to the Trust Fund from time to time such sums as may be necessary to meet the additional cost, resulting from this section, of the benefits (including lump-sum death payments) payable under this title.

"(e) For the purposes of this section the term 'date of the termination of World War II' means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier."

(11) *SEC. 202. When used in the Social Security Act, as amended by this Act, the term "Administrator", except where the context otherwise requires, means the Federal Security Administrator.*

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SEC. 301. STATE COVERAGE OF MARITIME WORKERS.

(12) *(a)* The Internal Revenue Code, as amended, is amended by adding, after section 1606 (e) a new subsection to read as follows:

"(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the (13) ~~Board~~ *Federal Security Administrator (or approved*

by the Social Security Board prior to July 17, 1946) under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the (14) ~~conditions imposed by subsection (b) of this section upon permission to State legislatures to require contributions from instrumentalities of the United States~~ *same limitation, with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (2) thereof) of subsection (b) of this section with respect to contributions required from instrumentalities of the United States and from individuals in their employ.*"

(15) *(b) The amendment effected by subsection (a) shall*

not operate, prior to July 1, 1947, to invalidate any provision, in effect on the date of enactment of this Act, in any State unemployment compensation law.

SEC. 302. DEFINITION OF EMPLOYMENT.

That part of section 1607 (c) of the Internal Revenue Code, as amended, which reads as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—"

is amended, effective July 1, 1946, to read as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the

vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—".

SEC. 303. SERVICE ON FOREIGN VESSELS.

Section 1607 (c) (4) of the Internal Revenue Code, as amended, is amended, effective July 1, 1946, to read as follows:

"(4) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;".

SEC. 304. CERTAIN FISHING SERVICES.

(a) Section 1607 (c) (15) of such Code is amended by striking out "or" at the end thereof.

(b) Section 1607 (c) (16) of such Code is amended by striking out the period and inserting in lieu thereof the following: "; or".

(c) Section 1607 (c) of such Code is further amended by adding after paragraph (16) a new paragraph to read as follows:

"(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea,

sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States)."

(d) The amendments made by this section shall take effect July 1, 1946.

SEC. 305. DEFINITION OF AMERICAN VESSEL.

Section 1607 of such Code, as amended, is further amended, effective July 1, 1946, by adding after subsection (m) a new subsection to read as follows:

"(n) AMERICAN VESSEL.—The term 'American vessel' means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State."

SEC. 306. RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN.

The Social Security Act, as amended, is amended by adding after section 1201 (c) a new title to read as follows:

"TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

"SEC. 1301. This title shall be administered by the Federal Security Administrator ~~(16), hereinafter referred to as 'Administrator'.~~

"DEFINITIONS

"SEC. 1302. When used in this title—

"(a) The term 'reconversion period' means the period (1) beginning with the fifth Sunday after the date of the enactment of this title, and (2) ending June 30, 1949.

"(b) The term 'compensation' means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

"(c) The term 'Federal maritime service' means service determined to be employment pursuant to section 209 (o).

~~(17)~~ "~~(d) The term 'Federal maritime wages' means remuneration determined to be wages pursuant to section 209 (o).~~

"(d) The term 'Federal maritime wages' means remu-

neration determined pursuant to section 209 (o) to be remuneration for service referred to in section 209 (o) (1).

~~(18) "(e) The term 'State' includes the District of Columbia, Alaska, and Hawaii.~~

~~(19) "(f) The term 'United States', when used in a geographical sense, means the several States, Alaska, Hawaii, and the District of Columbia.~~

"COMPENSATION FOR SEAMEN

"SEC. 1303. (a) The Administrator is authorized on behalf of the United States to enter into an agreement with any State, or with the unemployment compensation agency of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b), to individuals who have performed Federal maritime service, and (2) will otherwise cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by this title.

"(b) Any such agreement shall provide that compensation will be paid to such individuals, with respect to unemployment occurring in the reconversion period, in the same amounts, on the same terms, and subject to the same conditions as the compensation which would be payable to such individuals under the State unemployment compensation law if such individuals' Federal maritime service and Federal

maritime wages had (20)*(subject to regulations of the Administrator concerning the allocation of such service and wages among the several States)* been included as employment and (21)~~wages under such law, except that—~~

~~"(1) in any case where an individual receives compensation under a State law pursuant to this title, all compensation thereafter paid him pursuant to this title, except as the Administrator may otherwise prescribe by regulations, shall be paid him only pursuant to such law; and~~

~~"(2) the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.~~

wages under such law; except that the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States re-

lating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

"(c) If in the case of any State an agreement is not entered into under this section or the unemployment compensation agency of such State fails to make payments in accordance with such an agreement, the Administrator, in accordance with regulations prescribed by him, shall make payments of compensation to individuals who file a claim for compensation which is payable under such agreement, or would be payable if such agreement were entered into, on a basis which will provide that they will be paid compensation in the same amounts, on substantially the same terms, and subject to substantially the same conditions as though such agreement had been entered into and such agency made such payments. Final determinations by the Administrator of entitlement to such payments shall be subject to review by the courts in the same manner and to the same extent as is provided in Title II with respect to decisions by the (22)~~Board~~ *Administrator* under such title.

"(d) Operators of vessels who are or were general agents of the War Shipping Administration or of the United States Maritime Commission shall furnish to individuals who

have been in Federal maritime service, to the appropriate State agency, and to the Administrator such information with respect to wages and salaries as the Administrator may determine to be practicable and necessary to carry out the purposes of this title.

"(e) Pursuant to regulations prescribed by the Administrator, he, and any State agency making payments of compensation pursuant to an agreement under this section, may—

"(1) to the extent that the Administrator finds that it is not feasible for Federal agencies or operators of vessels to furnish information necessary to permit exact and reasonably prompt determinations of the wages or salaries of individuals who have performed Federal maritime service, determine the amount of and pay compensation to any individual under this section, or an agreement thereunder, as if the wages or salary paid such individual for each week of such service were in an amount equal to his average weekly wages or salary for the last pay period of such service occurring prior to the time he files his initial claim for compensation; and

"(2) to the extent that information is inadequate to assure the prompt payment of compensation authorized by this section (either on the basis of the exact wages or salaries of the individuals concerned or on the

basis prescribed in clause (1) of this subsection), accept certification under oath by individuals of facts relating to their Federal maritime service and to wages and salaries paid them with respect to such service.

"ADMINISTRATION

"SEC. 1304. (a) Determinations of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

"(b) For the purpose of payments made to a State under title III administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law.

"(c) The State unemployment compensation agency of each State shall furnish to the (23) ~~Board, for the use of the Administrator,~~ *Administrator such* information as the Administrator may find necessary in carrying out the provisions of this title, and such information shall be deemed reports required by the (24) ~~Board~~ *Administrator* for the purposes of section 303 (a) (6).

"PAYMENTS TO STATES

"SEC. 1305. (a) Each State shall be entitled to be

paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

"(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

"(c) The Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment, at the time or times fixed by the Administrator, in accordance with certification, from the funds (25)~~appropriated to carry out~~ *for carrying out* the purposes of this title. (26)*During the fiscal*

year ending June 30, 1947, funds appropriated for grants to States pursuant to title III shall be available for carrying out the purposes of this title.

"(d) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury upon termination of the agreement or termination of the reconversion period, whichever first occurs.

"(e) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the (27)~~administrator~~ *Administrator* may deem necessary, and may provide for the payment of the cost of such bond from appropriations for carrying out the purposes of this title.

"(f) No person designated by the Administrator, or designated pursuant to an agreement under this title, as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

"(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable

with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f).

"PENALTIES

"SEC. 1306. (a) Whoever, for the purpose of causing any compensation to be paid under this title or under an agreement thereunder where none is authorized to be so paid, shall make or cause to be made any false statement or representation as to any wages paid or received, or whoever makes or causes to be made any false statement of a material fact in any claim for any compensation authorized to be paid under this title or under an agreement thereunder, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Whoever shall obtain or receive any money, check or compensation under this title or an agreement thereunder, without being entitled thereto and with intent to defraud the United States, shall, upon conviction thereof, be find not more than $1,000 or imprisoned for not more than one year, or both.

"(c) Whoever willfully fails or refuses to furnish information which the Administrator requires him to furnish

pursuant to authority of section 1303 (d), or willfully furnishes false information pursuant to a requirement of the Administrator under such subsection, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than six months, or both."

TITLE IV—TECHNICAL AND MISCELLANEOUS PROVISIONS

SEC. 401. (28) ~~DEFINITION OF "STATE" FOR PURPOSES~~ *AMENDMENTS* OF TITLE V OF SOCIAL SECURITY ACT.

(a) Effective January 1, 1947, section 1101 (a) (1) of the Social Security Act, as amended, is amended to read as follows:

"(1) The term 'State' includes Alaska, Hawaii, and the District of Columbia, and when used in Title V includes Puerto Rico and the Virgin Islands."

(29) ~~(b) The amounts authorized to be appropriated and directed to be allotted, for the purposes of Title V of the Social Security Act, as amended, by sections 501, 502, 511, 512, and 521 of such Act, are increased in such amount as may be made necessary or equitable by the amendment made by subsection (a) of this section, including the Virgin Islands in the definition of "State".~~

(b) Effective with respect to the fiscal year ending June

30, 1947, and subsequent fiscal years, title V of the Social Security Act, as amended, is amended as follows:

(1) Section 501 is amended by striking out "$5,820,000" and inserting in lieu thereof "$15,000,000".

(2) Section 502 (a) is amended to read as follows:

"SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Federal Security Administrator shall allot $7,500,000 as follows: He shall allot to each State $50,000, and shall allot to each State such part of the remainder of the $7,500,000 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 Administrator has available statistics."

(3) Section 502 (b) is amended by striking out "$1,980,000" and inserting in lieu thereof "$7,500,000".

(4) Section 511 is amended by striking out "$3,870,000" and inserting in lieu thereof "$10,000,000".

(5) Section 512 (a) is amended to read as follows:

"SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Federal Security Administrator shall allot $5,000,000 as follows: He shall allot to each State $40,000, and shall allot the remainder of the $5,000,000 to the States according to the need of each State as determined by him after taking into consider-

ation 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."

(6) Section 512 (b) is amended by striking out "$1,000,000" and inserting in lieu thereof "$5,000,000".

(7) Section 521 (a) is amended by striking out "$1,510,000" and inserting in lieu thereof "$5,000,000" and is further amended by striking out "$10,000" and inserting in lieu thereof "$30,000".

(8) Section 541 (a) is amended to read as follows:

"SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1947, the sum of $1,500,000 for all necessary expenses of the Federal Security Agency in administering the provisions of this title."

(30)*(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until appropriations have been made in accordance with such amendments, and allotments from such appropriations shall be made in such manner as may be provided in the Act making such appropriations.*

SEC. 402. CHILD'S INSURANCE BENEFITS.

(a) Section 202 (c) (1) of such Act is amended by striking out the word "adopted" and substituting in lieu thereof the following: "adopted (except for adoption by a

stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual)".

(b) Section 202 (c) (3) (C) is amended to read as follows:

"(C) such child was living with and was chiefly supported by such child's stepfather."

SEC. 403. PARENT'S INSURANCE BENEFITS.

(a) Section 202 (f) (1) of such Act is amended by striking out "(31) *leaving* no widow and no unmarried surviving child under the age of eighteen," and inserting in lieu (32) ~~therefor "no widow or child who would, upon filing application, be entitled to a benefit for any month under subsection (c), (d), or (e) of this section"~~ *thereof "if such individual did not leave a widow who meets the conditions in subsection (d) (1) (D) and (E) or an unmarried child under the age of eighteen deemed dependent on such individual under subsection (c) (3) or (4), and*"; and by striking out in clause (B) thereof the word "wholly" and inserting in lieu thereof the word "chiefly".

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this Act filed after December 31, 1946.

SEC. 404. LUMP-SUM DEATH PAYMENTS.

(a) Section 202 (g) of such Act is amended to read as follows:

"LUMP-SUM DEATH PAYMENTS

"(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the (33)~~Board~~ *Administrator* to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

(c) In the case of any individual who, after Decem-

ber 6, 1941, and before the date of the enactment of this Act, died outside the United States (as defined in section 1101 ~~(34)~~ ~~(b)~~ *(a) (2)* of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such Act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this Act.

SEC. 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS.

(a) Section 202 (h) of such Act is amended to read as follows:

"(h) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end of the third month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the ~~(35)~~ ~~Board~~ *Administrator* has certified for payment for such prior month."

(b) The amendment made by subsection (a) of this

section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 406. DEDUCTIONS FROM INSURANCE BENEFITS.

(a) Section 203 (d) (2) of such Act (relating to deductions for failure to attend school) is repealed.

(b) Section 203 (g) of such Act (relating to failure to make certain reports) is amended by inserting before the period at the end thereof a comma and the following: "except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month".

SEC. 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL".

(a) Section 209 (h) of such Act is amended to read as follows:

"(h) The term 'currently insured individual' means any individual with respect to whom it appears to the satisfaction of the (36)~~Board~~ *Administrator* that he had not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 408. DEFINITION OF WIFE.

(a) Section 209 (i) of such Act is amended to read as follows:

"(i) The term 'wife' means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him for a period of not less than thirty-six months immediately preceding the month in which her application is filed."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 409. DEFINITION OF CHILD.

(a) Section 209 (k) of such Act is amended to read as follows:

"(k) The term 'child' means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died."

(b) The amendment made by subsection (a) of this

section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS.

Section 209 of such Act is amended by adding after subsection (p) a new subsection to read as follows:

"(q) Subject to such limitation as may be prescribed by regulation, the (37)~~Board~~ *Administrator* shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed."

SEC. 411. ALLOCATION OF 1937 WAGES.

Section 209 of such Act is amended by adding after subsection (q) a new subsection to read as follows:

"(r) With respect to wages paid to an individual in the six month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were

paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained."

SEC. 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE.

(a) FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 1426 (a) (1) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1426 (a) (1)) is amended to read as follows:

"(1) 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, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar

year after 1946, is paid to such individual by such employer during such calendar year;".

(b) FEDERAL UNEMPLOYMENT TAX ACT.—Section 1607 (b) (1) of the Federal Unemployment Tax Act (Internal Revenue Code, sec. 1607 (b) (1)) is amended to read as follows:

"(1) 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 after December 31, 1939, and prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

SEC. 413. SPECIAL REFUNDS TO EMPLOYEES.

Section 1401 (d) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1401 (d)) is amended to read as follows:.

"(d) SPECIAL REFUNDS.—

"(1) WAGES RECEIVED BEFORE 1947.—If by reason of an employee rendering service for more than

one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400, deducted from such wages and paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the employment was performed with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which the wages are received with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund. No refund shall be made under this paragraph with respect to wages received after December 31, 1946.

"(2) WAGES RECEIVED AFTER 1946.—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1946, the wages received by him during such year

exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund."

SEC. 414. DEFINITION OF WAGES UNDER TITLE II OF SOCIAL SECURITY ACT.

(a) So much of section 209 (a) of the Social Security Act, as amended, as precedes paragraph (3) thereof is amended to read as follows:

"(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—

"(1) 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 prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;

"(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;

"(3) That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;".

(b) The paragraphs of section 209 (a) of such Act heretofore designated "(3)", "(4)", "(5)", and "(6)" are redesignated "(4)", "(5)", "(6)", and "(7)", respectively.

SEC. 415. TIME LIMITATIONS ON LUMP-SUM PAYMENTS UNDER 1935 LAW.

No lump-sum payment shall be made under section 204

of the Social Security Act (as enacted in 1935), or under section 902 (g) of the Social Security Act Amendments of 1939, unless application therefor has been filed prior to the expiration of six months after the date of the enactment of this Act.

(38) *SEC. 416. WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS FOR DISABILITY BENEFITS.*

(39) *(a) Paragraph (4) of subsection (a) of section 1603 of the Federal Unemployment Tax Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ": Provided, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".*

(40) *(b) The last sentence of subsection (f) of section 1607 of the Federal Unemployment Tax Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": Provided, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration."*

(41) *(c) Paragraph (5) of subsection (a) of section 303 of the Social Security Act, as amended, is amended by striking*

out the semicolon immediately before the word "and" at the end thereof and inserting in lieu of such semicolon the following: ": Provided, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

(42) *SEC. 417. EXPENDITURES NECESSITATED BY THIS ACT IN THE FISCAL YEAR 1947.*

Expenditures to meet the increase, resulting from this Act, in the cost of administering the Social Security Act, and payments to the States pursuant to titles I, III, IV, V, X, and XIII of the Social Security Act, as amended by this Act, may be made during the fiscal year ending June 30, 1947, from appropriations available for these respective purposes, without regard to the apportionments required by section 3679 of the Revised Statutes (31 U. S. C. 665).

TITLE V—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

(43) ~~SEC. 501. OLD-AGE ASSISTANCE.~~

~~Section 3 (a) of the Social Security Act, as amended, is amended by striking out "$40" and inserting in lieu thereof "$50".~~

(44) ~~SEC. 502. AID TO DEPENDENT CHILDREN.~~

~~Section 403 (a) of such Act is amended by striking out $18 wherever appearing and inserting in lieu thereof "$27", and by striking out "$12" and inserting in lieu thereof "$18".~~

(45) ~~SEC. 503. AID TO THE BLIND.~~

~~Section 1003 (a) of such Act is amended by striking out "$40" and inserting in lieu thereof "$50".~~

(46) ~~SEC. 504. EFFECTIVE DATE OF TITLE.~~

~~The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946, and ending before January 1, 1948.~~

(47) *SEC. 501. OLD-AGE ASSISTANCE.*

(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"(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 (1) an amount, which shall be used exclusively as old-age assistance, equal to the Federal percentage (as defined in section 1108) of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each needy 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 $50, but the amount payable to the State by the United States with respect to any individual for any month shall not exceed $25; and (2) an amount equal to the Federal percentage of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 3 (b) of such Act is amended (1) by striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)"; (2) by striking out "clause (1) of" wherever it appears in such subsection; (3) by striking out "in accordance with the provisions of such clause" and inserting in lieu thereof "in accordance with the provisions of such subsection"; and (4) by striking out ", increased by 5 per centum".

(48) *SEC. 502. AID TO DEPENDENT CHILDREN.*

(a) Section 403 (a) of such Act is amended to read as follows:

"(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, an amount, which shall be used exclusively for carrying out the State plan, equal to the Federal percentage (as

defined in section 1108) 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 $27, or if there is more than one dependent child in the same home, as exceeds $27 with respect to one such dependent child and $18 with respect to each of the other dependent children; but the amount payable to the State by the United States with respect to any dependent child for any month shall not exceed $13.50, or, if there is more than one dependent child in the same home, shall not exceed $13.50 for any month with respect to one such dependent child and $9 for such month with respect to each of the other dependent children."

(b) Section 403 (b) (1) of such Act is amended by striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)".

(49) *SEC. 503. AID TO THE BLIND.*

(a) Section 1003 (a) of such Act is amended to read as follows:

"(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 (1) an amount, which shall be used exclusively as aid to the blind, equal to the Federal percentage (as defined in section 1108) of the total of the sums expended during such

quarter as aid to the blind under the State plan with respect to each needy 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 $50, but the amount payable to the State by the United States with respect to any individual for any month shall not exceed $25; and (2) an amount equal to the Federal percentage of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) (1) of such Act is amended by striking out "one-half", and inserting in lieu thereof "the State percentage (as defined in section 1108)".

(50) SEC. 504. DEFINITIONS.

Such Act is amended by adding after section 1107 a new section to read as follows:

" 'FEDERAL PERCENTAGE' AND 'STATE PERCENTAGE'

"SEC. 1108. (a) DEFINITION.—For the purposes of Titles I, IV, and X the 'Federal percentage' and 'State percentage' therein referred to shall be percentages determined as follows:

"(1) In the case of a State the per capita income

of which is equal to or greater than the per capita income of the continental United States, the Federal percentage shall be 50 per centum and the State percentage 50 per centum; and in the case of Alaska and Hawaii, until satisfactory data concerning average per capita income for three successive years have become available from the Department of Commerce, the Federal percentage shall be 50 per centum and the State percentage 50 per centum.

"(2) In the case of a State the per capita income of which is not more than 66⅔ per centum of the per capita income of the continental United States, the Federal percentage shall be 66⅔ per centum, and the State percentage shall be 33⅓ per centum.

"(3) In the case of every other State, the State percentage shall be one-half of the percentage which its per capita income is of the per capita income of the continental United States (except that a fraction of one-half per centum or less shall be disregarded, and a fraction of more than one-half per centum shall be increased to 1 per centum), and the Federal percentage shall be 100 per centum minus the State percentage. In no case under this paragraph shall the State percentage be less than 33⅓ per centum or the Federal percentage greater than 66⅔ per centum.

"(b) ASCERTAINMENT OF PER CAPITA INCOME.—The Federal percentage and State percentage for each State shall be promulgated by the Administrator between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the continental United States as computed by the Department of Commerce for the three most recent years for which satisfactory data are available. Such promulgation shall for the purposes of this section be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation, and also, in the case of the percentages promulgated in 1946, for the three quarters beginning October 1, 1946, January 1, 1947, and April 1, 1947.

"(c) 'CONTINENTAL UNITED STATES'.—For the purposes of this section the term 'continental United States' does not include Alaska or Hawaii."

(51) *SEC. 505. EFFECTIVE DATE OF TITLE.*

The amendments made by this title shall be applicable only to quarters beginning after September 30, 1946.

(52) ***TITLE VI—STUDY BY JOINT COMMITTEE ON INTERNAL REVENUE TAXATION OF ALL ASPECTS OF SOCIAL SECURITY***

SEC. 601. The Joint Committee on Internal Revenue Taxation is authorized and directed to make a full and complete study and investigation of old-age and survivors

insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto. The Joint Committee shall report to the Congress not later than October 1, 1947, the results of its study and investigation, together with such recommendations as it may deem appropriate.

SEC. 602. The Joint Committee is hereby authorized, in its discretion, to appoint an advisory committee of individuals having special knowledge concerning matters involved in its study and investigation to assist, consult with, and advise the Joint Committee with respect to such study and investigation. Members of the advisory committee shall not receive any compensation for their services as such members, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in connection with the performance of the work of the advisory committee.

SEC. 603. For the purposes of this title the Joint Committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

SEC. 604. The Joint Committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary in the performance of its duties under this title, but the compensation so fixed shall not exceed the compensation prescribed under the Classification Act of 1923, as amended, for comparable duties.

SEC. 605. The expenses of the Joint Committee under this title, which shall not exceed $10,000, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman.

(53) *TITLE VII—INCOME TAX PROVISIONS*

SEC. 701. EMPLOYEES' ANNUITIES.

(a) Section 22 (b) (2) (B) of the Internal Revenue Code is amended by inserting before the period at the end thereof a colon and the following: "Provided, however, That the amount contributed by an employer to a trust to be applied by the trustee for the purchase of annuity contracts for the benefit of an employee of said employer, shall not be included in the income of the employee in the year in which the amount is contributed if (i) the amount is contributed to the trustee pursuant to a written agreement entered into prior to October 21, 1942, between the employer and the trustee, or between the employer and the employee, and (ii) under the terms of the trust agreement the employee is not entitled,

except with the consent of the trustee, during his lifetime to any rights under annuity contracts purchased by the trustee other than the right to receive annuity payments".

(b) The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1938.

SEC. 702. Section 2 (a) of the Act of June 11, 1946 (Public Law 404, Seventy-ninth Congress) is amended by striking out the period at the end thereof and inserting a semicolon and the following: "and the Veterans' Emergency Housing Act of 1946".

Passed the House of Representatives July 24, 1946.

Attest: SOUTH TRIMBLE,
Clerk.

Passed the Senate with amendments July 30 (legislative day, July 29), 1946.

Attest: LESLIE L. BIFFLE,
Secretary.

79TH CONGRESS
2D SESSION

H. R. 7037

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1946

Ordered to be printed with the amendments of the Senate numbered

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Koerber, its assistant 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. 7037. An act to amend the Social Security Act and the Internal Revenue Code, and for other purposes.

AMENDING SOCIAL SECURITY ACT AND THE INTERNAL REVENUE CODE

Mr. DOUGHTON of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. KNUTSON. Mr. Speaker, I object.

AMENDING THE SOCIAL SECURITY ACT

Mr. GORE. The Senate today passed H. R. 7037 with amendments. A few moments ago the Senate notified the House of this action and requested a conference with the House to the end that differences in the two bills might be resolved and legislation enacted. The distinguished gentleman from North Carolina [Mr. DOUGHTON], chairman of the Ways and Means Committee, asked unanimous consent to take the bill from the Speaker's desk and agree to go into conference with the Senate. This request, as the RECORD will show, was objected to by the gentleman from Minnesota [Mr. KNUTSON], ranking minority member of the Ways and Means Committee.

This objection, Mr. Speaker, may mean the death knell of this bill. It may mean the death knell to the hopes of the millions of our needy old people, of our many thousands of blind persons who direly need more assistance, and of many, many dependent children who cannot yet speak for themselves. Unless in the interest of the veterans who would be benefited by passage of this bill; unless in the interest of freezing the Social Security tax rate, which in the absence of legislation will increase to 2½ percent for both employee and employer on January 1, 1947; unless in the interest of our needy old people, the blind, and dependent children whose benefits would be greatly increased by the passage of the Senate bill, particularly the needy old people, the blind, and the dependent children of the State of Minnesota, who by terms of the Senate bill would receive an increase in Federal assistance allotments for the State of Minnesota of $3,932,000; unless in the interest of our merchant seamen, who would be greatly benefited by passage of this legislation, the gentleman from Minnesota consents to withdraw his opposition, this bill cannot even be sent to conference except through a long-drawn-out parliamentary procedure which may mean its final defeat.

The bill which the Senate passed is a decided improvement over the bill which passed the House. Under the bill as passed by the House many States would not have received any additional Federal funds for the aged, the blind, or dependent children. Under the bill which passed the Senate, however, every State will receive additional Federal funds. I insert below a table which shows how the House bill and the Senate bill would apply to each State:

Comparison of increased annual Federal expenditures for old-age assistance, aid to dependent children, and aid to the blind, over current expenditures under title V of bill [1] as passed by the House and bill as passed by the Senate, and Federal matching percentages under Senate bill

[Based on operations July-December 1945]

State	Increased cost under—		Federal matching percentages under Senate bill [2]
	Bill as passed by House	Bill as passed by Senate	
Total	$56,179,000	$144,876,000	54
Alabama	37,000	4,014,000	66⅔
Alaska	70,000	70,000	50
Arizona	392,000	798,000	59
Arkansas	3,000	3,320,000	66⅔
California	11,717,000	11,717,000	50
Colorado	2,655,000	3,595,000	53
Connecticut	805,000	805,000	50
Delaware	25,000	25,000	50
District of Columbia	122,000	122,000	50
Florida	147,000	4,681,000	60
Georgia	3,000	5,413,000	66⅔
Hawaii	55,000	55,000	50
Idaho	294,000	731,000	55
Illinois	3,963,000	3,963,000	50
Indiana	360,000	360,000	50
Iowa	728,000	2,079,000	53
Kansas	800,000	1,745,000	54
Kentucky	0	3,980,000	66⅔
Louisiana	871,000	6,554,000	66⅔
Maine	193,000	583,000	53
Maryland	48,000	48,000	50
Massachusetts	7,408,000	7,408,000	50
Michigan	2,110,000	2,110,000	50
Minnesota	1,032,000	3,932,000	56
Mississippi	[3]	3,224,000	66⅔
Missouri	88,000	4,878,000	56
Montana	197,000	197,000	50
Nebraska	334,000	1,776,000	57
Nevada	60,000	60,000	50
New Hampshire	122,000	602,000	58
New Jersey	795,000	795,000	50
New Mexico	263,000	1,105,000	66⅔
New York	7,467,000	7,467,000	50
North Carolina	5,000	3,788,000	66⅔
North Dakota	450,000	1,073,000	57
Ohio	990,000	990,000	50
Oklahoma	1,017,000	9,151,000	66⅔
Oregon	802,000	802,000	50
Pennsylvania	2,950,000	2,950,000	50
Rhode Island	382,000	382,000	50
South Carolina	0	2,646,000	66⅔
South Dakota	108,000	1,200,000	60
Tennessee	14,000	5,397,000	66⅔
Texas	0	16,914,000	62
Utah	537,000	805,000	52
Vermont	4,000	238,000	57
Virginia	153,000	1,099,000	59
Washington	4,610,000	4,610,000	50
West Virginia	3,000	2,810,000	66
Wisconsin	850,000	1,552,000	52
Wyoming	116,000	184,000	52

[1] Maximum Federal payment of $25 for old-age assistance and aid to the blind; for aid to dependent children, $13.50 for the first child and $9 for each additional child.
[2] Based on per capita incomes of 1941–43 as reported by the Department of Commerce.
[3] Less than $500.

You will note from the above table, Mr. Speaker, that the Senate has passed a variable grant formula by which Federal Social Security assistance funds will be available to the States for matching purposes on a scale which recognizes the disparity in the abilities of respective States to finance public assistance for their needy citizens. The present 50–50 basis of Federal participation, by which the Federal Government matches dollar for dollar the amount provided by the State up to a $20 matching maximum, does not recognize differences in the ability of States to finance public assistance, nor does it recognize the relatively much greater effort now being made by the poorer States to finance public assistance than by the richer States; neither does it recognize the greater incidence of poverty in the States with the lowest per capita income.

Merely to raise the Federal matching maximums on individual payments, as would the bill which passed the House, without at the same time providing some equitable aid to the low-income States which need help most, will only increase the very inequities which we should seek to minimize in a spirit of social justice. At present, the Federal Government is paying more than three times as much to an eligible needy person in some States as in others. The House-passed bill would only widen this disparity. In other words, the House-passed bill would give more to those who are least in need and give nothing to those most in need.

The Senate bill proposes an increase in the proportion of cost borne by the Federal Government in the States with per capita income below the per capita income for the Nation. The share of the cost to be paid by each low-income State will depend upon how its per capita income compares with that for the country as a whole. The State proportion will be equal to one-half the percentage which its per capita income is of the national per capita income. For example, a State whose per capita income is only 80 percent of the national per capita income would contribute 40 percent of its expenditures for assistance; the Federal share would be 60 percent in this State. All States whose per capita income falls below two-thirds of the national per capita income will pay 33⅓ percent of assistance costs from State and local funds and will receive 66⅔ percent of such costs from Federal funds.

No change in relative State and Federal shares of assistance payments is proposed for the States with per capita income equal to or greater than that for the Nation. In no State will the increased Federal share apply to individual payments in excess of $50 in an old-age assistance and aid to the blind, and, in aid to dependent children, in excess of $27 for the first child in the home and $18 for each additional child. Though, under the Senate bill, the Federal Government stands ready to pay a larger percentage of the cost of individual payments in low- than in high-income States, it will not contribute a larger sum to any payment in low-income States than in those with relatively more resources.

This variable grant formula was recommended by the Social Security Board. It is well thought out, but not complicated. It is a step in the direction of equality of treatment of needy citizens by the Federal Government.

Another very beneficial part of the bill is title II, which gives benefits to veterans of World War II. Regarding benefits to veterans, the Senate report advises in part:

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

The purpose of this title is to bridge the gap in survivorship protection which a serviceman experiences when he shifts from wartime military service to established civilian employment. It undertakes to do this by adding a new section to the Social Security Act, section 210, which provides survivors insurance protection for a period of 3 years following discharge from the armed forces to veterans who were in active military or naval service of the United States after September 16, 1940, and prior to the termination of World War II.

In general, an individual must fulfill one of two requirements in order to be insured for survivors' benefits under the old-age and survivors' insurance program. Either he must have worked in employment under the program for approximately half of the time elapsing after 1936, or after age 21, and prior to the time of his death or he must have worked in covered employment for one-half of the 3 years immediately preceding his death. Since service in the armed forces is not credited for old-age or survivors' insurance purposes, many veterans upon discharge from service will have lost whatever protection they may have acquired under the program or by reason of their military service will have failed to gain the protection they might otherwise have acquired. Moreover, in computing a veteran's "average monthly wage" upon which old-age and survivors' insurance benefits are based, it is usually necessary under present law to include in the computation the months in which the veteran was in service, even though wages are not credited for these months. Consequently, even where the veteran does not lose his protection entirely by reason of his military service, his average wage and the benefits based on it will be reduced.

After the veteran has been back in civilian life for a reasonable period, he can be expected to have gained or regained his insurance protection. It is thought that 3 years is a reasonable time within which the veteran may be expected to acquire or reacquire old-age and survivors' insurance protection since he need only work during one-half of the 3 years immediately prior to death in order to have survivorship protection. In consequence, this section provides survivorship protection to the veteran's family for 3 years after discharge from service.

The amendment also provides for a minimum "average monthly wage" for the veteran during the 3-year period. This provision is needed to insure payment of adequate benefits.

Title I of the bill amends the Federal Insurance Contributions Act so as to fix employee and employer contribution rates at 1 percent each for the calendar year 1947. In other words, H. R. 7037 freezes the Social Security tax rate for another year. In the absence of legislation, the tax rate will advance to 2½ percent on both employee and employer on January 1, 1947. Although I am opposed to freezing the Social Security tax rate, I do not believe it should be allowed to suddenly jump from a 2 percent pay-roll tax to 5 percent. There should be an increase, in my opinion, but it should be an orderly increase, not such an abrupt jump. Indeed, the whole theory of the gradual increase provided in the original Social Security Act was to prevent such sudden shocks to the economy as would happen on January 1, 1947, without legislation as well as to build up in an orderly way sufficient funds to meet the liabilities that are sure to pyramid within a comparatively short time.

Title 3 would give unemployment compensation benefits to maritime workers. The purposes of this title are:

First. To effect permanent coverage of maritime employment under State unemployment compensation systems; and

Second. To provide temporary protection for persons whose maritime employment has been with general agents of

the War Shipping Administration and thus has been technically Federal employment.

To accomplish the first of these purposes the Federal Unemployment Tax Act is amended to extend coverage to private maritime employment—with the same definition of maritime employment as was used in extending old-age and survivors' insurance to maritime employment in 1939.

Our social-security program needs to be broadened and improved. The Senate bill is the very minimum that we should do now.

Unless the gentleman from Minnesota consents to withdraw his objection, this bill cannot even be sent to conference except upon passage of a resolution, or rule, for that purpose. Such a resolution would first have to be reported by the Committee on Rules. Under the rules of the House such a resolution would have to lay over for 24 hours. If the resolution was then passed by the House, the bill would go to conference but a conference report under the rules, would have to lay on the Speaker's desk for another 24 hours. Thus at best, Mr. Speaker, by this procedure a conference report upon this bill could not be brought before the House until Friday, the very day on which it is now anticipated that Congress will adjourn sine die. Therefore, Mr. Speaker, that is why I have said that this unfortunate objection may mean the death knell to this bill. I hope not. I hope it can finally pass. It means so very much to millions of American citizens who need and deserve assistance, who need and deserve better treatment than to have their problems shunted aside by a parliamentary maneuver in the closing days of this Congress.

SOCIAL SECURITY ACT

Mr. DOUGHTON of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Act, and for other purposes, with Senate amendments, disagree to the amendments of the Senate and request a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. DOUGHTON]?

Mr. JENKINS. Mr. Speaker, I object.

RULE TO SEND SOCIAL SECURITY BILL TO CONFERENCE

Mr. RANKIN. Mr. Speaker, I yield to to the gentleman from Mississippi [Mr. COLMER].

Mr. COLMER, from the Committee on Rules, reported the following privileged resolution (H. Res. 747) providing for the consideration of H. R. 7037, to take from the Speaker's table, and to request a conference thereon (Rept. No. 2714), which was referred to the House Calendar and ordered to be printed:

Resolved, That immediately upon the adoption of this resolution the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table, that the Senate amendments be, and they are hereby, disagreed to by the House, and that a conference be, and the same is hereby, requested with the Senate on the disagreeing votes of the two Houses thereon.

RULE ON THE SOCIAL SECURITY BILL

Mr. COLMER. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 747.

Mr. MICHENER. Mr. Speaker, reserving the right to object, which rule is this?

Mr. COLMER. This is the rule on the social-security bill.

The SPEAKER. The Chair may say to the gentleman from Mississippi that since the conversation had with the gentleman there has been an additional conversation, and the Chair thinks that perhaps the gentleman may save time by withholding the request for the moment.

Mr. COLMER. Mr. Speaker, I withdraw the request for the time being.

Mr. MARTIN of Massachusetts. Mr. Speaker, which rule is this?

Mr. COLMER. This is the rule on the social-security bill.

The SPEAKER. The Chair may say that there has been additional conversation since speaking to the gentleman and, in the opinion of the Chair, we will make time if the gentleman will withhold his request for the time being.

Mr. COLMER. Mr. Speaker, I withdraw it for the moment.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Mr. DOUGHTON of North Carolina, Mr. DINGELL, Mr. ROBERTSON of Virginia, Mr. MILLS, Mr. KNUTSON, Mr. REED of New York, and Mr. WOODRUFF.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I ask unanimous consent that I may have until midnight tonight to file a conference report and statement on the bill H. R. 7037, the social-security bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. DOUGHTON]?

There was no objection.

AMENDING THE SOCIAL SECURITY ACT AND THE INTERNAL REVENUE CODE

Mr. COLMER. Mr. Speaker, I call up House Resolution 747, and move its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, with the Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table, that the Senate amendments be, and they are hereby, disagreed to by the House, and that a conference be, and the same is hereby, requested with the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER. The question is, Will the House now consider the resolution?

The question was taken; and two-thirds having voted in favor thereof, the House decided to consider the resolution.

Mr. COLMER. Mr. Speaker, I have no requests for time on this side.

This is simply a resolution sending the social-security bill to conference. I reserve the balance of my time, and I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN].

Mr. ALLEN of Illinois. Mr. Speaker, I reserve my time.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DOUGHTON of North Carolina, Mr. DINGELL, Mr. ROBERTSON of Virginia, Mr. MILLS, Mr. KNUTSON, Mr. REED of New York, and Mr. WOODRUFF were appointed managers on the part of the House at the conference.

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE

As in legislative session,

The PRESIDING OFFICER (Mr. TUNNELL in the chair) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JOHNSON of Colorado. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. GEORGE, Mr. WALSH, Mr. BARKLEY, Mr. CONNALLY, Mr. LA FOLLETTE, Mr. VANDENBERG, and Mr. TAFT conferees on the part of the Senate.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Koerber, its assistant enrolling clerk, announced that the Senate insists upon its amendments to the bill (H. R. 7037) entitled "An act to amend the Social Security Act and the Internal Revenue Code, and for other purposes"; disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GEORGE, Mr. WALSH, Mr. BAILEY, Mr. CONNALLY, Mr. LA FOLLETTE, Mr. VANDENBERG, and Mr. TAFT to be the conferees on the part of the Senate.

79TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2724

SOCIAL SECURITY ACT AMENDMENTS OF 1946

AUGUST 1, 1946.—Ordered to be printed

Mr. DOUGHTON of North Carolina, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 7037]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, 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 42 and 52.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 2½, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41 and agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows:

On page 2, line 13, of the Senate engrossed amendments strike out "July 17" and insert *July 16*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

On page 3, line 3, of the Senate engrossed amendments, strike out "July 1, 1947" and insert *January 1, 1948*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, 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: *Notwithstanding any other provision of this*

title, no compensation shall be paid to any individual pursuant to this title with respect to unemployment occurring prior to the date when funds are made available for such payments.; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with amendments as follows:

On page 5, line 6, of the Senate engrossed amendments, strike out " '$15,000,000' " and insert in lieu thereof *"$11,000,000"*; in line 10, strike out "$7,500,000" and insert *$5,500,000*; in line 11, strike out "$50,000" and insert *$35,000*; in line 12, strike out "$7,500,000" and insert *$5,500,000*; in line 17, strike out " '$7,500,000' " and insert *"$5,500,000"*; in line 19, strike out " '$10,000,000' " and insert *"$7,500,000"*; in line 23, strike out "$5,000,000" and insert *$3,750,000*; in line 24, strike out "$40,000" and insert *$30,000*; in line 25, strike out "$5,000,000" and insert *$3,750,000*.

On page 6, line 6, strike out " '$5,000,000' " and insert *"$3,750,000"*; in line 8, strike out " '$5,000,000' " and insert *"$3,500,000"*; in line 10, strike out " '$30,000' " and insert *"$20,000"*; in line 14, strike out "$1,500,000" and insert *$1,000,000*.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, 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:

(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until sufficient appropriations have been made to carry out such amendments, and allotments from such appropriations shall be made in amounts not exceeding the amounts authorized by the amendments made by this section.

Amendments numbered 43, 44, 45, 46, 47, 48, 49, 50, and 51:

That the House recede from its disagreement to the amendments of the Senate numbered 43, 44, 45, 46, 47, 48, 49, 50, and 51, and agree to the same with amendments as follows:

In lieu of the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by such Senate amendments insert the following:

SEC. 501. OLD-AGE ASSISTANCE.

(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"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 October 1, 1946, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy individual who at the time of such expenditure is sixty-five years of age or older and is not an inmate of a public institu-

tion, not counting so much of such expenditure with respect to any such individual for any month as exceeds $45—

"(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 3 (b) of such Act is amended (1) by striking out "one-half", and inserting in lieu thereof "the State's proportionate share"; (2) by striking out "clause (1) of" wherever it appears in such subsection; (3) by striking out "in accordance with the provisions of such clause" and inserting in lieu thereof "in accordance with the provisions of such subsection"; and (4) by striking out ",increased by 5 per centum".

SEC. 502. AID TO DEPENDENT CHILDREN.

(a) Section 403 (a) of the Social Security Act, as amended, is amended to read as follows:

"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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to dependent children, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under the State plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $24, or if there is more than one dependent child in the same home, as exceeds $24 with respect to one such dependent child and $15 with respect to each of the other dependent children—

"(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $9 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose.

(b) Section 403 (b) of such Act is amended by striking out "one-half" and inserting in lieu thereof "the State's proportionate share".

SEC. 503. AID TO THE BLIND.

(a) Section 1003 (a) of the Social Security Act, as amended, is amended to read as follows:

"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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to

the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $45—

"(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) of such Act is amended by striking out "one-half", and inserting in lieu thereof "the State's proportionate share".

SEC. 504. EFFECTIVE PERIOD.

Sections 501, 502, and 503 shall be effective with respect to the period commencing October 1, 1946 and ending on December 31, 1947.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, 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:

TITLE VI—VETERANS' EMERGENCY HOUSING ACT OF 1946

SEC. 601. Section 2 (a) of the Act of June 11, 1946 (Public Law 404, Seventy-ninth Congress) is amended by striking out the period at the end thereof and inserting a semicolon and the following: "and the Veterans' Emergency Housing Act of 1946".

And the Senate agree to the same.

R. L. DOUGHTON,
JOHN D. DINGELL,
A. WILLIS ROBERTSON,
W. D. MILLS,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the Part of the House.

WALTER F. GEORGE,
DAVID I. WALSH,
ALBEN BARKLEY,
TOM CONNALLY,
ROBERT M. LA FOLLETTE, Jr.,
A. H. VANDENBERG,
ROBERT A. TAFT,
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. 7037) to amend the Social Security Act and the Internal Revenue Code, 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: This amendment eliminates section 103 of the House bill, which would have repealed the last sentence of section 201 (a) of the Social Security Act reading:

> There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.

Thus, the amendment leaves this sentence in the Social Security Act. The House recedes.

Amendments Nos. 2, 2½, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 22, 23, 24, 27, 33, 35, 36, and 37: These amendments, necessitated by Reorganization Plan No. 2 of 1946 which abolished the Social Security Board and transferred its functions to the Federal Security Administrator, delete (except as noted below) the references which the House bill made to the Social Security Board or to "the Board" and substitute references to the Federal Security Administrator or to "the Administrator", with corresponding changes in pronouns. Amendment No. 11 inserts a provision that when used in the Social Security Act the term "Administrator", unless the context otherwise requires, means the Federal Security Administrator. Amendment No. 10 retains a reference to the Board but enlarges the reference to include the Administrator. The House recedes.

Amendment No. 12: This amendment inserts the latter "(a)" after the section heading of section 301 of the bill. The House recedes.

Amendment No. 13: This amendment is also necessitated by Reorganization Plan No. 2 of 1946 and retains reference to the Board but enlarges the reference to include the Administrator. The House recedes with an amendment striking out the date "July 17" which was a clerical error in the Senate amendment and inserts in lieu thereof the date "July 16" which was the date on which Reorganization Plan No. 2 took effect.

Amendment No. 14: This amendment changes one of the conditions attached by the House bill to the congressional permission to the States to collect contributions under their unemployment compensation laws, based on maritime employment. The House bill made the permission subject to the conditions imposed by section 1606 (b) of the Internal Revenue Code on the collection of contributions from Federal instrumentalities and their employees. The amendment limits the condition to that contained in the second sentence (other than clause (2) thereof) of section 1606 (b); and eliminates the requirement that a State law

provide for refunds in the event that such law is not certified for tax-credit purposes. The House recedes.

Amendment No. 15: This amendment provides that section 1606 (f) of the Internal Revenue Code, granting the limited permission above referred to, shall not operate to invalidate, before July 1, 1947, any provision of a State unemployment compensation law in effect on the date of enactment of the bill. The House bill contained no corresponding provision. The House recedes with an amendment changing the date from "July 1, 1947," to "January 1, 1948."

Amendment No. 17: This amendment strikes out the definition contained in the House bill of "Federal maritime wages" and substitutes a new definition of the same term. The definition establishes the basis on which maritime wage credits will be determined for purposes of title XIII of the Social Security Act, which provides a temporary system of unemployment compensation for maritime workers. The definition in the House bill limits the term to "wages" as defined in section 209 of the Social Security Act, whereas the amendment does not contain this limitation. The House recedes.

Amendments Nos. 18 and 19: These amendments delete from title XIII of the Social Security Act definitions of the terms "State" and "United States" which appeared in the House bill. Identical definitions are contained in title XI of the Social Security Act, which apply generally to the whole act. The House recedes.

Amendment No. 20: This amendment inserts an authorization to the Federal Security Administrator, for purposes of title XIII of the Social Security Act, to determine in accordance with regulations issued by him the allocation of maritime services and wages among the several States. Such allocation will determine which State law will govern the benefit rights of Federal maritime workers. The House recedes.

Amendment No. 21: This amendment strikes out a limitation, contained in the House bill, upon the allocation of maritime wage credits among the States under title XIII of the Social Security Act. The House bill provided that a claimant who receives compensation pursuant to title XIII under the law of one State can thereafter receive further compensation pursuant to that title only under the law of the same State, except as the Administrator otherwise prescribes by regulations. The House recedes.

Amendments Nos. 25 and 26: These amendments provide that during the fiscal year 1947, funds appropriated for grants to the States pursuant to title III of the Social Security Act shall be available for carrying out the purposes of title XIII. No corresponding provision appeared in the House bill. The House recedes with an amendment to amendment No. 26 which provides that no compensation will be paid to any individual pursuant to this title (XIII) with respect to unemployment occurring prior to the date when funds are made available for such payment. The purpose of the conference agreement is to prevent liability attaching for payment of compensation for unemployment occurring before funds have been appropriated and are available for making such payments.

Amendment No. 28 changes the caption of section 401 of the bill. The House recedes.

Amendment No. 29: This amendment strikes out from the House bill an authorization of increased appropriations necessary to extend to the Virgin Islands the grant-in-aid programs for maternal and child

welfare and inserts provisions increasing the authorization of appropriations for all the States. The authorization for maternal and child health service grants is increased from $5,820,000 to $15,000,000 a year, with the matched grants to each State increased from $20,000 plus a share in $2,800,000 to $50,000 plus a share in the remainder of $7,500,000, and the unmatched grants increased from $1,980,000 to $7,500,000. The authorization for grants for services to crippled children is increased from $3,870,000 to $10,000,000 a year, with the matched grants to each State increased from $20,000 plus a share in $1,830,000 to $40,000 plus a share in the remainder of $5,000,000, and the unmatched grants increased from $1,000,000 to $5,000,000. The authorization for child welfare grants is increased from $1,510,000 to $5,000,000, with the allotment to each State increased from $10,000 plus a share in the remainder of the $1,510,000 to $30,000 plus a share in the remainder of $5,000,000. The authorization of appropriations for administration of these grants is fixed, for the fiscal year 1947, at $1,500,000. The House bill contained no provision corresponding to these increases for all of the States, and no authorization of appropriations for administrative expenses. The House recedes with an amendment which reduces the increases contained in the Senate amendment by approximately one-half. The Senate amendment proposed an increase to $31,500,000 and the conference agreement reduces such figure to $23,000,000.

Amendment No. 30: This amendment provides that amended allotments under the maternal and child welfare programs shall not be required for the fiscal year 1947 until further appropriations have been made, and shall then be made in such manner as is provided in the appropriation act. The House bill contained no corresponding provision. The House recedes with an amendment limiting the allotments for the fiscal year 1947 to the sums authorized by the conference agreement.

Amendments Nos. 31 and 32: These amendments strike out an amendment, contained in the House bill, to section 202 (f) (1) of the Social Security Act, and substitute a different amendment of the same section. The Senate amendment would accomplish the purpose intended to be accomplished, but not clearly expressed, by the House bill. The House recedes.

Amendment No. 34: This amendment corrects an error in the House bill in a reference to a provision of existing law. The House recedes.

Amendments Nos. 38, 39, 40, and 41: These amendments make three changes in existing law, which would not have been made by the House bill, to permit the withdrawal from the Federal unemployment trust fund, for the payment by a State of disability compensation, of any payments which that State may have collected from employees under its unemployment compensation law and deposited in the trust fund, or which it may in the future collect and deposit. To accomplish this, identical provisos are added to sections 1603 (a) (4) and 1607 (f) of the Federal Unemployment Tax Act and section 303 (a) (5) of the Social Security Act. The present Federal definition of a State "unemployment fund" will not be affected by the Senate amendments except in the one particular noted. Withdrawals from the trust fund other than those specifically authorized by the amendments will still be permissible only for the same purposes as in the past. The House recedes.

Amendment No. 42: This amendment permits the Federal Security Administrator during the present fiscal year to expend existing appropriations for the administration of the Social Security Act, and for payments to the States pursuant to titles I, III, IV, V, X, and XIII of that act, at an accelerated rate (and thereby to incur deficiencies) to the extent, but only to the extent, that such acceleration of expenditures is necessary to meet additional costs resulting from the enactment of the bill. The House bill contained no corresponding provision. The Senate recedes since the Director of the Bureau of the Budget has authority under existing law to accomplish the same result.

Amendments Nos. 43, 44, 45, 46, 47, 48, 49, 50, and 51: The bill as it passed the House increased the existing ceilings on the Federal share of old-age assistance payments from $20 to $25, made the same change in the case of aid to the blind, and in the case of aid to dependent children increased the Federal share from $9 for the first child in the home and $6 for additional children to $13.50 and $9, respectively.

The Senate amendments, while retaining the above ceilings, also provide for variable matching ratios ranging from a 50–50 matching to a 66⅔–33⅓, depending on the per capita income of the State as compared with the per capita income of the United States.

The House recedes with an amendment which, while retaining the liberalized ceilings on the Federal share of assistance payments, substitutes for the variable matching formula a formula under which the Federal share would be two-thirds of the first $15 of monthly payments of old-age assistance or aid to the blind and one-half the remainder of the payment up to the over-all Federal maximum share of $25. Similarly in the case of aid to dependent children, the Federal share would be two-thirds of the first $9 of the payment and one-half of the balance up to the over-all Federal maximum share of $13.50 or $9.

The following tables illustrate the effect of the conference agreement with respect to the matching formula governing Federal contributions to State payments for the period October 1, 1946, to January 1, 1948, for public assistance, under titles I, IV, and X of the Social Security Act. Table No. 1 applies to aid to the aged and blind and table No. 2 applies to aid to dependent children. The new formula will apply uniformly in all States regardless of State per capita income or any other measure of relative economic resources among the States:

TABLE No. 1.—*Aid to aged and the blind*

Average State payment	Federal contributions	
	Existing law (in all States)	Conference report (in all States)
Under $15	[1] 50	[1, 2] 66⅔
$16	$8.00	$10.50
$20	10.00	12.50
$25	12.50	15.00
$30	15.00	17.50
$40	[3] 20.00	22.50
$45 and over	[3] 20.00	[3] 25.00

[1] Percent.
[2] On a benefit of $12, for example, the Federal contribution under existing law amounts to $6. Under the conference formula the Federal contribution would be 66⅔ percent or $8.
[3] Ceiling.

TABLE No. 2.—*Aid to dependent children*

Average State payment	Federal contributions			
	Existing law		Conference formula	
	First child	Second child	First child	Second child
$9 or less	[1] 50	[1] 50	[1] 66⅔	[1] 66⅔
$10	$5.00	$5.00	$6.50	$6.50
$12	6.00	[2] 6.00	7.50	7.50
$15	7.50	[2] 6.00	9.00	[2] 9.00
$18	[2] 9.00	[2] 6.00	10.50	[2] 9.00
$21	[2] 9.00	[2] 6.00	12.00	[2] 9.00
$24 or more	[2] 9.00	[2] 6.00	[2] 13.50	[2] 9.00

[1] Percent.
[2] Ceiling.

Amendment No. 52: This amendment added a new title, title VI. It authorized and directed the Joint Committee on Internal Revenue Taxation to make a full and complete study and investigation of all aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto. The House bill contained no provisions corresponding to the title added by this amendment. The Senate recedes.

Amendment No. 53: This amendment, for which there appears no corresponding provision in the House bill, would amend section 22 (b) (2) (B) of the Internal Revenue Code, relating to the taxation of annuities purchased by employers for their employees. The present provisions of this section are to the effect that, in the case of such an annuity contract other than one purchased by an employer under a plan meeting certain requirements prescribed by section 165 and other than one purchased by an employer exempt from the income tax under section 101 (6), if the employee's rights under the contract are nonforfeitable except for the failure to pay premiums, the amount contributed by the employer for such annuity contract is required to be included in the income of the employee in the year in which the amount is contributed. The amendment contained in this section of the bill would add a proviso to the foregoing provision so that amounts contributed by an employer to a trust for the purchase of annuity contracts for the benefit of an employee shall not be included in the income of the employee in the year in which the contribution is made, if the contribution is made pursuant to a written agreement between the employer and the employee, or between the employer and the trustee, prior to October 21, 1942, and if the terms of such agreement entitle the employee to no rights, except with the consent of the trustee, under the annuity contracts other than the right to receive annuity payments. This amendment would become effective with respect to taxable years beginning after December 31, 1938.

The Senate amendment also contained a provision exempting the Veterans' Emergency Housing Act of 1946 from the provisions of the Administrative Procedure Act.

The House recedes with an amendment striking out the provision relating to employees' annuities and leaving in the provision exempting

the Veterans' Emergency Housing Act of 1946 from the provisions of the Administrative Procedure Act.

R. L. DOUGHTON,
JOHN D. DINGELL,
A. WILLIS ROBERTSON,
W. D. MILLS,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the Part of the House.

O

AMENDMENT OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE—CONFERENCE REPORT

As in legislative session,

Mr. GEORGE. Mr. President, since the conference report on the social security measure, House bill 7037, must go to the House for final action, I now submit the conference report and I ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the clerk will report the conference report.

The Chief Clerk read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, 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 42 and 52.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 2½, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41 and agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: On page 2, line 13, of the Senate engrossed amendments strike out "July 17" and insert "July 16"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: On page 3, line 3, of the Senate engrossed amendments, strike out "July 1, 1947" and insert "January 1, 1948"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, 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: "Notwithstanding any other provision of this title, no compensation shall be paid to any individual pursuant to this title with respect to unemployment occurring prior to the date when funds are made available for such payments."; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with amendments as follows: On page 5, line 6, of the Senate engrossed amendments, strike out "'$15,000,000'" and insert in lieu thereof "'$11,000,000'"; in line 10, strike out "$7,500,000" and insert "$5,500,000" in line 11, strike out "$50,000" and insert "$35,000"; in line 12, strike out "$7,500,000" and insert "$5,500,000"; in line 17, strike out "'$7,500,000'" and insert "'$5,500,000'"; in line 19, strike out "'$10,000,000'" and insert "'$7,500,000'"; in line 23, strike out "$5,000,000" and insert "$3,750,000"; in line 24, strike out "$40,000" and insert "$30,000"; in line 25, strike out "$5,000,000" and insert "$3,750,000."

On page 6, line 6, strike out "'$5,000,000'" and insert "'$3,750,000'"; in line 8, strike out "'$5,000,000'" and insert "'$3,500,000'"; in line 10, strike out "'$30,000'" and insert "'$20,000'"; in line 14, strike out "$1,500,000" and insert "$1,000,000."

And the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, 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:

"(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until sufficient appropriations have been made to carry out such amendments, and allotments from such appropriations shall be made in amounts not exceeding the amounts authorized by the amendments made by this section."

Amendments numbered 43, 44, 45, 46, 47, 48, 49, 50, and 51: That the House recede from its disagreement to the amendments of the Senate numbered 43, 44, 45, 46, 47, 48, 49, 50, and 51, and agree to the same with amendments as follows: In lieu of the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by such Senate amendments insert the following:

"SEC. 501. Old-Age Assistance.

"(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"'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 October 1, 1946, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy 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 such individual for any month as exceeds $45—

"'(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"'(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose.'

"(b) Section 3 (b) of such Act is amended (1) by striking out 'one-half', and inserting in lieu thereof 'the State's proportionate share'; (2) by striking out 'clause (1) of' wherever it appears in such subsection; (3) by striking out 'in accordance with the provisions of such clause' and inserting in lieu thereof 'in accordance with the provisions of such subsection'; and (4) by striking out ', increased by 5 per centum'.

"SEC. 502. Aid to Dependent Children.

"(a) Section 403 (a) of the Social Security Act, as amended, is amended to read as follows:

"'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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to dependent children, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to de pendent children under the State plan, not

counting so much of such expenditure with respect to any dependent child for any month as exceeds $24, or if there is more than one dependent child in the same home, as exceeds $24 with respect to one such dependent child and $15 with respect to each of the other dependent children—

"'(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $9 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"'(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);'

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose.

"(b) Section 403 (b) of such Act is amended by striking out 'one-half' and inserting in lieu thereof 'the State's proportionate share.'

"SEC. 503. Aid to the Blind.

"(a) Section 1003 (a) of the Social Security Act, as amended, is amended to read as follows:

"'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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $45—

"'(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such invidual who received aid to the blind for such month, plus

"'(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) of such Act is amended by striking out 'one-half', and inserting in lieu thereof 'the State's proportionate share.'

"SEC. 504. Effective Period.

"Sections 501, 502, and 503 shall be effective with respect to the period commencing October 1, 1946 and ending on December 31, 1947."

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, 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:

"TITLE VI—VETERANS' EMERGENCY HOUSING ACT OF 1946

"SEC. 601. Section (a) of the Act of June 11, 1946 (Public Law 404, Seventy-ninth Congress) is amended by striking out the period at the end thereof and inserting a semicolon and the following: 'and the Veterans' Emergency Housing Act of 1946'."

And the Senate agree to the same.

WALTER F. GEORGE,
DAVID I. WALSH,
ALBEN BARKLEY,
TOM CONNALLY,
ROBERT M. LA FOLLETTE, Jr.,
A. H. VANDENBERG,
ROBERT A. TAFT,
Managers on the Part of the Senate.

R. L. DOUGHTON,
JOHN D. DINGELL,
A. WILLIS ROBERTSON,
W. D. MILLS,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the Part of the House.

The PRESIDENT pro tempore. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. WHERRY. Mr. President, will the Senator briefly explain it?

Mr. GEORGE. I shall be glad to do so. There were of course a great many amendments made in the Senate to House bill 7037. Many of them were technical. Generally speaking, all the technical amendments and clarifying amendments were accepted by the House. The material changes made in important provisions of the bill relate primarily to title IV of the bill dealing with maternal and child welfare. Roughly speaking, the House concurred in all these several amendments, but reduced by about one-third the appropriation provided in the bill as passed by the Senate. In round figures the Senate had brought up these several appropriations to approximately $30,000,000, and the effect of the conference was to reduce these increases made by the Senate to about $21,000,000 or $22,000,000.

The first item, for instance, was increased from $5,820,000, to $15,000,000 by the Senate, but the conferees cut that increase back to $11,000,000. And so on, through the various categories dealing with child welfare and maternal welfare appropriations.

The other important amendment made related to title V of the bill, the so-called variable grants provision, which the Senate inserted and which personally as chairman of the Senate conferees I regretted much to give up. The net effect of the agreement reached in conference was to eliminate the variable grants provision. But in the case of old age and blind benefits the Federal Government, under the conference report, is to match two-thirds up to $15, and above $15 up to $45. The matching is to be as provided in the present law, 50-50 on the part of the State and the Federal Government. So that every State will actually receive an additional allotment out of Federal funds, whether they be the so-called low income States or the high income States.

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

Mr. GEORGE. I yield.

Mr. LANGER. I did not quite understand about the matching in the case of old-age assistance benefits. Up to what amount is the Government to contribute two-thirds.

Mr. GEORGE. Up to $15 for each aged person or each blind person.

Mr. LANGER. Might I inquire whether the age was left at 65?

Mr. GEORGE. The age was left at 65, just as under existing law. I might say now that this provision is temporary, and contrary to the provisions made for maternal welfare, and so forth, which become permanent in the law; but this provision is temporary and runs for only five quarters, beginning with the quarter commencing October 1, 1946, running through the entire calendar year 1947.

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

Mr. GEORGE. I yield.

Mr. WHERRY. As I understand, after the rate of $15 is reached the States and the Government match equally up to $45.

Mr. GEORGE. That is correct. Forty-five dollars is the technical limit fixed in the bill. Actually, of course, if the State is paying $50, it will receive $25 from the Federal appropriation. But if the State is paying only $45, it will still receive $25 out of the Federal appropriation.

Mr. LANGER. Mr. President, will the Senator yield further?

Mr. GEORGE. I yield.

Mr. LANGER. Does the Federal Government contribute two-thirds of $15, regardless of the total amount?

Mr. GEORGE. Yes; that is the effect of the provision.

Mr. LANGER. So if the total amount is $40, the Federal Government contributes two-thirds of the first $15, and the remainder is matched on a 50-50 basis.

Mr. GEORGE. The Senator is correct. That is true in the case of the aged and blind. In the case of dependent children, the Federal Government matches to the extent of two-thirds, up to $9. There has been a readjustment of the ceiling for the first child and for subsequent children; but in each case the Federal Government will match two-thirds of the first $9 paid in the case of a dependent child or children.

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

Mr. GEORGE. I yield.

Mr. WHERRY. Is it the idea, in making this provision temporary, that there may be further legislation in the next Congress which will be more in keeping with the bill as passed by the Senate?

Mr. GEORGE. The idea is, of course, that the whole social-security system must be overhauled.

That leads me to say that title VI of the bill, which called for a study and report by the Joint Committee on Internal Revenue Taxation by October 1 next year, was disagreed to by the House, and the Senate conferees acquiesced in that dsagreement. The House conferees took the position rather strongly that many of the members of the House Ways and Means Committee, which has a membership of 25, wish to participate in any social-security studies which are made, so the Senate conferees were persuaded to eliminate that provision.

Mr. WHERRY. That does not mean that the Senate committee will not continue to study the question, does it?

Mr. GEORGE. No. It simply means that there will not be an express provision of the law requiring the joint committee to make a study.

Mr. WHERRY. I am hopeful that the study will continue under the able leadership of the chairman of the Finance Committee, because I feel that we certainly need to put forth every effort possible to put into effect at least the provisions of the bill as passed by the Senate.

Mr. GEORGE. I think that is the view that is almost unanimously accepted by the members of the Finance Committee, as well as by members of the Ways and Means Committee of the House.

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

Mr. GEORGE. I yield.

Mr. FULBRIGHT. If the State pays $15, will the Federal Government pay an additional $10, so that the total will be $25? Suppose the State pays $15, will the Federal Government pay an additional $10?

Mr. GEORGE. No. It is the other way around. Of the first $15 paid by the State for any aged or blind person, the Federal Government will contribute $10, or two-thirds of the $15. If the State pays benefits beyond that amount, the matching is on a 50–50 basis, as under existing law.

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

Mr. GEORGE. I yield.

Mr. MAYBANK. I wish to commend the Senator for the excellent report, and the great assistance it will mean to many of those who have been in dire need of increased pensions.

Mr. GEORGE. My hope is that all the States will bring their minimum payments to the aged and blind at least up to $15. Only $5 of it would be payable by the State during the next five quarters, and $10 would be paid out of the Federal Treasury. That should act as an incentive to bring the minimum payments up to $15.

One further amendment, relating to certain provisions of our income-tax laws, was disagreed to very vigorously by the House conferees, and that amendment was stricken in the conference report.

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

Mr. GEORGE. I yield.

Mr. BARKLEY. Was that the amendment with reference to annuities which I offered in the committee?

Mr. GEORGE. That is the amendment which the distinguished Senator from Kentucky offered, and which was approved by the Senate.

Mr. BARKLEY. Mr. President, I wish to express my very deep regret that that amendment was eliminated in the conference. What the amendment did was to provide that when an employee and an employer enter into a contract by which an annuity is purchased, and under which the employer makes a contribution for the purchase of an annuity for the benefit of the employee at some future date, the employee should not be required to regard that contribution for the purchase of an annuity as income for the year in which the annuity is purchased. It should be regarded as income for income-tax purposes only when the employee begins to receive benefits by reason of the annuity. For a long time the Treasury adopted that policy by its own regulations. All the amendment did was to provide that contracts made between 1938 and the effective date of the Revenue Act of 1942 should not be charged to the employee as income until he begins to receive benefits from the annuity. The amendment was eminently fair. The idea of charging an employee, in the year in which the annuity is purchased, the entire amount as income for that year seems to me to be the rankest injustice. The Senate approved the amendment. I understand that the Treasury opposed it, although it had adopted it as a policy prior to 1942.

I merely wish to state that in connection with the next tax bill I intend to press this amendment in the committee and in the Senate. I hope it will be agreed to hereafter, because it seems to me only common justice that employees who enter into contracts with employers for the purchase of annuities ought not to be charged income tax until they begin to receive benefits from the annuities.

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

Mr. GEORGE. I yield.

Mr. TAFT. I agree with the Senator from Kentucky. I believe that when the next tax bill comes over from the House we ought to undertake a comprehensive study of the pension-trust provisions. This is only one of the respects in which I believe the Treasury has assumed a very arbitrary position, and assumed power which I think is not in accord with the provisions of the law which was enacted in 1942.

Mr. BARKLEY. I thank the Senator. I agree entirely. This amendment could not possibly have been of any great importance to the Treasury, although it is of considerable importance to the individuals who, as employees, have entered into contracts for the purchase of annuities under which they do not begin to reap benefits until years in the future. I hope that in addition to this injustice we may correct some of the other injustices in the present tax laws.

Mr. LA FOLLETTE. Mr. President, will the Senator from Georgia suffer a brief interruption in order that I may make a short statement?

Mr. GEORGE. I am glad to yield to the Senator from Wisconsin.

Mr. LA FOLLETTE. As one of the conferees, I regret very much that this bill did not reach the Senate in time for a full consideration of the urgent necessity for an overhauling of the Social Security Act. I think it should be emphasized—because some do not understand it—that the Senate cannot act on a matter of this kind until the House acts first, because under the Constitution, legislation carrying taxes must originate in the House of Representatives. I, for one, regret very much that the House conferees would not accept the amendment offered by the able Senator from Michigan [Mr. VANDENBERG] providing for a thorough study, commencing at once, by the staff, under the auspices of the Joint Committee on Internal Revenue Taxation, of the entire problem of social security.

However, the House conferees objected to the amendment. They resisted it strenuously, and we had to yield. But, with all due respect to the very able membership of the House Ways and Means Committee, and with all due respect to their prerogatives under the Constitution, in having the power to initiate legislation of this character, I wish to express, very respectfully, the hope that at the beginning of the next session of Congress, speedy and adequate consideration will be given by the Ways and Means Committee to the urgent necessity of eliminating some of the horrible injustices which exist under the present system; that the House will act in sufficient time so that the Senate, as the coordinate body, may have its full right, under the Constitution, to consider this matter; and that then, if there are differences between the two Houses, ample time will be afforded for an adequate, full, and free conference, such as we cannot have now, when faced with adjournment.

I thank the Senator.

Mr. GEORGE. Mr. President, I wish to concur wholeheartedly in the statement made by the able Senator from Wisconsin. I think it a matter of great regret that this bill did not reach the Senate until Friday of last week, so that we were not able to do many things which should be done in connection with our social-security law.

Mr. President, it would seem unnecessary to call attention to other amendments, inasmuch as they are set forth in the conference report. One of the amendments was agreed to in order to avoid the possibility of the raising of a point of order in the House.

Therefore, Mr. President, I move the adoption of the conference report.

Mr. CONNALLY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Texas?

Mr. GEORGE. I yield.

Mr. CONNALLY. I wish to say a word on this matter. As one of the conferees on this bill, I agree with the statement made by the Senator from Wisconsin. I think the whole subject matter should receive thorough study and examination.

Mr. President, some years ago, in an effort to aid the weak and poor States with regard to old-age assistance, I introduced in the Senate a bill providing for a Federal contribution of two-thirds of the money up to $15, and thereafter for a Federal contribution of 50 percent. That provision is what is now incorporated in the present conference report. I did not move its adoption in the conference, because I was under instructions to sustain the Senate's position. The adoption of that provision was moved by the House conferees. They moved the adoption of the plan whereby Federal money supplies two-thirds of the payments up to $15, and thereafter Federal money provides 50 percent of the payments. I am very highly gratified

that the plan was finally adopted, rather than the present harsh method of a 50-50 arrangement, which results in having the old-age assistance which is paid to a man who lives in a poor State amount to a mere pittance, whereas a man living in a rich State will receive a large amount.

Mr. President, I think that ultimately we shall have to revamp the whole system; but this is at least a beginning of the right kind.

Therefore, I express approval of the conference report, and I hope it will be adopted.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

Mr. McFARLAND. Mr. President, the adoption by the Senate of the conference report on the social security bill, which includes increases for the needy aged, the blind, and dependent children, is an event of more than passing interest to millions of America's senior citizens, our needy blind, and also our dependent children. I believe the Congress is deserving of commendation for having taken this important step because we thereby give recognition to the fact that the greatly increased cost of living had left these aged persons, the blind, and dependent children in an anomalous position.

Personally, I feel rather strongly about this legislation. More than 2 years ago I sought to secure approval of an amendment which would have eliminated the so-called need clause from the Social Security Act. I felt then, and I still believe, that the need clause was and is an unfair imposition on many deserving people who are the recipients of old-age assistance in every State in the Union.

Despite the fact that revenue matters and tax changes must originate in the House of Representatives, I introduced in March of 1945 an amendment to the Social Security Act which would have permitted those who receive old-age assistance to obtain outside employment and allowing the income from such employment to supplement their old-age assistance payments without prejudice to the amount of such payment. Subsequently, in January of this year I offered legislation which would have increased by 35 percent the amount of the Federal contribution to the various States for old-age assistance, aid to the blind and to dependent children. I pointed out at that time that the Congress had given general recognition to the fact that the cost of living in this country had risen tremendously by increasing substantially the salaries of practically all Federal employees. Moreover, our Government had recognized this increase in cost of living by endorsing substantial hourly wage increases in all industry. Unfortunately, that proposal for a variable increase in old-age assistance and for the blind and dependent children met with opposition from representatives of some of the States.

In June of this year I introduced another amendment which provided for a flat increase of $5 per month to be borne by the Federal Government in payments to those receiving old-age assistance and for payments to the blind. An increase of $3 per month for dependent children was also provided. In that amendment I was joined by 12 Members of this body, and we finally have been successful in securing the adoption of this proposal to the Social Security Act amendment which we have now passed.

I would like to point out that this amendment will not cost any State a penny. The entire increase is to be borne by the Federal Government. Frankly, I still believe that the increase which we are approving is still far from sufficient to meet the greatly increased cost of living which those who are to receive this payment must face. I believe it is important to remember that these aged persons, the blind, and dependent children rarely if ever have any means of supplementing their present wholly inadequate and meager income. In many States the total amount of the old-age assistance payment is so small that these people find it difficult to exist, let alone live decently. In my own State of Arizona the maximum payment to the aged is $40 per month. If the State contributes a maximum of $20 per month as it now does this legislation will increase that payment by $5 per month, bringing the total maximum payment to $45 per month. Similarly, the maximum monthly payment to the blind in Arizona will be increased by $5 while the maximum monthly payment to dependent children will be increased from $18 to $21 for the first child and for each additional child from $12 to $15.

I hope that my State will immediately take the necessary steps to see to it that the State contribution is not decreased so that the aged, the blind, and dependent children will have the benefit of the increased Federal payment which we have now secured.

I am happy that we have accomplished at least this much in adding to the income of these needy citizens and future citizens of this country. I look forward to the day when our senior citizens may further implement their income so that they may be able to live in decent comfort during their declining years.

FURTHER 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. 7037) entitled "An act to amend the Social Security Act and the Internal Revenue Code, and for other purposes."

SOCIAL SECURITY ACT AMENDMENTS OF 1936

Mr. DOUGHTON of North Carolina. Mr. Speaker, I call up the conference report on the bill (H. R. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

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. 7037) to amend the Social Security Act and the Internal Revenue Code, 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 42 and 52.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 2½, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41, and agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: On page 2, line 13, of the Senate engrossed amendments strike out "July 17" and insert "July 16"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: On page 3, line 3, of the Senate engrossed amendments strike out "July 1, 1947" and insert "January 1, 1948"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, 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:

"Notwithstanding any other provision of this title, no compensation shall be paid to any individual pursuant to this title with respect to unemployment occurring prior to the date when funds are made available for such payments."

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with amendments as follows: On page 5, line 6, of the Senate engrossed amendments strike out " '$15,000,000' " and insert in lieu thereof " '$11,000,000' ";

In line 10, strike out "$7,500,000" and insert "$5,500,000";

In line 11, strike out "$50,000" and insert "$35,000";

In line 12, strike out "$7,500,000" and insert "$5,500,000";

In line 17, strike out " '$7,500,000' " and insert " '$5,500,000' ";

In line 19, strike out " '$10,000,000' " and insert " '$7,500,000' ";

In line 23, strike out "$5,000,000" and insert "$3,750,000";

In line 24, strike out "$40,000" and insert "$30,000";

In line 25, strike out "$5,000,000" and insert "$3,750,000";

On page 6, line 6, strike out " '$5,000,000' " and insert " '$3,750,000' ";

In line 8, strike out " '$5,000,000' " and insert " '$3,500,000' ";

In line 10, strike out "'$30,000'" and insert "'$20,000'";

In line 14, strike out "$1,500,000" and insert "$1,000,000";

And the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30 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:

"(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until sufficient appropriations have been made to carry out such amendments, and allotments from such appropriations shall be made in amounts not exceeding the amounts authorized by the amendments made by this section."

Amendments numbered 43, 44, 45, 46, 47, 48, 49, 50, and 51: That the House recede from its disagreement to the amendments of the Senate numbered 43, 44, 45, 46, 47, 48, 49, 50, and 51, and agree to the same with amendments as follows: In lieu of the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by such Senate amendments insert the following:

"SEC. 501. Old Age Assistance.

"(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"'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 October 1, 1946, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy 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 such individual for any month as exceeds $45—

"'(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"'(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose.'

"(b) Section 3 (b) of such Act is amended (1) by striking out 'one-half', and inserting in lieu thereof 'the State's proportionate share'; (2) by striking out 'clause (1) of' wherever it appears in such subsection; (3) by striking out 'in accordance with the provisions of such clause' and inserting in lieu thereof 'in accordance with the provisions of such subsection'; and (4) by striking out ', increased by 5 per centum'.

"SEC. 502. Aid to Dependent Children.

"(a) Section 403 (a) of the Social Security Act, as amended, is amended to read as follows:

"'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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to dependent children, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under the State plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $24, or if there is more than one dependent child in the same home, as exceeds $24 with respect to one such dependent child and $15 with respect to each of the other dependent children—

"'(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $9 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"'(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose.'

"(b) Section 403 (b) of such Act is amended by striking out 'one-half' and inserting in lieu thereof 'the State's proportionate share'.

"SEC. 503. Aid to the Blind.

"(a) Section 1003 (a) of the Social Security Act, as amended, is amended to read as follows:

"'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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $45—

"'(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"'(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) of such Act is amended by striking out 'one-half', and inserting in lieu thereof 'the State's proportionate share'.

"SEC. 504. Effective Period.

"Sections 501, 502, and 503 shall be effective with respect to the period commencing October 1, 1946 and ending on December 31, 1947."

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, 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:

"TITLE VI—VETERANS' EMERGENCY HOUSING ACT OF 1946

"SEC. 601. Section 2 (a) of the Act of June 11, 1946 (Public Law 404, Seventy-ninth Congress) is amended by striking out the period at the end thereof and inserting a semicolon and the following: 'and the Veterans' Emergency Housing Act of 1946'."

And the Senate agree to the same.

R. L. DOUGHTON,
JOHN D. DINGELL,
A. WILLIS ROBERTSON,
W. D. MILLS,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the Part of the House.

WALTER F. GEORGE,
DAVID I. WALSH,
ALBEN BARKLEY,
TOM CONNALLY,
ROBERT M. LA FOLLETTE, Jr.,
A. H. VANDENBERG,
ROBERT A. TAFT,
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. 7037) to amend the Social Security Act and the Internal Revenue Code, 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: This amendment eliminates section 103 of the House bill, which would have repealed the last sentence of section 201 (a) of the Social Security Act reading, "There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title." Thus, the amendment leaves this sentence in the Social Security Act. The House recedes.

Amendments Nos. 2, 2½, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 16, 22, 23, 24, 27, 33, 35, 36, and 37: These amendments, necessitated by Reorganization Plan No. 2 of 1946 which abolished the Social Security Board and transferred its functions to the Federal Security Administrator, delete (except as noted below) the references which the House bill made to the Social Security Board or to "the Board" and substitute references to the Federal Security Administrator or to "the Administrator", with corresponding changes in pronouns. Amendment No. 11 inserts a provision that when used in the Social Security Act the term "Administrator", unless the context otherwise requires, means the Federal Security Administrator. Amendment No. 10 retains a reference to the Board but enlarges the reference to include the Administrator. The House recedes.

Amendment No. 12: This amendment inserts the letter "(a)" after the section heading of section 301 of the bill. The House recedes.

Amendment No. 13: This amendment is also necessitated by Reorganization Plan No. 2 of 1946 and retains reference to the Board but enlarges the reference to include the Administrator. The House recedes with an amendment striking out the date "July 17" which was a clerical error in the Senate amendment and inserts in lieu thereof the date "July 16" which was the date on which Reorganization Plan No. 2 took effect.

Amendment No. 14: This amendment changes one of the conditions attached by the House bill to the congressional permission to the States to collect contributions under their unemployment compensation laws, based on maritime employment. The House bill made the permission subject to the conditions imposed by section 1606 (b) of the Internal Revenue Code on the collection of contributions from Federal instrumentalities and their employees. The amendment limits the condition to that contained in the second sentence (other than clause (2) thereof) of section 1606 (b); and eliminates

the requirement that a State law provide for refunds in the event that such law is not certified for tax-credit purposes. The House recedes.

Amendment No. 15: This amendment provides that section 1606 (f) of the Internal Revenue Code, granting the limited permission above referred to shall not operate to invalidate, before July 1, 1947, any provision of a State unemployment compensation law in effect on the date of enactment of the bill. The House bill contained no corresponding provision. The House recedes with an amendment changing the date from "July 1, 1947," to "January 1, 1948."

Amendment No. 17: This amendment strikes out the definition contained in the House bill of "Federal maritime wages" and substitutes a new definition of the same term. The definition establishes the basis on which maritime wage credits will be determined for purposes of title XIII of the Social Security Act, which provides a temporary system of unemployment compensation for maritime workers. The definition in the House bill limits the term to "wages" as defined in section 209 of the Social Security Act, whereas the amendment does not contain this limitation. The House recedes.

Amendments Nos. 18 and 19: These amendments delete from title XIII of the Social Security Act definitions of the terms "State" and "United States" which appeared in the House bill. Identical definitions are contained in title XI of the Social Security Act, which apply generally to the whole act. The House recedes.

Amendment No. 20: This amendment inserts an authorization to the Federal Security Administrator, for purposes of title XIII of the Social Security Act, to determine in accordance with regulations issued by him the allocation of maritime services and wages among the several States. Such allocation will determine which State law will govern the benefit rights of Federal maritime workers. The House recedes.

Amendment No. 21: This amendment strikes out a limitation, contained in the House bill, upon the allocation of maritime wage credits among the States under title XIII of the Social Security Act. The House bill provided that a claimant who receives compensation pursuant to title XIII under the law of one State can thereafter receive further compensation pursuant to that title only under the law of the same State, except as the Administrator otherwise prescribes by regulations. The House recedes.

Amendments Nos. 25 and 26: These amendments provide that during the fiscal year 1947, funds appropriated for grants to the States pursuant to title III of the Social Security Act shall be available for carrying out the purposes of title XIII. No corresponding provision appeared in the House bill. The House recedes with an amendment which provides that no compensation will be paid to any individual pursuant to this title (XIII) with respect to unemployment occurring prior to the date when funds are made available for such payment. The purpose of the conference agreement is to prevent liability attaching for payment of compensation for unemployment occurring before funds have been appropriated and are available for making such payments.

Amendment No. 28 changes the caption of section 401 of the bill. The House recedes.

Amendment No. 29: This amendment strikes out from the House bill an authorization of increased appropriations necessary to extend to the Virgin Islands the grant-in-aid programs for maternal and child welfare and inserts provisions increasing the authorization of appropriations for all the States. The authorization for maternal and child health service grants is increased from $5,820,000 to $15,000,000 a year, with the matched grants to each State increased from $20,000 plus a share in $2,800,000 to $50,000 plus a share in the remainder of $7,500,000, and the unmatched grants increased from $1,980,000 to $7,500,000. The authorization for grants for services to crippled children is increased from $3,870,000 to $10,000,000 a year, with the matched grants to each State increased from $20,000 plus a share in $1,830,000 to $40,000 plus a share in the remainder of $5,000,000, and the unmatched grants increased from $1,000,000 to $5,000,000. The authorization for child welfare grants is increased from $1,510,000 to $5,000,000, with the allotment to each State increased from $10,000 plus a share in the remainder of the $1,510,000 to $30,000 plus a share in the remainder of $5,000,000. The authorization of appropriations for administration of these grants is fixed, for the fiscal year 1947, at $1,500,000. The House bill contained no provision corresponding to these increases for all of the States, and no authorization of appropriations for administrative expense. The House recedes with an amendment which reduces the increases contained in the Senate amendment by approximately one-half. The Senate amendment proposed an increase to $31,500,000 and the conference agreement reduces such figure to $23,000,000.

Amendment No. 30: This amendment provides that amended allotments under the maternal and child welfare programs shall not be required for the fiscal year 1947 until further appropriations have been made, and shall then be made in such manner as is provided in the appropriation act. The House bill contained no corresponding provision. The House recedes with an amendment limiting the allotments for the fiscal year 1947 to the sums authorized by the conference agreement.

Amendments Nos. 31 and 32: These amendments strike out an amendment, contained in the House bill, to section 202 (f) (1) of the Social Security Act, and substitute a different amendment of the same section. The Senate amendment would accomplish the purpose intended to be accomplished, but not clearly expressed, by the House bill. The House recedes.

Amendment No. 34: This amendment corrects an error in the House bill in a reference to a provision of existing law. The House recedes.

Amendments Nos. 38, 39, 40, and 41: These amendments make three changes in existing law, which would not have been made by the House bill, to permit the withdrawal from the Federal unemployment trust fund, for the payment by a State of disability compensation, of any payments which that State may have collected from employees under its unemployment compensation law and deposited in the trust fund, or which it may in the future collect and deposit. To accomplish this, identical provisos are added to sections 1603 (a) (4) and 1607 (f) of the Federal Unemployment Tax Act and section 303 (a) (5) of the Social Security Act. The present Federal definition of a State "unemployment fund" will not be affected by the Senate amendments except in the one particular noted. Withdrawals from the trust fund other than those specifically authorized by the amendments will still be permissible only for the same purposes as in the past. The House recedes.

Amendment No. 42: This amendment permits the Federal Security Administrator during the present fiscal year to expend existing appropriations for the administration of the Social Security Act, and for payments to the States pursuant to titles I, III, IV, V, X, and XIII of that act, at an accelerated rate (and thereby to incur deficiencies) to the extent, but only to the extent, that such acceleration of expenditures is necessary to meet additional costs resulting from the enactment of the bill. The House bill contained no corresponding provision. The Senate recedes since the Director of the Bureau of the Budget has authority under existing law to accomplish the same result.

Amendments Nos. 43, 44, 45, 46, 47, 48, 49, 50, and 51: The bill as it passed the House increased the existing ceilings on the Federal share of old-age assistance payments from $20 to $25, made the same change in the case of aid to the blind, and in the case of aid to dependent children increased the Federal share from $9 for the first child in the home and $6 for additional children to $13.50 and $9, respectively.

The Senate amendments, while retaining the above ceilings, also provide for variable matching ratios ranging from a 50–50 matching to a 66⅔–33⅓, depending on the per capita income of the State as compared with the per capita income of the United States.

The House recedes with an amendment which, while retaining the liberalized ceilings on the Federal share of assistance payments, substitutes for the variable matching formula a formula under which the Federal share would be two-thirds of the first $15 of monthly payments of old-age assistance or aid to the blind and one-half the remainder of the payment up to the over-all Federal maximum share of $25. Similarly in the case of aid to dependent children, the Federal share would be two-thirds of the first $9 of the payment and one-half of the balance up to the over-all Federal maximum share of $13.50 or $9.

The following tables illustrate the effect of the conference agreement with respect to the matching formula governing Federal contributions to State payments for the period October 1, 1946, to January 1, 1948, for public assistance, under titles I, IV, and X of the Social Security Act. Table No. 1 applies to aid to the aged and blind and table No. 2 applies to aid to dependent children. The new formula will apply uniformly in all States regardless of State per capita income or any other measure of relative economic resources among the States:

TABLE NO. 1.—*Aid to aged and the blind*

Average State payment	Federal contributions	
	Existing law (in all States)	Conference report (in all States)
Under $15	[1] 50	[1] [2] 66⅔
$16	$8.00	$10.50
$20	10.00	12.50
$25	12.50	15.00
$30	15.00	17.50
$40	[3] 20.00	22.50
$45 and over	[3] 20.00	[3] 25.00

[1] Percent.
[2] On a benefit of $12, for example, the Federal contribution under existing law amounts to $6. Under the conference formula the Federal contribution would be 66⅔ percent or $8.
[3] Ceiling.

TABLE NO. 2.—*Aid to dependent children*

Average State payment	Federal contributions			
	Existing law		Conference formula	
	First child	Second child	First child	Second child
$9 or less	[1] 50	[1] 50	[1] 66⅔	[1] 66⅔
$10	$5.00	$5.00	$6.50	$6.50
$12	6.00	[2] 6.00	7.50	7.50
$15	7.50	[2] 6.00	9.00	[2] 9.00
$18	[2] 9.00	[2] 6.00	10.50	[2] 9.00
$21	[2] 9.00	[2] 6.00	12.00	[2] 9.00
$24 or more	[2] 9.00	[2] 6.00	[2] 13.50	[2] 9.00

[1] Percent.
[2] Ceiling.

Amendment No. 52: This amendment added a new title, title VI. It authorized and directed the Joint Committee on Internal Revenue Taxation to make a full and complete study and investigation of all aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto. The House bill contained no provisions corresponding to the title added by this amendment. The Senate recedes.

Amendment No. 53: This amendment, for which there appears no corresponding provision in the House bill, would amend section 22 (b) (2) (B) of the Internal Revenue Code, relating to the taxation of annuities purchased by employers for their employees. The present provisions of this section are to the effect that, in the case of such an annuity contract other than one purchased by an employer under a plan meeting certain requirements prescribed by section 165 and other than one purchased by an employer exempt from the income tax under section 101 (6), if the employee's rights under the contract are nonforfeitable except for the failure to pay premiums, the amount contributed by the employer for such annuity contract is required to be included in the income of the employee in the year in which the amount is contributed. The amendment contained in this section of the bill would add a proviso to the foregoing provision so that amounts contributed by an employer to a trust for the purchase of annuity contracts for the benefit of an employee shall not be included in the income of the employee in the year in which the contribution is made, if the contribution is made pursuant to a written agreement between the employer and the employee, or between the employer and the trustee, prior to October 21, 1942, and if the terms of such agreement entitle the employee to no rights, except with the consent of the trustee, under the annuity contracts other than the right to receive annuity payments. This amendment would become effective with respect to taxable years beginning after December 31, 1933.

The Senate amendment also contains a provision exempting the Veterans' Emergency Housing Act of 1946 from the provisions of the Administrative Procedure Act.

The House recedes with an amendment striking out the provision relating to employees' annuities and leaving in the provision exempting the Veterans' Emergency Housing Act of 1946 from the provisions of the Administrative Procedure Act.

R. L. DOUGHTON,
JOHN D. DINGELL,
A. WILLIS ROBERTSON,
W. D. MILLS,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the Part of the House.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I am pleased to report that the conferees on this bill H. R. 7037 reached a unanimous agreement, and the agreement was signed by all of the conferees. I do not know that I care to discuss the report of the conferees at any great length. After my brief statement, if anybody has any questions with respect to what the conferees agreed upon I shall be glad to try to answer them.

I shall not discuss the several Senate amendments stricken from the bill or the purely technical changes accepted by the House conferees.

You are already familiar with title I of the bill freezing the tax; title II, providing old-age and survivors' insurance benefits for survivors of World War veterans who die after discharge: title III, providing for State unemployment compensation coverage for maritime employees; and title IV, providing needed technical changes in old-age and survivors' insurance. There was no substantial differences between the House and Senate on these important provisions.

There is one important addition to title IV. The Senate amendments provided for raising the present Federal grants of $11,200,000 for maternal and child health, crippled children, and child welfare services to $30,000,000. Under the conference agreement the Senate figure was reduced by about one-third, or to about $23,000,000.

The conference also adopted an amendment facilitating the operation of the veterans' housing program by eliminating it from the operation of the administrative law bill. This merely remedies an oversight in that bill which exempts the other temporary programs from its operations.

The principal amendment which was agreed to was a substitute for both the Senate and House versions of title V, relating to old age assistance, aid to the blind, and aid to dependent children. The House provisions increasing from $20 to $25 the maximum Federal participation for the period ending December 31, 1947, was retained as was the increased ceilings for aid to dependent children. The variable grant dependent on per capita State income, which the Senate had added to the bill was eliminated. A liberalization in the present matching formula, which would be applicable to all States, was adopted.

Under this formula, for the period beginning October 1 of this year and ending December 31 of next year, two-thirds of the first $15 of the old-age or blind-assistance payment would be from Federal funds, and the remainder of the payment would be on a 50–50 basis, up to the over-all $25 limitation on the Federal share. A similar provision is contained in the provisions of aid to dependent children, except that the Federal share would be two-thirds of the first $9 paid a child.

The general effect of these provisions is to increase the Federal grant by an amount equal to $5 for each blind or aged recipient who is given a benefit of $15 or more per month.

States now paying $10, $5 from Federal funds, can thus increase their payment from $10 to $15, the extra $5 coming from Federal funds.

States now paying $15 or more can also increase their payment by $5 from the additional Federal funds they will receive.

In the case of dependent children the increase would be $3 instead of $5, but a larger part of substantial sized payments can also receive even matching as the Federal maximum matching has been increased from $9 for the first child to $13.50 and from $6 for other children to $9. This extra money of course may also be used to pay the same proportion of benefit costs to new people added to the rolls.

The conference report contains tables showing how this will affect the Federal participation in various size benefit payments.

This provision seemed to the conferees to have all the advantages of the McFarland $5 and $3 amendment, but to contain safeguards that amendment lacked. It also preserves the requirement that a percentage of each benefit payment must be at State expense and that the State rather than Congress shall fix the size of the benefit.

Unless there are questions, I yield 10 minutes to the gentleman from Minnesota [Mr. KNUTSON].

Mr. KNUTSON. Mr. Speaker, title I of the bill freezes the present 1 percent pay-roll tax for the old-age and survivors' insurance program at 1 percent on the employee and 1 percent on the employer. This was the original House provision.

Title II provides social-security benefits to survivors and dependents of certain World War II veterans who die within 3 years after their discharge under the old-age and survivors' insurance program. For the purpose of determining the amount of benefits to be paid, the bill authorizes the deceased veteran to be treated as having been fully insured at an average wage rate of $160 per month from 1939 to the date of his death. The benefits would not be paid if the surviving widow and dependents are eligible for benefits under any existing veterans' benefit law. The House merely agreed to certain clerical amendments made to this title by the Senate.

Title III: Under this title, maritime workers employed on ships operated by the Government under the War Shipping Administration during the war are authorized to be covered under State unemployment compensation laws. The House agreed to certain clerical or administrative amendments made by the Senate of a technical nature designed to clarify certain provisions of the title. Under the bill, unemployment benefits could not be paid until funds are appropriated and become available for such payment. The benefits conferred are not of a permanent character which would cover maritime workers of Government-owned ships indefinitely in the future.

Title IV: The most important amendment agreed to under this title, which makes certain miscellaneous technical amendments to the Social Security Act, was the Senate provision authorizing an increase in appropriations to be available for the payment of benefits under title V of the Social Security Act (maternal and child welfare, crippled children and similar benefits). The conference committee reduced the increased authorizations by about one-third. The effect is to make very substantial increases in the amount of money available for these programs under the amount now available under existing laws. These increases will be available in all States under the existing method of distribution.

Title V: This title was amended in conference very substantially by providing that grants to the States by the Federal Government for benefit payments

to the aged, blind, and dependent children are to be increased. The controversial variable grant provision of the Senate amendments to the House bill is completely eliminated. In its place the conference agreed upon a formula that recognizes the existing 50–50 matching system but permits all States to increase their benefits, if they choose to do so, by $5 per month to each recipient, in the case of the aged and blind, and approximately $3 in the case of dependent children.

The conference formula does not proceed upon the theory that some States are poor and lacking in resources while some States are rich. It does not set off one group against another. It simply provides that in any State where the payments to old-age and blind recipients are $15 per month or less, the Federal Government will put up $2 for $1 of the cost of such benefits; and that where the benefits are in excess of $15, the existing 50–50 formula will be applied. Under this arrangement, a given State is not required, in effect, to file a pauper's oath before obtaining additional assistance from the Federal Government in making payments under these programs. In the case of dependent children, the ceiling on Federal contributions is raised by approximately 50 percent to $13.50 per month in the case of the first child, and $9 per month in the case of the second and each additional child in a needy family. In addition, the 2-for-1 rule will apply for benefits of $9 per month or less. Above $9, the existing 50–50 matching formula will prevail up to the maximum of $13.50 and $9, respectively.

Title VI: This title was added by the Senate to the House bill and provided for a study by the Joint Committee on Internal Revenue Taxation of all aspects of social security. The Senate receded on this amendment after it had been pointed out that such a provision was unnecessary.

Title VII: This title was also added to the House bill by the Senate. It provided certain favorable tax treatment in the case of contributions by employers to annuity pension funds created for the benefit of employees. The Treasury Department objected to this amendment, and after it was pointed out that further study was required in order to perfect any correcting statute dealing with this subject, the Senate receded.

One section of this title was retained in the bill, however, which merely authorized that the Veterans' Emergency Housing Act, recently passed by the Congress, should not be affected by the new Administrative Procedure Act because the Housing Act was of a temporary nature and it was not desired to have such temporary administrative machinery affected by the permanent administrative establishments.

Mr. AUGUST H. ANDRESEN. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to my good friend.

Mr. AUGUST H. ANDRESEN. Do I understand that before a recipient of old-age assistance can secure this extra Federal contribution, the State must match the amount?

Mr. KNUTSON. No. Let me explain briefly to the gentleman, if I may. Under the agreement reached by the conferees, we depart from the 50–50 basis on the first $15. I am speaking now of the aged. Of that $15, the Federal Government will contribute $10 and the State $5. Beyond $15, the present 50–50 basis applies. The bill simply permits a State to pay higher benefits if it chooses to do so and we are saying that if higher benefits are paid the Federal Government will contribute its share according to this new plan.

Mr. AUGUST H. ANDRESEN. Then if there is to be an increase in the old-age assistance, the State will have to put up an equal amount of, let us say $2.50, before they get the extra $2.50?

Mr. KNUTSON. No. Under the present law, the State now pays $7.50 on a $15 benefit. Under the new formula, if a State elects to continue paying $7.50, the United States will increase its present contribution by $5 or $12.50 total, making it possible to increase the $15 benefit to $20.

Mr. AUGUST H. ANDRESEN. Then is the Federal contribution automatic?

Mr. KNUTSON. It is not automatic. Anyone now receiving $15 or less will get an additional $5 only if the State which pays him feels that by virtue of the increased Federal funds which this bill authorizes, the State can afford to increase that person's benefit by $5.

Mr. AUGUST H. ANDRESEN. Suppose they are receiving $40, will there be any increase in the amount?

Mr. KNUTSON. Not unless the State takes appropriate action to increase existing benefits by whatever amount the State feels it can afford to pay in the light of the new scale of contributions set up in this bill. There was a strong demand in conference for the so-called variable grant, but we could not see our way clear to give in on that, so we decided to make this increase applicable to all States and Territories, wherever social security is in effect, hence there is no discrimination between the so-called rich States and the poorer States.

Mr. COLE of Missouri. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield.

Mr. COLE of Missouri. As I understand the gentleman, each old-age pensioner, under this conference agreement, will be eligible to receive an additional $5, regardless of the amount he is now receiving?

Mr. KNUTSON. Beginning October 1, yes, if the State acts to increase benefits by that amount.

Mr. COLE of Missouri. And that $5 comes from the Federal Government and does not have to be matched by the States?

Mr. KNUTSON. That comes from the Federal Government but matches State funds on a 2-to-1 ratio for the first $15. I hope that is clear. That is an outright increase over the present formula. Of course, the States may, of their own volition, determine the total public assistance expenditure within the State. The ultimate Federal grant depends upon the total expenditure and the number of recipients.

Mr. COLE of Missouri. How long will this $5 increase continue?

Mr. KNUTSON. I am glad the gentleman called my attention to that. It becomes available October 1 of this year and expires on the 31st of December 1947. There were several reasons why we voted to authorize this $5 increase, the principal reason being the constantly increasing cost of living. By extending it to December 31, 1947, it would give the Ways and Means Committee ample opportunity to explore the whole subject further when the new Congress convenes.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. EBERHARTER].

Mr. EBERHARTER. Mr. Speaker, I am not anxious to delay a vote on this conference report. I am as anxious to have a vote on it as anybody else.

In the first instance, may I say I am in favor of the adoption of the conference report. In view of the fact that when the matter was before the House previously, I strongly opposed some of the provisions of the measure as then written, I think it incumbent upon me to express the reasons why I now favor this conference report.

Under this report, if adopted, it is true that every individual in the United States now receiving old-age assistance can possibly receive an increase of $5 monthly, which will be contributed by the Federal Government. And, in my opinion, the conference report recognizes the validity of the variable grant principle, because, under the formula adopted, two-thirds of the first $15 paid to old-age assistance recipients will be contributed by the Federal Government. In my opinion, that is a recognition of the principle for which I and many other Members of the House were fighting. It applies to every State in the Union. It follows naturally that those States which are paying low amounts for old-age assistance will get a larger proportion of the payment from the Federal Government than those States that are paying high amounts. In other words, if a State pays $15 for old-age assistance, the Federal Government contributes two-thirds or 66⅔ percent, whereas if a State is paying $40 the Federal Government only contributes two-thirds of the first $15, and one-half of the amount over the first $15.

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I yield the gentleman two additional minutes.

Mr. EBERHARTER. Mr. Speaker, another reason why this conference report should be adopted, of course, is that the allowances to take care of dependent children have also been increased approximately 50 percent, and we are all happy about that.

Mr. POAGE. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. POAGE. I wish the gentleman would explain why this does not destroy

itself in those States that have a provision that is based on need? For instance, in the State of Texas, if they find that the budget need of the beneficiary is $15 per month they will give them $15 per month. The Federal Government is paying half of that. Now, if the Federal Government pays two-thirds of it they will still find the budget need is $15 per month. All it means is that the Federal Government will simply pay their percentage.

Mr. EBERHARTER. As I understand, no State will be permitted to reduce the payments now being made to any extent whatsoever.

Mr. POAGE. That is what I wanted to be sure, that they would not be allowed to reduce present payments.

Mr. EBERHARTER. They will not be allowed to reduce present payments.

Mr. LYNCH. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. LYNCH. While the States may not reduce payments, nevertheless, this does not necessarily mean that every person is going to get an increase of $5 from the State. For instance, today if a State gives $15, $7.50, or 50 percent, of it is contributed by the Federal Government. If the payment by the State is more than $15, the contribution of the Federal Government is 50–50 up to $20 maximum Federal contribution. Hereafter the Federal Government will contribute to that State $10 of the first $15 and 50 percent of the balance up to the Federal maximum of $25. Thus the State need not necessarily increase the benefits to the recipient.

Mr. EBERHARTER. Under the conference report, of course, States can to some extent use the money to increase the number of persons on the assistance rolls.

Mr. Speaker, in the remaining short time allotted to me I want to express my appreciation for the help and cooperation given to me, as a member of the Ways and Means Committee, by many Members in striving to have incorporated in the measure we are now considering the principle of variable grants to States, and particularly, Mr. Speaker, I want to mention the gentleman from Mississippi [Mr. COLMER], who has consistently and effectively cooperated to bring about the measure of success which is being achieved today toward accomplishing our objective.

His efforts as an influential member of the Rules Committee, both in the committee and by his valiant work on the floor, helped tremendously. I venture the opinion that without him our task would have been well-nigh impossible.

The SPEAKER. The time of the gentleman from Pennsylvania has again expired.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to extend their remarks at this point on the conference report.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DINGELL. Mr. Speaker, the correct interpretation, carefully prepared, of the action and intent of the conferees in connection with H. R. 7037 is contained in the report. I want to reiterate, as a conferee on the part of the House, that the effect of our joint action was to provide a total of $25 from the Federal Treasury to match State contributions on a basis which, according to my mind, establishes a variable of a sort never before embodied in the Social Security Act. The $25 of the Federal contribution will be matched as follows: For the first $5 contributed by the State the Federal Government contributes $10, the remainder of the maximum Federal matching, or $15, will be used to meet State contributions on a dollar-for-dollar basis. In other words, to illustrate further, the first $5 of the State is matched on a 2-for-1 basis, giving the pensioner $15. Beyond that, the 50–50 matching will add an additional $15 each from State and Federal sources, or $30. Fifteen dollars, plus $30, will make a total over-all of $45 per month. Of course, the State may go as high as it wishes beyond this amount without further Federal contribution. Simply, the Federal Government will contribute at the outset the amount of $5 to every pensioner under the act, then match the next $20 on an equal basis. I trust I have made myself clear on this one point in the report.

Now let me add that our job is not finished with this report, and the House will understand that in the field of old-age and survivors' insurance many interrelated matters must be considered and settled. I hope this will be done early next year. There are the complex and important questions of liberalizing the benefit formula and the eligibility requirements, extending benefits to disability cases and extending coverage to presently excluded employments and to self-employment. I am proud that we have laid the groundwork for this task by our studies and hearings which we recently completed.

Mr. GRANT of Alabama. Mr. Speaker, I regret that the conferees on H. R. 7037 did not agree to an amendment to the Social Security Act which recognizes the inequitable allotment of Federal funds. The records show that the Federal Government is now paying more than three times as much to aged people in some States than in others. I have long felt that this is an inequitable distribution of such funds.

Take, for instance, my own State: Alabama would, under the bill as originally passed in the House, only receive about $4,000 increase over the 1943–44 payments. This increase would run from a low of $2,000 in Maryland to over $13,000,000 in the State of California. There would be merit in such distribution of funds if the affected lower-income-group States did not attempt to meet the Federal grant. Under the present system, we grant most assistance to the States which need it least and grant least assistance to the States which need it most. The present law does not recognize differences in the ability of the respective States to finance public assistance, such as aiding the needy aged, dependent children, and blind persons.

I believe that a careful check will show that my own State, and many of the other States which have a low per capita income, do make greater appropriations than many of the wealthier States, when the ability to pay and the percentage of the tax dollar is taken into consideration.

In other words, many of our States are, at the present time, making a greater tax effort to match these Federal funds than some of the States with much greater resources.

The conferees have agreed and so recommend to the House that we accept a new formula which still recognizes a 50–50 matching, but departs from it in that a person receiving up to $15 per month will have two-thirds of this amount, or $10, contributed by the Federal Government and $5 contributed by the State. On all amounts over $15, the present formula of 50–50 remains. This applies to contributions made to the aged, blind, and dependent children and runs from October 1, 1946, to December 31, 1947.

In other words, the Federal Government will, up until that time, contribute two-thirds of the first $15. This will be an aid to Alabama and to all of the States, however, this amendment ignores the variable matching formula and does not recognize the rank discrimination against the low-income States.

We, in the State of Alabama, are justly proud of the department of public welfare, which administers this fund, under the direction of Miss Loula Dunn, commissioner. The available funds have been sympathetically and wisely administered. Miss Dunn's services have not only been recognized in Alabama, but also by the American Public Welfare Association, which has honored her with its presidency. Her contribution to this work is deeply appreciated by the people of Alabama and the entire Nation.

I trust that at the next session of Congress, the Ways and Means Committee will make a more detailed study of this question and provide additional Federal funds to States with low per capita incomes. This is fair and equitable. I assure you that the State of Alabama will do everything possible insofar as our resources permit to take care of the needy. The principle of allotting additional Federal funds to States with low per capita incomes is a sound principle of social justice.

Mr. MILLS. Mr. Speaker, in adopting the conference report on H. R. 7037, the Congress has enacted a law which greatly liberalized the provisions for Federal grants to States for old-age assistance, aid to dependent children and aid to the blind.

The bill agreed on in conference, while retaining the liberalized ceilings on the Federal share of assistance payments, substitutes for the present 50–50 matching a formula under which the Federal share would be two-thirds of the first $15 of monthly payments of old-age assistance or aid to the blind and one-half the remainder of the payment up to the over-all Federal maximum share of

$25. Similarly in the case of aid to dependent children, the Federal share would be two-thirds of the first $8 of the payment and one-half of the balance up to the over-all Federal maximum share of $13.50 or $9.

This liberalization may be illustrated by what can happen in my own State, Arkansas, assuming that the State continues to expend its present amounts of State funds.

April of this year, Arkansas had 26,578 on the old age assistance rolls and expended $224,193 of State funds and $224,193 of Federal funds for assistance which averaged $16.87 per case. Under the change, Arkansas would have received an extra $5 multiplied by the number of recipients, assuming that this extra money, and the State and Federal funds above mentioned could have all been used to pay public assistance. Thus, if all these funds could have been used to pay increased benefits to the 26,578 on the rolls, the average paid per recipient would have been $21.87 per recipient instead of $16.87, which was actually paid.

Arkansas probably would have added recipients to the rolls had these additional Federal funds been available. For example, the 26,578 on the rolls might have been increased to 30,000. Assuming State funds to have remained $224,193, total funds would have been:

State funds	$224,193
50-percent Federal matching	224,193
$5 x 30,000	150,000
Total	598,386

Thus, average payments would have been increased from $16.87 to $19.94 and 3,422 added to the rolls without increasing State appropriations.

The illustrations I have given would in general be applicable to the blind, who were receiving an average of $18.77 in Arkansas last April. Assuming the same expenditure per recipient from State funds, their benefits could have been increased to an average of $23.77.

In the case of dependent children, the Federal grants would also be considerably increased. The present Federal ceilings limit Federal matching to $9 for the first child and $6 for each additional child in a family. These ceilings are raised to $13.50 and $9 respectively. This means more of the benefits most States pay can be matched. Also, $3 multiplied by the number of dependent children receiving assistance is paid the State in addition to the increase in the 50–50 matching.

While the principle of variable grants, as contained in the original House bill, H. R. 6911, and adopted by the Senate as an amendment to H. R. 7037, is a more scientific approach to the problem and one which will be carefully studied by the committee as it approaches a permanent solution, the temporary provisions I have described appear to be practicable and are certainly very helpful, particularly to low-income States.

The approach, contained in the conference report, is not a new idea, but one which has had consideration over a long period and which has been sponsored by many prominent Members of the Congress, including the gentleman from Mississippi [Mr. COLMER], who rendered valuable assistance in making possible the final approval by Congress of amendments to the Social Security Act as contained in this conference report. It is fitting that the States represented by the gentleman from Mississippi and others of us who have fought so long for a more equitable method of determining the amount of Federal grants should now receive Federal grants in much more equitable amounts and be enabled to provide on a more generous basis for the recipients of public assistance.

It is hoped that adoption of the conference report will prove a stepping stone toward legislation which will permanently and equitably solve the problem of the aged, the blind, and dependent children in all of the States. I feel certain the Ways and Means Committee will endeavor to work toward this end when the new Congress convenes.

Mrs. DOUGLAS of California. Mr. Speaker, I am one of the many millions in this country who dream of the day when social security will be a reality for all our people. I want a program which wipes out once and for all crushing poverty in a land of plenty and the fear of hunger in a land which produces abundance. I want people—all people—not just those in a few favored occupations, to face the future secure in the knowledge that they are protected against the time when they can no longer earn their living either because of age, disability, or lack of suitable job opportunities and that their dependents will have some security in case of their premature death. I want for them, as for myself, the freedom from fear and the sense of personal dignity that springs from assurance that a decent minimum level of existence is theirs as a matter of legal, moral, and social right even when circumstances outside their control make it no longer possible to earn a living in the labor market.

I think social insurance offers the best hope for achieving real social security, not only because millions of working people have already built up a tremendous equity, through their own contributions, in such an insurance program but also because the equity principle offers the best protection in the long run against the hazards of shifting political tides. No political body, whatever its complexion, is ever going to cut back benefits which are based on the life-long contributions of the beneficiaries. Nobody is going to insist that benefits based on contributions should be tied to a means test that harks back to the poor-laws days of the sixteenth century when people believed that you could prevent dependency by making public aid as humiliating and niggardly as possible. People who have insurance have the kind of security that comes with money in the bank and they know that this money is theirs regardless of their politics, regardless of their way of life, and regardless of whether they happen to have a kitchen garden in their back yards. That is the kind of security I want for myself and for my constituents and for all the people in this country regardless of where they happen to live.

I know that we do not have that kind of social security now and we are not going to get that kind of social security this session. But I am supporting the conference report on H. R. 7037 because I feel that these amendments to the Social Security Act are a badly needed step in the right direction. Much as I feel the need to extend and liberalize the insurance program I recognize that the people now struggling to maintain some semblance of a life on present miserably low assistance payments need relief here and now. I know that the extra $5 in Federal funds for each aged and blind person is inadequate, but at least it is better than the former limit of $20. How this Congress has expected any mother to raise a dependent child in health and happiness on $18 a month I cannot imagine and I therefore welcome the additional $3 in Federal funds for each child, though I would like to know how she is to manage with present rising prices. I am particularly glad that the conferees agreed to a compromise provision, however inadequate, so that the benefits of this bill can go to all the people and not just to those of a handful of the richer States.

Poverty cannot be isolated and misery cannot be quarantined. We in California cannot raise our standard of living, whether for our people in general or our needy aged, if we take positions which tend to further freeze the impoverished condition of people in other parts of the country. It costs 1 percent more to live in Los Angeles than in Atlanta, Ga., but the old-age grants in Los Angeles are 199 percent higher. This just does not make sense for anyone. We have got to see that assistance really does what it is supposed to do, that it really guarantees against poverty wherever it may be.

I hope that next year we will have no more lengthy surveys, no more months of hearings, no more inadequate amendments brought in at the last minute as a stopgap answer to the most pressing emergencies.

We know what the problem is and we have this information and the collective national wisdom to solve it. What I want to see next session is a real social-security bill to give adequate insurance protection as a matter of right to everyone, including those who have already retired from the labor market. If all our people get adequate insurance benefit payments when they are entitled to them, public assistance can fall into its intended role as a residual supplementary program to take care of the unusual situation and we can move forward toward our goal of freedom from want on a road that we know leads toward peace of mind and individual dignity.

Mr. CHENOWETH. Mr. Speaker, I am in favor of this conference report and will support the same. I wish to make a few observations on the section dealing with old-age assistance.

I feel that the confusion that exists among even members of the conference committee bringing in this report is unfortunate, and I believe is a strong argument for a Federal old-age pension which will be administered uniformly in the different States. In my opinion, the

trend in this country is definitely toward the Federal pensions, without the heavy overhead expense involved in administering the present law.

There seems to be a difference of opinion as to the effect of the amendment adopted by the conference committee. What the committee says is simply this: That the Federal Government will contribute $10 of the first $15 paid to every person in the United States receiving old-age assistance under existing law. Of course, the question is immediately raised if this will provide an increase of $5 per month in the pension received by each person. It appears that this extra $5 will be paid to the various States, and the department of public welfare in each State will determine how it is applied. Personally, I feel very strongly that each State should give each pensioner an increase of $5, as this seems to be the intent of the amendment.

Undoubtedly the next Congress will give attention to this important matter of old-age assistance, and I hope some satisfactory solutions can be worked out. There is a definite responsibility to take care of these aged persons who have made their contributions to our development and progress over the years.

THE LAME, THE HALT, THE BLIND ARE STILL OUR BROTHERS AND SISTERS

Mr. DOYLE. Mr. Speaker, this conference report does not provide the security for the aged or the blind which I hoped it would. Nor in my opinion has this Congress taken steps forward enough in the field of adequate social security all along the line.

The elderly citizens of our Nation have already made their economic investment and contribution to our national wealth and should not live the later years of their lives in fear of no roof, no food, no clothing, no pleasures. A happy old age for our elder population would greatly strengthen our domestic fabric.

When there is lack of fear of need in the lives of the "grandpas" and "grandmas" of our Nation, there is removed a cause of great concern right down into the intimate family circle of our land.

And, as the family life of our Nation is, so is our national strength or weakness.

People, folks, humankind—these are the real worth of our Nation. Material wealth and physical properties are only of dollar value to the extent to which they are created to make people, folks, happier or healthier. The aim of our civilization is low indeed if we magnify aggrandizement of material wealth to such extremes that we exclude our attention and duty to our elders, and the lame, the halt, the blind.

While this Congress has done some splendid things for the essentials of living such as education, health, housing, social security and similar fields of human experience, the next Congress must needs make greater steps along these lines.

The reconversion of human values is not less important than is the reconversion of material properties such as factories, shops, and ships.

We can be penny wise in this important matter of human reconversion. We have not yet reached high enough in my judgment.

Our Nation will only be one of enduring values in proportion as we place emphasis upon the values which endure and which are not washed away when the storms assail.

These values, Mr. Speaker, are founded in recognition that material gain is made for the use and progress of man and not man made for application or speculation for material gain.

As we today adjourn and go home to our respective congressional districts all over our beloved Nation, let us as the representatives of our districts, so speak and act that the people of America will be enriched by our leadership into paths of domestic tranquillity and enduring world peace.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. GORE].

Mr. GORE. Mr. Speaker, as I understand the conference report, it provides that out of the first $15—it does not have to be a total of $15, but out of the first $15—the Federal Government will contribute two-thirds. If a total payment of $12 is made to an aged or blind beneficiary the Federal Government will contribute $8; if it is $15 the Federal Government will contribute $10. Above a total of $15 it remains on the 50–50 matching formula. Is that not right?

Mr. DOUGHTON of North Carolina. That is correct. The ceiling on the total Federal contribution is $25.

Mr. GORE. One additional change, as the gentleman points out, is that the ceiling, the maximum amount which the Federal Government will match, is raised to $25 per month. For dependent children this provides that the Federal Government will pay two-thirds of the first $9.

I want to read from this conference report the following significant sentence:

The new formula will apply uniformly in all States.

That is a new principle of social security, and one reason I asked for time to speak at this time was to impress upon you the fact that by this you are adopting a new principle. I am not opposed to this principle, but I think the variable-grant formula contained in the Senate bill is preferable. As we come into this late date the House has not yet had a chance to vote upon the variable-grant formula which I fully believe represents the majority sentiment of the Congress. Because of the closed-rule procedure we have not had a chance to pass upon that or any other specific item. It has been a take-it-or-leave-it proposition each time. No Member has even had an opportunity to offer an amendment. We have not had a chance to vote upon such simple questions as the security tax rate for 1947. We have waited for months to consider amendments to the Social Security Act. A stall was staged, and now we come to this pass, inadequate consideration, and inadequate action on the very day of sine die adjournment. I hope the Ways and Means Committee will act early in the next Congress and that Congress will give this vital problem the consideration it deserves.

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield.

Mr. FORAND. The gentleman knows I am very much interested in the variable grant formula, so much so that I introduced a bill to that effect, H. R. 5686. We almost got it to the floor—at least parts of it. When the next Congress convenes I shall follow the matter up and the committee has promised me that it will receive consideration.

Mr. GORE. I hope the committee will consider it and that the Congress will have an opportunity to consider it, too. Now, why do I say this is a new principle? For the reason that the report states—it applies "uniformly" not to all States but "in all States." There the committee is recognizing that we are dealing not with the cold abstractions of 48 States but with human beings; therefore this applies uniformly in all States to the individuals. I agree with this principle of equality of treatment of citizens insofar as it goes. Where, then, is the error? The inequity, the injustice, the unfairness and discrimination resulting from the present program remains the law of the land.

Mr. MONRONEY. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Oklahoma.

Mr. MONRONEY. I want to compliment the gentleman from Tennessee on the hard fight he has made for the variable grant principle. I want to join with him and say that the Congress is playing a tragic joke on itself and on the country by freezing the tax rate, not allowing it to go up one-half of 1 percent. We are depreciating this fund and we will have to take it out of the general tax revenues.

Mr. GORE. I agree with the gentleman. I have studied the tables and I may say that in 5 to 7 years the liability of the Government under this old age insurance retirement system is going to pyramid and pyramid very rapidly. This social security rate should be allowed to increase in an orderly manner. I do not think we should allow it to jump from 2 to 5 percent; that would be too great a shock, but it should be allowed to increase orderly. As I understand it, the gentleman from North Carolina advocated that, but he has not had his way.

Mr. DOUGHTON of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from North Carolina.

Mr. DOUGHTON of North Carolina. This only applies for 1 year. We have a reserve fund of more than $7,000,000,000 which will accumulate and increase next year, so I do not think we are in any danger. Our staff made a careful study of this and stated that an increase of one-half percent would make it sound for 10 years. If that would make it sound for 10 years, we are not in any immediate danger.

Mr. GORE. I think we would do well to give more consideration to the recommendations of the committee's technical staff of experts and to the actuarial staff of the Social Security Board. I understand that only a few days ago the gentleman's committee itself by a vote of 18 to 7 recommended that the tax be increased one-half percent on both employer and employee. That was, in my opinion, a wise recommendation. But the gentleman's committee changed its mind and then urged the House to foreclose itself from the opportunity of even considering the question. I, for one, refuse to assert my own capacity or the capacity of the House to consider amendments to the Social Security Act.

I welcome the increased benefits for the needy in this bill, but deplore our inaction toward broadening the coverage of the act and our failure to ameliorate the inequities of the present system. We shall try again.

Mr. PRIEST. Mr. Speaker, will the gentleman yield.

Mr. GORE. I yield to my able colleague from Tennessee who on yesterday won overwhelmingly endorsement by the people he represents so capably and conscientiously.

Mr. PRIEST. I want to express my appreciation for the fight my colleague has waged for the principle of variable grants. I sincerely hope that when this matter again comes before the House we may be able to amend the social-security law to provide for this formula of payments to the States. While this compromise agreement does not contain the variable grant feature, it represents a decided increase in financial assistance to the needy aged, blind, and dependent children. And, besides, the legislation approved by the adoption of this conference report should prove very helpful to millions of war veterans who may receive credit on social security for all the time spent in the armed services. I join my colleague in urging its adoption.

Mr. GORE. I thank the gentleman.

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Speaker, I know that the Members of the House are very impatient and wish to vote, but we have worked for months on this social-security problem and we would like to have a minute or two in which to discuss this important measure.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. REED of New York. I yield to the gentleman from Minnesota.

Mr. KNUTSON. In view of what the preceding speaker said it might be well to have the RECORD show at this point something about this $7,000,000,000.

Mr. REED of New York. I will go into that. I heard the gentleman say that the country has been more or less defrauded. I just want to say that what he says is true but not as he intended it.

What has happened is that a spendthrift Government has taken what should have been the social-security fund and, figuratively speaking, poured it into political rat-holes and it is gone. That is what has happened to the $7,000,000,000 reserve fund. We know that the social-security system is actuarially unsound at the present time. If we raise this tax to 1½ percent, jump it up by that amount, all we will do is simply to supply more funds, create greater deficits so far as the pensioners reserve fund under OASI is concerned.

Mr. Speaker, there is nothing more beautiful to me than to see an old couple under their own roof, living in peace and happiness and security. That is a beautiful picture. I know of nothing more tragic than an old couple who have reared a family, who have furnished sons for war, who have been good citizens, but through some misfortune, perhaps from buying foreign bonds, being sent to the poorhouse; or to see other old persons who do not have food, clothes, or shelter all in face of the fact that the Congress of a great nation is neglecting its old people and instead giving away $3,750,000,000 to a foreign government. This Congress has sent food and clothes abroad and it has furnished shelter to the people of foreign countries while overlooking the needs of its elderly people here at home.

Mr. Speaker, this is not a munificent sum we are supposedly giving the old people. The amount the old people will receive under this bill would not buy two meals for the average Member of Congress at a restaurant downtown. Prices of necessities are skyrocketing under a spendthrift Government. What is this Congress doing? Practically nothing, except to spend, spend, and tax and tax.

Congress, after lending to foreign governments billions of dollars, boondoggling billions of dollars, now says to the old folks, "We in our generosity are going to put you in a state of affluence by adding $5 provided your State acts so you can benefit by this act." We know there are a lot of States that will not act.

Some States can run horse races and spend millions of dollars in gate receipts in many of the so-called poor States, but they cannot do anything for their old people. Why? Because they fear that some old-colored grandmother might get a little extra old-age pension and then have the whole group around her move in, in order to live on the pension. That is the truth behind this legislation and it is about time the scheme should be exposed.

Mr. STEFAN. Mr. Speaker, will the gentleman yield?

Mr. REED of New York. I yield to the gentleman from Nebraska.

Mr. STEFAN. What became of the $7,000,000,000, and what do we get for these I O U's?

Mr. REED of New York. We do not get a thing except to tax people in the future, the GI's among the rest. It is a fraud from top to bottom when considered as a long-range program.

I now turn to an analysis of the bill as it now appears after the conference.

The change just made in the Federal grant provisions for State old-age assistance is very simple. The law is effective from October 1, 1946, to December 31, 1947. The liberalized grant is to the State and not to the individual. The effect of the liberalized grant is to provide the State more Federal funds for any given expenditure by the State for old-age assistance.

Under existing law a State gets one-half of its expenditures for old-age assistance, excluding part of assistance in excess of a $40 monthly benefit. Thus, the Federal limit is $20 per individual.

Under the change just made by Congress, the Federal share will be two-thirds of the first $15 of the benefit, plus one-half of the balance of the benefit, but with a $25 limit to the Federal share, case per case.

The way it will work in each State can be illustrated by taking New York as an example. In April 1946, New York had 103,868 old-age recipients on the rolls, and the average payment was $38.24, and total assistance paid was $3,972,291. The Federal share was somewhat less than half this figure as some payments exceeded $40, and the Federal limit per individual was $20.

Under the change—the new Federal ceiling raised to $25, and two-thirds of the first $15 of assistance and one-half of assistance above $15 payable—the State would receive an additional Federal fund of $5 times 104,000 recipients or $520,000 per month, assuming it continued expending the same amount of State funds for assistance. This extra amount would provide funds for an average increase of $5 per case if the number of recipients remained the same. The State, however, would determine what recipients would get the increase, and how much each would get.

Some of the funds might be used to add persons to the rolls. The increase would, of course, be more than $520,000 if more persons were added to the rolls.

Two things should be kept clear:

First, that the change merely provides a more liberal matching arrangement for old-age-assistance payments and does not affect the present Federal-State arrangements in any other manner.

Second, that the change does not of itself give $5 or any other amount to any recipient of public assistance, but leaves the determination of his assistance to the State authorities.

Thus the new change provides more Federal funds for any given expenditure of State funds for public assistance, and thus encourages more generous treatment by the State of its aged, but does not interfere with the right of the State to determine what the assistance shall be.

To be specific grants must be made on a two-thirds basis of two-thirds of the first $15 of any benefit; that above $15, the 50–50 matching under existing law be retained with a limit on the Federal contribution of $25 takes care of blind and dependent children.

SOCIAL SECURITY ACT AMENDMENTS, 1946

EFFECT OF CONFERENCE REVISED MATCHING FORMULA, H. R. 7037

(August 2, 1946)

The following tables illustrate the effect of the revised matching formula governing Federal contributions to State payments for the period October 1, 1946, to January 1, 1948, for public assistance, under titles I, IV,

and X of the Social Security Act, as agreed upon in conference on H. R. 7037. Table No. 1 applies to aid to the aged and blind. Table No. 2 applies to aid to dependent children. The new formula will apply uniformly in all States regardless of State per capita income or any other measures of relative economic resources among the States:

TABLE NO. 1.—*Aid to aged and the blind*

Average State payment	Federal contributions	
	Existing law (in all States)	Conference report (in all States)
Under $15	[1] 50	[1] [2] 66⅔
$16	$8.00	$10.50
$20	$10.00	$12.50
$25	$12.50	$15.00
$30	$15.00	$17.50
$40	[3] $20.00	$22.50
$45 and over	[3] $20.00	[3] $25.00

[1] Percent.
[2] On a benefit of $12, for example, the Federal contribution under existing law amounts to $6. Under the conference formula the Federal contribution would be 66⅔ percent, or $8.
[3] Ceiling.

TABLE NO. 2.—*Aid to dependent children*

Average State payment	Federal contributions			
	Existing law		Conference formula	
	First child	Second child	First child	Second child
$9 or less	[1] 50	[1] 50	[1] 66⅔	66⅔
$10	$5.00	$5.00	$6.50	$6.50
$12	$6.00	[2] $6.00	$7.50	$7.50
$15	$7.50	[2] $6.00	$9.00	[2] $9.00
$18	[2] $9.00	[2] $6.00	$10.50	[2] $9.00
$21	[2] $9.00	[2] $6.00	$12.00	[2] $9.00
$24 or more	[2] $9.00	[2] $6.00	[2] $13.50	[2] $9.00

[1] Percent.
[2] Ceiling.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, I appreciate that the Membership is anxious to get away and I shall not take much time, I hope. The House bill, which passed the House by a big majority, provided a straight $5 increase for every recipient of an old-age pension and every blind individual in the country who has been receiving benefits. I voted for that bill and gave it my active support in committee and on the floor. Now, then, I do not want anybody to go away from here or go back home with the wrong impression. The House bill would have paid every individual $5. It was my understanding that the House conferees were going to stand by the House action. This bill does not do that. This bill pays every State $5. Let us have an understanding, and if I am wrong, I want this corrected. There seems to be no agreement among those who were conferees. Take, for instance, a man drawing $15 a month in State A, we will say. Very well. The Government is going to pay $10 of that and the State will put up $5. Very well. There it is. The Government hands out $5 to that State. But, when that State gets that money the State administrator, the proper official, will say to the individual, "Yes, you are getting $15 a month, but that is all you are entitled to and you cannot get any more. You cannot get this $5 that has come from the Government, because we say you are not entitled to any more. Consequently you will not get any more." Now that is what you ought to understand. You cannot go home and tell all these old folks and blind persons that we voted them $5. We voted the State $5.

Mr. JUDD. Mr. Speaker, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from Minnesota.

Mr. JUDD. What does the gentleman think the State will do with that additional $5?

Mr. JENKINS. That is something I cannot answer for the laws of the several States are different. It is presumed that the State will say, "All right, we will canvass the situation, and if you are entitled to more we will give you more." I hope that the States will be liberal.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from Arkansas.

Mr. MILLS. It appears that there could only be two things that the State could do with the additional $5, in answer to the gentleman from Minnesota. One would be to increase the payments made to old-age recipients by $5 per month, or else use this $5, plus the other $5 coming in from the Federal Treasury, to put more people on the old-age rolls.

Mr. JENKINS. That partially answers the question. Just as I stated in reference to the man who was getting $15, it might work out that he would not get an extra dollar.

Mr. JUDD. But another man might get $5.

Mr. MILLS. The handling of the problem is entirely within the control of the director of the public welfare program in the States.

Mr. JUDD. But the money would have to go for the care of some old people.

Mr. MILLS. That is right. The gentleman is correct.

Mr. BREHM. Mr. Speaker, will the gentleman yield?

Mr. JENKINS. Yes, I am glad to yield to my distinguished colleague from Ohio.

Mr. BREHM. This is all set up on a basis of need. Now, if the investigator finds that the recipient's needs do not show that he is entitled to more, then he will not get any more, regardless of whether or not this bill becomes law. This comes very close to being a deception on the old folks and the handicapped. The only way wherein they may receive additional benefits under this bill is if and when the State of Ohio amends the present law. Simply because the Federal Government agrees to pay two-thirds up to the first $15 does not guarantee the recipient 1 cent more money, unless the State amends or repeals certain provisions of the State law.

Mr. GORE. If the gentleman will yield, I believe there is a little misunderstanding. According to the report, no $5 will be paid to a State unless the State pays that amount or some lesser amount or some amount to the recipient of benefits. It is not paid to the State except as that State makes expenditures to the recipients of benefits under its social-security program.

Mr. JENKINS. I am not so sure that the gentleman is right, but I am quite sure that the Congress has provided standards in previous laws to which the States must adhere and by which they are bound. I am sure the money will not be used for any other purposes, but I still insist that you cannot go home and say to every old-age pensioner you meet, "You are going to get $5 more," because that is not true. Many of them may not get $5 more, and they may not get $1 more.

Mr. Speaker, this matter that we have been discussing will, I am afraid, raise some serious misunderstandings. For instance let me use an illustration with reference to the Ohio law. Under the Ohio law the State can pay up to $20 a month. That with the $20 a month which the Federal Government would pay would entitle an applicant to receive the maximum of $40. If the conferees had approved the bill which the House has heretofore passed that individual would receive $5 additional from the Government if the State of Ohio would match it with $5. Under the present law of Ohio, the State could not do that because $20 is the limit. But I am sure that if the conferees had approved the bill which the House has already passed that the State of Ohio would convene its legislature immediately and would provide for an additional $5 with a result that the maximum from both the State and Federal contributions would be $50.

Under the recommendations of this conference report the situation would be somewhat different in Ohio. In the instance to which I have referred where a pensioner would be drawing a total of $40 the computation would be made difficult. The first $15 which that individual is now drawing would be paid with $5 from the State and $10 from the Federal Government. That would leave the State to pay an additional $15 if it wants to pay the same amount that it was now paying. If it did pay that additional $15 that would be a total of $20 for the State to pay. Then the Federal Government having already paid $10 would match the $15 which the State would pay with a $15 payment with the result that the Federal Government would be paying $25. The pensioner would thereby be drawing $20 from the State and $25 from the Federal Government or a total of $45. In this case it would appear to me that it would not be necessary to amend the Ohio law in order for this pensioner to draw $45.

On the other hand, if the State of Ohio would not be willing to pay a total of $20 in cooperation with the Federal law as it will be written when this conference report is accepted by the House and the Senate and the President, then it is perfectly possible that the person in Ohio who is drawing a $40 pension might not get any increase. I have no doubt but that the State of Ohio will do its part in this matter and that as a final result of the passage of this legislation those receiving old-age pensions and blind pensions may receive an increase in their pensions, and the dependent children will

likewise receive a corresponding increase. If the State authorities will not meet this offer which the Federal Government is making through the passage of this legislation, then I shall be disappointed.

While pensions to the aged and the blind and payments to the dependent children are always very important and while these provisions are probably the most important in this bill that we are considering, yet I must say that there are other very important matters included in this legislation. I shall not take time to discuss all of them. I shall discuss at least one of them.

In this respect I refer to that provision of the Social Security Act known as Title II—Old-Age and Survivors Insurance. This is commonly known as social security. In this connection I might digress long enough to say that the social-security legislation is probably the most far-reaching and comprehensive piece of legislation ever passed by Congress. It comprises 10 separate titles. Title I deals with old-age pensions. Title II deals with old-age and survivors pensions, commonly known as social security. Title III provides for assistance for dependent children. And title X provides for assistance to the blind, commonly known as blind pensions. I take considerable pride in the fact that I am generally considered as having been the author of the blind-pension law.

At the present time the employers of the country pay into a fund 1 percent of the pay roll of their employees and the employees likewise pay into this fund 1 percent of the wages which they receive. This fund now has a surplus of more than $7,000,000,000. The original law passed several years ago provided that these payments should be increased at certain stated periods. For the past 3 or 4 years Congress has amended this law so as to freeze the rate at 1 percent. Last year when Congress passed this freezing law, it further provided that after 1 year, the 1st of January 1947, the rate should jump to 2½ percent from the employer and 2½ percent from the employee. The bill which we are now considering under this conference report freezes these payments again for another year at 1 percent. This is done because employment in the country is at a high rate and the demands for benefits under the law are not unusually heavy and it is considered by both employer and employee that it would be advisable to continue the present rate. Without the passage of this freezing legislation, the rates of each group would jump to 2½ percent.

I am, therefore, very glad that this bill contains this freezing provision.

Mr. Speaker, other provisions of this proposed legislation are worthy but I felt, however, that when we included the maritime workers under the coverage of the social-security laws that we might well have included other groups comprising a large number of our citizens. I refer to the nurses and the social workers and the local employees. Likewise, there are many workers classified as agricultural employees that might well have been brought within the coverage of this law. I refer to those who work in canneries and packing sheds.

By way of justification for including the maritime workers, their employment differs somewhat from employment of other groups that I have mentioned in that they are employed by the Government, and the Government assumes the responsibility of paying the benefits to be derived under such coverage.

Mr. Speaker, I am glad that we have been able to defeat the variable grants provision of the bill passed by the Senate. I was very much disappointed that the Senate added these amendments to the House bill in view of the fact that it was well known that the Ways and Means Committee of the House has worked for months in preparing and drawing this legislation and it was also well known that the House had passed its legislation after a most intelligent and searching debate.

My opposition to the variable grants is based on the fact that when the original social-security bill was being prepared in 1935, it was prepared on the basis that all Federal payments should be made only on a matching basis. I was a member of the Ways and Means Committee and participated actively in the preparation of the first social-security bill. The philosophy of title I of the bill is that the Federal Government in a desire to encourage the States to make adequate provision for the aged would offer to pay every deserving aged person in the country $15 a month only if and when the State in which he lived would pay the same amount and would agree to abide by certain stipulated regulations. The original bill would not have been passed except on that well-grounded basis of 50–50 matching. Later in 1939 when the original bill was amended no effort was made to change the matching formula.

Under the variable-grants plan, many of the States would pay into the fund at the rate of $2 while they would only take out of the fund $1. On the other hand, many States would only pay in $1 and would take out $2. The variable-grants system is not right morally or fiscally. It is not right and fair for a State where the average wages are high to be compelled to pay old-age pensions to persons in States that are sufficiently able to pay their own pensions The fact that their average wages may be low is no reason. If they are satisfied to have their people live on low wages, then it is only natural that the amount that they would be willing to pay their old folks would be small.

Another very important factor in this matching program is that the local authorities are best able to know and judge who are entitled to old-age assistance and how much assistance they should have. If the people of the Southern States are satisfied to pay small pensions, why should Congress be worried about it? I know that that was one of the basic factors that we considered when we drew up the original social-security law.

Therefore, Mr. Speaker, while I am not entirely satisfied with this legislation, I am glad that we have increased the contribution for the aged and the blind and the dependent children, and I am also glad that we have frozen the contribution provision under title II, and I am also glad that we have maintained the principle of matching dollar for dollar as we originally intended to do. I am especially glad that the Congress has stood firm against the threat of variable grants. I hope that those States whose representatives have been so insistent upon variable grants will bestir themselves and increase these payments to these deserving groups that live in their States, just as the other States of the Union have done. We should not wreck social security on the treacherous rocks of variable grants.

Mr. DOUGHTON of North Carolina. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, 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. 7037) to amend the Social Security Act and the Internal Revenue Code, and for other purposes.

INVESTIGATION OF ALL PHASES OF SOCIAL SECURITY

Mr. VANDENBERG. As in legislative session, I ask unanimous consent, out of order, to submit a Senate resolution on behalf of the chairman of the Finance Committee, the Senator from Georgia [Mr. GEORGE] and myself.

The Senate will remember that when it passed upon the social-security problem a few days ago it included in the legislation a requirement for an immediate and complete and adequate special investigation of all phases of social security, so that the Congress might have adequate preparation for actual and realistic action in the near future. Unfortunately, as was reported this afternoon by the Senator from Georgia, the House conferees declined to agree to the Senate amendment, and it was eliminated. The able Senator from Wisconsin [Mr. LA FOLLETTE] commenting upon the action of the House expressed his regret that we were not to have this immediate, concentrated, aggressive inquiry into this problem. It is because there has been no such inquiry, Mr. President, that we find ourselves year after year at the end of each session without any adequate action on the subject.

In the fact of that situation, Mr. President, the Senator from Georgia and I are submitting a resolution which will instruct the Senate Finance Committee on behalf of the Senate, to make precisely the same investigation which we were attempting to obtain by joint action of the House and Senate. The resolution would instruct the Senate committee to appoint an advisory council for the purpose of aiding it in its exploration of this subject.

Mr. President, both the Senator from Georgia and I, and I think I can speak for all the other members of the Finance Committee, are very anxious for action along this line before adjournment. Therefore, I ask unanimous consent to submit the resolution now for reference to the Finance Committee, after which it must be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Michigan?

There being no objection, the resolution (S. Res. 320) authorizing and directing the Senate Committee on Finance to make a full and complete study and investigation of old-age and survivors insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto, was received and referred to the Committee on Finance, as follows:

Resolved, That the Senate Committee on Finance is authorized and directed to make a full and complete study and investigation of old-age and survivors insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto so that the Senate may be prepared to deal with such legislation on these subjects as may hereafter originate in the House of Representatives under the requirement of the Constitution.

The Senate committee is hereby authorized, in its discretion, to appoint an advisory council of individuals having special knowledge concerning matters involved in its study and investigation to assist, consult with, and advise the Senate committee with respect to such study and investigation. Members of the advisory council shall not receive any compensation for their services as such members, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in connection with the performance of the work of the advisory council.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times including periods of Senate recess or adjournment, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable, the cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

The committee shall have power to employ and fix the compensation of such officers, experts, and employees as it deems necessary in the performance of its duties under this title, but the compensation so fixed shall not exceed the compensation prescribed under

the Classification Act of 1923, as amended, for comparable duties. The expenses of the committee under this resolution, which shall not exceed $10,000 shall be paid from the contingent fund of the Senate upon vouchers signed by the chairman.

Mr. VANDENBERG. I should like to add that in the absence of the Senator from Illinois [Mr. LUCAS], who is chairman of the Committee to Audit and Control the Contingent Expenses of the Senate—I believe the able Senator from Arizona [Mr. HAYDEN] is the ranking member—I very respectfully and prayerfully commend and commit this resolution to his mercies.

Mr. LA FOLLETTE. Mr. President, I wish to join with the able Senator from Michigan in expressing the hope that the Committee to Audit and Control the Contingent Expenses of the Senate will report the resolution promptly so that we can obtain action upon it before the adjournment of the Congress, because I think it is absolutely essential that we do so if we are to be prepared to go into this very important question when the Congress meets next January.

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

Mr. MILLIKIN. I yield.

Mr. BARKLEY. I wish to associate myself with this request. I think that this is a transcendentally important problem which faces the Congress and will face the next Congress. The amount requested is a modest sum compared with the importance of the problem, and I hope the Committee to Audit and Control the Contingent Expenses of the Senate will report favorably before we recess or adjourn today.

Mr. GEORGE subsequently said: Mr. President, as in legislative session, from the Committee on Finance I report favorably Senate Resolution 320, authorizing and directing the Senate Committee on Finance to make a full and complete study and investigation of old-age and survivors' insurance and all other aspects of social security, particularly in respect to coverage, benefits, and taxes related thereto, which was submitted to the Senate earlier today by the Senator from Michigan [Mr. VANDENBERG].

The resolution (S. Res. 320) was received and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. HAYDEN subsequently said: Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate, I ask unanimous consent to report favorably without amendment Senate Resolution 320, submitted earlier today by the Senator from Michigan [Mr. VANDENBERG] for himself and Mr. GEORGE, and I request its immediate consideration.

There being no objection, the resolution was considered and agreed to.

[PUBLIC LAW 719—79TH CONGRESS]

[CHAPTER 951—2D SESSION]

[H. R. 7037]

AN ACT

To amend the Social Security Act and the Internal Revenue Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Act Amendments of 1946".

TITLE I—SOCIAL SECURITY TAXES

SEC. 101. RATES OF TAX ON EMPLOYEES.

Clauses (1) and (2) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are amended to read as follows:

"(1) With respect to wages received during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar year 1948, the rate shall be 2½ per centum."

SEC. 102. RATES OF TAX ON EMPLOYERS.

Clauses (1) and (2) of section 1410 of such Act (Internal Revenue Code, sec. 1410), as amended, are amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1947, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar year 1948, the rate shall be 2½ per centum."

TITLE II—BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

SEC. 201. The Social Security Act, as amended, is amended by adding after subsection (r) of section 209 of Title II (added to such section by section 411 of this Act) a new section to read as follows:

"BENEFITS IN CASE OF DECEASED WORLD WAR II VETERANS

"SEC. 210. (a) Any individual who has served in the active military or naval service of the United States at any time on or after September 16, 1940, and prior to the date of the termination of World War II, and who has been discharged or released therefrom under conditions other than dishonorable after active service of ninety days or more, or by reason of a disability or injury incurred or aggravated in service in line of duty, shall in the event of his death during the period of three years immediately following separation from the active military or naval service, whether his death occurs

on, before, or after the date of the enactment of this section, be deemed—

"(1) to have died a fully insured individual;

"(2) to have an average monthly wage of not less than $160; and

"(3) for the purposes of section 209 (e) (2), to have been paid not less than $200 of wages in each calendar year in which he had thirty days or more of active service after September 16, 1940.

This section shall not apply in the case of the death of any individual occurring (either on, before, or after the date of the enactment of this section) while he is in the active military or naval service, or in the case of the death of any individual who has been discharged or released from the active military or naval service of the United States subsequent to the expiration of four years and one day after the date of the termination of World War II.

"(b) (1) If any pension or compensation is determined by the Veterans' Administration to be payable on the basis of the death of any individual referred to in subsection (a) of this section, any monthly benefits or lump-sum death payment payable under this title with respect to the wages of such individual shall be determined without regard to such subsection (a).

"(2) Upon an application for benefits or a lump-sum death payment with respect to the death of any individual referred to in subsection (a), the Federal Security Administrator shall make a decision without regard to paragraph (1) of this subsection unless he has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such individual. The Federal Security Administrator shall notify the Veterans' Administration of any decision made by him authorizing payment, pursuant to subsection (a), of monthly benefits or of a lump-sum death payment. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, by reason of the death of any such individual, it shall notify the Federal Security Administrator, and the Administrator shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Federal Security Administrator pursuant to subsection (a) to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of sec. 3 of the Act of August 12, 1935, as amended (U. S. C., 1940 edition, title 38, sec. 454a)) be deemed to have been paid to him by the Veterans' Administration on account of such accrued pension or compensation. No such payment certified by the Federal Security Administrator, and no payment certified by him for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration, shall be deemed by reason of this subsection to have been an erroneous payment.

"(c) In the event any individual referred to in subsection (a) has died during such three-year period but before the date of the enactment of this section—

"(1) upon application filed within six months after the date of the enactment of this section, any monthly benefits payable with respect to the wages of such individual (including benefits for months before such date) shall be computed or recomputed and shall be paid in accordance with subsection (a), in the same manner as though such application had been filed in the first month in which all conditions of entitlement to such benefits, other than the filing of an application, were met;

"(2) if any individual who upon filing application would have been entitled to benefits or to a recomputation of benefits under paragraph (1) has died before the expiration of six months after the date of the enactment of this section, the application may be filed within the same period by any other individual entitled to benefits with respect to the same wages, and the nonpayment or underpayment to the deceased individual shall be treated as erroneous within the meaning of section 204;

"(3) the time within which proof of dependency under section 202 (f) or any application under 202 (g) may be filed shall be not less than six months after the date of the enactment of this section; and

"(4) application for a lump-sum death payment or recomputation, pursuant to this section, of a lump-sum death payment certified by the Board or the Federal Security Administrator, prior to the date of the enactment of this section, for payment with respect to the wages of any such individual may be filed within a period not less than six months from the date of the enactment of this section or a period of two years after the date of the death of any individual specified in subsection (a), whichever is the later, and any additional payment shall be made to the same individual or individuals as though the application were an original application for a lump-sum death payment with respect to such wages.

No lump-sum death payment shall be made or recomputed with respect to the wages of an individual if any monthly benefit with respect to his wages is, or upon filing application would be, payable for the month in which he died; but except as otherwise specifically provided in this section no payment heretofore made shall be rendered erroneous by the enactment of this section.

"(d) There are hereby authorized to be appropriated to the Trust Fund from time to time such sums as may be necessary to meet the additional cost, resulting from this section, of the benefits (including lump-sum death payments) payable under this title.

"(e) For the purposes of this section the term 'date of the termination of World War II' means the date proclaimed by the President as the date of such termination, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier."

SEC. 202. When used in the Social Security Act, as amended by this Act, the term "Administrator", except where the context otherwise requires, means the Federal Security Administrator.

TITLE III—UNEMPLOYMENT COMPENSATION FOR MARITIME WORKERS

SEC. 301. STATE COVERAGE OF MARITIME WORKERS.

(a) The Internal Revenue Code, as amended, is amended by adding after section 1606 (e) a new subsection to read as follows:

"(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Federal Security Administrator (or approved by the Social Security Board prior to July 16, 1946) under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the same limitation, with respect to contributions required from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (2) thereof) of subsection (b) of this section with respect to contributions required from instrumentalities of the United States and from individuals in their employ."

(b) The amendment effected by subsection (a) shall not operate, prior to January 1, 1948, to invalidate any provision, in effect on the date of enactment of this Act, in any State unemployment compensation law.

SEC. 302. DEFINITION OF EMPLOYMENT.

That part of section 1607 (c) of the Internal Revenue Code, as amended, which reads as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—"

is amended, effective July 1, 1946, to read as follows:

"(c) EMPLOYMENT.—The term 'employment' means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an

employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—".

SEC. 303. SERVICE ON FOREIGN VESSELS.

Section 1607 (c) (4) of the Internal Revenue Code, as amended, is amended, effective July 1, 1946, to read as follows:

"(4) Service performed on or in connection with a vessel not an American vessel by an employee, if the employee is employed on and in connection with such vessel when outside the United States;".

SEC. 304. CERTAIN FISHING SERVICES.

(a) Section 1607 (c) (15) of such Code is amended by striking out "or" at the end thereof.

(b) Section 1607 (c) (16) of such Code is amended by striking out the period and inserting in lieu thereof the following: "; or".

(c) Section 1607 (c) of such Code is further amended by adding after paragraph (16) a new paragraph to read as follows:

"(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States)."

(d) The amendments made by this section shall take effect July 1, 1946.

SEC. 305. DEFINITION OF AMERICAN VESSEL.

Section 1607 of such Code, as amended, is further amended, effective July 1, 1946, by adding after subsection (m) a new subsection to read as follows:

"(n) AMERICAN VESSEL.—The term 'American vessel' means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State."

SEC. 306. RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN.

The Social Security Act, as amended, is amended by adding after section 1201 (c) a new title to read as follows:

"TITLE XIII—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

"SEC. 1301. This title shall be administered by the Federal Security Administrator.

"DEFINITIONS

"SEC. 1302. When used in this title—

"(a) The term 'reconversion period' means the period (1) beginning with the fifth Sunday after the date of the enactment of this title, and (2) ending June 30, 1949.

"(b) The term 'compensation' means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

"(c) The term 'Federal maritime service' means service determined to be employment pursuant to section 209 (o).

"(d) The term 'Federal maritime wages' means remuneration determined pursuant to section 209 (o) to be remuneration for service referred to in section 209 (o) (1).

"COMPENSATION FOR SEAMEN

"SEC. 1303. (a) The Administrator is authorized on behalf of the United States to enter into an agreement with any State, or with the unemployment compensation agency of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b), to individuals who have performed Federal maritime service, and (2) will otherwise cooperate with the Administrator and with other State unemployment compensation agencies in making payments of compensation authorized by this title.

"(b) Any such agreement shall provide that compensation will be paid to such individuals, with respect to unemployment occurring in the reconversion period, in the same amounts, on the same terms, and subject to the same conditions as the compensation which would be payable to such individuals under the State unemployment compensation law if such individuals' Federal maritime service and Federal maritime wages had (subject to regulations of the Administrator concerning the allocation of such service and wages among the several States) been included as employment and wages under such law; except that the compensation to which an individual is entitled under such an agreement for any week shall be reduced by 15 per centum of the amount of any annuity or retirement pay which such individual is entitled to receive, under any law of the United States relating to the retirement of officers or employees of the United States, for the month in which such week begins, unless a deduction from such compensation on account of such annuity or retirement pay is otherwise provided for by the applicable State law.

"(c) If in the case of any State an agreement is not entered into under this section or the unemployment compensation agency of such State fails to make payments in accordance with such an agreement, the Administrator, in accordance with regulations prescribed by him, shall make payments of compensation to individuals who file a claim for compensation which is payable under such agreement, or would be payable if such agreement were entered into, on a basis which will provide that they will be paid compensation in the same amounts, on

substantially the same terms, and subject to substantially the same conditions as though such agreement had been entered into and such agency made such payments. Final determinations by the Administrator of entitlement to such payments shall be subject to review by the courts in the same manner and to the same extent as is provided in Title II with respect to decisions by the Administrator under such title.

"(d) Operators of vessels who are or were general agents of the War Shipping Administration or of the United States Maritime Commission shall furnish to individuals who have been in Federal maritime service, to the appropriate State agency, and to the Administrator such information with respect to wages and salaries as the Administrator may determine to be practicable and necessary to carry out the purposes of this title.

"(e) Pursuant to regulations prescribed by the Administrator, he, and any State agency making payments of compensation pursuant to an agreement under this section, may—

"(1) to the extent that the Administrator finds that it is not feasible for Federal agencies or operators of vessels to furnish information necessary to permit exact and reasonably prompt determinations of the wages or salaries of individuals who have performed Federal maritime service, determine the amount of and pay compensation to any individual under this section, or an agreement thereunder, as if the wages or salary paid such individual for each week of such service were in an amount equal to his average weekly wages or salary for the last pay period of such service occurring prior to the time he files his initial claim for compensation; and

"(2) to the extent that information is inadequate to assure the prompt payment of compensation authorized by this section (either on the basis of the exact wages or salaries of the individuals concerned or on the basis prescribed in clause (1) of this subsection), accept certification under oath by individuals of facts relating to their Federal maritime service and to wages and salaries paid them with respect to such service.

"ADMINISTRATION

"SEC. 1304. (a) Determinations of entitlement to payments of compensation by a State unemployment compensation agency under an agreement under this title shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

"(b) For the purpose of payments made to a State under Title III administration by the unemployment compensation agency of such State pursuant to an agreement under this title shall be deemed to be a part of the administration of the State unemployment compensation law.

"(c) The State unemployment compensation agency of each State shall furnish to the Administrator such information as the Administrator may find necessary in carrying out the provisions of this title, and such information shall be deemed reports required by the Administrator for the purposes of section 303 (a) (6).

"PAYMENTS TO STATES

"SEC. 1305. (a) Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this title, which would not have been incurred by the State but for the agreement.

"(b) In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Administrator, such sum as the Administrator estimates the State will be entitled to receive under this title for each calendar quarter; reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the State. The amount of such payments may be determined by such statistical, sampling, or other method as may be agreed upon by the Administrator and the State agency.

"(c) The Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment, at the time or times fixed by the Administrator, in accordance with certification, from the funds for carrying out the purposes of this title. Notwithstanding any other provision of this title, no compensation shall be paid to any individual pursuant to this title with respect to unemployment occuring prior to the date when funds are made available for such payments.

"(d) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury upon termination of the agreement or termination of the reconversion period, whichever first occurs.

"(e) An agreement under this title may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Administrator may deem necessary, and may provide for the payment of the cost of such bond from appropriations for carrying out the purposes of this title.

"(f) No person designated by the Administrator, or designated pursuant to an agreement under this title, as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this title.

"(g) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this title if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f).

"PENALTIES

"SEC. 1306. (a) Whoever, for the purpose of causing any compensation to be paid under this title or under an agreement thereunder where none is authorized to be so paid, shall make or cause to be

made any false statement or representation as to any wages paid or received, or whoever makes or causes to be made any false statement of a material fact in any claim for any compensation authorized to be paid under this title or under an agreement thereunder, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Whoever shall obtain or receive any money, check or compensation under this title or an agreement thereunder, without being entitled thereto and with intent to defraud the United States, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) Whoever willfully fails or refuses to furnish information which the Administrator requires him to furnish pursuant to authority of section 1303 (d), or willfully furnishes false information pursuant to a requirement of the Administrator under such subsection, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than six months, or both."

TITLE IV—TECHNICAL AND MISCELLANEOUS PROVISIONS

SEC. 401. AMENDMENTS OF TITLE V OF SOCIAL SECURITY ACT.

(a) Effective January 1, 1947, section 1101 (a) (1) of the Social Security Act, as amended, is amended to read as follows:

"(1) The term 'State' includes Alaska, Hawaii, and the District of Columbia, and when used in Title V includes Puerto Rico and the Virgin Islands."

(b) Effective with respect to the fiscal year ending June 30, 1947, and subsequent fiscal years, title V of the Social Security Act, as amended, is amended as follows:

(1) Section 501 is amended by striking out "$5,820,000" and inserting in lieu thereof "$11,000,000".

(2) Section 502 (a) is amended to read as follows:

"SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Federal Security Administrator shall allot $5,500,000 as follows: He shall allot to each State $35,000, and shall allot to each State such part of the remainder of the $5,500,000 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 Administrator has available statistics."

(3) Section 502 (b) is amended by striking out "$1,980,000" and inserting in lieu thereof "$5,500,000".

(4) Section 511 is amended by striking out "$3,870,000" and inserting in lieu thereof "$7,500,000".

(5) Section 512 (a) is amended to read as follows:

"SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Federal Security Administrator shall allot $3,750,000 as follows: He shall allot to each State $30,000, and shall allot the remainder of the $3,750,000 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."

(6) Section 512 (b) is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,750,000".

(7) Section 521 (a) is amended by striking out "$1,510,000" and inserting in lieu thereof "$3,500,000" and is further amended by striking out "$10,000" and inserting in lieu thereof "$20,000".

(8) Section 541 (a) is amended to read as follows:

"SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1947, the sum of $1,000,000 for all necessary expenses of the Federal Security Agency in administering the provisions of this title."

(c) The amendments made by subsection (b) shall not require amended allotments for the fiscal year 1947 until sufficient appropriations have been made to carry out such amendments, and allotments from such appropriations shall be made in amounts not exceeding the amounts authorized by the amendments made by this section.

SEC. 402. CHILD'S INSURANCE BENEFITS.

(a) Section 202 (c) (1) of such Act is amended by striking out the word "adopted" and substituting in lieu thereof the following: "adopted (except for adoption by a stepparent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual)".

(b) Section 202 (c) (3) (C) is amended to read as follows:

"(C) such child was living with and was chiefly supported by such child's stepfather."

SEC. 403. PARENT'S INSURANCE BENEFITS.

(a) Section 202 (f) (1) of such Act is amended by striking out "leaving no widow and no unmarried surviving child under the age of eighteen" and inserting in lieu thereof "if such individual did not leave a widow who meets the conditions in subsection (d) (1) (D) and (E) or an unmarried child under the age of eighteen deemed dependent on such individual under subsection (c) (3) or (4), and"; and by striking out in clause (B) thereof the word "wholly" and inserting in lieu thereof the word "chiefly".

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this Act filed after December 31, 1946.

SEC. 404. LUMP-SUM DEATH PAYMENTS.

(a) Section 202 (g) of such Act is amended to read as follows:

"LUMP-SUM DEATH PAYMENTS

"(g) Upon the death, after December 31, 1939, of an individual who died a fully or currently insured individual leaving no surviving widow, child, or parent who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (c), (d), (e), or (f) of this section, an amount equal to six times a primary insurance benefit of such individual shall be paid in a lump sum to the person, if any, determined by the

Administrator to be the widow or widower of the deceased and to have been living with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such insured individual. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

(c) In the case of any individual who, after December 6, 1941, and before the date of the enactment of this Act, died outside the United States (as defined in section 1101 (a) (2) of the Social Security Act, as amended), the two-year period prescribed by section 202 (g) of such Act for the filing of application for a lump-sum death payment shall not be deemed to have commenced until the date of enactment of this Act.

SEC. 405. APPLICATION FOR PRIMARY INSURANCE BENEFITS.

(a) Section 202 (h) of such Act is amended to read as follows:

"(h) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), or (f) for any month had he filed application therefor prior to the end of such month, shall be entitled to such benefit for such month if he files application therefor prior to the end of the third month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Administrator has certified for payment for such prior month."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 406. DEDUCTIONS FROM INSURANCE BENEFITS.

(a) Section 203 (d) (2) of such Act (relating to deductions for failure to attend school) is repealed.

(b) Section 203 (g) of such Act (relating to failure to make certain reports) is amended by inserting before the period at the end thereof a comma and the following: "except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month".

SEC. 407. DEFINITION OF "CURRENTLY INSURED INDIVIDUAL".

(a) Section 209 (h) of such Act is amended to read as follows:

"(h) The term 'currently insured individual' means any individual with respect to whom it appears to the satisfaction of the Administrator that he had not less than six quarters of coverage during the

period consisting of the quarter in which he died and the twelve quarters immediately preceding such quarter."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 408. DEFINITION OF WIFE.

(a) Section 209 (i) of such Act is amended to read as follows:

"(i) The term 'wife' means the wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him for a period of not less than thirty-six months immediately preceding the month in which her application is filed."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 409. DEFINITION OF CHILD.

(a) Section 209 (k) of such Act is amended to read as follows:

"(k) The term 'child' means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, a stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died."

(b) The amendment made by subsection (a) of this section shall be applicable only in cases of applications for benefits under this title filed after December 31, 1946.

SEC. 410. AUTHORIZATION FOR RECOMPUTATION OF BENEFITS.

Section 209 of such Act is amended by adding after subsection (p) a new subsection to read as follows:

"(q) Subject to such limitation as may be prescribed by regulation, the Administrator shall determine (or upon application shall recompute) the amount of any monthly benefit as though application for such benefit (or for recomputation) had been filed in the calendar quarter in which, all other conditions of entitlement being met, an application for such benefit would have yielded the highest monthly rate of benefit. This subsection shall not authorize the payment of a benefit for any month for which no benefit would, apart from this subsection, be payable, or, in the case of recomputation of a benefit, of the recomputed benefit for any month prior to the month for which application for recomputation is filed."

SEC. 411. ALLOCATION OF 1937 WAGES.

Section 209 of such Act is amended by adding after subsection (q) a new subsection to read as follows:

"(r) With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than $100 were paid in any such period, one-half

of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained."

SEC. 412. DEFINITION OF WAGES—INTERNAL REVENUE CODE.

(a) FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 1426 (a) (1) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1426 (a) (1)) is amended to read as follows:

"(1) 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, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1936 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

(b) FEDERAL UNEMPLOYMENT TAX ACT.—Section 1607 (b) (1) of the Federal Unemployment Tax Act (Internal Revenue Code, sec. 1607 (b) (1)) is amended to read as follows:

"(1) 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 after December 31, 1939, and prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year; or that part of the remuneration which, after remuneration equal to $3,000 with respect to employment after 1938 has been paid to an individual by an employer during any calendar year after 1946, is paid to such individual by such employer during such calendar year;".

SEC. 413. SPECIAL REFUNDS TO EMPLOYEES.

Section 1401 (d) of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1401 (d)) is amended to read as follows:

"(d) SPECIAL REFUNDS.—

"(1) WAGES RECEIVED BEFORE 1947.—If by reason of an employee rendering service for more than one employer during any calendar year after the calendar year 1939, the wages of the employee with respect to employment during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400, deducted from such wages and paid to the collector, which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar

year in which the employment was performed with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which the wages are received with respect to which refund of tax is claimed. No interest shall be allowed or paid with respect to any such refund. No refund shall be made under this paragraph with respect to wages received after December 31, 1946.

"(2) WAGES RECEIVED AFTER 1946.—If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1946, the wages received by him during such year exceed $3,000, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,000 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund."

SEC. 414. DEFINITION OF WAGES UNDER TITLE II OF SOCIAL SECURITY ACT.

(a) So much of section 209 (a) of the Social Security Act, as amended, as precedes paragraph (3) thereof is amended to read as follows:

"(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—

"(1) 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 prior to 1940, is paid, prior to January 1, 1947, to such individual by such employer with respect to employment during such calendar year;

"(2) That part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual with respect to employment during any calendar year after 1939, is paid to such individual, prior to January 1, 1947, with respect to employment during such calendar year;

"(3) That part of the remuneration which, after remuneration equal to $3,000 with respect to employment has been paid to an individual during any calendar year after 1946, is paid to such individual during such calendar year;".

(b) The paragraphs of section 209 (a) of such Act heretofore designated "(3)", "(4)", "(5)", and "(6)" are redesignated "(4)", "(5)", "(6)", and "(7)", respectively.

SEC. 415. TIME LIMITATION ON LUMP-SUM PAYMENTS UNDER 1935 LAW.

No lump-sum payment shall be made under section 204 of the Social Security Act (as enacted in 1935), or under section 902 (g)

of the Social Security Act Amendments of 1939, unless application therefor has been filed prior to the expiration of six months after the date of the enactment of this Act.

SEC. 416. WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS FOR DISABILITY BENEFITS.

(a) Paragraph (4) of subsection (a) of section 1603 of the Federal Unemployment Tax Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ": *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

(b) The last sentence of subsection (f) of section 1607 of the Federal Unemployment Tax Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration."

(c) Paragraph (5) of subsection (a) of section 303 of the Social Security Act, as amended, is amended by striking out the semicolon immediately before the word "and" at the end thereof and inserting in lieu of such semicolon the following: ": *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration;".

TITLE V—STATE GRANTS FOR OLD-AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

SEC. 501. OLD-AGE ASSISTANCE.

(a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"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 October 1, 1946, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy 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 such individual for any month as exceeds $45—

"(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 3 (b) of such Act is amended (1) by striking out "one-half", and inserting in lieu thereof "the State's proportionate share"; (2) by striking out "clause (1) of" wherever it appears in such subsection; (3) by striking out "in accordance with the provisions of such clause" and inserting in lieu thereof "in accordance with the provisions of such subsection"; and (4) by striking out ", increased by 5 per centum".

SEC. 502. AID TO DEPENDENT CHILDREN.

(a) Section 403 (a) of the Social Security Act, as amended, is amended to read as follows:

"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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to dependent children, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under the State plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $24, or if there is more than one dependent child in the same home, as exceeds $24 with respect to one such dependent child and $15 with respect to each of the other dependent children—

"(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $9 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose.

(b) Section 403 (b) of such Act is amended by striking out "one-half" and inserting in lieu thereof "the State's proportionate share".

SEC. 503. AID TO THE BLIND.

(a) Section 1003 (a) of the Social Security Act, as amended, is amended to read as follows:

"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 October 1, 1946, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under

the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $45—

"(A) Two-thirds of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $15 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"(B) One-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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) Section 1003 (b) of such Act is amended by striking out "one-half", and inserting in lieu thereof "the State's proportionate share".

SEC. 504. EFFECTIVE PERIOD.

Sections 501, 502, and 503 shall be effective with respect to the period commencing October 1, 1946, and ending on December 31, 1947.

TITLE VI—VETERANS' EMERGENCY HOUSING ACT OF 1946

SEC. 601. Section 2 (a) of the Act of June 11, 1946 (Public Law 404, Seventy-ninth Congress), is amended by striking out the period at the end thereof and inserting a semicolon and the following: "and the Veterans' Emergency Housing Act of 1946".

Approved August 10, 1946.

SOCIAL SECURITY BOARD v. NIEROTKO.

No. 318.

Argued Dec. 12, 1945.

Decided Feb. 25, 1946. 1

On Writ of Certiorari to the United States Circuit Court of Appeals for the Sixth Circuit.

Action by Joseph Nierotko against the Social Security Board to require the defendant to give plaintiff credit on his old age and survivor's insurance account for back pay granted to him under the National Labor Relations Act. A judgment for defendant was reversed by the Circuit Court of Appeals, 149 F.2d 273, and the Social Security Board brings certiorari.

Affirmed.

Mr. Paul A. Sweeney, of Washington, D. C., for petitioner.

Mr. Ernest Goodman, of Detroit, Mich., for respondent.

Mr. Justice REED delivered the opinion of the Court.

A problem as to whether "back pay," which is granted to an employee under the National Labor Relations Act, shall be treated as "wages" under the Social Security Act comes before us on this record. If such "back pay" is a wage payment, there is also at issue the proper allocation of such sums to the quarters of coverage for which the "back pay" was allowed.

The respondent, Joseph Nierotko, was found by the National Labor Relations Board to have been wrongfully discharged for union activity by his employer, the Ford Motor Company, and was reinstated by that Board in his employment with directions for "back pay" for the period February 2, 1937, to September 25, 1939.[1] The "back pay" was paid by the employer on July 18, 1941. Thereafter Nierotko requested the Social Security Board to credit him in the sum of the "back pay" on his Old Age and Survivor's Insurance account with the Board.[2] In conformity with its minute of formal general action of March 27, 1942, the Board refused to credit Nierotko's "back pay" as wages. On review of the Board's decision,[3] the District Court upheld the Board. The Circuit Court of Appeals reversed. 149 F.2d 273. On account of the importance of the issues in the administration of the Social Security Act, we

[1] National Labor Relations Act, Sec. 10(c), 49 Stat. 454, 29 U.S.C.A. § 160(c).

[2] Social Security Act, Sec. 205(c) (3), 53 Stat. 1369, 42 U.S.C.A. § 405(c) (3).

[3] Sec. 205(g).

granted certiorari.[4] 326 U.S. 700, 66 S.Ct. 55; Judicial Code § 240, 28 U.S.C.A. § 347.

[1] During the period for which "back pay" was awarded respondent the Federal Old Age benefits were governed by Title II of the Social Security Act of 1935. 49 Stat. 622. As Title II of the Social Security Act Amendments of 1939 became effective January 1, 1940 (53 Stat. 1362, 42 U.S.C.A. § 401 et seq.), the actual payment of the "back wages" occurred thereafter. In our view the governing provisions which determine whether this "back pay" is wages are those of the earlier enactment.[5]

Wages are the basis for the administration of Federal Old Age Benefits. 49 Stat. 622. Only those who earn wages are eligible for benefits.[6] The periods of time during which wages were earned are important and may be crucial on eligibility under either the original act or the Amendments of 1939. See sec. 210(c) and compare sec. 209(g),

53 Stat. 1376, 42 U.S.C.A. § 409(g).[7] The benefits are financed by payments from employees and employers which

[4] The briefs of the Government advise us that more than thirty thousand individual employees were allowed "back pay" in "closed" cases by the National Labor Relations Board under Sec. 10(c), 49 Stat. 454, in the period 1939–1945. See Phelps Dodge Corp. v. Labor Board, 313 U.S. 177, 187, 61 S.Ct. 845, 849, 85 L.Ed. 1271, 133 A.L.R. 1217. *Second.* The aggregate in money exceeded $7,700,000 in the fiscal years 1939 to 1944 as shown by the reports of the N. L. R. B. for those years.

[5] By the foregoing statement it is not intended to imply that the variations in the definitions of wages between the two enactments are significant on the issues herein considered. Sec. 209(b) of the Amendment, 42 U.S.C.A. § 409(b), recognizes possible differences in the meaning of employment: "(b) The term 'employment' means any service performed after December 31, 1936, and prior to January 1, 1940, which was employment as defined in section 210(b) of the Social Security Act prior to January 1, 1940 (except service performed by an individual after he attained the age of sixty-five if performed prior to January 1, 1939), and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him * * *."

[6] "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."

Sec. 210. "(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."

[7] Sec. 209. "(g) The term 'fully insured individual' means any individual with respect to whom it appears to the satisfaction of the Board that—

"(1) He had not less than one quarter of coverage for each two of the quarters elapsing after 1936, or after the quarter in which he attained the age of twenty-one, whichever quarter is later, and up to but excluding the quarter in which he attained the age of sixty-five, or died, whichever first occurred, and in no case less than six quarters of coverage; or

"(2) He had at least forty quarters of coverage.

are calculated on wages.[8] The Act defines "wages" for Old Age benefits as follows:

"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, * * *."

Employment is defined thus: "(b) The term 'employment' means any service, of whatever nature, performed within the United States by an employee for his employer, except—."

The tax titles of the Social Security Act have identical definitions of wages and employment.[9] An employee under the Social Security Act is not specifically defined but the individual to whom the Act's benefits are to be paid is one receiving "wages" for "employment" in accordance with § 210(c) and employment is service by an "employee" to an "employer." Obviously a sharply defined line between payments to employees which are wages and which are not is essential to proper administration.[10]

[2] Under the National Labor Relations Act an employee is described as "any individual whose work has ceased * * * because of any unfair labor practice." Sec. 2(3), 49 Stat. 450, 29 U.S.C.A. § 152(3). The enforcement provisions of this Act under which Nierotko received his "back pay" allow the Labor Board to reinstate "employees with or without back pay." Sec. 10(c). The purpose of the "back pay" allowance is to effectuate the policies of the Labor Act for the preservation of industrial peace.[11]

[3, 4] The purpose of the Federal Old Age Benefits of the Social Security Act is to provide funds through contributions by employer and employee for the decent support of elderly workmen who have ceased to labor.[12] Eligibility for these benefits and their amount depends upon the total wages which the employee has received and the periods in which wages were paid.[13] While the legislative history of the Social Security Act and its amendments or the language of the enactments themselves do not

"As used in this subsection, and in subsection (h) of this section, the term 'quarter' and the term 'calendar quarter' mean a period of three calendar months ending on March 31, June 30, September 30, or December 31; and the term 'quarter of coverage' means a calendar quarter in which the individual has been paid not less than $50 in wages. * * *"

[8] 49 Stat. 636, 637:

"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. * * *" 42 U.S.C.A. § 1001(1).

"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. * * *" 42 U.S.C.A. § 1004(1).

[9] Sections 811(a) and (b), and 907(b) and (c), 42 U.S.C.A. §§ 1011(a, b) and 1107(b, c).

[10] Provisions similar to those quoted are found in the Social Security Act Amendments of 1939. See sections 202(a), 202(e), 203(d), 209(a), (b), (e), (g), (h), and 601, 604, and 606 at 53 Stat. 1362 et seq., 42 U.S.C.A. §§ 402(a, e), 403(d), 409(a, b, e, g, h), 26 U.S.C.A. Int.Rev.Code, §§ 1400, 1410, 1426.

[11] 49 Stat. 449, 29 U.S.C.A. § 151 et seq.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

[12] See Helvering v. Davis, 301 U.S. 619, 641, 57 S.Ct. 904, 908, 81 L.Ed. 1307, 109 A.L.R. 1319; H.Rep.No.728, 76th Congress, 1st Sess., 3-4; S.Rep.No.734, 76th Cong., 1st Sess. 3-4.

[13] Under the Social Security Act of 1935, see sec. 202(a) and sec. 210(c),

specifically deal with whether or not "back pay" under the Labor Act is to be treated as wages under the Social Security Act, we think it plain that an individual, who is an employee under the Labor Act and who receives "back pay" for a period of time during which he was wrongfully separated from his job, is entitled to have that award of back pay treated as wages under the Social Security Act definitions which define wages as "remuneration for employment" and employment as "any service * * * performed * * * by an employee for his employer."

[5, 6] Surely the "back pay" is "remuneration." Under Section 10(c) of the Labor Act, the Labor Board acts for the public to vindicate the prohibitions of the Labor Act against unfair labor practices (section 8, 29 U.S.C.A. § 158) and to protect the right of employees to self-organization which is declared by section 7, 29 U.S.C.A. § 157.[14] It is also true that in requiring reparation to the employee through "back pay" that reparation is based upon the loss of wages which the employee has suffered from the employer's wrong. "Back pay" is not a fine or penalty imposed upon the employer by the Board. Reinstatement

and "back pay" are for the "protection of the employees and the redress of their grievances" to make them "whole." Republic Steel Corp. v. Labor Board, 311 U.S. 7, 11, 12, 61 S.Ct. 77, 79, 85 L.Ed. 6; "* * * a worker's loss, in wages and in general working conditions must be made whole." Phelps Dodge Corp. v. Labor Board, 313 U.S. 177, 196, 61 S.Ct. 845, 853, 85 L.Ed. 1271, 133 A.L.R. 1217. A worker is not given "back pay" by the Board equal to what he would have earned with the employer but for the unlawful discharge but is given that sum less any net earnings during the time between discharge and reinstatement.[15]

[7, 8] Since Nierotko remained an employee under the definition of the Labor Act, although his employer had attempted to terminate the relationship, he had "employment" under that Act and we need further only consider whether under the Social Security Act its definition of employment, as "any service * * * performed * * * by an employee for his employer," covers what Nierotko did for the Ford Motor Company. The petitioner urges that Nierotko did not perform any service. It points out that Congress in considering the Social Security Act thought of benefits as related to "wages earned" for "work done."[16] We are unable, however, to follow the Social Security Board in such a limited circumscription of the word "service." The very words "any service * * * performed * * * for his employer," with the purpose of the Social Security Act in mind import breadth of coverage. They admonish us against holding that "service" can be only productive activity. We think that "service" as used by Congress in this definitive phrase means not only work

actually done but the entire employer-employee relationship for which compensation is paid to the employee by the employer.[17]

An argument against the interpretation which we give to "service performed" is the contrary ruling of the governmental agencies which are charged with the administration of the Social Security Act.

supra, note 6. Under the 1939 Amendments, see sec. 202 and 209(e), (f) and (g), 53 Stat. 1363, et seq.

[14] Virginia Electric Co. v. Labor Board, 319 U.S. 533, 543, 63 S.Ct. 1214, 1220, 87 L.Ed. 1568.

[15] Phelps Dodge Corp. v. Labor Board, 313 U.S. 177, 196, 198, 61 S.Ct. 845, 853, 854, 85 L.Ed. 1271, 133 A.L.R. 1217. See Third Annual Report, National Labor Relations Board, 202, n. 11; Eighth Annual Report 41; Ninth Annual Report, 49. Nierotko's order was in this form, 14 N.L.R.B. 346, 410.

[16] H.Rep.No.615, 74th Cong., 1st Sess., pp. 6, 21, 32, and S.Rep.No.628, 74th Cong., 1st Sess., pp. 7, 32.

[17] For example the Social Security Board's Regulations No. 3 in considering "wages" treats vacation allowances as wages. 26 CFR, 1940 Supp., 402.227(b). Compare Armour & Co. v. Wantock, 323 U.S. 126, 133, 65 S.Ct. 165, 168.

Treasury Department Regulations No. 91 relating to the Employees' Tax and the Employer's Tax under Title VIII of the Social Security Act, 1936, Art. 16, classifies dismissal pay, vacation allowances or sick pay, as wages. Regulations 106 under the Federal Insurance Contributions Act, 1940, pp. 48, 51, continues to consider vacation allowances as wages. It differentiates voluntary dismissal pay.

I. R. B., 1940, 1-22-10271, S. S. T. 389, an Office Decision, holds that

Their competence and experience in this field command us to reflect before we decide contrary to their conclusion. The first administrative determination was apparently made in 1939 by an Office Decision of the Bureau of Internal Revenue on the problem of whether "back pay" under a Labor Board order was wages subject to tax under Titles VIII and IX of the Social Security Act which the Bureau collects.[18] The back pay was held not to be subject as wages to the tax because no service was performed, the employer had tried to terminate the employment relationship and the allowance of back pay was discretionary with the Labor Board. Reliance for the conclusions was placed upon Agwilines, Inc. v. National Labor Relations Board, 5 Cir., 87 F.2d 146, which had held "back pay" a public reparation order and therefore not triable by jury as a private right for wages would have been. This position is maintained by the Social Security Board by minute of March 27, 1942. It is followed by the National Labor Relations Board which at one time approved the retention by the employer of the tax on the employees' back pay for transmission to the Treasury Department as a tax on wages and later reversed its position on the authority of the Office Decision to which reference has just been made. Re Pennsylvania Furnace and Iron Co., 13 N.L.R.B. 49, 53(5), 54, 58.[19]

The Office Decision seems to us unsound. The portion of the Agwilines decision, which the Office Decision relied upon, was directed at the constitutional claim to a right of trial by jury. It stated that "back pay" was not a penalty or damages which a private individual might claim. But there is nothing in the opinion which supports the idea that the "back pay" award differs from other pay. Indeed the opinion said that "Congress has the right to eradicate them [unfair practices] from the beginning." 87 F.2d loc. cit. 151. We think the true relation of awards of "back pay" to compensation appears in the Republic Steel and Phelps-Dodge cases, hereinbefore discussed.[20]

But it is urged by petitioner that the administrative construction on the question of whether "back pay" is to be treated as wages should lead us to follow the agencies' determination. There is a suggestion that the administrative decision should be treated as conclusive, and reliance for that argument is placed upon National Labor Relations Board v. Hearst Publications, 322 U. S. 111, 130, 64 S.Ct. 851, 860, 88 L.Ed. 1170,

amounts paid employees during absence on jury service to make their pay equivalent to regular salary are wages.

Though formal action was taken by the Social Security Board on March 27, 1942, our attention has not been called to any regulation of any governmental agency excluding "back pay" from wages. The Treasury Department has authority to issue regulations for Social Security taxes. Secs. 808 and 908, 49 Stat. 638, et seq., 42 U.S.C.A. §§ 1008, 1108; Internal Revenue Code, Sec. 1429, 53 Stat. 178, 26 U.S.C.A. Int.Rev.Code § 1426. So has the Social Security Board, sec. 1102, 49 Stat. 647, 42 U.S.C.A. § 1302, and sec. 205(a), 53 Stat. 1368, 42 U.S.C. A. § 405(a). All authority for the promulgation of regulations limits the action to rules and regulations not inconsistent with the provisions of the various sections.

In regulations governing the collection of income taxes at source on or after January 1, 1945, 58 Stat. 247, the Bureau of Internal Revenue classified vacation allowances and dismissal pay as wages under the following statutory definition of wages:

"Sec. 1621. Definitions. As used in this subchapter—

"(a) Wages. The term 'wages' means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—". See 26 CFR, 1944 Supp., 405.101(d) and (e).

[18] I. R. B., 1939, 14-9776, S. S. T. 359. No regulations covering "back pay" under the Social Security Act have been found. They are authorized by §§ 808 and 908, 49 Stat. 638, 643.

[19] The states have largely followed the Bureau of Internal Revenue in their classification of "back pay." Some have disagreed. Unemployment Insurance Service, All State Treatise, C. C. H., Paragraph 1201. See In re Tonra, 258 App. Div. 835, 15 N.Y.S.2d 755; Id., 283 N.Y. 676, 28 N.E.2d 402.

[20] This is the view of the Eighth Circuit when a "back pay" claim was presented in bankruptcy. National Labor Relations Board v. Killoren, 122 F.2d 609, 614.

and Gray v. Powell, 314 U.S. 402, 411, 62 S.Ct. 326, 332, 86 L.Ed. 301. In the acts which were construed in the cases just cited, as in the Social Security Act, the administrators of those acts were given power to reach preliminary conclusions as to coverage in the application of the respective acts. Each act contains a standardized phrase that Board findings supported by substantial evidence shall be conclusive.[21] The validity of regulations is specifically reserved for judicial determination by the Social Security Act Amendments of 1939, sec. 205(g).

[9-11] The Social Security Board and the Treasury were compelled to decide, administratively, whether or not to treat "back pay" as wages and their expert judgment is entitled, as we have said, to great weight.[22] The very fact that judicial review has been accorded, however, makes evident that such decisions are only conclusive as to properly supported findings of fact. Both N.L.R.B. v. Hearst Publications, page 131, of 322 U.S., page 860 of 64 S.Ct., 88 L.Ed. 1170, and Gray v. Powell, page 411 of 314 U.S., page 332 of 62 S.Ct., 86 L.Ed. 301, advert to the limitations of administrative interpretations. Administrative determinations must have a basis in law and must be within the granted authority. Administration when it interprets a statute so as to make it apply to particular circumstances acts as a delegate to the legislative power. Congress might have declared that "back pay" awards under the Labor Act should or should not be treated as wages. Congress might have delegated to the Social Security Board to determine what compensation paid by employers to employees should be treated as wages. Except as such interpretive power may be included in the agencies' administrative functions, Congress did neither. An agency may not finally decide the limits of its statutory power. That is a judicial function.[23] Congress used a well-understood word—"wages"—to indicate the receipts which were to govern taxes and benefits under the Social Security Act. There may be borderline payments to employees on which courts would follow administrative determination as to whether such payments were or were not wages under the act.

[12] We conclude, however, that the Board's interpretation of this statute to exclude back pay goes beyond the boundaries of administrative routine and the statutory limits. This is a ruling which excludes from the ambit of the Social Security Act payments which we think were included by Congress. It is beyond the permissible limits of administrative interpretation.

[13] Petitioner further questions the validity of the decision of the Circuit Court of Appeals on the ground that it must be inferred from the opinion that the "back pay" must be allocated as wages by the Board to the "calendar quarters" of the year in which the money would have been earned, if the employee had not been wrongfully discharged. We think this inference is correct.[24] This conclusion, petitioner argues, tends to show that "back pay" cannot be wages because the Amendments of 1939 use "quarters" as the basis

[21] National Labor Relations Act, 49 Stat. 454, see 10(e), 29 U.S.C.A. § 160 (e); Bituminous Coal Act of 1937, 50 Stat. 72, 85, sec. 4-A, 15 U.S.C.A. § 834; Social Security Act Amendments of 1939, secs. 205(c) (3) and (g).

[22] See Sanford Estate v. Com'r, 308 U. S. 39, 52, 60 S.Ct. 51, 59, 84 L.Ed. 20; Skidmore v. Swift & Co., 323 U.S. 134, 139, 140, 65 S.Ct. 161, 164.

[23] American School of Magnetic Healing v. McAnnulty, 187 U.S. 94, 110, 23 S.Ct. 33, 39, 47 L.Ed. 90; International Ry. Co. v. Davidson, 257 U.S. 506, 514, 42 S. Ct. 179, 182, 66 L.Ed. 341; Iselin v. United States, 270 U.S. 245, 46 S.Ct. 248, 70 L.Ed. 566; Koshland v. Helvering, 298 U.S. 441, 56 S.Ct. 767, 80 L.Ed. 1268, 105 A.L.R. 756; Federal Communications Comm. v. Pottsville Broadcasting Co., 309 U.S. 134, 144, 145, 60 S.Ct. 437, 442, 84 L.Ed. 656; United States v. Carolina Carriers Corp., 315 U.S. 475, 489, 62 S.Ct. 722, 729, 86 L.Ed. 971; Helvering v. Credit Alliance Co., 316 U.S. 107, 113, 62 S.Ct. 989, 992, 86 L.Ed. 1307; Helvering v. Sabine Trans. Co., 318 U.S. 306, 311, 312, 63 S.Ct. 569, 572, 87 L. Ed. 773; Addison v. Holly Hill Products, 322 U.S. 607, 611, et seq., 64 S.Ct. 1215, 1218, 88 L.Ed. 1488, 153 A.L.R. 1007; cf. Stewart & Bro. v. Bowles, 322 U.S. 398, 403, 61 S.Ct. 1097, 1099, 88 L.Ed. 1350.

[24] See Nierotko v. Social Security Board, 6 Cir., 149 F.2d 273, loc. cit. 274.

for eligibility as well as the measure of benefits and require "wages" to be "paid" in certain "quarters." [25]

If, as we have held above, "back pay" is to be treated as wages, we have no doubt that it should be allocated to the periods when the regular wages were not paid as usual. Admittedly there are accounting difficulties which the Board will be called upon to solve but we do not believe they are insuperable.[26]

Affirmed.

Mr. Justice JACKSON took no part in the consideration or decision of this case.

Mr. Justice FRANKFURTER concurring.

The decisions of this Court leave no doubt that a man's time may, as a matter of law, be in the service of another, though he be inactive. E. g., Armour & Co. v. Wantock, 323 U.S. 126, 65 S.Ct. 165. This is, practically speaking, the ordinary situation of employment in a "stand-by" capacity. United States v. Local 807, 315 U.S. 521, 535, 62 S.Ct. 642, 647, 86 L.Ed. 1004. The basis of a back-pay order under the National Labor Relations Act, 49 Stat. 449, 29 U.S.C. § 151, 29 U.S.C.A. § 151 et seq., is precisely that. When the employer is liable for back pay, he is so liable because under the circumstances, though he has illegally discharged the employee, he still absorbs his time. Phelps Dodge Corp. v. National Labor Relations Board, 313 U.S. 177, 61 S.Ct. 845, 85 L.Ed. 1271, 133 A.L.R. 1217. In short, an employer must pay wages although, in violation of law, he has subjected his employee to enforced idleness. Since such compensation is in fact paid as wages, it is a plain disregard of the law for the Social Security Board not to include such payments among the employees' wages. Neither the terms of the Social Security Act, 49 Stat. 620, 53 Stat. 1360, 42 U.S.C. § 301, et seq., 42 U.S.C.A. § 301 et seq., nor the implications of policy, comparable to some aspects of the Railway Labor Act, 44 Stat. 577, 48 Stat. 926, 48 Stat. 1185, 49 Stat. 1921, 54 Stat. 785, 45 U.S.C. § 151, et seq., 45 U.S.C.A. § 151 et seq., give the Board judicially unreviewable authority to exclude from wages what as a matter of law are wages. And so I concur in the decision of the Court.

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[25] See note 7, supra. The same problem would arise under the Social Security Act, 49 Stat. 625, sec. 210(e).

[26] The Social Security Board itself has recommended the inclusion of "back pay" in wages. Annual Report of the Federal Security Agency, Social Security Board (1945), sec. 5, p. 38: "Certain items of income which are now not considered 'wages' under the definition in the act, should be included as wages, so that the base for benefits would represent the worker's actual remuneration from employment. These include tips, dismissal payments which the employer is not legally required to make but nevertheless does make, and payments made under orders of the National Labor Relations Board or a similar State board."

A pending bill, S. 1050, 79th Cong., 1st Sess., Part F, sec. 275, makes provision for the inclusion in wages under the Social Security Act of sums paid pursuant to the National Labor Relations Act.

"Back pay" is now treated distributively under the Internal Revenue Code. Sec. 119, Revenue Act of 1943, 53 Stat. 39, 26 U.S.C.A. Int.Rev.Acts.

LISTING OF REFERENCE MATERIALS

U.S. Congress. House. Committee on Ways and Means. *Amendments to Social Security Act. Hearings . . . 79th Congress, 2d session, on Social Security Legislation*

Volume 1 deals with old-age and survivors insurance, volume 2 with public assistance, and volume 3 with unemployment insurance.

U.S. Congress. House. Committee on Ways and Means. *Social Security Act Amendments of 1946: Report to Accompany H.R. 6911.* (H. Rept. 2447, 79th Cong., 2d sess.)

Issues In Social Security. A Report to the Committee on Ways and Means of the House of Representatives by the Committee's Social Security Technical Staff established pursuant to H.Res. 204 (79th Congress, 1st session) 1946

U.S. Congress. Senate. Committee on Finance. *Veterans' Social Security. Hearings . . .79th Congress, 2d session on S. 2204.*

U.S. Congress. Senate. Committee on Finance. *Giving Certain Social Security Benefits to Survivors of World War II Veterans: Report to Accompany S. 2204.* (S.Rept. 1438, 79th Cong., 2d sess.)

A National Health Program: *Message From the President, November 19, 1945.* (H.Doc. 380, 79th Cong., 1st sess.)

WAR AND EMERGENCY POWERS—TERMINATION

SENATE COMMITTEE ON THE JUDICIARY

Senate Report No. 339, June 23, 1947

THE Committee on the Judiciary, to whom was referred the joint resolution (S. J. Res. 123) declaring that in interpreting certain acts of Congress, joint resolutions, and proclamations World War II, the limited emergency, and the unlimited emergency shall be construed as terminated and peace established, having considered same, do now

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report the joint resolution to the Senate favorably, with an amendment to the text in the nature of a substitute, and recommend that the joint resolution, as amended, do pass.

PART 1

STATEMENT

The purpose of this joint resolution is to repeal, or otherwise terminate, operations under, certain war and emergency statutory provisions which are no longer essential.

In recognition of the interest of all its standing committees in this subject, the Senate, on January 8, 1947, adopted Senate Resolution 35, which directed each standing committee to make a full and complete study of all existing temporary and permanent emergency and war-time legislation within its jurisdiction and to transmit its recommendations to the Committee on the Judiciary for review and correlation.

The Committee on the Judiciary has had the problem of terminating war and emergency statutes under continuing study for a considerable period of time. In the course of the study the chairman of the committee caused to be compiled a list of all provisions of Federal statutes affected by the termination of hostilities, the war, or the emergencies as proclaimed by the President (S. Doc. No. 5). Thereafter the Attorney General correlated and presented the views of the interested agencies of the executive branch of the Government on the statutes set forth in Senate Document 5. The report and recommendations of the Attorney General have been received (S. Doc. 42), and carefully considered by the committee. In the prolonged and detailed study made of the various provisions, the committee considered the recommendations contained in Senate Document No. 42 and the recommendations in the reports of the standing committees. The committee has also had numerous consultations and conferences with representatives of the Government agencies and has given careful consideration to the views of interested private agencies and persons. A public hearing in which full opportunity to testify was afforded all interested persons was held on June 10, 1947. The committee desires to express its recognition of the cooperation of representatives of the Department of Justice in this matter.

On the basis of all the information developed as a result of the foregoing procedure, the committee has concluded that while it is necessary to continue in effect a number of war and emergency statutory provisions, a large number of such provisions should now be repealed or operations thereunder terminated. Senate Joint Resolution 123 as introduced on June 5, 1947, was prepared primarily for the purpose of establishing a basis upon which the committee might found its final conclusions.

The committee recommends that the termination of war and emergency statutory provisions should be made in positive terms. Accordingly, the resolution in the amended form reported out by the committee provides specifically for the repeal or other termination of the provisions of law granting war or emergency powers which should be

terminated at this time. In this form the resolution leaves no doubt as to its exact operation.

Section 1 of the resolution would accomplish the immediate repeal of 60 statutory provisions, which include the bulk of all the temporary statutes enacted since the beginning of World War II.

Section 2 amends 16 additional statutory provisions so as to effect their repeal at a fixed time in the future which will permit a necessary period for conversion to peacetime operations. The termination provisions in these statutes would no longer be related to a war or emergency, but the statutes would be amended so that they would expire on the dates provided in the resolution.

Section 3 of the resolution, which lists 108 statutory provisions, provides that in the interpretation of these provisions the time when the resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941. Nearly all of the provisions affected by this section are permanent legislation. Most of them are effective only during the periods of war or emergency. A few provide that the statutory authority will continue for a specified period after the termination of war or an emergency. The section will have the effect of terminating immediately operations under the statutory provisions which are in effect only during a period of war or emergency. Authority under provisions which by their terms remain in effect for a specified period after the termination of the war or emergency will terminate at the end of that specified period. The permanent statutes affected by the section will remain as permanent legislation for use again upon the occurrence of the contingency provided for by their terms.

Section 4 amends a provision of the Internal Revenue Code to require the resumption of the filing of Federal income-tax returns and the payment of Federal income taxes by the China Trade Corporation on January 1, 1948.

Section 5 provides that nothing contained in the resolution shall be held to exempt from prosecution or to relieve from punishment any offense committed in violation of any act.

Senate Document No. 5 listed 542 temporary and emergency and wartime provisions of law. The committee has found that as of the time of the making of this report, 44 of these had already expired or been repealed or similarly affected, many on March 31, 1947, others upon the President's proclamation of the cessation of hostilities. Seventy provisions will expire on a definite date already fixed by Congress in the terms of the provisions themselves. Seventy-one are not war measures in the sense in which that term is usually interpreted, but relate to agricultural programs of the United States, provide rights for veterans, or pertain to other similar matters. Another group of statutory provisions set out in Senate Document No. 5 consists of those which relate to matters upon which legislation is now pending before the Congress. Nearly all of these pertain to the organization of the armed services. The committee felt that it would be inappropriate to repeal or otherwise terminate these provisions and thus interfere with the de-

liberations of the other standing committees of the Senate in matters pending before them.

CONCLUSION

Your committee has decided that all aspects of the problem of termination of war and emergency statutes have been thoroughly examined, and that the extensive investigations, conferences, hearings, and deliberations have provided a basis for intelligent legislative action. The need for this action is urgent in that the amended Senate Joint Resolution 123 will do a great deal toward returning the machinery and operations of the Government from a war and emergency status to a permanent peacetime basis.

PART II

This part sets out each statutory provision which appears in Senate Document 42 and includes thereafter information as to whether, and how, each such provision is affected by Senate Joint Resolution 123, as amended. The term "unaffected" denotes that the resolution has no effect upon the provision; the term "repealed" indicates that the resolution effects the immediate repeal of the provision, or amends it so as to provide for its expiration on a future date, without relation to the existence of war or an emergency; and the term "terminated" denotes that the resolution has the effect of lapsing the authority under the provision to the extent that such authority depends upon the existence of war heretofore declared by the Congress or the emergencies declared by the President on September 8, 1939, and May 27, 1941. Permanent statutory provisions in the "terminated" category are not repealed by the resolution, but remain in the body of permanent law, the authority thereunder becoming again available upon the occurrence of the contingencies provided for in their terms.

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(c) Social-security taxes

332. Postponement of date for automatic increase in rates of social-security taxes under Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400 and 1410 until January 1, 1948.

August 10, 1939 (53 Stat. 1381, sec. 601; 1383, sec. 604, ch. 666).

Unaffected. This provision is not a war measure.

333. Amendment to section 1426 (i) of the Internal Revenue Code to the effect that the Administrator of the War Shipping Administration and the United States Maritime Commission are to make payments of tax imposed under section 1410 (the employer's tax), without regard to the $3,000 limitation in section 1426 (a, 1), etc., with respect to employment prior to termination of title I of the First War Powers Act (6 months after the war).

March 24, 1945 (59 Stat. 38, ch. 36).

Unaffected. Inasmuch as legislation extending the general agency authorities of the Maritime Commission is presently before the Congress no action was taken by the committee with respect to this provision.

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7. NATIONAL SOCIAL SECURITY

358. Exclusion of income from agricultural labor, and nursing, in considering State payments of old-age assistance, until the seventh month after termination of hostilities.

April 29, 1943 (57 Stat. 72, ch. 82), February 14, 1944 (58 Stat. 15, ch. 16, sec. 5 (f), amended April 25, 1945 (59 Stat. 80, ch. 95)).

Unaffected. The date for the termination of this provision has already been fixed and no action was taken by the committee which would have the effect of changing such date.

359. Until January 1, 1948, provisions for State coverage of maritime workers under State unemployment compensation laws are not to operate to invalidate provisions in State law in force on August 10, 1946.

August 10, 1946 (Public Law 719, sec. 301), adding section 1606 (f) to Internal Revenue Code.

Unaffected. This provision is not a war or emergency statute.

360. Reconversion unemployment benefits for seamen authorized until July 1, 1949, adding sections 1301–1306 to social-security law.

August 10, 1946 (Public Law 719, sec. 306).

Unaffected. This statute already has a fixed termination date and no action was taken by the committee to affect such date.

361. Time limit for application for lump-sum payments under section 204 of the Social Security Act, as enacted in 1935 or section 902 (g) of the Social Security Act amendments of 1939, February 10, 1947.

August 10, 1946 (Public Law 719, sec. 415).

Unaffected. This provision has already expired.

362. Increased social-security grants to States for old-age assistance, aid to dependent children, and aid to the blind, until January 1, 1948.

August 10, 1946 (Public Law 719, secs. 501–504).

Unaffected. This provision already contains a definite terminal date and no action was taken by the committee with respect to changing such date.

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373. Until 4 years after the termination of the present war, in event of the death of a veteran of World War II within 3 years after separation from active military or naval service, he is to be deemed to have been fully insured and to have been paid certain wages.

August 10, 1946 (Public Law 716, sec. 201, "sec. 210.")

Terminated. The resolution has the effect of terminating the war for the purposes of this provision. This will have the effect of beginning the running of the 4-year period prescribed in the statute.

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The PRESIDING OFFICER. Is there objection?

Mr. WHERRY. Reserving the right to object, it is understood the pending business will be resumed after the joint resolution in charge of the Senator from Wisconsin shall have been disposed of?

The PRESIDING OFFICER. That is understood by the occupant of the chair at the present moment.

Is there objection to the request of the Senator from Wisconsin?

There being no objection, the Senate proceeded to consider the joint resolution (S. J. Res. 123) declaring that in interpreting certain acts of Congress, joint resolutions, and proclamations World War II, the limited emergency, and the unlimited emergency shall be construed as terminated and peace established, which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and to insert:

That the following statutory provisions are hereby repealed:

Act of June 10, 1942 (56 Stat. 351);

Section 207, title II, act of September 21, 1944 (58 Stat. 736);

Act of March 5, 1940 (50 Stat. 45), as amended;

Section 609, act of July 1, 1944 (58 Stat. 714, ch. 373);

Act of October 1, 1942 (56 Stat. 763, ch. 573);

Sections 2, 3, and 4, act of July 8, 1942 (56 Stat. 649);

Act of April 16, 1943 (57 Stat. 65), as amended;

Act of September 29, 1942 (56 Stat. 760);

Section 61 (b) of the National Defense Act of June 3, 1916, as added by the act of June 26, 1944 (58 Stat. 359, ch. 279);

Section 21 of the act of February 16, 1914 (38 Stat. 289);

Act of January 15, 1942 (56 Stat. 5, ch. 3);

Act of June 3, 1941 (55 Stat. 238, ch. 162), as amended;

The provision in the act of June 11, 1940, making appropriations for the Navy Department for the fiscal year 1941, under the heading "Bureau of Supplies and Accounts, pay, subsistence, and transportation of naval personnel," prohibiting the payment of active-duty pay and allowances to retired officers except during the war or national emergency (54 Stat. 265, 275);

The provision in the act of February 7, 1942 (56 Stat. 68), under the heading "Marine Corps—Pay of officers, active list," relating to the availability of funds for the payment of active-duty pay to retired officers;

Section 2 of the act of February 15, 1879 (20 Stat. 295);

Act of May 29, 1945 (59 Stat. 226, ch. 137);

The provisions under the headings "Bureau of Engineering" and "Bureau of Construction and Repair," in the act of June 11, 1940 (54 Stat. 293), authorizing the Secretary of the Navy to exceed the statutory limit on repair and alterations to vessels commissioned or converted to meet the existing emergency;

Act of November 29, 1940 (54 Stat. 1219, ch. 923), as extended by the act of May 15, 1945 (59 Stat. 168, ch. 127);

The proviso of the act of February 7, 1942 (56 Stat. 63), that no officer of the Navy or Marine Corps who has been or hereafter may be adjudged fitted shall be involuntarily retired prior to 6 months subsequent to the termination of the existing national emergency;

Act of December 2, 1944 (58 Stat. 793);

Act of February 21, 1942 (56 Stat. 97, ch. 107);

Act of April 9, 1943 (57 Stat. 61, ch. 40);

The proviso of the act of June 26, 1940 (54 Stat. 599), under the heading "Council of National Defense," that until such time as the President shall declare the present emergency at an end the head of any department or independent establishment of the Government, notwithstanding the provisions of existing law, may employ, with the approval of the President, any person of outstanding experience and ability at a compensation of $1 per annum;

The provision of the act of July 2, 1942 (56 Stat. 548), as amended, which permits the Secretary of the Interior, or any official to whom he may delegate such authority, to appoint, without regard to the Classification Act of 1923, as amended, skilled and unskilled laborers, mechanics, and other persons engaged in a recognized trade or craft, including foremen of such groups;

Act of December 22, 1942 (56 Stat. 1070, ch. 801);

The provisions under the heading "Department of Agriculture, Surplus Marketing Administration," and "Department of the Interior, Government in the Territories," contained in the act of December 23, 1941 (55 Stat. 855, 856–857);

Section 8 of the act of June 9, 1943 (57 Stat. 126);

Section 301 of the act of September 9, 1940 (54 Stat. 884), as amended;

The provision in the First Deficiency Appropriation Act of 1942, under the heading "Selective Service System," relating to the presentation of quarterly reports to the Postmaster General (56 Stat. 101);

Act of July 9, 1943 (57 Stat. 390, ch. 209);

Section 5 of the act of June 28, 1944 (58 Stat. 394);

Section 2883 (c) of the Internal Revenue Code, added by the act of January 24, 1942 (56 Stat. 17);

Section 2883 (d) and (e) of the Internal Revenue Code, added by the act of March 27, 1942 (56 Stat. 187);

Act of December 20, 1944 (58 Stat. 817, ch. 609);

The provision in the Interior Department Appropriation Act, 1945, under the heading "Water conservation and utilization projects," relating to the use of the services or labor of prisoners of war, enemy aliens, and American-born Japanese (58 Stat. 463, 491);

Section 6 (b) of the act of March 11, 1941 (55 Stat. 33), as amended;

Act of December 17, 1941 (55 Stat. 808, ch. 588), as amended;

Section 606 (h) of the Communications Act of 1934, added by the act of December 29, 1942 (56 Stat. 1096);

Act of April 29, 1942 (56 Stat. 265, ch. 266);

Act of May 14, 1940 (54 Stat. 216, ch. 201), as amended;

Act of June 11, 1940 (54 Stat. 306, ch. 327), as amended;

Act of June 29, 1940 (54 Stat. 689, ch. 447), as amended;

Act of October 10, 1940 (54 Stat. 1092, ch. 838), as amended;

Act of May 2, 1941 (55 Stat. 148), as amended;

Act of June 14, 1941 (55 Stat. 591, ch. 297), as amended;

Section 3 (1) of the act of March 24, 1943 (57 Stat. 45, 51);

The proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, added by the act of June 17, 1943 (57 Stat. 158);

Section 1 of the act of April 24, 1944 (58 Stat. 216), except that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than 2 years after the date of the approval of this resolution;

Act of April 11, 1942 (56 Stat. 217);

Section 3 of the act of July 11, 1941 (55 Stat. 585);

Act of November 28, 1942 (56 Stat. 1020), as amended;

Act of October 29, 1942 (56 Stat. 1012);

Section 303 of the act of December 18, 1941 (55 Stat. 840);

Section 12 of the act of June 11, 1942 (56 Stat. 357), except that outstanding certificates issued thereunder shall continue in effect for a period of 6 months from the date of the approval of this joint resolution unless sooner revoked;

Act of July 12, 1943 (57 Stat. 520);

Act of June 5, 1942 (56 Stat. 323, ch. 346);

Act of January 2, 1942 (55 Stat. 881, ch. 646);

Act of December 24, 1942 (56 Stat. 1080, ch. 812);

Act of July 8, 1943 (57 Stat. 390, ch. 200);

The provisions of the act of November 19, 1941 (55 Stat. 765), as amended, relating to the availability for expenditure of funds appropriated pursuant to said act, as amended.

SEC. 2. Notwithstanding the termination date or termination period heretofore provided therefor by law, the following statutory provisions are repealed effective upon the date hereinafter specified, or upon the expiration of the period hereinafter specified, and shall remain in full force and effect until such date or until the expiration of such period. Such statutory provisions are hereby amended accordingly:

a. Repeal effective July 1, 1948:

Act of July 8, 1941 (55 Stat. 579, ch. 278), and the Act of June 22, 1943 (57 Stat. 161, ch. 137);

Section 2 of the act of November 17, 1941 (55 Stat. 764);

Act of March 13, 1942 (56 Stat. 171);

Act of June 27, 1942 (56 Stat. 461, ch. 455);

Act of July 1, 1943 (57 Stat. 371), and the act of May 14, 1942 (56 Stat. 278), as amended;

Act of September 22, 1941 (55 Stat. 728, ch. 414), as amended;

The provision in the Second Supplemental National Defense Appropriation Act, 1943, under the heading "Federal Works Agency, Public Buildings Administration," relating to the authority of the Commissioner of Public Buildings to designate employees as special policemen (56 Stat. 990, 1000);

Act of July 29, 1941 (55 Stat. 606, ch. 326).

b. Repeal effective 6 months after the date of this joint resolution:

Act of January 27, 1942 (56 Stat. 19, ch. 21), as amended);

Act of December 17, 1942 (56 Stat. 1056);

Section 610 (c) of the act of July 1, 1944 (58 Stat. 682, 714);

Act of October 10, 1942 (56 Stat. 780, ch. 588);

Act of June 28, 1944 (58 Stat. 463, ch. 297);

Act of July 9, 1943 (57 Stat. 391, ch. 213), as amended.

c. Repeal effective 1 year after the date of this joint resolution:

Section 1 of the act of July 20, 1942 (56 Stat. 662);

Section 605 (c) of the act of July 1, 1944 (58 Stat. 682, 718).

SEC. 3. In the interpretation of the following statutory provisions, the date when this joint resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941;

Act of July 1, 1941 (55 Stat. 498, as amended;

Act of February 28, 1945 (59 Stat. 9, ch. 15);

Section 86 of the act of June 3, 1916 (39 Stat. 204);

Act of July 2, 1917 (40 Stat. 241), as amended;

Section 16 of the act of June 10, 1920 (41 Stat. 1072);

Act of February 26, 1925 (43 Stat. 984, ch. 340);

Act of April 12, 1926 (44 Stat. 241);

Act of May 29, 1926 (44 Stat. 677, ch. 424);

Section 20 of the act of May 18, 1933 (48 Stat. 68);

The provision of the act of May 15, 1936 (49 Stat. 1292), which authorizes the United States to control and operate the Little Rock Municipal Airport without rental or other charge in time of national emergency;

Act of May 27, 1939 (49 Stat. 1387);

Provisions authorizing the assumption of possession and control of the areas specified in the following statutes or parts of statutes: Section 3 of the act of June 21, 1938 (52 Stat. 834); act of June 20, 1936 (49 Stat. 1557, ch. 636); act of August 19, 1937 (50 Stat. 696, ch. 697); section 4 of the act of February 28, 1933 (47 Stat. 1368);

Section 5 (m) of the act of May 18, 1933 (48 Stat. 62);

Act of December 26, 1941 (55 Stat. 863, ch. 633);

Act of January 26, 1942 (56 Stat. 19);

Section 120 of the act of June 3, 1916 (39 Stat. 213, 214);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 602), under the heading "Lighthouse Service," authorizing the President to transfer vessels, equipment, stations, and personnel of the Lighthouse Service (now Coast Guard under Reorganization Plan No. II) to the jurisdiction of the Navy or War Department;

Section 16 of the act of May 22, 1917 (40 Stat. 87);

Provision of chapter XVIII of the act of July 9, 1918 (40 Stat. 892), as amended by the act of November 21, 1941 (55 Stat. 781, ch. 499), extending the time for examination of accounts of Army disbursing officers;

Section 69 of the National Defense Act of June 3, 1916, as amended by section 7 of the act of June 15, 1933 (48 Stat. 156);

The provision authorizing the extension of enlistments in the Regular Army or the Enlisted Reserve Corps, in force at the outbreak of war or entered into during its continuation, for 6 months after its termination, contained in the act of March 15, 1940 (54 Stat. 53, ch. 61);

Act of May 14, 1940 (54 Stat. 213);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 571);

Chapter II, articles 2 (d), 48, 58, 59, 74, 75, 76, 77, 78, 79, 104, and 119 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Paragraph 3 of section 127a as added to the act of June 3, 1916 (39 Stat. 166), by section 51 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Revised Statutes, 1166;

The fourth proviso of section 18 of the act of February 2, 1901 (31 Stat. 748, ch. 192);

Provision of the act of July 9, 1918 (40 Stat. 861), making appropriations for the Army for the fiscal year 1919, under the heading "Barracks and Quarters," authorizing the Secretary of War to rent or lease buildings in the District of Columbia necessary for military purposes;

Section 111 of the act of June 3, 1916 (39 Stat. 211), as amended;

Section 363 of title III of the act of July 1, 1944 (58 Stat. 682, ch. 373);

Act of December 26, 1941 (55 Stat. 862, ch. 629), as amended by the act of December 23, 1944 (ch. 720, 58 Stat. 923);

Act of February 20, 1942 (56 Stat. 94);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 581), under heading "Officers for Engineering Duty Only," authorizing the Secretary of the Navy to recall to active duty enlisted men on furlough without pay to complete the enlistment period;

Act of August 18, 1941 (55 Stat. 629);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 570);

Revised Statutes, 1420, as amended by section 2 of the act of January 20, 1944 (58 Stat. 4, ch. 2);

Provision of the act of August 29, 1916 (39 Stat. 614), which authorizes Marine Corps training camps for the instruction of citizens to be in existence for a period longer than 6 weeks in each fiscal year in time of actual or threatened war;

Revised Statutes, 1624, article 4, paragraphs 6, 7, 12–20, and article 5;

Act of March 22, 1943 (57 Stat. 41);

Revised Statutes, 1462–1464;

Provision of the Naval Appropriation Act for the fiscal year ending June 30, 1917 (act of August 29, 1916, 39 Stat. 591), under the heading "Fleet Naval Reserve," authorizing the Secretary of the Navy to call retired enlisted men into active service;

Provisions contained in the act of July 1, 1918 (40 Stat. 717), as amended (14 U. S. C. 164, 165), which authorize commissioned or warrant officers on the retired list to be ordered to active duty and to be temporarily advanced on the retired list, so far as such provisions pertain to personnel of the Coast Guard;

Act of April 8, 1946 (Public Law 337, 79th Cong.);

Section 4 (c) of the act of August 10, 1946 (Public Law 720, 79th Cong.);

Revised Statutes, 1436;

First proviso of section 18 of the act of May 22, 1917 (40 Stat. 84, 89);

Act of October 6, 1917 (40 Stat. 393, ch. 93), as amended;

Section 11 (c) of the act of June 23, 1938 (52 Stat. 948);

Section 10 of the act of June 14, 1940 (54 Stat. 394);

Section 18 of the act of August 2, 1946 (Public Law 604, 79th Cong.);

Provisions of the act of March 4, 1917 (39 Stat. 1192–1193); the act of May 13, 1942 (56 Stat. 277, ch. 304); sections 3 and 4 of the act of July 9, 1942 (56 Stat. 656); the act of June 17, 1943 (57 Stat. 156, ch. 128); the act of June 26, 1943 (57 Stat. 209); and the act of May 31, 1944 (58 Stat. 265, ch. 218), which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft, and other vessels;

Section 10 of the act of May 14, 1930 (46 Stat. 329, 332);

Act of May 29, 1930 (46 Stat. 479, ch. 350);

Section 7 of the act of April 26, 1898 (30 Stat. 365);

Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended;

Sections 3 and 12 of the act of February 21, 1946 (Public Law 305, 79th Cong.);

Section 1 of the act of July 20, 1942 (56 Stat. 662, ch. 508), as amended;

Act of December 17, 1942 (56 Stat. 1056, ch. 763);

Act of March 17, 1916 (39 Stat. 36, ch. 46);

Act of April 11, 1898 (30 Stat. 737);

Act of March 3, 1925 (43 Stat. 1109, 1110);

Section 1 of the act of July 2, 1940 (54 Stat. 724, ch. 516);

Section 4 of the act of July 7, 1943 (57 Stat. 388);

Act of May 18, 1946 (Public Law 385, 79th Cong.);

Section 2 of the act of August 8, 1946 (Public Law 697, 79th Cong.);

Section 4 (b) of the act of July 2, 1940 (54 Stat. 712, 714);

Act of December 17, 1942 (56 Stat. 1052);

Section 3 of the act of June 27, 1944 (58 Stat. 387, ch. 287);

Act of December 23, 1944 (58 Stat. 926, ch. 726);

Act of March 7, 1942 (56 Stat. 143, ch. 166), as amended;

Section 1 of the act of December 7, 1945 (59 Stat. 603, 604);

Act of December 10, 1942 (56 Stat. 1045);

Act of December 26, 1941 (55 Stat. 858), as amended, except that the Commissioners of the District of Columbia may continue to exercise the authority under sections 7 and 9 of such act, as amended, until not later than June 30, 1948, and the provisions of sections 11 and 12 of such act, as amended, shall continue to apply to cases in which the authority under sections 7 and 9 is exercised;

Proviso of section 303 (c) of the act of October 14, 1944, as added by the act of February 18, 1946 (Public Law 301, 79th Cong.);

Sections 119 and 156 of the act of October 21, 1942 (56 Stat. 814, 852–856);

Section 500 (a) of the act of July 22, 1944 (58 Stat. 291, ch. 268), as amended;

Section 201 of the act of August 10, 1946 (Public Law 719, 79th Cong.);

Act of July 31, 1945 (59 Stat. 511, ch. 338);

Section 6 of the act of February 4, 1887 (24 Stat. 379), as amended;

Provision of the act of August 29, 1916 (39 Stat. 619, 645), which empowers the President in time of war to take control of transportation systems;

Subsection (15) of section 402 of the act of February 28, 1920 (41 Stat. 477 (15));

Section 420 of the act of May 16, 1942 (56 Stat. 298);

Act of July 30, 1941 (55 Stat. 610);

Section 606 of the act of June 19, 1934 (48 Stat. 1104), as amended;

Section 4 of the act of July 15, 1918 (40 Stat. 901), as amended;

Sections 302 (h) and 712 (d) of the act of June 29, 1936 (49 Stat. 1993 and 2010);

Sections 1 (d) and 3 (a) of the act of August 7, 1939 (53 Stat. 1254 and 1255);

Section 2 of the act of October 22, 1914 (38 Stat. 765, ch. 334); act of May 10, 1943 (57 Stat. 82);

Section 1 (b) and subsections 2 (a), 2 (b), and 2 (c) of the act of August 8, 1946 (Public Law 660, 79th Cong.);

Section 1 of the act of January 28, 1915 (38 Stat. 800–801);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 600), under heading "Coast Guard," subjecting personnel of the Coast Guard operating as part of the Navy to the laws governing the Navy;

Section 1 of title II of the act of June 15, 1917 (40 Stat. 220);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 601), under heading "Coast Guard," authorizing the Secretary of the Navy to man any Coast Guard station or maintain any house of refuge as a Coast Guard station;

Title II of the act of February 19, 1941 (55 Stat. 11), as amended;

Act of December 16, 1941 (55 Stat. 807, ch. 586);

Provisions appearing under the heading "Limitations upon prosecutions," relating to crimes committed 2 years before arraignment, except for desertion committed in time of war, of the act of June 4, 1920 (41 Stat. 794);

Act of July 1, 1944 (58 Stat. 677, ch. 368);

Section 1 of the act of October 9, 1940 (54 Stat. 1061, ch. 788);

Section 2 of the act of June 19, 1912 (37 Stat. 138);

Provision of Naval Appropriation Act for the year 1918 (act of March 4, 1917, 39 Stat. 1192), authorizing the President to suspend provisions of the 8-hour law to contracts with the United States;

Section 6 of the act of March 3, 1931, as added by the act of August 30, 1935 (49 Stat. 1013, ch. 825);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 558), under heading "Pay, miscellaneous," for the admission for treatment of interned persons and prisoners of war, under the jurisdiction of the Navy Department, to the Government Hospital for the Insane;

Section 604 of the act of July 1, 1944 (58 Stat. 712, ch. 373);

Section 400 (b) of the act of June 22, 1944 (58 Stat. 288), as amended;

Act of July 11, 1946 (Public Law 499, 79th Cong.);

Act of July 9, 1942 (56 Stat. 654);

Act of June 19, 1936 (49 Stat. 1535).

SEC. 4. The first sentence of section 3805 of the Internal Revenue Code, as added by section 507 (a) of the act of October 21, 1942 (56 Stat. 798, 963), is hereby amended to read as follows:

"In the case of any taxable year beginning after December 31, 1940, no Federal income tax return of, or payment of any Federal income tax by, any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U. S. C., title 15, ch. 4), shall become due until January 1, 1948."

SEC. 5. Nothing herein contained shall be held to exempt from prosecution or to relieve from punishment any offense heretofore committed in violation of any act.

Mr. WILEY. Mr. President, the purpose of the joint resolution is to repeal or otherwise terminate operations under certain war and emergency statutory provisions which are no longer needed for the proper functioning of various agencies and departments of the Government.

In recognition of the interest of all its standing committees in this subject, the Senate, on January 8, 1947, adopted Senate Resolution 35, which directed each standing committee to make a full and complete study of all existing temporary and permanent emergency and wartime legislation within its jurisdiction, and to transmit its recommendations to the Committee on the Judiciary for review and correlation.

The Committee on the Judiciary has had the problem of terminating war and emergency statutes under continuing study for a considerable period of time. In the course of its study the committee caused to be compiled a list of all provisions of Federal statutes affected by the termination of hostilities, the war, or emergency, and that list has been printed as Senate Document No. 5.

Thereafter the Attorney General correlated and presented the views of the interested agencies of the executive branch of the Government on the statutes set forth in Senate Document No. 5. The report and recommendations of the Attorney General have been received, and are printed as Senate Document No. 42, and then were carefully considered by the committee.

In the prolonged and detailed study made of the various provisions, the committee considered the recommendations contained in Senate Document No. 42 and the recommendations in the reports of the standing committees. The committee has also had numerous consultations and conferences with representatives of the Government agencies, and has given careful consideration to the views of interested private agencies and persons. A public hearing, in which full opportunity to testify was afforded all interested persons, was also held on June 10, 1947.

On the basis of all the information developed as a result of the foregoing procedure, the committee has concluded that while it is necessary to continue in effect some of the war and emergency statutory provisions, a large number of such provisions should now be repealed or operations thereunder terminated. Senate Joint Resolution 123, as introduced on June 5, 1947, was prepared only for the purpose of establishing a basis upon which the committee might found its final conclusions.

The committee recommends that the termination of war and emergency statutory provisions should be made in positive terms. Accordingly, the joint resolution in the amended form reported out by the committee provides specifically for the repeal or other termination of the provisions of law granting war or emergency powers which should be terminated at this time. In this form the joint resolution leaves no doubt as to its exact operation.

Section 1 of the joint resolution would accomplish the immediate repeal of 60 statutory provisions, which include the bulk of all the temporary statutes enacted since the beginning of World War II.

Section 2 amends 16 additional statutory provisions so as to effect their repeal at a fixed time in the future, which will permit a necessary period for conversion to peacetime operations. The termination provisions in these statutes would no longer be related to a war or emergency, but the statutes would be amended so that they would expire on the dates provided in the resolution.

Section 3 of the joint resolution, which lists 108 statutory provisions, provides that in the interpretation of these provisions the time when the joint resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941. Nearly all the provisions affected by this section are permanent legislation. Most of them are effective only during the periods of war or emergency. A few provide that the statutory authority shall continue for a specified period after the termination of war or an emergency. The section will have the effect of terminating immediately operations under the statutory provisions which are in effect only during a period of war or emergency. Authority under provisions which by their terms remain in effect for a specified period after the termination of the war or emergency will terminate at the end of that specified period. The permanent statutes affected by the section will remain as permanent legislation for use again upon the occurrence of the contingency provided for by their terms.

Section 5 provides that nothing contained in the resolution shall be held to exempt from prosecution or to relieve from punishment any offense committed in violation of any act.

Senate Document No. 5, prepared by this committee in the course of its study of the problem of terminating war controls, listed 542 temporary and emergency and wartime provisions of law. The committee has found that 44 of these have already or expired or been repealed or similarly affected, many on March 31, 1947, others upon the President's proclamation of the cessation of hostilities. Seventy provisions will expire on a definite date already fixed by Congress in the terms of the provisions themselves. Seventy-one are not war measures in the sense in which that term is usually interpreted, but relate to agricultural programs of the United States, provide rights for veterans, or pertain to other similar matters. Another group of statutory provisions set out in Senate Document No. 5 consists of those which relate to matters upon which legislation is now pending before the Congress. Nearly all of these pertain to the organization of the armed services. The committee felt that it would be inappropriate to repeal or otherwise terminate these provisions and thus interfere with the deliberations of the other standing committees of the Senate in matters pending before them.

SUMMARY

Briefly, the joint resolution has the effect of repealing immediately 60 statutory provisions, of effecting the repeal within 1 year of 16 additional statutory provisions, and of terminating operations under 108 further statutory provisions so far as those operations depend upon the existence of war heretofore declared by the Congress or the emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Of the war and emergency statutes not affected by the resolution, a large number will terminate at some definite time in the future by reason of provisions already contained in them. Another group are not affected by the resolution because they are presently the subject of deliberations of standing committees of the Senate other than the Judiciary Committee.

CONCLUSION

The committee has decided that all aspects of the problem of termination of war and emergency statutes have been thoroughly examined, and that the extensive investigations, conferences, hearings, and deliberations have provided a basis for intelligent legislative action. The need for this action is urgent in that the amended Senate Joint Resolution 123 will do a great deal toward returning the machinery and operations of the Government from a war and emergency status to a permanent peacetime basis.

For the foregoing reasons, the Committee on the Judiciary reports Senate Joint Resolution 123, as amended, by unanimous consent, and urges that it be adopted.

Mr. President, there is on the desk of each Senator the report of the committee, which contains the bill and the substance of the statement I have already given to the Senate. I want to say, briefly, that it will be remembered that in January the program was developed, and a general resolution was adopted whereby there was referred to the various committees the question of determining what in their judgment should be done in relation to statutes or laws that had special application to the jurisdiction possessed by those committees. The committees functioned and reported, in accordance with the resolution, to the Committee on the Judiciary. The Committee on the Judiciary then proceeded to screen all the information it received from the committees; it proceeded to screen the information it had received from the executive departments of the

TERMINATION OF CERTAIN EMERGENCY AND WAR POWERS

Mr. WILEY. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside, and that the Senate proceed to the consideration of Calendar No. 346, Senate Joint Resolution 123, declaring that in interpreting certain acts of Congress, joint resolutions, and proclamations World War II, the limited emergency, and the unlimited emergency shall be construed as terminated and peace established.

The PRESIDING OFFICER. Is there objection?

Mr. WHERRY. Reserving the right to object, it is understood the pending business will be resumed after the joint resolution in charge of the Senator from Wisconsin shall have been disposed of?

The PRESIDING OFFICER. That is understood by the occupant of the chair at the present moment.

Is there objection to the request of the Senator from Wisconsin?

There being no objection, the Senate proceeded to consider the joint resolution (S. J. Res. 123) declaring that in interpreting certain acts of Congress, joint resolutions, and proclamations World War II, the limited emergency, and the unlimited emergency shall be construed as terminated and peace established, which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and to insert:

That the following statutory provisions are hereby repealed:

Act of June 10, 1942 (56 Stat. 351);

Section 207, title II, act of September 21, 1944 (58 Stat. 736);

Act of March 5, 1940 (50 Stat. 45), as amended;

Section 609, act of July 1, 1944 (58 Stat. 714, ch. 373);

Act of October 1, 1942 (56 Stat. 763, ch. 573);

Sections 2, 3, and 4, act of July 8, 1942 (56 Stat. 649);

Act of April 16, 1943 (57 Stat. 65), as amended;

Act of September 29, 1942 (56 Stat. 760);

Section 61 (b) of the National Defense Act of June 3, 1916, as added by the act of June 26, 1944 (58 Stat. 359, ch. 279);

Section 21 of the act of February 16, 1914 (38 Stat. 289);

Act of January 15, 1942 (56 Stat. 5, ch. 3);

Act of June 3, 1941 (55 Stat. 238, ch. 162), as amended;

The provision in the act of June 11, 1940, making appropriations for the Navy Department for the fiscal year 1941, under the heading "Bureau of Supplies and Accounts, pay, subsistence, and transportation of naval personnel," prohibiting the payment of active-duty pay and allowances to retired officers except during the war or national emergency (54 Stat. 265, 275);

The provision in the act of February 7, 1942 (56 Stat. 68), under the heading "Marine Corps—Pay of officers, active list," relating to the availability of funds for the payment of active-duty pay to retired officers;

Section 2 of the act of February 15, 1879 (20 Stat. 295);

Act of May 29, 1945 (59 Stat. 226, ch. 137);

The provisions under the headings "Bureau of Engineering" and "Bureau of Construction and Repair," in the act of June 11, 1940 (54 Stat. 293), authorizing the Secretary of the Navy to exceed the statutory limit on repair and alterations to vessels commissioned or converted to meet the existing emergency;

Act of November 29, 1940 (54 Stat. 1219, ch. 923), as extended by the act of May 15, 1945 (59 Stat. 168, ch. 127);

The proviso of the act of February 7, 1942 (56 Stat. 63), that no officer of the Navy or Marine Corps who has been or hereafter may be adjudged fitted shall be involuntarily retired prior to 6 months subsequent to the termination of the existing national emergency;

Act of December 2, 1944 (58 Stat. 793);

Act of February 21, 1942 (56 Stat. 97, ch. 107);

Act of April 9, 1943 (57 Stat. 61, ch. 40);

The proviso of the act of June 26, 1940 (54 Stat. 599), under the heading "Council of National Defense," that until such time as the President shall declare the present emergency at an end the head of any department or independent establishment of the Government, notwithstanding the provisions of existing law, may employ, with the approval of the President, any person of outstanding experience and ability at a compensation of $1 per annum;

The provision of the act of July 2, 1942 (56 Stat. 548), as amended, which permits the Secretary of the Interior, or any official to whom he may delegate such authority, to appoint, without regard to the Classification Act of 1923, as amended, skilled and unskilled laborers, mechanics, and other persons engaged in a recognized trade or craft, including foremen of such groups;

Act of December 22, 1942 (56 Stat. 1070, ch. 801);

The provisions under the heading "Department of Agriculture, Surplus Marketing Administration," and "Department of the Interior, Government in the Territories," contained in the act of December 23, 1941 (55 Stat. 855, 856–857);

Section 8 of the act of June 9, 1943 (57 Stat. 126);

Section 301 of the act of September 9, 1940 (54 Stat. 884), as amended;

The provision in the First Deficiency Appropriation Act of 1942, under the heading "Selective Service System," relating to the presentation of quarterly reports to the Postmaster General (56 Stat. 101);

Act of July 9, 1943 (57 Stat. 390, ch. 209);

Section 5 of the act of June 28, 1944 (58 Stat. 394);

Section 2883 (c) of the Internal Revenue Code, added by the act of January 24, 1942 (56 Stat. 17);

Section 2883 (d) and (e) of the Internal Revenue Code, added by the act of March 27, 1942 (56 Stat. 187);

Act of December 20, 1944 (58 Stat. 817, ch. 609);

The provision in the Interior Department Appropriation Act, 1945, under the heading "Water conservation and utilization projects," relating to the use of the services or labor of prisoners of war, enemy aliens, and American-born Japanese (58 Stat. 463, 491);

Section 6 (b) of the act of March 11, 1941 (55 Stat. 33), as amended;

Act of December 17, 1941 (55 Stat. 808, ch. 588), as amended;

Section 606 (h) of the Communications Act of 1934, added by the act of December 29, 1942 (56 Stat. 1096);

Act of April 29, 1942 (56 Stat. 265, ch. 266);

Act of May 14, 1940 (54 Stat. 216, ch. 201), as amended;

Act of June 11, 1940 (54 Stat. 306, ch. 327), as amended;

Act of June 29, 1940 (54 Stat. 689, ch. 447), as amended;

Act of October 10, 1940 (54 Stat. 1092, ch. 838), as amended;

Act of May 2, 1941 (55 Stat. 148), as amended;

Act of June 14, 1941 (55 Stat. 591, ch. 297), as amended;

Section 3 (1) of the act of March 24, 1943 (57 Stat. 45, 51);

The proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, added by the act of June 17, 1943 (57 Stat. 158);

Section 1 of the act of April 24, 1944 (58 Stat. 216), except that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than 2 years after the date of the approval of this resolution;

Act of April 11, 1942 (56 Stat. 217);

Section 3 of the act of July 11, 1941 (55 Stat. 585);

Act of November 28, 1942 (56 Stat. 1020), as amended;

Act of October 29, 1942 (56 Stat. 1012);

Section 303 of the act of December 18, 1941 (55 Stat. 840);

Section 12 of the act of June 11, 1942 (56 Stat. 357), except that outstanding certificates issued thereunder shall continue in effect for a period of 6 months from the date of the approval of this joint resolution unless sooner revoked;

Act of July 12, 1943 (57 Stat. 520);

Act of June 5, 1942 (56 Stat. 323, ch. 346);

Act of January 2, 1942 (55 Stat. 881, ch. 646);

Act of December 24, 1942 (56 Stat. 1080, ch. 812);

Act of July 8, 1943 (57 Stat. 390, ch. 200);

The provisions of the act of November 19, 1941 (55 Stat. 765), as amended, relating to the availability for expenditure of funds appropriated pursuant to said act, as amended.

SEC. 2. Notwithstanding the termination date or termination period heretofore provided therefor by law, the following statutory provisions are repealed effective upon the date hereinafter specified, or upon the expiration of the period hereinafter specified, and shall remain in full force and effect until such date or until the expiration of such period. Such statutory provisions are hereby amended accordingly:

a. Repeal effective July 1, 1948:

Act of July 8, 1941 (55 Stat. 579, ch. 278), and the Act of June 22, 1943 (57 Stat. 161, ch. 137);

Section 2 of the act of November 17, 1941 (55 Stat. 764);

Act of March 13, 1942 (56 Stat. 171);

Act of June 27, 1942 (56 Stat. 461, ch. 455);

Act of July 1, 1943 (57 Stat. 371), and the act of May 14, 1942 (56 Stat. 278), as amended;

Act of September 22, 1941 (55 Stat. 728, ch. 414), as amended;

The provision in the Second Supplemental National Defense Appropriation Act, 1943, under the heading "Federal Works Agency, Public Buildings Administration," relating to the authority of the Commissioner of Public Buildings to designate employees as special policemen (56 Stat. 990, 1000);

Act of July 29, 1941 (55 Stat. 606, ch. 326).

b. Repeal effective 6 months after the date of this joint resolution:

Act of January 27, 1942 (56 Stat. 19, ch. 21), as amended);

Act of December 17, 1942 (56 Stat. 1056);

Section 610 (c) of the act of July 1, 1944 (58 Stat. 682, 714);

Act of October 10, 1942 (56 Stat. 780, ch. 588);

Act of June 28, 1944 (58 Stat. 463, ch. 297);

Act of July 9, 1943 (57 Stat. 391, ch. 213), as amended.

c. Repeal effective 1 year after the date of this joint resolution:

Section 1 of the act of July 20, 1942 (56 Stat. 662);

Section 605 (c) of the act of July 1, 1944 (58 Stat. 682, 718).

SEC. 3. In the interpretation of the following statutory provisions, the date when this joint resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941;

Act of July 1, 1941 (55 Stat. 498, as amended;

Act of February 28, 1945 (59 Stat. 9, ch. 15);

Section 86 of the act of June 3, 1916 (39 Stat. 204);

Act of July 2, 1917 (40 Stat. 241), as amended;

Section 16 of the act of June 10, 1920 (41 Stat. 1072);

Act of February 26, 1925 (43 Stat. 984, ch. 340);

Act of April 12, 1926 (44 Stat. 241);

Act of May 29, 1926 (44 Stat. 677, ch. 424);

Section 20 of the act of May 18, 1933 (48 Stat. 68);

The provision of the act of May 15, 1936 (49 Stat. 1292), which authorizes the United States to control and operate the Little Rock Municipal Airport without rental or other charge in time of national emergency;

Act of May 27, 1939 (49 Stat. 1387);

Provisions authorizing the assumption of possession and control of the areas specified in the following statutes or parts of statutes: Section 3 of the act of June 21, 1938 (52 Stat. 834); act of June 20, 1936 (49 Stat. 1557, ch. 636); act of August 19, 1937 (50 Stat. 696, ch. 697); section 4 of the act of February 28, 1933 (47 Stat. 1368);

Section 5 (m) of the act of May 18, 1933 (48 Stat. 62);

Act of December 26, 1941 (55 Stat. 863, ch. 633);

Act of January 26, 1942 (56 Stat. 19);

Section 120 of the act of June 3, 1916 (39 Stat. 213, 214);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 602), under the heading "Lighthouse Service," authorizing the President to transfer vessels, equipment, stations, and personnel of the Lighthouse Service (now Coast Guard under Reorganization Plan No. II) to the jurisdiction of the Navy or War Department;

Section 16 of the act of May 22, 1917 (40 Stat. 87);

Provision of chapter XVIII of the act of July 9, 1918 (40 Stat. 892), as amended by the act of November 21, 1941 (55 Stat. 781, ch. 499), extending the time for examination of accounts of Army disbursing officers;

Section 69 of the National Defense Act of June 3, 1916, as amended by section 7 of the act of June 15, 1933 (48 Stat. 156);

The provision authorizing the extension of enlistments in the Regular Army or the Enlisted Reserve Corps, in force at the outbreak of war or entered into during its continuation, for 6 months after its termination, contained in the act of March 15, 1940 (54 Stat. 53, ch. 61);

Act of May 14, 1940 (54 Stat. 213);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 571);

Chapter II, articles 2 (d), 48, 58, 59, 74, 75, 76, 77, 78, 79, 104, and 119 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Paragraph 3 of section 127a as added to the act of June 3, 1916 (39 Stat. 166), by section 51 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Revised Statutes, 1166;

The fourth proviso of section 18 of the act of February 2, 1901 (31 Stat. 748, ch. 192);

Provision of the act of July 9, 1918 (40 Stat. 861), making appropriations for the Army for the fiscal year 1919, under the heading "Barracks and Quarters," authorizing the Secretary of War to rent or lease buildings in the District of Columbia necessary for military purposes;

Section 111 of the act of June 3, 1916 (39 Stat. 211), as amended;

Section 363 of title III of the act of July 1, 1944 (58 Stat. 682, ch. 373);

Act of December 26, 1941 (55 Stat. 862, ch. 629), as amended by the act of December 23, 1944 (ch. 720, 58 Stat. 923);

Act of February 20, 1942 (56 Stat. 94);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 581), under heading "Officers for Engineering Duty Only," authorizing the Secretary of the Navy to recall to active duty enlisted men on furlough without pay to complete the enlistment period;

Act of August 18, 1941 (55 Stat. 629);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 570);

Revised Statutes, 1420, as amended by section 2 of the act of January 20, 1944 (58 Stat. 4, ch. 2);

Provision of the act of August 29, 1916 (39 Stat. 614), which authorizes Marine Corps training camps for the instruction of citizens to be in existence for a period longer than 6 weeks in each fiscal year in time of actual or threatened war;

Revised Statutes, 1624, article 4, paragraphs 6, 7, 12–20, and article 5;

Act of March 22, 1943 (57 Stat. 41);

Revised Statutes, 1462–1464;

Provision of the Naval Appropriation Act for the fiscal year ending June 30, 1917 (act of August 29, 1916, 39 Stat. 591), under the heading "Fleet Naval Reserve," authorizing the Secretary of the Navy to call retired enlisted men into active service;

Provisions contained in the act of July 1, 1918 (40 Stat. 717), as amended (14 U. S. C. 164, 165), which authorize commissioned or warrant officers on the retired list to be ordered to active duty and to be temporarily advanced on the retired list, so far as such provisions pertain to personnel of the Coast Guard;

Act of April 8, 1946 (Public Law 337, 79th Cong.);

Section 4 (c) of the act of August 10, 1946 (Public Law 720, 79th Cong.);

Revised Statutes, 1436;

First proviso of section 18 of the act of May 22, 1917 (40 Stat. 84, 89);

Act of October 6, 1917 (40 Stat. 393, ch. 93), as amended;

Section 11 (c) of the act of June 23, 1938 (52 Stat. 948);

Section 10 of the act of June 14, 1940 (54 Stat. 394);

Section 18 of the act of August 2, 1946 (Public Law 604, 79th Cong.);

Provisions of the act of March 4, 1917 (39 Stat. 1192–1193); the act of May 13, 1942 (56 Stat. 277, ch. 304); sections 3 and 4 of the act of July 9, 1942 (56 Stat. 656); the act of June 17, 1943 (57 Stat. 156, ch. 128); the act of June 26, 1943 (57 Stat. 209); and the act of May 31, 1944 (58 Stat. 265, ch. 218), which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft, and other vessels;

Section 10 of the act of May 14, 1930 (46 Stat. 329, 332);

Act of May 29, 1930 (46 Stat. 479, ch. 350);

Section 7 of the act of April 26, 1898 (30 Stat. 365);

Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended;

Sections 3 and 12 of the act of February 21, 1946 (Public Law 305, 79th Cong.);

Section 1 of the act of July 20, 1942 (56 Stat. 662, ch. 508), as amended;

Act of December 17, 1942 (56 Stat. 1056, ch. 763);

Act of March 17, 1916 (39 Stat. 36, ch. 46);

Act of April 11, 1898 (30 Stat. 737);

Act of March 3, 1925 (43 Stat. 1109, 1110);

Section 1 of the act of July 2, 1940 (54 Stat. 724, ch. 516);

Section 4 of the act of July 7, 1943 (57 Stat. 388);

Act of May 18, 1946 (Public Law 385, 79th Cong.);

Section 2 of the act of August 8, 1946 (Public Law 697, 79th Cong.);

Section 4 (b) of the act of July 2, 1940 (54 Stat. 712, 714);

Act of December 17, 1942 (56 Stat. 1052);

Section 3 of the act of June 27, 1944 (58 Stat. 387, ch. 287);

Act of December 23, 1944 (58 Stat. 926, ch. 726);

Act of March 7, 1942 (56 Stat. 143, ch. 166), as amended;

Section 1 of the act of December 7, 1945 (59 Stat. 603, 604);

Act of December 10, 1942 (56 Stat. 1045);

Act of December 26, 1941 (55 Stat. 858), as amended, except that the Commissioners of the District of Columbia may continue to exercise the authority under sections 7 and 9 of such act, as amended, until not later than June 30, 1948, and the provisions of sections 11 and 12 of such act, as amended, shall continue to apply to cases in which the authority under sections 7 and 9 is exercised;

Proviso of section 303 (c) of the act of October 14, 1944, as added by the act of February 18, 1946 (Public Law 301, 79th Cong.);

Sections 119 and 156 of the act of October 21, 1942 (56 Stat. 814, 852–856);

Section 500 (a) of the act of July 22, 1944 (58 Stat. 291, ch. 268), as amended;

Section 201 of the act of August 10, 1946 (Public Law 719, 79th Cong.);

Act of July 31, 1945 (59 Stat. 511, ch. 338);

Section 6 of the act of February 4, 1887 (24 Stat. 379), as amended;

Provision of the act of August 29, 1916 (39 Stat. 619, 645), which empowers the President in time of war to take control of transportation systems;

Subsection (15) of section 402 of the act of February 28, 1920 (41 Stat. 477 (15));

Section 420 of the act of May 16, 1942 (56 Stat. 298);

Act of July 30, 1941 (55 Stat. 610);

Section 606 of the act of June 19, 1934 (48 Stat. 1104), as amended;

Section 4 of the act of July 15, 1918 (40 Stat. 901), as amended;

Sections 302 (h) and 712 (d) of the act of June 29, 1936 (49 Stat. 1993 and 2010);

Sections 1 (d) and 3 (a) of the act of August 7, 1939 (53 Stat. 1254 and 1255);

Section 2 of the act of October 22, 1914 (38 Stat. 765, ch. 334); act of May 10, 1943 (57 Stat. 82);

Section 1 (b) and subsections 2 (a), 2 (b), and 2 (c) of the act of August 8, 1946 (Public Law 660, 79th Cong.);

Section 1 of the act of January 28, 1915 (38 Stat. 800–801);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 600), under heading "Coast Guard," subjecting personnel of the Coast Guard operating as part of the Navy to the laws governing the Navy;

Section 1 of title II of the act of June 15, 1917 (40 Stat. 220);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 601), under heading "Coast Guard," authorizing the Secretary of the Navy to man any Coast Guard station or maintain any house of refuge as a Coast Guard station;

Title II of the act of February 19, 1941 (55 Stat. 11), as amended;

Act of December 16, 1941 (55 Stat. 807, ch. 586);

Provisions appearing under the heading "Limitations upon prosecutions," relating to crimes committed 2 years before arraignment, except for desertion committed in time of war, of the act of June 4, 1920 (41 Stat. 794);

Act of July 1, 1944 (58 Stat. 677, ch. 368);

Section 1 of the act of October 9, 1940 (54 Stat. 1061, ch. 788);

Section 2 of the act of June 19, 1912 (37 Stat. 138);

Provision of Naval Appropriation Act for the year 1918 (act of March 4, 1917, 39 Stat. 1192), authorizing the President to suspend provisions of the 8-hour law to contracts with the United States;

Section 6 of the act of March 3, 1931, as added by the act of August 30, 1935 (49 Stat. 1013, ch. 825);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 558), under heading "Pay, miscellaneous," for the admission for treatment of interned persons and prisoners of war, under the jurisdiction of the Navy Department, to the Government Hospital for the Insane;

Section 604 of the act of July 1, 1944 (58 Stat. 712, ch. 373);

Section 400 (b) of the act of June 22, 1944 (58 Stat. 288), as amended;

Act of July 11, 1946 (Public Law 499, 79th Cong.);

Act of July 9, 1942 (56 Stat. 654);

Act of June 19, 1936 (49 Stat. 1535).

SEC. 4. The first sentence of section 3805 of the Internal Revenue Code, as added by section 507 (a) of the act of October 21, 1942 (56 Stat. 798, 963), is hereby amended to read as follows:

"In the case of any taxable year beginning after December 31, 1940, no Federal income tax return of, or payment of any Federal income tax by, any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U. S. C., title 15, ch. 4), shall become due until January 1, 1948."

SEC. 5. Nothing herein contained shall be held to exempt from prosecution or to relieve from punishment any offense heretofore committed in violation of any act.

Mr. WILEY. Mr. President, the purpose of the joint resolution is to repeal or otherwise terminate operations under certain war and emergency statutory provisions which are no longer needed for the proper functioning of various agencies and departments of the Government.

In recognition of the interest of all its standing committees in this subject, the Senate, on January 8, 1947, adopted Senate Resolution 35, which directed each standing committee to make a full and complete study of all existing temporary and permanent emergency and wartime legislation within its jurisdiction, and to transmit its recommendations to the Committee on the Judiciary for review and correlation.

The Committee on the Judiciary has had the problem of terminating war and emergency statutes under continuing study for a considerable period of time. In the course of its study the committee caused to be compiled a list of all provisions of Federal statutes affected by the termination of hostilities, the war, or emergency, and that list has been printed as Senate Document No. 5.

Thereafter the Attorney General correlated and presented the views of the interested agencies of the executive branch of the Government on the statutes set forth in Senate Document No. 5. The report and recommendations of the Attorney General have been received, and are printed as Senate Document No. 42, and then were carefully considered by the committee.

In the prolonged and detailed study made of the various provisions, the committee considered the recommendations contained in Senate Document No. 42 and the recommendations in the reports of the standing committees. The committee has also had numerous consultations and conferences with representatives of the Government agencies, and has given careful consideration to the views of interested private agencies and persons. A public hearing, in which full opportunity to testify was afforded all interested persons, was also held on June 10, 1947.

On the basis of all the information developed as a result of the foregoing procedure, the committee has concluded that while it is necessary to continue in effect some of the war and emergency statutory provisions, a large number of such provisions should now be repealed or operations thereunder terminated. Senate Joint Resolution 123, as introduced on June 5, 1947, was prepared only for the purpose of establishing a basis upon which the committee might found its final conclusions.

The committee recommends that the termination of war and emergency statutory provisions should be made in positive terms. Accordingly, the joint resolution in the amended form reported out by the committee provides specifically for the repeal or other termination of the provisions of law granting war or emergency powers which should be terminated at this time. In this form the joint resolution leaves no doubt as to its exact operation.

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Briefly, the joint resolution has the effect of repealing immediately 60 statutory provisions, of effecting the repeal within 1 year of 16 additional statutory provisions, and of terminating operations under 108 further statutory provisions so far as those operations depend upon the existence of war heretofore declared by the Congress or the emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Of the war and emergency statutes not affected by the resolution, a large number will terminate at some definite time in the future by reason of provisions already contained in them. Another group are not affected by the resolution because they are presently the subject of deliberations of standing committees of the Senate other than the Judiciary Committee.

CONCLUSION

The committee has decided that all aspects of the problem of termination of war and emergency statutes have been thoroughly examined, and that the extensive investigations, conferences, hearings, and deliberations have provided a basis for intelligent legislative action. The need for this action is urgent in that the amended Senate Joint Resolution 123 will do a great deal toward returning the machinery and operations of the Government from a war and emergency status to a permanent peacetime basis.

For the foregoing reasons, the Committee on the Judiciary reports Senate Joint Resolution 123, as amended, by unanimous consent, and urges that it be adopted.

Mr. President, there is on the desk of each Senator the report of the committee, which contains the bill and the substance of the statement I have already given to the Senate. I want to say, briefly, that it will be remembered that in January the program was developed, and a general resolution was adopted whereby there was referred to the various committees the question of determining what in their judgment should be done in relation to statutes or laws that had special application to the jurisdiction possessed by those committees. The committees functioned and reported, in accordance with the resolution, to the Committee on the Judiciary. The Committee on the Judiciary then proceeded to screen all the information it received from the committees; it proceeded to screen the information it had received from the executive departments of the

Government; and it then proceeded to hold conferences. There was a general agreement reached between the departments and the committee, so there is practically no controversial element in the joint resolution.

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

Mr. WILEY. I am happy to yield to the Senator from Massachusetts.

Mr. SALTONSTALL. Am I correct in understanding that we are now discussing the control bill that concerns the continuance of control over manila hemp and other imported fibers?

Mr. WILEY. No; that is order No. 347 on the calendar, Senate bill 1461, a bill to extend certain powers of the President under title III of the Second War Powers Act. We are not discussing that. It is unaffected by the proposed legislation. The Senator from Kentucky [Mr. COOPER] should take up that bill immediately following action on the pending bill. I am informed the Senator from Kentucky is now on his way to the Senate Chamber.

Mr. SALTONSTALL. Then those articles are the subject of another bill that is now before the Committee on the Judiciary, or which the Judiciary Committee has reported; is that not true?

Mr. WILEY. That is correct. That relates to the Second War Powers Act, title III.

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

Mr. WILEY. I am happy to yield.

Mr. LODGE. Is it planned to take up Senate bill 1461 this morning?

Mr. WILEY. I hope that will be done. At least, if I have anything to say about it, we will consider it, for the reason that it is necessary that action on the part of both Houses of Congress and the President be had by the 30th of the month; otherwise there would be a hiatus respecting these matters that might be very detrimental to the functioning of our economy.

Mr. LODGE. So far as the Senator from Wisconsin knows, then, Calendar No. 347, Senate bill 1461, will be considered immediately following the disposition of the bill that is now being discussed?

Mr. WILEY. That is my understanding.

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

Mr. WILEY. Yes; I am happy to yield.

Mr. SALTONSTALL. In furtherance of what my colleague from Massachusetts has just said, I understand that the report on Calendar 347, which is Senate bill 1461, has not yet been printed and is not available, and, therefore, since one of our substantial Massachusetts businesses, employing over 1,000 persons, is vitally interested in the matter, I hope the matter may not come before us until there has been an opportunity at least to see it in printed form.

Mr. WILEY. In reply to that suggestion, I may say that I hope the Senator will not insist that that be done. The bill and the report have been submitted, but the Printing Office has been so swamped that apparently we may not get them promptly. The only question at issue, however, between the Senator and the committee would be the question of so-called control of cordage, and that matter can be discussed very openly and freely; and, whatever the judgment of the Senate is, that matter could even be removed from the bill. But we must get action on the Second War Powers Act.

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

Mr. WILEY. I am happy to yield.

Mr. LODGE. May I understand that the able Senator from Wisconsin would be willing to accept an amendment, even if the bil' is not printed?

Mr. WILEY. The bill is printed, but the report is not printed.

Mr. LODGE. I wanted to inquire whether the Senator from Wisconsin might be willing to accept an amendment to the bill, even if the bill were not printed?

Mr. WILEY. The Senator from Massachusetts is not now talking about the bill that I am discussing. He is referring to order 347, Senate bill 1461, which is a bill to extend certain powers of the President under title III of the Second War Powers Act?

Mr. LODGE. Yes.

Mr. WILEY. That bill is not under consideration at this time; and, of course, I would not have authority to accept an amendment, anyway. The Senator from Kentucky [Mr. COOPER] is in charge of that bill, and it involves only four or five items of the Second War Powers Act, one of which relates to cordage. The bill has just now been laid on my desk, and it can be brought up for consideration.

Mr. LODGE. I know that the Senator from Wisconsin is very influential insofar as that bill is concerned.

Mr. WILEY. I thank the Senator from Massachusetts. This is the first time the word "influential" has been used in connection with me, and I appreciate it.

Mr. LODGE. Well, I mean it.

Mr. WILEY. Mr. President, I suggest that the Senator from Rhode Island [Mr. MCGRATH] make a statement in connection with the bill at this time, and that the Senate proceed to a conclusion upon it.

Mr. MCGRATH. Mr. President, addressing myself to Senate Joint Resolution 123, which is now before the Senate, I may say that the bill has been worked over very laboriously by the Committee on the Judiciary in complete cooperation with the Department of Justice. The measure deals with extremely complicated matters, because what is attempted to be done by it is to wipe off the statute books a great many of the acts that were placed upon them during the war period.

The purpose of the bill, as drawn, is to place the country largely back on a peacetime basis with respect to many of the functions that have been heretofore exercised on a wartime or emergency basis. The general purpose of the bill requires very little explanation, but if we were to begin to explain it in detail the Senate would perhaps be kept in session longer than the session concluded on Saturday.

Mr. President, I might say that there are over 500 different enactments that have had to be considered in the drafting of the joint resolution now before us. All these various enactments have been considered by the agencies of Government they affect. They have been analyzed by the experts in the Department of Justice who were familiar with the original enactments and their operations.

I am authorized to say on behalf of those who have been representing the administration, that the joint resolution in its present form is desirable. Should the measure not pass in its present form we will soon have to face the task of dealing with these acts one by one, and it is greatly to be feared that such an approach to the problem would result in endless confusion in the administrative branches of Government.

Therefore, Mr. President, without going into further details, for the matters involved are set forth adequately in the report, I should like to join with the chairman of the Committee on the Judiciary, the Senator from Wisconsin [Mr. WILEY], in urging the passage of the joint resolution, with the assurance to the Members of the Senate on this side of the aisle, if they should need any assurance, and to all the Members of the Senate, that the measure we are asking the Senate to pass has been thoroughly studied, and we believe it to be the most orderly way possible to largely return the Government to a peacetime basis. Therefore, I hope the joint resolution will be passed.

Mr. WILEY. Mr. President, I urge the adoption of the joint resolution.

The PRESIDING OFFICER. The question is on the amendment of the committee to strike out all after the enacting clause and to insert other language in lieu thereof.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S. J. Res. 123) was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "Joint resolution to terminate certain emergency and war powers."

80TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 799

TERMINATING CERTAIN EMERGENCY AND WAR POWERS

JULY 7, 1947.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SPRINGER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. J. Res. 123]

The Committee on the Judiciary, to whom was referred the joint resolution (S. J. Res. 123) to terminate certain emergency and war powers, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows (page and line references are to the joint resolution as referred to this committee):

1. Page 4, line 11, add an "s" to the word "heading".
2. Page 4, line 14, strike "855,".
3. Page 4, strike line 16.
4. Page 5, strike lines 1 to 5, inclusive.
5. Page 5, between lines 12 and 13, add in paragraph form the following:

Section 19 of the Act of February 26, 1944 (58 Stat. 104);
The provision of section 8 (b) of the Act of July 30, 1941 (55 Stat. 611), as amended, conferring certain authority upon the President;

6. Page 6, line 2, change "June" to "July".
7. Page 6, strike lines 6, 7 and 8.
8. Page 6, line 14, strike "the approval of this resolution" and substitute therefor "enactment of this joint resolution".
9. Page 6, line 25, strike "the approval" and substitute therefor "enactment".
10. Page 7, strike lines 22 and 23.
11. Page 8, line 10, insert "enactment of" after the word "of".
12. Page 8, strike lines 14 and 23.
13. Page 8, line 21, insert "enactment of" after the word "of".
14. Page 9, line 7, strike the parenthesis after "amended" and insert a parenthesis between the number "498" and the comma following the number.
15. Page 9, line 20, strike "1939" and substitute therefor "1936".
16. Page 10, line 16, insert "Provision of" before the word "Section"; change the capital letter "S" in "Section" to the small letter "s";

insert between the close parenthesis and the semicolon "authorizing the President to transfer vessels, equipment, stations and personnel of the Coast and Geodetic Survey to the jurisdiction of the War or Navy Departments".

17. Page 15, strike lines 11 and 12.

18. Page 15, line 24, strike "1944" and substitute therefor "1940".

19. Page 16, strike lines 1 and 2.

20. Page 16, line 3, add an "s" to the word "Section" to make it plural; insert "and 507" after "500 (a)"; strike "July" and substitute therefor "June".

21. Page 16, between lines 6 and 7, insert a new line reading:

Section 700 (a) of the Act of June 22, 1944 (58 Stat. 295);

22. Page 16, strike lines 8 to 15 inclusive.

23. Page 16, strike lines 21 to 24 inclusive and substitute therefor:

Sections 302 (h), 712 (d), and 902 (a) of the Act of June 29, 1936 (49 Stat. 1993, 2010, and 2015), as amended;

24. Page 17, line 2, after the first semicolon insert "Section 4 of the".

25. Page 17, line 7, between the parenthesis and the semicolon insert ", as amended".

26. Page 18, between lines 20 and 21, insert a new line reading:

Act of March 24, 1943 (57 Stat. 43, ch. 22), as amended;

27. Page 18, line 22, between "amended" and the semicolon insert ", except paragraph 12 of such section".

28. Page 19, line 1, change the period to a semicolon and add a new line between lines 1 and 2 reading:

Act of December 19, 1941 (55 Stat. 844), as amended.

29. Page 19, strike lines 2 to 10 inclusive and substitute therefor the following:

SEC. 4. For the purposes of article IV of the Act of October 17, 1940 (54 Stat. 1183–1186), as amended, the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said Act, as of the effective date of this joint resolution.

EXPLANATION OF COMMITTEE AMENDMENTS

(NOTE.—Page and line references are to joint resolution as reported by the committee.)

Amendment No. 1. Perfecting amendment.

Amendment No. 2. Citation correction.

Amendment No. 3. Page 4, line 16: The committee struck the following citation, which appeared at this point in the joint resolution: "Section 8 of the Act of June 9, 1943 (57 Stat. 126);". The action of the committee was based upon a request of the Ways and Means Committee of the House of Representatives. The cited provision is a revenue measure, and the Ways and Means Committee advised that it is presently making a study of all revenue measures of a war or emergency nature and contemplates making recommendations to the Congress, with respect thereto in the immediate future.

Amendment No. 4. Page 5, lines 1 to 5: The committee struck the citations "Section 2883 (c) of the Internal Revenue Code, added by the Act of January 24, 1942 (56 Stat. 17); section 2883 (d) and (e) of

the Internal Revenue Code, added by the Act of March 27, 1942 (56 Stat. 187);" and "Act of December 20, 1944 (58 Stat. 817, ch. 609);" which appeared at this point in the joint resolution. These citations also relate to revenue measures, and the action of the committee was based upon the request of the Ways and Means Committee of the House of Representatives.

Amendment No. 5. Page 5, lines 13 to 17, inclusive: The committee inserted here the two citations as follows:

Section 19 of the Act of February 26, 1944 (58 Stat. 104);
The provision of section 8 (b) of the Act of July 30, 1941 (55 Stat. 611), as amended, conferring certain authority upon the President;

The action of the committee would have the effect of repealing immediately the two provisions referred to.

Section 19 of the act of February 26, 1944 (58 Stat. 104), provides for the termination, "1 year after cessation of hostilities," of the provisions of the act of February 26, 1944, to the extent that such provisions implement the Provisional Fur Seal Agreement of 1942 entered into with Canada. The act of February 26, 1944, constituted a modernization and codification of previously existing laws relating to the protection of seals. The termination provision contained in the act would affect it only to the extent that the act supported the Provisional Fur Seal Agreement of 1942 entered into with Canada. The committee was informed by representatives of the State Department that negotiations presently are under way with Canada for the purpose of arriving at a permanent agreement relating to this matter, and the committee was persuaded that the instant statute supporting the provisional agreement should be retained at least pending the negotiations of the new agreement. It appeared to the committee that the Congress might be in a better position, at that time, to consider the requirement for any changes in this statute.

Section 8 (b) of the act of July 30, 1941 (55 Stat. 611), as amended, authorizes the relief of certain pipe-line operators from duties or liabilities under the Interstate Commerce Act, etc., to such extent as the President may deem advisable for national defense purposes, until June 30, 1951. It appeared to the committee that the extraordinary wartime authority conferred by this provision should now be terminated immediately. The action of the committee will have that effect, and is in accord with the recommendations of the Federal Power Commission, which administers the authority contained in the provision.

Amendment No. 6. Page 6, line 8: Citation correction.

Amendment No. 7. Page 6, lines 12, 13, and 14: The committee deleted the following citation, which appeared at this point in the joint resolution:

The proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, added by the Act of June 17, 1943 (57 Stat. 158);

This citation relates to a revenue measure, and the action of the committee was based upon the request of the Ways and Means Committee of the House of Representatives, which desires to make provision with respect thereto in legislation now before that committee.

Amendment No. 8. Page 6, lines 20 and 21: Perfecting amendment.

Amendment No. 9. Page 7, line 7: Perfecting amendment.

Amendment No. 10. Page 8, lines 5 and 6: The committee struck the two following citations, which appeared at this point in the joint resolution:

Act of March 13, 1942 (56 Stat. 171);
Act of June 27, 1942 (56 Stat. 461, ch. 455);

These citations also relate to revenue measures and the action of the committee was based upon the request of the Ways and Means Committee of the House of Representatives.

Amendment No. 11. Page 8, lines 18 and 19: Perfecting amendment.

Amendment No. 12. Page 8, line 22, and page 9, line 6: The citation "Act of December 17, 1942 (56 Stat. 1056);", which appeared in line 22 on page 8, is duplicated in line 7 on page 15 of the joint resolution, and the citation "Section 1 of the Act of July 20, 1942 (56 Stat. 662);", which appeared in line 6 on page 9, is duplicated in line 5 on page 15 of the joint resolution. For that reason the committee has deleted the citations on page 8, line 22, and page 9, line 6.

Amendment No. 13. Perfecting amendment.

Amendment No. 14. Perfecting amendment.

Amendment No. 15. Citation correction.

Amendment No. 16. Perfecting amendment.

Amendment No. 17. Page 15, lines 24 and 25: The citation "Act of March 7, 1942 (56 Stat. 143, ch. 166), as amended;", which appeared at this point in the joint resolution, is duplicated beginning on page 14, line 13. Accordingly, the committee struck the citation on page 15, lines 11 and 12.

Amendment No. 18. Citation correction.

Amendment No. 19. Page 16, lines 14 and 15: The committee deleted these citations: "Sections 119 and 156 of the Act of October 21, 1942 (56 Stat. 814, 852–856);" which appeared at this point in the joint resolution. These citations relate to revenue measures and the action of the committee was based upon the request of the Ways and Means Committee of the House of Representatives, which desires to make provision for the statutes involved.

Amendment No. 20. Page 16, lines 16 and 17: The citation which previously appeared at this point in the joint resolution was: "Section 500 (a) of the Act of July 22, 1944 (58 Stat. 291, ch. 268), as amended." The committee has amended this citation to read: "Sections 500 (a) and 507 of the Act of June 22, 1944 (58 Stat. 291, ch. 268), as amended;". It is the act of June 22 to which reference was desired to be made in this citation. Section 507 of the act of June 22, 1944, was included in this citation by the committee for the reason that that section also contains a termination provision based upon the duration of the war, and it is related to section 500 (a).

Amendment No. 21. Page 16, lines 20 and 21: At this point in the joint resolution the committee inserted the citation "Section 700 (a) of the Act of June 22, 1944 (58 Stat. 295);". The mentioned citation is to a provision of the Servicemen's Readjustment Act of 1944. The effect of the committee's action, if enacted, will be to commence the running of a 5-year statutory period during which eligible veterans may be paid certain unemployment compensation not more than $20 per week for a maximum aggregate period of 52 weeks. It was the view of the committee that section 700 (a) should, in the interests of uniformity, be governed by the same termination date as the other basic provisions of the act, for which termination dates are fixed

elsewhere in the joint resolution. The committee is informed that its views in this matter are in accord with the recommendation of the Veterans' Administration.

Amendment No. 22. Page 16, lines 23, 24, 25; page 17, lines 1 through 5: The committee struck from the joint resolution the matter contained at this point, as follows:

Section 6 of the Act of February 4, 1887 (24 Stat. 379), as amended;
Provision of the Act of August 29, 1916 (39 Stat. 619, 645), which empowers the President in time of war to take control of transportation systems;
Subsection (15) of section 402 of the Act of February 28, 1920 (41 Stat. 477 (15));
Section 420 of the Act of May 16, 1942 (56 Stat. 298);

This action of the committee was based upon the urgent request of the Office of Defense Transportation, which informed the committee that the provisions referred to were its basic authority in providing for the fullest utilization of rail transportation facilities during the present shortage of freight cars. The committee is advised that while other authority (title III of the Second War Powers Act, as amended and extended) was available to support orders of the Office of Defense Transportation in the field referred to, the amendments and extensions of this additional authority would require issuance and reissuance of the orders of the Office of Defense Transportation continuously were it not for the existence of the authority under the instant provisions. Considerable danger exists, also, that a hiatus might occur in the immediate future with respect to the authority similar to that contained in these provisions which is conferred by other legislation. The committee was persuaded that in the interests of economy and efficiency in this field, the authority under the instant provisions should not be terminated at this time.

Amendment No. 23. Page 17, lines 15 to 17: The matter which appeared at this point in the joint resolution read as follows:

Sections 302 (h) and 712 (d) of the Act of June 29, 1936 (49 Stat. 1993 and 2010);
Sections 1 (d) and 3 (a) of the Act of August 7, 1939 (53 Stat. 1254 and 1255);

The committee substituted for this matter the following:

Sections 302 (h), 712 (d), and 902 (a) of the Act of June 29, 1936 (49 Stat. 1993, 2010, and 2015), as amended;

This amendment was effected by the committee for the reason that sections 1 (d) and 3 (a) of the act of August 7, 1939 (53 Stat. 1254 and 1255), mentioned in the second citation above, merely amended sections 712 (d) and 902 (a) of the act of June 29, 1936. The amendment made by the committee combines the two citations and completely and properly identifies the basic provisions which are desired to be affected by the joint resolution.

Amendment No. 24. Page 17, line 19: The committee inserted at this point in the joint resolution a reference to section 4 of the act of May 10, 1943, which was the provision intended to be affected by this citation. Lines 1 and 2 on page 17 of the joint resolution, as amended by the committee, now read as follows:

Section 2 of the Act of October 22, 1914 (38 Stat. 765, ch. 334); section 4 of the Act of May 10, 1943 (57 Stat. 82);

Amendment No. 25. Page 17, line 25: The statutory provision referred to at this point in the joint resolution was amended subsequent to its original enactment. Consequently, the committee added the

words "as amended" to the citation thereto, in the interests of technical preciseness, so that lines 24 and 25 on page 17 now read as follows:

Section 1 of the Act of January 28, 1915 (38 Stat. 800–801), as amended;

Amendment No. 26. Page 18, after line 20: At this point in the joint resolution the committee added the following citation:

Act of March 24, 1943 (57 Stat. 43, ch. 22), as amended;

Under this statute disabled veterans who served during the war are entitled to certain special benefits to overcome their disabilities with relation to their ability to earn their livelihood. These benefits are available to those who served between September 16, 1940, and the end of the war. The action of the committee would declare the termination of the war for this purpose. A person who is inducted into the service after the enactment of this joint resolution would be entitled to no such benefits since he would have no "war service". The action of the committee would also begin the running of the period prescribed by statute during which the disabled veteran must avail himself of the benefits to which he is entitled under this statute. This action is in conformity with the recommendation of the Veterans' Administration, that the same termination date should be prescribed with respect to this provision as would be established by the joint resolution in connection with the education and training, loan, and readjustment allowances provisions of the Servicemen's Readjustment Act, as amended.

Amendment No. 27. Page 19, lines 13 and 14: The citation which appeared at this point in the joint resolution read as follows:

Section 400 (b) of the Act of June 22, 1944 (58 Stat. 288), as amended;

The committee amended it to read as follows:

Section 400 (b) of the Act of June 22, 1944 (58 Stat. 288), as amended, except paragraph 12 of such section;

Paragraph 12 of section 400 (b) of the act of June 22, 1944, as added by section 11 (a) of the act of October 16, 1945 (59 Stat. 542), provides as follows:

For the purposes of this part, the present war shall not be considered as terminating, in the case of any individual, before the termination of such individual's first period of enlistment or reenlistment contracted within one year after the date of the enactment of the Armed Forces Voluntary Recruitment Act of 1945.

The action of the committee in excepting paragraph 12 from the operation of the joint resolution insures that no novel construction will be placed upon the provisions of paragraph 12 by reason of anything contained in the joint resolution, and that the original intent of Congress with respect to paragraph 12 will be carried out.

Amendment No. 28. Page 19, line 21: The committee changed the period at the end of this line to a semicolon and inserted thereafter at this point in the joint resolution the following citation:

Act of December 19, 1941 (55 Stat. 844), as amended.

The mentioned citation refers to an act which amends subparagraph (c) of paragraph I of part II, Veterans Regulation No. 1 (a), as amended, to provide that any veteran entitled to compensation under part II would be entitled to receive the wartime rate of compensation if his disability resulted from an injury or disease received in line of duty "while the United States is engaged in war." It

further provides that the dependents of any deceased veteran whose death resulted from an injury or disease received in line of duty while the United States is engaged in war would be entitled, if otherwise qualified, to rates of compensation provided for service-connected death compensation benefits for benefits of World War veterans. In the absence of an inclusion of the act of December 19, 1941, as amended, among those statutes for the purposes of which the war is terminated by the joint resolution, the wartime rates of compensation would continue to be payable in cases of injury, disease, or death hereafter occurring and otherwise within the provisions of the act. It was the recommendation of the Veterans' Administration, and it is the view of the committee, that the same termination date should be provided for benefits under this act as are prescribed by the joint resolution for application to other laws administered by the Veterans' Administration.

Amendment No. 29. Page 19, lines 22 through 25; page 20, lines 1 through 5: The committee struck all the matter formerly contained in section 4 of the joint resolution, which read as follows:

> The first sentence of section 3805 of the Internal Revenue Code, as added by section 507 (a) of the Act of October 21, 1942 (56 Stat. 798, 963). is hereby amended to read as follows:
>
> "In the case of any taxable year beginning after December 31, 1940, no Federal income tax return of, or payment of any Federal income tax by, any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U. S. C., title 15, ch. 4), shall become due until January 1, 1948."

In lieu thereof the committee substituted the following matter:

> For the purposes of article IV of the Act of October 17, 1940 (54 Stat. 1183-1186), as amended, the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said Act, as of the effective date of this joint resolution.

The matter originally contained in section 4 related to a revenue measure and the action of the committee in striking such matter was based upon a request of the Ways and Means Committee of the House of Representatives, which advised that it would shortly make recommendations to the Congress with respect to this provision.

The matter substituted for that formerly in section 4 relates to a provision of the Soldiers' and Sailors' Civil Relief Act. The amendment made by the committee would have the effect of terminating the war for the purposes of article IV of such act, which provides for the guaranty by the Government of premiums on insurance policies of persons entering the armed services. The committee was advised that the need for the premium guaranty provision has largely ceased with the expiration of the Selective Training and Service Act of 1940, as amended. The action of the committee in this matter is in accord with a recommendation made by the Veterans' Administration.

STATEMENT

The purpose of this joint resolution is to repeal, or otherwise terminate operations under, certain war and emergency statutory provisions which are no longer needed for the proper functioning of various agencies and departments of the Government.

This committee has had under consideration, since early 1947, legislation regarding the cessation and termination of war and emergency powers granted by Congress to the President (H. Con. Res. 5, 9,

and 25, and H. J. Res. 56 and 128). A subcommittee of this committee held a number of hearings and meetings on these resolutions and has given the subject intensive consideration. In March of 1947 it requested the Attorney General to correlate the views of all interested agencies of the Government with respect to the termination of authority under specific war and emergency statutes. The Attorney General submitted his report on this matter to this committee and to the Senate Judiciary Committee, and the report was printed as Senate Document No. 42, Eightieth Congress. The committee gave painstaking study to this report, and has met with relation to this matter on several occasions with representatives of the Department of Justice and the State Department. These same representatives of the Department of Justice have more recently collaborated with the Committee on the Judiciary of the Senate in the formulation of Senate Joint Resolution 123.

The committee has reviewed carefully Senate Joint Resolution 123, and the report of the Committee on the Judiciary of the Senate with respect thereto, and upon consideration of its provisions recommends that the joint resolution do pass, with the amendments hereinbefore indicated.

The committee recommends that the termination of war and emergency statutory provisions should be made in positive terms. Accordingly, the resolution in the amended form reported by the committee provides specifically for the repeal or other termination of the provisions of law granting war or emergency powers which should be terminated at this time. In this form the resolution leaves no doubt as to its exact operation.

Section 1 of the amended resolution would accomplish the immediate repeal of 57 statutory provisions, which include the bulk of all the temporary statutes enacted since the beginning of World War II.

Section 2 amends 12 additional statutory provisions so as to effect their repeal at a fixed time in the future which will permit a necessary period for conversion to peacetime operations. The termination provisions in these statutes would no longer be related to a war or emergency, but the statutes would be amended so that they would expire on the dates provided in the resolution, in no event later than 1 year from the date of enactment of the resolution.

Section 3 of the amended resolution, which lists 102 statutory provisions, provides that in the interpretation of these provisions the time when the resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941. Nearly all of the provisions affected by this section are permanent legislation. Most of them are effective only during the periods of war or emergency. A few provide that the statutory authority will continue for a specified period after the termination of war or an emergency. The section will have the effect of terminating immediately operations under the statutory provisions which are in effect only during a period of war or emergency. Authority under provisions which by their terms remain in effect for a specified period after the termination of the war or emergency will terminate at the end of that specified period. The permanent statutes affected by the section will remain as permanent legislation for use again upon the occurrence of the contingency provided for by their terms.

Section 4 of the resolution, as amended, would have the effect of terminating the war for the purposes of article IV of the Soldiers' and Sailors' Civil Relief Act, which article provides for the guaranty by the Government of premiums on insurance policies of persons entering the armed services. The action of the committee is in accord with the recommendation of the Veterans' Administration, which feels that the expiration of the Selective Service and Training Act of 1940, as amended, precluded the need for such premium guaranties.

Section 5 provides that nothing contained in the resolution shall be held to exempt from prosecution or to relieve from punishment any offense committed in violation of any act.

CONCLUSION

Your committee has decided that all aspects of the problem of termination of war and emergency statutes have been thoroughly examined, and that the extensive investigations, conferences, hearings, and deliberations have provided a basis for intelligent legislative action. The need for this action is urgent in that the amended Senate Joint Resolution 123 will do a great deal toward returning the machinery and operations of the Government from a war and emergency status to a permanent peacetime basis.

and rechecked all the citations of statutes which are repealed. Every one of these emergency laws are pronounced by the departments executing them to be needed no longer. Remember, these are statutes and not powers granted by the First and Second War Powers Acts. This bill deals with needless laws which are no longer necessary. No one is opposing this bill.

I yield to the gentleman from Indiana [Mr. SPRINGER] to make such explanation as he desires to make.

Mr. SPRINGER. Mr. Chairman, I will make a brief explanation of this measure to the House. Those who were here last year will recall that we passed H. R. 7147, which was a measure to repeal quite a number of war statutes which were passed for the purpose of implementing the war. Since that time quite a number of additional statutes have become outmoded and obsolete and unnecessary; so when this bill came over from the Senate we started working on it in Subcommittee No. 4 of the Committee on the Judiciary, and we have spent in all, I think, about 5 weeks working on it. The gentleman from Arkansas [Mr. CRAVENS] spent quite a lot of time on this measure, and he has done a splendid service in this respect, and we have finally worked out, with the Attorney General and three of his assistants, in conjunction with the heads of the various departments of our Government a measure, which is represented by Senate Joint Resolution 123, that is practically complete so far as we can now determine.

I hope each Member of the House will get a copy of the report on this bill which consists of some 40 printed pages. It contains cross references to the lines and pages of the bill and shows just exactly what particular law is affected by each particular item of repeal contained in the measure.

Mr. MILLER of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Nebraska.

Mr. MILLER of Nebraska. In looking over the joint resolution, I fail to find where section 300 (a), which gives the Chief Executive power to freeze appropriations passed by Congress, has been annulled. I am wondering if the gentleman feels that the section giving him that executive power has not been outmoded now and is no longer necessary since the war is over.

Mr. SPRINGER. May I say that I am rather in complete accord with what the gentleman has said. I think perhaps that policy has been outmoded, but that provision of law is not contained in this particular measure.

May I say this, that there are a number of these statutes which must be repealed after we finish with this repeal measure, and those that are omitted from this particular measure will be included in the measure that will follow it.

May I say to the membership that when we began working on this list we found that there were some 960 special statutes that were enacted for the purpose of implementing the war. Quite a number of them were repealed in the repealer last year, and some of them were taken out when we amended the Second War Powers Act. Some of them were eliminated or their usefulness was entirely eliminated when the hostilities were terminated, and more recently, when the Second War Powers Act was again amended, and this repeal measure will take care of something like 193 special statutes which are still in force and which are unnecessary.

If there are any other questions, I will be glad to answer them at this time. However, by reason of the importance and highly technical nature of this measure, but few are qualified to speak upon it. We have examined a very large number of statutes in arriving at our decision on this measure and it is the considered judgment of the office of the Attorney General and the departments of Government, as well as the members of Subcommittee No. 4 of the Committee on the Judiciary, that this measure meets the present demand on this issue. It is my hope that this measure will be promptly and unanimously passed by the House.

Mr. MICHENER. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. MILLER].

Mr. MILLER of Nebraska. Mr. Chairman, Senate Joint Resolution 123 has for its purpose the repeal of many wartime statutes. This is all to the good and I compliment the committee for bringing in a bill which terminates certain war powers of the Chief Executive and the agencies of Government.

During the war it was necessary to delegate a great deal of authority to the Chief Executive. Now that the war has been over nearly 2 years, it would certainly seem time to put an end to specific war-emergency statutes. I understand the committee has worked closely with the Attorney General's office and that the bill now presented terminates the obsolete, outmoded, and unneeded statutes that were in effect during the period of the war.

The chairman of the committee will remember that shortly after the fighting finished I introduced legislation which came before the Judiciary Committee which would not only declare the war officially ended but would terminate many of these wartime powers. In examining this particular piece of legislation I fail to find where the committee has nullified the power of the Chief Executive to freeze and make inoperative appropriation bills as passed by this Congress. I have a resolution before the Committee on Public Works, which would accomplish the purpose I have in mind and reads as follows:

Resolution to provide that Federal public works projects and programs shall be carried out to the full extent authorized by law

Resolved, etc., That, notwithstanding any moratorium or curtailment policy heretofore put into effect at the direction of the President, it shall be the duty of all officers, departments, and agencies of the Government to proceed, to the full extent authorized by law and the limit of present appropriations, with all Federal public works projects and programs coming under their jurisdiction.

My colleagues will remember that the day after the Congress adjourned in 1946 the Chief Executive saw fit to freeze certain funds designated for public works. This included funds for flood control, airports, irrigation projects, and many other worthy undertakings which previously had had his approval. The facts will show that when the bill for public works was sent to him, which included flood control and irrigation, he signed it in the presence of a score of Members of Congress and handed each of them a pen and remarked, "This is a great stride forward." Gentlemen, this stride was stopped in its tracks the day Congress adjourned because the Chief Executive saw fit to freeze these appropriations. Today we find that Congress and even the President feverishly working and asking for more appropriations for flood control and soil conservation. Is it possible that he might freeze this appropriation after Congress adjourns?

If he can freeze and nullify appropriations for flood control and irrigation he can do the same thing to other appropriations. It seems to me that this power, which I believe he claims under section 300 (a) of the Second War Powers Act, is entirely too much authority for the Chief Executive to have in times of peace. I am disappointed that the committee did not see fit to relieve the Chief Executive of the authority he apparently still retains to nullify any part or all of an appropriation bill. I would ask the chairman of the committee what his understanding might be relative to continuing this power of the President. Does he still have the power or has it been repealed?

Mr. SPRINGER. As the gentleman knows, Senate Joint Resolution 123 came from the Senate. They have evidently given no consideration to that matter. At the same time, they had been working with the Attorney General and with the deputies in that office for quite a long period of time when the bill finally came to us. When we received it we began working with those same gentlemen. We continued this work over a period of some 3 or 4 weeks, analyzing the particular statutes. May I say to the distinguished gentleman from Nebraska that in that examination we examined something over 1,000 statutes in order to determine which statutes should be repealed, which should be kept in part, and which should be kept in full for a short period of time. No doubt the gentleman will receive the relief he desires in a short time.

Mr. MILLER of Nebraska. I appreciate the chairman's explanations and the work the committee did do on wiping out some of the unnecessary delegated war powers in this bill. I am hopeful that a further examination will indicate that the authority that I have cited may also be discontinued if still in effect.

The CHAIRMAN. The Clerk will read the joint resolution for amendment.

The Clerk read as follows:

Resolved, etc., That the following statutory provisions are hereby repealed:

Act of June 10, 1942 (56 Stat. 351);

Section 207, title II, act of September 21, 1944 (58 Stat. 736);

Act of March 5, 1940 (54 Stat. 45), as amended;

Section 609, act of July 1, 1944 (58 Stat. 714, ch. 373);

Act of October 1, 1942 (56 Stat. 763, ch. 573);

Sections 2, 3, and 4, act of July 8, 1942 (56 Stat. 649);

Act of April 16, 1943 (57 Stat. 65), as amended;

Act of September 29, 1942 (56 Stat. 760);

Section 61 (b) of the National Defense Act of June 3, 1916, as added by the act of June 26, 1944 (58 Stat. 359, ch. 279);

Section 21 of the act of February 16, 1914 (38 Stat. 289);

Act of January 15, 1942 (56 Stat. 5, ch. 3);

Act of June 3, 1941 (55 Stat. 238, ch. 162), as amended;

The provision in the act of June 11, 1940, making appropriations for the Navy Department for the fiscal year 1941, under the heading "Bureau of Supplies and Accounts, Pay, Subsistence, and Transportation of Naval Personnel," prohibiting the payment of active-duty pay and allowances to retired officers except during the war or national emergency (54 Stat. 265, 275);

The provision in the act of February 7, 1942 (56 Stat. 63), under the heading "Marine Corps—Pay of officers, active list," relating to the availability of funds for the payment of active-duty pay to retired officers;

Section 2 of the act of February 15, 1879 (20 Stat. 295);

Act of May 29, 1945 (59 Stat. 226, ch. 137);

The provisions under the headings "Bureau of Engineering" and "Bureau of Construction and Repair," in the act of June 11, 1940 (54 Stat. 293), authorizing the Secretary of the Navy to exceed the statutory limit on repair and alterations to vessels commissioned or converted to meet the existing emergency;

Act of November 29, 1940 (54 Stat. 1219, ch. 923, as extended by the act of May 15, 1945 (59 Stat. 168, ch. 127);

The proviso of the act of February 7, 1942 (56 Stat. 63), that no officer of the Navy or Marine Corps who has been or hereafter may be adjudged fitted shall be involuntarily retired prior to 6 months subsequent to the termination of the existing national emergency;

Act of December 2, 1944 (58 Stat. 793);

Act of February 21, 1942 (56 Stat. 97, ch. 107);

Act of April 9, 1943 (57 Stat. 61, ch. 40);

The proviso of the act of June 26, 1940 (54 Stat. 599), under the heading "Council of National Defense," that until such time as the President shall declare the present emergency at an end the head of any department or independent establishment of the Government, notwithstanding the provisions of existing law, may employ, with the approval of the President, any person of outstanding experience and ability at a compensation of $1 per annum;

The provision of the act of July 2, 1942 (56 Stat. 548), as amended, which permits the Secretary of the Interior, or any official to whom he may delegate such authority, to appoint, without regard to the Classification Act of 1923, as amended, skilled and unskilled laborers, mechanics, and other persons engaged in a recognized trade or craft, including foremen of such groups;

Act of December 22, 1942 (56 Stat. 1070, ch. 801);

The provisions under the heading "Department of Agriculture, Surplus Marketing Administration," and "Department of the Interior, Government in the Territories," contained in the act of December 23, 1941 (55 Stat. 855, 856–857);

Section 8 of the act of June 9, 1943 (57 Stat. 126);

Section 301 of the act of September 9, 1940 (54 Stat. 884), as amended;

The provision in the First Deficiency Appropriation Act of 1942, under the heading "Selective Service System," relating to the presentation of quarterly reports to the Postmaster General (56 Stat. 101);

Act of July 9, 1943 (57 Stat. 390, ch. 209);

Section 5 of the act of June 28, 1944 (58 Stat. 394);

Section 2883 (c) of the Internal Revenue Code, added by the act of January 24, 1942 (56 Stat. 17);

Section 2883 (d) and (e) of the Internal Revenue Code, added by the act of March 27, 1942 (56 Stat. 187);

Act of December 20, 1944 (58 Stat. 817, ch. 609);

The provision in the Interior Department Appropriation Act, 1945, under the heading "Water conservation and utilization projects," relating to the use of the services or labor of prisoners of war, enemy aliens, and American-born Japanese (58 Stat. 463, 491);

Section 6 (b) of the act of March 11, 1941 (55 Stat. 33), as amended;

Act of December 17, 1941 (55 Stat. 808, ch. 588) as amended;

Section 606 (h) of the Communications Act of 1934 added by the act of December 29, 1942 (56 Stat. 1095);

Act of April 29, 1942 (56 Stat. 265, ch. 266);

Act of May 14, 1940 (54 Stat. 216, ch. 201), as amended;

Act of June 11, 1940 (54 Stat. 306, ch. 327), as amended;

Act of July 29, 1940 (54 Stat. 639, ch. 447), as amended;

Act of October 10, 1940 (54 Stat. 1092, ch. 838), as amended;

Act of May 2, 1941 (55 Stat. 148), as amended;

Act of June 14, 1941 (55 Stat. 591, ch. 297), as amended;

Section 3 (i) of the act of March 24, 1943 (57 Stat. 45, 51);

The proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, added by the act of June 17, 1943 (57 Stat. 158);

Section 1 of the act of April 24, 1944 (58 Stat. 216), except that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than 2 years after the date of the approval of this resolution;

Act of April 11, 1942 (56 Stat. 217);

Section 3 of the act of July 11, 1941 (55 Stat. 585);

Act of November 23, 1942 (56 Stat. 1020), as amended;

Act of October 29, 1942 (56 Stat. 1012);

Section 303 of the act of December 18, 1941 (55 Stat. 840);

Section 12 of the act of June 11, 1942 (56 Stat. 357), except that outstanding certificates issued thereunder shall continue in effect for a period of 6 months from the date of the approval of this joint resolution unless sooner revoked;

Act of July 12, 1943 (57 Stat. 520);

Act of June 5, 1942 (56 Stat. 323, ch. 346);

Act of January 2, 1942 (55 Stat. 831, ch. 646);

Act of December 24, 1942 (56 Stat. 1080, ch. 812);

Act of July 8, 1943 (57 Stat. 390, ch. 200);

The provisions of the act of November 19, 1941 (55 Stat. 765), as amended, relating to the availability for expenditure of funds appropriated pursuant to said act, as amended.

SEC. 2. Notwithstanding the termination date or termination period heretofore provided therefor by law, the following statutory provisions are repealed effective upon the date hereinafter specified, or upon the expiration of the period hereinafter specified, and shall remain in full force and effect until such date or until the expiration of such period. Such statutory provisions are herewith amended accordingly:

a. Repeal effective July 1, 1948:

Act of July 8, 1941 (55 Stat. 579, ch. 278), and the act of June 22, 1943 (57 Stat. 161, ch. 137);

Section 2 of the act of November 17, 1941 (55 Stat. 764);

Act of March 13, 1942 (56 Stat. 171);

Act of June 27, 1942 (56 Stat. 461, ch. 455);

Act of July 1, 1943 (57 Stat. 371), and the act of May 14, 1942 (56 Stat. 278), as amended;

Act of September 22, 1941 (55 Stat. 728, ch. 414), as amended;

The provision in the Second Supplemental National Defense Appropriation Act, 1943, under the heading "Federal Works Agency, Public Buildings Administration," relating to the authority of the Commissioner of Public Buildings to designate employees as special policemen (56 Stat. 990, 1000);

Act of July 29, 1941 (55 Stat. 606, ch. 326),

b. Repeal effective 6 months after the date of this joint resolution:

Act of January 27, 1942 (56 Stat. 19, ch. 21, as amended);

Act of December 17, 1942 (56 Stat. 1056);

Section 610 (c) of the act of July 1, 1944 (58 Stat. 682, 714);

Act of October 10, 1942 (56 Stat. 780, ch. 588);

Act of June 28, 1944 (58 Stat. 463, ch. 297);

Act of July 9, 1943 (57 Stat. 391, ch. 213); as amended.

c. Repeal effective 1 year after the date of this joint resolution.

Section 1 of the act of July 20, 1942 (56 Stat. 662);

Section 605 (c) of the act of July 1, 1944 (58 Stat. 682, 713).

SEC. 3. In the interpretation of the following statutory provisions, the date when this joint resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941;

Act of July 1, 1941 (55 Stat. 498), as amended;

Act of February 28, 1945 (59 Stat. 9, ch. 15);

Section 86 of the act of June 3, 1916 (39 Stat. 204);

Act of July 2, 1917 (40 Stat. 241), as amended;

Section 16 of the act of June 10, 1920 (41 Stat. 1072);

Act of February 26, 1925 (43 Stat. 984, ch. 340);

Act of April 12, 1926 (44 Stat. 241);

Act of May 29, 1926 (44 Stat. 677, ch. 424);

Section 20 of the act of May 18, 1933 (48 Stat. 68);

The provision of the act of May 15, 1936 (49 Stat. 1292), which authorizes the United States to control and operate the Little Rock Municipal Airport without rental or other charge in time of national emergency;

Act of May 27, 1939 (49 Stat. 1387);

Provisions authorizing the assumption of possession and control of the areas specified in the following statutes or parts of statutes: Section 3 of the act of June 21, 1938 (52 Stat. 834); act of June 20, 1936 (49 Stat. 1557, ch. 636); act of August 19, 1937 (50 Stat. 696, ch. 697); section 4 of the act of February 28, 1933 (47 Stat. 1368);

Section 5 (m) of the act of May 18, 1933 (48 Stat. 62);

Act of December 26, 1941 (55 Stat. 863, ch. 633);

Act of January 26, 1942 (56 Stat. 19);

Section 120 of the act of June 3, 1946 (39 Stat. 213, 214);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of Aug. 29, 1916, 39 Stat. 602), under the heading "Lighthouse Service," authorizing the President to transfer vessels, equipment, stations, and personnel of the Lighthouse Service (now Coast

Guard under Reorganization Plan No. II) to the jurisdiction of the Navy or War Department;

Section 16 of the act of May 22, 1917 (40 Stat. 87);

Provision of chapter XVIII of the act of July 9, 1918 (40 Stat. 892), as amended by the act of November 21, 1941 (55 Stat. 781, ch. 499), extending the time for examination of accounts of Army disbursing officers;

Section 69 of the National Defense Act of June 3, 1916, as amended by section 7 of the act of June 15, 1933 (48 Stat. 156);

The provision authorizing the extension of enlistments in the Regular Army or the Enlisted Reserve Corps, in force at the outbreak of war or entered into during its continuation, for 6 months after its termination, contained in the act of March 15, 1940 (54 Stat. 53, ch. 61);

Act of May 14, 1940 (54 Stat. 213);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 571);

Chapter II, articles 2 (d), 48, 58, 59, 74, 75, 76, 77, 78, 79, 104, and 119 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Paragraph 3 of section 127a as added to the act of June 3, 1916 (39 Stat. 166), by section 51 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Revised Statutes, 1163;

The fourth proviso of section 18 of the act of February 2, 1901 (31 Stat. 748, ch. 192);

Provision of the act of July 9, 1918 (40 Stat. 861), making appropriations for the Army for the fiscal year 1919, under the heading "Barracks and quarters," authorizing the Secretary of War to rent or lease buildings in the District of Columbia necessary for military purposes;

Section 111 of the act of June 3, 1916 (39 Stat. 211), as amended;

Section 363 of title III of the act of July 1, 1944 (58 Stat. 682, ch. 373);

Act of December 26, 1941 (55 Stat. 862, ch. 629), as amended by the act of December 23, 1944 (ch. 720, 58 Stat. 923);

Act of February 29, 1942 (56 Stat. 94);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of Aug. 29, 1916, 39 Stat. 531), under heading "Officers for engineering duty only," authorizing the Secretary of the Navy to recall to active duty enlisted men on furlough without pay to complete the enlistment period;

Act of August 18, 1941 (55 Stat. 629);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 570);

Revised Statutes, 1420, as amended by section 2 of the act of January 20, 1944 (58 Stat. 4, ch. 2);

Provision of the act of August 29, 1916 (39 Stat. 614), which authorizes Marine Corps training camps for the instruction of citizens to be in existence for a period longer than 6 weeks in each fiscal year in time of actual or threatened war;

Revised Statutes, 1624, article 4, paragraphs 6, 7, 12–20, and article 5;

Act of March 22, 1943 (57 Stat. 41);

Revised Statutes, 1462–1464;

Provision of the Naval Appropriation Act for the fiscal year ending June 30, 1917 (act of Aug. 29, 1916, 39 Stat. 591), under the heading "Fleet Naval Reserve," authorizing the Secretary of the Navy to call retired enlisted men into active service;

Provisions contained in the act of July 1, 1918 (40 Stat. 717), as amended (14 U. S. C. 164, 165), which authorize commissioned or warrant officers on the retired list to be ordered to active duty and to be temporarily advanced on the retired list, so far as such provisions pertain to personnel of the Coast Guard;

Act of April 8, 1946 (Public Law 337, 79th Cong.);

Section 4 (c) of the act of August 10, 1946 (Public Law 720, 79th Cong.);

Revised Statutes, 1436;

First proviso of section 18 of the act of May 22, 1917 (40 Stat. 84, 89);

Act of October 6, 1917 (40 Stat. 393, ch. 93), as amended;

Section 11 (c) of the act of June 23, 1938 (52 Stat. 948);

Section 10 of the act of June 14, 1940 (54 Stat. 394);

Section 18 of the act of August 2, 1946 (Public Law 604, 79th Cong.);

Provisions of the act of March 4, 1917 (39 Stat. 1192–1193); the act of May 13, 1942 (56 Stat. 277, ch. 304); sections 3 and 4 of the act of July 9, 1942 (56 Stat. 656); the act of June 17, 1943 (57 Stat. 156, ch. 128); the act of June 26, 1943 (57 Stat. 209); and the act of May 31, 1944 (58 Stat. 265, ch. 218), which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft, and other vessels;

Section 10 of the act of May 14, 1930 (46 Stat. 329, 332);

Act of May 29, 1930 (46 Stat. 479, ch. 350);

Section 7 of the act of April 26, 1898 (30 Stat. 365);

Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended;

Sections 3 and 12 of the act of February 21, 1946 (Public Law 305, 79th Cong.);

Section 1 of the act of July 20, 1942 (56 Stat. 662, ch. 508), as amended;

Act of December 17, 1942 (56 Stat. 1056, ch. 763);

Act of March 17, 1916 (39 Stat. 36, ch. 46);

Act of April 11, 1898 (30 Stat. 737);

Act of March 3, 1925 (43 Stat. 1109, 1110);

Section 1 of the act of July 2, 1940 (54 Stat. 724, ch. 516);

Section 4 of the act of July 7, 1943 (57 Stat. 388);

Act of May 18, 1946 (Public Law 385, 79th Cong.);

Section 2 of the act of August 8, 1946 (Public Law 697, 79th Cong.);

Section 4 (b) of the act of July 2, 1940 (54 Stat. 712, 714);

Act of December 17, 1942 (56 Stat. 1052);

Section 3 of the act of June 27, 1944 (58 Stat. 387, ch. 287);

Act of December 23, 1944 (58 Stat. 926, ch. 726);

Act of March 7, 1942 (56 Stat. 143, ch. 166), as amended;

Section 1 of the act of December 7, 1945 (59 Stat. 603, 604);

Act of December 10, 1942 (56 Stat. 1045);

Act of December 26, 1941 (55 Stat. 858), as amended, except that the Commissioners of the District of Columbia may continue to exercise the authority under sections 7 and 9 of such act, as amended, until not later than June 30, 1948, and the provisions of sections 11 and 12 of such act, as amended, shall continue to apply to cases in which the authority under sections 7 and 9 is exercised;

Proviso of section 303 (c) of the act of October 14, 1944, as added by the act of February 18, 1946 (Public Law 301, 79th Cong.);

Sections 119 and 156 of the act of October 21, 1942 (56 Stat. 814, 852–856);

Section 500 (a) of the act of July 22, 1944 (58 Stat. 291, ch. 268), as amended;

Section 201 of the act of August 10, 1946 (Public Law 719, 79th Cong.);

Act of July 31, 1945 (59 Stat. 511, ch. 338);

Section 6 of the act of February 4, 1887 (24 Stat. 379), as amended;

Provision of the act of August 29, 1916 (39 Stat. 619, 645), which empowers the President in time of war to take control of transportation systems;

Subsection (15) of section 402 of the act of February 28, 1920 (41 Stat. 477 (15));

Section 420 of the act of May 16, 1942 (56 Stat. 298);

Act of July 30, 1941 (55 Stat. 610);

Section 606 of the act of June 19, 1934 (48 Stat. 1104), as amended;

Section 4 of the act of July 15, 1918 (40 Stat. 901), as amended;

Sections 302 (h) and 712 (d) of the act of June 29, 1936 (49 Stat. 1993 and 2010);

Sections 1 (d) and 3 (a) of the act of August 7, 1939 (53 Stat. 1254 and 1255);

Section 2 of the act of October 22, 1914 (38 Stat. 765, ch. 334); act of May 10, 1943 (57 Stat. 82);

Section 1 (b) and subsections 2 (a), 2 (b), and 2 (c) of the act of August 8, 1946 (Public Law 660, 79th Cong.);

Section 1 of the act of January 28, 1915 (38 Stat. 800–801);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 600), under heading "Coast Guard," subjecting personnel of the Coast Guard operating as part of the Navy to the laws governing the Navy;

Section 1 of the title II of the act of June 15, 1917 (40 Stat. 220);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 601), under heading "Coast Guard," authorizing the Secretary of the Navy to man any Coast Guard station or maintain any house of refuge as a Coast Guard station;

Title II of the act of February 19, 1941 (55 Stat. 11), as amended;

Act of December 16, 1941 (55 Stat. 807, ch. 586);

Provisions appearing under the heading "Limitations upon prosecution," relating to crimes committed 2 years before arraignment, except for desertion committed in time of war, of the act of June 4, 1920 (41 Stat. 794);

Act of July 1, 1944 (58 Stat. 677, ch. 368);

Section 1 of the act of October 9, 1940 (54 Stat. 1061, ch. 788);

Section 2 of the act of June 19, 1912 (37 Stat. 138);

Provision of Naval Appropriation Act for the year 1918 (act of Mar. 4, 1917, 39 Stat. 1192), authorizing the President to suspend provisions of the 8-hour law to contracts with the United States;

Section 6 of the act of March 3, 1931, as added by the act of August 30, 1935 (49 Stat. 1013, ch. 825);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of Aug. 29, 1916, 39 Stat. 558), under heading "Pay, miscellaneous," for the admission for treatment of interned persons and prisoners of war, under the jurisdiction of the Navy Department, to the Government Hospital for the Insane;

Section 604 of the act of July 1, 1944 (58 Stat. 712, ch. 373);

Section 400 (b) of the act of June 22, 1944 (58 Stat. 288), as amended;

Act of July 11, 1946 (Public Law 499, 79th Cong.);

Act of July 9, 1942 (56 Stat. 654);

Act of June 19, 1936 (49 Stat. 1535).

SEC. 4. The first sentence of section 3805 of the Internal Revenue Code, as added by section 507 (a) of the act of October 21, 1942 (56 Stat. 798, 963), is hereby amended to read as follows:

"In the case of any taxable year beginning after December 31, 1940, no Federal income-tax return of, or payment of any Federal income tax by, any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U. S. C., title 15, ch. 4), shall become due until January 1, 1948."

SEC. 5. Nothing herein contained shall be held to exempt from prosecution or to relieve from punishment any offense heretofore committed in violation of any act.

Mr. MICHENER (interrupting the reading of the joint resolution). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the committee amendments as follows:

Page 4, line 11, add an "s" to the word "heading."

Page 4, line 14, strike "855."

Page 4, strike line 16.

Page 5, strike lines 1 to 5, inclusive.

Page 5, between lines 12 and 13, add in paragraph form the following:

"Section 19 of the act of February 26, 1944 (58 Stat. 104);

"The provision of section 8 (b) of the act of July 30, 1941 (55 Stat. 611), as amended, conferring certain authority upon the President."

Page 6, line 2, change "June" to "July."

Page 6, strike lines 6, 7, and 8.

Page 6, line 14, strike "the approval of this resolution" and substitute therefor "enactment of this joint resolution."

Page 6, line 25, strike "the approval" and substitute therefor "enactment."

Page 7, strike lines 22 and 23.

Page 8, line 10, insert "enactment of" after the word "of."

Page 8, strike lines 14 and 23.

Page 8, line 21, insert "enactment of" after the word "of."

Page 9, line 7, strike the parenthesis after "amended" and insert a parenthesis between the number "498" and the comma following the number.

Page 9, line 20, strike "1939" and substitute therefor "1936."

Page 10, line 16, insert "Provision of" before the word "Section"; change the capital letter "S" in "Section" to the small letter "s"; insert between the close parenthesis and the semicolon "authorizing the President to transfer vessels, equipment, stations, and personnel of the Coast and Geodetic Survey to the jurisdiction of the War or Navy Departments."

Page 15, strike lines 11 and 12.

Page 15, line 24, strike "1944" and substitute therefor "1940."

Page 16, strike lines 1 and 2.

Page 16, line 3, add an "s" to the word "Section" to make it plural; insert "and 507" after "500 (a)"; strike "July" and substitute therefor "June."

Page 16, between lines 6 and 7, insert a new line reading:

"Section 700 (a) of the act of June 22, 1944 (58 Stat. 295)."

Page 16, strike lines 8 to 15, inclusive.

Page 16, strike lines 21 to 24, inclusive, and substitute therefor:

"Sections 302 (h), 712 (d), and 902 (a) of the act of June 29, 1936 (49 Stat. 1993, 2010, and 2015), as amended."

Page 17, line 2, after the first semicolon insert "Section 4 of the."

Page 17, line 7, between the parenthesis and the semicolon insert ", as amended."

Page 18, between lines 20 and 21, insert a new line reading:

"Act of March 24, 1943 (57 Stat. 43, ch. 22), as amended."

Page 18, line 22, between "amended" and the semicolon insert ", except paragraph 12 of such section."

Page 19, line 1, change the period to a semicolon and add a new line between lines 1 and 2 reading:

"Act of December 19, 1941 (55 Stat. 844), as amended."

Page 19, strike lines 2 to 10, inclusive, and substitute therefor the following:

"SEC. 4. For the purposes of article IV of the act of October 17, 1940 (54 Stat. 1183-1186), as amended, the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said act, as of the effective date of this joint resolution."

Mr. MICHENER (interrupting the reading of the amendments). Mr. Chairman, this is a very technical bill, and the amendments are technical ones. I ask unanimous consent that the committee amendments be considered as read and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. SPRINGER. Mr. Chairman, I offer an additional committee amendment, which is at the Clerk's desk. I shall offer several additional amendments which are not in the bill as reported.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 8, line 10, insert between the word "amended" and the semicolon the following: ": *Provided, however*, That so long as the Secretary of War deems it necessary in the interest of national defense, each man who has completed a course of medical instruction at Government expense in a university, college, or other similar institution of learning, pursuant to the provisions of the act of February 6, 1942 (56 Stat. 50, ch. 40), as amended, shall not be relieved from active duty until the completion of 2 years of active service as a commissioned officer, exclusive of any periods during which he served as an interne."

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 7, line 17, before the period at the end of line 17 insert the following: ", except that such funds shall remain available for the completion of access road projects which are now under construction."

Page 7, line 16, strike the word "expenditure" and substitute therefor the word "obligation."

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 10, strike lines 24 and 25, and page 11, strike lines 1, 2, and 3, substituting therefor the following:

"Section 16 of the act of May 22, 1917 (40 Stat. 87)."

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 20, strike out lines 11, 12, and 13 (all of section 5).

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 10, strike out lines 11 and 12.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HERTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (S. J. Res. 123) pursuant to House Resolution 288, he reported the same back to the House with sundry amendments adopted in Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TERMINATING CERTAIN EMERGENCY AND WAR POWERS

Mr. BROWN of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 288 providing for the consideration of the joint resolution (S. J. Res. 123) to terminate certain emergency and war powers.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (S. J. Res. 123) to terminate certain emergency and war powers, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BROWN of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. Speaker, House Resolution 208 makes in order the consideration for 1 hour of Senate Joint Resolution 123, which is a joint resolution to terminate certain emergency and war powers. This seems to be an agreed measure. My understanding is there is no controversy on the matter whatsoever and probably could be passed by the House by unanimous consent. However, a rule has been granted. I do not intend to take any further time to discuss the matter because I believe we will save a great deal of time by simply reporting the resolution.

Mr. SABATH. Mr. Speaker, as has been stated, this resolution repeals and terminates certain emergency and war powers which were needed during wartime. I think the time has arrived whereby these laws are no longer necessary. I have no opposition to the rule nor to the bill and I have no further requests for time on this side.

Mr. BROWN of Ohio. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mr. MICHENER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of Senate Joint Resolution 123 to terminate certain emergency and war powers.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of Senate Joint Resolution 123, with Mr. HERTER in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

Mr. MICHENER. Mr. Chairman, the committee reported this bill unanimously. The work on the bill was done chiefly by the gentleman from Indiana [Mr. SPRINGER] and his subcommittee. It is a very technical bill, and nothing will be gained by formally reading it at any stage of the proceedings. The bill contains many legal citations and references. His committee has checked

and rechecked all the citations of statutes which are repealed. Every one of these emergency laws are pronounced by the departments executing them to be needed no longer. Remember, these are statutes and not powers granted by the First and Second War Powers Acts. This bill deals with needless laws which are no longer necessary. No one is opposing this bill.

I yield to the gentleman from Indiana [Mr. SPRINGER] to make such explanation as he desires to make.

Mr. SPRINGER. Mr. Chairman, I will make a brief explanation of this measure to the House. Those who were here last year will recall that we passed H. R. 7147, which was a measure to repeal quite a number of war statutes which were passed for the purpose of implementing the war. Since that time quite a number of additional statutes have become outmoded and obsolete and unnecessary; so when this bill came over from the Senate we started working on it in Subcommittee No. 4 of the Committee on the Judiciary, and we have spent in all, I think, about 5 weeks working on it. The gentleman from Arkansas [Mr. CRAVENS] spent quite a lot of time on this measure, and he has done a splendid service in this respect, and we have finally worked out, with the Attorney General and three of his assistants, in conjunction with the heads of the various departments of our Government a measure, which is represented by Senate Joint Resolution 123, that is practically complete so far as we can now determine.

I hope each Member of the House will get a copy of the report on this bill which consists of some 40 printed pages. It contains cross references to the lines and pages of the bill and shows just exactly what particular law is affected by each particular item of repeal contained in the measure.

Mr. MILLER of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Nebraska.

Mr. MILLER of Nebraska. In looking over the joint resolution, I fail to find where section 300 (a), which gives the Chief Executive power to freeze appropriations passed by Congress, has been annulled. I am wondering if the gentleman feels that the section giving him that executive power has not been outmoded now and is no longer necessary since the war is over.

Mr. SPRINGER. May I say that I am rather in complete accord with what the gentleman has said. I think perhaps that policy has been outmoded, but that provision of law is not contained in this particular measure.

May I say this, that there are a number of these statutes which must be repealed after we finish with this repeal measure, and those that are omitted from this particular measure will be included in the measure that will follow it.

May I say to the membership that when we began working on this list we found that there were some 960 special statutes that were enacted for the purpose of implementing the war. Quite a number of them were repealed in the repealer last year, and some of them were taken out when we amended the Second War Powers Act. Some of them were eliminated or their usefulness was entirely eliminated when the hostilities were terminated, and more recently, when the Second War Powers Act was again amended, and this repeal measure will take care of something like 193 special statutes which are still in force and which are unnecessary.

If there are any other questions, I will be glad to answer them at this time. However, by reason of the importance and highly technical nature of this measure, but few are qualified to speak upon it. We have examined a very large number of statutes in arriving at our decision on this measure and it is the considered judgment of the office of the Attorney General and the departments of Government, as well as the members of Subcommittee No. 4 of the Committee on the Judiciary, that this measure meets the present demand on this issue. It is my hope that this measure will be promptly and unanimously passed by the House.

Mr. MICHENER. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. MILLER].

Mr. MILLER of Nebraska. Mr. Chairman, Senate Joint Resolution 123 has for its purpose the repeal of many wartime statutes. This is all to the good and I compliment the committee for bringing in a bill which terminates certain war powers of the Chief Executive and the agencies of Government.

During the war it was necessary to delegate a great deal of authority to the Chief Executive. Now that the war has been over nearly 2 years, it would certainly seem time to put an end to specific war-emergency statutes. I understand the committee has worked closely with the Attorney General's office and that the bill now presented terminates the obsolete, outmoded, and unneeded statutes that were in effect during the period of the war.

The chairman of the committee will remember that shortly after the fighting finished I introduced legislation which came before the Judiciary Committee which would not only declare the war officially ended but would terminate many of these wartime powers. In examining this particular piece of legislation I fail to find where the committee has nullified the power of the Chief Executive to freeze and make inoperative appropriation bills as passed by this Congress. I have a resolution before the Committee on Public Works, which would accomplish the purpose I have in mind and reads as follows:

Resolution to provide that Federal public works projects and programs shall be carried out to the full extent authorized by law

Resolved, etc., That, notwithstanding any moratorium or curtailment policy heretofore put into effect at the direction of the President, it shall be the duty of all officers, departments, and agencies of the Government to proceed, to the full extent authorized by law and the limit of present appropriations, with all Federal public works projects and programs coming under their jurisdiction.

My colleagues will remember that the day after the Congress adjourned in 1946 the Chief Executive saw fit to freeze certain funds designated for public works. This included funds for flood control, airports, irrigation projects, and many other worthy undertakings which previously had had his approval. The facts will show that when the bill for public works was sent to him, which included flood control and irrigation, he signed it in the presence of a score of Members of Congress and handed each of them a pen and remarked, "This is a great stride forward." Gentlemen, this stride was stopped in its tracks the day Congress adjourned because the Chief Executive saw fit to freeze these appropriations. Today we find that Congress and even the President feverishly working and asking for more appropriations for flood control and soil conservation. Is it possible that he might freeze this appropriation after Congress adjourns?

If he can freeze and nullify appropriations for flood control and irrigation he can do the same thing to other appropriations. It seems to me that this power, which I believe he claims under section 300 (a) of the Second War Powers Act, is entirely too much authority for the Chief Executive to have in times of peace. I am disappointed that the committee did not see fit to relieve the Chief Executive of the authority he apparently still retains to nullify any part or all of an appropriation bill. I would ask the chairman of the committee what his understanding might be relative to continuing this power of the President. Does he still have the power or has it been repealed?

Mr. SPRINGER. As the gentleman knows, Senate Joint Resolution 123 came from the Senate. They have evidently given no consideration to that matter. At the same time, they had been working with the Attorney General and with the deputies in that office for quite a long period of time when the bill finally came to us. When we received it we began working with those same gentlemen. We continued this work over a period of some 3 or 4 weeks, analyzing the particular statutes. May I say to the distinguished gentleman from Nebraska that in that examination we examined something over 1,000 statutes in order to determine which statutes should be repealed, which should be kept in part, and which should be kept in full for a short period of time. No doubt the gentleman will receive the relief he desires in a short time.

Mr. MILLER of Nebraska. I appreciate the chairman's explanations and the work the committee did do on wiping out some of the unnecessary delegated war powers in this bill. I am hopeful that a further examination will indicate that the authority that I have cited may also be discontinued if still in effect.

The CHAIRMAN. The Clerk will read the joint resolution for amendment.

The Clerk read as follows:

Resolved, etc., That the following statutory provisions are hereby repealed:

Act of June 10, 1942 (56 Stat. 351);

Section 207, title II, act of September 21, 1944 (58 Stat. 736);

Act of March 5, 1940 (54 Stat. 45), as amended;

Section 609, act of July 1, 1944 (58 Stat. 714, ch. 373);

Act of October 1, 1942 (56 Stat. 763, ch. 573);

Sections 2, 3, and 4, act of July 8, 1942 (56 Stat. 649);

Act of April 16, 1943 (57 Stat. 65), as amended;

Act of September 29, 1942 (56 Stat. 760);

Section 61 (b) of the National Defense Act of June 3, 1916, as added by the act of June 26, 1944 (58 Stat. 359, ch. 279);

Section 21 of the act of February 16, 1914 (38 Stat. 289);

Act of January 15, 1942 (56 Stat. 5, ch. 3);

Act of June 3, 1941 (55 Stat. 238, ch. 162), as amended;

The provision in the act of June 11, 1940, making appropriations for the Navy Department for the fiscal year 1941, under the heading "Bureau of Supplies and Accounts, Pay, Subsistence, and Transportation of Naval Personnel," prohibiting the payment of active-duty pay and allowances to retired officers except during the war or national emergency (54 Stat. 265, 275);

The provision in the act of February 7, 1942 (56 Stat. 63), under the heading "Marine Corps—Pay of officers, active list," relating to the availability of funds for the payment of active-duty pay to retired officers;

Section 2 of the act of February 15, 1879 (20 Stat. 295);

Act of May 29, 1945 (59 Stat. 226, ch. 137);

The provisions under the headings "Bureau of Engineering" and "Bureau of Construction and Repair," in the act of June 11, 1940 (54 Stat. 293), authorizing the Secretary of the Navy to exceed the statutory limit on repair and alterations to vessels commissioned or converted to meet the existing emergency;

Act of November 29, 1940 (54 Stat. 1219, ch. 923, as extended by the act of May 15, 1945 (59 Stat. 168, ch. 127);

The proviso of the act of February 7, 1942 (56 Stat. 63), that no officer of the Navy or Marine Corps who has been or hereafter may be adjudged fitted shall be involuntarily retired prior to 6 months subsequent to the termination of the existing national emergency;

Act of December 2, 1944 (58 Stat. 793);

Act of February 21, 1942 (56 Stat. 97, ch. 107);

Act of April 9, 1943 (57 Stat. 61, ch. 40);

The proviso of the act of June 26, 1940 (54 Stat. 599), under the heading "Council of National Defense," that until such time as the President shall declare the present emergency at an end the head of any department or independent establishment of the Government, notwithstanding the provisions of existing law, may employ, with the approval of the President, any person of outstanding experience and ability at a compensation of $1 per annum;

The provision of the act of July 2, 1942 (56 Stat. 548), as amended, which permits the Secretary of the Interior, or any official to whom he may delegate such authority, to appoint, without regard to the Classification Act of 1923, as amended, skilled and unskilled laborers, mechanics, and other persons engaged in a recognized trade or craft, including foremen of such groups;

Act of December 22, 1942 (56 Stat. 1070, ch. 801);

The provisions under the heading "Department of Agriculture, Surplus Marketing Administration," and "Department of the Interior, Government in the Territories," contained in the act of December 23, 1941 (55 Stat. 855, 856–857);

Section 8 of the act of June 9, 1943 (57 Stat. 126);

Section 301 of the act of September 9, 1940 (54 Stat. 884), as amended;

The provision in the First Deficiency Appropriation Act of 1942, under the heading "Selective Service System," relating to the presentation of quarterly reports to the Postmaster General (56 Stat. 101);

Act of July 9, 1943 (57 Stat. 390, ch. 209);

Section 5 of the act of June 28, 1944 (58 Stat. 394);

Section 2883 (c) of the Internal Revenue Code, added by the act of January 24, 1942 (56 Stat. 17);

Section 2883 (d) and (e) of the Internal Revenue Code, added by the act of March 27, 1942 (56 Stat. 187);

Act of December 20, 1944 (58 Stat. 817, ch. 609);

The provision in the Interior Department Appropriation Act, 1945, under the heading "Water conservation and utilization projects," relating to the use of the services or labor of prisoners of war, enemy aliens, and American-born Japanese (58 Stat. 463, 491);

Section 6 (b) of the act of March 11, 1941 (55 Stat. 33), as amended;

Act of December 17, 1941 (55 Stat. 808, ch. 588) as amended;

Section 606 (h) of the Communications Act of 1934 added by the act of December 29, 1942 (56 Stat. 1095);

Act of April 29, 1942 (56 Stat. 265, ch. 266);

Act of May 14, 1940 (54 Stat. 216, ch. 201), as amended;

Act of June 11, 1940 (54 Stat. 306, ch. 327), as amended;

Act of July 29, 1940 (54 Stat. 639, ch. 447), as amended;

Act of October 10, 1940 (54 Stat. 1092, ch. 838), as amended;

Act of May 2, 1941 (55 Stat. 148), as amended;

Act of June 14, 1941 (55 Stat. 591, ch. 297), as amended;

Section 3 (i) of the act of March 24, 1943 (57 Stat. 45, 51);

The proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, added by the act of June 17, 1943 (57 Stat. 158);

Section 1 of the act of April 24, 1944 (58 Stat. 216), except that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than 2 years after the date of the approval of this resolution;

Act of April 11, 1942 (56 Stat. 217);

Section 3 of the act of July 11, 1941 (55 Stat. 585);

Act of November 23, 1942 (56 Stat. 1020), as amended;

Act of October 29, 1942 (56 Stat. 1012);

Section 303 of the act of December 18, 1941 (55 Stat. 840);

Section 12 of the act of June 11, 1942 (56 Stat. 357), except that outstanding certificates issued thereunder shall continue in effect for a period of 6 months from the date of the approval of this joint resolution unless sooner revoked;

Act of July 12, 1943 (57 Stat. 520);

Act of June 5, 1942 (56 Stat. 323, ch. 346);

Act of January 2, 1942 (55 Stat. 831, ch. 646);

Act of December 24, 1942 (56 Stat. 1080, ch. 812);

Act of July 8, 1943 (57 Stat. 390, ch. 200);

The provisions of the act of November 19, 1941 (55 Stat. 765), as amended, relating to the availability for expenditure of funds appropriated pursuant to said act, as amended.

SEC. 2. Notwithstanding the termination date or termination period heretofore provided therefor by law, the following statutory provisions are repealed effective upon the date hereinafter specified, or upon the expiration of the period hereinafter specified, and shall remain in full force and effect until such date or until the expiration of such period. Such statutory provisions are herewith amended accordingly:

a. Repeal effective July 1, 1948:

Act of July 8, 1941 (55 Stat. 579, ch. 278), and the act of June 22, 1943 (57 Stat. 161, ch. 137);

Section 2 of the act of November 17, 1941 (55 Stat. 764);

Act of March 13, 1942 (56 Stat. 171);

Act of June 27, 1942 (56 Stat. 461, ch. 455);

Act of July 1, 1943 (57 Stat. 371), and the act of May 14, 1942 (56 Stat. 278), as amended;

Act of September 22, 1941 (55 Stat. 728, ch. 414), as amended;

The provision in the Second Supplemental National Defense Appropriation Act, 1943, under the heading "Federal Works Agency, Public Buildings Administration," relating to the authority of the Commissioner of Public Buildings to designate employees as special policemen (56 Stat. 990, 1000);

Act of July 29, 1941 (55 Stat. 606, ch. 326),

b. Repeal effective 6 months after the date of this joint resolution:

Act of January 27, 1942 (56 Stat. 19, ch. 21, as amended);

Act of December 17, 1942 (56 Stat. 1056);

Section 610 (c) of the act of July 1, 1944 (58 Stat. 682, 714);

Act of October 10, 1942 (56 Stat. 780, ch. 588);

Act of June 28, 1944 (58 Stat. 463, ch. 297);

Act of July 9, 1943 (57 Stat. 391, ch. 213); as amended.

c. Repeal effective 1 year after the date of this joint resolution.

Section 1 of the act of July 20, 1942 (56 Stat. 662);

Section 605 (c) of the act of July 1, 1944 (58 Stat. 682, 713).

SEC. 3. In the interpretation of the following statutory provisions, the date when this joint resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941;

Act of July 1, 1941 (55 Stat. 498), as amended;

Act of February 28, 1945 (59 Stat. 9, ch. 15);

Section 86 of the act of June 3, 1916 (39 Stat. 204);

Act of July 2, 1917 (40 Stat. 241), as amended;

Section 16 of the act of June 10, 1920 (41 Stat. 1072);

Act of February 26, 1925 (43 Stat. 984, ch. 340);

Act of April 12, 1926 (44 Stat. 241);

Act of May 29, 1926 (44 Stat. 677, ch. 424);

Section 20 of the act of May 18, 1933 (48 Stat. 68);

The provision of the act of May 15, 1936 (49 Stat. 1292), which authorizes the United States to control and operate the Little Rock Municipal Airport without rental or other charge in time of national emergency;

Act of May 27, 1939 (49 Stat. 1387);

Provisions authorizing the assumption of possession and control of the areas specified in the following statutes or parts of statutes: Section 3 of the act of June 21, 1938 (52 Stat. 834); act of June 20, 1936 (49 Stat. 1557, ch. 636); act of August 19, 1937 (50 Stat. 696, ch. 697); section 4 of the act of February 28, 1933 (47 Stat. 1368);

Section 5 (m) of the act of May 18, 1933 (48 Stat. 62);

Act of December 26, 1941 (55 Stat. 863, ch. 633);

Act of January 26, 1942 (56 Stat. 19);

Section 120 of the act of June 3, 1946 (39 Stat. 213, 214);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of Aug. 29, 1916, 39 Stat. 602), under the heading "Lighthouse Service," authorizing the President to transfer vessels, equipment, stations, and personnel of the Lighthouse Service (now Coast

Guard under Reorganization Plan No. II) to the jurisdiction of the Navy or War Department;

Section 16 of the act of May 22, 1917 (40 Stat. 87);

Provision of chapter XVIII of the act of July 9, 1918 (40 Stat. 892), as amended by the act of November 21, 1941 (55 Stat. 781, ch. 499), extending the time for examination of accounts of Army disbursing officers;

Section 69 of the National Defense Act of June 3, 1916, as amended by section 7 of the act of June 15, 1933 (48 Stat. 156);

The provision authorizing the extension of enlistments in the Regular Army or the Enlisted Reserve Corps, in force at the outbreak of war or entered into during its continuation, for 6 months after its termination, contained in the act of March 15, 1940 (54 Stat. 53, ch. 61);

Act of May 14, 1940 (54 Stat. 213);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 571);

Chapter II, articles 2 (d), 48, 58, 59, 74, 75, 76, 77, 78, 79, 104, and 119 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Paragraph 3 of section 127a as added to the act of June 3, 1916 (39 Stat. 166), by section 51 of the act of June 4, 1920 (41 Stat. 759, ch. 227);

Revised Statutes, 1163;

The fourth proviso of section 18 of the act of February 2, 1901 (31 Stat. 748, ch. 192);

Provision of the act of July 9, 1918 (40 Stat. 861), making appropriations for the Army for the fiscal year 1919, under the heading "Barracks and quarters," authorizing the Secretary of War to rent or lease buildings in the District of Columbia necessary for military purposes;

Section 111 of the act of June 3, 1916 (39 Stat. 211), as amended;

Section 363 of title III of the act of July 1, 1944 (58 Stat. 682, ch. 373);

Act of December 26, 1941 (55 Stat. 862, ch. 629), as amended by the act of December 23, 1944 (ch. 720, 58 Stat. 923);

Act of February 29, 1942 (56 Stat. 94);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of Aug. 29, 1916, 39 Stat. 531), under heading "Officers for engineering duty only," authorizing the Secretary of the Navy to recall to active duty enlisted men on furlough without pay to complete the enlistment period;

Act of August 18, 1941 (55 Stat. 629);

Section 2 of the act of December 13, 1941 (55 Stat. 799, ch. 570);

Revised Statutes, 1420, as amended by section 2 of the act of January 20, 1944 (58 Stat. 4, ch. 2);

Provision of the act of August 29, 1916 (39 Stat. 614), which authorizes Marine Corps training camps for the instruction of citizens to be in existence for a period longer than 6 weeks in each fiscal year in time of actual or threatened war;

Revised Statutes, 1624, article 4, paragraphs 6, 7, 12–20, and article 5;

Act of March 22, 1943 (57 Stat. 41);

Revised Statutes, 1462–1464;

Provision of the Naval Appropriation Act for the fiscal year ending June 30, 1917 (act of Aug. 29, 1916, 39 Stat. 591), under the heading "Fleet Naval Reserve," authorizing the Secretary of the Navy to call retired enlisted men into active service;

Provisions contained in the act of July 1, 1918 (40 Stat. 717), as amended (14 U. S. C. 164, 165), which authorize commissioned or warrant officers on the retired list to be ordered to active duty and to be temporarily advanced on the retired list, so far as such provisions pertain to personnel of the Coast Guard;

Act of April 8, 1946 (Public Law 337, 79th Cong.);

Section 4 (c) of the act of August 10, 1946 (Public Law 720, 79th Cong.);

Revised Statutes, 1436;

First proviso of section 18 of the act of May 22, 1917 (40 Stat. 84, 89);

Act of October 6, 1917 (40 Stat. 393, ch. 93), as amended;

Section 11 (c) of the act of June 23, 1938 (52 Stat. 948);

Section 10 of the act of June 14, 1940 (54 Stat. 394);

Section 18 of the act of August 2, 1946 (Public Law 604, 79th Cong.);

Provisions of the act of March 4, 1917 (39 Stat. 1192–1193); the act of May 13, 1942 (56 Stat. 277, ch. 304); sections 3 and 4 of the act of July 9, 1942 (56 Stat. 656); the act of June 17, 1943 (57 Stat. 156, ch. 128); the act of June 26, 1943 (57 Stat. 209); and the act of May 31, 1944 (58 Stat. 265, ch. 218), which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft, and other vessels;

Section 10 of the act of May 14, 1930 (46 Stat. 329, 332);

Act of May 29, 1930 (46 Stat. 479, ch. 350);

Section 7 of the act of April 26, 1898 (30 Stat. 365);

Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended;

Sections 3 and 12 of the act of February 21, 1946 (Public Law 305, 79th Cong.);

Section 1 of the act of July 20, 1942 (56 Stat. 662, ch. 508), as amended;

Act of December 17, 1942 (56 Stat. 1056, ch. 763);

Act of March 17, 1916 (39 Stat. 36, ch. 46);

Act of April 11, 1898 (30 Stat. 737);

Act of March 3, 1925 (43 Stat. 1109, 1110);

Section 1 of the act of July 2, 1940 (54 Stat. 724, ch. 516);

Section 4 of the act of July 7, 1943 (57 Stat. 388);

Act of May 18, 1946 (Public Law 385, 79th Cong.);

Section 2 of the act of August 8, 1946 (Public Law 697, 79th Cong.);

Section 4 (b) of the act of July 2, 1940 (54 Stat. 712, 714);

Act of December 17, 1942 (56 Stat. 1052);

Section 3 of the act of June 27, 1944 (58 Stat. 387, ch. 287);

Act of December 23, 1944 (58 Stat. 926, ch. 726);

Act of March 7, 1942 (56 Stat. 143, ch. 166), as amended;

Section 1 of the act of December 7, 1945 (59 Stat. 603, 604);

Act of December 10, 1942 (56 Stat. 1045);

Act of December 26, 1941 (55 Stat. 858), as amended, except that the Commissioners of the District of Columbia may continue to exercise the authority under sections 7 and 9 of such act, as amended, until not later than June 30, 1948, and the provisions of sections 11 and 12 of such act, as amended, shall continue to apply to cases in which the authority under sections 7 and 9 is exercised;

Proviso of section 303 (c) of the act of October 14, 1944, as added by the act of February 18, 1946 (Public Law 301, 79th Cong.);

Sections 119 and 156 of the act of October 21, 1942 (56 Stat. 814, 852–856);

Section 500 (a) of the act of July 22, 1944 (58 Stat. 291, ch. 268), as amended;

Section 201 of the act of August 10, 1946 (Public Law 719, 79th Cong.);

Act of July 31, 1945 (59 Stat. 511, ch. 338);

Section 6 of the act of February 4, 1887 (24 Stat. 379), as amended;

Provision of the act of August 29, 1916 (39 Stat. 619, 645), which empowers the President in time of war to take control of transportation systems;

Subsection (15) of section 402 of the act of February 28, 1920 (41 Stat. 477 (15));

Section 420 of the act of May 16, 1942 (56 Stat. 298);

Act of July 30, 1941 (55 Stat. 610);

Section 606 of the act of June 19, 1934 (48 Stat. 1104), as amended;

Section 4 of the act of July 15, 1918 (40 Stat. 901), as amended;

Sections 302 (h) and 712 (d) of the act of June 29, 1936 (49 Stat. 1993 and 2010);

Sections 1 (d) and 3 (a) of the act of August 7, 1939 (53 Stat. 1254 and 1255);

Section 2 of the act of October 22, 1914 (38 Stat. 765, ch. 334); act of May 10, 1943 (57 Stat. 82);

Section 1 (b) and subsections 2 (a), 2 (b), and 2 (c) of the act of August 8, 1946 (Public Law 660, 79th Cong.);

Section 1 of the act of January 28, 1915 (38 Stat. 800–801);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 600), under heading "Coast Guard," subjecting personnel of the Coast Guard operating as part of the Navy to the laws governing the Navy;

Section 1 of the title II of the act of June 15, 1917 (40 Stat. 220);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of August 29, 1916, 39 Stat. 601), under heading "Coast Guard," authorizing the Secretary of the Navy to man any Coast Guard station or maintain any house of refuge as a Coast Guard station;

Title II of the act of February 19, 1941 (55 Stat. 11), as amended;

Act of December 16, 1941 (55 Stat. 807, ch. 586);

Provisions appearing under the heading "Limitations upon prosecution," relating to crimes committed 2 years before arraignment, except for desertion committed in time of war, of the act of June 4, 1920 (41 Stat. 794);

Act of July 1, 1944 (58 Stat. 677, ch. 368);

Section 1 of the act of October 9, 1940 (54 Stat. 1061, ch. 788);

Section 2 of the act of June 19, 1912 (37 Stat. 138);

Provision of Naval Appropriation Act for the year 1918 (act of Mar. 4, 1917, 39 Stat. 1192), authorizing the President to suspend provisions of the 8-hour law to contracts with the United States;

Section 6 of the act of March 3, 1931, as added by the act of August 30, 1935 (49 Stat. 1013, ch. 825);

Provision of Naval Appropriation Act for the fiscal year 1917 (act of Aug. 29, 1916, 39 Stat. 558), under heading "Pay, miscellaneous," for the admission for treatment of interned persons and prisoners of war, under the jurisdiction of the Navy Department, to the Government Hospital for the Insane;

Section 604 of the act of July 1, 1944 (58 Stat. 712, ch. 373);

Section 400 (b) of the act of June 22, 1944 (58 Stat. 288), as amended;

Act of July 11, 1946 (Public Law 499, 79th Cong.);

Act of July 9, 1942 (56 Stat. 654);

Act of June 19, 1936 (49 Stat. 1535).

SEC. 4. The first sentence of section 3805 of the Internal Revenue Code, as added by section 507 (a) of the act of October 21, 1942 (56 Stat. 798, 963), is hereby amended to read as follows:

"In the case of any taxable year beginning after December 31, 1940, no Federal income-tax return of, or payment of any Federal income tax by, any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U. S. C., title 15, ch. 4), shall become due until January 1, 1948."

SEC. 5. Nothing herein contained shall be held to exempt from prosecution or to relieve from punishment any offense heretofore committed in violation of any act.

Mr. MICHENER (interrupting the reading of the joint resolution). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the committee amendments as follows:

Page 4, line 11, add an "s" to the word "heading."

Page 4, line 14, strike "855."

Page 4, strike line 16.

Page 5, strike lines 1 to 5, inclusive.

Page 5, between lines 12 and 13, add in paragraph form the following:

"Section 19 of the act of February 26, 1944 (58 Stat. 104);

"The provision of section 8 (b) of the act of July 30, 1941 (55 Stat. 611), as amended, conferring certain authority upon the President."

Page 6, line 2, change "June" to "July."

Page 6, strike lines 6, 7, and 8.

Page 6, line 14, strike "the approval of this resolution" and substitute therefor "enactment of this joint resolution."

Page 6, line 25, strike "the approval" and substitute therefor "enactment."

Page 7, strike lines 22 and 23.

Page 8, line 10, insert "enactment of" after the word "of."

Page 8, strike lines 14 and 23.

Page 8, line 21, insert "enactment of" after the word "of."

Page 9, line 7, strike the parenthesis after "amended" and insert a parenthesis between the number "498" and the comma following the number.

Page 9, line 20, strike "1939" and substitute therefor "1936."

Page 10, line 16, insert "Provision of" before the word "Section"; change the capital letter "S" in "Section" to the small letter "s"; insert between the close parenthesis and the semicolon "authorizing the President to transfer vessels, equipment, stations, and personnel of the Coast and Geodetic Survey to the jurisdiction of the War or Navy Departments."

Page 15, strike lines 11 and 12.

Page 15, line 24, strike "1944" and substitute therefor "1940."

Page 16, strike lines 1 and 2.

Page 16, line 3, add an "s" to the word "Section" to make it plural; insert "and 507" after "500 (a)"; strike "July" and substitute therefor "June."

Page 16, between lines 6 and 7, insert a new line reading:

"Section 700 (a) of the act of June 22, 1944 (58 Stat. 295)."

Page 16, strike lines 8 to 15, inclusive.

Page 16, strike lines 21 to 24, inclusive, and substitute therefor:

"Sections 302 (h), 712 (d), and 902 (a) of the act of June 29, 1936 (49 Stat. 1993, 2010, and 2015), as amended."

Page 17, line 2, after the first semicolon insert "Section 4 of the."

Page 17, line 7, between the parenthesis and the semicolon insert ", as amended."

Page 18, between lines 20 and 21, insert a new line reading:

"Act of March 24, 1943 (57 Stat. 43, ch. 22), as amended."

Page 18, line 22, between "amended" and the semicolon insert ", except paragraph 12 of such section."

Page 19, line 1, change the period to a semicolon and add a new line between lines 1 and 2 reading:

"Act of December 19, 1941 (55 Stat. 844), as amended."

Page 19, strike lines 2 to 10, inclusive, and substitute therefor the following:

"SEC. 4. For the purposes of article IV of the act of October 17, 1940 (54 Stat. 1183-1186), as amended, the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said act, as of the effective date of this joint resolution."

Mr. MICHENER (interrupting the reading of the amendments). Mr. Chairman, this is a very technical bill, and the amendments are technical ones. I ask unanimous consent that the committee amendments be considered as read and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. SPRINGER. Mr. Chairman, I offer an additional committee amendment, which is at the Clerk's desk. I shall offer several additional amendments which are not in the bill as reported.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 8, line 10, insert between the word "amended" and the semicolon the following: ": *Provided, however*, That so long as the Secretary of War deems it necessary in the interest of national defense, each man who has completed a course of medical instruction at Government expense in a university, college, or other similar institution of learning, pursuant to the provisions of the act of February 6, 1942 (56 Stat. 50, ch. 40), as amended, shall not be relieved from active duty until the completion of 2 years of active service as a commissioned officer, exclusive of any periods during which he served as an interne."

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 7, line 17, before the period at the end of line 17 insert the following: ", except that such funds shall remain available for the completion of access road projects which are now under construction."

Page 7, line 16, strike the word "expenditure" and substitute therefor the word "obligation."

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 10, strike lines 24 and 25, and page 11, strike lines 1, 2, and 3, substituting therefor the following:

"Section 16 of the act of May 22, 1917 (40 Stat. 87)."

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 20, strike out lines 11, 12, and 13 (all of section 5).

The committee amendment was agreed to.

Mr. SPRINGER. Mr. Chairman, I offer another committee amendment, which is at the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. SPRINGER: Page 10, strike out lines 11 and 12.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HERTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (S. J. Res. 123) pursuant to House Resolution 288, he reported the same back to the House with sundry amendments adopted in Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Farrell, its enrolling clerk, announced that the House had passed the joint resolution (S. J. Res. 123) to terminate certain emergency and war powers, with amendments in which it requested the concurrence of the Senate.

TERMINATION OF CERTAIN EMERGENCY AND WAR POWERS

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 123) to terminate certain emergency and war powers, which were, on page 4, line 11, to strike out "heading" and insert "headings"; on page 4, line 14, to strike out "855"; on page 4, strike out line 16; on page 5, strike out lines 1 to 5, inclusive; on page 5, after line 12, insert:

Section 19 of the act of February 26, 1944 (58 Stat. 104);

The provision of section 8 (b) of the act of July 30, 1941 (55 Stat. 611), as amended, conferring certain authority upon the President.

On page 6, line 2, to strike out "June" and insert "July"; on page 6, strike out lines 6 to 8, inclusive; on page 6, line 14, strike out "the approval of this resolution" and insert "enactment of this joint resolution"; on page 6, line 25, to strike out "the approval" and insert "enactment"; on page 7, line 8, to strike out "expenditure" and insert "obligation"; on page 7, line 9, after "amended", insert a comma and "except that such funds shall remain available for the completion of access road projects which are now under construction"; on page 7, strike out lines 22 and 23; on page 8, line 2, after "amended", insert a colon and "*Provided, however*, That so long as the Secretary of War deems it necessary in the interest of national defense, each man who completed a course of medical instruction at Government expense in a university, college or other similar institution of learning, pursuant to the provisions of the act of February 6, 1942 (56 Stat. 50, ch. 40), as amended, shall not be relieved from active duty until the completion of 2 years of active service as a commissioned officer, exclusive of any periods during which he served as an interne"; on page 8, line 10, after "of", insert "enactment of"; on page 8, strike out line 14; on page 8, line 21, after "of", insert "enactment of"; on page 8, strike out line 23; on page 9, line 20, strike out "1939" and insert "1936"; on page 10, strike out lines 3 and 4; on page 15, strike out lines 11 and 12; on page 15, line 24, strike out "1944" and insert "1940"; on page 16, strike out lines 1 and 2; on page 16, line 3, strike out "Section" and insert "Sections"; on page 16, line 3 after "(a)", insert "and 507"; on page 16, line 3, strike out "July" and insert "June"; on page 16, after line 6, insert:

Section 700 (a) of the act of June 22, 1944 (58 Stat. 295).

On page 16, strike out lines 8 to 15, inclusive; on page 16, strike out lines 21 to 24, inclusive and insert:

Sections 302 (h), 712 (d) and 902 (a) of the act of June 29, 1936 (49 Stat. 1993, 2010, and 2015), as amended.

On page 17, line 2, after "334);", insert "section 4 of the"; on page 17, line 7, after "801)", insert a comma and "as amended"; on page 18, after line 20, insert:

Act of March 24, 1943 (57 Stat. 43, ch. 22), as amended.

On page 18, line 22, after "amended", insert a comma and "except paragraph 12 of such section"; on page 19, line 1, strike out "1535)." and insert "1535);"; on page 19, after line 1, insert:

Act of December 19, 1941 (55 Stat. 844), as amended.

On page 19, strike out lines 2 to 10, inclusive, and insert:

SEC. 4. For the purposes of article IV of the act of October 17, 1940 (54 Stat. 1183–1186), as amended, the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said act, as of the effective date of this joint resolution.

On page 19, strike out lines 11 to 13, inclusive.

Mr. WILEY. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. McCARRAN. Mr. President, I inquire as to what changes, if any were brought about.

Mr. WILEY. The experts of the committee have reported to me that the amendments are corrections, mostly in relation to the designation of dates of statutes and minor matters, and do not vitally affect the joint resolution.

Mr. McCARRAN. What Senator was the chairman of the subcommittee which had charge of the joint resolution?

Mr. WILEY. I was. As the Senator will remember, the joint resolution relates to the termination of the emergency war powers. It was drawn in conjunction with the State Department. In order that Senators may understand the action of the House, I may make a statement in regard to the amendments.

The House made 36 amendments, 5 of which were floor amendments. Of these amendments, 21 were corrective or perfective, involving no change in substance. Six of the amendments consisted of deletions from Senate Joint Resolution 123 of citations to revenue measures which are under study by appropriate committees of the Congress.

These deletions were made at the request of the House Ways and Means Committee. Four of the amendments consisted of affixing termination dates for veterans' measures in accordance with the recommendations of the Veterans' Administration, in order that there may be a uniform pattern of termination of certain veterans' legislation. The Senate has already passed a bill of similar provisions during this session. The remaining amendments are as follows:

First. Extension of the life of an act which supports certain international fur-seal agreements, pending the execution of new agreements.

Second. Termination of the authority of the President to relieve certain pipeline operators from duties or liabilities under the Interstate Commerce Act. This amendment is in accord with the recommendations of the Federal Power Commission.

Third. Excepting from the termination of a certain statute, the authority of the Army to retain on active duty persons whose medical education was at Government expense.

Fourth. Excepting from the termination of the statute authorizing obligation of funds for building deefnse roads, expenditure of funds for projects presently being completed.

Fifth. Excepting from the termination provisions of the bill the authority of the Tennessee Valley Authority to export its products—chiefly nitrogenous fertilizer.

This exception is deemed justified in order that domestic producers may be permitted under the export control program to channel a fair share of their production to the domestic demand and thereby build up their domestic market.

The Senator from Rhode Island [Mr. McGRATH] is cognizant of the action, and approves the motion I have made.

Mr. McCARRAN. One item mentioned by the Senator related to those receiving medical education. What changes were made in regard to that? I suppose that referred to the ASTP training course for students.

Mr. WILEY. My understanding was that we excepted from the termination of the statute the authority of the Army to retain on active duty persons whose medical education was at Government expense. It will be remembered that these students are being educated at Government expense, and if the statute were entirely terminated the Government would not have the right to utilize the ability and services of some who have been in training 6 months or a year. The exception was made by the House, and I think we can well afford to agree with their conclusion.

Mr. McCARRAN. I wonder if the joint resolution provides for the length of time those students must serve.

Mr. WILEY. No; it retains the provision of the old law, and makes an exception in the provision for the termination of the statute which we had put into the joint resolution.

Mr. McCARRAN. I understand that.

Mr. WILEY. The old law remains in force.

Mr. McCARRAN. Under that law, what length of time will they be required to serve? Can the Senator give me any information as to that?

Mr. WILEY. The joint resolution continues the war in effect for that purpose, and the old statute provided that they should serve for the duration of the war and 6 months thereafter.

Mr. McCARRAN. Then it continues the war in duration for that purpose interminably?

Mr. WILEY. Until Congress by concurrent resolution terminates the war, or the President terminates the war under his Presidential power.

Mr. McGRATH. Mr. President, I might add to what the Senator from Wisconsin has said that all the amendments made by the House have been checked by the Department of Justice and by the particular departments involved, and they have approved each and every one of them.

Mr. WILEY. That is correct, and I thank the Senator from Rhode Island for his statement.

The PRESIDENT pro tempore. The Senate, without objection, has concurred in the amendments of the House.

CHAPTER 327—PUBLIC LAW 239

[S. J. Res. 123]

Joint Resolution to terminate certain emergency and war powers.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The following statutory provisions are hereby repealed:
Act of June 10, 1942 (56 Stat. 351) ; [1]
Section 207, title II, Act of September 21, 1944 (58 Stat. 736) ; [2]
Act of March 5, 1940 (54 Stat. 45), as amended; [3]
Section 609, Act of July 1, 1944 (58 Stat. 714, ch. 373) ; [4]
Act of October 1, 1942 (56 Stat. 763, ch. 573) ; [5]
Sections 2, 3, and, 4 Act of July 8, 1942 (56 Stat. 649) ; [6]
Act of April 16, 1943 (57 Stat. 65), as amended; [7]

[1] 21 U.S.C.A. § 71 note.
[2] 16 U.S.C.A. § 565.
[3] 10 U.S.C.A. § 310 note; 50 U.S.C.A.Appendix, § 769 note.
[4] 42 U.S.C.A. § 204 note.
[5] 10 U.S.C.A. § 1043 note.
[6] 10 U.S.C.A. §§ 299b–299d.
[7] 10 U.S.C.A. § 92a; 34 U.S.C.A. § 21a.

Act of September 29, 1942 (56 Stat. 760) ; [8]

Section 61(b) of the National Defense Act of June 3, 1916,[9] as added by the Act of June 26, 1944 (58 Stat. 359, ch. 279);

Section 21 of the Act of February 16, 1914 (38 Stat. 289) ; [10]

Act of January 15, 1942 (56 Stat. 5, ch. 3) ; [11]

Act of June 3, 1941 (55 Stat. 238, ch. 162), as amended; [12]

The provision in the Act of June 11, 1940, making appropriations for the Navy Department for the fiscal year 1941, under the heading "Bureau of Supplies and Accounts, Pay, Subsistence, and Transportation of Naval Personnel", prohibiting the payment of active-duty pay and allowances to retired officers except during the war or national emergency (54 Stat. 265, 275) ;

The provision in the Act of February 7, 1942 (56 Stat. 68), under the heading "Marine Corps—Pay of officers, active list", relating to the availability of funds for the payment of active-duty pay to retired officers;

Section 2 of the Act of February 15, 1879 (20 Stat. 295) ; [15]

Act of May 29, 1945 (59 Stat. 226, ch. 137) ; [16]

The provisions under the headings "Bureau of Engineering" and "Bureau of Construction and Repair", in the Act of June 11, 1940 (54 Stat. 293), authorizing the Secretary of the Navy to exceed the statutory limit on repair and alterations to vessels commissioned or converted to meet the existing emergency;

Act of November 29, 1940 (54 Stat. 1219, ch. 923),[18] as extended by the Act of May 15, 1945 (59 Stat. 168, ch. 127) ;

The proviso of the Act of February 7, 1942 (56 Stat. 63),[20] that no officer of the Navy or Marine Corps who has been or hereafter may be adjudged fitted shall be involuntarily retired prior to six months subsequent to the termination of the existing national emergency;

Act of December 2, 1944 (58 Stat. 793) ; [21]

Act of February 21, 1942 (56 Stat. 97, ch. 107) ; [22]

Act of April 9, 1943 (57 Stat. 61, ch. 40) ; [23]

The proviso of the Act of June 26, 1940 (54 Stat. 599), under the heading "Council of National Defense", that until such time as the President shall declare the present emergency at an end the head of any department or independent establishment of the Government, notwithstanding the provisions of existing law, may employ, with the approval of the President, any person of outstanding experience and ability at a compensation of $1 per annum;

The provision of the Act of July 2, 1942 (56 Stat. 548), as amended, which permits the Secretary of the Interior, or any official to whom he may delegate such authority, to appoint, without regard to the Classification Act of 1923,[26] as amended, skilled and unskilled laborers, mechanics, and other persons engaged in a recognized trade or craft, including foremen of such groups;

Act of December 22, 1942 (56 Stat. 1070, ch. 801) ; [27]

The provisions under the headings "Department of Agriculture, Surplus Marketing Administration", and "Department of the Interior, Government in the Territories", contained in the Act of December 23, 1941 (55 Stat. 856–857) ;

[8] 19 U.S.C.A. note prec. § 1551.
[9] 32 U.S.C.A. § 194(b).
[10] 34 U.S.C.A. § 851.
[11] 34 U.S.C.A. § 774.
[12] 34 U.S.C.A. § 1054 note.
[15] 34 U.S.C.A. § 21.
[16] 34 U.S.C.A. § 222 note.
[18] 10 U.S.C.A. § 101 note.
[20] 34 U.S.C.A., note prec. § 381.
[21] 10 U.S.C.A. § 945 note.
[22] 5 U.S.C.A. § 73c—1 note.
[23] 34 U.S.C.A. §§ 602, 602 note.
[26] 5 U.S.C.A. §§ 661–674.
[27] 5 U.S.C.A. note prec. 745.

Section 301 of the Act of September 9, 1940 (54 Stat. 884), as amended; [29]

The provision in the First Deficiency Appropriation Act of 1942,[29] under the heading "Selective Service System", relating to the presentation of quarterly reports to the Postmaster General (56 Stat. 101);

Act of July 9, 1943 (57 Stat. 390, ch. 209); [31]

Section 5 of the Act of June 28, 1944 (58 Stat. 394); [32]

The provision in the Interior Department Appropriation Act, 1945, under the heading "Water conservation and utilization projects", relating to the use of the services or labor of prisoners of war, enemy aliens, and American-born Japanese (58 Stat. 463, 491);

Section 6(b) of the Act of March 11, 1941 (55 Stat. 33), as amended; [34]

Section 19 of the Act of February 26, 1944 (58 Stat. 104); [35]

The provision of section 8(b) of the Act of July 30, 1941 (55 Stat. 611), as amended,[36] conferring certain authority upon the President;

Act of December 17, 1941 (55 Stat. 808, ch. 588), as amended; [37]

Section 606(h) of the Communications Act of 1934, added by the Act of December 29, 1942 (56 Stat. 1096); [38]

Act of April 29, 1942 (56 Stat. 265, ch. 266); [39]

Act of May 14, 1940 (54 Stat. 216, ch. 201), as amended; [40]

Act of June 11, 1940 (54 Stat. 306, ch. 327), as amended; [41]

Act of June 29, 1940 (54 Stat. 689, ch. 447), as amended; [42]

Act of October 10, 1940 (54 Stat. 1092, ch. 838), as amended; [43]

Act of May 2, 1941 (55 Stat. 148), as amended; [44]

Act of July 14, 1941 (55 Stat. 591, ch. 297), as amended; [45]

Section 3(i) of the Act of March 24, 1943 (57 Stat. 45, 51); [46]

Section 1 of the Act of April 24, 1944 (58 Stat. 216),[47] except that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than two years after the date of enactment of this joint resolution;

Act of April 11, 1942 (56 Stat. 217); [48]

Section 3 of the Act of July 11, 1941 (55 Stat. 585); [49]

Act of November 23, 1942 (56 Stat. 1020), as amended; [50]

Act of October 29, 1942 (56 Stat. 1012); [51]

Section 303 of the Act of December 18, 1941 (55 Stat. 840); [52]

Section 12 of the Act of June 11, 1942 (56 Stat. 357),[53] except that outstanding certificates issued thereunder shall continue in effect for a period of six months from the date of enactment of this joint resolution unless sooner revoked;

Act of July 12, 1943 (57 Stat. 520);

Act of June 5, 1942 (56 Stat. 323, ch. 346); [55]

[29] 39 U.S.C.A. § 321b note.
[31] 39 U.S.C.A. § 226b.
[32] 39 U.S.C.A. § 321g.
[34] 22 U.S.C.A. § 415(b).
[35] 16 U.S.C.A. § 631r.
[36] 15 U.S.C.A., note prec. 715.
[37] 47 U.S.C.A. § 353 note.
[38] 47 U.S.C.A. § 606(h).
[39] 49 U.S.C.A. § 481 note.
[40] 46 U.S.C.A. §§ 1160 note, 1194 note.
[41] 46 U.S.C.A. § 1152 note; 50 U.S.C.A.Appendix, § 1251.
[42] 46 U.S.C.A. §§ 1128–1128e, 1128f, 1128g.
[43] 40 U.S.C.A. § 326 note.
[44] 22 U.S.C.A. § 420; 50 U.S.C.A.Appendix, §§ 1251, 1261, 1262.
[45] 50 U.S.C.A.Appendix, §§ 1281–1286.
[46] 46 U.S.C.A. § 1128h.
[47] 46 U.S.C.A. §§ 1128–1128e.
[48] 50 U.S.C.A.Appendix, §§ 751, 752.
[49] 40 U.S.C.A. § 270a note; 50 U.S.C.A.Appendix, § 1181.
[50] 14 U.S.C.A. §§ 121c, 265, 301, 302, 306, 307, 310, 312, 381–384, 384a, 385, 387, 388.
[51] 15 U.S.C.A. § 323.
[52] 50 U.S.C.A.Appendix, § 618.
[53] 50 U.S.C.A.Appendix, §§ 1112, 1112 note.
[55] 50 U.S.C.A.Appendix, §§ 756–759.

Act of January 2, 1942 (55 Stat. 881, ch. 646) ; [56]

Act of December 24, 1942 (56 Stat. 1080, ch. 812) ; [57]

Act of July 8, 1943 (57 Stat. 390, ch. 200) ;

The provisions of the Act of November 19, 1941 (55 Stat. 765), as amended,[59] relating to the availability for obligation of funds appropriated pursuant to said Act, as amended, except that such funds shall remain available for the completion of access road projects which are now under construction.

Sec. 2. Notwithstanding the termination date or termination period heretofore provided therefor by law, the following statutory provisions are repealed effective upon the date hereinafter specified, or upon the expiration of the period hereinafter specified, and shall remain in full force and effect until such date or until the expiration of such period. Such statutory provisions are hereby amended accordingly:

a. Repeal effective July 1, 1948:

Act of July 8, 1941 (55 Stat. 579, ch. 278),[60] and the Act of June 22, 1943 (57 Stat. 161, ch. 137) ;

Section 2 of the Act of November 17, 1941 (55 Stat. 764) ; [62]

Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended; [63]

Act of September 22, 1941 (55 Stat. 728, ch. 414), as amended: [64] *Provided, however,* That so long as the Secretary of War deems it necessary in the interest of national defense, each man who completed a course of medical instruction at Government expense in a university, college or other similar institution of learning, pursuant to the provisions of the Act of February 6, 1942 (56 Stat. 50, ch. 40), as amended, shall not be relieved from active duty until the completion of two years of active service as a commissioned officer, exclusive of any periods during which he served as an interne;

The provision in the Second Supplemental National Defense Appropriation Act, 1943,[66] under the heading "Federal Works Agency, Public Buildings Administration", relating to the authority of the Commissioner of Public Buildings to designate employees as special policemen (56 Stat. 990, 1000) ;

Act of July 29, 1941 (55 Stat. 606, ch. 326);[67]

b. Repeal effective six months after the date of enactment of this joint resolution:

Act of January 27, 1942 (56 Stat. 19, ch. 21, as amended) ;[68]

Section 610(c) of the Act of July 1, 1944 (58 Stat. 682, 714) ; [69]

Act of October 10, 1942 (56 Stat. 780, ch. 588) ; [70]

Act of June 28, 1944 (58 Stat. 463, ch. 297) ; [71]

Act of July 9, 1943 (57 Stat. 391, ch. 213) ; as amended.[72]

c. Repeal effective one year after the date of enactment of this joint resolution:

Section 605(c) of the Act of July 1, 1944 (58 Stat. 682, 713).[73]

Sec. 3. In the interpretation of the following statutory provisions, the date when this joint resolution becomes effective shall be deemed to be the date of the termination of any state of war heretofore declared by the Congress and of the national emergencies proclaimed by the President on September 8, 1939, and on May 27, 1941;

[56] 48 U.S.C.A. § 518a.
[57] 30 U.S.C.A. § 223 note.
[59] 23 U.S.C.A., note prec. § 101.
[60] 47 U.S.C.A. § 353 note.
[62] 22 U.S.C.A. § 446 note.
[63] 10 U.S.C.A. § 1711 note; 50 U.S.C.A.Appendix, §§ 1551-1555 note.
[64] 10 U.S.C.A. § 489 note.
[66] 40 U.S.C.A. § 101 note.
[67] 10 U.S.C.A. § 571 note.
[68] 46 U.S.C.A. § 883 note.
[69] 42 U.S.C.A. § 249 note.
[70] 34 U.S.C.A. § 902a note.
[71] 39 U.S.C.A. § 160 note.
[72] 39 U.S.C.A. § 133 note.
[73] 5 U.S.C.A. § 799 note.

Act of July 1, 1941 (55 Stat. 498, as amended) ; [74]

Act of February 26, 1925 (43 Stat. 984, ch. 340) ;

Section 86 of the Act of June 3, 1916 (39 Stat. 204) ; [76]

Act of July 2, 1917 (40 Stat. 241), as amended; [77]

Section 16 of the Act of June 10, 1920 (41 Stat. 1072) ; [78]

Act of February 26, 1925 (43 Stat. 984, ch. 340) ;

Act of April 12, 1926 (44 Stat. 241) ;

Act of May 29, 1926 (44 Stat. 677, ch. 424) ;

Section 20 of the Act of May 18, 1933 (48 Stat. 68) ; [82]

The provision of the Act of May 15, 1936 (49 Stat. 1292), which authorizes the United States to control and operate the Little Rock Municipal Airport without rental or other charge in time of national emergency;

Act of May 27, 1936 (49 Stat. 1387) ;

Provisions authorizing the assumption of possession and control of the areas specified in the following statutes or parts of statutes: Section 3 of the Act of June 21, 1938 (52 Stat. 834) ; Act of June 20, 1936 (49 Stat. 1557, ch. 636) ; Act of August 19, 1937 (50 Stat. 696, ch. 697); section 4 of the Act of February 28, 1933 (47 Stat. 1368) ;

Act of December 26, 1941 (55 Stat. 863, ch. 633) ;[89]

Act of January 26, 1942 (56 Stat. 19) ; [90]

Section 120 of the Act of June 3, 1916 (39 Stat. 213, 214) ; [91]

Provision of Naval Appropriation Act for the fiscal year 1917 (Act of August 29, 1916, 39 Stat. 602),[92] under the heading "Lighthouse Service" authorizing the President to transfer vessels, equipment, stations, and personnel of the Lighthouse Service (now Coast Guard under Reorganization Plan Numbered II) to the jurisdiction of the Navy or War Department;

Section 16 of the Act of May 22, 1917 (40 Stat. 87) ; [93]

Provision of chapter XVIII of the Act of July 9, 1918 (40 Stat. 892),[94] as amended by the Act of November 21, 1941 (55 Stat. 781, ch. 499), extending the time for examination of accounts of Army disbursing officers;

Section 69 of the National Defense Act of June 3, 1916, as amended by section 7 of the Act of June 15, 1933 (48 Stat. 156) ;[96]

The provision authorizing the extension of enlistments in the Regular Army or the Enlisted Reserve Corps, in force at the outbreak of war or entered into during its continuation, for six months after its termination, contained in the Act of March 15, 1940 (54 Stat. 53, ch. 61) ; [97]

Act of May 14, 1940 (54 Stat. 213) ; [98]

Section 2 of the Act of December 13, 1941 (55 Stat. 799, ch. 571) ; [99]

Chapter II, articles 2(d), 48, 58, 59, 74, 75, 76, 77, 78, 79, 104, and 119 of the Act of June 4, 1920 (41 Stat. 759, ch. 227) ; [1]

[74] 15 U.S.C.A. § 713a—8 note.
[75] 7 U.S.C.A. §§ 1334, 1344, 1358 notes.
[76] 32 U.S.C.A. § 39 note.
[77] 50 U.S.C.A. § 171 note.
[78] 16 U.S.C.A. § 809 note.
[82] 16 U.S.C.A. § 831s note.
[89] 50 U.S.C.A. § 142 note.
[90] 22 U.S.C.A. § 452 note.
[91] 50 U.S.C.A. § 80 note.
[92] 33 U.S.C.A. § 758 note.
[93] 33 U.S.C.A. §§ 855–858 notes.
[94] 31 U.S.C.A. §§ 80, 80a notes.
[96] 32 U.S.C.A. § 124 note.
[97] 10 U.S.C.A. § 425 note.
[98] 10 U.S.C.A. § 634 note.
[99] 50 U.S.C.A.Appendix, § 732 note.
[1] 10 U.S.C.A. §§ 1473, 1519, 1530, 1531, 1546, 1547, 1548, 1549, 1550, 1551, 1576, 1591 notes.

Paragraph 3 of section 127a as added to the Act of June 3, 1916 (39 Stat. 166),[2] by section 51 of the Act of June 4, 1920 (41 Stat. 759, ch. 227) ;

Revised Statutes, 1166; [3]

The fourth proviso of section 18 of the Act of February 2, 1901 (31 Stat. 748, ch. 192) ; [4]

Provision of the Act of July 9, 1918 (40 Stat. 861),[5] making appropriations for the Army for the fiscal year 1919, under the heading "Barracks and Quarters", authorizing the Secretary of War to rent or lease buildings in the District of Columbia necessary for military purposes;

Section 111 of the Act of June 3, 1916 (39 Stat. 211), as amended; [6]

Section 363 of title III of the Act of July 1, 1944 (58 Stat. 682, ch. 373) ; [7]

Act of December 26, 1941 (55 Stat. 862, ch. 629),[8] as amended by the Act of December 23, 1944 (ch. 720, 58 Stat. 923) ;

Act of February 20, 1942 (56 Stat. 94) ; [9]

Provision of Naval Appropriation Act for the fiscal year 1917 (Act of August 29, 1916, 39 Stat. 581),[10] under heading "Officers for Engineering Duty Only", authorizing the Secretary of the Navy to recall to active duty enlisted men on furlough without pay to complete the enlistment period;

Act of August 18, 1941 (55 Stat. 629) ; [11]

Section 2 of the Act of December 13, 1941 (55 Stat. 799, ch. 570) ; [12]

Revised Statutes, 1420,[13] as amended by section 2 of the Act of January 20, 1944 (58 Stat. 4, ch. 2);

Provision of the Act of August 29, 1916 (39 Stat. 614),[14] which authorizes Marine Corps training camps for the instruction of citizens to be in existence for a period longer than six weeks in each fiscal year in time of actual or threatened war;

Revised Statutes, 1624, article 4, paragraphs 6, 7, 12–20, and article 5; [15]

Act of March 22, 1943 (57 Stat. 41) ; [16]

Revised Statutes, 1462–1464; [17]

Provision of the Naval Appropriation Act for the fiscal year ending June 30, 1917 (Act of August 29, 1916, 39 Stat. 591) ,[18] under the heading "Fleet Naval Reserve", authorizing the Secretary of the Navy to call retired enlisted men into active service;

Provisions contained in the Act of July 1, 1918 (40 Stat. 717), as amended (14 U.S.C. 164, 165),[19] which authorize commissioned or warrant officers on the retired list to be ordered to active duty and to be temporarily advanced on the retired list, so far as such provisions pertain to personnel of the Coast Guard;

Act of April 8, 1946 (Public Law 337, Seventy-ninth Congress) ; [20]

Section 4(c) of the Act of August 10, 1946 (Public Law 720, Seventy-ninth Congress) ; [21]

[2] 10 U.S.C.A. § 992 note.
[3] 10 U.S.C.A. § 194 note.
[4] 10 U.S.C.A. § 107 note.
[5] 40 U.S.C.A. § 37 note.
[6] 32 U.S.C.A. § 81 note.
[7] 42 U.S.C.A. § 266 note.
[8] 31 U.S.C.A. § 80b note.
[9] 31 U.S.C.A. § 80c note.
[10] 34 U.S.C.A. § 191 note.
[11] 14 U.S.C.A. § 35a note; 34 U.S.C.A. §§ 181, 181a, 201a, 692, 692a notes; 37 U.S.C.A. § 16a note.
[12] 34 U.S.C.A. § 201b note.
[13] 34 U.S.C.A. § 163 note.
[14] 34 U.S.C.A. § 831 note.
[15] 34 U.S.C.A. § 1200, arts. 4, 5 notes.
[16] 34 U.S.C.A. § 1201 note.
[17] 34 U.S.C.A. §§ 421, 424, 425 notes.
[18] 34 U.S.C.A. § 433 note.
[19] 14 U.S.C.A. §§ 164, 165 notes.
[20] 14 U.S.C.A. § 162b note; 34 U.S.C.A. § 428 note.
[21] 34 U.S.C.A. § 339 note.

Revised Statutes, 1436; [22]

First proviso of section 18 of the Act of May 22, 1917 (40 Stat. 84, 89) ; [23]

Act of October 6, 1917 (40 Stat. 393, ch. 93), as amended; [24]

Section 11(c) of the Act of June 23, 1938 (52 Stat. 948) ; [25]

Section 10 of the Act of June 14, 1940 (54 Stat. 394) ;

Section 18 of the Act of August 2, 1946 (Public Law 604, Seventy-ninth Congress) ; [27]

Provisions of the Act of March 4, 1917 (39 Stat. 1192–1193) ; [28] the Act of May 13, 1942 (56 Stat. 277, ch. 304) ; [29] sections 3 and 4 of the Act of July 9, 1942 (56 Stat. 656) ; [30] the Act of June 17, 1943 (57 Stat. 156, ch. 128) ; [31] the Act of June 26, 1943 (57 Stat. 209) ; and the Act of May 31, 1944 (58 Stat. 265, ch. 218),[33] which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels;

Section 10 of the Act of May 14, 1930 (46 Stat. 329, 332) ;

Act of May 29, 1930 (46 Stat. 479, ch. 350) ;

Section 7 of the Act of April 26, 1898 (30 Stat. 365) ; [36]

Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended; [37]

Sections 3 and 12 of the Act of February 21, 1946 (Public Law 305, Seventy-ninth Congress) ; [38]

Section 1 of the Act of July 20, 1942 (56 Stat. 662, ch. 508), as amended; [39]

Act of December 17, 1942 (56 Stat. 1056, ch. 763) ; [40]

Act of March 17, 1916 (39 Stat. 36, ch. 46) ; [41]

Act of April 11, 1898 (30 Stat. 737) ; [42]

Act of March 3, 1925 (43 Stat. 1109, 1110) ; [43]

Section 1 of the Act of July 2, 1940 (54 Stat. 724, ch. 516) ; [44]

Section 4 of the Act of July 7, 1943 (57 Stat. 388) ; [45]

Act of May 18, 1946 (Public Law 385, Seventy-ninth Congress) ;

Section 2 of the Act of August 8, 1946 (Public Law 697, Seventy-ninth Congress) ; [47]

Section 4(b) of the Act of July 2, 1940 (54 Stat. 712, 714) ; [48]

Act of December 17, 1942 (56 Stat. 1052) ; [49]

Section 3 of the Act of June 27, 1944 (58 Stat. 387, ch. 287) ; [50]

Act of December 23, 1944 (58 Stat. 926, ch. 726) ; [51]

Section 1 of the Act of December 7, 1945 (59 Stat. 603, 604) ; [52]

Act of December 10, 1942 (56 Stat. 1045) ; [53]

Act of December 26, 1941 (55 Stat. 858), as amended, except that the Commissioners of the District of Columbia may continue to exercise the authority under sections 7 and 9 of such Act, as amended, until

[22] 34 U.S.C.A. § 225 note.
[23] 34 U.S.C.A. § 213 note.
[24] 34 U.S.C.A. § 1200, art. 65 note.
[25] 34 U.S.C.A. § 311 note.
[27] 34 U.S.C.A. § 474 note.
[28] 50 U.S.C.A. § 82 note.
[29] 34 U.S.C.A. §§ 498—4, 498a—4 notes.
[30] 34 U.S.C.A. §§ 498c—7, 498c—8 notes.
[31] 34 U.S.C.A. §§ 498c—11, 498d—2 notes.
[33] 34 U.S.C.A. § 498c—13 note.
[36] 10 U.S.C.A. § 694 note.
[37] 5 U.S.C.A. §§ 691, 693, 715 notes; 34 U.S.C.A. § 943 note; 50 U.S.C.A.Appendix, §§ 1001-1017 notes.
[38] 50 U.S.C.A.Appendix, § 778 note.
[39] 10 U.S.C.A. § 1423a note.
[40] 10 U.S.C.A. § 1423b note.
[41] 10 U.S.C.A. § 602 note.
[42] 50 U.S.C.A. § 178 note.
[43] 36 U.S.C.A. §§ 427–440 notes.
[44] 18 U.S.C.A. § 1381 note.
[45] 12 U.S.C.A. § 1553 note.
[47] 42 U.S.C.A. § 1574 note.
[48] 5 U.S.C.A. § 189a note.
[49] 5 U.S.C.A. § 30b note.
[50] 5 U.S.C.A. § 852 note.
[51] 5 U.S.C.A. § 731 note.
[52] 39 U.S.C.A. § 49 note.
[53] 44 U.S.C.A. §§ 311, 311a notes.

not later than June 30, 1948, and the provisions of sections 11 and 12 of such Act, as amended, shall continue to apply to cases in which the authority under sections 7 and 9 is exercised;

Proviso of section 303(c) of the Act of October 14, 1940,[57] as added by the Act of February 18, 1946 (Public Law 301, Seventy-ninth Congress);

Sections 500(a) and 507 of the Act of June 22, 1944 (58 Stat. 291, ch. 268), as amended;[59]

Section 201 of the Act of August 10, 1946 (Public Law 719, Seventy-ninth Congress);[60]

Section 700(a) of the Act of June 22, 1944 (58 Stat. 295);[61]

Act of July 31, 1945 (59 Stat. 511, ch. 338);[62]

Act of July 30, 1941 (55 Stat. 610);[63]

Section 606 of the Act of June 19, 1934 (48 Stat. 1104), as amended;[64]

Section 4 of the Act of July 15, 1918 (40 Stat. 901), as amended;[65]

Sections 302(h), 712(d) and 902(a) of the Act of June 29, 1936 (49 Stat. 1993, 2010, and 2015), as amended;[66]

Section 2 of the Act of October 22, 1914 (38 Stat. 765, ch. 334);[67] section 4 of the Act of May 10, 1943 (57 Stat. 82);[68]

Section 1(b) and subsections 2(a), 2(b), and 2(c) of the Act of August 8, 1946 (Public Law 660, Seventy-ninth Congress);[69]

Section 1 of the Act of January 28, 1915 (38 Stat. 800–801), as amended;[70]

Provision of Naval Appropriation Act for the fiscal year 1917 (Act of August 29, 1916, 39 Stat. 600),[71] under heading "Coast Guard", subjecting personnel of the Coast Guard operating as part of the Navy to the laws governing the Navy;

Section 1 of title II of the Act of June 15, 1917 (40 Stat. 220);[72]

Provision of Naval Appropriation Act for the fiscal year 1917 (Act of August 29, 1916, 39 Stat. 601),[73] under heading "Coast Guard", authorizing the Secretary of the Navy to man any Coast Guard station or maintain any house of refuge as a Coast Guard station;

Title II of the Act of February 19, 1941 (55 Stat. 11), as amended;[74]

Act of December 16, 1941 (55 Stat. 807, ch. 586);[75]

Provisions appearing under the heading "Limitations upon Prosecutions", relating to crimes committed two years before arraignment, except for desertion committed in time of war, of the Act of June 4, 1920 (41 Stat. 794);[76]

Act of July 1, 1944 (58 Stat. 677, ch. 368);[77]

Section 1 of the Act of October 9, 1940 (54 Stat. 1061, ch. 788);[78]

Section 2 of the Act of June 19, 1912 (37 Stat. 138);[79]

Provision of Naval Appropriation Act for the year 1918 (Act of March 4, 1917, 39 Stat. 1192),[80] authorizing the President to suspend provisions of the eight-hour law to contracts with the United States;

57 42 U.S.C.A. § 1543 note.
59 38 U.S.C.A. §§ 694, 694h notes.
60 42 U.S.C.A. § 410 note.
61 38 U.S.C.A. § 696 notes.
62 31 U.S.C.A. § 224i—1 note.
63 15 U.S.C.A., note prec. § 715.
64 47 U.S.C.A. § 606 note.
65 46 U.S.C.A. §§ 835–840, 842 notes.
66 46 U.S.C.A. §§ 1132, 1202, 1242 notes.
67 46 U.S.C.A. § 225 note.
68 50 U.S.C.A.Appendix, § 753c note.
69 50 U.S.C.A.Appendix, §§ 1471, 1472 notes.
70 14 U.S.C.A. § 1 note.
71 14 U.S.C.A. § 3 note.
72 50 U.S.C.A.Appendix, § 191 note.
73 14 U.S.C.A. § 95 note.
74 14 U.S.C.A. §§ 301–315 notes.
75 14 U.S.C.A. §§ 72–74 notes.
76 10 U.S.C.A. § 1510 note.
77 8 U.S.C.A. §§ 801, 803 notes.
78 31 U.S.C.A. §§ 71a, 237 notes.
79 40 U.S.C.A. § 325 note.
80 40 U.S.C.A. § 326 note.

Section 6 of the Act of March 3, 1931,[81] as added by the Act of August 30, 1935 (49 Stat. 1013, ch. 825) ;

Provision of Naval Appropriation Act for the fiscal year 1917 (Act of August 29, 1916, 39 Stat. 558),[82] under heading "Pay Miscellaneous", for the admission for treatment of interned persons and prisoners of war, under the jurisdiction of the Navy Department, to the Government Hospital for the Insane;

Section 604 of the Act of July 1, 1944 (58 Stat. 712, ch. 373) ;[83]

Act of March 24, 1943 (57 Stat. 43, ch. 22), as amended;[84]

Section 400(b) of the Act of June 22, 1944 (58 Stat. 288), as amended,[85] except paragraph 12 of such section;

Act of July 11, 1946 (Public Law 499, Seventy-ninth Congress) ;[86]

Act of July 9, 1942 (56 Stat. 654) ;[87]

Act of June 19, 1936 (49 Stat. 1535) ;

Act of December 19, 1941 (55 Stat. 844), as amended.[89]

Sec. 4. For the purposes of article IV of the Act of October 17, 1940 (54 Stat. 1183–1186), as amended,[90] the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said Act, as of the effective date of this joint resolution.

Approved July 25, 1947.

[81] 40 U.S.C.A. § 276a—5 note.
[82] 24 U.S.C.A. § 192 note.
[83] 42 U.S.C.A. § 201 note.
[84] 38 U.S.C.A. § 701 note, Ch. 12 note.
[85] 38 U.S.C.A. Chap. 12 note.
[86] 38 U.S.C.A. §§ 488, 488a notes.
[87] 43 U.S.C.A. § 315q note.
[89] 38 U.S.C.A. Ch. 12 note.
[90] 50 U.S.C.A.Appendix, § 584 note.

Union Calendar No. 291

80TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 594

SOCIAL SECURITY AMENDMENTS, 1947

JUNE 16, 1947.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. REED of New York, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 3818]

The Committee on Ways and Means, to whom was referred the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 4 after line 9 insert the following additional section:

SEC. 6. This act may be cited as the "Social Security Act Amendments of 1947."

GENERAL STATEMENT

SUMMARY OF THE BILL

This bill establishes a new schedule of social-security taxes imposed on employers and employees, respectively, and continues two important, temporary provisions of the Social Security Act as follows:

1. Substitutes the following graduation of tax rates for the rates now provided under the Federal Insurance Contributions Act:

Proposed rate	*Calendar years*
1 percent	1948 and 1949.
1½ percent	1950 through 1956.
2 percent	1957 and thereafter.

2. Continues for the period ending June 30, 1950, the schedule of maximum benefits and the State-Federal matching formula enacted in 1946 with respect to old-age assistance, aid to dependent children, and aid to the blind.

3. Continues on a permanent basis the present temporary authorization for congressional appropriations to a special Federal unemployment account of excess unemployment compensation tax receipts now

63026—47——1

paid to the Federal Government by private employers of eight or more.

URGENCY OF THIS LEGISLATION

It is highly essential that early action be taken with respect to the taxes imposed under the Federal Insurance Contribution Act. The present 1-percent rate now paid by employers and employees, respectively, will be increased automatically to 2½ percent (5 percent in the aggregate) on January 1, 1948, in the absence of amendatory legislation. At the same time, unless the Congress provides otherwise, the existing Federal financial participation under titles I, IV, and X of the Social Security Act, as amended, relating to old-age assistance, aid to dependent children, and aid to the blind, will be reduced automatically by virtue of the expiration of the provisions of the 1946 social-security amendments (Public Law 719, 79th Cong.). This law enabled each State to increase these payments on a temporary basis if the State saw fit to do so. Your committee does not believe these payments should be allowed to revert to their former level at the end of the current calendar year.

Existing law, under which the Federal Government created the special Federal unemployment account mentioned above, and under which appropriations thereto of the equivalent to the excess unemployment compensation tax receipts over administrative grants were authorized will expire June 30, 1947, in the absence of continuing legislation. The original purpose of these provisions was to provide a bulwark against the potential hazard of extraordinary drains on State unemployment compensation funds. In the opinion of your committee the Federal Government should not abandon this protective device.

Your committee has given the most thoughtful consideration to other social-security legislation. A subcommittee was appointed to examine all social-security bills pending before the committee and to report its conclusions thereon. After several conferences with representatives of the Social Security Administration the subcommittee reported the great bulk of the measures referred to your committee involved highly technical and substantial amendments to the Social Security Act. The subcommittee concluded, and your committee concurs in the conclusion that the broad problems covered by most of the bills must be deferred until the effects, the costs, and the difficult administrative problems which these bills involve can be adequately measured and appraised. The bill now under consideration embodies only the most urgent and essential social-security legislation which, in the considered opinion of your committee, requires immediate action.

THE PROPOSED PAY-ROLL TAX RATES

Under existing law the contribution rate under the Federal Insurance Contributions Act, would automatically increase to 2½ percent each on employer and employee in 1948 and 3 percent each in 1949. Under H. R. 3818, based on present economic conditions, employers and employees will be relieved of additional contributions amounting to about $1,000,000,000 each in 1948 and $1,400,000,000 each in 1949. A comparison of past, present, and proposed rates will be found in the table below.

Comparison of contribution rates [1] for Federal old-age and survivors' insurance under original 1935 Social Security Act, present law, and H. R. 3818

Year	Contribution rate under 1935 law	Contribution rate under present law	Contribution rate under H. R. 3818	Year	Contribution rate under 1935 law	Contribution rate under present law	Contribution rate under H. R. 3818
	Percent	*Percent*	*Percent*		*Percent*	*Percent*	*Percent*
1937 to 1939	1	1	1	1948	2½	2½	1
1940 to 1942	1½	1	1	1949	3	3	1
1943 to 1945	2	1	1	1950 to 1956	3	3	1½
1946 and 1947	2½	1	1	1957 and thereafter	3	3	2

[1] The rate shown above is the rate payable by the employer and employee separately. The total contribution to the program from employers and employees combined would be double those shown in the table.

The tax schedule under the amended bill should provide a highly desirable certainty as to future old-age and survivors' insurance contribution rates for at least the next decade. Moreover, it will do away with the annual threat of a severe increase in the amount of the contribution to be paid and at the same time provide a more realistic schedule of contribution payments in relation to the ever-increasing costs of the program. It is believed that the maximum 2-percent rate applicable in the calendar year 1957 and thereafter, should begin to approximate the amount of tax which will ultimately be required to support the program for some period thereafter. Future experience must, of course, govern the changes, if any, that may be required in the maximum rate of 2 percent (4 percent aggregate) now recommended.

From 1937 to date the 1 percent rate under seven successive tax "freezes" has resulted in the accumulation of a approximately $8,700,000,000 in the Federal Old-Age and Survivors' Insurance Trust Fund, as shown in the right-hand column of the table below. The income to the Fund this year (fiscal year 1947) is estimated at $1,565,000,000 with disbursements estimated at $464,000,000 for the same period. Based on various estimates by competent authorities including the Social Security Administration, it appears likely that with the contribution rate schedule provided for in H. R. 3818 the Fund will have increased to about twice its present size by 1956. The committee feels that this is a sufficient safeguard to the insurance system.

The table below shows the estimated amount in the fund at the end of the next 4 years under the rate schedule recommended by the committee in H. R. 3818.

Income, disbursements, and amount in the Federal old-age and survivors' insurance trust fund, fiscal years 1947–51, based on contribution rates in H. R. 3818, subject to the assumptions and limitations stated in the Board of Trustees' Seventh Annual Report [1]

[In millions of dollars]

Fiscal year ending June 30—	Income (contributions plus interest)	Disbursements (benefit payments plus administrative expenses)	Trust fund at end of fiscal year
1947	$1,565	$464	$8,742
1948	$1,624 1,631	$552 622	$9,758 9,814
1949	1,508 1,666	635 728	10,538 10,845
1950	1,721 1,916	720 828	11,431 12,041
1951	2,266 2,536	807 916	12,781 13,770

[1] The estimates in this table are based upon the assumptions and alternatives contained in the Seventh Annual Report of the Board of Trustees of the Federal Old-Age and Survivors' Insurance Trust Fund 80th Cong., 1st sess., S. Doc. 18, p. 10, table 6.

Number of employees and amount of wage credits under the Federal old-age and survivors insurance program, by years, 1937–46 [1]

Year	Employees with wage credits			Amount of wage credits during year	
	During year	For first time each year	Cumulative surviving employees to end of year since 1937	Total	Average per worker
	(*Thousands*)	(*Thousands*)	(*Millions*)	(*Millions*)	
1937	32,904	32,904	32.8	$29,590	$899
1938	31,822	4,016	36.6	26,472	832
1939	33,751	4,507	40.7	29,745	881
1940	35,393	4,389	44.8	32,789	926
1941	40,976	6,475	50.9	41,557	1,014
1942	46,363	8,025	58.6	52,261	1,127
1943	47,656	7,555	65.7	61,416	1,289
1944	46,296	4,986	70.2	63,363	1,369
1945 [2]	46,392	3,600	73.2	62,000	1,336
1946 [2]	47,500	3,000	75.5	67,400	1,420

[1] Excludes taxable wages not used in benefit computations, such as wages of persons age 65 and over in 1937 and 1938 and wages over $3,000 beginning with 1940.
[2] Preliminary.

Source: Social Security Administration.

The table above shows that at the end of 1946 there were 75.5 million living persons who had wage credits under the insurance system, although only 47.5 million persons earned wage credits in 1946. The table also shows that the average annual wage credits increased from $899 in 1937 to $1,420 in 1946.

On June 30, 1946, in addition to the 1.5 million persons actually receiving benefits, there were 888,000 persons fully insured who, if they retired, could draw benefits. Among this number were 267,000 men with wives who would also be eligible. Thus, 1,155,000 persons are eligible for old-age insurance benefits who are not drawing them at the present time.

The committee has taken these factors into account in fixing the proposed contribution rates, and in the opinion of your committee the proposed rates will provide an actuarially sound system of financing at least for the next decade.

RESULTS OF TEMPORARILY INCREASED STATE GRANTS

Section 3 of the bill continues the increased Federal grants to the States for assistance to the needy aged and the blind and dependent children until June 30, 1950.

In July 1946 Congress amended the public assistance provisions of the Social Security Act for a temporary period ending December 31, 1947. The purpose of the amendments, which provided for increased Federal participation in assistance payments, was to enable the States to grant needed additional assistance to needy aged and blind persons and dependent children.

In considering whether the amendments should be extended beyond the end of this year, the committee studied very carefully the experience of the States since October 1946, when the amendments became effective, and also the experience under the Federal old-age and survivors insurance program. The committee is impressed by

the fact that if the old-age assistance program provides benefits substantially in excess of average benefits under the insurance program, the former becomes more attractive than the latter, whereas it was designed primarily to supplement the insurance program in its early stages.

INCREASE IN AVERAGE PAYMENTS

The level of assistance for recipients of all three public-assistance programs has been raised in all sections of the country through enactment of the 1946 amendments to the Social Security Act. The national average monthly payment per recipient of old-age assistance was $3.83 higher in March 1947 than in September 1946. In aid to the blind, average payments increased $3.79 in the same period and the average payment of aid to dependent children increased $3.15 per child. All but five States have increased the average monthly payments in all programs. Many States have used part of the additional funds to add needy cases to their rolls. Payments can, of course, be increased to a higher figure by a State if it takes appropriate action.

The committee was of the opinion that the existing temporary amendments should be extended to June 30, 1950, thus enabling the committee to make a more thorough review of the situation in the meantime. Under these temporary amendments in old-age assistance and aid to the blind, the maximum on the amount of the individual monthly payment in which the Federal Government can participate was raised from $40 to $45. In aid to dependent children, the maximum for the first child in a family was increased from $18 to $24, and for each child beyond the first, from $12 to $15.

The Federal share of payments within these maximums also was temporarily increased in all three programs from one-half to larger proportions, determined as follows: In old-age assistance and aid to the blind, the Federal share is two-thirds of the first $15 of the average monthly payment per recipient and one-half of the balance subject to Federal participation. In aid to dependent children, the Federal share is two-thirds of the first $9 of the average monthly payment per child and one-half of the remainder within the maximums.

The maximum Federal contribution to an individual payment of old-age assistance or aid to the blind was formerly $20; it is now temporarily $25. In aid to dependent children, the maximum Federal contribution for a family with two dependent children was $15 and is now $22.50. The temporary amendments made it possible for each State to increase monthly payments of old-age assistance and aid to the blind by $5. In aid to dependent children, payments could be raised about $3 per child with the same State-local contribution per child. (The number of dependent children per family averages 2.6.)

To enable them to take advantage of the temporarily increased Federal participation, many States found it necessary to make changes in their State plans. Some of the changes were made by administrative regulation or attorney general's opinion and others by legislative action. In practically all States it was necessary to develop new procedural materials and to put them into effect in the localities.

Because the States require some time to make fundamental changes in their programs, the full effects of last year's temporary amendments can be determined only after further lapse of time. With this in

mind the committee has extended the increased grants until June 30, 1950, which will make it possible to review the State experience under the amendments after a longer period of time. Experience of the States in the first 6 months under the amendments indicates, however, that the States have greatly benefited from the additional Federal funds and that generally they have passed on these benefits to recipients. This is reflected in increased case loads, increased average payments, and increased expenditures for assistance payments (See Table 1, Appendix.)

INCREASED CASE LOADS

The temporary amendments became effective at a time when case loads were rising. Since VJ-day the number of recipients of all types of aid has been increasing steadily throughout the Nation. Hence the States could not spend all the additional funds they received to raise average payments, but found it necessary to spend part for the new persons who were currently being added to the rolls. In some States, the amendments made it possible to make payments for the first time to eligible persons on waiting lists and to lift restrictions on intake. The number of recipients in September 1946 and March 1947 is shown for each State, by program, in Table 2, Appendix. The increase in the number of recipients from September to March is shown below for all States combined.

Increase in number of recipients, September 1946 to March 1947

	Number	Percent
Old-age assistance	+108,808	+5.1
Aid to dependent children:		
Families	+51,027	+15.8
Children	+127,820	+15.4
Aid to the blind	+2,198	+3.7

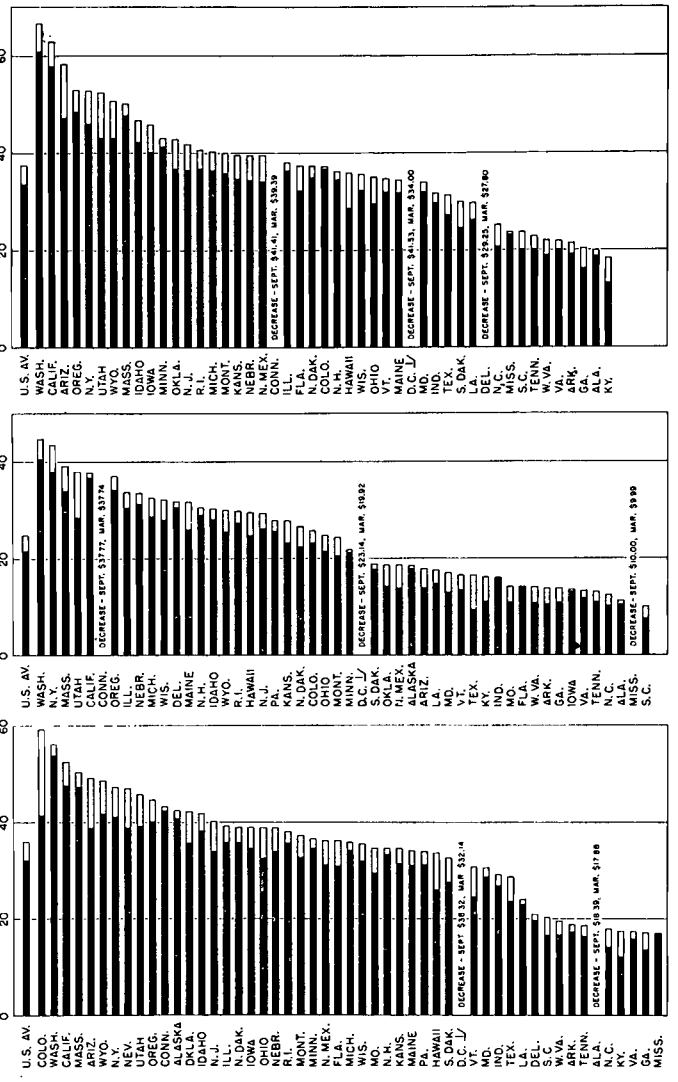
The general rise in case loads from September 1946 to March 1947 was accompanied by a general and substantial rise in average assistance payments, as is indicated below.

Program	Average payment		Increase in average payment, September 1946 to March 1947
	September 1946	March 1947	
Old-age assistance	$32.15	$35.98	$3.83
Aid to dependent children (per child)	21.61	24.76	3.15
Aid to the blind	33.64	37.43	3.79

In all but two States the average payment of old-age assistance increased. The average payment per child in aid to dependent children rose in all but three States, in two of which there was an inconsequential drop. In aid to the blind, average payments were higher in all States but three. In the District of Columbia the sizable declines in average payments in all three programs resulted from a 20-percent cut in payments that is expected to be restored retroactively (tables 1 and 3, appendix, and chart on opposite page).

CHART I

AVERAGE MONTHLY PAYMENT IN STATES WITH APPROVED PLANS, SEPTEMBER 1946 AND MARCH 1947



The tabulation below shows the number of States with increases in average payments of specified amounts.

Increase in average payments, September 1946 to March 1947

	Number of States		
	Old-age assistance	Aid to dependent children (per child)	Aid to the blind
$5 or more	16	5	14
$3 to $5	14	20	14
Under $3	19	22	16
Decrease	2	3	3

INCREASE IN ASSISTANCE EXPENDITURES

As a result of the rise both in case loads and in average payments, expenditures for assistance payments were substantially larger in the quarter January–March 1947 than in the past quarter before the amendments went into effect.

Quarterly expenditures for assistance to recipients

Program	July–September 1946	January–March 1947
All programs:		
Total	$260,416,455	$312,317,617
Federal	112,077,066	157,135,262
State-local funds	148,339,389	155,182,355
Old-age assistance:		
Total	202,751,849	237,238,904
Federal	93,747,286	126,820,879
State-local funds	109,004,563	110,418,025
Aid to dependent children:		
Total	51,845,091	68,412,212
Federal	15,746,887	26,871,283
State-local funds	36,098,204	41,540,929
Aid to the blind:		
Total	5,819,515	6,666,501
Federal	2,582,893	3,443,100
State-local funds	3,236,622	3,223,401

The extent of the changes in total expenditures and in expenditures from Federal and from State-local funds is given for each type of aid.

Change in quarterly expenditures for assistance, July–September 1946 to January–March 1947

Program	Amount		
	Total	Federal	State and local
All programs:			
Amount	+$51,901,162	+$45,058,196	+$6,842,966
Percent	+19.9	+40.2	+4.6
Old-age assistance:			
Amount	+$34,487,055	+$33,073,593	+$1,413,462
Percent	+17.0	+35.3	+1.3
Aid to dependent children:			
Amount	+$16,567,121	+$11,124,396	+$5,442,725
Percent	+32.0	+70.6	+15.1
Aid to the blind:			
Amount	+$846,986	+$860,207	−$13,221
Percent	+14.6	+33.3	−.4

Throughout the Nation total expenditures for assistance payments have mounted. In March 1947 as compared with September 1946, total expenditures for assistance payments rose in the States by the following specified percents (see also table 1, appendix):

Percentage increase from September 1946 to March 1947

	Number of States with specified changes				Number of States with specified changes		
	Old-age assistance	Aid to dependent children	Aid to the blind		Old-age assistance	Aid to dependent children	Aid to the blind
Increase:				Increase—Con.			
Less than 10	8	1	8	40 to 49	1	8	1
10 to 19	19	5	21	50 and over	1	9	1
20 to 29	12	18	10	Decrease	1	2	3
30 to 39	9	7	3				

The greatest part of the increase in total expenditures came from Federal funds. Expenditures from State-local funds in all States combined increased in both old-age assistance and aid to dependent children and remained substantially the same in aid to the blind.

In many States the amounts spent from State-local funds for the different types of aid declined somewhat from July–September 1946 to January–March 1947. For the three special types of public assistance combined, however, State-local expenditures were lower than before in only 17 States. In all but three of these States the declines amounted to less than 10 percent. Combined State-local expenditures for the three special types of assistance and general assistance were higher in the January–March quarter than in the quarter July–September in all but 12 States and of these only 3 decreased their State-local outlays by as much as 5 percent.

Percentage decrease in expenditures from State and local funds from July–September 1946 to January–March 1947

	Number of States				
	Three special types of public assistance and general assistance	Three special types of public assistance	Old-age assistance	Aid to dependent children	Aid to the blind
Under 5	9	8	14	3	11
5 to 9	3	6	11	4	12
10 and over		3	4	4	3

Because some States increased their rate of spending in the July-September quarter in anticipation of the amendments, a decline in expenditures between that quarter and the first quarter of this year should not be interpreted as necessarily reflecting lessened State-local effort to finance assistance.

The majority of States in which State-local expenditures did not maintain the level of the last quarter before the amendments became effective are States which have adopted, as the maximum amounts

that may be paid, the maximums in the Federal act or, in a few instances, lower maximums (see table 5, appendix). Often such States could not spend as much as before from State-local funds, as well as all the additional Federal funds, and keep payments within the maximums.

In view of the fact that case loads are still rising, States will find it necessary to spend larger amounts from State-local funds to keep payments from declining.

Despite the fact that the maximums have been raised, the proportions of individual payments above the Federal maximums were about as high in January 1947 as in September 1946 when the old maximums were in effect.

Program	Percent of payments					
	Below maximum		At maximum		Above maximum	
	September 1946	January 1947	September 1946	January 1947	September 1946	January 1947
Old-age assistance	67.3	72.5	12.6	7.6	20.2	19.9
Aid to dependent children	28.6	37.9	17.6	13.0	53.8	49.0
Aid to the blind	63.2	71.1	15.8	7.8	21.0	21.1

In each program the majority of States are making some payments above the Federal maximums (table 5, appendix). Payments above the Federal maximums constituted the following proportions of all payments in the States making such payments in January 1947.

Payments above Federal maximums as specified percent of all payments	Number of States			Payments above Federal maximums as specified percent of all payments	Number of States		
	Old-age assistance	Aid to dependent children	Aid to the blind		Old-age assistance	Aid to dependent children	Aid to the blind
Under 10	8	3	6	50 to 59	1	1	4
10 to 19	3	1	1	60 to 69	2	2	1
20 to 29	8		4	70 to 79		6	
30 to 39	2		6	80 to 89	1	12	1
40 to 49	3	2	1	90 and over	2	8	2

The following tabulation shows the number of States in which Federal funds met specified proportions of total outlays for assistance payments:

Expenditures from Federal funds as specified percent of total expenditures for assistance payments	Number of States			Expenditures from Federal funds as specified percent of total expenditures for assistance payments	Number of States		
	Old-age assistance	Aid to dependent children	Aid to the blind		Old-age assistance	Aid to dependent children	Aid to the blind
60 and over	11	12	10	40 to 44	1	3	4
55 to 59	17	9	16	35 to 39		5	2
50 to 54	15	2	8	30 to 34		11	
45 to 49	7	1	7	25 to 29		7	

ESTIMATES OF COST

On the assumption that the States would continue each month to spend the same amount from State-local funds as in September 1946 and would use all the additional Federal money to raise the average payment to the same number of recipients, it has been estimated that the annual cost to the Federal Government of assistance under the temporary amendments would be as follows:

Program	Estimated number of recipients (in thousands)	Estimated annual Federal cost	
		Total amount (in thousands)	Amount due to 1946 amendments (in (thousands)
All 3 programs		$617,254	$164,404
Old-age assistance	2,132	506,542	127,928
Aid to dependent children (children)	823	96,662	32,959
Aid to the blind	59	14,050	3,517

On the basis of case loads in March 1947, the annual Federal cost is estimated to be $665,000,000—$534,000,000 for old-age assistance, $117,000,000 for aid to dependent children, and $14,000,000 for aid to the blind. This would amount to an increase due to the 1946 amendments of $176,000,000 a year above what assistance to the March case load would have cost with 50–50 matching.

PURPOSE AND EFFECT OF THE UNEMPLOYMENT INSURANCE LOAN FUND

Sections 4 and 5 of H. R. 3818 provide for continuance on a permanent basis of certain temporary provisions of the War Mobilization and Reconversion Act of 1944 contained in title IV of that act which expire June 30, 1947, unless extended or made permanent. These temporary provisions established within the unemployment trust fund a separate account known as the Federal unemployment account and authorized congressional appropriations to be made thereto in amounts equal to the excess of tax collections under the Federal Unemployment Tax Act over the unemployment administration expenditures, and such further sums as may be necessary. In other words, the act authorized appropriations of what might be termed the "net profits" to the Federal Government on the 3-percent Federal unemployment tax, and "such further sums, if any, as may be necessary" to carry out the purposes for which the Federal unemployment account was created.

In the opinion of the committee this authorization for appropriation of sums in addition to the so-called net profits, as provided in the law, should be eliminated, but the law otherwise made permanent. This is done by the proposed legislation. This recommendation is amply justified, in the opinion of the committee, when one reviews the situation as to the excess of Federal unemployment tax collections, as to State grants for administering unemployment insurance, and as to the resulting net profits which the Federal Government has so far made in the tax collections. This excess at present amounts to some $800,000,000, and is properly to be regarded as money which presumably would have been used for unemployment insurance purposes had

it not been collected by the Federal Government and appropriated to other uses. The committee feels such excess collections should be made permanently and irrevocably available for unemployment insurance purposes.

Section 402 of the War Mobilization and Reconversion Act authorized loans from the Federal unemployment account to the States for unemployment insurance payments when a State's unemployment insurance fund became dangerously low. To date no appropriations have been needed or made to this Federal unemployment account. Notwithstanding this fact the account is available for use as a legal receptacle for Federal appropriations if such appropriations become necessary, and in amounts representing the excess collections from the Federal unemployment tax over amounts disbursed in State grants. The Federal unemployment tax is thus, in effect, potentially ear-marked for unemployment insurance purposes, and in this way strength is added to the State's unemployment insurance system.

The present loan provisions were enacted as an emergency measure to facilitate liberalization of State benefit provisions in preparation for the reconversion period. Your Committee believes, however, that a Federal loan provision serves an important function in the existing Federal-State unemployment insurance system and that it should be made a permanent feature of the system.

Although the present loan provisions were enacted to meet the emergency needs of the reconversion period, it is now clear that there is no immediate danger to the solvency of any State unemployment insurance reserve. Despite heavy benefit disbursements in the course of reconversion, every State now has in its reserve an amount equal to at least 2.7 times its highest annual expenditures (see table 6, appendix). The reserves of 22 States exceed 10 times the highest annual expenditures. The availability of such reserves plus current tax collections is a guarantee of the solvency of State reserves for at least the next few years.

At the same time, however, not all States can be sure they will be free of financial difficulties in the future. The 51 separate State reserves vary widely in their adequacy to meet the demands of mass unemployment. Moreover, States with the smallest reserves relative to contribution income and benefits are, in many cases, the very States which may be expected to face the heaviest drains. Although they are not in immediate need of Federal financial assistance, conditions can and may change rapidly, bringing such States face to face with major financial problems.

The availability of loans from a centrally pooled fund during future emergencies would give the States time to adjust their financing.

The ready availability of such loans would also increase the over-all efficiency of the financing of the program. In the absence of this automatic plan which makes funds available quickly, each State must be prepared to meet all contingencies on its own.

In summary, although there is no present emergency need for a Federal loan plan, the Federal-State unemployment compensation program is greatly strengthened by the inclusion of a permanent loan feature.

APPENDIX

TABLE 1.—*Changes in recipients, assistance payments, and average payment per recipient under 1946 amendments to the Social Security Act, by program*

State	Percentage change in recipients, September 1946 to March 1947				Percentage change in assistance payments, September 1946 to March 1947			Change in average payment per recipient, September 1946 to March 1947			
	Old-age assistance	Aid to dependent children		Aid to the blind	Old-age assistance	Aid to dependent children	Aid to the blind	Old-age assistance	Aid to dependent children		Aid to the blind
		Families	Children						Per family	Per child	
Total	+5.1	+15.8	+15.4	+3.7	+17.6	+32.2	+15.4	+$3.83	+$7.87	+$3.15	+$3.79
Alabama	+24.5	+13.1	+13.6	+11.6	+21.1	+24.6	+19.1	−.51	+2.94	+1.00	+1.24
Alaska	+.7	+47.0	+31.4	------	+4.4	+35.2	------	+1.53	−3.85	+.51	------
Arizona	+5.4	+25.4	+25.9	+8.0	+33.8	+60.6	+33.2	+10.45	+11.22	+3.84	+11.04
Arkansas	+26.8	+24.0	+22.5	+10.6	+37.4	+59.5	+23.5	+1.45	+8.20	+3.21	+2.25
California	+2.8	+16.3	+17.3	+1.4	+13.4	+20.5	+10.2	+4.92	+3.37	+.99	+4.99
Colorado	+3.4	+9.0	+9.5	−6.5	+47.8	+21.7	−5.1	+17.83	+7.40	+2.58	+.55
Connecticut	+1.0	−1.6	−2.1	−2.2	+2.8	−2.1	−6.9	+.77	−.57	−.03	−2.02
Delaware	−1.5	−5.0	−7.7	(1)	+4.7	−4.2	+50.9	+1.25	+.91	+1.14	−1.45
District of Columbia [2]	+2.1	+38.6	+32.7	+5.5	−14.3	+14.2	−13.6	−6.18	−12.86	−3.22	−7.53
Florida	+6.1	+25.5	+26.5	+4.7	+23.6	+28.7	+21.4	+5.13	+.88	+.24	+5.12
Georgia	+8.5	+26.7	+27.7	+4.3	+36.7	+60.9	+31.0	+3.53	+7.58	+2.85	+4.15
Hawaii	+7.7	+26.8	+23.4	(1)	+39.2	+46.8	+23.1	+7.61	+12.34	+4.69	+7.16
Idaho	+3.2	+15.0	+14.3	+7.1	+13.0	+22.7	+18.2	+3.63	+5.00	+2.08	+4.41
Illinois	+1.5	+9.6	+9.4	−1.6	+11.0	+21.0	+2.7	+3.35	+7.85	+3.23	+1.60
Indiana	+2.2	+7.1	+7.8	−.8	+10.8	+9.1	+5.7	+2.26	+.71	+.19	+1.95
Iowa	(3)	+10.6	+11.6	+.5	+12.5	+14.8	+14.9	+4.33	+1.28	+.38	+5.74
Kansas	+10.8	+23.0	+21.1	+2.3	+21.7	+44.9	+16.8	+3.11	+10.68	+4.57	+4.92
Kentucky	+6.7	+36.6	+34.5	+5.0	+54.1	+94.2	+44.2	+5.35	+12.37	+4.99	+4.98
Louisiana	+19.2	+11.7	+10.7	+4.7	+23.9	+30.9	+18.4	+.92	+6.68	+2.70	+3.44
Maine	+4.2	+21.1	+21.9	−.9	+14.2	+48.0	+7.0	+2.99	+16.68	+5.61	+2.54
Maryland	+1.3	+18.2	+17.5	+.6	+8.1	+53.2	+6.9	+1.91	+11.10	+3.96	+1.98
Massachusetts	+3.8	+6.9	+6.6	+4.1	+10.3	+22.7	+9.4	+2.98	+12.52	+5.16	+2.42
Michigan	+3.0	+13.1	+12.4	+3.4	+7.8	+27.4	+14.4	+1.60	+8.68	+3.83	+3.85
Minnesota	−.1	+9.0	+9.6	+3.5	+5.7	+12.3	+7.9	+2.02	+1.62	+.52	+1.73
Mississippi	+32.2	+32.2	+33.5	+12.7	+34.0	+33.3	+14.9	+.23	+.21	−.01	+.46
Missouri	+4.9	+17.2	+16.1	------	+23.2	+49.4	------	+5.15	+8.02	+3.18	------
Montana	+.4	+14.5	+13.9	+2.5	+14.4	+35.4	+14.5	+4.57	+9.98	+3.87	+4.22
Nebraska	+2.5	+12.8	+12.4	+1.6	+17.2	+20.6	+16.7	+4.85	+5.11	+2.26	+5.12
Nevada	+.7	------	------	------	+21.5	------	------	+8.05	------	------	------
New Hampshire	+1.5	+12.3	+11.6	(4)	+5.0	+17.6	+4.6	+1.17	+3.54	+1.55	+1.60
New Jersey	+.2	+7.5	+9.1	+2.7	+18.3	+22.1	+17.6	+6.14	+8.99	+3.13	+5.30
New Mexico	+8.2	+15.4	+15.2	+7.9	+25.5	+53.6	+24.9	+5.00	+12.11	+4.64	+5.38
New York	+2.3	+21.3	+19.6	+5.2	+17.6	+37.1	+20.6	+6.16	+11.87	+5.53	+6.75
North Carolina	+10.2	+13.6	+15.2	+5.7	+39.0	+40.9	+28.6	+3.67	+6.76	+2.27	+4.50
North Dakota	+1.7	+10.2	+7.7	+3.3	+10.5	+28.2	+10.1	+3.10	+10.17	+4.26	+2.32
Ohio	+2.2	+8.9	+8.6	+3.2	+21.9	+25.3	+22.6	+6.30	+8.91	+3.31	+5.54
Oklahoma	+5.2	+20.1	+19.0	+10.0	+24.4	+54.5	+28.2	+6.60	+10.05	+4.27	+6.08
Oregon	+6.4	+66.8	+67.7	+6.4	+18.5	+81.6	+16.1	+4.55	+7.70	+2.84	+4.42
Pennsylvania	+2.5	+14.6	+14.5	------	+10.9	+24.4	------	+2.58	+5.68	+2.22	------
Rhode Island	+5.4	+18.9	+18.1	+6.0	+12.4	+28.5	+17.1	+2.37	+5.62	+2.41	+3.84
South Carolina	+12.7	+13.0	+6.8	+7.2	+38.6	+41.7	+26.0	+3.80	+5.52	+2.44	+3.53
South Dakota	+.9	+10.8	+9.7	+2.3	+19.1	+16.0	+24.7	+4.99	+2.10	+1.04	+5.38
Tennessee	+16.4	+8.1	+8.8	+4.4	+31.8	+29.0	+18.0	+2.18	+5.69	+2.07	+2.62
Texas	+3.1	+22.0	+24.5	+3.7	+25.3	+20.8	+19.5	+5.09	+18.75	+7.24	+4.14
Utah	+.5	+13.4	+13.1	−1.4	+16.8	+60.3	+19.9	+6.39	+24.96	+9.40	+9.31
Vermont	+6.0	+7.1	+10.4	+6.9	+33.3	+35.9	+16.0	+6.33	+9.78	+3.12	+2.72
Virginia	+4.7	+15.1	+15.8	+7.4	+14.3	+30.9	+16.4	+1.46	+4.68	+1.54	+1.68
Washington	+1.4	+16.3	+16.3	+3.5	+5.6	+28.2	+13.1	+2.27	+10.10	+4.16	+5.64
West Virginia	+4.6	+10.3	+9.4	+2.7	+22.2	+42.1	+18.8	+2.82	+8.75	+3.25	+2.98
Wisconsin	+1.3	+9.4	+9.9	−1.2	+12.2	+26.4	+8.7	+3.45	+10.79	+4.21	+3.26
Wyoming	+5.9	+20.9	+21.6	+11.0	+23.4	+42.9	+30.5	+6.93	+13.09	+4.46	+7.57

[1] Not computed, base too small.
[2] The 20-percent reduction in payments in March to be restored through retroactive payments.
[3] Decrease of less than 0.05 percent.
[4] No change.

TABLE 2.—*Number of recipients of public assistance, by program, September 1946 and March 1947*

State	Old-age assistance		Aid to dependent children				Aid to the blind	
			Families		Children			
	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947
Total	2,134,585	2,243,393	323,312	374,339	829,206	957,026	58,665	60,863
Alabama	39,555	49,260	6,921	7,825	19,258	21,877	876	978
Alaska	1,375	1,384	149	219	401	527	.....	.....
Arizona	9,847	10,381	1,845	2,314	5,294	6,667	562	607
Arkansas	28,932	36,680	4,868	6,036	13,126	16,081	1,268	1,402
California	163,867	168,393	8,309	9,660	20,806	24,414	6,135	6,223
Colorado	40,567	41,958	3,729	4,064	10,194	11,167	447	418
Connecticut	14,687	14,838	2,760	2,717	6,881	6,738	138	135
Delaware	1,193	1,175	258	245	743	686	68	108
District of Columbia	2,246	2,294	901	1,249	2,847	3,778	199	210
Florida	47,695	50,600	7,108	8,921	17,565	22,215	2,467	2,584
Georgia	70,869	76,864	5,062	6,412	12,967	16,554	2,213	2,204
Hawaii	1,518	1,635	676	857	2,137	2,636	65	64
Idaho	10,113	10,440	1,509	1,735	3,996	4,566	197	211
Illinois	124,880	126,793	21,576	23,641	53,073	58,083	4,951	4,870
Indiana	55,309	56,507	6,900	7,393	16,789	18,106	1,935	1,920
Iowa	48,331	48,314	3,668	4,055	9,334	10,417	1,231	1,237
Kansas	30,156	33,400	3,724	4,579	9,560	11,580	1,096	1,121
Kentucky	43,164	46,043	5,978	8,164	15,614	21,001	1,557	1,635
Louisiana	39,076	46,568	9,786	10,933	25,694	28,444	1,402	1,468
Maine	15,061	15,696	1,628	1,971	4,660	5,681	764	757
Maryland	11,616	11,770	4,005	4,733	11,488	13,498	462	465
Massachusetts	81,055	84,139	8,315	8,888	20,653	22,007	1,109	1,155
Michigan	90,042	92,706	17,212	19,470	41,312	46,425	1,340	1,386
Minnesota	54,134	54,060	5,234	5,707	13,340	14,618	934	967
Mississippi	29,325	38,755	3,672	4,855	9,626	12,847	1,731	1,950
Missouri	106,806	111,989	15,746	18,448	41,440	48,092	.....	.....
Montana	10,613	10,652	1,429	1,636	3,815	4,344	366	375
Nebraska	24,515	25,140	4,710	3,058	6,450	7,252	445	452
Nevada	1,943	1,956	.....	.....	.....	.....	.....	.....
New Hampshire	6,627	6,727	944	1,060	2,423	2,705	288	288
New Jersey	22,939	22,986	3,642	3,916	9,207	10,046	565	580
New Mexico	7,041	7,617	2,939	3,393	7,728	8,903	252	272
New York	104,444	106,863	30,207	36,655	72,810	87,113	3,132	3,295
North Carolina	33,505	36,932	6,470	7,352	17,930	20,654	2,629	2,778
North Dakota	8,776	8,927	1,488	1,640	4,142	4,460	121	125
Ohio	117,832	120,369	8,359	9,101	23,000	24,973	3,085	3,185
Oklahoma	88,607	93,241	21,440	25,741	52,377	62,345	2,097	2,307
Oregon	21,381	22,751	1,496	2,495	3,770	6,324	375	399
Pennsylvania	87,687	89,891	33,200	38,058	85,755	98,226	.....	.....
Rhode Island	7,773	8,194	1,839	2,186	4,651	5,493	116	123
South Carolina	24,630	47,756	4,516	5,102	13,166	14,058	1,072	1,149
South Dakota	12,681	12,794	1,757	1,946	4,354	4,775	213	218
Tennessee	38,974	45,351	11,956	14,925	31,726	34,508	1,605	1,676
Texas	185,209	190,934	10,323	12,597	25,534	31,792	5,021	5,205
Utah	12,831	12,898	2,140	2,427	5,747	6,500	147	145
Vermont	5,254	5,567	620	664	1,670	1,844	160	171
Virginia	14,834	15,525	3,732	4,296	10,762	12,462	1,014	1,089
Washington	65,730	66,631	5,585	6,498	13,648	15,869	629	651
West Virginia	19,319	20,209	8,256	9,105	22,975	25,134	854	877
Wisconsin	46,461	47,070	6,390	6,992	15,825	17,394	1,323	1,307
Wyoming	3,560	3,770	335	405	943	1,147	109	121

TABLE 3.—*Average assistance payment per recipient, by program, September 1946 and March 1947*

State	Old-age assistance		Aid to dependent children				Aid to the blind	
			Per family		Per child			
	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947
Total	$32.15	$35.98	$55.42	$63.29	$21.61	$24.76	$33.64	$37.43
Alabama	18.39	17.88	28.72	31.66	10.32	11.32	18.72	19.96
Alaska	40.92	42.45	48.21	44.36	17.92	18.43		
Arizona	38.79	49.24	39.99	51.21	13.94	17.78	47.32	58.36
Arkansas	17.25	18.70	28.64	36.84	10.62	13.83	19.23	21.48
California	47.72	52.64	92.09	95.46	36.78	37.77	57.95	62.94
Colorado	41.52	59.35	63.35	70.75	23.17	25.75	36.79	37.34
Connecticut	42.56	43.33	94.16	93.59	37.77	37.74	41.41	39.39
Delaware	19.66	20.91	88.13	89.04	30.66	31.80	29.25	27.80
District of Columbia [1]	38.32	32.14	73.13	60.27	23.14	19.92	41.53	34.00
Florida	31.06	36.19	34.47	35.35	13.95	14.19	32.30	37.42
Georgia	13.54	17.07	28.05	35.63	10.95	13.80	16.24	20.39
Hawaii	26.03	33.64	78.29	90.63	24.77	29.46	28.68	35.84
Idaho	38.25	41.88	74.70	79.70	28.21	30.29	42.31	46.72
Illinois	35.89	39.24	75.19	83.04	30.57	33.80	36.47	38.07
Indiana	26.86	29.12	38.60	39.31	15.86	16.05	29.72	31.67
Iowa	34.65	38.98	33.70	34.98	13.24	13.62	40.12	45.86
Kansas	31.46	34.57	59.76	70.44	23.28	27.85	34.73	39.65
Kentucky	12.02	17.37	29.29	41.66	11.21	16.20	13.34	18.32
Louisiana	23.04	23.96	38.91	45.59	14.82	17.52	26.29	29.73
Maine	31.15	34.14	74.86	91.54	26.15	31.76	31.89	34.43
Maryland	28.65	30.56	37.45	48.55	13.06	17.02	32.00	33.98
Massachusetts	47.45	50.43	84.52	97.04	34.03	39.19	47.74	50.16
Michigan	34.24	35.84	68.97	77.65	28.73	32.56	36.42	40.27
Minnesota	34.60	36.62	54.28	55.90	21.30	21.82	41.34	43.07
Mississippi	16.81	17.04	26.22	26.43	10.00	9.99	23.26	23.72
Missouri	29.50	34.65	29.13	37.15	11.07	14.25		
Montana	32.76	37.33	54.76	64.74	20.51	24.38	35.79	40.01
Nebraska	34.03	38.88	74.63	79.74	31.36	33.62	34.50	39.62
Nevada	38.97	47.02						
New Hampshire	33.47	34.64	74.65	78.19	29.09	30.64	34.57	36.17
New Jersey	34.03	40.17	66.37	75.36	26.25	29.38	36.46	41.76
New Mexico	31.25	36.25	36.62	48.73	13.93	18.57	34.22	39.60
New York	41.20	47.36	91.59	103.46	38.00	43.53	46.07	52.82
North Carolina	14.08	17.75	28.11	34.87	10.14	12.41	20.76	25.26
North Dakota	35.92	39.02	62.42	72.59	22.43	26.69	35.06	37.38
Ohio	32.62	38.92	59.08	67.99	21.47	24.78	29.54	35.08
Oklahoma	35.72	42.22	35.06	45.11	14.35	18.62	36.79	42.87
Oregon	40.15	44.70	86.34	94.04	34.26	37.10	48.60	53.02
Pennsylvania	31.35	33.93	66.45	72.13	25.73	27.95		
Rhode Island	35.69	38.06	69.47	75.09	27.47	29.88	36.78	40.62
South Carolina	16.52	20.32	21.73	27.25	7.45	9.89	20.17	23.70
South Dakota	27.67	32.66	44.00	46.10	17.75	18.79	24.61	29.99
Tennessee	16.39	18.57	29.41	35.10	11.08	13.15	20.15	22.77
Texas	23.60	28.69	23.15	41.90	9.36	16.60	27.19	31.33
Utah	39.35	45.74	76.83	101.79	28.61	38.01	43.15	52.46
Vermont	24.53	30.86	36.40	46.18	13.51	16.63	31.96	34.68
Virginia	15.89	17.35	34.04	38.72	11.81	13.35	20.09	21.77
Washington	53.93	56.20	99.14	109.24	40.57	44.73	60.93	66.57
West Virginia	16.73	19.55	30.29	39.04	10.89	14.14	19.04	22.02
Wisconsin	32.03	35.48	69.59	80.38	28.10	32.31	32.39	35.65
Wyoming	41.78	48.71	71.96	85.05	25.57	30.03	43.13	50.70

[1] The 20-percent reduction in payments in March to be restored through retroactive payments.

TABLE 4.—*Expenditures for assistance to recipients: Percent expended from Federal funds and from State and local funds, by program, quarterly period ended Mar. 31, 1947*

State	Old-age assistance		Aid to dependent children		Aid to the blind	
	Federal funds	State and local funds	Federal funds	State and local funds	Federal funds	State and local funds
Total	53.5	46.5	39.3	60.7	51.6	48.4
Alabama	63.6	36.4	62.8	37.2	62.3	37.7
Alaska	49.1	50.9	55.5	44.5		
Arizona	50.3	49.7	58.4	41.6	42.7	57.3
Arkansas	63.1	36.9	60.8	39.2	61.5	38.5
California	46.3	53.7	27.6	72.4	38.7	61.3
Colorado	47.7	52.3	39.4	60.6	56.7	43.3
Connecticut	48.0	52.0	28.0	72.0	48.0	52.0
Delaware	62.0	38.0	31.9	68.1	58.9	41.1
District of Columbia [1]	54.1	45.9	41.4	58.6	52.6	47.4
Florida	56.9	43.1	60.6	39.4	56.7	43.3
Georgia	64.9	35.1	61.0	39.0	62.5	37.5
Hawaii	55.3	44.7	34.5	65.5	53.1	46.9
Idaho	51.4	48.6	34.4	65.6	47.1	52.9
Illinois	53.5	46.5	31.2	68.8	54.5	45.5
Indiana	58.5	41.5	59.3	40.7	57.8	42.2
Iowa	54.1	45.9	61.1	38.9	48.7	51.3
Kansas	54.5	45.5	36.5	63.5	51.7	48.3
Kentucky	64.4	35.6	59.2	40.8	63.7	36.3
Louisiana	59.9	40.1	53.3	46.7	57.2	42.8
Maine	57.4	42.6	32.4	67.6	57.3	42.7
Maryland	58.0	42.0	58.8	41.2	57.4	42.6
Massachusetts	45.6	54.4	27.1	72.9	46.0	54.0
Michigan	56.5	43.5	32.6	67.4	55.9	44.1
Minnesota	53.6	46.4	47.5	52.5	49.7	50.3
Mississippi	64.7	35.3	65.0	35.0	60.6	39.4
Missouri	57.2	42.8	60.5	39.5		
Montana	56.7	43.3	41.7	58.3	56.3	43.7
Nebraska	53.8	46.2	31.9	68.1	53.9	46.1
Nevada	52.0	48.0				
New Hampshire	56.8	43.2	33.9	66.1	56.4	43.6
New Jersey	52.7	47.3	35.3	64.7	52.7	47.3
New Mexico	54.3	45.7	50.5	49.5	52.4	47.6
New York	46.6	53.4	24.9	75.1	43.3	56.7
North Carolina	65.1	34.9	62.5	37.5	60.1	39.9
North Dakota	51.5	48.5	37.7	62.3	52.5	47.5
Ohio	55.0	45.0	40.4	59.6	56.0	44.0
Oklahoma	55.9	44.1	57.8	42.2	55.7	44.3
Oregon	50.1	49.9	28.2	71.8	43.9	56.1
Pennsylvania	56.7	43.3	37.1	62.9		
Rhode Island	52.7	47.3	34.4	65.6	49.4	50.6
South Carolina	62.2	37.8	65.2	34.8	60.6	39.4
South Dakota	57.7	42.3	55.5	44.5	58.4	41.6
Tennessee	63.3	36.7	61.4	38.6	61.0	39.0
Texas	59.1	40.9	62.1	37.9	58.3	41.7
Utah	50.3	49.7	26.7	73.3	44.5	55.5
Vermont	58.2	41.8	59.0	41.0	57.3	42.7
Virginia	64.6	35.4	57.8	42.2	61.7	38.3
Washington [2]	44.0	56.0	25.0	75.0	39.0	61.0
West Virginia	62.8	37.2	60.8	39.2	61.3	38.7
Wisconsin	57.1	42.9	32.3	67.7	57.1	42.9
Wyoming	48.8	51.2	34.6	65.4	47.6	52.4

[1] The 20-percent reduction in payments in March to be restored through retroactive payments.
[2] Partly estimated.

TABLE 5.—*State maximums on assistance payments September 1946, and latest maximums reported* [1]

(Where no figures are shown, State has no maximums.)

State	Old-age assistance		Aid to the blind		Aid to dependent children	
	September 1946	Latest	September 1946	Latest	September 1946	Latest
Alabama [2]	$40	$45	$40	$45	$18–12	$24–15
Alaska	60	60			25–15	25–15
Arizona	40	50	50	60	18–12	24–15
Arkansas	30	45	40	45	[3] 18–12	[3] 24–15
California	50	55	60	65		
Colorado	[4] 45	69	40			
Connecticut [2]	40	40	40	40		
Delaware	[4] 30	[4] 40	40	45		[3] 45–20–15
District of Columbia						
Florida	40	45	40	45	18–12	18–12
Georgia	30	45	30	45	[3] 18–12	[3] 24–15
Hawaii						
Idaho						
Illinois [2]	45	50	40	50		
Indiana [2]	40	45	40	45	[2] 20–18–12	[3] 30–18–15
Iowa					18–12	
Kansas						
Kentucky	30	30	40	40	18–12	18–12
Louisiana	75	90	75	90	[3] 40–12	[3] 40–12
Maine	40	40	40	40		[2] 50–25–20
Maryland	40	45	40	45	18–12	24–15
Massachusetts						
Michigan [2]	40	40	40	45	60–9	70–9
Minnesota [2]	[4] 40	[4] 50			40–15–12	50–20–15
Mississippi	30	30	30	30	15–10–5	15–10–5
Missouri	40	45			[5] 18–12	[5] 24–15
Montana	40	45	40	45		
Nebraska [2]	40	50	40	50		
Nevada	40	50				
New Hampshire	46	46	46	46		
New Jersey						
New Mexico	50	60	60	60		[6] 135
New York						
North Carolina	40	45	40	45	18–12	24–15
North Dakota						
Ohio	40	[2] 50	40	[2] 50		
Oklahoma	40	45	40	45	18–12	24–15
Oregon						
Pennsylvania						
Rhode Island						
South Carolina	20	23	25	30	15–10	18–12
South Dakota	40	45	40	45	30–12	[2] [3] 30–12
Tennessee	40	45	40	45	18–12	24–15
Texas	40	45	40	45	[3] [5] 18–12	[3] 24–15
Utah	[2] 40	[4] 45–45–24	[2] 40	[4] 45–45–24	40–30–18–12	[3] 45–45–24
Vermont	30	45	40	45	18–12	24–15
Virginia	40	45	40	45		
Washington						
West Virginia	40	45	40	45	18–12	24–15
Wisconsin	40	45	40	45		
Wyoming	50	60	50	60		

[1] In a few States maximums shown above are not yet effective.
[2] Higher payments possible to recipients with medical or other special needs.
[3] Some variation from amount shown for successive additional children in family or a family maximum in addition.
[4] Maximum for assistance plus other income.
[5] Percentage reduction applied to maximum.
[6] Per family.

TABLE 6.—*Ratio of State unemployment insurance reserves on Mar. 31, 1947, to highest annual benefit expenditures, by States*

[Dollar amounts in thousands]

State	Reserves on Mar. 31, 1947	Highest annual benefit expenditures		Ratio of reserves to expenditures
		Year	Amount	
United States	$6,903,619			
Alabama	56,089	1946	$14,749	3.8
Alaska	9,444	1940	527	17.9
Arizona	22,534	1938	1,902	11.8
Arkansas	32,728	1946	3,874	8.4
California	709,964	1946	154,532	4.6
Colorado	41,769	1946	4,169	10.0
Connecticut	186,850	1946	19,584	9.5
Delaware	13,921	1946	1,768	7.9
District of Columbia	45,097	1941	2,122	21.3
Florida	67,505	1940	6,362	10.6
Georgia	89,148	1946	6,476	13.8
Hawaii	20,491	1939	286	71.6
Idaho	18,577	1939	2,193	8.5
Illinois	484,673	1946	77,542	6.3
Indiana	181,199	1946	22,283	8.1
Iowa	69,344	1939	5,224	13.3
Kansas	52,684	1946	9,080	5.8
Kentucky	95,930	1946	6,419	14.9
Louisiana	81,268	1946	12,013	6.8
Maine	38,756	1946	5,478	7.1
Maryland	116,916	1946	23,910	4.9
Massachusetts	192,398	1946	42,802	4.5
Michigan	213,016	1946	79,220	2.7
Minnesota	103,956	1940	9,746	10.7
Mississippi	33,705	1940	2,200	15.3
Missouri	158,496	1946	20,946	7.6
Montana	23,577	1946	3,147	7.5
Nebraska	28,136	1946	2,087	13.5
Nevada	11,995	1946	1,117	10.7
New Hampshire	26,313	1938	2,732	9.6
New Jersey	441,631	1946	78,672	5.6
New Mexico	13,395	1939	1,226	10.9
New York	972,539	1946	191,154	5.1
North Carolina	125,573	1938	8,216	15.3
North Dakota	6,183	1940	619	10.0
Ohio	500,039	1946	52,314	9.6
Oklahoma	41,348	1946	10,184	4.1
Oregon	70,018	1946	16,633	4.2
Pennsylvania	593,008	1946	94,534	6.3
Rhode Island	79,509	1946	10,852	7.3
South Carolina	45,325	1940	2,474	18.3
South Dakota	7,318	1939	394	18.6
Tennessee	94,295	1946	12,560	7.5
Texas	162,608	1946	14,669	11.1
Utah	29,238	1946	4,058	7.2
Vermont	14,553	1940	914	15.9
Virginia	72,646	1940	5,863	12.4
Washington	131,903	1946	46,766	2.8
West Virginia	72,144	1938	12,065	6.0
Wisconsin	194,200	1938	9,408	20.6
Wyoming	9,667	1940	1,219	7.9

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE

(Tax on Employees)

SEC. 1400. RATE OF TAX.

* * * * * * *

(1) With respect to wages received during the calendar years 1939 to [1947] *1949*, both inclusive, the rate shall be 1 per centum.

(2) With respect to wages received during the calendar years [1948] *1950 to 1956, both inclusive* the rate shall be [2½] *1½* per centum.

(3) With respect to wages received after December 31, [1948] *1956*, the rate shall be [3] *2* per centum.

* * * * * * *

(Tax on Employers)

SEC. 1410. RATE OF TAX.

* * * * * * *

(1) With respect to wages paid during the calendar years 1939 to [1947] *1949*, both inclusive, the rate shall be 1 per centum:

(2) With respect to wages paid during the calendar years [1948] *1950 to 1956, both inclusive*, the rate shall be [2½] *1½* per centum.

(3) With respect to wages paid after December 31, [1948] *1956* the rate shall be [3] *2* per centum.

SOCIAL SECURITY ACT AMENDMENTS, 1946

(Public Law No. 719, 79th Congress)

SEC. 504. EFFECTIVE PERIOD.

Sections 501, 502, and 503 shall be effective with respect to the period commencing October 1, 1946, and ending on [December 31, 1947.] *June 30, 1950.*

WAR MOBILIZATION AND RECONVERSION ACT OF 1944

(Public Law No. 458, 78th Congress)

SEC. 603. The provisions of this Act shall terminate on June 30, 1947. *Section 603 of the War Mobilization and Reconversion Act of 1944 (terminating the provisions of such Act on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act to the Social Security Act.*

SOCIAL SECURITY ACT, AS AMENDED

UNEMPLOYMENT TRUST FUND

NOTE.—Subsection (h) was added by the War Mobilization and Reconversion Act of 1944 (Public Law No. 458, 78th Cong., 2d sess.).

SEC. 904 (h) There is hereby established in the Unemployment Trust Fund a Federal unemployment account. There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (*1*) the excess of taxes collected prior to July 1, [1943] *1946*, under title IX of this Act [and] *or* under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, [1943; and there is hereby authorized to be appropriated to such account for the fiscal year 1945 and for each fiscal year thereafter (1) a sum equal to any excess of taxes collected in the preceding fiscal year under the Federal Unemployment Tax Act over the unemployment administrative expenditures made in such year, and (2) such further sums, if any, as may be necessary to carry out the purposes of title XII. Any amounts in the Federal unemployment account on October 1, 1947, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under title III of this Act, for the administration of that title by the Board, and for the administration of title IX of this Act and of the Federal Unemployment Tax Act by the Department of the Treasury, and the Board.] *1946, plus (2) the excess of taxes collected in each fiscal year beginning after June 30, 1946, under the Federal Unemployment Tax Act, over the unemployment administrative expenditures made in such year. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under title III of this Act, expenditures for the administration of that title by the Board or the Administrator, and expenditures for the administration of title IX of this Act or of the Federal Unemployment Tax Act by the Department of the Treasury, the Board, or the Administrator.* For the purposes of this subsection there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of $40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754).

ADVANCES TO STATE UNEMPLOYMENT FUNDS

SEC. 1201. (a) In the event that the balance in a State's account in the Unemployment Trust Fund [on June 30, 1945, or on the last day in any ensuing calendar quarter which ends prior to July 1, 1947], *on June 30, 1947, or on the last day in any ensuing calendar quarter* does not exceed a sum equal to the total contributions deposited in the Unemployment Trust Fund under the unemployment compensation law of the State during that one of the two calendar years next preceding such day in which such deposits were higher, the State shall be entitled, subject to the provisions of subsections (b) and (c) hereof, to have transferred from the Federal unemployment account to its account in the Unemployment Trust Fund an amount equal to the amount by which the unemployment compensation paid out by it in the calendar quarter ending on such day exceeded 2.7 per centum of the total remuneration which was paid during such quarter and was subject to the State unemployment compensation law.

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Union Calendar No. 291

80TH CONGRESS
1ST SESSION

H. R. 3818

[Report No. 594]

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1947

Mr. KNUTSON introduced the following bill; which was referred to the Committee on Ways and Means

JUNE 16, 1947

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Insert the part printed in italic]

A BILL

To amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (1), (2), and (3) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are hereby amended to read as follows:

"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ per centum.

"(3) With respect to wages received after December 31, 1956, the rate shall be 2 per centum."

SEC. 2. Clauses (1), (2), and (3) of section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, are hereby amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ per centum.

"(3) With respect to wages paid after December 31, 1956, the rate shall be 2 per centum."

SEC. 3. Section 504 of the Social Security Act Amendments of 1946 (Public Law 719, Seventy-ninth Congress), fixing the termination date of amendments relating to grants to States for old-age assistance, aid to the blind, and aid to dependent children, is hereby amended by striking out "December 31, 1947" and inserting in lieu thereof "June 30, 1950".

SEC. 4. Section 603 of the War Mobilization and Recon-

version Act of 1944 (terminating the provisions of such Act on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act to the Social Security Act.

SEC. 5. (a) Section 904 (h) of the Social Security Act is hereby amended to read as follows:

"(h) There is hereby established in the Unemployment Trust Fund a Federal unemployment account. There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected in each fiscal year beginning after June 30, 1946, under the Federal Unemployment Tax Act, over the unemployment administrative expenditures made in such year. As used in this subsection, the term 'unemployment administrative expenditures' means expenditures for grants under title III of this Act, expenditures for the administration of that title by the Board or the Administrator, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act by the Department of the Treasury, the Board, or the Administrator. For the purposes of this subsection there shall be deducted from the total amount

of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of $40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754)."

(b) Section 1201 (a) of the Social Security Act is hereby amended by striking out "on June 30, 1945, or on the last day in any ensuing calendar quarter which ends prior to July 1, 1947", and inserting in lieu thereof "on June 30, 1947, or on the last day in any ensuing calendar quarter".

SEC. 6. This Act may be cited as the "Social Security Act Amendments of 1947."

Union Calendar No. 291

80TH CONGRESS
1ST SESSION

H. R. 3818

[Report No. 594]

A BILL

To amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes.

By Mr. KNUTSON

JUNE 12, 1947

Referred to the Committee on Ways and Means

JUNE 16, 1947

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

striking out "December 31, 1947" and inserting in lieu thereof "June 30, 1950."

SEC. 4. Section 603 of the War Mobilization and Reconversion Act of 1944 (terminating the provisions of such act on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such act to the Social Security Act.

SEC. 5. (a) Section 904 (h) of the Social Security Act is hereby amended to read as follows:

"(h) There is hereby established in the unemployment trust fund a Federal unemployment account. There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected in each fiscal year beginning after June 30, 1946, under the Federal Unemployment Tax Act, over the unemployment administrative expenditures made in such year. As used in this subsection, the term 'unemployment administrative expenditures' means expenditures for grants under title III of this act, expenditures for the administration of that title by the Board or the Administrator, and expenditures for the administration of title IX of this act, or of the Federal Unemployment Tax Act by the Department of the Treasury, the Board, or the Administrator. For the purposes of this subsection there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this act, the sum of $40,561,886.43 which was authorized to be appropriated by the act of August 24, 1937 (50 Stat. 754)."

(b) Section 1201 (a) of the Social Security Act is hereby amended by striking out "on June 30, 1945, or on the last day in any ensuing calendar quarter which ends prior to July 1, 1947", and inserting in lieu thereof "on June 30, 1947, or on the last day in any ensuing calendar quarter."

With the following committee amendment:

Page 4, after line 10, insert the following:

"SEC. 6. This act may be cited as the 'Social Security Act amendments of 1947,'"

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. REED of New York. Mr. Speaker, these amendments to the Social Security Act were unanimously adopted by the Committee on Ways and Means. The salient facts are set forth in the following:

Federal Insurance Contributions Act—Federal old-age and survivors' insurance under original 1935 Social Security Act

Contributions under 1935 act:	Percent
1937 to 1939	1
1940 to 1942	1½
1943 to 1945	2
1946 to 1947	2½
1948	2½
1949	3
1950 to 1956	3
1957 and thereafter	3
Contribution rate under present law:	
1937 to 1939	1
1940 to 1942	1
1943 to 1945	1
1946 to 1947	1
1948	2½
1949	3
1950 to 1956	3
1957 and thereafter	3
Contribution rate under H. R. 3818:	
1948 and 1949	1
1950 through 1956	1½
1957 and thereafter	2

AMENDMENT TO FEDERAL INSURANCE CONTRIBUTIONS ACT

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes, and asks for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That clauses (1), (2), and (3) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are hereby amended to read as follows:

"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 percent.

"(2) With respect to wages received during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ percent.

"(3) With respect to wages received after December 31, 1956, the rate shall be 2 percent."

SEC. 2. Clauses (1), (2), and (3) of section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, are hereby amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 percent.

"(2) With respect to wages paid during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ percent.

"(3) With respect to wages paid after December 31, 1956, the rate shall be 2 percent."

SEC. 3. Section 504 of the Social Security Act amendments of 1946 (Public Law 719, 79th Cong.), fixing the termination date of amendments relating to grants to States for old-age assistance, aid to the blind, and aid to dependent children, is hereby amended by

Unless H. R. 3818 is enacted, the contribution rate under the Federal Insurance Contributions Act will automatically increase to 2½ percent each on employer and employee in 1948, and to 3 percent each in 1949.

The enactment of H. R. 3818 at this time will, under present economic conditions, relieve employers and employees of additional contributions amounting to $1,000,000,000 each in 1948 and $1,400,000,000 each in 1949.

The rate has been frozen at 1 percent seven times, notwithstanding the accumulation of approximately $8,700,000,000 in the Federal old-age and survivors' insurance trust fund.

Income to fund this year, 1947—fiscal year—is estimated at $1,565,000,000. Disbursements are estimated at $464,000,000 for the same period.

Under H. R. 3818, the fund will have increased to about twice its present size in 1956.

At the end of 1946, there were 75,500,000 living persons who had wage credits under the insurance system.

On June 30, 1946, there were 1,500,000 persons receiving benefits. There were 888,000 persons fully insured who, if retired, could draw benefits.

There are 1,155,000 persons who are eligible for old-age benefits who are not drawing them at the present time.

Rates in H. R. 3818 will provide an actuarially sound system at least for the next 10 years.

AGED, BLIND, AND CHILDREN

Section 3 of the bill contains the increased Federal grants to the States for needy, aged, and the blind, and dependent children until June 30, 1950.

UNEMPLOYMENT INSURANCE FUND—WAR MOBILIZATION AND RECONVERSION ACT OF 1944

H. R. 3818, sections 4 and 5, provides for continuance on permanent basis certain temporary provisions of the War Mobilization and Reconversion Act of title IV of that act which expires June 30, 1947, unless made permanent.

Provisions established within the unemployment trust fund a separate account known as the Federal unemployment account. It authorized congressional appropriations to be made thereto in amounts equal to the excess of tax collections under the Federal Unemployment Tax Act over the unemployment administration expenditures, and such further sums as may be necessary.

The excess of Federal unemployment tax collections, as to State grants for administering unemployment insurance; and as to the resulting net profits which the Federal Government has so far made in tax collections. Excess at present amounts to some $800,000,000. This sum collected has been spent by Federal Government. Otherwise it could have been used for unemployment insurance purposes. This sum should be made permanently and irrevocably available for unemployment insurance purposes.

The reserves of 22 States exceed ten times the highest annual expenditures.

Calendar No. 495

80TH CONGRESS, 1st Session | SENATE | REPORT No. 477

SOCIAL SECURITY AMENDMENTS, 1947

JULY 11 (legislative day, JULY 10), 1947.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 3818]

The Committee on Finance, to whom was referred the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

SUMMARY OF THE BILL

The bill, as amended by your committee, freezes at 1 percent each on employers and employees, respectively, for the 2 years 1948 and 1949, Federal insurance contributions, and continues two important temporary provisions of the Social Security Act, as follows:

1. Continues for the period ending June 30, 1950, the State-Federal matching formula enacted in 1946 with respect to old-age assistance, aid to dependent children, and aid to the blind.

2. Continues through December 31, 1949, the present temporary authorization for congressional appropriations to a special Federal unemployment account of excess unemployment compensation tax receipts now paid to the Federal Government by private employers of eight or more.

The bill as passed by the House fixed the contribution rates under the Federal Insurance Contributions Act at 1 percent each for employers and employees for the years 1948 and 1949, at 1½ percent for the years 1950 to 1956, inclusive, and at 2 percent thereafter; and made permanent the provisions respecting the Federal unemployment account. Your committee is of the opinion that the Congress should not at this time make permanent changes in social-security legislation;

Your committee has given most thoughtful consideration to other social-security legislation. The great bulk of the measures referred to your committee involved highly technical and substantial amendments to the Social Security Act. Various proposals have been made for extending the coverage of the social-security program, changing the benefits, providing insurance protection with respect to permanent disability, and revising the social-security program in other respects. Your committee believes that since all of these matters are intimately connected with the costs and methods of financing the program, they should be considered simultaneously. The bill now under consideration embodies only the most urgent and essential social-security legislation which, in the opinion of your committee, requires immediate action.

URGENCY OF THE LEGISLATION

It is highly essential that action be taken with respect to the taxes imposed under the Federal Insurance Contributions Act. The present 1-percent rate now paid by employers and employees, respectively, will be increased automatically to 2½ percent (5 percent in the aggregate) on January 1,. 1948, in the absence of amendatory legislation.

At the same time, unless the Congress provides otherwise, the existing Federal financial participation under titles I, IV, and X of the Social Security Act, as amended, relating to old-age assistance, aid to dependent children, and aid to the blind, will be reduced automatically by virtue of the expiration of the provisions of the 1946 social-security amendments (Public Law 719, 79th Cong.). This law enabled each State to increase these payments on a temporary basis if the State saw fit to do so. Your committee does not believe these payments should be allowed to revert to their former level at the end of the current calendar year.

Existing law, under which the Federal Government created a special Federal unemployment account mentioned above, and under which appropriations thereto of the equivalent to the excess unemployment-compensation tax receipts over administrative grants were authorized, expired on June 30, 1947. The original purpose of these provisions was to provide a bulwark against the potential hazard of extraordinary drains on State unemployment-compensation funds. In the opinion of your committee, these provisions should be extended temporarily until December 31, 1949.

THE PROPOSED PAY-ROLL CONTRIBUTION RATES

Under existing law the contribution rate under the Federal Insurance Contributions Act would automatically increase to 2½ percent each on employer and employee in 1948 and 3 percent each in 1949. Under H. R. 3818, based on present economic conditions, employers and employees will be relieved of additional contributions amounting to about $1,000,000,000 each in 1948 and $1,400,000,000 each in 1949. A comparison of past, present, and proposed rates will be found in the table below.

Comparison of contribution rates [1] for Federal old-age and survivors' insurance under original 1935 Social Security Act, present law, and H. R. 3818

Year	Contribution rate under 1935 law	Contribution rate under present law	Contribution rate under H. R. 3818	
			As passed House	As reported to Senate
	Percent	*Percent*	*Percent*	*Percent*
1937 to 1939	1	1	1	1
1940 to 1942	1½	1	1	1
1943 to 1945	2	1	1	1
1946 and 1947	2½	1	1	1
1948	2½	2½	1	1
1949	3	3	1	1
1950 to 1956	3	3	1½	3
1957 and thereafter	3	3	2	3

[1] The rate shown above is the rate payable by the employer and employee separately. The total contribution to the program from employers and employees combined would be double those shown in the table.

From 1937 to date the 1 percent rate under seven successive tax "freezes" has resulted in the accumulation of approximately $8,700,000,000 in the Federal old-age and survivors' insurance trust fund, as shown in the right-hand column of the table below. The income to the fund this year (fiscal year 1947) is estimated at $1,565,000,000, with disbursements estimated at $464,000,000 for the same period.

The table below shows the estimated amount in the fund at the end of the next 2 years under the rate schedule recommended by the committee in H. R. 3818.

Income, disbursements, and amount in the Federal old-age and survivors' insurance trust fund, fiscal years 1947–49, based on contribution rates in H. R. 3818, subject to the assumptions and limitations stated in the Board of Trustees' Seventh Annual Report [1]

[In millions of dollars]

Fiscal year ending June 30—	Income (contributions plus interest)	Disbursements (benefit payments plus administrative expenses)	Trust fund at end of fiscal year
1947	$1,565	$464	$8,742
1948	$1,624 1,631	$552 622	$9,758 9,814
1949	1,508 1,666	635 728	10,538 10,845

[1] The estimates in this table are based upon the assumptions and alternatives contained in the Seventh Annual Report of the Board of Trustees of the Federal Old-Age and Survivors' Insurance Trust Fund, 80th Cong., 1st sess., S. Doc. 18, p. 10, table 6.

The above table indicates the accumulation of a trust fund at the end of 1949 exceeding $10,000,000,000 with the existing 1 percent tax rates extended through 1949. In the opinion of your committee, the consideration of tax rates should proceed concurrently with consideration of the coverage and benefits of the social-security program. Accordingly, your committee deems it advisable to postpone consideration of rates beyond 1949 until there can be further study and investigation of the coverage, benefits, and other aspects of the social-security program, and the taxes related thereto.

Public Assistance

INCREASED FEDERAL PARTICIPATION IN ASSISTANCE PAYMENTS

Section 3 of H. R. 3818 as passed by the House of Representatives continues the increased Federal grants to the States for the needy aged and blind and dependent children until June 30, 1950. The increased Federal grants for public assistance were originally provided by the Social Security Act amendments of 1946, enacted in August 1946, and were to be effective for a temporary period—October 1, 1946, to December 31, 1947.

The amendments of 1946 increased the maximum monthly payments to recipients for Federal matching purposes from $40 to $45 per month for old-age assistance and aid to the blind. For aid to dependent children the maximums were raised from $18 per month for one child and $12 per month for each additional child in a family, to $24 and $15, respectively. Instead of matching one-half of the maximums as was done prior to October 1, 1946, the Federal participation under the Social Security Act amendments of 1946 is as follows: In old-age assistance and aid to the blind the Federal share is two-thirds of the first $15 of the average monthly payment per recipient and one-half of the balance within the above maximums; in aid to dependent children the Federal share is two-thirds of the first $9 of the average monthly payment per child and one-half the remainder within the above maximums.

The 1946 amendments made it possible for the States to increase payments $5 per month for old-age assistance and aid to the blind recipients and $3 per child receiving aid to dependent children, without expending additional State or local funds, providing the same number of persons were aided as prior to October 1, 1946. The increased cost to the Federal Government for public assistance resulting from the increased Federal grants provided for by the 1946 amendments is approximately $180,000,000 per year. If the States continue to raise payments to recipients and the number of persons receiving aid increase, the annual Federal expenditures will be higher. The increased cost to the Fedeal Government for public assistance was approximately $45,000,000 for the quarter January–March 1947, as compared to the July–September 1946 quarter, the last quarter before the 1946 amendments became effective on October 1, 1946.

INCREASE IN EXPENDITURES FOR ASSISTANCE PAYMENTS

The total quarterly expenditures from Federal, State, and local funds for the three public assistance programs increased from $260,416,455 in July–September 1946, to $312,317,617 in January-March 1947. The following table shows that on a national basis, expenditures have increased from Federal funds and from State and local funds, except that for aid to the blind expenditures from State and local funds decreased $13,221 in the January–March 1947 quarter, as compared to the July–September 1946 quarter. The net increase in expenditures from State and local funds in the January–March 1947 quarter was 4.6 percent for all three programs; expenditures from Federal funds increased 40.2 percent.

Quarterly expenditures for assistance July–September 1946 and January–March 1947

Program	July–September 1946	January–March 1947	Increase or decrease	Percent increase (+) or decrease (−)
All programs:				
Federal	$112,077,066	$157,135,262	$45,058,196	+40.2
State-local funds	148,339,389	155,182,355	6,842,966	+4.6
Total	260,416,455	312,317,617	51,901,162	+19.9
Old-age assistance:				
Federal	93,747,286	126,820,879	33,073,593	+35.3
State-local funds	109,004,563	110,418,025	1,413,462	+1.3
Total	202,751,849	237,238,904	34,487,055	+17.0
Aid to dependent children:				
Federal	15,746,887	26,871,283	11,124,396	+70.6
State-local funds	36,098,204	41,540,929	5,422,725	+15.1
Total	51,845,091	68,412,212	16,567,121	+32.0
Aid to the blind:				
Federal	2,582,893	3,443,100	860,207	+33.3
State-local funds	3,236,622	3,223,401	−13,221	−.4
Total	5,819,515	6,666,501	846,986	+14.6

The additional Federal funds made available to the States for public assistance by the social-security amendments of 1946 were used by the States for three purposes: (1) To raise the payments to recipients; (2) to increase the number of recipients of aid; (3) in some instances to decrease the amount of State and local funds from what was expended for public assistance purposes prior to October 1, 1946. The total amounts expended for each purpose are shown in the following table:

Public assistance: Increase in Federal funds from July–September 1946 to January–March 1947, by amounts used to raise average payment, to increase recipient load, and to decrease State and local funds

Program	Increase in Federal funds				Increase in State and local funds
	Total	To raise average payment	To increase recipient load	To decrease State and local funds	
Total	$45,058,196	$28,438,709	$13,634,902	$2,984,585	$9,834,632
Old-age assistance	33,073,593	22,439,681	8,094,945	2,538,967	3,952,429
Aid to dependent children	11,124,396	5,467,324	5,332,099	324,973	5,774,779
Aid to the blind	860,207	531,704	207,858	120,645	107,424

INCREASED AVERAGE GRANTS

The national average monthly payment in old-age assistance was $32.15 in September 1946, as compared to $35.98 in March 1947, an increase of $3.83. The national average monthly payment in aid to the blind was $33.64 in September 1946 and $37.43 in March 1947, an increase of $3.79. The aid to dependent children average payment during the same period increased from $21.61 per child to $24.76 per child, an increase of $3.15.

In all but the State of Alabama and the District of Columbia the average monthly payment in old-age assistance was higher in March 1947 than in September 1946. In aid to the blind, the average monthly payments were higher in March 1947 than in September 1946, except in Connecticut, Delaware, and the District of Columbia. In aid to dependent children the average monthly payment was higher in March 1947 than in September 1946, except for inconsequential decreases in Connecticut and Mississippi, and a reduction of $3.22 per child in the District of Columbia. The decrease in average payments on the three programs in the District of Columbia were temporary due to a 20 percent reduction in payments in March 1947. This reduction was restored retroactively in May 1947, with the result that in all instances the District of Columbia average payments are now higher than they were in September 1946.

Chart 1, and table 3 in the appendix show the average payments on the three programs and compare the average payments in September 1946 with those made in March 1947 in all jurisdictions having approved plans for old-age assistance, aid to the blind, and aid to dependent children.

The tabulation below shows the number of States that increased average payments grouped as to specified amounts, and the number of States that decreased average payments.

Increase in average payments, September 1946 to March 1947

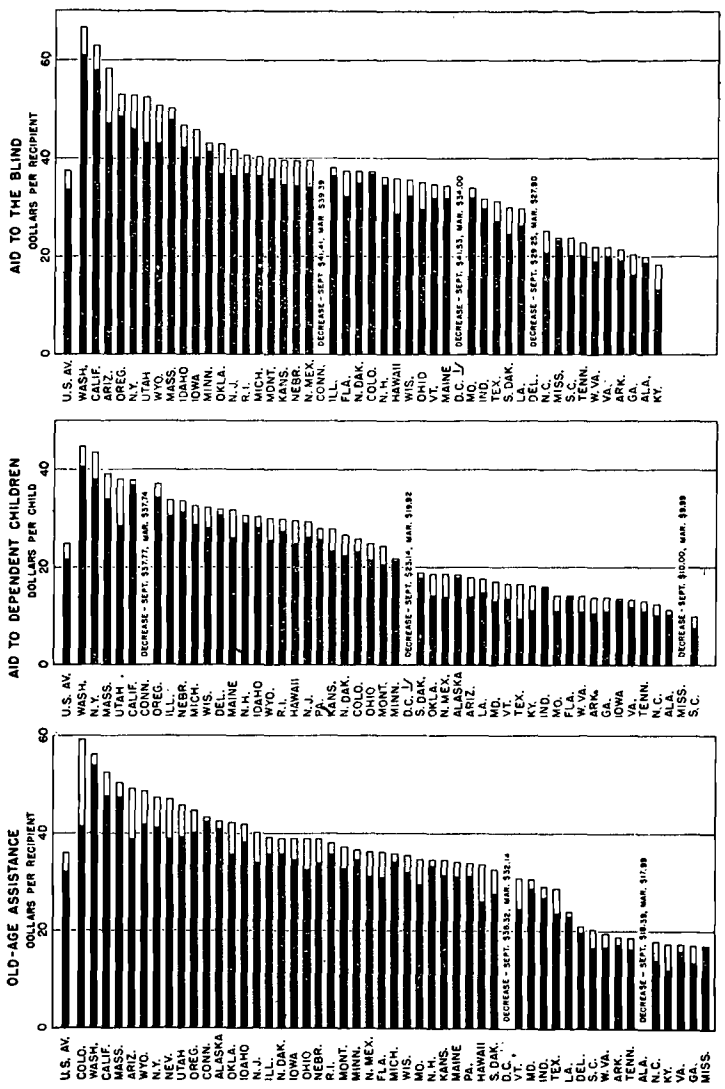
	Number of States		
	Old-age assistance	Aid to dependent children (per child)	Aid to the blind
$5 or more	16	5	14
$3 to $5	14	20	14
Under $3	19	22	16
Decrease	2	3	3

INCREASE IN NUMBER OF PERSONS AIDED

The number of persons receiving assistance has increased steadily beginning with August 1945 in the aid-to-dependent children program; September 1945 in the old-age assistance program; and October 1945 in the aid-to-the-blind program. On the old-age assistance program the average monthly number of recipients during the quarter January–March 1947 was 2,228,069, as compared to 2,125,908 during the July–September 1946 quarter, an increase of 4.8 percent. The number of children receiving aid to dependent children increased from 817,481 to 930,670, or 13.8 percent, during the same period. The average monthly aid-to-the-blind recipients numbered 58,340 in the July–September 1946 quarter and 60,501 in the January–March 1947 quarter, an increase of 3.7 percent. It appears, therefore, that some States utilized additional Federal funds to furnish assistance to the increased number of persons who filed applications, and that some States, because of additional Federal funds, were enabled to grant assistance to persons who had filed applications previously, but who were

CHART 1

AVERAGE MONTHLY PAYMENT IN STATES WITH APPROVED PLANS, SEPTEMBER 1946 AND MARCH 1947



[1] The 20-percent reduction in March was restored retroactively in May 1947.

compelled to remain on waiting lists because of the lack of State and local funds to make assistance payments to all eligible persons.

The increase in the number of recipients for each jurisdiction having approved plans for old-age assistance, aid to dependent children, and aid to the blind is shown in table 4 in the appendix.

DECREASE IN EXPENDITURES FROM STATE AND LOCAL FUNDS

In many States the amounts spent from State-local funds for the different types of aid declined somewhat from July–September 1946 to January–March 1947. For the three special types of public assistance combined, however, State-local expenditures were lower than before in only 17 States. In all but three of these States the declines amounted to less than 10 percent. Combined State-local expenditures for the three special types of assistance and general assistance were higher in the January–March quarter than in the quarter July–September in all but 12 States and of these only 3 decreased their State-local outlays by as much as 5 percent.

Percentage decrease in expenditures from State and local funds from July–September 1946 to January–March 1947

	Number of States				
	Three special types of public assistance and general assistance	Three special types of public assistance	Old-age assistance	Aid to dependent children	Aid to the blind
Under 5	9	8	14	3	11
5 to 9	3	6	11	4	12
10 and over	----------	3	4	4	3

The majority of States in which State-local expenditures did not maintain the level of the last quarter before the amendments became effective are States which have adopted, as the maximum amounts that may be paid, the maximums in the Federal act or, in a few instances, lower maximums (see table 7, appendix).

The increased Federal participation in old-age assistance, aid to the blind, and aid to dependent children payments has raised the level of public assistance in all parts of the country, but as the States require some time to make fundamental changes in their programs, the full effects of the 1946 amendments can be ascertained only after they have been in effect for a longer period of time. In the opinion of your committee, extending the increased Federal grants until June 30, 1950, as provided in the bill, will afford opportunity to appraise the operation of the revised matching formulas enacted by the Congress in August 1946, and also opportunity for concurrent consideration of recommended revisions of the public assistance titles of the Social Security Act.

Purpose and Effect of the Unemployment Insurance Loan Fund

Sections 4 and 5 of H. R. 3818, as amended by the committee, provide for continuance through 1949 of certain temporary provisions of the War Mobilization and Reconversion Act of 1944 contained in title IV of that act which expired June 30, 1947. These temporary provisions established within the unemployment trust fund a separate account known as the Federal unemployment account and authorized congressional appropriations to be made thereto in amounts equal to the excess of tax collections under the Federal Unemployment Tax Act over the unemployment administration expenditures, and such further sums as may be necessary. In other words, the act authorized appropriations of what might be termed the "net profits" to the Federal Government on the 3-percent Federal unemployment tax, and "such further sums, if any, as may be necessary" to carry out the purposes for which the Federal unemployment account was created.

In the opinion of the committee this authorization for appropriation of sums in addition to the so-called net profits, as provided in the law, should be eliminated, but the law otherwise extended until December 31, 1949. This is done by the proposed legislation. This recommendation is amply justified, in the opinion of the committee, when one reviews the situation as to the excess of Federal unemployment tax collections, as to State grants for administering unemployment insurance, and as to the resulting net profits which the Federal Government has so far made in the tax collections. This excess at present amounts to some $800,000,000, and is properly to be regarded as money which presumably would have been used for unemployment insurance purposes had it not been collected by the Federal Government and appropriated to other uses.

Your committee has recommended an amendment, to subtract from the authorized appropriation the sum of $18,451,846, which was authorized to be appropriated to the railroad unemployment insurance administration fund when that fund was set up in 1948.

Loan Provisions

Section 402 of the War Mobilization and Reconversion Act authorized loans from the Federal unemployment account to the States for unemployment insurance payments when a State's unemployment insurance fund became dangerously low. To date no appropriations have been needed or made to this Federal unemployment account. Notwithstanding this fact the account is available for use as a legal receptacle for Federal appropriations if such appropriations become necessary, and in amounts representing the excess collections from the Federal unemployment tax over amounts disbursed in State grants. The Federal unemployment tax is thus, in effect, potentially earmarked for unemployment insurance purposes.

The present loan provisions were enacted as an emergency measure to facilitate liberalization of State benefit provisions in preparation for the reconversion period.

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It is now clear that there is no immediate danger to the solvency of any State unemployment insurance reserve. Despite heavy benefit disbursements in the course of reconversion, every State now has in its reserve an amount equal to at least 2.7 times its highest annual expenditures. Table 8 in the appendix shows that the reserves of 22 States exceed 10 times the highest annual expenditures. The availability of such reserves plus current tax collections is a guarantee of the solvency of State reserves for at least the next few years.

In the opinion of your committee, extending the temporary loan provisions of the War Mobilization and Reconversion Act of 1944 through December 31, 1949, will provide the necessary protection to the States to meet any unforeseen emergencies that may arise in unemployment compensation programs, and afford opportunity for further study on the basis of which recommendations for permanent legislation can be made.

APPENDIX

TABLE 1.—*Old-age assistance: Increase in Federal funds from July–September 1946 to January–March 1947, by amounts used to raise average payment, to increase recipient load, and to decrease State and local funds*

State	Increase in Federal funds				Increase in State and local funds
	Total	To raise average payment	To increase recipient load	To decrease State and local funds	
Total	$33,073,593	$22,439,681	$8,094,945	$2,538,967	$3,952,429
Alabama	551,675	(1)	407,626	144,049	
Alaska	16,524	7,753	429	8,342	
Arizona	196,366	158,395	37,971		187,027
Arkansas	527,399	151,059	376,340		3,740
California	2,730,999	2,134,848	596,151		390,906
Colorado	619,145	472,555	146,590		317,985
Connecticut	90,088	37,133	16,395	36,560	
Delaware	10,299	3,112	(1)	7,187	
District of Columbia	26,171	11,215	4,126	10,830	
Florida	888,471	613,096	275,375		146,254
Georgia	1,033,010	677,544	264,850	90,616	
Hawaii	27,914	21,129	6,785		7,650
Idaho	147,920	104,021	43,281	618	
Illinois	1,818,654	1,564,138	218,067	36,449	
Indiana	649,345	340,462	114,484	194,399	
Iowa	611,007	488,548	2,694	119,765	
Kansas	546,161	256,955	289,206		82,850
Kentucky	742,737	653,144	89,593		62,716
Louisiana	647,720	100,048	510,672	37,000	
Maine	208,281	129,026	56,956	22,299	
Maryland	142,976	90,265	19,264	33,447	
Massachusetts	1,326,972	757,229	516,407	53,336	
Michigan	1,105,807	563,769	254,427	287,611	
Minnesota	531,079	253,623	(1)	277,456	
Mississippi	535,589	22,886	474,452	38,251	
Missouri	1,922,231	1,479,712	442,519		270,917
Montana	151,353	140,957	2,519	7,877	
Nebraska	330,826	272,651	58,175		114,765
Nevada	29,074	28,635	439		17,767
New Hampshire	80,727	35,579	10,196	34,952	
New Jersey	355,559	350,760	4,799		65,409
New Mexico	130,449	83,095	47,354		24,358
New York	1,719,878	1,528,528	191,350		1,007,459
North Carolina	524,709	319,882	160,471	44,356	
North Dakota	115,626	81,228	19,038	15,360	
Ohio	1,945,993	1,717,087	228,906		561,034
Oklahoma	1,821,124	1,366,247	454,877		455,854
Oregon	357,154	250,213	106,941		60,965
Pennsylvania	1,189,184	734,102	255,189	199,893	
Rhode Island	108,369	39,786	49,255	19,328	
South Carolina	436,219	269,534	166,685		29,074
South Dakota	196,561	185,486	11,075		5,166
Tennessee	632,311	282,777	316,613	32,921	
Texas	2,769,088	2,227,887	461,948	79,253	
Utah	174,053	166,381	7,672		81,067
Vermont	98,986	80,008	18,978		16,265
Virginia	178,815	95,302	32,318	51,195	
Washington	1,114,791	378,158	189,830	546,803	
West Virginia	267,236	180,785	53,342	33,109	
Wisconsin	623,952	484,168	64,079	75,705	
Wyoming	67,016	48,780	18,236		33,201

[1] Decrease.

TABLE 2.—*Aid to dependent children: Increase in Federal funds from July–September 1946 to January–March 1947, by amounts used to raise average payment, to increase recipient load, and to decrease State and local funds*

State	Increase in Federal funds				Increase in State and local funds
	Total	To raise average payment	To increase recipient load	To decrease State and local funds	
Total	$11,124,396	$5,467,324	$5,332,099	$324,973	$5,774,779
Alabama	164,916	61,614	79,466	23,856	----------
Alaska	7,821	1,589	6,232	----------	77
Arizona	90,812	44,738	46,074	----------	32,755
Arkansas	183,006	97,100	85,906	----------	46,557
California	293,150	63,795	229,355	----------	74,254
Colorado	128,906	65,720	63,186	----------	27,744
Connecticut	60,642	(1)	----------	60,642	----------
Delaware	5,971	2,832	(1)	3,139	----------
District of Columbia	49,515	6,417	43,098	----------	21,718
Florida	170,341	13,675	145,613	11,053	----------
Georgia	181,082	82,025	99,057	----------	41,708
Hawaii	33,243	14,197	19,046	----------	30,022
Idaho	55,287	18,350	36,937	----------	15,460
Illinois	693,681	425,929	267,752	----------	416,243
Indiana	165,410	9,220	62,791	93,399	----------
Iowa	68,785	9,754	37,743	21,288	----------
Kansas	152,758	68,404	84,354	----------	136,316
Kentucky	316,021	163,934	152,087	----------	136,423
Louisiana	314,589	194,641	119,948	----------	19,265
Maine	74,685	35,240	39,445	----------	90,741
Maryland	177,042	100,865	76,177	----------	57,935
Massachusetts	251,326	180,504	70,822	----------	190,623
Michigan	569,376	310,855	258,521	----------	310,117
Minnesota	167,791	21,048	71,452	75,291	----------
Mississippi	98,262	(1)	85,383	12,879	----------
Missouri	533,986	319,648	214,338	----------	112,708
Montana	48,672	26,880	21,792	----------	22,074
Nebraska	91,986	40,597	51,389	----------	58,006
New Hampshire	33,005	11,767	21,238	----------	7,880
New Jersey	113,678	61,843	51,835	----------	25,498
New Mexico	99,807	66,295	33,512	----------	55,727
New York	1,192,038	605,840	586,198	----------	2,175,131
North Carolina	193,796	101,750	92,046	----------	9,166
North Dakota	48,976	34,227	14,749	----------	21,793
Ohio	278,984	175,314	103,670	----------	85,293
Oklahoma	865,175	475,307	389,868	----------	355,358
Oregon	78,372	14,616	63,756	----------	97,047
Pennsylvania	1,241,144	497,187	743,957	----------	381,620
Rhode Island	68,665	21,351	47,314	----------	25,665
South Carolina	118,056	95,372	18,088	4,596	----------
South Dakota	59,459	24,602	23,160	11,697	----------
Tennessee	297,369	196,950	93,266	7,153	----------
Texas	350,149	168,348	181,801	----------	74,227
Utah	78,666	51,537	27,129	----------	155,354
Vermont	19,414	13,404	6,010	----------	3,208
Virginia	113,670	56,752	56,918	----------	1,172
Washington	240,341	84,276	156,065	----------	259,529
West Virginia	271,627	193,044	78,583	----------	46,280
Wisconsin	197,123	132,226	64,897	----------	159,928
Wyoming	15,820	5,745	10,075	----------	14,162

[1] Decrease.

TABLE 3.—*Average assistance payment per recipient, by program, September 1946 and March 1947*

State	Old-age assistance		Aid to dependent children				Aid to the blind	
			Per family		Per child			
	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947
Total	$32.15	$35.98	$55.42	$63.29	$21.61	$24.76	$33.64	$37.43
Alabama	18.39	17.88	28.72	31.66	10.32	11.32	18.72	19.96
Alaska	40.92	42.45	48.23	44.36	17.92	18.43		
Arizona	38.79	49.24	39.99	51.21	13.94	17.78	47.32	58.36
Arkansas	17.25	18.70	28.64	36.84	10.62	13.83	19.23	21.48
California	47.72	52.64	92.09	95.46	36.78	37.77	57.95	62.94
Colorado	41.52	59.35	63.35	70.75	23.17	25.75	36.79	37.34
Connecticut	42.56	43.33	94.16	93.59	37.77	37.74	41.41	39.39
Delaware	19.66	20.91	88.13	89.04	30.66	31.80	29.25	27.80
District of Columbia [1]	38.32	32.14	73.13	60.27	23.14	19.92	41.53	34.00
Florida	31.06	36.19	34.47	35.35	13.95	14.19	32.30	37.42
Georgia	13.54	17.07	28.05	35.63	10.95	13.80	16.24	20.39
Hawaii	26.03	33.64	78.29	90.63	24.77	29.46	28.68	35.84
Idaho	38.25	41.88	74.70	79.70	28.21	30.29	42.31	46.72
Illinois	35.89	39.24	75.19	83.04	30.57	33.80	36.47	38.07
Indiana	26.86	29.12	38.60	39.31	15.86	16.05	29.72	31.67
Iowa	34.65	38.98	33.70	34.98	13.24	13.62	40.12	45.86
Kansas	31.46	34.57	59.76	70.44	23.28	27.85	34.73	39.65
Kentucky	12.02	17.37	29.29	41.66	11.21	16.20	13.34	18.32
Louisiana	23.04	23.96	38.91	45.59	14.82	17.52	26.29	29.73
Maine	31.15	34.14	74.86	91.54	26.15	31.76	31.89	34.43
Maryland	28.65	30.56	37.45	48.55	13.06	17.02	32.00	33.98
Massachusetts	47.45	50.43	84.52	97.04	34.03	39.19	47.74	50.16
Michigan	34.24	35.84	68.97	77.65	28.73	32.56	36.42	40.27
Minnesota	34.60	36.62	54.28	55.90	21.30	21.82	41.34	43.07
Mississippi	16.81	17.04	26.22	26.43	10.00	9.99	23.26	23.72
Missouri	29.50	34.65	29.13	37.15	11.07	14.25		
Montana	32.76	37.33	54.76	64.74	20.51	24.38	35.79	40.01
Nebraska	34.03	38.88	74.63	79.74	31.36	33.62	34.50	39.62
Nevada	38.97	47.02						
New Hampshire	33.47	34.64	74.65	78.19	29.09	30.64	34.57	36.17
New Jersey	34.03	40.17	66.37	75.36	26.25	29.38	36.46	41.76
New Mexico	31.25	36.25	36.62	48.73	13.93	18.57	34.22	39.60
New York	41.20	47.36	91.59	103.46	38.00	43.53	46.07	52.82
North Carolina	14.08	17.75	28.11	34.87	10.14	12.41	20.76	25.26
North Dakota	35.92	39.02	62.42	72.59	22.43	26.69	35.06	37.38
Ohio	32.62	38.92	59.08	67.99	21.47	24.78	29.54	35.08
Oklahoma	35.72	42.22	35.06	45.11	14.35	18.62	36.79	42.87
Oregon	40.15	44.70	86.34	94.04	34.26	37.10	48.60	53.02
Pennsylvania	31.35	33.93	66.45	72.13	25.73	27.95		
Rhode Island	35.69	38.06	69.47	75.09	27.47	29.88	36.78	40.62
South Carolina	16.52	20.32	21.73	27.25	7.45	9.89	20.17	23.70
South Dakota	27.67	32.66	44.00	46.10	17.75	18.79	24.61	29.99
Tennessee	16.39	18.57	29.41	35.10	11.08	13.15	20.15	22.77
Texas	23.60	28.69	23.15	41.90	9.36	16.60	27.19	31.33
Utah	39.35	45.74	76.83	101.79	28.61	38.01	43.15	52.46
Vermont	24.53	30.86	36.40	46.18	13.51	16.63	31.96	34.68
Virginia	15.89	17.35	34.04	38.72	11.81	13.35	20.09	21.77
Washington	53.93	56.20	99.14	109.24	40.57	44.73	60.93	66.57
West Virginia	16.73	19.55	30.29	39.04	10.89	14.14	19.04	22.02
Wisconsin	32.03	35.48	69.59	80.38	28.10	32.31	32.39	35.65
Wyoming	41.78	48.71	71.96	85.05	25.57	30.03	43.13	50.70

[1] The 20-percent reduction in payments in March was restored through retroactive payments in May 1947.

TABLE 4.—*Special types of public assistance: Average monthly number of recipients, quarterly periods, July–September 1946 and January–March 1947, and percentage change, by program*

State	Old-age assistance			Aid to dependent children (children)			Aid to the blind		
	July–September	January–March	Percentage change	July–September	January–March	Percentage change	July–September	January–March	Percentage change
Total	2,125,908	2,228,069	+4.8	817,481	930,670	+13.8	58,340	60,501	+3.7
Alabama	39,241	47,475	+21.0	19,161	21,528	+12.4	870	956	+9.9
Alaska	1,376	1,379	+.2	371	480	+29.4			
Arizona	9,805	10,307	+5.1	5,247	6,416	+22.3	552	602	+9.1
Arkansas	28,492	35,196	+23.5	12,772	15,398	+20.6	1,242	1,378	+11.0
California	163,284	167,592	+2.6	20,745	23,278	+12.2	6,054	6,216	+2.7
Colorado	40,467	42,029	+3.9	10,013	11,019	+10.0	445	422	−5.2
Connecticut	14,735	14,869	+.9	6,785	6,786	(1)	139	136	−2.2
Delaware	1,194	1,176	−1.5	751	693	−7.7	60	104	(2)
District of Columbia	2,252	2,289	+1.6	2,725	3,636	+33.4	199	206	+3.5
Florida	47,119	50,102	+6.3	16,751	20,168	+20.4	2,445	2,559	+4.7
Georgia	70,516	75,861	+7.6	12,705	15,722	+23.7	2,109	2,196	+4.1
Hawaii	1,513	1,604	+6.0	2,082	2,506	+20.4	63	65	(2)
Idaho	10,026	10,375	+3.5	3,916	4,444	+13.5	198	209	+5.6
Illinois	124,757	126,614	+1.5	52,812	57,051	+8.0	4,962	4,876	−1.7
Indiana	55,030	56,354	+2.4	16,505	17,813	+7.9	1,933	1,920	−.7
Iowa	48,315	48,339	(1)	9,254	10,205	+10.3	1,224	1,236	+1.0
Kansas	29,902	33,127	+10.8	9,279	11,206	+20.8	1,088	1,121	+3.0
Kentucky	43,694	45,568	+4.3	15,528	20,010	+28.9	1,558	1,618	+3.9
Louisiana	38,702	45,881	+18.5	25,314	27,738	+9.6	1,397	1,455	+4.2
Maine	15,012	15,579	+3.8	4,545	5,474	+20.4	768	760	−1.0
Maryland	11,581	11,788	+1.8	11,263	13,245	+17.6	460	467	+1.5
Massachusetts	80,432	83,842	+4.2	20,532	21,597	+5.2	1,096	1,145	+4.5
Michigan	89,877	92,260	+2.7	41,097	45,205	+10.0	1,340	1,381	+3.1
Minnesota	54,163	54,030	−.2	13,208	14,301	+8.3	937	959	+2.3
Mississippi	28,961	38,256	+32.1	9,485	12,348	+30.2	1,692	1,916	+13.2
Missouri	106,278	111,171	+4.6	40,835	46,932	+14.9			
Montana	10,626	10,648	+.2	3,799	4,243	+11.7	363	371	+2.2
Nebraska	24,417	25,102	+2.8	6,266	7,108	+13.4	443	453	+2.3
Nevada	1,944	1,949	+.3						
New Hampshire	6,607	6,706	+1.5	2,373	2,663	+12.2	288	288	0
New Jersey	22,930	22,978	+.2	9,146	9,891	+8.1	559	579	+3.6
New Mexico	6,944	7,494	+7.9	7,671	8,618	+12.3	251	272	+8.4
New York	104,368	106,503	+2.0	71,600	84,349	+17.8	3,118	3,260	+4.6
North Carolina	33,305	36,412	+9.3	17,553	20,188	+15.0	2,631	2,749	+4.5
North Dakota	8,740	8,904	+1.9	4,150	4,422	+6.6	122	125	+2.5
Ohio	117,519	120,085	+2.2	22,787	24,623	+8.1	3,086	3,183	+3.1
Oklahoma	88,000	92,523	+5.1	50,947	60,580	+18.9	2,067	2,277	+10.2
Oregon	21,235	22,175	+4.4	3,672	4,946	+34.7	368	386	+4.9
Pennsylvania	87,211	89,712	+2.9	85,014	96,583	+13.6			
Rhode Island	7,672	8,110	+5.7	4,598	5,334	+16.0	115	123	+7.0
South Carolina	24,239	27,143	+12.0	13,019	13,628	+4.7	1,060	1,134	+7.0
South Dakota	12,674	12,790	+.9	4,298	4,712	+9.6	213	217	+1.9
Tennessee	38,800	44,426	+14.5	31,506	33,872	+7.5	1,594	1,663	+4.3
Texas	184,424	190,021	+3.0	24,702	30,596	+23.9	4,988	5,173	+3.7
Utah	12,818	12,900	+.6	5,693	6,411	+12.6	146	143	−2.1
Vermont	5,274	5,517	+4.6	1,659	1,799	+8.4	161	171	+6.2
Virginia	14,743	15,372	+4.3	10,663	12,134	+13.8	1,012	1,083	+7.0
Washington	65,598	66,729	+1.7	13,330	15,767	+18.3	635	651	+2.5
West Virginia	19,185	20,099	+4.8	22,701	24,893	+9.7	849	872	+2.7
Wisconsin	46,358	46,969	+1.3	15,742	16,986	+7.9	1,329	1,308	−1.6
Wyoming	3,553	3,739	+5.2	911	1,125	+23.5	111	117	+5.4

[1] Increase of less than 0.05 percent.
[2] Not computed; base too small.

TABLE 5.—*Number of recipients of public assistance, by program, September 1946 and March 1947*

State	Old-age assistance		Aid to dependent children				Aid to the blind	
			Families		Children			
	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947	September 1946	March 1947
Total	2,134,585	2,243,393	323,312	374,339	829,206	957,026	58,665	60,863
Alabama	39,555	49,260	6,921	7,825	19,258	21,877	876	978
Alaska	1,375	1,384	149	219	401	527		
Arizona	9,847	10,381	1,845	2,314	5,294	6,667	562	607
Arkansas	28,932	36,680	4,868	6,036	13,126	16,081	1,268	1,402
California	163,867	168,393	8,309	9,660	20,806	24,414	6,135	6,223
Colorado	40,567	41,958	3,729	4,064	10,194	11,167	447	418
Connecticut	14,687	14,838	2,760	2,717	6,881	6,738	138	135
Delaware	1,193	1,175	258	245	743	686	68	108
District of Columbia	2,246	2,294	901	1,249	2,847	3,778	199	210
Florida	47,695	50,600	7,108	8,921	17,565	22,215	2,467	2,584
Georgia	7,869	76,864	5,062	6,412	12,967	16,554	2,213	2,204
Hawaii	1,518	1,635	676	857	2,137	2,636	65	64
Idaho	10,113	10,440	1,509	1,735	3,996	4,566	197	211
Illinois	124,880	126,793	21,576	23,641	53,073	58,083	4,951	4,870
Indiana	55,309	56,507	6,900	7,393	16,789	18,106	1,935	1,920
Iowa	48,331	48,314	3,668	4,055	9,334	10,417	1,231	1,237
Kansas	30,156	33,400	3,724	4,579	9,560	11,580	1,096	1,121
Kentucky	43,164	46,043	5,978	8,164	15,614	21,001	1,557	1,635
Louisiana	39,076	46,568	9,786	10,933	25,694	28,444	1,402	1,468
Maine	15,061	15,696	1,628	1,971	4,660	5,681	764	757
Maryland	11,616	11,770	4,005	4,733	11,488	13,498	462	465
Massachusetts	81,055	84,139	8,315	8,888	20,653	22,007	1,109	1,155
Michigan	90,042	92,706	17,212	19,470	41,312	46,425	1,340	1,386
Minnesota	54,134	54,060	5,234	5,707	13,340	14,618	934	967
Mississippi	29,325	38,755	3,672	4,855	9,626	12,847	1,731	1,950
Missouri	106,806	111,989	15,746	18,448	41,440	48,092		
Montana	10,613	10,652	1,429	1,636	3,815	4,344	366	375
Nebraska	24,515	25,140	4,710	3,058	6,450	7,252	445	452
Nevada	1,943	1,956						
New Hampshire	6,627	6,727	944	1,060	2,423	2,705	288	288
New Jersey	22,939	22,986	3,642	3,916	9,207	10,046	565	580
New Mexico	7,041	7,617	2,939	3,393	7,728	8,903	252	272
New York	104,444	106,863	30,207	36,655	72,810	87,113	3,132	3,295
North Carolina	33,505	36,932	6,470	7,352	17,930	20,654	2,629	2,778
North Dakota	8,776	8,927	1,488	1,640	4,142	4,460	121	125
Ohio	117,832	120,369	8,359	9,101	23,000	24,973	3,085	3,185
Oklahoma	88,607	93,241	21,440	25,741	52,377	62,345	2,097	2,307
Oregon	21,381	22,751	1,496	2,495	3,770	6,324	375	399
Pennsylvania	87,687	89,891	33,200	38,058	85,755	98,226		
Rhode Island	7,773	8,194	1,839	2,186	4,651	5,493	116	123
South Carolina	24,630	47,756	4,516	5,102	13,166	14,058	1,072	1,149
South Dakota	12,681	12,794	1,757	1,946	4,354	4,775	213	218
Tennessee	38,974	45,351	11,956	14,925	31,726	34,508	1,605	1,676
Texas	185,209	190,934	10,323	12,597	25,534	31,792	5,021	5,205
Utah	12,831	12,898	2,140	2,427	5,747	6,500	147	145
Vermont	5,254	5,567	620	664	1,670	1,844	160	171
Virginia	14,834	15,525	3,732	4,296	10,762	12,462	1,014	1,089
Washington	65,730	66,631	5,585	6,498	13,648	15,869	629	651
West Virginia	19,319	20,209	8,256	9,105	22,975	25,134	854	877
Wisconsin	46,461	47,070	6,390	6,992	15,825	17,394	1,323	1,307
Wyoming	3,560	3,770	335	405	943	1,147	109	121

TABLE 6.—*Expenditures for assistance to recipients: Percent expended from Federal funds and from State and local funds, by program, quarterly period ended Mar. 31, 1947*

State	Old-age assistance		Aid to dependent children		Aid to the blind	
	Federal funds	State and local funds	Federal funds	State and local funds	Federal funds	State and local funds
Total	53.5	46.5	39.3	60.7	51.6	48.4
Alabama	63.6	36.4	62.8	37.2	62.3	37.7
Alaska	49.1	50.9	55.5	44.5		
Arizona	50.3	49.7	58.4	41.6	42.7	57.3
Arkansas	63.1	36.9	60.8	39.2	61.5	38.5
California	46.3	53.7	27.6	72.4	38.7	61.3
Colorado	47.7	52.3	39.4	60.6	56.7	43.3
Connecticut	48.0	52.0	28.0	72.0	48.0	52.0
Delaware	62.0	38.0	31.9	68.1	58.9	41.1
District of Columbia [1]	54.1	45.9	41.4	58.6	52.6	47.4
Florida	56.9	43.1	60.6	39.4	56.7	43.3
Georgia	64.9	35.1	61.0	39.0	62.5	37.5
Hawaii	55.3	44.7	34.5	65.5	53.1	46.9
Idaho	51.4	48.6	34.4	65.6	47.1	52.9
Illinois	53.5	46.5	31.2	68.8	54.5	45.5
Indiana	58.5	41.5	59.3	40.7	57.8	42.2
Iowa	54.1	45.9	61.1	38.9	48.7	51.3
Kansas	54.5	45.5	36.5	63.5	51.7	48.3
Kentucky	64.4	35.6	59.2	40.8	63.7	36.3
Louisiana	59.9	40.1	53.3	46.7	57.2	42.8
Maine	57.4	42.6	32.4	67.6	57.3	42.7
Maryland	58.0	42.0	58.8	41.2	57.4	42.6
Massachusetts	45.6	54.4	27.1	72.9	46.0	54.0
Michigan	56.5	43.5	32.6	67.4	55.9	44.1
Minnesota	53.6	46.4	47.5	52.5	49.7	50.3
Mississippi	64.7	35.3	65.0	35.0	60.6	39.4
Missouri	57.2	42.8	60.5	39.5		
Montana	56.7	43.3	41.7	58.3	56.3	43.7
Nebraska	53.8	46.2	31.9	68.1	53.9	46.1
Nevada	52.0	48.0				
New Hampshire	56.8	43.2	33.9	66.1	56.4	43.6
New Jersey	52.7	47.3	35.3	64.7	52.7	47.3
New Mexico	54.3	45.7	50.5	49.5	52.4	47.6
New York	46.6	53.4	24.9	75.1	43.3	56.7
North Carolina	65.1	34.9	62.5	37.5	60.1	39.9
North Dakota	51.5	48.5	37.7	62.3	52.5	47.5
Ohio	55.0	45.0	40.4	59.6	56.0	44.0
Oklahoma	55.9	44.1	57.8	42.2	55.7	44.3
Oregon	50.1	49.9	28.2	71.8	43.9	56.1
Pennsylvania	56.7	43.3	37.1	62.9		
Rhode Island	52.7	47.3	34.4	65.6	49.4	50.6
South Carolina	62.2	37.8	65.2	34.8	60.6	39.4
South Dakota	57.7	42.3	55.5	44.5	58.4	41.6
Tennessee	63.3	36.7	61.4	38.6	61.0	39.0
Texas	59.1	40.9	62.1	37.9	58.3	41.7
Utah	50.3	49.7	26.7	73.3	44.5	55.5
Vermont	58.2	41.8	59.0	41.0	57.3	42.7
Virginia	64.6	35.4	57.8	42.2	61.7	38.3
Washington [2]	44.0	56.0	25.0	75.0	39.0	61.0
West Virginia	62.8	37.2	60.8	39.2	61.3	38.7
Wisconsin	57.1	42.9	32.3	67.7	57.1	42.9
Wyoming	48.8	51.2	34.6	65.4	47.6	52.4

[1] The 20-percent reduction in payments in March to be restored through retroactive payments.
[2] Partly estimated.

TABLE 7.—*State maximums on assistance payments September 1946, and latest maximums reported* [1]

[Where no figures are shown, State has no maximums]

State	Old-age assistance		Aid to the blind		Aid to dependent children	
	September 1946	Latest	September 1946	Latest	September 1946	Latest
Alabama [2]	$40	$45	$40	$45	$18-12	$24-15
Alaska	60	60			25-15	25-15
Arizona	40	50	50	60	18-12	24-15
Arkansas	30	45	40	45	[3] 18-12	[3] 24-15
California	50	55	60	65		
Colorado	[4] 45	69	40			
Connecticut [2]	40	40	40	40		
Delaware	[4] 30	[4] 40	40	45		[5] 45-20-15
District of Columbia						
Florida	40	45	40	45	18-12	18-12
Georgia	30	45	30	45	[3] 18-12	[3] 24-15
Hawaii						
Idaho						
Illinois [2]	45	50	40	50		
Indiana [2]	40	45	40	45	[3] 20-18-12	[3] 30-18-15
Iowa					18-12	
Kansas						
Kentucky	30	30	40	40	18-12	18-12
Louisiana	75	90	75	90	[3] 40-12	[3] 40-12
Maine	40	40	40	40		[3] 50-25-20
Maryland	40	45	40	45	18-12	24-15
Massachusetts						
Michigan [2]	40	40	40	45	60-9	70-9
Minnesota [2]	[4] 40	[4] 50			40-15-12	50-20-15
Mississippi	30	30	30	30	15-10-5	15-10-5
Missouri	40	45			[5] 18-12	[6] 24-15
Montana	40	45	40	45		
Nebraska [2]	40	50	40	50		
Nevada	40	50				
New Hampshire	46	46	46	46		
New Jersey						
New Mexico	50	60	60	60		[6] 135
New York						
North Carolina	40	45	40	45	18-12	24-15
North Dakota						
Ohio	40	[3] 50	40	[3] 50		
Oklahoma	40	45	40	45	18-12	24-15
Oregon						
Pennsylvania						
Rhode Island						
South Carolina	20	23	25	30	15-10	18-12
South Dakota	40	45	40	45	30-12	[3] [5] 30-12
Tennessee	40	45	40	45	18-12	24-15
Texas	40	45	40	45	[3] [4] 18-12	[3] 24-15
Utah	[3] 40	[4] 45-45-24	[3] 40	[4] 45-45-24	40-30-18-12	[3] 45-45-24
Vermont	30	45	40	45	18-12	24-15
Virginia	40	45	40	45		
Washington						
West Virginia	40	45	40	45	18-12	24-15
Wisconsin	40	45	40	45		
Wyoming	50	60	50	60		

[1] In a few States maximums shown above are not yet effective.
[2] Higher payments possible to recipients with medical or other special needs.
[3] Some variation from amount shown for successive additional children in family or a family maximum in addition.
[4] Maximum for assistance plus other income.
[5] Percentage reduction applied to maximum.
[6] Per family.

TABLE 8.—*Ratio of State unemployment insurance reserves on Mar. 31, 1947, to highest annual benefit expenditures, by States*

[Dollar amounts in thousands]

State	Reserves on Mar. 31, 1947	Highest annual benefit expenditures		Ratio of reserves to expenditures
		Year	Amount	
United States	$6,903,619			
Alabama	56,089	1946	$14,749	3.8
Alaska	9,444	1940	527	17.9
Arizona	22,534	1938	1,902	11.8
Arkansas	32,728	1946	3,874	8.4
California	709,964	1946	154,532	4.6
Colorado	41,769	1946	4,169	10.0
Connecticut	186,850	1946	19,584	9.5
Delaware	13,921	1946	1,768	7.9
District of Columbia	45,097	1941	2,122	21.3
Florida	67,505	1940	6,362	10.6
Georgia	89,148	1946	6,476	13.8
Hawaii	20,491	1939	286	71.6
Idaho	18,577	1939	2,193	8.5
Illinois	484,673	1946	77,542	6.3
Indiana	181,199	1946	22,283	8.1
Iowa	69,344	1939	5,224	13.3
Kansas	52,684	1946	9,080	5.8
Kentucky	95,930	1946	6,419	14.9
Louisiana	81,268	1946	12,013	6.8
Maine	38,756	1946	5,478	7.1
Maryland	116,916	1946	23,910	4.9
Massachusetts	192,398	1946	42,802	4.5
Michigan	213,016	1946	79,220	2.7
Minnesota	103,956	1940	9,746	10.7
Mississippi	33,705	1940	2,200	15.3
Missouri	158,496	1946	20,946	7.6
Montana	23,577	1946	3,147	7.5
Nebraska	28,136	1946	2,087	13.5
Nevada	11,995	1946	1,117	10.7
New Hampshire	26,313	1938	2,732	9.6
New Jersey	441,631	1946	78,672	5.6
New Mexico	13,395	1939	1,226	10.0
New York	972,539	1946	191,154	5.1
North Carolina	125,573	1938	8,216	15.3
North Dakota	6,183	1940	619	10.0
Ohio	500,039	1946	52,314	9.6
Oklahoma	41,348	1946	10,184	4.1
Oregon	70,018	1946	16,633	4.2
Pennsylvania	593,008	1946	94,534	6.3
Rhode Island	79,509	1946	10,852	7.3
South Carolina	45,325	1940	2,474	18.3
South Dakota	7,318	1939	394	18.6
Tennessee	94,295	1946	12,560	7.5
Texas	162,608	1946	14,669	11.1
Utah	29,238	1946	4,058	7.2
Vermont	14,553	1940	914	15.9
Virginia	72,646	1940	5,863	12.4
Washington	131,903	1946	46,766	2.8
West Virginia	72,144	1938	12,065	6.0
Wisconsin	194,200	1938	9,408	20.6
Wyoming	9,667	1940	1,219	7.9

○

Calendar No. 495

80TH CONGRESS
1ST SESSION

H. R. 3818

[Report No. 477]

IN THE SENATE OF THE UNITED STATES

JUNE 19 (legislative day, APRIL 21), 1947
Read twice and referred to the Committee on Finance

JULY 11 (legislative day, JULY 10), 1947
Reported by Mr. MILLIKIN, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That clauses (1), (2), and (3) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are hereby amended to read as follows:~~

~~"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.~~

~~"(2) With respect to wages received during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ per centum.~~

~~"(3) With respect to wages received after December 31, 1956, the rate shall be 2 per centum."~~

~~SEC. 2. Clauses (1), (2), and (3) of section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, are hereby amended to read as follows:~~

~~"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.~~

~~"(2) With respect to wages paid during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ per centum.~~

~~"(3) With respect to wages paid after December 31, 1956, the rate shall be 2 per centum."~~

That section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, is hereby amended by striking out clauses (1), (2), and (3), and inserting in lieu thereof the following:

"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received after December 31, 1949, the rate shall be 3 per centum."

SEC. 2. Section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, is hereby amended by striking out clauses (1), (2), and (3), and inserting in lieu thereof the following:

"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid after December 31, 1949, the rate shall be 3 per centum."

SEC. 3. Section 504 of the Social Security Act Amendments of 1946 (Public Law 719, Seventy-ninth Congress), fixing the termination date of amendments relating to grants to States for old-age assistance, aid to the blind, and aid to dependent children, is hereby amended by striking out "December 31, 1947" and inserting in lieu thereof "June 30, 1950".

SEC. 4. Section 603 of the War Mobilization and Reconversion Act of 1944 (terminating the provisions of such Act on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act to the Social Security Act.

SEC. 5. (a) Section 904 (h) of the Social Security Act is hereby amended to read as follows:

"(h) There is hereby established in the Unemployment Trust Fund a Federal unemployment account. There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected in each fiscal year beginning after June 30, 1946, *and ending prior to July 1, 1949*, under the Federal Unemployment Tax Act, over the unemployment administrative expenditures made in such year, *and the excess of such taxes collected during the period beginning on July 1, 1949, and ending on December 31, 1949, over the unemployment administrative expenditures made during such period. Any amounts in the Federal unemployment account on April 1, 1950, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury.* As used in this subsection, the term 'unemployment administrative expenditures' means expenditures for grants under title III of this Act, expenditures for the administration of that title by the Board or the Administrator, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act by the Department of the Treasury, the Board, or the Administrator. For the purposes of this

subsection there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of $40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754) *and the sum of $18,451,846 which was authorized to be appropriated by section 11 (b) of the Railroad Unemployment Insurance Act.*"

(b) Section 1201 (a) of the Social Security Act is hereby amended by striking out "on June 30, 1945, or on the last day in any ensuing calendar quarter which ends prior to July 1, 1947", and inserting in lieu thereof "on June 30, 1947, or on the last day in any ensuing calendar quarter *which ends prior to January 1, 1950*".

SEC. 6. This Act may be cited as the "Social Security Act Amendments of 1947."

Passed the House of Representatives June 18, 1947.

Attest: JOHN ANDREWS,

Clerk.

Calendar No. 495

80TH CONGRESS
1ST SESSION

H. R. 3818

[Report No. 477]

AN ACT

To amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes.

JUNE 19 (legislative day, APRIL 21), 1947
Read twice and referred to the Committee on Finance

JULY 11 (legislative day, JULY 10), 1947
Reported with amendments

TAXES ON EMPLOYERS AND EMPLOYEES UNDER INSURANCE CONTRIBUTIONS ACT

The bill (H. R. 3818), to amend the Federal Insurance Contributions Act with respect to rate of tax on employers, and for other purposes, was announced as next in order.

Mr. RUSSELL. Mr. President, may we have an explanation of the bill?

Mr. MILLIKIN. Mr. President, this bill freezes the social-security rate of 1 percent, which exists at the present time, for the 2 years 1948 and 1949. It continues for the period ending June 30, 1950, the State-Federal matching formula enacted in 1946 with respect to old-age assistance, aid to dependent children, and aid to the blind. It continues through December 31, 1949, the present temporary authorization for congressional appropriations to a special Federal unemployment account of excess unemployment compensation tax receipts now paid to the Federal Government by private employers.

There is very urgent need for getting this bill to the House, and I hope there is no objection to it.

The PRESIDENT pro tempore. Is there objection?

Mr. MORSE. Over.

The PRESIDENT pro tempore. The bill will be passed over.

TAXES ON EMPLOYERS AND EMPLOYEES UNDER INSURANCE CONTRIBUTIONS ACT.

Mr. MORSE. Mr. President, I have discussed House bill 3818, Calendar No. 495, with the Senator from Colorado [Mr. MILLIKIN], and I withdraw the objection I previously made.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes, which had been reported from the Committee on Finance with amendments.

The first amendment of the committee was, on pages 1 and 2, to strike out:

That clauses (1), (2), and (3) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are hereby amended to read as follows:

"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 percent.

"(2) With respect to wages received during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ percent.

"(3) With respect to wages received after December 31, 1956, the rate shall be 2 percent."

SEC. 2. Clauses (1), (2), and (3) of section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, are hereby amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 percent.

"(2) With respect to wages paid during the calendar years 1950 to 1956, both inclusive, the rate shall be 1½ percent.

"(3) With respect to wages paid after December 31, 1956, the rate shall be 2 percent."

And insert:

That section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, is hereby amended by striking out clauses (1), (2), and (3), and inserting in lieu thereof the following:

"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 percent.

"(2) With respect to wages received after December 31, 1949, the rate shall be 3 percent."

SEC. 2. Section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, is hereby amended by striking out clauses (1), (2), and (3), and inserting in lieu thereof the following:

"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 percent.

"(2) With respect to wages paid after December 31, 1949, the rate shall be 3 percent."

The amendment was agreed to.

The next amendment was, on page 4, in line 9, after the date "June 30, 1946," to insert "and ending prior to July 1, 1949."

The amendment was agreed to.

The next amendment was, in line 12, after the word "year", to insert "and the excess of such taxes collected during the period beginning on July 1, 1949, and ending on December 31, 1949, over the unemployment administrative expenditures made during such period. Any amounts in the Federal unemployment account on April 1, 1950, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury."

The amendment was agreed to.

The next amendment was, on page 5, in line 5, after the figures "754", to insert "and the sum of $18,451,846 which was authorized to be appropriated by section 11 (b) of the Railroad Unemployment Insurance Act."

The amendment was agreed to.

The next amendment was, in line 13, after the word "quarter", to insert "which ends prior to January 1, 1950."

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MILLIKIN. Mr. President, I move that the Senate insist upon its amendments, request 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; and the President pro tempore appointed Mr. MILLIKIN, Mr. TAFT, and Mr. GEORGE conferees on the part of the Senate.

the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MILLIKIN, Mr. TAFT, and Mr. GEORGE to be the conferees on the part of the Senate.

MESSAGE FROM THE SENATE

The message also 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. 3818. An act to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes.

The message also announced that the Senate insists upon its amendments to

amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, 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 to the request of the gentleman from Minnesota? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. REED of New York, KEAN, MASON, DINGELL, and MILLS.

AMENDING THE FEDERAL INSURANCE CONTRIBUTIONS ACT

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 3818) to

MESSAGE FROM THE HOUSE

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. REED of New York, Mr. KEAN, Mr. MASON, Mr. DINGELL, and Mr. MILLS were appointed managers on the part of the House at the conference.

80TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1052

SOCIAL SECURITY TAX RATES

JULY 24, 1947.—Ordered to be printed

Mr. REED of New York, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 3818]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, 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 House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, and 5, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment, and on page 2 of the House engrossed bill, line 1 and line 13, strike out "to 1956, both inclusive", and insert: *and 1951*; and on page 2, lines 4 and 16, strike out "1956" and insert: *1951*; and the Senate agree to the same.

DANIEL A. REED,
ROBERT W. KEAN,
NOAH MASON,
JOHN D. DINGELL,
WILBUR D. MILLS,
Managers on the Part of the House.

E. D. MILLIKIN,
ROBERT TAFT,
WALTER F. GEORGE,
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. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, 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 fixed rates of tax on employers and employees as follows: 1939–49, 1 percent; 1950–56, 1½ percent; after 1956, 2 percent. The Senate amendment makes the rates for all years after 1949, 3 percent. The House recedes with an amendment which provides that the rates of tax shall be as follows: 1939–49, 1 percent; 1950 and 1951, 1½ percent; after 1951, 2 percent.

Amendments Nos. 2 and 3: The House bill provided for continuance on a permanent basis of amendments to the Social Security Act establishing within the unemployment trust fund a separate account to be known as the Federal unemployment account, and authorized appropriations to such fund in amounts equal to the excess of tax collections under the Federal Unemployment Tax Act over the unemployment administrative expenditures. The Senate amendment limits the authorized appropriations to the excess of tax collections for the period ending December 31, 1949, and provides that any amounts in such account on April 1, 1950, and any amounts repaid to such account after such date shall be covered into the general fund of the Treasury. The House recedes.

Amendment No. 4: The Senate amendment provides that there shall be deducted from the total amount of taxes collected prior to July 1, 1943, the sum of $18,451,846 authorized to be appropriated by section 11 (b) of the Railroad Unemployment Insurance Act. The House recedes.

Amendment No. 5: The House bill provided for transfers from the Federal unemployment account to a State's account in the unemployment trust fund whenever on the last day in a calendar quarter the balance in the State's account in such trust fund does not exceed a sum equal to the total contributions deposited in such trust fund under the law of the State during that one of the two calendar years preceding such day in which such deposits were higher. The Senate amendment limits this privilege to the case of calendar quarters ending prior to January 1, 1950. The House recedes.

DANIEL A. REED,
ROBERT W. KEAN,
NOAH MASON,
JOHN D. DINGELL,
WILBUR D. MILLS,
Managers on the Part of the House.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, 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 House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, and 5, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment, and on page 2 of the House engrossed bill, line 1 and line 13 strike out "to 1956, both inclusive", and insert "and 1951"; and on page 2, lines 4 and 16 strike out "1956" and insert "1951"; and the Senate agree to the same.

E. D. MILLIKIN,
ROBERT TAFT,
WALTER F. GEORGE,
Managers on the Part of the Senate.

DANIEL A. REED,
ROBERT W. KEAN,
NOAH MASON.
JOHN D. DINGELL,
WILBUR D. MILLS,
Managers on the Part of the House.

Mr. MILLIKIN. Mr. President, the original House bill froze the rates for 1948–49 at 1 percent; increased the rates for 1950–56 to 1½ percent, and after December 31, 1956 to 2 percent.

The Senate amended by freezing the rates for 1948–49 at 1 percent, and after December 31, 1949 at 3 percent.

The conferees agreed upon 1 percent for 1948–49, 1½ percent for 1950–51, and 2 percent thereafter.

There are some other changes.

I hope the report will be agreed to, and ask for its approval.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the report was considered and agreed to.

SOCIAL SECURITY TAX RATES—CONFERENCE REPORT

Mr. MILLIKIN. Mr. President, I present a conference report on House bill 3818 with reference to Social Security tax rates, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be read.

FEDERAL INSURANCE CONTRIBUTIONS ACT

Mr. REED of New York, from the Committee on Ways and Means, submitted the following conference report and statement on the bill (H. R. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes:

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. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, 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 House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, and 5, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: Restore the matter proposed to be stricken out by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment, and on page 2 of the House engrossed bill, line 1 and line 13 strike out "to 1950, both inclusive", and insert "and 1951"; and on page 2, lines 4 and 16 strike out "1950" and insert "1951"; and the Senate agree to the same.

DANIEL A. REED,
ROBERT W. KEAN,
NOAH MASON,
JOHN D. DINGELL,
WILBUR D. MILLS,
Managers on the Part of the House.

E. D. MILLIKIN,
ROBERT TAFT,
WALTER F. GEORGE,
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. 3818) to amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, 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 fixed rates of tax on employers and employees as follows: 1939–49, 1 percent; 1950–56, 1½ percent; after 1956, 2 percent. The Senate amendment makes the rates for all years after 1949, 3 percent. The House recedes with an amendment which provides that the rates of tax shall be as follows: 1939–49, 1 percent; 1950 and 1951, 1½ percent; after 1951, 2 percent.

Amendments Nos. 2 and 3: The House bill provided for continuance on a permanent basis of amendments to the Social Security Act establishing within the unemployment trust fund a separate account to be known as the Federal unemployment account, and authorized appropriations to such fund in amounts equal to the excess of tax collections under the Federal Unemployment Tax Act over the unemployment administrative expenditures. The Senate amendment limits the authorized appropriations to the excess of tax collections for the period ending December 31, 1949, and provides that any amounts in such account on April 1, 1950, and any amounts repaid to such account after such date shall be covered into the general fund of the Treasury. The House recedes.

Amendment No. 4: The Senate amendment provides that there shall be deducted from the total amount of taxes collected prior to July 1, 1943, the sum of $18,451,846 authorized to be appropriated by section 11 (b) of the Railroad Unemployment Insurance Act. The House recedes.

Amendment No. 5: The House bill provided for transfers from the Federal unemployment account to a State's account in the unemployment trust fund whenever on the last day in a calendar quarter the balance in the State's account in such trust fund does not exceed a sum equal to the total contributions deposited in such trust fund under the law of the State during that one of the two calendar years preceding such day in which such deposits were higher. The Senate amendment limits this privilege to the case of calendar quarters ending prior to January 1, 1950. The House recedes.

DANIEL A. REED,
ROBERT W. KEAN,
NOAH MASON,
JOHN D. DINGELL,
WILBUR D. MILLS,
Managers on the Part of the House.

Mr. REED of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill H. R. 3818.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED of New York. 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 New York?

There was no objection.

The Clerk read the statement as above set out.

Mr. REED of New York. Mr. Speaker, I move the previous question on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

Mr. REED of New York. Mr. Speaker, I move that the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, and 5, and agree to the same.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. REED of New York. I yield.

Mr. RICH. As I understand this report, the rates in future years have been increased. Is it not a fact that sufficient funds are being received with the rates now carried to take care of everything and create a great surplus?

Mr. REED of New York. We went into this in great detail with the experts and it was found that these rates were sufficient up to 1957.

Mr. RICH. If the rates are all right today and will protect the fund for several years how does the gentleman know they are not going to be all right in 1957?

Mr. REED of New York. That is entirely determined by the actuaries. The rates agreed upon in conference are 1948–49, 1 percent; 1950–51, 1½ percent; after 1951, 2 percent. The experts have said that this was sufficient to protect the integrity of the reserve fund.

Mr. RICH. That is why I cannot understand why you want to increase the rates in 1957.

Mr. REED of New York. In 1957 the covered persons will begin to make heavy withdrawals from the fund. We want to step up the rates gradually. If we announced that it would be stepped up to 3 percent it would be notice to the manufacturers to try to collect that tax now by raising prices, and that would be inflationary.

Mr. RICH. If it is found at that time that there will be a surplus, Congress can act.

Mr. REED of New York. Congress can always act in the meantime.

Mr. RICH. And they can be raised or lowered as necessary.

Mr. REED of New York. The gentleman is correct.

The SPEAKER. The question is on the motion to recede and concur in the Senate amendments.

The motion was agreed to.

A motion to reconsider was laid on the table.

[PUBLIC LAW 379—80TH CONGRESS]

[CHAPTER 510—1ST SESSION]

[H. R. 3818]

AN ACT

To amend the Federal Insurance Contributions Act with respect to rates of tax on employers and employees, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That clauses (1), (2), and (3) of section 1400 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1400), as amended, are hereby amended to read as follows:

"(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages received during the calendar years 1950 and 1951, the rate shall be 1½ per centum.

"(3) With respect to wages received after December 31, 1951, the rate shall be 2 per centum."

SEC. 2. Clauses (1), (2), and (3) of section 1410 of the Federal Insurance Contributions Act (Internal Revenue Code, sec. 1410), as amended, are hereby amended to read as follows:

"(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

"(2) With respect to wages paid during the calendar years 1950 and 1951, the rate shall be 1½ per centum.

"(3) With respect to wages paid after December 31, 1951, the rate shall be 2 per centum."

SEC. 3. Section 504 of the Social Security Act Amendments of 1946 (Public Law 719, Seventy-ninth Congress), fixing the termination date of amendments relating to grants to States for old-age assistance, aid to the blind, and aid to dependent children, is hereby amended by striking out "December 31, 1947" and inserting in lieu thereof "June 30, 1950".

SEC. 4. Section 603 of the War Mobilization and Reconversion Act of 1944 (terminating the provisions of such Act on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act to the Social Security Act.

SEC. 5. (a) Section 904 (h) of the Social Security Act is hereby amended to read as follows:

"(h) There is hereby established in the Unemployment Trust Fund a Federal unemployment account. There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected in each fiscal year beginning after June 30, 1946, and ending prior to July 1, 1949, under the Federal Unemployment Tax Act, over the unemployment administrative

expenditures made in such year, and the excess of such taxes collected during the period beginning on July 1, 1949, and ending on December 31, 1949, over the unemployment administrative expenditures made during such period. Any amounts in the Federal unemployment account on April 1, 1950, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury. As used in this subsection, the term 'unemployment administrative expenditures' means expenditures for grants under title III of this Act, expenditures for the administration of that title by the Board or the Administrator, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act by the Department of the Treasury, the Board, or the Administrator. For the purposes of this subsection there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of $40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754) and the sum of $18,451,846 which was authorized to be appropriated by section 11 (b) of the Railroad Unemployment Insurance Act."

(b) Section 1201 (a) of the Social Security Act is hereby amended by striking out "on June 30, 1945, or on the last day in any ensuing calendar quarter which ends prior to July 1, 1947", and inserting in lieu thereof "on June 30, 1947, or on the last day in any ensuing calendar quarter which ends prior to January 1, 1950".

SEC. 6. This Act may be cited as the "Social Security Act Amendments of 1947."

Approved August 6, 1947.

80TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1320

CLARIFYING EMPLOYER-EMPLOYEE STATUS OF CERTAIN NEWSPAPER AND MAGAZINE VENDORS FOR SOCIAL-SECURITY PURPOSES

FEBRUARY 3, 1948.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GEARHART, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 5052]

The Committee on Ways and Means, to whom was referred the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code, having considered the same, report favorably thereon and recommend that the bill do pass.

GENERAL STATEMENT

This bill seeks to clarify the coverage provisions of title II of the Social Security Act, as amended, and related taxing provisions found in the Internal Revenue Code as these requirements apply to the vendors of newspapers and magazines.

Whatever effect it may have on the extension or restriction of existing coverage provisions is purely incidental to its main purpose, which is the removal of a substantial area of ambiguity and confusion in the application of the coverage provisions of the act. The bill has the unqualified endorsement of the newspaper publishers, the vendors concerned, and their union representatives. A telegram recently received from an important news-vendors' union is attached to this report.

Under existing law, service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, is specifically excluded from the type of employment covered by title II of the act. All other services for newspaper- or magazine-publishing firms, including that of delivery or distribution by individuals over the age of 18, were to be treated

as giving rise to an employer-employee relationship or independent contractor relationship depending on the usual common-law tests.

One of the most difficult problems in the administration of these provisions of the law is the determination of who is and who is not an employee engaged in the sale or distribution of newspapers if the individuals concerned are over the age of 18. Coverage depends upon whether there is employment, but neither the term "employment" nor the terms "employer" and "employee" are precisely defined in the law.

Regardless of whether news vendors are or are not technically employees, under some decisions in recent cases, including a decision by one of the Federal district courts in California, involving certain vendors of newspapers, it has been held that the common-law tests, while thoroughly valid, are inadequate. The Government now contends that any type of service relationships constitutes employment for coverage purposes if it is not incidental to the pursuit of an independent calling, such as professional services rendered by lawyers, doctors, engineers, accountants, and the like. Obviously this raises the question of what is meant by "an independent calling."

The bill in question is not offered as the complete answer to the troublesome problem of defining employment or determining the existence of an employer-employee relationship. It simply provides that in the sale or distribution of newspapers and magazines under a contractual arrangement whereby sales are made at a fixed price, and compensation in whole or in part is measured by the excess of such price over the amount at which the newspapers or magazines are charged to the vendor, such vendor shall not be covered under title II of the Social Security Act regardless of whether he is guaranteed a minimum amount of compensation or credited with newspapers or magazines returned to his supplier.

The retail sales of newspapers and magazines, especially in our larger cities, is accomplished under unique and widely varying circumstances. A great many vendors, over the age of 18, commonly purchase their papers with their own capital and become virtually free agents to dispose of them at will, retaining what they consider to be profits and not wages.

Your committee feels that an important factor in determining that newspaper and magazine vendors should be treated as independent contractors or persons otherwise pursuing an independent calling, is the fact that they deal as independent principals with their own customers and that their success depends in large measure upon the good will engendered by them among such patrons. This fact has been too frequently overlooked in recent years in ascertaining the status of many classes of working people as employees in the types of activities covered by the Social Security Act. In the case of vendors of published periodicals or other reading matter, the mere fact that the contractual right to return unsold goods at a given time exists (and this is a familiar practice among manufacturers and merchants as well) has little if any bearing on the ascertainment of the question of employment status.

Your committee is impressed with the fact that the vendors of newspapers and magazines are ordinarily free to sell other goods, wares, and merchandise, and frequently do; that they determine the

way and the manner of offering the papers and magazines for sale; that they assume the risk of loss or destruction of papers or magazines which they are prevented from returning for credit; and that their gains should be considered as profits from their own business rather than as wages for employment.

After hearing considerable testimony in a public hearing your committee believes that where the basic method of compensation is that described above, these vendors should not be treated as employees; that to consider them as employees of the publishing firms whose products they buy and sell produces a ridiculous and absurd rule with implications that could be construed so as to permit any person over the age of 18 selling the products of another, under like arrangements, to be considered the employee of the one supplying such articles or products. Such a rule would create an unconscionable administrative burden upon the Government and upon the business firms and individuals concerned.

Among other things, it would require every publishing house to withhold the required tax from the profits of every individual selling the product of that firm. News, information, and reading matter written for profit and offered for sale to any buyer, or distributed gratis, is, in the judgment of your committee, a commodity within certain obvious limitations. One who buys it and sells or distributes it for a profit even though conditions may be attached to the selling or distributing process, clearly should not be regarded as standing in an employer-employee relationship.

The requirement of the bill, that the services will not be excluded unless performed "at the time of" the sale to the ultimate consumer, was inserted to make it clear that the exclusion was not to apply to a regional distributor whose services are antecedent to but not immediately part of the sale to the ultimate consumer. The insertion of the quoted words will not deny the exclusion although the vendor performs incidental services as a part of the sale, such as services in assembling newspapers and in taking them to the place of sale.

In order to avoid wiping out benefits and benefit rights which have already accrued and on which individuals may have placed reliance, the amendment to section 209 (b) (15) of the Social Security Act, relating to benefits under the old-age and survivors insurance system, is made effective with respect only to services performed after the enactment of the bill.

The amendments to the old-age and survivors insurance and unemployment taxing provisions in the Internal Revenue Code are applicable with respect to services performed after December 31, 1939. In the case of the unemployment tax, the bill provides that, as to services performed before July 1, 1946, the amendment shall operate in the same manner and have the same effect as if such amendment had been a part of section 1607 (c) (15) of the code as added to the code by section 614 of the Social Security Act amendments of 1939.

The bill prohibits any credit or refund of any amount paid prior to the date of enactment of this bill which constitutes an overpayment of tax solely by reason of an amendment made by this bill.

Your committee does not feel enactment of this legislation would in any way impair, hinder, or restrict the development or improvement of the present social-security system. On the contrary, by making it more exact in its terms and more easily administered, it will contribute

to its added respect by the public and its efficiency in meeting the broad purposes of its establishment.

ENDORSEMENT BY NEWS VENDORS UNION, LOCAL NO. 468, SAN FRANCISCO, CALIF.

SAN FRANCISCO, CALIF., *January 23, 1948.*

Hon. BERTRAND W. GEARHART,
House of Representatives, Washington, D. C.:

Membership of news vendors union, local 468, happy that H. R. 5052 reintroduced. Hope when bill passed will be approved by President. News vendors union particularly interested in section of bill dealing with sale of papers by adults under an independent contractor relationship.

WILLIAM PARRISH,
Secretary-Treasurer, News Vendors Union, Local 468.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT, AS AMENDED

(53 Stat. 1375–6; 59 Stat. 67)

DEFINITIONS

SEC. 209. When used in this title—

* * * * * * *

(b) The term "employment" means any service performed after December 31, 1936, and prior to January 1, 1940, which was employment as defined in section 210 (b) of the Social Security Act prior to January 1, 1940 (except service performed by an individual after he attained the age of sixty-five if performed prior to January 1, 1939), and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * * * *

(15) (*A*) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; [or]

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

* * * * * * *

INTERNAL REVENUE CODE

SEC. 1426. DEFINITIONS.
When used in this subchapter—

* * * * * * *

(b) Employment.—The term "employment" means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * * * *

(15) (*A*) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; [or]

(*B*) *Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or*

* * * * * * *

SEC. 1607. DEFINITIONS.

When used in this subchapter—

* * * * * * *

(c) Employment.—The term "employment" means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * * * *

(15) (*A*) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(*B*) *Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.*

* * * * * * *

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Union Calendar No. 642

80TH CONGRESS
2D SESSION

H. R. 5052

[Report No. 1320]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 1948

Mr. GEARHART introduced the following bill; which was referred to the Committee on Ways and Means

FEBRUARY 3, 1948

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 209 (b) (15) of the Social Security Act, as amended (U. S. C., 1940 edition, Supp. V, title 42, sec. 409 (b) (15)), and section 1426 (b) (15) of the Internal Revenue Code, as amended, are hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery

or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or".

(b) The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act shall be applicable with respect to services performed after the date of the enactment of this Act, and the amendment made to section 1426 (b) (15) of the Internal Revenue Code shall be applicable with respect to services performed after December 31, 1939.

SEC. 2. (a) Section 1607 (c) (15) of the Internal Revenue Code, as amended, is hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution

of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;".

(b) The amendment made by subsection (a) shall be applicable with respect to services performed after December 31, 1939, and, as to services performed before July 1, 1946, shall be applied as if such amendment had been a part of section 1607 (c) (15) of the Internal Revenue Code as added to such code by section 614 of the Social Security Act Amendments of 1939.

SEC. 3. If any amount paid prior to the date of the enactment of this Act constitutes an overpayment of tax solely by reason of an amendment made by this Act, no refund or credit shall be made or allowed with respect to the amount of such overpayment.

Union Calendar No. 642

80TH CONGRESS
2D SESSION

H. R. 5052

[Report No. 1320]

A BILL

To exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code.

By Mr. GEARHART

JANUARY 20, 1948

Referred to the Committee on Ways and Means

FEBRUARY 3, 1948

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

CLARIFYING EMPLOYER-EMPLOYEE STATUS OF CERTAIN NEWSPAPER AND MAGAZINE VENDORS FOR SOCIAL-SECURITY PURPOSES

Mr. GEARHART. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. GEARHART].

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That (a) section 209 (b) (15) of the Social Security Act, as amended (U. S. C., 1940 edition, Supp. V, title 42, sec. 409 (b) (15)), and section 1426 (b) (15) of the Internal Revenue Code, as amended, are hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or."

(b) The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act shall be applicable with respect to services performed after the date of the enactment of this act, and the amendment made to section 1426 (b) (15) of the Internal Revenue Code shall be applicable with respect to services performed after December 31, 1939.

SEC. 2. (a) Section 1607 (c) (15) of the Internal Revenue Code, as amended, is hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back:".

(b) The amendment made by subsection (a) shall be applicable with respect to services performed after December 31, 1939, and, as to services performed before July 1, 1946, shall be applied as if such amendment had been a part of section 1607 (c) (15) of the Internal Revenue Code as added to such code by section 614 of the Social Security Act Amendments of 1939.

SEC. 3. If any amount paid prior to the date of the enactment of this act constitutes an overpayment of tax solely by reason of an amendment made by this act, no refund or credit shall be made or allowed with respect to the amount of such overpayment.

Mr. GEARHART. Mr. Speaker, by way of explanation, I should point out that the legislation I propose is purposed to clarify the status of certain newspaper and magazine vendors which has been recently thrown into confusion as a consequence of the rendition of several Federal court decisions.

At the time of the enactment of the Social Security Act in 1935, and again when certain amendatory legislation was under consideration in 1939, 1945, and earlier in this session—H. R. 3997 and House Joint Resolution 296—the Congress clearly revealed its intention that the common-law definitions of independent contractor and of master and servant—employee and employer—should govern insofar as social security coverage under old age and survivors and unemployment insurance was concerned.

Up until the rendition of the Federal court decisions I have referred to were rendered the status of the newspaper and magazine vendors was considered by everyone, and as this Congress clearly intended, to be that of independent contractors since they bought their periodicals at a low price and sold them at a higher price, deriving their livelihood from the profit in the operation.

By reason that is fantastic, these court decisions, in order to scoop them into the voracious maw of Social Security against their will and over their violent objection, these vendors were arbitrarily declared to be employees and therefore subject to the pay-roll taxes though the money they receive is not wages, as generally understood, but profits derived from an independent business operation of their own.

This did not suit anybody. The newspaper publishers protested that in many instances they did not even know the names of the men who had established their small businesses on the highways and byways of our cities and counties whom the courts had announced were their employees. The newspaper vendors were staggered by the number of employers they suddenly found themselves possessed of, for, under the same arrangement, many of them were handling hundreds of newspapers and magazines, this to say nothing of fruits, chewing gums, safety razor blades, "who done it" detective stories, and so forth, and so forth.

Realizing the utter unworkability of their newly defined situation, the confusion it would cause everyone engaged in the manufacture, sale, and distribution of newspapers and magazines, I have prepared this bill to take these self-employed independent contractors out of the Social Securtiy Act—as all newsboys under 18 years have long been excluded—at the request of the news vendors themselves, their labor union representatives and the Newspaper Publishers' Association, all of whom vigorously object to this surprising move to reverse the oft-manifested intention of Congress and to legislate a new rule of coverage by judicial decision and bureaucratic regulation.

The enactment of this legislation does not exclude anyone from coverage who was ever embraced in the social-security system. Its enactment would merely declare that none who is clearly outside of the system shall be dragged into it by judicial decision against his will and in violation of the revealed intent of the Congress of the United States.

When newspaper vendors are covered into the social-security system—and I believe they will be by act of Congress before this session ends—they will be brought in as the independent contractors which they actually are, as the self-employed, this in recognition of their true status, not as a consequence of a fictitious treatment which cannot be justified or defended on any logical or legal basis whatsoever.

I think that everyone understands the provisions and legal effect of the measure which I now offer for enactment. If there are any questions I would be glad to endeavor to answer them.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Calendar No. 1027

80TH CONGRESS, 2d Session | SENATE | REPORT No. 985

CLARIFYING EMPLOYER-EMPLOYEE STATUS OF CERTAIN NEWSPAPER AND MAGAZINE VENDORS FOR SOCIAL-SECURITY PURPOSES

MARCH 13 (legislative day, FEBRUARY 2), 1948.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 5052]

The Committee on Finance, to whom was referred the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code, having considered the same, report favorably thereon and recommend that the bill do pass.

By virtue of this action, the Committee on Finance adopts the report of the Committee on Ways and Means of the House of Representatives, which follows:

GENERAL STATEMENT

This bill seeks to clarify the coverage provisions of title II of the Social Security Act, as amended, and related taxing provisions found in the Internal Revenue Code as these requirements apply to the vendors of newspapers and magazines.

Whatever effect it may have on the extension or restriction of existing coverage provisions is purely incidental to its main purpose, which is the removal of a substantial area of ambiguity and confusion in the application of the coverage provisions of the act. The bill has the unqualified endorsement of the newspaper publishers, the vendors concerned, and their union representatives. A telegram recently received from an important news-vendors' union is attached to this report.

Under existing law, service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, is specifically excluded from the type of employment covered by title II of the act. All other services for newspaper- or magazine-publishing firms, including that of delivery or distribution by individuals over the age of 18, were to be treated as giving rise to an employer-employee relationship or independent contractor relationship depending on the usual common-law tests.

One of the most difficult problems in the administration of these provisions of the law is the determination of who is and who is not an employee engaged in the sale or distribution of newspapers if the individuals concerned are over the age of 18. Coverage depends upon whether there is employment, but neither the

term "employment" nor the terms "employer" and "employee" are precisely defined in the law.

Regardless of whether news vendors are or are not technically employees, under some decisions in recent cases, including a decision by one of the Federal district courts in California, involving certain vendors of newspapers, it has been held that the common-law tests, while thoroughly valid, are inadequate. The Government now contends that any type of service relationships constitutes employment for coverage purposes if it is not incidental to the pursuit of an independent calling, such as professional services rendered by lawyers, doctors, engineers, accountants, and the like. Obviously this raises the question of what is meant by "an independent calling."

The bill in question is not offered as the complete answer to the troublesome problem of defining employment or determining the existence of an employer-employee relationship. It simply provides that in the sale or distribution of newspapers and magazines under a contractual arrangement whereby sales are made at a fixed price, and compensation in whole or in part is measured by the excess of such price over the amount at which the newspapers or magazines are charged to the vendor, such vendor shall not be covered under title II of the Social Security Act regardless of whether he is guaranteed a minimum amount of compensation or credited with newspapers or magazines returned to his supplier.

The retail sales of newspapers and magazines, especially in our larger cities, is accomplished under unique and widely varying circumstances. A great many vendors, over the age of 18, commonly purchase their papers with their own capital and become virtually free agents to dispose of them at will, retaining what they consider to be profits and not wages.

Your committee feels that an important factor in determining that newspaper and magazine vendors should be treated as independent contractors or persons otherwise pursuing an independent calling, is the fact that they deal as independent principals with their own customers and that their success depends in large measure upon the good will engendered by them among such patrons. This fact has been too frequently overlooked in recent years in ascertaining the status of many classes of working people as employees in the types of activities covered by the Social Security Act. In the case of vendors of published periodicals or other reading matter, the mere fact that the contractual right to return unsold goods at a given time exists (and this is a familiar practice among manufacturers and merchants as well) has little if any bearing on the ascertainment of the question of employment status.

Your committee is impressed with the fact that the vendors of newspapers and magazines are ordinarily free to sell other goods, wares, and merchandise, and frequently do; that they determine the way and the manner of offering the papers and magazines for sale; that they assume the risk of loss or destruction of papers or magazines which they are prevented from returning for credit; and that their gains should be considered as profits from their own business rather than as wages for employment.

After hearing considerable testimony in a public hearing your committee believes that where the basic method of compensation is that described above, these vendors should not be treated as employees; that to consider them as employees of the publishing firms whose products they buy and sell produces a ridiculous and absurd rule with implications that could be construed so as to permit any person over the age of 18 selling the products of another, under like arrangements, to be considered the employee of the one supplying such articles or products. Such a rule would create an unconscionable administrative burden upon the Government and upon the business firms and individuals concerned.

Among other things, it would require every publishing house to withhold the required tax from the profits of every individual selling the product of that firm. News, information, and reading matter written for profit and offered for sale to any buyer, or distributed gratis, is, in the judgment of your committee, a commodity within certain obvious limitations. One who buys it and sells or distributes it for a profit even though conditions may be attached to the selling or distributing process, clearly should not be regarded as standing in an employer-employee relationship.

The requirement of the bill, that the services will not be excluded unless performed "at the time of" the sale to the ultimate consumer, was inserted to make it clear that the exclusion was not to apply to a regional distributor whose services are antecedent to but not immediately part of the sale to the ultimate consumer. The insertion of the quoted words will not deny the exclusion although the vendor performs incidental services as a part of the sale, such as services in assembling newspapers and in taking them to the place of sale.

In order to avoid wiping out benefits and benefit rights which have already accrued and on which individuals may have placed reliance, the amendment to section 209 (b) (15) of the Social Security Act, relating to benefits under the old-age and survivors insurance system, is made effective with respect only to services performed after the enactment of the bill.

The amendments to the old-age and survivors insurance and unemployment taxing provisions in the Internal Revenue Code are applicable with respect to services performed after December 31, 1939. In the case of the unemployment tax, the bill provides that, as to services performed before July 1, 1946, the amendment shall operate in the same manner and have the same effect as if such amendment had been a part of section 1607 (c) (15) of the code as added to the code by section 614 of the Social Security Act amendments of 1939.

The bill prohibits any credit or refund of any amount paid prior to the date of enactment of this bill which constitutes an overpayment of tax solely by reason of an amendment made by this bill.

Your committee does not feel enactment of this legislation would in any way impair, hinder, or restrict the development or improvement of the present social-security system. On the contrary, by making it more exact in its terms and more easily administered, it will contribute to its added respect by the public and its efficiency in meeting the broad purposes of its establishment.

ENDORSEMENT BY NEWS VENDORS UNION, LOCAL NO. 468, SAN FRANCISCO, CALIF.

SAN FRANCISCO, CALIF., *January 23, 1948.*

Hon. BERTRAND W. GEARHART,
House of Representatives, Washington, D. C.:

Membership of News Vendors Union, Local 468, happy that H. R. 5052 reintroduced. Hope when bill passed will be approved by President. News Vendors union particularly interested in section of bill dealing with sale of papers by adults under an independent contractor relationship.

WILLIAM PARRISH,
Secretary-Treasurer, News Vendors Union, Local 468.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT, AS AMENDED

(53 Stat. 1375–6; 59 Stat. 67)

DEFINITIONS

SEC. 209. When used in this title—

* * * * * * *

(b) The term "employment" means any service performed after December 31, 1936, and prior to January 1, 1940, which was employment as defined in section 210 (b) of the Social Security Act prior to January 1, 1940 (except service performed by an individual after he attained the age of sixty-five if performed prior to January 1, 1939), and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * * * *

(15) *(A)* Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; [or]

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

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INTERNAL REVENUE CODE

SEC. 1426. DEFINITIONS.

When used in this subchapter—

* * * * * * *

(b) Employment.—The term "employment" means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * * * *

(15) (*A*) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; [or]

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

* * * * * * *

SEC. 1607. DEFINITIONS.

When used in this subchapter—

* * * * * * *

(c) Employment.—The term "employment" means any service performed prior to July 1, 1946, which was employment as defined in this section as in effect at the time the service was performed; and any service, of whatever nature, performed after June 30, 1946, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel when outside the United States, except—

* * * * * * *

(15) (*A*) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

○

Calendar No. 1027

80TH CONGRESS
2D SESSION

H. R. 5052

[Report No. 985]

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, FEBRUARY 2), 1948
Read twice and referred to the Committee on Finance

MARCH 13 (legislative day, FEBRUARY 2), 1948
Reported by Mr. MILLIKIN, without amendment

AN ACT

To exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 209 (b) (15) of the Social Security Act, as amended (U. S. C., 1940 edition, Supp. V, title 42, sec. 409 (b) (15)), and section 1426 (b) (15) of the Internal Revenue Code, as amended, are hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery

or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or".

(b) The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act shall be applicable with respect to services performed after the date of the enactment of this Act, and the amendment made to section 1426 (b) (15) of the Internal Revenue Code shall be applicable with respect to services performed after December 31, 1939.

SEC. 2. (a) Section 1607 (c) (15) of the Internal Revenue Code, as amended, is hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution

of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution ;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;".

(b) The amendment made by subsection (a) shall be applicable with respect to services performed after December 31, 1939, and, as to services performed before July 1, 1946, shall be applied as if such amendment had been a part of section 1607 (c) (15) of the Internal Revenue Code as added to such code by section 614 of the Social Security Act Amendments of 1939.

SEC. 3. If any amount paid prior to the date of the enactment of this Act constitutes an overpayment of tax solely by reason of an amendment made by this Act, no

refund or credit shall be made or allowed with respect to the amount of such overpayment.

Passed the House of Representatives March 4, 1948.

Attest: JOHN ANDREWS,
Clerk.

Calendar No. 1027

80TH CONGRESS
2D SESSION

H. R. 5052

[Report No. 985]

AN ACT

To exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code.

MARCH 5 (legislative day, FEBRUARY 2), 1948
Read twice and referred to the Committee on Finance
MARCH 13 (legislative day, FEBRUARY 2), 1948
Reported without amendment

EXCLUSION OF CERTAIN VENDORS OF NEWSPAPERS FROM CERTAIN PROVISIONS OF SOCIAL SECURITY ACT, ETC.

The bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code was announced as next in order.

Mr. PEPPER. Over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. MILLIKIN. Mr. President, may I inquire what Senator objected to the present consideration of House bill 5052?

Mr. PEPPER. It was I who objected, Mr. President.

Mr. MILLIKIN. I wish to say to the Senator that the bill was considered by the Senate Finance Committee and was unanimously reported. I hope the Senator's objection is not an adamant one.

Mr. PEPPER. Mr. President, it is my information that the bill is substantially the same as the bill which the President vetoed last year or at an earlier date. Within the last few minutes I read the President's veto message, and I thought the bill was one which deserved fuller discussion than we would be able to give it under the 5-minute rule. For that reason, I should like the bill to go over at least until it can be looked into a little further, and perhaps it can be considered on the next call of the calendar.

Mr. MILLIKIN. The President did veto a similar bill. We are hopeful that on further consideration he may not take the same view of it now.

Mr. PEPPER. Mr. President, I should like to have the bill go over until the next call of the calendar, unless the Senator from Colorado is disposed to move to take it up.

The PRESIDENT pro tempore. The bill will be passed over.

EXCLUSION OF CERTAIN VENDORS OF NEWSPAPERS OR MAGAZINES FROM PROVISIONS OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE

Mr. MILLIKIN. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Order of Business No. 1027, House bill 5052, to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code. I may say that when this bill was reached on the call of the calendar the Senator from Florida [Mr. PEPPER] objected. He authorizes me to state that he withdraws his objection.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Colorado?

Mr. WHERRY. Mr. President, reserving the right to object, I shall make no objection if the matter can be terminated without extended discussion.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code, was considered, ordered to a third reading, read the third time, and passed.

Mr. FULBRIGHT subsequently said: Mr. President, I understand that a few moments ago, before the quorum call, House bill 5052 was considered by unanimous consent and was passed. In view of the fact that yesterday afternoon, when the legislative program for today was stated, no mention was made of an

intention to have the calendar called or to have special bills brought up, and in view of the further fact that I wish to offer an amendment to the bill, I now ask unanimous consent that the action by which the bill was passed be reconsidered, and that the bill be reinstated on the calendar.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Arkansas that the vote by which House bill 5052 was passed be reconsidered, and that the bill be reinstated on the calendar? The Chair hears none, and it is so ordered.

Mr. MILLIKIN subsequently said: Mr. President, I ask unanimous consent for the present consideration of Calendar No. 1027, House bill 5052, to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code. The bill was passed earlier in the day, but on request of the Senator from Arkansas [Mr. FULBRIGHT] the vote was reconsidered. The Senator from Arkansas has since withdrawn his objection.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the bill (H. R. 5052) was considered, ordered to a third reading, read the third time, and passed.

VENDORS OF NEWSPAPERS OR MAGAZINES—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 594)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith, without my approval, H. R. 5052, a bill to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.

This bill is identical with H. R. 3997, which I declined to approve in August 1947.

This legislation has far greater significance than appears on the surface. It proposes to remove the protection of the social security law from persons now entitled to its benefits. Thus, it raises the fundamental question of whether or not we shall maintain the integrity of our social security system.

H. R. 5052 would remove social security protection from news vendors who make a full-time job of selling papers and who are dependent on that job for their livelihood. Many vendors of newspapers are excluded even at present from coverage under the Social Security Act because they are not employees of the publishers whose papers they sell. But some vendors work under arrangements which make them bona fide employees of the publishers and, consequently, are entitled to the benefits of the Social Security Act.

If enacted into law, this bill would make the social-security rights of these employees depend almost completely upon the form in which their employers might choose to cast their employment contracts. Employers desiring to avoid the payment of taxes which would be the basis for social-security benefits for their employees could do so by the establishment of artificial legal arrangements governing their relationships with their employees. It was this sort of manipulation which the Supreme Court effectively outlawed in June of 1947 when the Court unanimously declared that employment relationships under the social-security laws should be determined in the light of realities rather than on the basis of technical legal forms. I cannot believe that this sound principle announced by the Court should be disregarded, as it would be by the present bill.

The principal consideration offered in support of the bill appears to be a concern for the administrative difficulties of certain employers in keeping the necessary records and in collecting the employee contributions required by the Social Security System. In appraising these difficulties, it should be recognized that the employers have control over the form of the employment contracts and the methods by which their salesmen are compensated. The salesmen are dependent upon the employers, and whatever remittances or reports are required for withholding and reporting purposes should be within each employer's reach. Certainly, the difficulties involved are not so formidable as to warrant the exclusion of these employees from coverage in the Social Security System and the consequent destruction of their benefit rights and those of their dependents.

It is said that the news vendors affected by this bill could more appropriately be covered by the social-security law as independent contractors, when and if coverage is extended to the self-employed. Whether that is true or not, surely they should continue to receive the benefits to which they are now entitled until the broader coverage is provided. It would be most inequitable to extinguish their present rights pending a determination as to whether it is more appropriate for them to be covered on some other basis.

In withholding my approval from H. R. 3997 last August, I expressed my concern that such a bill would open our social security structure to piecemeal attack and to slow undermining. That concern was well founded. The House of Representatives has recently passed a joint resolution which would destroy the social security coverage of several hundred thousand additional employees. As in the case of H. R. 5052, the joint resolution passed by the House is directed toward upsetting the doctrine established by the Supreme Court last summer that employment relationships should be determined on the basis of realities. The present bill must be appraised, therefore, as but one step in a larger process of the erosion of our social security structure.

The security and welfare of our Nation demand an expansion of social security to cover the groups which are now excluded from the program. Any step in the opposite direction can only serve to undermine the program and destroy the confidence of our people in the permanence of its protection against the hazards of old age, premature death, and unemployment.

For these reasons, I am compelled to return H. R. 5052 without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *April 5, 1948.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

Mr. GEARHART. Mr. Speaker, I move that the further consideration of the bill and the veto message be postponed until Wednesday, April 14, 1948.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Pennsylvania [Mr. EBERHARTER] is recognized for 30 minutes.

CHISELING AT SOCIAL SECURITY

Mr. EBERHARTER. Mr. Speaker, Members of the House all know that the veto message of the President on H. R. 5052, the bill to exclude certain vendors of newspapers or magazines from social-security coverage, will be taken up next Wednesday. The gentleman from California [Mr. GEARHART] has announced that he will move that the House pass H. R. 5052, the objections of the President notwithstanding. He then proceeds, in his memorandum addressed to the Members of the House of Representatives, to summarize the sequence of events out of which this legislation and the Presidential veto have resulted.

On the surface, this appears to be a matter of small importance in comparison with other legislation of broad national and international implication. When examined, however, as the President must do in deciding whether to affix his signature to an act of Congress, the adverse effects of the Gearhart bill are readily apparent. As the President has said, "This legislation has far greater significance than appears on the surface. It proposes to remove the protection of the social-security law from persons now entitled to its benefits. Thus, it raises the fundamental question of whether or not we shall maintain the integrity of our social-security system."

Mr. Speaker, the benefits of the greatest social legislation ever enacted by this Congress should not be subject to the establishment by employers of artificial legal arrangements governing their relationships with their employees. The Supreme Court has unanimously held that employment relationships under the social-security laws must depend upon realities rather than technical legal concepts, and when the Supreme Court has stricken down the ingenious artifices of employers to evade the social-security laws, Congress certainly should not allow itself to be utilized as an instrument to undermine the social-security system.

In justification of this drastic legislation, the gentleman from California has made several statements which require careful analysis in the light of the decision of the United States district court in the case of Hearst Publications, Inc., against the United States, which has resulted in the demand for this legislation. For example, the gentleman from California [Mr. GEARHART] says that the relation of the employee news vendors to the manufacturers of razor blades, candy makers, and fruit growers "is precisely the same as it is to the newspaper publishers whose newspapers they dispose of to the ultimate consumer."

Now what are the facts? As set forth in the opinion of the court, the following distinctions clearly justify the conclusion that the news vendors of Mr. Hearst were subject to such control that even under the common-law concept of master and servant they would be held to be the employees of the newspaper publisher:

First—

Throughout the period in question the vendors were represented by a labor union of their own choosing chartered by the American Federation of Labor in all dealings with the publishers.

Second—

The publishers selected the vendors, designated their place, days, and hours of service (within the limits agreed on by contracts) and fixed the profits they were to derive from the sale of each newspaper.

Third—

The vendors were expected to be at their corners at press-release time, stay there for the sales period, be able to sell papers, and take an interest in selling as many papers as they could.

Fourth—

To see that they performed properly they were kept under the surveillance of the publisher's employee, the "wholesaler." He was authorized to check in the vendor if the latter failed to so perform or to report any such infraction to the publisher, who could then discontinue further sales to the vendor, or report his conduct to the union for discipline by union agents.

Fifth—

The vendor was required to sell his papers complete with sections in the order designated by the publisher and to display only newspapers on the stands or racks which were furnished by the publisher at the latter's expense.

Sixth—

The vendor incurred no expense or risks save that of having to pay for papers delivered to him which by reason of loss or destruction he was unable to return for credit.

Moreover, a vendor "was guaranteed by contract a minimum weekly profit."

Seventh—

The vendors were not allowed to sell competitive newspapers without the publisher's consent. * * * (In 1937–40 about one-sixth of the approximately 650 vendors were selling other articles and noncompetitive publications.)

Eighth—

Here the vendors were subject to the publisher's control in every respect save the manner in which they personally offered the newspaper for sale to the public and collected the price.

The gentleman from California [Mr. GEARHART] says that "the vendors habitually sell their corners from one to another without notice to their wholesale suppliers." This is a plain contradiction of the finding of fact of the district court that "such locations were designated, limited, changed, discontinued, or reestablished entirely at the publisher's discretion and in order to coincide with changing public demand." As I have already pointed out, the publishers selected the vendors and designated their place, days, and hours of service. The assertion by the gentleman from California cannot be reconciled by the facts of the Hearst case.

Beyond the merits of this particular bill it is now quite clear, as it may not have been at the time the bill was originally passed by the House, that this is but a part of a three-pronged attack by the Eightieth Congress against the social-security legislation that has been enacted over the past decade. This charge is readily documented: First, there is the Republican record on railroad retirement legislation. Second, House Joint Resolution 296, now pending in the Senate, would deprive some 750,000 workers and their families of social-security coverage principally in the industrial home work and outside distribution fields. Third, there is the bill on which the House must vote next Wednesday—H. R. 5052, removing news vendors from coverage.

First, what is the record of the Eightieth Congress on railroad retirement legislation? The Railroad Retirement Act of 1937 is recognition of the extraordinary hazards assumed by railroad employees from death, disability, and unemployment. This legislation removed railroad workers from the social-security system and established them in their own statutory retirement plan with broader and more generous coverage. In the closing days of the Democratic Seventy-ninth Congress, the so-called Crosser

amendments were enacted to liberalize the benefits under the Railroad Retirement Act, as well as the Railroad Unemployment Insurance Act. On the crucial vote in the House of Representatives, the opposition to the bill lined up by the Association of American Railroads was Republican by more than three to one.

The ink from President Truman's approving pen had hardly dried before the railroad lobby was back on the hill agitating for reversal of this forward step in the social-security field.

Election of the Republican Eightieth Congress made the job seem much easier. In June of 1947, after brief hearings, the House Committee on Interstate and Foreign Commerce reported out H. R. 3150. This bill would deprive railroad workers of unemployment compensation for time lost from sickness and maternity, and would reduce the rate of the unemployment tax upon the carriers from 3 percent to one-half percent under present conditions. As the minority report pointed out:

> The bill deprives railroad employees of unemployment benefit payments when they are unemployed because physically unable to work; and there is then turned over to the railroads the savings derived from depriving employees of unemployment benefits.

This attempt to help the roads at the expense of the workers off the job from illness was too brazen even for the Republican leadership. So a more subtle approach was devised. Instead of ramming through H. R. 3150, as reported by the Commerce Committee, it was decided to split up the objective. The tax-reduction scheme was introduced by itself as H. R. 5711 and shunted to a different committee—the House Committee on Ways and Means.

Hearings have now been had on this bill in which spokesmen for the railroad brotherhoods demonstrated that reduction in the tax rate on the railroads would jeopardize the actuarial soundness of the railroad unemployment insurance trust fund. The attorney for the Association of American Railroads reluctantly admitted, when cross-examined, that they would not be satisfied with repeal of the tax alone; they want to make sure the extra $120,000,000 a year for their shareholders comes out of the hides of their sick and unemployed workers.

If H. R. 5711 passes, the attack will then proceed anew against the expanded unemployment benefits granted by the Democratic President and Congress in 1946.

Second, the passage of House Joint Resolution 296 makes it crystal clear that the Republicans who originally opposed the enactment of social-security legislation have never really gotten over their hostility and that they now plan systematically to undermine the foundation of this all-important security legislation.

Finally, Mr. Speaker, we have this bill. The House must realize that what it does next Wednesday cannot be evaluated apart from the other activities of the Eightieth Congress in the field of social security. The veto of the President states the issues briefly and accurately. The President should be sustained.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include an article written by me appearing in the Democratic Digest.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The article is as follows:

HOW SECURE IS SOCIAL SECURITY?

(By HERMAN P. EBERHARTER, Member of Congress from the Thirty-second District of Pennsylvania, member of House Committee on Ways and Means)

Most of us are inclined to accept without question the greatest social program in our history—social security. Millions of workers and their families now protected against old age, unemployment, or premature death of the family breadwinner, may dimly remember the hours of worry and insecurity prior to 1935. Others may recall more vividly the stirring challenge of President Roosevelt in those dark days—"The only thing we have to fear is fear itself"; and his subsequent assurance: "Among our objectives I place the security of the men, women, and children of the Nation first." A Democratic Congress responded to the challenge—and the social-security system was enacted.

Much remains to be done, however. President Truman in his state of the Union message reminded Congress of gaps and inconsistencies that must be corrected. He urged: "We should now extend unemployment compensation, old-age benefits, and survivors' benefits to millions who are not now protected. We should also raise the level of benefits." The response of the Republican leadership in the House of Representatives was to do the exact opposite. They reported out of committee and passed in the House late in February House Joint Resolution 296—a bill that would deprive some 500,000 to 750,000 employees and their families of social-security coverage.

Shocking? Most certainly. Unbelievable? Well, almost—except for the fact that Congress now has a Republican majority. As Representative HELEN GAHAGAN DOUGLAS, Democrat, California, said in debate, however, "During the past several months I have grown accustomed to the sight of this Congress turning back the clock—crippling where they do not dare repeal, or boring away like termites in an effort to undermine the progress of the preceding 14 years."

Final enactment into law of House Joint Resolution 296 would be a disastrous blow to the thousands of outside salesmen and industrial homeworkers now entitled to social-security benefits. But the threat of its enactment should be a warning to all—to employers and workers alike. We cannot take for granted even the most fundamental social legislation intended to meet economic insecurity from old age and unemployment. That we should ever have done so under a Republican Congress is proof of how quickly we forget.

Believe it or not, the entire Republican membership of the Ways and Means Committee filed a minority report in 1935 on the original social-security bill, protesting that the old-age and survivors, insurance titles of the act were unconstitutional and expressing doubt whether the unemployment insurance provisions would result in a general national benefit at that time. The present chairman of the Committee on Ways and Means (Representative HAROLD KNUTSON, Republican, Minnesota) filed a supplemental report in which he predicted:

"The two pay-roll taxes which the bill imposes will greatly retard business recovery by driving many industries now operating at a loss into bankruptcy, or by forcing them to close down entirely, thereby further increasing unemployment, which would greatly retard recovery." Instead of establishing the Social Security Board, he would have placed the social-security program in the Veterans' Administration.

The Republican elephant never forgets—at least, not when his name is KNUTSON. Now what happened to force Republicans to show their attitude toward security for the aged, the unemployed, and the widows, and children? Last summer the Supreme Court of the United States in three cases decided for the first time the meaning of the terms "employer" and "employee," as used in the Social Security Act. The Supreme Court agreed unanimously that Congress in 1935 did not intend to incorporate the narrow, technical, restrictive, common-law definitions of these terms in such broad social legislation. Said Mr. Justice Reed, "As the Federal social security legislation is an attack on recognized evils in our national economy, a constricted interpretation of the phrasing by the courts would not comport with its purpose."

The Treasury Department and the Federal Security Agency prepared regulations to conform with the mandate of the Supreme Court, the highest tribunal of the land. Chairman KNUTSON, however, sought to usurp the role of the Court. He directed a formal complaint against the Treasury Regulations to Commissioner George J. Schoeneman in which he charged, "The proposed regulations appear to extend far beyond any coverage intended by Congress under the social-security law, and I desire for you and your representatives to appear before our committee to explain the purpose of the regulations and their legal justification." When Commissioner Schoeneman stood his ground, and insisted upon following the Supreme Court decision, Chairman KNUTSON gave the green light to legislation to reverse the Supreme Court. The employers affected seized the opportunity to fan the smoldering Republican resistance to social-security progress. Some of the most recalcitrant groups in industry, they hired able counsel to draft House Joint Resolution 296.

The craftiness of the draftsmen is suggested by the title, "A joint resolution to maintain the status quo in respect to certain employment taxes and social-security benefits," and so forth. As I pointed out on the House floor, we do not require legislation to maintain the status quo. And since legislation means change—either forward or backward—the clever title could not hide the brutal truth. As stated in the minority report signed by Representatives JOHN DINGELL, Democrat, of Michigan; WALTER A. LYNCH, Democrat, of New York; AIME J. FORAND, Democrat, of Rhode Island; and myself, "* * * the bill would curtail social-security coverage. It cannot be disguised as maintenance of the status quo."

The debate in the House clearly developed this simple issue: Is social-security coverage to be taken away from roughly one-half to three-quarters of a million workers? Representative LYNCH put it this way. The question before Congress, as he viewed it, "is whether the Eightieth Congress is to curtail to a substantial degree the scope of social-security coverage provided by the Seventy-fourth Congress. If this bill becomes law, textile home workers—whose economic status is usually worse than workers in the sweat shop—will be denied coverage. Outside salesmen, who are just as much an integral part of a manufacturer's business as is the man in the foundry, will no longer be insured against the risks of unemployment and old age."

Representative MELVIN PRICE, Democrat, of Illinois, called upon Republican Members of the House to live up to their party's 1944 platform pledge of extension of the existing old-age insurance and unemployment insurance systems, while Representative FORAND

charged that the resolution is part of a plan to sabotage the social-security system.

The bland assurances of Representative BERTRAND GEARHART, Republican, of California, author of House Joint Resolution 296, that he has long favored broadening of social-security coverage, could add no more than mournful mockery to the scene. The bitter truth is that the Republican Eightieth Congress—which on the record of its first session has already been condemned as the worst since the reconstruction after the Civil War—has now voted to restrict social security.

I ask you: In such hands, just how secure is social security?

ORDER OF BUSINESS

The SPEAKER. The Chair wishes to state the order of business.

The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.

Following that, under a special order Jefferson's First Inaugural Address will be read. Following that, the Chair will recognize Members to submit consent requests to extend remarks and to address the House for 1 minute.

VENDORS OF NEWSPAPERS OR MAGAZINES

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

CALL OF THE HOUSE

Mr. GEARHART. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Obviously a quorum is not present.

Mr. ARENDS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 43]

Allen, Ill.	Gorski	Owens
Andrews, N. Y.	Gross	Pfeifer
Bakewell	Hall,	Ploeser
Barden	Edwin Arthur	Powell
Battle	Harless, Ariz.	Price, Fla.
Bell	Harrison	Price, Ill.
Bishop	Hart	Rains
Boggs, La.	Hartley	Reed, Ill.
Bolton	Havenner	Riehlman
Boykin	Heffernan	Rivers
Bulwinkle	Holifield	Rooney
Canfield	Jackson, Calif.	Sabath
Carroll	Jarman	Sikes
Celler	Jenkins, Ohio	Simpson, Ill.
Chapman	Jenkins, Pa.	Simpson, Pa.
Chiperfield	Kearns	Smith, Maine
Church	Kee	Stigler
Clark	Kefauver	Stratton
Cole, N. Y.	Kennedy	Taylor
Colmer	Larcade	Teague
Courtney	Lichtenwalter	Thomas, N. J.
Cunningham	Lusk	Thompson, Tex.
Dawson, Ill.	McMillen, Ill.	Twyman
Dingell	Manasco	Vail
Eaton	Meade, Md.	Welch
Elliott	Miller, Nebr.	West
Feighan	Morgan	Whitten
Flannagan	Morton	Williams
Fogarty	Murray, Tenn.	Wood
Gallagher	Norrell	Worley
Gillie	O'Konski	
Gordon	O'Toole	

The SPEAKER. Three hundred and thirty-six Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

VENDORS OF NEWSPAPERS OR MAGAZINES—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 594)

The SPEAKER. The Chair recognizes the gentleman from California [Mr. GEARHART].

Mr. GEARHART. Mr. Speaker, I ask unanimous consent that during the course of my remarks I may be permitted to send to the Clerk's desk for reading several documents.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEARHART. Mr. Speaker, I ask unanimous consent that all Members who so desire may extend their remarks on this bill at the appropriate place in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEARHART. Mr. Speaker, the gentleman from Tennessee [Mr. COOPER] has suggested—in fact, requested—that the veto message of the President may again be read for the edification of the membership. I ask unanimous consent that the Clerk may again read the veto message of the President.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

To the House of Representatives:

I am returning herewith, without my approval, H. R. 5052, a bill to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.

This bill is identical with H. R. 3997, which I declined to approve in August 1947.

This legislation has far greater significance than appears on the surface. It proposes to remove the protection of the social-security law from persons now entitled to its benefits. Thus, it raises the fundamental question of whether or not we shall maintain the integrity of our social-security system.

H. R. 5052 would remove social-security protection from news vendors who make a full-time job of selling papers and who are dependent on that job for their livelihood. Many vendors of newspapers are excluded even at present from coverage under the Social Security Act because they are not employees of the publishers whose papers they sell. But some vendors work under arrangements which make them bona fide employees of the publishers and, consequently, are entitled to the benefits of the Social Security Act.

If enacted into law, this bill would make the social-security rights of these employees depend almost completely upon the form in which their employers might choose to cast their employment contracts. Employers desiring to avoid the payment of taxes which would be the basis for social-security benefits for their employees could do so by the establishment of artificial legal arrangements governing their relationships with their employees. It was this sort of manipulation which the Supreme Court effectively outlawed in June of 1947 when the Court unanimously declared that employment relationships under the social-security laws should be determined in the light of realities rather than on the basis of technical legal forms. I cannot believe that this sound principle announced by the Court should be disregarded, as it would be by the present bill.

The principal consideration offered in support of the bill appears to be a concern for the administrative difficulties of certain employers in keeping the necessary records and in collecting the employee contributions required by the social-security system. In appraising these difficulties, it should be recognized that the employers have control over the form of the employment contracts and the methods by which their salesmen are compensated. The salesmen are dependent upon the employers, and whatever remittances or reports are required for withholding and reporting purposes should be within each employer's reach. Certainly, the difficulties involved are not so formidable as to warrant the exclusion of these employees from coverage in the social-security system and the consequent destruction of their benefit rights and those of their dependents.

It is said that the news vendors affected by this bill could more appropriately be covered by the social-security law as independent contractors, when and if coverage is extended to the self-employed. Whether that is true or not, surely they should continue to receive the benefits to which they are now entitled until the broader coverage is provided. It would be most inequitable to

extinguish their present rights pending a determination as to whether it is more appropriate for them to be covered on some other basis.

In withholding my approval from H. R. 3997 last August, I expressed my concern that such a bill would open our social-security structure to piecemeal attack and to slow undermining. That concern was well founded. The House of Representatives has recently passed a joint resolution which would destroy the social-security coverage of several hundred thousand additional employees. As in the case of H. R. 5052, the joint resolution passed by the House is directed toward upsetting the doctrine established by the Supreme Court last summer that employment relationships should be determined on the basis of realities. The present bill must be appraised, therefore, as but one step in a larger process of the erosion of our social-security structure.

The security and welfare of our Nation demand an expansion of social security to cover the groups which are now excluded from the program. Any step in the opposite direction can only serve to undermine the program and destroy the confidence of our people in the permanence of its protection against the hazards of old age, premature death, and unemployment.

For these reasons, I am compelled to return H. R. 5052 without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *April 5, 1948.*

The SPEAKER. The gentleman from California [Mr. GEARHART] is recognized.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. GEARHART. I yield to the gentleman from Pennsylvania.

Mr. EBERHARTER. Has the gentleman made a motion to call up the bill?

Mr. GEARHART. The Parliamentarian advises me that is not necessary. The Speaker has already stated the issue.

Mr. EBERHARTER. I just wanted the record to be certain. I did not hear the gentleman make a motion to call up the bill.

Mr. GEARHART. I believe the gentleman's question has already been answered.

Mr. RANKIN. Mr. Speaker, if the gentleman will yield, the bill is before the House now automatically.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. GEARHART. Gladly.

The SPEAKER. The Chair will state that he has already put the question, but he will repeat it if the gentleman desires.

Mr. EBERHARTER. No. I just want to have the record straight.

The SPEAKER. The veto message was originally read on April 6, and the request of the gentleman from California was that it be reread for the information of the House. Previous to that request the Chair had stated that the question before the House was, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman will proceed.

Mr. GEARHART. Mr. Speaker, if this bill is not passed, the veto of the President notwithstanding, the social security structure of our country will be thrown into confusion. If the House does not act decisively it will indeed open a Pandora's box of legalistic uncertainties. Though the number of individuals, that is, the news vendors themselves, are but few, the court legislated principle which scoops them into the Social Security System will entangle many, many hundreds, perhaps thousands of others, under such conditions that no one in the United States, whatever his status, will know whether he is under social security or not. Whenever a situation like that arises there is only one thing that one can do, and that is to apply to the courts for clarifying decisions. If the Congress is unwilling to clarify by legislated definition the relation of master and servant, or exclude by arbitrary measures those that manifestly are not employees, a multiplicity of suits in all corners of the country is bound to be the result. If common sense, reason, and understanding is to prevail, this bill must be passed, the President's veto notwithstanding.

As I indicated a moment ago, the passage of H. R. 5052 will only affect a handful of people in the first instance, only newspaper vendors, perhaps no more than 1,000 scattered, as they are, throughout the country.

The news vendors have always considered themselves to be independent contractors, private businessmen, as self-employed, in that they buy their wares, stock in trade, at wholesale prices and sell them at retail prices. Not only is this true of the newspapers they handle, but it is likewise the method by which they acquire their stocks of magazines and books, printed as they are, by many different publishers. The difference between these two figures is the profit on such transactions, the profit from which they derive their livelihood. That is precisely the way any private, self-employed businessman operates his private enterprises.

Because there may be some uncertainty in the minds of some as to just what kind of businessmen I am referring to when I speak of newspaper vendors I am only sorry that I did not have these pictures which I have in my hands in time to have had them enlarged, as they reveal quite clearly the nature and character of their calling. A newspaper vendor is not a boy. A newspaper vendor is someone over the age of 18, usually an old man between 65 and 70, who is following this business because it is not too arduous and because it is a lucrative means of obtaining a livelihood. A news vendor is one who has a rack down on the street corner. He is one who handles not only all of the newspapers printed in the city by separate arrangement with each of the publishers, but as many magazines as he can crowd on his stand; hundreds of different kinds. He also handles in great numbers those thrillers often referred to as "Who done it" mysteries; in other words, detective story books, yours for 25 cents each. He merchandises sensational pamphlets such as The Death of the Dictator, and muck-raking exposures such as those that brought fame to Thomas W. Lawson of a generation ago.

He also provides an eager public with glamor girl pictures, racing charts, song books, lists of the latest song hits, all these in addition to such well-known magazines as Red Book, Good Housekeeping, Cosmopolitan, Reader's Digest, the Argonaut, every type of periodical, even the unspeakable and very hush-hush Police Gazette.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. GEARHART. I am happy to yield to the distinguished gentleman from Pennsylvania.

Mr. WALTER. How would it be possible to determine who the employer of that particular person is?

Mr. GEARHART. The gentleman from Pennsylvania has placed his finger on what would be one of the most perplexing problems which would arise if this bill is not passed, the President's veto notwithstanding. The arrangements that these newspaper vendors make with their different suppliers are identically the same in all cases. They buy their stock in trade at wholesale prices and they sell their goods, wares, and merchandise at retail prices. Since the news vendors' arrangements with the newspaper publishers are precisely the same as those they make with other publishers, by the same token they are the employees of all the other publishers as well. As these vendors handle all of the newspapers published in a given city, for instance, four in San Francisco, four in Los Angeles, many in New York City and in Chicago—they are by unavoidable consequence the employees of each of those newspaper publishers, likewise of the publishers of each of the magazines, picture books, racing charts, novels, whose merchandise they handle, with the result that every newspaper publisher and every other person or firm with which they deal would have to find out who these vendors are, get their names on their books, subtract the social-security tax, and remit it to the Government. In view of the known propensity of newspaper vendors to keep on the move from town to town, to sell their stands on short notice, this is practically an impossible task for the suppliers of their stocks in trade who will be charged with the collection and remission of pay-roll taxes.

According to the practices, these men buy these street corners from previous occupants, and then without any permission from anybody they sell them to other persons and move on their way, which makes it utterly impossible for the publishers to keep track of those with whom they are doing business on the street corners from day to day. As there is absolutely no permanency in the newsvendor set-up, changes in personnel occurring almost daily without notice, the failure to pass this bill will create an impossible situation, an impossible situation from the standpoint of the newspaper vendors, an impossible situation from the standpoint of the newspaper distributors, and an utterly impossible situation insofar as the newspaper publishers are concerned.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. GEARHART. I am happy to yield to the very able gentleman from Georgia.

Mr. COX. A newspaper vendor is simply an independent merchant. He sells reading matter.

Mr. GEARHART. And many other things besides reading matter. Under precisely the same arrangements he sells safety-razor blades, Sun-Maid raisins, oranges, and bananas; he sells chewing gum, all sorts of confections, even trinkets are dispensed from his racks. The main difference between a newspaper vendor and the storekeeper is that a newspaper vendor does not usually have a roof over his head, although in a great many cases they do. I have in mind one newspaper vendor in Los Angeles who has a stand 150 feet long. He handles not only every newspaper which is published in Los Angeles and every well-known magazine published in the United States, a great variety of books and pamphlets, 25-cent detective stories, but he insists that he handles everybody's home-town newspaper published in the United States and Canada. And from the appearance of his racks, I do not think he is exaggerating one bit.

If this ridiculous decision that was rendered in San Francisco is allowed to stand, that newspaper vendor becomes the employee of every one of the individuals, firms, and corporations with whom or with which the vendor did business. In fact, if this bill does not pass, the news vendors will have more employers than a dog has fleas.

Mr. MATHEWS. Mr. Speaker, will the gentleman yield?

Mr. GEARHART. I yield to the gentleman from New Jersey.

Mr. MATHEWS. Can the gentleman tell us what effect this decision, if left unchanged, would have on the workmen's compensation situation of the so-called employer?

Mr. GEARHART. As the able gentleman from New Jersey well knows in all of our States we have workmen's compensation laws and other laws which turn on the relation of master and servant. If the Congress is going to stand mute and permit great questions like this to be legislated for us by the courts in judicial decisions, that is, supinely submit to judicial usurpation of the legislative prerogative, it means that all of our State laws are also going to be thrown into confusion. Many of our State laws which operated upon the employer-employee relationship, if such an absurd definition of the relationship as the district court in San Francisco announced is permitted to stand, will become utterly unenforceable. I thank the gentleman for raising that point.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. GEARHART. I am pleased to be able to yield to the very distinguished gentleman from Tennessee, my colleague of the Ways and Means Committee.

Mr. COOPER. I think it would be of interest to the House, and probably it should be done in fairness to the House, if the distinguished gentleman from California would point out the fact that this is entirely different and a separate matter from House Joint Resolution 296, of which the gentleman from California was also the author, and which has passed the House and is now pending in the Senate. That joint resolution went to the question involved in a decision by the Supreme Court of the United States, but, as I understand, the Supreme Court has not acted on the subject matter covered in the pending bill. I think it would be helpful if the gentleman would clearly draw the attention of the House to the distinction between the pending bill and House Joint Resolution 296.

Mr. GEARHART. There is a vast difference between the two pieces of legislation. This bill will merely exclude from the social-security coverage those persons who are known as newspaper vendors. In other words, it will grant to them the same exclusion which has already been granted by this Congress to all of the newsboys who are under the age of 18 years. The other measure, House Joint Resolution 296, would legislate a definition of master and servant, or, employer and employee, by whatever name you may choose to describe it, which would apply generally insofar as the social-security system is concerned. In other words, House Joint Resolution 296, which is pending in the Senate is a much broader measure than the one we are now considering.

Mr. BENNETT of Missouri. Mr. Speaker, will the gentleman yield?

Mr. GEARHART. I am pleased to yield to my good friend, the gentleman from Missouri.

Mr. BENNETT of Missouri. I am receiving letters from insurance agents who want to be covered under the Social Security Act and who therefore favor this veto. Can the gentleman advise me whether or not they are under a misapprehension and in what way this affects them?

Mr. GEARHART. H. R. 5052 does not affect anybody who has been found to be an employee of the insurance company, only newspaper vendors. Neither will H. J. Res. 296 deprive any insurance solicitor of coverage who is in fact an employee. The gentleman says he has heard from some insurance agents in opposition to one or the other of these two measures. Permit me to draw the attention of the House to the fact that the National Insurance Agents Association, with a membership of 300,000, is supporting House Joint Resolution 296 as vigorously as they know how, as their members, so they tell me, cherish their status of independent contractors and resent a courts' arbitrary declaration that they are not the self-employed they have always regarded themselves.

Mr. Speaker, I want to conclude my remarks, because I think everybody understands this question by now, by reading some telegrams which have come to me from the newspaper vendors themselves.

I have this telegram from Mr. Sam Jacobs, president, and Mr. A. J. McNamee, secretary-treasurer of the Newspaper and Periodical Vendors and Distributors Union, Local No. 468, American Federation of Labor:

SAN FRANCISCO, CALIF., *April 6, 1948.*
Hon. BERTRAND W. GEARHART,
New House Office Building,
Washington, D. C.:

Since President Truman has vetoed H. R. 5052, it is our belief that now is the time to remind you that the San Francisco News Vendors Union, AFL, Local 468, has consistently fought for the objective outlined in this bill. We cannot too strongly urge that you vote to override the veto.

SAM. JACOBS, *President.*
A. J. MCNAMEE, *Secretary-Treasurer.*

I also have a telegram from a former secretary of that same union reading as follows:

SAN FRANCISCO, CALIF., *January 23, 1948.*
Hon. BERTRAND W. GEARHART,
House of Representatives,
Washington, D. C.:

Membership of News Vendors Union Local 468 happy that H. R. 5052 reintroduced. Hope when bill passed will be approved by President. News Vendors Union particularly interested in section of bill dealing with sale of papers by adults under an independent contractor relationship.

WILLIAM PARRISH,
Secretary Treasurer,
News Vendors Union Local 468

Mr. Speaker, I also have telegrams from other interested people. One of them is from the newspaper distributors of Chicago, which reads as follows:

CHICAGO, ILL., *March 19, 1948.*
Representative BERTRAND W. GEARHART,
House of Representatives,
Washington, D. C.:

We urge passage of your bill to exempt newspaper vendors from the Social Security Act. We heartily endorse your contention that vendors are independent contractors and not employees under the law. You and your associates are to be commended for your work on this worthy bill.

C. A. NEWSPAPER DISTRIBUTORS,
Chicago, Ill.

Then I have a telegram from Mr. Cranston Williams, general manager of the American Newspaper Publishers Association, representing the publishers, reading as follows:

NEW YORK, N. Y., *April 14, 1948.*
Hon. BERTRAND W. GEARHART,
House of Representatives:

Your splendid leadership is greatly appreciated and I hope the House as well as the Senate will vote to make bill H. R. 5052 a law notwithstanding veto of the President. Regards.

CRANSTON WILLIAMS,
General Manager, American Newspaper Publishers Association.

That it be established that the California Newspaper Publishers Association shares the views of the American Newspaper Publishers Association, I will now read a telegram from Mr. John B. Long, its highly respected and warmly regarded managing director. It is:

LOS ANGELES, CALIF., *April 6, 1948.*
Hon. BERTRAND W. GEARHART,
Member of Congress,
Washington, D. C.:

Hope you can see your way clear to vote to override this second veto on news-vendors problem solved by H. R. 5052.

JOHN B. LONG,
California Newspaper Publishers Association.

As it has already been made to appear that the provisions of H. R. 5052 are identical with those of H. R. 3704, a bill which was late in the last session passed by the Congress only to be pocket-vetoed by the President after the adjournment of the National Legislature, I would like to read a letter from the secretary-treasurer of the Newspaper and Periodical Vendors and Distributors Union as it constitutes further evidence of the earnest desire of the vendors to retain their cherished status of independent contractors. It is the following:

NEWSPAPER AND PERIODICAL
VENDORS AND DISTRIBUTORS
UNION, LOCAL NO. 468,
San Francisco, Calif., June 21, 1947.

Hon. BERTRAND W. GEARHART,
Congressman of California, House of Representatives, Washington, D. C.

DEAR CONGRESSMAN: The news vendors of San Francisco request that you support H. R. 3704 when it comes before you for action.

Since the inception of this union in 1937 the membership has consistently voted for continuing a contractual relationship with the publishers which is one of buyer and seller—an independent contractor relationship. It is now firmly established as an important part of the foundation upon which the members of this union have succeeded in attaining a status in the economic scheme of things which enables the individual members to have an adequate living throughout the more difficult years of their lives and to retain their self-respect as self-supporting persons.

The members of this union who are engaged in the street sales of newspapers in San Francisco have problems which are different and apart from those of the employable class. By virtue of physical handicaps and age they are not in position to compete for jobs in the employment market. Nevertheless, the membership voted unanimously to send two representatives to appear before the Treasury Department at Washington, D. C., for the purpose of showing by means of extensive data that we are not employees. Our petition was denied.

Legal intervention is not available to the union, hence the only recourse the membership of this union has is to ask that Congress enact the Gearhart bill, H. R. 3704.

Respectfully yours,
ANDREW J. MCNAMEE,
Secretary-Treasurer.

Mr. Speaker, I have had requests for time from two Members of the House, so I now yield 14 minutes to the gentleman from Pennsylvania [Mr. EBERHARTER], which is the same time that I have consumed in this debate.

Mr. EBERHARTER. Mr. Speaker, I know that the Members are anxious to vote on this matter and get it out of the way as quickly as possible. I take this time to give the Members what I consider the issues involved here today. The gentleman from California in the first instance said that there were very few people affected by this particular measure. I agree with him in that statement wholeheartedly. However, the gentleman said immediately following that statement that it would affect thousands and thousands of independent contractors and thousands and thousands of corner newspaper vendors. Those two statements do not jibe. The first one emphasized that independent contractors, whether news vendors or anybody else who can be classified as an independent contractor, have never been asked to pay any social-security tax. Neither has the person with whom he contracted.

This is what happened in this particular case: The publishers have not taken the case to a higher court. It went before the district court in California, and this is what the court found: This newspaper union, of which the gentleman from California [Mr. GEARHART], spoke, represented the employees of the publisher, the Hearst Corp. This union and the corporation fixed terms and conditions of employment with these newspaper vendors. It fixed minimum wages, minimum commissions that the newspaper boys could earn. It fixed hours of employment; it fixed the conditions under which they must work. It even had supervisors to go around to the various corners to see that these men were following their duties in accordance with the contract as made with the unions and which contract the unions had with the publishers. This is what the court found: The court merely said these men were in fact and in reality employees. The gentleman's bill would say, no matter whether you are an employee, if you work for a publisher you are not entitled to social-security protection. That is what this bill would do. The court found as a matter of fact that the vendors were represented by an American Federation of Labor union. Does that not in itself say that they were employees? It was not an association of businessmen or independent contractors. They were members of a labor union.

In the second place, the court found as a matter of fact that the publishers selected the vendors, designated their places, their days, their hours of service, and the profit per newspaper. The vendors were under the surveillance of the publisher's employee, the wholesaler, who reported any infraction of performance to the publisher. The vendor was required to sell his papers in the manner described by the publisher, in stands or racks furnished by the publisher at the publisher's expense. The vendor incurred no risk nor expense except that of payment for the papers which were lost or destroyed. The vendor was guaranteed by contract a minimum weekly wage or profit, and the vendor was not allowed to sell competitive newspapers without the publisher's consent.

Now, Mr. Speaker, what it is proposed to do here in this bill is to say that these newsboys and men who are on the corners shall not be entitled to social-security protection, when as a matter of fact they are employees in any sense you can possibly imagine.

Right now, Mr. Speaker, do you know anybody in this country who is more entitled to social-security protection than the men who sell newspapers on the corner and whose every act is directed by the publisher by whom he is employed? Those men need protection. Are we going to say that, as a class, these particular persons, because they work for a publisher, and the publisher is their employer, they shall have no protection under the social-security laws? That they shall have no protection under the unemployment laws of the country? Certainly, Mr. Speaker, that would not be the proper thing for this House to do. I know there is a false impression around that the Federal Security Agency and the Court, by its decision, are trying to affect newsboys who deliver papers to your door. That is not true at all. There are only comparatively few people who were declared by the Court and the Social Security Board to be employees in fact. Nobody ever attempted to take newsboys into the social-security laws. Nobody attempted to take these independent contractors who run newsstands and sell different newspapers and magazines and candy and peanuts and things like that, under the social-security laws, unless the publisher exercised the controls that the Hearst Corporation maintained in this case. Nobody has ever attempted to bring them under the social-security law because they are recognized under the basic law as independent contractors. If you take the action proposed here, you are saying that these newspaper vendors who are actually employees shall not have the protection that other employees in this country are entitled to.

Mr. BUSBEY. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I am trying to state the facts, Mr. Speaker, as held by the Court, and all this talk we have heard about the Social Security Board's trying to take newsboys in is absolutely not the truth and not the fact.

I yield to the gentleman from Illinois.

Mr. BUSBEY. The gentleman from Pennsylvania has made a very fine plea for the vendors, but I wonder if he has any proof that the vendors themselves want this so-called social-security coverage?

Mr. EBERHARTER. As the gentleman knows, social-security protection is mandatory. The law states that whoever is an employee must pay social-security taxes and his employer must pay social-security taxes. Are you going to waive the act as to a certain group of employers because these employees say they do not want this coverage, this Social Security protection? Do not forget there are many employers in this country who would like to evade the tax; but the fundamental basis of this legislation is, and it is public policy, that every employee must be protected by social security, and therefore we should not take into consideration the fact that some employees say they do not want the protection. That is a matter of public policy which this country has adopted, in social security; that is the basis on which we must go.

Mr. BUSBEY. Mr. Speaker, will the gentleman yield further?

Mr. EBERHARTER. I have only 2 minutes left; I cannot yield, I am sorry.

This legislation, Mr. Speaker, has not been given the consideration it deserves. On one Friday evening for about an hour and a half there were public hearings on this measure. It was scarcely debated in the committee. Only a few minutes' consideration was given to it and then the statement went out all over the country and to the membership of the House that the Social Security Board was trying to take in newsboys. That is not the fact. The President is right in this instance, absolutely right. If you vote to

override the President's veto and his position then you are yielding to the chiselers and yielding to the misrepresentation that has been made.

Mr. Speaker, the gentleman from California himself states that some men handle many different types of magazines and newspapers and are not employees. But they are not taken in by the Supreme Court decision or the lower court decision as a general rule. But whenever a publisher hires a man and sets out everything that the man is allowed to do, sets out a minimum wage, bargains with a union as to working conditions, that man is entitled to social-security protection. Keep in mind that the publisher contracted with a union labor organization as to whether the news vendors would be permitted to sell anything else unless the publisher agreed to it. What more do you want to make a person an employee? I do not think we ought to start here in this Eightieth Congress and chisel away a part of what has been considered the finest step in social legislation ever enacted by any Congress. We passed the fundamental law in 1935. We excluded all those boys who were under 18 years of age. This bill does not refer to those at all, it refers to actual employees.

Mr. Speaker, I trust that this House will vote to sustain the President's veto on the facts and on the real issue.

Mr. GEARHART. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. LYNCH].

Mr. LYNCH. Mr. Speaker, I am going to vote for this bill, the President's veto notwithstanding. I believe that this legislation is vitally necessary because otherwise we are going to get into a great deal of unnecessary litigation trying to determine who of all these publishers of magazines and newspapers and other articles of merchandise are the ones who will be supposed to pay the employers' part of the social security tax. Inquiry has been made as to the difference between this bill and House Joint Resolution 296. I voted against House Joint Resolution 296 for the reason that that resolution sought to take out from under social security thousands upon thousands of people who had already paid social security taxes. This bill, on the other hand, endeavors to put in under social security news vendors who heretofore have never paid any social security tax whatsoever. To me there is a substantial difference. And, furthermore, to my mind the news vendor is an independent contractor.

Let me put the proposition to you as we see it in New York from the point of view of the news vendor. In New York City a news vendor must get a license from the city in order to sell newspapers or magazines or other articles on the streets. It is clear to me that that in itself makes the licensee from the city an independent contractor. He gets papers from maybe a half dozen newspaper-publishing companies, from a dozen or more magazine companies, razor blades, and what not from other organizations, and he carries on an independent business of his own.

To show that they have always been recognized, and are still recognized, as independent contractors, even by the Treasury Department, there has been no attempt on the part of the Treasury Department to have the publishers deduct the withholding tax from the news vendors. When you have one branch of our Government recognizing that withholding taxes are not necessary because the news vendors, in its opinion, are independent contractors, and you have another branch of the Government, not by legislative fiat but by court decree, saying that for the first time after all these years news vendors over the age of 18 are to be considered as employees, under the circumstances I say it is time for us to clarify the legislation.

The point has been raised that these news vendors would be without protection, but that is not correct. If you will recall, the gentleman from Connecticut [Mr. MILLER] raised the point the other day in the discussion on House Joint Resolution 296. I told him at that time that these people can be covered by social security if we go about it in the right way, and that is to cover them as self-employed persons, which we are now considering in the committee.

Mr. JACKSON of Washington. Mr. Speaker, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from Washington.

Mr. JACKSON of Washington. There is one thing that troubles me in connection with the pending bill. Suppose the Congress should pass a law making it possible for self-employed people to come under the provisions of the Social Security Act. In that event who would determine whether they are employees in a given case or they are self-employed?

Mr. LYNCH. It would appear to me in that particular case that in the definition of "self-employed" we must set forth precisely what we mean.

Mr. JACKSON of Washington. Would we not be right back where we are right now?

Mr. LYNCH. No.

Mr. JACKSON of Washington. In other words, we would have to have the Court decide it unless we could draft language in such a way that the definitions of "employee," "employer," and "self-employed" could be made unmistakably clear.

Mr. LYNCH. I think that as between the two definitions of "self-employed" and "employee" and the third definition of "employer" there could be but very, very few people who could possibly escape from social security under those circumstances.

Mr. JACKSON of Washington. I agree with the gentleman that they should all be covered, but the question is who is going to pay the tax? The Court would have to decide again whether they are self-employed or whether they are employees.

Mr. LYNCH. I think insofar as that definition is concerned as to self-employers, such a definition should and could be properly written out.

Mr. REDDEN. Mr. Speaker, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from North Carolina.

Mr. REDDEN. Under the holding of the Court in the case now before us, it seems to me that you might have 100 or more employers. For instance, if he had a separate contract with a news dealer and with 100 different magazine dealers, fruit dealers, and so forth, he might be classified as an employee of all of them.

Mr. LYNCH. That is correct.

Mr. REDDEN. I wonder how it would be possible to ever collect the tax or determine who should pay?

Mr. LYNCH. I think the gentleman is quite correct, and I think it would be utterly impossible to determine who of the employers would pay the tax.

Mr. GARY. Mr. Speaker, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from Virginia.

Mr. GARY. Is it true that under the case which this legislation is designed to correct, that the vendor in that case sold papers and magazines for more than one employer?

Mr. LYNCH. As I remember under this particular case there was only the one newspaper involved, and whether or not other papers were sold, it seems to me, is not altogether involved, for this reason, that although he may have been restricted to one newspaper, he still could sell other articles besides newspapers.

Mr. GARY. Did he sell magazines and other articles besides the newspapers for one newspaper company?

Mr. LYNCH. He did not, as I recollect the case. In this particular instance, as I understand, that was the only paper in that particular community that was involved.

Mr. GARY. Did he sell other articles besides that one paper, or did he just sell the one paper and that paper alone, and no other articles?

Mr. LYNCH. There was nothing before the committee as to what this particular individual had done. There was testimony insofar as others were concerned. The theory of this legislation was not only with respect to those who are under a contract with that employer, such as the Hearst publications in this particular case, but it was felt that that was an opening wedge that would force all newspaper vendors in under social security, and for that reason it was determined that it would probably be better to clarify the situation to exclude those news vendors as entrepreneurs. As I say, vendors under 18 years of age are presently excluded, and it was felt that that could be clarified later on.

Mr. BREHM. Mr. Speaker, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from Ohio.

Mr. BREHM. According to the telegrams read by the gentleman from California, of those who would come under the provisions of this act, news vendors have requested that they not be brought under. Should the Congress attempt to force something on them which they themselves state that they do not want?

Mr. LYNCH. Insofar as that is concerned, let me say to the gentleman from Ohio, as the gentleman from Pennsylvania [Mr. EBERHARTER] has said, social security is not a matter that is to be considered only from the viewpoint of those who want to come under it. There

are certain circumstances when an election should be given, and, generally speaking, the theory of social security has been that it should be compulsory.

Mr. BREHM. Is it not true that the union representing these vendors has requested that they not be brought under this legislation? Should we not consider the wishes of those whom this legislation would affect?

Mr. LYNCH. Before the committee we did not consider the point of view of the union whatsoever, for the reason that no testimony was brought up with respect to it.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. GEARHART. Mr. Speaker, I yield the gentleman two additional minutes.

Mr. Speaker, if the gentleman will yield, in reference to the discussion just a few moments ago as to the number of newspapers involved in the San Francisco case, I will say that there were four: The San Francisco Examiner, the San Francisco Chronicle, the San Francisco Call-Bulletin and the San Francisco News. In addition to that they handled various magazines and other merchandise.

Mr. LYNCH. When I said one newspaper I intended to say it was one publisher that was involved, although I am not quite so certain as to that fact.

Mr. GARY. That is what I should like to ask the gentleman, if there was more than one publisher involved although there was more than one newspaper involved.

Mr. GEARHART. The suits were against the San Francisco Examiner and the San Francisco Chronicle. The other two papers stood by and awaited the decision. The newspaper vendors who were involved in the first two suits were also selling the papers of the two evening newspapers.

Mr. GARY. They were different publishers?

Mr. GEARHART. Each newspaper had its own publisher before, and the newspaper vendors had relations with each one of these publishers.

Mr. SPENCE. Mr. Speaker, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from Kentucky.

Mr. SPENCE. Would not the newspaper vendors who joined the American Federation of Labor consider themselves employees? If they were independent contractors, could they join the union? Would they not have to consider themselves employees before the American Federation of Labor would permit them to join?

Mr. LYNCH. It has never been customary to determine whether a person is employed because he or she belongs to a labor union.

Mr. JENISON. Mr. Speaker, it is my desire to concur wholeheartedly with my distinguished colleague, the gentleman from California, Hon. B. W. GEARHART, in urging the Members of the House to vote overwhelmingly to override President Truman's veto of H. R. 5052, a bill to exclude newspaper vendors from the provisions of the Social Security Act. Congressman GEARHART has presented the issue so completely and so clearly there is no need for me to amplify it. I desire to emphasize endorsement of his attitude from a background of 20 years' experience in the daily newspaper publishing field. Further, I would like to speak on behalf of my associates in the field of newspaper publishing who are unanimous in their feeling that the bill should be passed to correct court decisions carrying the Social Security Act far afield from the legislative intent of the Congress and into a field where administration of the act would be impossible and the benefits nil.

I would like to call the attention of my colleagues to a communication I have received from Joe M. Bunting, outstanding newspaper executive, who is general manager of the Bloomington, Ill., Daily Pantagraph and president of the Inland Daily Newspaper Association, embracing in its membership the daily newspapers of the entire middle western area. Mr. Bunting says:

BLOOMINGTON, ILL., *April 7, 1948.*

Hon. E. H. JENISON,
House Office Building:

Appreciate your assistance in securing help from other Members of Congress in overriding veto H. R. 5052 designed to protect newspapers from keeping social-security records and paying social-security taxes on newspaper vendors. In veto message the President completely passed over arguments as to independent contractor status of vendors and the well-nigh impossible bookkeeping problem for publishers raised by adverse Federal district court decision. Your help in overriding veto will be greatly appreciated.

JOE M. BUNTING,
President, Inland Daily Press Association.

Further, I invite your attention to an editorial appearing in the current issue of Editor and Publisher, leading trade journal of the daily newspaper field. It reads:

GEARHART RESOLUTION

In passing the Social Security Act Congress had no intention of altering the status of employees in industry. And yet through court decisions the act has been interpreted as covering independent contractors as if they were employees. The Commissioner of Internal Revenue has proposed definitions of "employee," in line with Supreme Court dicta, which in effect will eliminate all independent contractors. A House resolution, written by Congressman GEARHART, now before the Senate would halt the action of the Internal Revenue Department in enforcing these new definitions. However, if the Presidential veto of the Gearhart bill exempting news vendors is sustained the resolution must be dropped.

As is pointed out by the American Newspaper Publishers Association, many firmly established independent contractor relationships will be changed into employer-employee status under the new definitions. Affected will be newspaper vendors, deliverers, and distributors; truckers of newsprint; columnists and feature writers; correspondents; photo-engraving shops operated by others, etc. Other industries will be similarly affected. Industries will be forced to "withhold" social security taxes for persons who have never been on the pay roll and who have operated their own businesses. Independent distributors, wholesalers, and retailers will be involved.

It is not difficult to envisage the confusion that will be created if Congress does not halt this trend.

As has been pointed repeatedly and accurately, passage of H. R. 5052 in no wise indicates a desire to restrict the proper expansion of social security into every proper field. Rather it limits only unwarranted and unjustified expansion by court interpretation rather than by properly considered legislative action. It will be remembered H. R. 5052 passed the House of Representatives after thorough consideration by unanimous consent of the membership. I trust the House will see fit to do so again, the Presidential veto notwithstanding.

Mr. GEARHART. Mr. Speaker, I have no further requests for time. I therefore move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The question was taken; and there were—yeas 308, nays 28, answered "present" 1, not voting 93, as follows:

[Roll No. 44]

YEAS—308

Abbitt	Coudert	Harvey
Abernethy	Cox	Havenner
Albert	Cravens	Hays
Allen, Calif.	Crawford	Hebert
Allen, La.	Crow	Hedrick
Almond	Curtis	Hendricks
Andersen, H. Carl	Dague	Herter
Anderson, Calif.	Davis, Ga.	Heselton
Andresen, August H.	Davis, Tenn.	Hess
Andrews, Ala.	Davis, Wis.	Hill
Andrews, N. Y.	Dawson, Utah	Hinshaw
Angell	Deane	Hobbs
Arends	Devitt	Hoeven
Arnold	D'Ewart	Hoffman
Auchincloss	Dirksen	Holmes
Banta	Dolliver	Hope
Barrett	Domengeaux	Horan
Bates, Mass.	Dondero	Jenison
Beall	Donohue	Jennings
Beckworth	Dorn	Jensen
Bender	Doughton	Johnson, Calif.
Bennett, Mich.	Douglas	Johnson, Ill.
Bennett, Mo.	Durham	Johnson, Ind.
Blackney	Ellis	Johnson, Okla.
Bland	Elsworth	Johnson, Tex.
Bloom	Elsaesser	Jones, Ala.
Boggs, Del.	Elston	Jones, N. C.
Bonner	Engel, Mich.	Jones, Wash.
Bradley	Evins	Jonkman
Bramblett	Fallon	Judd
Brehm	Fellows	Kean
Brooks	Fenton	Kearney
Brophy	Fernandez	Keating
Brown, Ga.	Fisher	Kee
Brown, Ohio	Fletcher	Keefe
Bryson	Folger	Keogh
Buck	Foote	Kerr
Buckley	Fuller	Kersten, Wis.
Buffett	Fulton	Kilburn
Burke	Gallagher	Kilday
Burleson	Gamble	King
Busbey	Gary	Knutson
Butler	Gathings	Kunkel
Byrnes, Wis.	Gavin	Landis
Camp	Gearhart	Lane
Canfield	Gillette	Lanham
Cannon	Goff	Latham
Carson	Goodwin	Lea
Case, N. J.	Gore	LeCompte
Case, S. Dak.	Gossett	LeFevre
Chadwick	Graham	Lemke
Chelf	Grant, Ind.	Lewis
Chenoweth	Gregory	Lichtenwalter
Clason	Griffiths	Lodge
Clevenger	Gwinn, N. Y.	Love
Clippinger	Gwynne, Iowa	Lucas
Coffin	Hagen	Ludlow
Cole, Kans.	Hale	Lyle
Cole, Mo.	Hall, Edwin Arthur	Lynch
Combs	Hall, Leonard W.	McConnell
Cooley	Halleck	McCowen
Cooper	Hardy	McDonough
Corbett	Harness, Ind.	McDowell
Cotton	Harris	McGarvey
		McGregor
		McMahon

McMillan, S. C.	Pickett	Short
Mack	Plumley	Simpson, Pa.
MacKinnon	Poage	Smathers
Macy	Potter	Smith, Kans.
Mahon	Potts	Smith, Ohio
Maloney	Poulson	Smith, Va.
Martin, Iowa	Preston	Smith, Wis.
Mason	Priest	Snyder
Mathews	Ramey	Somers
Meade, Ky.	Rankin	Stanley
Merrow	Redden	Stefan
Meyer	Reed, N. Y.	Stevenson
Michener	Rees	Stockman
Miller, Conn.	Reeves	Sundstrom
Miller, Md.	Regan	Taber
Mills	Rich	Talle
Mitchell	Richards	Tibbott
Monroney	Riley	Tollefson
Morris	Rizley	Towe
Morrison	Robertson	Trimble
Muhlenberg	Rockwell	Van Zandt
Mundt	Rogers, Fla.	Vinson
Murray, Wis.	Rogers, Mass.	Vorys
Nicholson	Rohrbough	Vursell
Nixon	Ross	Wadsworth
Nodar	Russell	Walter
Norblad	Sadlak	Weichel
O'Brien	St. George	Wheeler
O'Hara	Sanborn	Whittington
O'Konski	Schwabe, Mo.	Wigglesworth
Pace	Schwabe, Okla.	Wilson, Ind.
Passman	Scoblick	Wilson, Tex.
Patman	Scott, Hardie	Winstead
Patterson	Scott,	Wolcott
Peden	Hugh D., Jr.	Wolverton
Peterson	Scrivner	Woodruff
Philbin	Seely-Brown	Youngblood
Phillips, Calif.	Shafer	
Phillips, Tenn.	Sheppard	

NAYS—28

Bates, Ky	Huber	Mansfield
Blatnik	Hull	Marcantonio
Buchanan	Isacson	Multer
Byrne, N. Y.	Jackson, Wash.	Norton
Crosser	Javits	Powell
Delaney	Karsten, Mo.	Sadowski
Eberharter	Kelley	Sasscer
Forand	Kirwan	Spence
Garmatz	Klein	
Granger	Lesinski	

ANSWERED "PRESENT"—1

Hand

NOT VOTING—93

Allen, Ill.	Grant, Ala.	Owens
Bakewell	Gross	Pfeifer
Barden	Harless, Ariz.	Ploeser
Battle	Harrison	Price, Fla.
Bell	Hart	Price, Ill.
Bishop	Hartley	Rains
Boggs, La.	Heffernan	Rayburn
Bolton	Holifield	Reed, Ill.
Boykin	Jackson, Calif.	Riehlman
Bulwinkle	Jarman	Rivers
Carroll	Jenkins, Ohio	Rooney
Celler	Jenkins, Pa.	Sabath
Chapman	Kearns	Sarbacher
Chiperfield	Kefauver	Sikes
Church	Kennedy	Simpson, Ill.
Clark	Larcade	Smith, Maine
Cole, N. Y.	Lusk	Stigler
Colmer	McCormack	Stratton
Courtney	McCulloch	Taylor
Cunningham	McMillen, Ill.	Teague
Dawson, Ill.	Madden	Thomas, N. J.
Dingell	Manasco	Thomas, Tex.
Eaton	Meade, Md.	Thompson
Elliott	Miller, Calif.	Twyman
Engle, Calif.	Miller, Nebr.	Vail
Feighan	Morgan	Welch
Flannagan	Morton	West
Fogarty	Murdock	Whitten
Gillie	Murray, Tenn.	Williams
Gordon	Norrell	Wood
Gorski	O'Toole	Worley

So (two-thirds having voted in favor thereof) the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

On this vote:

Mr. Eaton and Mr. Reed of Illinois for, with Mr. Price of Illinois against.

Mr. Allen of Illinois and Mr. Gordon for, with Mr. Dingell against.

Mrs. Smith of Maine and Mr. Kefauver for, with Mr. Hart against.

Mr. Chiperfield and Mr. Harless of Arizona for, with Mr. Carroll against.

Mr. Williams and Mr. McMillen of Illinois for, with Mr. Morgan against.

Mr. Morton and Mr. Rivers for, with Mr. Heffernan against.

Mr. Grant of Alabama and Mr. Gorski for, with Mr. Fogarty against.

General pairs until further notice:

Mr. Jenkins of Ohio with Mrs. Lusk.

Mr. Kearns with Mr. Pfeifer.

Mr. Cole of New York with Mr. O'Toole.

Mrs. Bolton with Mr. Stigler.

Mr. Miller of Nebraska with Mr. Boggs of Louisiana.

Mr. Sarbacher with Mr. Whitten.

Mr. Simpson of Illinois with Mr. Holifield.

Mr. Riehlman with Mr. West.

Mr. Ploeser with Mr. Jarman.

Mr. Bishop with Mr. Colmer.

Mr. Bakewell with Mr. Boykin.

Mr. Gross with Mr. Larcade.

Mr. Stratton with Mr. Meade of Maryland.

Mr. Jenkins of Pennsylvania with Mr. Harrison.

Mr. Jackson of California with Mr. Battle.

Mr. Gillie with Mr. Sikes.

Mr. Welch with Mr. Thomas of Texas.

Mr. Owens with Mr. Celler.

Mr. Hartley with Mr. Bulwinkle.

Mr. Church with Mr. Murdock.

Mr. Cunningham with Mr. Manasco.

Mr. Taylor with Mr. Dawson of Illinois.

Mr. Thomas of New Jersey with Mr. Barden.

Mr. Twyman with Mr. Rains.

Mr. Vail with Mr. Wood.

The result of the vote was announced as above recorded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House having proceeded to reconsider the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code, returned by the President of the United States, with his objections, to the House of Representatives, in which it originated, it was—

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EXCLUSION OF CERTAIN VENDORS OF NEWSPAPERS OR MAGAZINES FROM PROVISIONS OF SOCIAL SECURITY ACT AND INTERNAL REVENUE CODE—VETO MESSAGE (H. DOC. NO. 594)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read:

To the House of Representatives:

I am returning herewith, without my approval, H. R. 5052, a bill to exclude certain vendors of newspapers or magazines from certain provision of the Social Security Act and the Internal Revenue Code.

This bill is identical with H. R. 3997, which I declined to approve in August 1947.

This legislation has far greater significance than appears on the surface. It proposes to remove the protection of the social-security law from persons now entitled to its benefits. Thus, it raises the fundamental question of whether or not we shall maintain the integrity of our social-security system.

H. R. 5052 would remove social-security protection from news vendors who make a full-time job of selling papers and who are dependent on that job for their livelihood. Many vendors of newspapers are

excluded even at present from coverage under the Social Security Act because they are not employees of the publishers whose papers they sell. But some vendors work under arrangements which make them bona fide employees of the publishers and, consequently, are entitled to the benefits of the Social Security Act.

If enacted into law, this bill would make the social-security rights of these employees depend almost completely upon the form in which their employers might choose to cast their employment contracts. Employers desiring to avoid the payment of taxes which would be the basis for social-security benefits for their employees could do so by the establishment of artificial legal arrangements governing their relationship with their employees. It was this sort of manipulation which the Supreme Court effectively outlawed in June of 1947 when the Court unanimously declared that employment relationships under the social-security laws should be determined in the light of realities rather than on the basis of technical legal forms. I cannot believe that this sound principle announced by the Court should be disregarded, as it would be by the present bill.

The principal consideration offered in support of the bill appears to be a concern for the administrative difficulties of certain employers in keeping the necessary records and in collecting the employee contributions required by the social-security system. In appraising these difficulties, it should be recognized that the employers have control over the form of the employment contracts and the methods by which their salesmen are compensated. The salesmen are dependent upon the employers, and whatever remittances or reports are required for withholding and reporting purposes should be within each employer's reach. Certainly, the difficulties involved are not so formidable as to warrant the exclusion of these employees from coverage in the social-security system and the consequent destruction of their benefit rights and those of their dependents.

It is said that the news vendors affected by this bill could more appropriately be covered by the social-security law as independent contractors, when and if coverage is extended to the self-employed. Whether that is true or not, surely they should continue to receive the benefits to which they are now entitled until the broader coverage is provided. It would be most inequitable to extinguish their present rights pending a determination as to whether it is more appropriate for them to be covered on some other basis.

In withholding my approval from H. R. 3997 last August, I expressed my concern that such a bill would open our social-security structure to piecemeal attack and to slow undermining. That concern was well founded. The House of Representatives has recently passed a joint resolution which would destroy the social-security coverage of several hundred thousand additional employees. As in the case of H. R. 5052, the joint resolution passed by the House is directed toward upsetting the doctrine established by the Supreme Court last summer that employment relationship should be determined on the basis of realities. The present bill must be appraised, therefore, as but one step in a larger process of the erosion of our social-security structure.

The security and welfare of our Nation demand an expansion of social security to cover the groups which are now excluded from the program. Any step in the opposite direction can only serve to undermine the program and destroy the confidence of our people in the permanence of its protection against the hazards of old age, premature death, and unemployment.

For these reasons, I am compelled to return H. R. 5052 without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *April 5, 1948.*

Mr. MILLIKIN. I move that the message and the bill lie on the table.

The motion was agreed to.

EXCLUSION OF CERTAIN NEWSPAPER OR MAGAZINE VENDORS FROM CERTAIN PROVISIONS OF THE SOCIAL SECURITY ACT AND THE INTERNAL REVENUE CODE—VETO MESSAGE

Mr. MILLIKIN obtained the floor.

Mr. WHERRY. Mr. President, will the Senator yield to me so I may make a unanimous-consent request?

Mr. MILLIKIN. I yield.

Mr. WHERRY. I ask unanimous consent that the Senate proceed to the reconsideration of House bill 5052.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nebraska?

There being no objection, the Senate proceeded to reconsider the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code, returned by the President on April 6, 1948, without his approval, and passed by the House, on reconsideration, on April 14, 1948.

The PRESIDENT pro tempore. The veto message has heretofore been read. The question before the Senate is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. MILLIKIN. 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 anwered to their names:

Aiken	Fulbright	McKellar
Baldwin	George	Malone
Ball	Green	Martin
Barkley	Gurney	Maybank
Brewster	Hatch	Millikin
Bricker	Hayden	Moore
Bridges	Hickenlooper	Morse
Brooks	Hill	Murray
Buck	Hoey	Myers
Bushfield	Holland	O'Conor
Butler	Ives	O'Daniel
Byrd	Jenner	Overton
Cain	Johnson, Colo.	Pepper
Capehart	Johnston, S. C.	Reed
Capper	Kem	Revercomb
Chaves	Kilgore	Robertson, Va.
Cordon	Knowland	Robertson, Wyo.
Donnell	Langer	Saltonstall
Downey	Lodge	Stennis
Dworshak	Lucas	Stewart
Eastland	McCarran	Taft
Ecton	McCarthy	Thomas, Utah
Ellender	McClellan	Thye
Ferguson	McFarland	Tobey
Flanders	McGrath	Tydings

Umstead	Wherry	Williams
Vandenberg	White	Wilson
Watkins	Wiley	Young

Mr. WHERRY. I announce that the Senator from Kentucky [Mr. COOPER] is absent by leave of the Senate on official business.

The senior Senator from New Jersey [Mr. HAWKES] is necessarily absent.

The junior Senator from New Jersey [Mr. SMITH] is absent on official business.

Mr. LUCAS. I announce that the Senator from Texas [Mr. CONNALLY] is absent because of illness.

The Senator from Washington [Mr. MAGNUSON] and the Senator from Alabama [Mr. SPARKMAN] are absent by leave of the Senate.

The Senator from Wyoming [Mr. O'MAHONEY], the Senator from Georgia [Mr. RUSSELL], and the Senator from Idaho [Mr. TAYLOR] are absent on public business.

The Senator from Connecticut [Mr. MCMAHON] and the Senator from Oklahoma [Mr. THOMAS] are absent on official business.

The Senator from New York [Mr. WAGNER] is necessarily absent.

The PRESIDENT pro tempore. Eighty-four Senators having answered to their names, a quorum is present.

The parliamentary situation is as follows: the business before the Senate is the Presidential veto of House bill 5052, a bill to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.

The question before the Senate is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The Constitution requires that the vote be by yeas and nays.

Mr. BARKLEY. Mr. President, has the message been read?

The PRESIDENT pro tempore. The message was read when it was laid before the Senate on a previous day.

Mr. MILLIKIN. Mr. President, the issue here is whether the Congress shall sustain the decision which it has already made: namely, to exclude from social security the newspaper and magazine vendors. Both Houses of Congress have decided that they should be excluded. The bill went to the President, and the President vetoed it. I think that in common understanding, newspaper and magazine vendors are not employees of the publishers. Many Members of the Senate at some time or other in their lifetimes have sold newspapers or magazines, and from their own experiences they know that a vendor of newspapers or of magazines to the ultimate purchaser is not in fact an employee. That was rather well recognized as a matter of law until the latter part of 1946, when a decision of a Federal district court in the northern district of California held that the newspaper vendors involved in the case there being considered were employees and therefore were entitled to coverage. Since that time the social-security aspects of magazine and newspaper distribution have been in a state of extreme confusion and uncertainty.

Mr. President, the social-security system was intended to apply to employees. There is strong sentiment in Congress, I believe, to extend the coverage to persons in self-employment, to independent contractors, to professional people, and to other persons not now included. I may remind the Senate that the Senate Finance Committee is receiving the benefit of the advice of a very distinguished council of citizens selected from all over the United States as to how our social-security system can be improved. The Senate Finance Committee now has before it the first report of that council; and I may say that the recommendations deal with coverage for independent contractors, self-employed persons, and also other persons who are clearly employees, but who now do not have coverage.

I believe it is a great mistake to mutilate the social-security system in the fanciful judicial or administrative constructions of the word "employee." If we wish to bring into that system people who are in twilight zones or who heretofore have clearly not been considered as employees, let us bring them in by legislation for that specific purpose.

As a practical matter, Mr. President, this tax is not collectible on the type of newspaper vendors and magazine vendors I have described.

The act excludes from coverage an individual who sells newspapers or magazines who at the time of the sale to the ultimate consumer, sells, under an arrangement under which the sale is made, at a fixed price, whose compensation is based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, and whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

I invite attention to the fact that we are not reaching basic distributors, wholesalers, those who take the newspapers and the magazines to the person who finally sells them to the ultimate purchaser.

At the hearing before the House committee, a witness testified as follows:

1. The tax is not collectible. The Social Security and Federal Unemployment Tax Acts require that "the employee of taxpayer shall deduct the amount of the tax from the wages as and when paid."

Street vendors buy and pay the publishers for newspapers at wholesale rates and sell them at retail rates. All payments are made from the vendors to the publishers. Consequently, making no payments, the publisher can make no withholding or give an accurate computation of tax. No law or regulation authorizes a collection except by withholding.

2. It is impossible to obtain the data necessary for determining the tax. To appreciate this fully it is necessary to understand the operation as it generally involves the vendors.

Mr. President, I think what I am about to read will coincide with the direct observation of Senators:

Each day when the first edition of a newspaper comes off the press it is delivered by employees of the publisher, known as wholesalers, to the vendors. Each vendor is charged with the number of papers delivered to him. As each subsequent edition is released during the day the process is repeated. From time to time during the day or at the end of the day's selling period, the wholesalers pick up any unsold papers from the vendors and collect the wholesale price of all papers not returned.

Frequently wholesalers' working shifts do not correspond with the working periods of the vendors, so that a vendor will deal with one wholesaler during a portion of the day and with another during the rest of the day.

Moreover, editions often follow each other so closely that different wholesalers must handle them—the first man cannot make his deliveries and get back before the next one goes out.

Naturally, then, neither of the wholesalers knows the total number of papers handled by the vendor during the day.

It is generally customary for one vendor to handle the newspapers of several publishers at the same time on his corner. For example, he will handle two morning or two evening papers. Of course, these vendors are served independently by the respective wholesalers of the papers being handled.

The practice of "off sales" also generally exists. An example will illustrate the "off sale."

The first editions of the morning papers appear on the streets during the evening while evening papers are still being sold. When later vendors of the evening papers leave their corners for the day, they turn over and sell the remainder of their evening papers to vendors of the morning papers.

The publishers of the morning papers have no part in this and no means of obtaining any information as to profits made by morning-paper vendors from the sale of these evening papers. The same sort of thing occurs when morning-paper vendors leave their corners for the day.

It was much easier for Judge Goodman to decide that these men were employees and not independent contractors than it is for publishers in practical operation to figure whose employees they are, how much they make, and who owes what to whom, and whose responsibility it is to report how much profits have been made even on transactions to which one is not a party at all. It sounds a little involved, and it is.

The profits of a vendor are neither uniform nor constant. Too many factors influence sales, such as weather, location, and news breaks, and so forth.

For example, the sale of papers on a corner in the financial district will be affected much more by news about the stock market than on a corner in a residential section. And so it follows that from corner to corner and from day to day the vendors' profits are never fixed, but always variable.

It is also well known that many vendors—

And, Mr. President, I am sure this statement will be confirmed by the observations of all of us—

sell things other than newspapers, such as candy, razor blades, gum, magazines, racing forms, and so forth. It would be rather impossible for a publisher to compute these profits, or at least unfair to ask him to do so.

As a matter of fact, the vendor handles the gum, candy, and so forth, on exactly the same basis as he handles the newspapers. How can anyone compute the relative withholding or taxpaying responsibility of the newspaper publisher or two or three more newspaper publishers and the candy maker, the gum manufacturer, the supplier of pencils, racing forms, and miscellaneous other merchandise?

I believe, from that rather brief recital, it is made clear how utterly impractical it is to apply the present withholding-tax provision to newspaper vendors or to magazine vendors.

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

Mr. MILLIKIN. I yield to the Senator.

Mr. AIKEN. Mr. President, I should like to ask the Senator from Colorado whether the men who stand outside hotels and theaters at night selling newspapers are vendors, or whether they are newsboys.

Mr. MILLIKIN. I suggest they can be termed either vendors or newsboys.

Mr. AIKEN. What is the difference between a vendor and a newsboy, assuming the vendor has no fixed place of business but stands on a street corner?

Mr. MILLIKIN. I do not see any difference. I may say also, as all Senators know, the Social Security Act excludes newsboys under the age of 18 years.

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

Mr. MILLIKIN. I yield.

Mr. REVERCOMB. The point made by the Senator is, I take it, that the vendor of papers, the newsboy, is not an employee within the meaning and intent of the Social Security Act.

Mr. MILLIKIN. That is correct.

Mr. REVERCOMB. The coverage of the Social Security Act is now under study by the Finance Committee of the Senate, of which the able Senator from Colorado is chairman, and of course if the question of coverage comes up with respect to independents, or men engaged independently in business, the subject would properly be taken up and considered by that committee under that head.

Mr. MILLIKIN. I agree entirely.

Mr. REVERCOMB. The point made by the Senator is that it has no place in the present act, and could have no place until the present act is properly amended respecting coverage.

Mr. MILLIKIN. I make two points: First, that under the ordinary conception of the term "employee," and I believe, under the legal conception of the term "employee" prior to the California decision which I have mentioned, a newspaper and magazine vendor is not an employee. Second, I make the point that, by reason of the circumstances which have been detailed, it is impracticable to bring such persons within the system, it being simply impossible to establish responsibility for the collection and payment of the withholding tax.

Mr. REVERCOMB. Mr. President, will the Senator further yield at that point?

Mr. MILLIKIN. I yield.

Mr. REVERCOMB. By the statement that it is impractical to bring certain persons within the system, I assume the Senator means it is impractical under the present law; but if the coverage were extended to independent business, we should then have a different situation as to coverage.

Mr. MILLIKIN. Exactly; and it would be on an entirely different basis.

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

Mr. MILLIKIN. I yield.

Mr. GEORGE. To what the Senator from Colorado has said I merely wish to add this particular observation. This matter has been twice before the Congress. It had been so troublesome for publishers of newspapers and magazines that it was presented to the Congress. The President vetoed last August a bill which both Houses had passed. This was the second appearance of the bill, and again the President vetoed it. At this time the House had overridden the President's veto.

I speak as one who has the friendliest interest in the vendors of newspapers and magazines, in that I can understand their desire, some of them, at least, to come under the Social Security System and receive social-security benefits. The distinguished chairman of the committee has correctly said that a group of very eminent men, gathered from all parts of the country, has been studying the whole Social Security System for some time. We are already advised that among their recommendations, and prominently among their recommendations, will be one calling especially for the extension of coverage to classes not now under social security, including the self-employed.

Beyond any doubt, the vendor of newspapers on the street corner or in the hotels or elsewhere who sells to the ultimate consumer is self-employed. He is selling merchandise. He buys it as merchandise, and he may or may not have the option of returning any unsold portions of the papers and magazines entrusted to him for sale. He is self-employed in every fair sense of the term. He is not an employed person within the original meaning of the Social Security Act.

The whole difficulty here arises because of the impatience of those now administering social security to extend the system by construction and by regulation rather than to give the Congress an opportunity of saying who is and who is not intended to be covered.

In this particular case it is practically impossible for the newspaper publisher to withhold anything from a vendor of newspapers sold on the street corners to whoever wishes to buy them. He does not even know in thousands of instances the name of the newspaper vendor. He has no idea of how many newspapers he sells or does not sell, except as it is based upon his own statement. If he returns the paper he may get credit; if he does not return them, he does not get credit, whether he has sold them, thrown them away, or used them for his own purposes. There is no money passing through the publisher's hands that belongs to the newspaper vendor. The publisher has nothing to withhold. The newspaper salesman may represent a half dozen different newspaper publishers, a group of magazine publishers, and a group of manufacturers of ordinary mercantile products. So there is no practical way of administering the law with respect to the ordinary newspaper vendor, whom the Social Security Board has by its regulations undertaken to bring within the system.

Solely for that reason, Mr. President, I shall vote to override the President's veto. It seems to me that when Congress twice passes upon a matter of this character it should be allowed to become law without further action. I am happy to say that I am voting to override because when we extend social security to include the self-employed, undoubtedly then the man who wishes to sell newspapers, or wheat, or corn, or what not, may be brought under the social-security system, but under a system that will enable the taxing authorities really and effectively to collect the tax.

EXCLUSION OF CERTAIN NEWSPAPER OR MAGAZINE VENDORS FROM CERTAIN PROVISIONS OF THE SOCIAL SECURITY ACT AND THE INTERNAL REVENUE CODE—VETO MESSAGE

The Senate resumed the reconsideration of the bill (H. R. 5052) to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and the Internal Revenue Code.

Mr. DOWNEY. Mr. President, it is my opinion, for whatever it may be worth to the Senate, that the veto of the President should be overridden.

During the past 2 or 3 days I have been reading the opinion of the court in this case, rendered at San Francisco; I have talked to certain representatives of the social-security system, and I have likewise talked to some newspaper boys and newspaper vendors. It is my measured opinion that for every dollar which might be collected by the Federal Government under a social-security tax against news vendors there would be several dollars spent in the effort, both by the Government as the collecting and enforcing agency, and by business itself.

I should like to mention the typical situation which is found at the intersection near where I live. There each of two newsboys, on opposite corners, sell both of our morning newspapers from about 6:30 in the morning until a quarter of 9. One of them is slightly past 17 years of age. He would not come under the proposed act, because under the basic Social Security Act all newsboys under 18 years of age are exempt, so the first boy would not come under the act, but someone would have to keep careful track to find when he did become 18 years of age.

The other boy is 18½ years of age, and has been selling papers for about a year, during 6 months of which he would have been under the act, if it had been applicable. He makes about a dollar a day, and will cease selling newspapers when he graduates from high school and goes to college next June.

If the Government should attempt to collect 2 cents a day of the dollar each boy makes, in my opinion it would be perfectly worthless to the young man, as I do not think he would ever get any benefit from it, and I believe it would cost the Government more to collect the 2 cents a day than the amount of money which would finally be accumulated.

At the same intersection is the opposite extreme. There a news vendor sells not only all the Washington newspapers, but 10 or 15 outside papers. He has contracts with the Washington newspapers, exactly the same kind the newsboys have. He has contracts with newspapers in New York, Baltimore, and Philadelphia, which, he tells me, have certain degrees of similarity and certain degrees of dissimilarity. In my opinion there would have to be a decision on every one of those contracts to determine whether or not the sale of the newspapers under those different contracts came under the Social Security Act.

This vendor sells other articles, under somewhat different kinds of contracts, all of which would have to be construed. He sells many of the established magazines and many other articles. His net income from selling newspapers is only 10 percent of his total income. He, like the two newsboys, is totally disinterested in any social-security coverage. He, like them, thinks it means absolutely nothing to him.

As to some of the news vendors, a license is required in certain cities. How does that affect the question of employment or lack of employment? In some cases the news vendor has a right to transfer his operations. What effect does that have on his status as an employee? In some cases he has the right to make a substitution. How does that affect the case?

In going over the myriad conditions of all the contracts, having carefully read the decision rendered in the Federal court at San Francisco, by a judge, by the way, whom I had the honor to recommend, I am convinced that literally years of litigation would be required to determine in what particular cases the act applies and in which it does not. While Judge Goodman's decision is an able and careful analysis of the legal aspects of the subject, it does not, of course, discuss or dispose of the administrative difficulties of enforcing that particular provision of the law. I am convinced that as to the great bulk of newspaper sales the ultimate holding, under the decision given, would be that the relationship of employer and employee does not exist.

I also talked with representatives of the social-security system. They have, today, absolutely no idea how they would attempt to apply the law, how they could collect the tax, to how many it should be applied, in what conditions it should be applied.

Mr. President, I shall vote reluctantly to override the Presidential veto on this social-security measure because I have an abiding confidence that the attempt to carry it out would result, not in any good, but in a great wasting of public funds.

The PRESIDENT pro tempore. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? Under the Constitution, the yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. WHERRY. I announce that the Senator from Kentucky [Mr. COOPER] is absent by leave of the Senate on official business. If present and voting, the Senator from Kentucky would vote "yea."

The senior Senator from New Jersey [Mr. HAWKES] is necessarily absent. If present and voting, the senior Senator from New Jersey would vote "yea."

The junior Senator from New Jersey [Mr. SMITH] is absent on official business. If present and voting, the junior Senator from New Jersey would vote "yea."

Mr. LUCAS. I announce that the Senator from Texas [Mr. CONNALLY] is absent because of illness

The Senator from Washington [Mr. MAGNUSON] and the Senator from Alabama [Mr. SPARKMAN] are absent by leave of the Senate.

The Senator from Wyoming [Mr. O'MAHONEY], the Senator from Georgia [Mr. RUSSELL], and the Senator from Idaho [Mr. TAYLOR] are absent on public business.

The Senator from Connecticut [Mr. MCMAHON] and the Senator from Oklahoma [Mr. THOMAS] are absent on official business.

The Senator from New York [Mr. WAGNER] is necessarily absent.

I announce further that if present and voting, the Senator from Texas [Mr. CONNALLY] would vote "yea."

The yeas and nays resulted—yeas 77, nays 7, as follows:

YEAS—77

Aiken	Gurney	Myers
Baldwin	Hatch	O'Conor
Ball	Hickenlooper	O'Daniel
Brewster	Hill	Overton
Bricker	Hoey	Reed
Bridges	Holland	Revercomb
Brooks	Ives	Robertson, Va.
Buck	Jenner	Robertson, Wyo.
Bushfield	Johnson, Colo.	Saltonstall
Butler	Johnston, S. C.	Stennis
Byrd	Kem	Stewart
Cain	Knowland	Taft
Capehart	Langer	Thomas, Utah
Capper	Lodge	Thye
Chavez	Lucas	Tobey
Cordon	McCarran	Tydings
Donnell	McCarthy	Umstead
Downey	McClellan	Vandenberg
Dworshak	McFarland	Watkins
Eastland	McKellar	Wherry
Ecton	Malone	White
Ellender	Martin	Wiley
Ferguson	Maybank	Williams
Flanders	Millikin	Wilson
Fulbright	Moore	Young
George	Morse	

NAYS—7

Barkley	Kilgore	Pepper
Green	McGrath	
Hayden	Murray	

NOT VOTING—12

Connally	Magnuson	Sparkman
Cooper	O'Mahoney	Taylor
Hawkes	Russell	Thomas, Okla.
McMahon	Smith	Wagner

The PRESIDENT pro tempore. On this question the yeas are 77, the nays 7. More than two-thirds of the Senators present having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

[PUBLIC LAW 492—80TH CONGRESS]

[CHAPTER 222—2D SESSION]

[H. R. 5052]

AN ACT

To exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 209 (b) (15) of the Social Security Act, as amended (U. S. C., 1940 edition, Supp. V, title 42, sec. 409 (b) (15)), and section 1426 (b) (15) of the Internal Revenue Code, as amended, are hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or".

(b) The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act shall be applicable with respect to services performed after the date of the enactment of this Act, and the amendment made to section 1426 (b) (15) of the Internal Revenue Code shall be applicable with respect to services performed after December 31, 1939.

SEC. 2. (a) Section 1607 (c) (15) of the Internal Revenue Code, as amended, is hereby amended to read as follows:

"(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

"(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;".

(b) The amendment made by subsection (a) shall be applicable with respect to services performed after December 31, 1939, and, as to services performed before July 1, 1946, shall be applied as if such amendment had been a part of section 1607 (c) (15) of the Internal Revenue Code as added to such code by section 614 of the Social Security Act Amendments of 1939.

SEC. 3. If any amount paid prior to the date of the enactment of this Act constitutes an overpayment of tax solely by reason of an amendment made by this Act, no refund or credit shall be made or allowed with respect to the amount of such overpayment.

JOSEPH W. MARTIN JR
Speaker of the House of Representatives.

A H VANDENBERG
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
April 14, 1948.

The House of Representatives having proceeded to reconsider the bill (H. R. 5052) entitled "An Act to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

JOHN ANDREWS
Clerk.

I certify that this Act originated in the House of Representatives.

JOHN ANDREWS
Clerk.

IN THE SENATE OF THE UNITED STATES,
April 20 (legislative day, March 29), 1948.

The Senate having proceeded to reconsider the bill (H. R. 5052) "An Act to exclude certain vendors of newspapers or magazines from certain provisions of the Social Security Act and Internal Revenue Code", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

CARL A. LOEFFLER
Secretary.

NATIONAL LABOR RELATIONS BOARD v. HEARST PUBLICATIONS, Inc.
(two cases).

SAME v. STOCKHOLDERS PUB. CO., Inc.

SAME v. TIMES-MIRROR CO.

Mr. Justice ROBERTS, dissenting.

On Writs of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit.

Separate cease and desist orders by the National Labor Relations Board against Hearst Publications, Incorporated, Stockholders Publishing Company, Inc., Hearst Publications, Incorporated, and the Times-Mirror Company were set aside by the Circuit Court of Appeals, 136 F.2d 608, and the National Labor Relations Board brings certiorari.

Judgments reversed and causes remanded for further proceedings not inconsistent with opinion.

Mr. Alvin J. Rockwell, of Washington, D. C., for petitioner.

Mr. John M. Hall, of Los Angeles, Cal., for respondent Hearst Publications, Inc., in No. 336.

Mr. Lewis B. Binford, of Los Angeles, Cal., for respondent Stockholders Pub. Co.

Mr. Edward L. Compton, of Los Angeles Cal., for respondent Hearst Publications, Inc., in No. 338.

Mr. T. B. Cosgrove, of Los Angeles, Cal., for respondent Times-Mirror Co.

Mr. Arthur W. A. Cowan, of Philadelphia, Pa., filed brief on behalf of International Printing Pressmen & Assistants' Union of North America, A. F. of L., as amicus curiae.

Mr. Justice RUTLEDGE delivered the opinion of the Court.

These cases arise from the refusal of respondents, publishers of four Los Angeles daily newspapers, to bargain collectively with a union representing newsboys who distribute their papers on the streets of that city. Respondents' contention that they were not required to bargain because the newsboys are not their "employees" within the meaning of that term in the National Labor Relations Act, 49 Stat. 450, 29 U.S.C. § 152, 29 U.S.C.A. § 152,[1] presents the important question which we granted certiorari[2] to resolve.

The proceedings before the National Labor Relations Board were begun with the filing of four petitions for investigation and certification[3] by Los Angeles Newsboys Local Industrial Union No. 75. Hearings were held in a consolidated proceeding[4] after which the Board made findings of fact and concluded that the regular full-time newsboys selling each paper were employees within the Act and that questions affecting commerce concerning the representation of employees had arisen. It designated appropriate units and ordered elections. 28 N.L.R.B. 1006.[5] At these the union was selected as their representative by majorities of the eligible newsboys. After the union was appropriately certified, 33 N.L.R.B. 941, 36 N.L.R.B. 285, the respondents refused to bargain with it. Thereupon proceedings under Section 10, 49 Stat. 453–455, 29 U.S.C. § 160, 29 U.S.C.A. § 160, were instituted, a hearing[6] was held and respondents were found to have violated Section 8(1) and (5) of the Act,

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[1] Section 2(3) of the Act provides that "The term 'employee' shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse."

[2] 320 U.S. 728, 64 S.Ct. 88.

[3] Pursuant to Section 9(b) and (c) of the Act, 49 Stat. 453, 29 U.S.C. § 159(b) and (c), 29 U.S.C.A. § 159(b, c).

[4] Although it treated the four representation petitions in one consolidated proceeding and disposed of them in one opinion, the Board did not consider evidence with respect to one publisher as applicable to any of the others.

[5] Subsequently those orders were amended in various details. 29 N.L.R.B. 94, 95; 30 N.L.R.B. 696, 697; 31 N.L.R.B. 697.

[6] The record in the representation proceeding was in effect incorporated in the complaint proceeding.

Decided April 24, 1944.
Rehearing Denied May 22, 1944.

49 Stat. 452, 453, 29 U.S.C. § 158(1), (5), 29 U.S.C.A. § 158(1, 5). They were ordered to cease and desist from such violations and to bargain collectively with the union upon request. 39 N.L.R.B. 1245, 1256.

Upon respondents' petitions for review and the Board's petitions for enforcement, the Circuit Court of Appeals, one judge dissenting, set aside the Board's orders. Rejecting

the Board's analysis, the court independently examined the question whether the newsboys are employees within the Act, decided that the statute imports common-law standards to determine that question, and held the newsboys are not employees. 136 F.2d 608.

The findings of the Board disclose that the Los Angeles Times and the Los Angeles Examiner, published daily and Sunday,[7] are morning papers. Each publishes several editions which are distributed on the streets during the evening before their dateline, between about 6:00 or 6:30 p.m. and 1:00 a.m., and other editions distributed during the following morning until about 10:00 o'clock. The Los Angeles Evening Herald and Express, published every day but Sunday, is an evening paper, which has six editions on the presses between 9:00 a. m. and 5:30 p.m.[8] The News, also published every day but Sunday, is a twenty-four hour paper with ten editions.[9]

The papers are distributed to the ultimate consumer through a variety of channels, including independent dealers and newsstands often attached to drug, grocery or confectionery stores, carriers who make home deliveries, and newsboys who sell on the streets of the city and its suburbs. Only the last of these are involved in this case.

The newsboys work under varying terms and conditions. They may be "bootjackers," selling to the general public at places other than established corners, or they may sell

at fixed "spots." They may sell only casually or part-time, or full-time; and they may be employed regularly and continuously or only temporarily. The units which the Board determined to be appropriate are composed of those who sell full-time at established spots. Those vendors, misnamed boys, are generally mature men, dependent upon the proceeds of their sales for their sustenance, and frequently supporters of families. Working thus as news vendors on a regular basis, often for a number of years, they form a stable group with relatively little turnover, in contrast to schoolboys and others who sell as bootjackers, temporary and casual distributors.

Over-all circulation and distribution of the papers are under the general supervision of circulation managers. But for purposes of street distribution each paper has divided metropolitan Los Angeles into geographic districts. Each district is under the direct and close supervision of a district manager. His function in the mechanics of distribution is to supply the newsboys in his district with papers which he obtains from the publisher and to turn over to the publisher the receipts which he collects from their sales, either directly or with the assistance of "checkmen" or "main spot" boys.[10] The latter, stationed at the important corners or "spots" in the district, are newsboys who, among other things, receive delivery of the papers, redistribute them to other newsboys stationed at less important corners, and collect receipts from their sales.[11] For that service, which occupies a minor portion

of their working day, the

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[7] The Times' daily circulation is about 220,000 and its Sunday circulation is about 368,000. The Examiner's daily circulation is about 214,000 and its Sunday circulation is about 566,000.

[8] The Herald has a circulation of about 243,000. Both it and the Examiner are owned by Hearst Publications, Inc.

[9] The News has a circulation of about 195,000. Its first three and seventh editions are consigned for the most part to route delivery or suburban dealers. Its fourth edition, which goes to press at 2:45 a. m., is sold in the city during the mornings. The remaining editions, which go to press at regular intervals between 9:50 a. m and 5:00 p. m., are sold in the city during the afternoons.

[10] The Examiner, The Herald, and The News all employ "main spot" boys or checkmen; the Times does not.

[11] The Times district managers deliver the papers directly to the newsboys and collect directly from them. On the other papers district managers may deliver bundles of papers to the checkmen or directly to the newsboys themselves. The Times customarily transports its newsboys to

checkmen receive a small salary from the publisher.[12] The bulk of their day, however, they spend in hawking papers at their "spots" like other full-time newsboys. A large part of the appropriate units selected by the Board for the News and the Herald are checkmen who, in that capacity, clearly are employees of those papers.

The newsboys' compensation consists in the difference between the prices at which they sell the papers and the prices they pay for them. The former are fixed by the publishers and the latter are fixed either by the publishers or, in the case of the News, by the district manager.[13] In practice the newsboys receive their papers on credit. They pay for those sold either sometime during or after the close of their selling day, returning for credit all unsold papers.[14] Lost or otherwise unreturned papers, however, must be paid for as though sold. Not only is the "profit" per paper thus effectively fixed by the publisher, but substantial control of the newsboys' total "take home" can be effected through the ability to designate their sales areas and the power to determine the number of papers allocated to each. While as a practical matter this power is not exercised fully, the newsboys' "right" to decide how many papers they will take is also not absolute. In practice, the Board found, they cannot determine the size of their established order without the cooperation of the district manager. And often the number of papers they must take is determined unilaterally by the district managers.

In addition to effectively fixing the compensation, respondents in a variety of ways prescribe, if not the minutiae of daily activities, at least the broad terms and conditions of work. This is accomplished largely through the supervisory efforts of the district managers, who serve as the nexus between the publishers and the newsboys.[15] The district managers assign "spots" or corners to which the newsboys are expected to confine their selling activities.[16] Transfers from one "spot" to another may be ordered by the district manager for reasons of discipline or efficiency or other cause. Transportation to the spots from the newspaper building is offered by each of respondents. Hours of work on the spots are determined not simply by the impersonal pressures of the market, but to a real extent by explicit instructions from the district managers. Adherence to the prescribed hours is observed closely by the district managers or other supervisory agents of the publishers. Sanctions, varying in severity from reprimand to dismissal,

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their "spots" from the Times building, where they first report and pick up their papers. The other respondents offer similar transportation to those of their newsboys who desire it.

[12] In the case of the Examiner these "main spot" boys, although performing services similar to those of checkmen, are less closely knit to the publisher and sometimes receive no compensation for their services.

[13] See infra, note 15.

[14] Newsboys selling the Herald in one residential area do not receive credit for all unsold papers.

[15] Admittedly the Times, Examiner, and Herald district managers are employees of their respective papers. While the News urged earnestly that its managers are not its employees, the Board found otherwise. They do not operate on a formal salary basis but they receive guaranteed minimum payments which the Board found are "no more than a fixed salary bearing another label." And while they, rather than the publisher, fix the price of the paper to the newsboy, the Board found, on substantial evidence, that they function for the News in specified districts, distribute racks, aprons, advertising placards from the News to the newsboys, give instructions as to their use, supervise the redistributing activities of the checkmen (themselves clearly employees of the News), and hand out News checks to the checkmen for their services. On this and other evidence suggesting that however different may be their formal arrangements, News district managers bear substantially the same relation to the publisher on one hand and the newsboys on the other as do the other district managers, the Board concluded that they were employees of the paper.

[16] Although from time to time these "spots" are bought and sold among the vendors themselves, without objection by district managers and publishers, this in no way negates the need for the district managers' implicit approval of a spotholder or their authority to remove vendors from their "spots" for reasons of discipline or efficiency.

are visited on the tardy and the delinquent. By similar supervisory controls minimum standards of diligence and good conduct while at work are sought to be enforced. However wide may be the latitude for individual initiative beyond those standards, district managers' instructions in what the publishers apparently regard as helpful sales technique are expected to be followed. Such varied items as the manner of displaying the paper, of emphasizing current features and headlines, and of placing advertising placards, or the advantages of soliciting customers at specific stores or in the traffic lanes are among the subjects of this instruction. Moreover, newsboys are furnished with sales equipment, such as racks, boxes and change aprons, and advertising placards by the publishers. In this pattern of employment the Board found that the newsboys are an integral part of the publishers' distribution system and circulation organization. And the record discloses that the newsboys and checkmen feel they are employees of the papers and respondents' supervisory employees, if not respondents themselves, regard them as such.

In addition to questioning the sufficiency of the evidence to sustain these findings, respondents point to a number of other attributes characterizing their relationship with the newboys[17] and urge that on the entire

record the latter cannot be considered their employees. They base this conclusion on the argument that by common-law standards the extent of their control and direction of the newsboys' working activities creates no more than an "independent contractor" relationship and that common-law standards determine the "employee" relationship under the Act. They further urge that the Board's selection of a collective bargaining unit is neither appropriate nor supported by substantial evidence.[18]

I.

The principal question is whether the newsboys are "employees." Because Congress did not explicitly define the term, respondents say its meaning must be determined by reference to common-law standards. In their view "common-law standards" are those the courts have applied in distinguishing between "employees" and "independent contractors" when working out various problems unrelated to the Wagner Act's purposes and provisions.

The argument assumes that there is some simple, uniform and easily applicable test which the courts have used, in dealing with such problems, to determine whether persons doing work for others fall in one class or the other. Unfortunately this is not true. Only by a long and tortuous history was the simple formulation worked out which has been stated most frequently as "the test" for deciding whether one who hires another is responsible in tort for his wrongdoing.[19] But this formula has been by no means

exclusively

controlling in the solution of other problems. And its simplicity has been illusory

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[17] E. g., that there is either no evidence in the record to show, or the record explicitly negatives, that respondents carry the newsboys on their payrolls, pay "salaries" to them, keep records of their sales or locations, or register them as "employees" with the Social Security Board, or that the newsboys are covered by workmen's compensation insurance or the California Compensation Act. Furthermore, it is urged the record shows that the newsboys all sell newspapers, periodicals and other items not furnished to them by their respective publishers, assume the risk for papers lost, stolen or destroyed, purchase and sell their "spots," hire assistants and relief men and make arrangements among themselves for the sale of competing or left-over papers.

[18] They have abandoned here the contention, made in the circuit court, that the Act does not reach their controversies with the newsboys because they do not affect commerce.

[19] The so-called "control test" with which common-law judges have wrestled to secure precise and ready applications did not escape the difficulties encountered in borderland cases by its reformulation in the Restatement of the Law of Agency § 220. That even at the common law the control test and the complex of incidents evolved in applying it to distinguish an "employee" from an "independent contractor," for purposes of vicarious liability in tort, did not necessarily have the same significance in other contexts, compare Lumley v. Guy [1853] El. & Bl. 216, and see also the cases collected in 21 A.L.R. 1229 et seq.; 23 A.L.R. 984 et seq.

because it is more largely simplicity of formulation than of application. Few problems in the law have given greater variety of application and conflict in results than the cases arising in the borderland between what is clearly an employer-employee relationship and what is clearly one of independent entrepreneurial dealing.[20] This is true within the limited field of determining vicarious liability in tort. It becomes more so when the field is expanded to include all of the possible applications of the distinction.

It is hardly necessary to stress particular instances of these variations or to emphasize that they have arisen principally, first, in the struggle of the courts to work out common-law liabilities where the legislature has given no guides for judgment,[21] more recently also under statutes which have posed the same problem for solution in the light of the enactment's particular terms and purposes.[22]

It is enough to point out that, with reference to an identical problem, results may be contrary over a very considerable region of doubt in applying the distinction, depending upon the state or jurisdiction where the determination is made;[23] and that within a single jurisdiction a person who, for instance, is held to be an "independent contractor" for the purpose of imposing vicarious liability in tort may be an "employee" for the purposes of particular legislation, such as unemployment compensation. See, e.g., Globe Grain & Milling Co. v. Industrial Commn., 98 Utah 36, 91 P.2d 512. In short, the assumed simplicity and uniformity, resulting from application of "common-law standards," does not exist.

Mere reference to these possible variations as characterizing the application of the Wagner Act in the treatment of persons identically situated in the facts surrounding their employment and in the influences tending to disrupt it, would be enough to require pause before accepting a thesis which would introduce them into its administration. This would be true, even if the statute itself had indicated less clearly than it does the intent they should not apply.

Two possible consequences could follow. One would be to refer the decision of who are employees to local state law. The alternative would be to make it turn on a sort of pervading general essence distilled from state law. Congress obviously did not intend the former result. It would introduce variations into the statute's operation as wide as the differences the forty-eight states and other local jurisdictions make in applying the distinction for wholly different purposes. Persons who might be "employees" in one state would be "independent contractors" in another. They would be

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20 See, e. g., Stevens, The Test of the Employment Relation (1939) 38 Mich.L. Rev. 188; Steffen, Independent Contractor and the Good Life (1935) 2 U. of Chi. L.Rev. 501; Leidy, Salesmen as Independent Contractors (1938) 28 Mich.L. Rev. 365; N. Y. Law Revision Commission Report, 1939 (1939) Legislative Document No. 65(K).

21 See note 20 supra.

22 Compare, e. g., McKinley v. R. L. Payne & Son Lumber Co., 200 Ark. 1114, 143 S.W.2d 38; Industrial Comm. v. Northwestern Mutual Life Ins. Co., 103 Colo. 550, 88 P.2d 560; Schomp v. Fuller Brush Co., 124 N.J.L. 487, 12 A.2d 702; In re Schomp, 126 N.J.L. 368, 19 A.2d 780; Unemployment Compensation Comm. v. Jefferson Standard Life Ins. Co. 215 N.C. 479, 2 S.E.2d 584; Singer Sewing Machine Co. v. State Unemployment Compensation Comm., 167 Or. 142, 103 P. 2d 708, 116 P.2d 744, 138 A.L.R. 1398, with McCain v. Crossett Lumber Co., Ark., 174 S.W.2d 114; Hill Hotel Co. v. Kinney, 138 Neb. 760, 295 N.W. 397; Washington Recorder Pub. Co. v. Ernst, 199 Wash. 176, 91 P.2d 718, 124 A.L.R. 667; Wisconsin Bridge & Iron Co. v. Industrial Comm., 233 Wis. 467, 290 N.W. 199. See generally Wolfe, Determination of Employer-Employee Relationships in Social Legislation (1941) 41 Col. L.Rev. 1015. And see note 23 infra.

23 Compare Stockwell v. Morris, 46 Wyo, 1, 22 P.2d 189, with Auer v. Sinclair Refining Co., 103 N.J.L. 372, 137 A. 555, 54 A.L.R. 623; Schomp v. Fuller Brush Co., 124 N.J.L. 487, 12 A.2d 702; In re Schomp, 126 N.J.L. 368, 19 A.2d 780, with Fuller Brush Co. v. Industrial Comm., 99 Utah 97, 104 P.2d 201, 129 A.L.R. 511; Stover Bedding Co. v. Industrial Comm., 99 Utah 423, 107 P.2d 1027, 134 P.2d 1006, with Maltz v. Jackoway-Katz Cap Co., 336 Mo. 1000, 82 S. W.2d 909.

within or without the statute's protection depending not on whether their situation falls factually within the ambit Congress had in mind, but upon the accidents of the location of their work and the attitude of the particular local jurisdiction in casting doubtful cases one way or the other. Persons working across state lines might fall in one class or the other, possibly both, depending on whether the Board and the courts would be required to give effect to the law of one state or of the adjoining one, or to that of each in relation to the portion of the work done within its borders.

[1, 2] Both the terms and the purposes of the statute, as well as the legislative history, show that Congress had in mind no such patchwork plan for securing freedom of employees' organization and of collective bargaining. The Wagner Act is federal legislation, administered by a national agency, intended to solve a national problem on a national scale. Cf. e.g., Sen. Rep. No. 573, 74th Cong., 1st Sess. 2-4. It is an Act, therefore, in reference to which it is not only proper, but necessary for us to assume, "in the absence of a plain indication to the contrary, that Congress * * * is not making the application of the federal act dependent on state law." Jerome v. United States, 318 U.S. 101, 104, 63 S.Ct. 483, 485, 87 L.Ed. 640. Nothing in the statute's background, history, terms or purposes indicates its scope is to be limited by such varying local conceptions, either statutory or judicial, or that it is to be administered in accordance with whatever different standards the respective states may see fit to adopt for the disposition of unrelated, local problems. Consequently, so far as the meaning of "employee" in this statute is concerned, "the federal law must prevail no matter what name is given to the interest or

right by

state law." Morgan v. Commissioner, 309 U.S. 78, 81, 626, 60 S.Ct. 424, 426, 84 L. Ed. 585, 1035; cf. National Labor Relations Board v. Blount, 131 F.2d. 585 (C.C.A.).

II.

[3] Whether, given the intended national uniformity, the term "employee" includes such workers as these newsboys must be answered primarily from the history, terms and purposes of the legislation. The word "is not treated by Congress as a word of art having a definite meaning * * *." Rather "it takes color from its surroundings * * * [in] the statute where it appears," United States v. American Trucking Associations, Inc., 310 U.S. 534, 545, 60 S.Ct. 1059, 1065, 84 L.Ed. 1345, and derives meaning from the context of that statute, which "must be read in the light of the mischief to be corrected and the end to be attained." South Chicago Coal & Dock Co. v. Bassett, 309 U.S. 251, 259, 60 S.Ct. 544, 549, 84 L.Ed. 732; cf. New Negro Alliance v. Sanitary Grocery Co., 303 U.S. 552, 304 U.S. 542, 58 S.Ct. 703, 82 L.Ed. 1012; Milk Wagon Drivers' Union Local No. 753 v. Lake Valley Farm Products, Inc., 311 U.S. 91, 61 S.Ct. 122, 85 L.Ed. 63.

Congress, on the one hand, was not thinking solely of the immediate technical relation of employer and employee. It had in mind at least some other persons than those standing in the proximate legal relation of employee to the particular employer involved in the labor dispute.[24] It cannot be taken, however, that the purpose was to include all other persons who may perform service for another or was to ignore entirely legal classifications made for other purposes. Congress had in mind a wider field than the narrow technical legal relation of "master and servant," as the common law had worked this out in all its variations, and at the same time a narrower one than the entire area of rendering service to others. The question comes down therefore to how much was included of the intermediate

region between what is clearly and unequivocally "employment," by any appropriate test, and what is as clearly entrepreneurial enterprise and not employment.

It will not do, for deciding this question as one of uniform national application, to import wholesale the traditional common-law conceptions or some distilled essence of their local variations as exclusively controlling limitations upon the scope of the statute's effectiveness. To do this would be merely to select some of the local, hair-line variations for nation-wide application and thus to reject others for coverage under the Act. That result hardly would be

[24] Cf. notes 28–30 infra and text.

consistent with the statute's broad terms and purposes.

Congress was not seeking to solve the nationally harassing problems with which the statute deals by solutions only partially effective. It rather sought to find a broad solution, one that would bring industrial peace by substituting, so far as its power could reach, the rights of workers to self-organization and collective bargaining for the industrial strife which prevails where these rights are not effectively established. Yet only partial solutions would be provided if large segments of workers about whose technical legal position such local differences exist should be wholly excluded from coverage by reason of such differences. Yet that result could not be avoided, if choice must be made among them and controlled by them in deciding who are "employees" within the Act's meaning. Enmeshed in such distinctions, the administration of the statute soon might become encumbered by the same sort of technical legal refinement as has characterized the long evolution of the employee-independent contractor dichotomy in the courts for other purposes. The consequences would be ultimately to defeat, in part at least, the achievement of the statute's objectives. Congress no more intended to import this mass of technicality as a controlling "standard" for uniform national application than to refer decision of the question outright to the local law.

The Act, as its first section states, was designed to avert the "substantial obstructions to the free flow of commerce" which result from "strikes and other forms of industrial strife or unrest" by eliminating the causes of that unrest. It is premised on explicit findings that strikes and industrial strife themselves result in large measure from the refusal of employers to bargain collectively and the inability of individual workers to bargain successfully for improvements in their "wages, hours, or other working conditions" with employers who are "organized in the corporate or other forms of ownership association." Hence the avowed and interrelated purposes of the Act are to encourage collective bargaining and to remedy the individual worker's inequality of bargaining power by "protecting the exercise * * * of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." 49 Stat. 449, 450, 29 U.S.C.A. § 151.

The mischief at which the Act is aimed and the remedies it offers are not confined exclusively to "employees" within the traditional legal distinctions separating them from "independent contractors." Myriad forms of service relationship, with infinite and subtle variations in the terms of employment, blanket the nation's economy. Some are within this Act, others beyond its coverage. Large numbers will fall clearly on one side or on the other, by whatever test may be applied. But intermediate there will be many, the incidents of whose employment partake in part of the one group, in part of the other, in varying proportions of weight. And consequently the legal pendulum, for purposes of applying the statute, may swing one way or the other, depending upon the weight of this balance and its relation to the special purpose at hand.

Unless the common-law tests are to be imported and made exclusively controlling, without regard to the statute's purposes, it cannot be irrelevant that the particular workers in these cases are subject, as a matter of economic fact, to the evils the statute was designed to eradicate and that the remedies it affords are appropriate for preventing them or curing their harmful effects in the special situation. Interruption of commerce through strikes and unrest may stem as well from labor disputes between some who, for other purposes, are technically "independent contractors" and their employers as from disputes between persons who, for those purposes, are "employees" and their employers. Cf. Milk Wagon Drivers' Union Local No. 753 v. Lake Valley Farm Products, Inc., 311 U.S. 91, 61 S.Ct. 122, 85 L.Ed. 63. Inequality of bargaining power in controversies over wages, hours and working conditions may as well characterize the status of the one group as of the other. The former, when acting alone, may be as "helpless in dealing with an employer," as "dependent * * * on his daily wage" and as "unable to leave the employ and to resist arbitrary and unfair treatment" as the latter. For each, "union * * *

[may be] essential to give * * * opportunity to deal on equality with their employer." [25] And for each, collective bargaining may be appropriate and effective for the "friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions." [26] 49 Stat. 449, 29 U.S.C.A. § 151. In

short, when the particular situation of employment combines these characteristics, so that the economic facts of the relation make it more nearly one of employment than of independent business enterprise with respect to the ends sought to be accomplished by the legislation, those characteristics may outweigh technical legal classification for purposes unrelated to the statute's objectives and bring the relation within its protections.

[4] To eliminate the causes of labor disputes and industrial strife, Congress thought it necessary to create a balance of forces in certain types of economic relationships. These do not embrace simply employment associations in which controversies could be limited to disputes over proper "physical conduct in the performance of the service." [27] On the contrary, Congress recognized those economic relationships cannot be fitted neatly into the containers designated "employee" and "employer" which an earlier law had shaped for different purposes. Its Reports on the bill disclose clearly the understanding that "employers and employees not in proximate relationship may be drawn into common controversies by economic forces," [28] and that the very disputes sought to be avoided might involve

"employees [who] are at times brought into an economic relationship with employers who are not their employers." [29] In this light, the broad language of the Act's definitions, which in terms reject conventional limitations on such conceptions as "employee," "employer," and "labor dispute," [30] leaves no doubt that its applicability is to be determined broadly, in doubtful situations, by underlying economic facts rather than technically and exclusively by previously established legal classifications. Cf. National Labor Relations Board v. Blount, supra.

[5] Hence "technical concepts pertinent to an employer's legal responsibility to third persons for the acts of his servants" have been rejected in various applications of this Act both here (International Association of Machinists v. National Labor Relations Board, 311 U.S. 72, 80, 81, 61 S.Ct. 83 88, 89, 85 L.Ed. 50; H. J. Heinz Co. v. National Labor Relations Board, 311

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[25] American Steel Foundries Co. v. Tri-City Central Trades Council. 257 U.S. 184, 209, 42 S.Ct. 72, 78, 66 L.Ed. 189, 27 A.L.R. 360, cited in H.R.Rep. No. 1147, 74th Cong., 1st Sess., 10; cf. Bakery & Pastry Drivers & Helpers Local 802 v. Wohl, 315 U.S. 769, 62 S.Ct. 816, 86 L. Ed. 1178.

[26] The practice of self organization and collective bargaining to resolve labor disputes has for some time been common among such varied types of "independent contractors" as musicians [How Collective Bargaining Works (20th Century Fund, 1942) 848-866; Proceedings of the 47th Annual Convention of the American Federation of Musicians (1942)], actors [see e. g. Collective Bargaining by Actors (1926) Bureau of Labor Statistics, Bulletin No. 402; Harding, The Revolt of the Actors (1929); Ross, Stars and Strikes (1941)], and writers [see, e. g., Rosten, Hollywood (1941); Ross, Stars and Strikes (1941) 48-63], and such atypical "employees" as insurance agents, artists, architects and engineers [see e. g., Proceedings of the 2d Convention of the UOPWA, C. I. O. (1938); Proceedings of the 3d Convention of the UOPWA, C. I. O. (1940); Handbook of American Trade Unions (1936); Bureau of Labor Statistics, Bull. No. 618, 291-293; Constitution and By-Laws of the IFTEAD of the A. F. L., 1942.]

[27] Control of "physical conduct in the performance of the service" is the traditional test of the "employee relationship" at common law. Cf., e. g., Restatement of the Law of Agency § 220(1).

[28] Sen. Rep. No. 573, 74th Cong., 1st Sess. 7.

[29] Sen. Rep. No. 573, 74th Cong., 1st Sess. 6.

[30] Cf. Phelps Dodge Corp. v. National Labor Relations Board, 313 U.S. 177, 61 S.Ct. 845, 85 L.Ed. 1271, 133 A.L.R. 1217; and compare Milk Wagon Drivers Union Local No. 753 v. Lake Valley Farm Products Co., 311 U.S. 91, 61 S.Ct. 122, 85 L.Ed. 63, with Sen. Rep. No. 573, 74th Cong., 1st Sess. 7.

U.S. 514, 520, 521, 61 S.Ct. 320, 323, 85 L.Ed. 309) [31] and in other federal courts (National Labor Relations Board v. Condenser Corporation of America, 3 Cir., 128 F.2d 67; North Whittier Heights Citrus Ass'n v. National Labor Relations Board, 9 Cir., 109 F.2d 76, 82; National Labor Relations Board v. Blount, supra). There is no good reason for invoking them to restrict the scope of the term "employee" sought to be done in this case. That term, like other provisions, must be understood with reference to the purpose of the Act and the facts involved in the economic relationship.[32] "Where all the conditions of the relation require protection, protection ought to be given." [33]

It is not necessary in this case to make a completely definitive limitation around the term "employee." That task has been assigned primarily to the agency created by Congress to administer the Act. Determination of "where all the conditions of the relation require protection" involves inquiries for the Board charged with this duty. Everyday experience in the administration of the statute gives it familiarity with the circumstances and backgrounds of employment relationships in various industries, with the abilities and needs of the workers for self organization and collective action, and with the adaptability of collective bargaining for the peaceful settlement of their disputes with their employers. The experience thus acquired must be brought frequently to bear on the question who is an employee under the Act. Resolving that question, like determining whether unfair labor practices have been committed, "belongs to the usual administrative routine" of the Board.[34] Gray v. Powell, 314 U.S. 402, 411, 62 S.Ct. 326, 332, 86 L.Ed. 301. Cf. National Labor Relations Board v. Standard Oil Co., 7 Cir., 138 F.2d 885, 887, 888.

[6-8] In making that body's determinations as to the facts in these matters conclusive, if supported by evidence, Congress entrusted to it primarily the decision whether the evidence establishes the material facts. Hence in reviewing the Board's ultimate conclusions, it is not the court's function to substitute its own inferences of fact for the Board's, when the latter have support in the record. National Labor Relations Board v. Nevada Consolidated Copper Corp., 316 U.S. 105, 62 S.Ct. 960, 86 L.Ed. 1305; cf. Walker v. Altmeyer, 2 Cir., 137 F.2d 531. Undoubtedly questions of statutory interpretation, especially when arising in the first instance in judicial proceedings, are for the courts to resolve, giving appropriate weight to the judgment of those whose special duty is to administer the questioned statute. Norwegian Nitrogen Products Co. v. United States, 288 U.S. 294, 53 S.Ct. 350, 77 L.Ed. 796; United States v. American Trucking Associations, Inc., 310 U.S. 534, 60 S.Ct. 1059, 84 L.Ed. 1345. But where the question is one of specific application of a broad statutory term in a proceeding in which the agency administering the statute must determine it initially, the reviewing court's function is limited. Like the commissioner's determination under the Longshoremen's & Harbor Workers' Act,[35] that a man is not a "member of a crew" (South Chicago Coal & Dock Co. v. Bassett, 309 U.S. 251, 60 S.Ct. 544, 547, 84 L. Ed. 732) or that he was injured "in the course of his employment" (Parker v. Motor Boat Sales, Inc., 314 U.S. 244, 62 S. Ct. 221, 222, 86 L.Ed. 184) and the Federal Communications Commission's determination [36] that one company is under the

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31 Compare National Labor Relations Board v. Waterman S. S. Corp., 309 U.S. 206, 60 S.Ct. 493, 84 L.Ed. 704; Phelps Dodge Corp. v. National Labor Relations Board, 313 U.S. 177, 61 S.Ct. 845, 85 L. Ed. 1271, 133 A.L.R. 1217.

32 Cf. South Chicago Coal & Dock Co. v. Bassett, 309 U.S. 251, 60 S.Ct. 544, 84 L.Ed. 732; Lehigh Valley Coal Co. v. Yensavage, 218 F. 547, 552 (C. C. A.)

33 Lehigh Valley Coal Co. v. Yensavage, 2 Cir., 218 F. 547, 552.

34 E. g., Matter of Metro-Goldwyn-Mayer Studios, 7 N.L.R.B. 662, 686-690; Matter of KMOX Broadcasting Station, 10 N.L.R.B. 479; Matter of Interstate Granite Corp., 11 N.L.R.B. 1046; Matter of Sun Life Ins. Co., 15 N.L.R.B. 817; Matter of Kelly Co., 34 N.L.R.B. 325; Matter of John Yasek, 37 N.L.R.B. 156.

35 44 Stat. 1424, 33 U.S.C. § 901 et seq., 33 U.S.C.A. § 901 et seq.

36 Under § 2(b) of the Communications Act of 1934, 48 Stat. 1064, 1065, 47 U.S. C. § 152(b), 47 U.S.C.A. § 152(b).

"control" of another (Rochester Telephone Corp. v. United States, 307 U.S. 125, 59 S.Ct. 754, 83 L.Ed. 1147), the Board's determination that specified persons are "employees" under this Act is to be accepted if it has "warrant in the record" and a reasonable basis in law.

[9] In this case the Board found that the designated newsboys work continuously and regularly, rely upon their earnings for the support of themselves and their families, and have their total wages influenced in large measure by the publishers who dictate their buying and selling prices, fix their markets and control their supply of papers. Their hours of work and their efforts on the job are supervised and to some extent prescribed by the publishers or their agents. Much of their sales equipment and advertising materials is furnished by the publishers with the intention that it be used for the publisher's benefit. Stating that "the primary consideration in the determination of the applicability of the statutory definition is whether

> effectuation of the declared policy and purposes of the Act comprehend securing to the individual the rights guaranteed and protection afforded by the Act,"

the Board concluded that the newsboys are employees. The record sustains the Board's findings and there is ample basis in the law for its conclusion.

III.

[10] The Board's selection of the collective bargaining units also must be upheld. The units chosen for the News and the Herald consist of all full-time [37] newsboys and checkmen engaged to sell the papers in Los Angeles. Bootjackers, temporary, casual and part-time [38] newsboys are excluded. The units designated for the Times and the Examiner consist of newsboys selling at established spots [39] in Los Angeles [40] four or more hours per day five or more days per week, except temporary newsboys.[41]

The Board predicated its designations in part upon the finding that the units included, in general, men who were responsible workers, continuously and regularly employed as vendors and dependent upon their sales for their livelihood,

> while schoolboys and transient or casual workers were excluded.

The discretion which Congress vested in the Board to determine an appropriate unit is hardly overstepped by the choice of a unit based on a distinction so clearly consistent with the need for responsible bargaining. That the Board's selection emphasizes difference in tenure rather than function is, on this record certainly, no abuse of discretion.

[11] Nor is there substance in the objection that the Board's designations on the one hand fail to embrace all workers who in fact come within the responsible or stable full-time category generically stated, and on the other hand fail to exclude all who in fact come within the schoolboy or more volatile part-time category. The record does not suggest that the units designated, at least so far as Los Angeles newsboys are concerned, do not substantially effectuate the Board's theory or embrace a large portion of those who would make up a stable bargaining group based on responsible tenure and full-time work. In these matters the Board cannot be held to mathematical precision. If it chooses to couch its orders in terms which for good reasons it regards effective to accomplish its stated ends, peripheral or hypothetical deviations will not defeat an otherwise appropriate order.

Another objection urged by the Times,

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37 Full-time newsboys for the Herald includes those who regularly sell to the public five or more editions five or more days per week. Full-time newsboys for the News includes those who regularly sell to the general public the fifth, sixth, eighth, ninth and tenth, or the sixth, eighth, ninth and tenth editions five or more days per week, or the fourth and earlier editions for at least four hours daily between 4:00 a. m. and 10:00 a. m. five days per week.

38 Part-time newsboys for the Herald means those selling less than five editions daily or for less than five days per week.

39 Established spots are corners at which newsboys sold those papers for at least five or more days per week during at least six consecutive months.

40 Glendale is included in the Times unit.

41 Temporary newsboys are those selling for less than thirty-one consecutive days.

the Herald and the Examiner is to the Board's exclusion of suburban newsboys[42] from the units on the ground they were not organized by the union. The Board found that although all vendors in metropolitan Los Angeles were eligible for membership, the union had not been extended to the suburban groups generally and that no other labor organization was seeking to represent respondents' employees. There is no suggestion either that the union deliberately excluded suburban newsboys who sought admission or that suburban newsboys have displayed any interest in collective bargaining or self-organization.

[12] Wide variations in the forms of employee self-organization and the complexities of modern industrial organization make difficult the use of inflexible rules as the test of an appropriate unit. Congress was informed of the need for flexibility in shaping the unit to the particular case[43] and accordingly gave the Board wide discretion in the matter. Its choice of a unit is limited specifically only by the requirement that it be an "employer unit, craft unit, plant unit, or subdivision thereof" and that the selection be made so as "to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act." Pittsburgh Plate Glass Co. v. National Labor Relations Board, 313 U.S. 146, 61 S.Ct. 908, 912, 85 L.Ed. 1251. The flexibility which Congress thus permitted has characterized the Board's administration of the section and has led it to resort to a wide variety of factors in case-to-case determination of the appropriate unit.[44] Among the considerations to which it has given weight is the extent of organization of the union requesting certification or collective bargaining. This is done on the expressed theory that it is desirable in the determination of an appropriate unit to render collective bargaining of the company's employees an immediate possibility.[45] No plausible reason is suggested for withholding the benefits of the Act from those here seeking it until a group of geographically separated employees becomes interested in collective bargaining. In the circumstances disclosed by this record we cannot say the Board's conclusions are lacking in a "rational basis."

The judgments are reversed and the causes are remanded for further proceedings not inconsistent with this opinion.

Mr. Justice REED concurs in the result. He is of the opinion that the test of coverage for employees is that announced by the Board in the matter of Stockholders Publishing Company, Inc., and Los Angeles Newsboys Local Industrial Union No. 75, C. I. O., and other similar cases, decided January 9, 1941, 28 N. L. R. B. 1006, 1022, 1023.

Reversed and remanded.

Mr. Justice ROBERTS.

I think the judgment of the Circuit Court of Appeals should be affirmed. The opinion of that court reported in 136 F.2d 608, seems to me adequately to state the controlling facts and correctly to deal with the question of law presented for decision. I should not add anything were it not for certain arguments presented here and apparently accepted by the court.

I think it plain that newsboys are not "employees" of the respondents within the meaning and intent of the National Labor Relations Act. When Congress, in § 2(3), 29 U.S.C.A. § 152(3), said: "The term 'employee' shall include any employee, * * *" it stated as clearly as language could do it that the provisions of the Act were to ex-

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42 Except newsboys selling the Times in Glendale.

43 Hearings before Committee on Education and Labor on S. 1958, 74th Cong., 1st Sess. 83.

44 E. g., see First Annual Report of the National Labor Relations Board 112–120; Second Annual Report of the National Labor Relations Board 122–140; Third Annual Report of the National Labor Relations Board 156–197; Fourth Annual Report of the National Labor Relations Board 82–97; Fifth Annual Report of the National Labor Relations Board 63–72; Sixth Annual Report of the National Labor Relations Board 63–71.

45 Matter of Gulf Oil Corp., 4 N.L.R.B. 133.

tend to those who, as a result of decades of tradition which had become part of the common understanding of our people, bear the named relationship. Clearly also Congress did not delegate

to the National Labor Relations Board the function of defining the relationship of employment so as to promote what the Board understood to be the underlying purpose of the statute. The question who is an employee, so as to make the statute applicable to him, is a question of the meaning of the Act and, therefore, is a judicial and not an administrative question.

I do not think that the court below suggested that the federal courts sitting in the various states must determine whether a given person is an employee by application of either the local statutes or local state decisions. Quite the contrary. As a result of common law development, many prescriptions of federal statutes take on meaning which is uniformly ascribed to them by the federal courts, irrespective of local variance. Funk v. United States, 290 U.S. 371, 54 S.Ct. 212, 78 L.Ed. 369, 93 A.L.R. 1136. This court has repeatedly resorted to just such considerations in defining the very term "employee" as used in other federal statutes, as the opinion of the court below shows. There is a general and prevailing rule throughout the Union as to the indicia of employment and the criteria of one's status as employee. Unquestionably it was to this common, general, and prevailing understanding that Congress referred in the statute and, according to that understanding, the facts stated in the opinion below, and in that of this court, in my judgment, demonstrate that the newsboys were not employees of the newspapers.

It is urged that the Act uses the term in some loose and unusual sense such as justifies the Board's decision because Congress added to the definition of employee above quoted these further words: "and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, * * *." The suggestion seems to be that Congress intended that the term employee should mean those who were not in fact employees, but it

is perfectly evident, not only from the provisions of the Act as a whole but from the Senate Committee's Report, that this phrase was added to prevent any misconception of the provisions whereby employees were to be allowed freely to combine and to be represented in collective bargaining by the representatives of their union. Congress intended to make it clear that employee organizations did not have to be organizations of the employees of any single employer. But that qualifying phrase means no more than this and was never intended to permit the Board to designate as employees those who, in traditional understanding, have no such status.

HEARST PUBLICATIONS, Inc., v. UNITED STATES.

CHRONICLE PUB. CO. v. UNITED STATES (four cases).

Nos. 25228–25231.

District Court, N. D. California, S. D.

Dec. 31, 1946.

Four consolidated actions by Hearst Publications, Incorporated, a corporation, and the Chronicle Publishing Company, a corporation, against the United States of America to secure a refund of insurance contributions and unemployment taxes collected from the plaintiffs for taxable periods within the years 1937–1940 on compensation received by vendors of the plaintiffs' publications on the streets of San Francisco, on ground that the vendors were not plaintiffs' employees.

Judgment for defendant in all four cases.

GOODMAN, District Judge.

By these four actions, consolidated for trial, plaintiff newspaper publishers seek refund of insurance contributions and unemployment taxes collected from them, for taxable periods within the years 1937–1940, upon the compensation received by vendors of their publications on the streets of the City of San Francisco who, it is claimed by plaintiffs, were not their employees. The single issue to be here determined is the status of these vendors during that period. If their relationship to plaintiffs was one of employment within the purport of the applicable statutes, Social Security Act, Title VIII and Title IX, 42 U.S.C.A. §§ 1001–1110; Federal Insurance Contributions Act, 26 U.S.C.A. Int.Rev.Code, §§ 1400–1432; Federal Unemployment Tax Act, 26 U.S.C.A. Int.Rev.Code, §§ 1600–1611, the taxes were properly imposed; otherwise not.

The Facts.

Plaintiffs are owners and publishers of daily newspapers circulated primarily in San Francisco; a substantial portion of this circulation is effected through street sales by the news vendors whose status is here in issue. During all of the period here involved, (1937–1940) except from April, 1937 to August, 1937, plaintiff publishers and their vendors were governed in their relationship by successive written contracts between the San Francisco Newspaper Publishers' Association, as the publishers' representatives, and the Newspaper and Periodical Vendors' and Distributors' Union No. 468 representing the vendors. (The latter is a labor union chartered by the American Federation of Labor.) Three such written contracts were negotiated during the pertinent taxable period, in 1937, 1939 and 1940. However all the contracts are admittedly similar in such of their terms as are here material. And al-

70 F. Supp. 666
168 F.2d 751 affirmed
without opinion

though there was no written agreement between publishers and vendors from April 1937 to August 1937, their relationship was akin to that established by the succeeding written contracts, except for the exercise of a greater degree of control by the publishers over activities of the vendors in matters which were thereafter settled by the terms of the negotiated contracts.

The facts bearing on the relationship between publishers and vendors as fixed by contract and as appearing from their actual operations during the period here involved are these:

The vendors were engaged by the publishers to sell newspapers at particular street locations. Prior to 1939, such vendors would apply directly to the publishers for assignment to any vacant street corner. After 1939, the union contracts required that vendors be selected by the publishers from a list of available vendors furnished them on request by the vendors' union. The street sales locations were situated at corners characterized as full time corners, part time corners, special wrapped edition corners and special event corners. (There were also roving vendors called bootjackers who sell papers at large.) Such locations were designated, limited, changed, discontinued or re-established entirely at the publishers' discretion and in order to coincide with changing public demand. Prior to the first contract of August 1937, the services of a vendor were terminable at the will of the publisher. Thereafter, a vendor once engaged to sell at a particular location, was entitled by each of the successive contracts, to man that location so long as it was maintained by the publisher, unless there should arise just cause for the discontinuance of further deliveries of papers to him (e. g. drunkenness, failure to appear for work, etc.) or for his transfer from one location to another, in which event the publisher was entitled to effect such discontinuance or transfer. If a vendor felt that his contract to sell at a particular location had been unjustly discontinued by the publisher, —that is, without cause,—he could have the matter submitted to and determined by arbitration.

The publishers fixed the so-called "retail" price at which the papers were to be sold publicly as well as the so-called "wholesale" price, which was the amount charged the vendors for papers delivered them for sale. Once fixed, these prices remained constant for the duration of the union contract then in force. The difference between the "wholesale" and "retail" price established by the publishers was the vendor's profit. But in addition thereto, he was guaranteed by contract a minimum weekly profit. The papers which he did not sell, he was privileged to return to the publisher and received credit therefor.

Within certain limits prescribed by contract, the publisher fixed for the various types of corner, the days and hours of sale, which were established to coincide with news releases, the public's reading habits and its concentration at particular locations at particular periods.

As each edition left the press, the papers were delivered to the vendors at their corners by employees of the publishers called "wholesalers." The quantity delivered did not rest in the vendor's discretion, but depended on what it was estimated the vendor, during the selling period, could dispose of at his location. Any disagreement as to the number of papers the vendor should take appeared to be a matter for settlement between the publisher and the union.

Prior to August 1937, the wholesaler gave orders to the vendors in matters connected with the performance of their duties and disciplined them for failure to comply. But after August 1937, the wholesalers exercised little direct control over the vendors, although they did make suggestions, observed the conduct of the vendors and reported misfeasances to the publisher. Their chief function was to deliver papers to the vendors at each edition time, survey their particular district between editions to see if more papers were needed at a particular sales location, or if surplus papers should be transferred from one to another such location. However, in case a wholesaler observed conduct of a vendor warranting dismissal, the evidence shows that the wholesaler would check-in the vendor before the end of the day's selling period. But any disciplining of news vendors, short of discontinuance of sales to them, was effected by union representatives.

In their sales to the public, the vendors were required to sell complete newspapers only, with sections in such order as was designated by the publishers. They were free to offer the papers for sale as they saw fit, except that they were expected to be at their corners at press release time, to stay there during the sales period, to be able to sell papers and to take an interest in selling papers.

The vendors had no expenses to bear and assumed no business risks except the risk of loss of papers delivered to them for sale and charged against them. They provided their own transportation to and from their sales locations. Some employed substitutes. They were not prohibited from selling non-competitive publications and other articles along with their newspaper sales, and some so did. (In 1937–1940 about 1/6 of the approximate 650 vendors were selling other articles and non-competitive publications.)

The vendors were not required to submit any form of report. There were no conferences or sales meetings which they were obliged to attend, nor was it necessary that they report to the publishers' premises for any purpose.

All advertising placards and display stands or racks were provided by the publisher and the vendors were forbidden to place anything on such stands or racks except newspapers.

In all of the contracts there was contained a clause declaring it to be the intent of the parties to maintain the relationship of seller and buyer between publisher and vendor and not an employer-employee relationship. The clause was inserted at the insistence of the publishers, the vendors agreeing because their primary concern was their economic betterment. They were disinterested in the designation of their status. They were also of the belief that in any event, their relationship with the publisher would not legally be regarded as that of employer-employee.

Discussion.

The Federal Social Security Statutes[1] do not themselves define the terms "employment," "employer," or "employee" beyond stating generally that the term "employment" means any service performed by an "employee" for his "employer." The interpretive regulations of the Treasury Department[2] adopt as their criteria the indicia of the employment relationship established by the common law. The regulations do not, —no more than does the common law,—[3] adopt any test factor or factors as complete proof of the presence or absence of the employment relationship. They and the common law which they follow, have left ample room within the pattern they have set, for extensive or restrictive development through the judicial interpretive process, to meet changing and varying circumstances. This seems clear to me, because it is evident from a study of the decisions interpreting the term "employment" in Social Security legislation, that, by and large, many courts essentially adhere to common law doctrines in reaching a desired result, while at the same time they ostensibly repudiate these doctrines in favor of newer and yet incompletely defined precepts.

The plaintiffs, pointing to the Treasury Department's interpretive regulations and to language used in federal and state court decisions, insist that common law tests control; wherefore, they argue, there is no employment relationship here present. In substantiation they point to factors in each case which, under common law principles, are "indicia" (but indicia, alone) of an independent contract relationship.

The United States contends that common law tests are not controlling, developed as they were in connection with the imposition of vicarious liability in tort and for other unrelated purposes. It advances the doctrine that in view of the broad humanitarian objectives of the national social security laws, the term "employment" as there used must be interpreted to refer to any

[1] Social Security Act, 42 U.S.C.A. §§ 1107, 1011; Federal Insurance Contributions Act, 26 U.S.C.A. Int.Rev.Code, § 1426(b); Federal Unemployment Tax Act, 26 U.S.C.A. Int.Rev.Code, § 1607 (c).

[2] Treas.Reg. 91 Art. 3; Treas.Reg. 90 Art. 205; Treas.Reg. 106, Sec. 402.204; Treas.Reg. 107 Sec. 403.204.

[3] Restatement of the Law of Agency C. 7, sec. 220.

service relationship not incidental to the pursuit of an independent calling.

The United States relies upon the theme developed in the case of National Labor Relations Board v. Hearst Publications, Inc., 322 U.S. 111, 64 S.Ct. 851, 857, 88 L. Ed. 1170. There, a finding of employment, in the case of newspaper vendors, by the National Labor Relations Board, within the meaning of National Labor Relations Act, 29 U.S.C.A. § 151 et seq., entitling the vendors to collective bargaining rights, was not disturbed because it had "warrant in the record" and a "reasonable basis in law." In the course of its opinion, however, the Supreme Court, in tacit approval of such finding, declared that in remedial federal legislation of the character there under consideration, the term "employment" covered a wider field than would be the case if common law principles were strictly adhered to; but that, nevertheless, it did not embrace within itself all "Persons who may perform service for another or was to ignore entirely legal classifications made for other purposes;" and that, interpreting the term in the light of the statutory objectives, "it cannot be irrelevant that the particular workers in these cases are subject, as a matter of economic fact, to the evils the statute was designed to eradicate and that the remedies it affords are appropriate for preventing them or curing their harmful effects in the special situation." This language, apparently, strikes the keynote of the Government's position that all persons performing services for others not in the pursuit of an independent calling are employees within the remedial legislation. It is obviously assumed that all such workers are peculiarly subject to the hazards of unemployment and old age indigency. (It is significant that, while propounding this legal doctrine, the Government also finds comfort in the contention that such persons really were employees even under common-law standards.)

[1, 2] The language of the Supreme Court does not, in my opinion, demonstrate the broad principle contended for by the Government. Undoubtedly it is true that the intent of Congress was to provide for the general welfare through the establishment, in advance, of a provident fund for the needy worker by a system of taxation. Whether or not the general welfare, however, will be advanced, retarded or perhaps defeated by the government-contended construction of the comparatively unabstruse term "employment" so as to include persons who heretofore have always been regarded as independent contractors, is primarily a political, social and economic question for lawmaking rather than law interpreting.[4] And until Congress has spoken expressly to include such persons, it seems more consonant with established principles of judicial statutory construction to hold that the term "employment" should properly be interpreted in a realistically practical sense, according to established common law doctrines; in favor, however, of the employment relationship in doubtful cases, because of the remedial nature of the statutory objectives. This seems to be the real, underlying motif of all the federal and state decisions,—including that of the Supreme Court—which have so far dealt with the problem of cataloguing particular factual situations either within or without the employment relationship.

[3] From these various decisions there evolves at least one principle,—determinative of this cause in favor of the employment status,—entirely reconcilable with established common law doctrines as developed and grown to meet new situations, and with the remedial objectives of social security legislation, and which is, at the same time realistically practical. That is, that any person is an employee within the meaning of social security legislation who is engaged as a means of livelihood in regularly performing personal services which (1) constitute an integral part of the business operations of another; (2) are not incidental to the pursuit of a separately established trade, business or profession,—involving in their performance capital investment and the assumption of substantial financial risk,

[4] It could be argued that the general welfare as well as that of the aged and unemployed would be hampered if, by too broad classification, the burden of taxation upon the employer class would reach beyond its capacity to absorb the load or pass it on.

or the offering of similar services to the public at large; and (3) are subject to a reasonable measure of general control over the manner and means of their performance. Matcovich v. Anglim, 9 Cir., 1943, 134 F.2d 834; General Wayne Inn v. Rothensies, D.C.Penn. 1942, 47 F.Supp. 391; Stone v. United States, D.C.Penn. 1943, 55 F.Supp. 230; United States v. Vogue, Inc., 4 Cir., 1944, 145 F.2d 609; Lakie, Inc. v. U. S. A., D.C.Mich.1946, 70 F.Supp. 665; United States v. Wholesale Oil Co., 10 Cir., 1946, 154 F.2d 745; Twentieth Century Lites, Inc., v. California Department of Employment, 1946, 28 Cal.2d 56, 168 P. 2d 699; Deecy Products Co. v. Welch, 1 Cir., 1941, 124 F.2d 592, 139 A.L.R. 916; Jones v. Goodson, 10 Cir., 1941, 121 F.2d 176.

[4] Whether, absent any of the foregoing factors, the employment status may still be found, is not germane to the case here under consideration, (since it will be shown that all such factors are present). It presents a problem better left to future solution through the evolutionary judicial process of inclusion and exclusion. Sufficient to this case it is that the persons whose status is to be determined come well within the term "employee" as the decisions have so far reconcilably defined those factors which, when appearing in combination, establish the employment relationship in Social Security legislation.

It is, however, relevant to observe that wherever in the interpretation of Social Security legislation the employee status has been rejected in favor of the independent contractor or non-employment relationship, it has been on the basis of either the presence of a separate,—albeit interdependent, —trade business, or profession involving capital outlay and the assumption of substantial business risks, or the offering of like services to the public in general,—or of the absence of any right of control over the manner and means of performance; or of both the presence of the former and the absence of the latter factor. United States v. Aberdeen Aerie No. 24, 9 Cir., 1945, 148 F.2d 655; United States v. Silk, 10 Cir., 1946, 155 F.2d 356; Nevin, Inc., v. Rothensies, D.C.Pa.1945, 58 F.Supp. 460; Ridge Country Club v. United States, 7 Cir., 1945, 135 F.2d 718; Anglim v. Empire Star Mines Co., 9 Cir., 1942, 129 F.2d 914; Briggs v. California Employment Commission, 1946, 28 Cal.2d 50, 168 P.2d 696; Glenn v. Beard, 6 Cir., 141 F.2d 376; Texas Co. v. Higgins, 2 Cir., 118 F.2d 636; Indian Refining Co. v. Dallman, 7 Cir., 119 F.2d 417; Williams v. United States, 7 Cir., 126 F.2d 129; United States v. Griswold, 1 Cir., 124 F.2d 599; Hirsch v. Rothensies, D.C.Pa., 56 F.Supp. 92; Los Angeles Athletic Club v. United States, D.C.Cal., 54 F. Supp. 702; Spillson v. Smith, 7 Cir., 147 F. 2d 727; Gulf Oil Corp. v. United States, D.C., 57 F.Supp. 376; Nevin, Inc., v. Rothensies, D.C.Pa., 58 F.Supp. 460; Emard v. Squire, D.C.Wash., 58 F.Supp. 281.

It may be, therefore, that ultimately the employee status in service relationships of doubtful nature will be made to depend on the absence of such a separate business or calling and on the presence of some degree of control over the manner and means of performance of the services. In fact, it seems reasonable to regard persons earning their livelihood performing services for others, who have no established business or profession of their own and who are, in the performance of such services, subservient to the will of others, to be singularly subject to the hazards of unemployment and needy old age. On the other hand, those protected by capital reserve or equipped with the enterprising characteristics of a free agent, are more favorably endowed with what it takes to combat their own economic ills. A definitive limitation of the term "employment" along such lines, it seems to me, would more certainly fit into the commonly understood differentiation between persons employed by others and those self-employed, than that proposed by the Government. It also would be entirely consonant with traditional common-law precepts as they have been developed to meet a changing life picture. On the other hand, the extension of the term "employment" to the degree proposed by the Government and the inclusion not only of persons of doubtful status, but persons as well who have always been considered independent contractors,—in law and in practice,—on the basis that such persons are, as an economic fact, subject to the evils intended to be rem-

edied, is more indicative of judicial legislation than of the interpretation of legislative intent. In any event it is not of immediate importance here what eventual outer boundaries are to be placed around the definition of the term employment. For here, the vendors were performing personal services constituting an integral part of the business operations of the employer, were not pursuing any separate trade, business or profession involving capital outlay, the assumption of business risks, or the performance of like services to the public generally, and were subject to general control over the manner and means of performing their services. They were, therefore, employees within the statutory purport.

The decision of the Supreme Court in National Labor Relations Board v. Hearst Publications, supra, is not final judicial authority determining that the news vendors here are employees within the Social Security Statutes. The only positive holding in that case is that there was substantial evidence before the National Labor Relations Board to support the legal conclusion of that board establishing the employment relationship within the meaning of the National Labor Relations Act. Nevertheless, the decision here could fairly be made to rest on the results of the case before the Supreme Court. The facts in that case are not identical with those here presented, but their dissimilarity is not in material respects; the statute there interpreted is not the same as those here involved, but they are both of a kind. Although the Supreme Court did not uphold the findings of the National Labor Relations Act on the express basis that they were legally correct, its discourse admits of little doubt that the findings met with the Court's wholehearted approval.[5]

But because that case has the differences pointed out, the present case must be analyzed on its own facts, and the law applied thereto deduced from all competent legal precedents including those announced by the Supreme Court.

The publishers and vendors have, by their contract, attempted to establish a buyer-seller relationship between them. The contracts each recite such to be their intent. But the relationship of buyer and seller between them is entirely unrealistic. The publishers are not engaged in the wholesale business of selling newspapers to retailers, and the news vendors are not in any sense retail merchants in the business of buying and selling merchandise. A newspaper is not, in fact, a commodity bought and sold as merchandise at all. It is the medium of disseminating information; it is the information which is sold and the publishers are the distributors and circulators of this information through the agency of their news vendors. Charging the vendors outright the "wholesale" price of papers delivered to them for sale, is referable more to an intent on the part of the publishers to impose a high degree of responsibility on the vendors for the care of the newspapers so delivered to them and for accuracy in accounting for the proceeds of the sales rather than to an intent to create a bona fide buyer-seller relationship. This is particularly so because as to papers returned unsold, the charge is offset by a corresponding credit. See comment of Judge Denman in this regard in his dissenting opinion in the case of Hearst Publications, Inc., v. National Labor Relations Board, 9 Cir., 136 F.2d 608, reversed, 322 U.S. 111, 64 S.Ct. 851, 88 L.Ed. 1170.

Even the California case of New York Indemnity Co. v. Industrial Accident Comm., 213 Cal. 43, 1 P.2d 12, holding an injured news vendor to be beyond the coverage of the California Workmen's Compensation Act, admitted that news vendors were not independent contractors, but rather in the nature of sales agents.

Much emphasis is placed on the declared intent of the publishers and vendors to establish a buyer-seller relationship and not one of employer and employee. The plaintiffs point out that in the Restatement of the Law of Agency, one of the factors

[5] Although it has been said that the same persons might be employees for collective bargaining purposes and not employees within the Social Security laws (Nevin, Inc. v. Rothensies, supra), it hardly seems probable that Congress intended any such legal differentiation.

to be considered is "whether or not the parties believe they are creating the relationship of master and servant." But that belief must be a bona fide belief discernible from their actions and not based on declarations and the formality of contractual arrangements alone. Matcovich v. Anglim, supra; also see Pacific Lumber Co. v. Industrial Acc. Comm., 1943, 22 Cal.2d 410, 139 P.2d 892. Here, nothing that was done functionally indicated a bona fide belief in the creation of a buyer-seller relationship. Furthermore the good faith of the parties' belief seems entirely irrelevant in this case. For it must be remembered that here the employment status of the vendors is important only to determine the applicability of the taxing provisions of the Social Security Statutes. Their applicability is not made to depend on the desires or beliefs of parties. Indeed, their efficacy would soon be impaired if such were the case. A decision in favor of such status for that limited purpose does not infringe upon the parties' right of contract, or deny them the privilege of regarding themselves for any other purpose as buyer and sellers. But however they regard themselves and in whatever degree of good faith, they are nevertheless foreclosed from maintaining their status as buyers and sellers for the purpose of not being employers and employees within the Social Security Statutes if, within the meaning of those statutes the employment relationship is present. Griffiths v. Commissioner, 308 U.S. 355, 358, 60 S.Ct. 277, 84 L.Ed. 319.

[5, 6] The plaintiffs contend there is no employment relationship because "the vendor is free to sell his newspapers in the ways, methods and manner that he may see fit." (Opening statement of plaintiffs' counsel.) That is, even regarding the vendor as an agent, the contention is made that he is nevertheless a free agent—responsible to his principal only for results. At common-law, such a person would not be considered an employee. (Restatement of the Law of Agency). Whether or not this rule is eventually followed in interpreting the employment relationship in Social Security legislation is not of moment.[6] Here there actually was at least a reasonable measure of general control exercised by the publisher over the manner in which the services of the vendors were performed.[7] The publishers selected the vendors, designated their place, days and hours of service (within the limits agreed on by contracts) and fixed the profits they were to derive from the sale of each newspaper (although the profit, once fixed, remained constant for the period of the existing contract.) The vendors were expected to be at their corners at press release time, stay there for the sales period, be able to sell papers and take an interest in selling as many papers as they could. To see that they performed properly, they were kept under the surveillance of the publisher's employee, the "wholesaler." He was authorized to check in the vendor if the latter failed to so perform or to report any such infraction to the publisher, who could then discontinue further sales to the vendor, or report his conduct to the union for discipline by union agents. The vendor was required to sell his papers complete with sections in the order designated by the publisher and to display only newspapers on the stands or racks, which were furnished by the publishers at the latter's expense. The vendor incurred no expense or risks save that of having to pay for papers delivered him which by reason of loss or destruction he was unable to return for credit. The vendors were not allowed to sell competitive newspapers without the publisher's consent. The plaintiffs seek to avoid the

[6] In Deecy Products Co. v. Welch, supra [124 F.2d 598], the court said: "* * * Congress does not intend a person to be considered an employee within the meaning of the Act unless he is subject to some sort of control and supervision."

[7] "A reasonable measure of direction and control over method and means of performing the service is a constituent element of the relationship of master and servant as distinguished from that of master and independent contractor, still the direction and control need not relate to every detail." Jones v. Goodson, 10 Cir., 121 F.2d 176, 180.

legal effect of these controls by explaining that they were not controls over the manner and means of performing the services at all (being that of selling newspapers) but merely the imposition of conditions of performance designed to effectuate the accomplishment of the desired results. It is claimed that in every independent contractual service relationship, such conditions are imposed to insure the success of the contract without transforming the relationship into one of employment. The plaintiffs thus invoke the principle that "Where one is performing work in which another is interested the latter may exercise a certain measure of control for a definite and restricted purpose without acquiring the responsibilities of an employer." Los Angeles Athletic Club v. United States, D.C.Cal., 54 F.Supp. 702, 706. This principle was followed in finding against an employment relationship with respect to newsboys in two California cases, Bohanon v. James McClatchy Publishing Co., 16 Cal.App.2d 188, 60 P.2d 510, and New York Indemnity Co. v. Industrial Acc. Comm., 213 Cal. 43, 1 P.2d 12. As to the former case, the employment relationship was there asserted to fix tort liability upon the publisher for the negligence of the newsboy. The court held that although the publisher did exercise some control over the activities of the newsboys, in other respects the latter had a free hand as to how he conducted his route and that in California it is settled "that the control which has been adopted as the test by which the relationship between two persons is to be measured for the purpose of discovering whether such relationship is that of master and servant is complete or unqualified control." [16 Cal.App.2d 188, 60 P.2d 514.] The rule of "complete control" announced in that case has not been followed, even in California, in defining the employment relationship in remedial legislation. Twentieth Century Lites, Inc. v. California Department of Employment, 1946, 28 Cal.2d 56, 168 P.2d 699; Matcovich v. Anglim, 9 Cir., 134 F.2d 834; Grace v. Magruder, App.D.C., 148 F.2d 679. In the case of New York Indemnity Co. v. Industrial Acc. Comm., supra, it is true that the court rejected the employment relationship within the meaning of the Workmen's Compensation Act in the case of a newsboy operating similarly to the news vendors here. It held that while the newsboy was not an independent contractor, he was nevertheless not an employee since there was lacking that degree of control over the manner and method of performing his duties by the publishers as would establish the employment relationship. Extensive analysis of that case for the purpose of distinguishing it from the present case is unnecessary[8] for several reasons. First, federal courts are not bound by state court decisions in their interpretation of national Social Security legislation. National Labor Relations Board v. Hearst Publications, supra. Second, the decided federal cases indicate clearly a variance from the views there expressed, on the degree of control necessary to make out an employment relationship in remedial legislation. Third, the courts of California themselves have obviously drawn away from the tendency toward the restrictive and narrow application of common-law principles demonstrated by that case. Pacific Employers Insurance Co. v. Industrial Acc. Comm., 3 Cal.2d 759, 47 P.2d 270; Associated Indemnity Corp. v. Industrial Acc. Comm., 1932, 128 Cal.App. 104, 16 P.2d 774. The rule is fairly well settled now that "employment" within the meaning of national remedial legislation, liberally construed, requires no more than a reasonable measure of control over the activities of the employee. What degree of control must be present depends upon the facts of each particular case.

Here, the vendors were subject to the publishers' control in every respect save in the manner in which they personally offered the newspaper for sale to the public and collected the price. As to those features, lack of control is absent because of want of necessity for its presence. The witness, William Parrish, a news vendor, stated that in the sale of newspapers, "it happens there is only one manner to do it." When the manner of performing the

[8] For a discussion of the reasons for the reversal by the Cal. Sup. Ct. of its own decision, see note 32 Cal.Law Rev. No. 3, p. 289.

service is beyond another's control because of its nature, absence of direct control over such details becomes insignificant in the overall view of the facts and circumstances to be taken into account in determining the relationship. United States v. Vogue, Inc., 4 Cir., 145 F.2d 609, supra.

Here the news vendors were engaged, as a means of livelihood, in regularly performing personal services constituting an integral part of the business operations of the publishers. In the performance of these services, they were subject to the general control of the publishers in every respect save where control was unimportant. In connection with their services they made no investment of capital, had no expenses and assumed no financial business risks incidental to a separate trade, business or profession. They were, therefore, in employment with respect to which the taxes were properly imposed.

The plaintiffs stress certain pieces of evidence which they claim provide indicia of an independent-contractor relationship, namely, the lack of any right in the publishers to dismiss vendors without cause for the duration of the existing contract, the fact that the vendors provided their own transportation, filed no reports, attended no sales meetings, were not required to report to publishers' premises, have employed substitutes, and were privileged to and some actually sold non-competitive publications and other articles without the publishers' consent. These were at most details of this particular service relationship in operation. They did not alter the essential factors establishing, by their presence, the employment relationship, or change their character in context. National Labor Relations Board v. Hearst Publications, Inc., 322 U.S. 111, 64 S.Ct. 851, 88 L.Ed. 1170; United States v. Wholesale Oil Co., Inc., 10 Cir., 154 F.2d 745; Twentieth Century Lites, Inc., v. California Dept. of Employment, 28 Cal.2d 56, 168 P.2d 699.

[7] As to those selling other articles besides newspapers it does not appear that their relationship with the publishers was any different from other news vendors selling newspapers exclusively. The sale by them, therefore, of other articles did not, as to the newsvending, put them in the class of those performing such services incidental to the pursuit of a separately established business involving with respect to those services, capital investment and the assumption of substantial financial risk or the offering of similar services to the public at large.

Judgment will go for defendant in all four cases upon findings of fact and conclusions of law to be presented in accordance with the rules. Federal Rules of Civil Procedure, rule 52, 28 U.S.C.A. following section 723c.

LISTING OF REFERENCE MATERIALS

U.S. Congress. House. Committee on Ways and Means. *Newspaper Vendors. Hearings . . . 80th Congress, 1st session, on H.R. 3997 (Superseding H.R. 3704 and H.R. 3920).*

U.S. Congress. House. Committee on Ways and Means. *Social Security Status of Vendors of Newspapers and Magazines: Report to Accompany H.R. 3997.* (H.Rept. 733, 80th Cong., 1st sess.)

House Debate and Passage of H.R. 3997—*Congressional Record,* pp. 9058–59—*July 16, 1947*

U.S. Congress. Senate. Committee on Finance. *Social Security Status of Vendors of Newspapers and Magazines: Report to Accompany H.R. 3997.* (S.Rept. 678, 80th Cong., 1st sess.)

Senate Debate and Passage of H.R. 3997—*Congressional Record,* p. 9838—*July 23, 1947*

President's Veto Message (Vendors of Newspapers and Magazines)— *Congressional Record,* p. 10591—*November 17, 1947*

80TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1319

MAINTAINING THE STATUS QUO IN RESPECT OF CERTAIN EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS PENDING ACTION BY CONGRESS ON EXTENDED SOCIAL-SECURITY COVERAGE

FEBRUARY 3, 1948.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GEARHART, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. J. Res. 296]

The Committee on Ways and Means, to whom was referred the resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage, having had the resolution under consideration, report it back to the House with amendments, and recommend that the resolution do pass.

The amendments which are merely clerical in nature are as follows:

In the first section insert, before the word "common" on line 6, the word "usual".

In section 2, line 6, strike out the words "of each the following" and insert in lieu thereof the words "thereof the following".

GENERAL STATEMENT

The purpose of the resolution is to maintain the status quo with respect to social-security-coverage regulations for employment and unemployment taxes and social-security benefits pending later decisions by the Congress on extension of coverage.

The pertinent parts of the existing regulations are as follows:

> The words "employ", "employer", and "employee", as used in this article, are to be taken in their ordinary meaning. * * *
>
> Whether the relationship of employer and employee exists, will in doubtful cases be determined upon an examination of the particular facts of each case.
>
> Generally the relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection it is not necessary that the

employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods of accomplishing the result, he is an independent contractor, not an employee.

* * * * * * *

Individuals performing services as independent contractors are not employees. Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public are independent contractors and not employees.

It will be noted that the existing regulations apply the usual common-law test of control in determining whether an employer-employee relationship exists. These regulations have been in effect for a period of more than 11 years and are in accordance with congressional intent as expressed in the legislative history of the 1939 amendments to the Social Security Act.

The Treasury, pursuant to the Administrative Procedure Act, approved June 11, 1946, published notice in the Federal Register to amend the existing regulations, and apply tests other than the usual common-law tests for determining employer-employee relationship. If the proposed regulations become effective, endless confusion will result, existing rulings will be unsettled, and many types of relationship fixed by contract will have to be reversed at a time when full emphasis should be given to an increase of production and distribution. The proposed regulations by changing the test in existing regulations for determining whether an individual is an employee will require a review of existing contractual arrangements, and result in extensive litigation.

It is claimed by the Treasury that the proposed regulations are made necessary by the decisions of the Supreme Court in the *Silk case* (1947) (67 S. Ct. 1463), the *Greyvan Lines, Inc.* (67 S. Ct. 1463), the *Bartels case* (1947) (67 S. Ct. 1547), and related cases.

In these cases, the Court rejected the traditional and long-standing test of control as the sole basis for determining whether an individual is an employee. In the Silk case, the Court, in its opinion, made the following statement:

Probably it is quite impossible to extract from the statute a rule of thumb to define the limits of the employer-employee relationship. The Social Security Agency and the courts will find that degrees of control, opportunities for profit or loss, investment in facilities, permanency of relation and skill required in the claimed independent operation are important for decision. No one is controlling nor is the list complete.

But the Supreme Court in making such a statement was evidently unaware of the legislative history of the Social Security Act as shown in the reports and debates on the 1939 amendments to that act. This is clearly shown by the statement of the Court in its opinion that:

Nothing that is helpful in determining the scope of the coverage of the tax sections of the Social Security Act has come to our attention in the legislative history of the passage of the act or amendments thereto.

The legislative history of the 1939 amendments, as shown in the appendix to this report, shows conclusively that the Congress intended

to follow the usual common-law rules in determining whether an individual is an employee.

The Supreme Court in the Silk case also relied on an earlier decision of that Court in the Hearst case, arising under the National Labor Relations Act. In the Taft-Hartley Act, amending the National Labor Relations Act, the Congress refused specifically to recognize a person having the status of an independent contractor as an employee, and thereby nullified the Hearst decision. The report of the House committee accompanying the Taft-Hartley bill (H. Rept. No. 245, 80th Cong., 1st sess., dated Apr. 11, 1947, accompanying H. R. 3020) contains the following statement (p. 18):

(D) An "employee," according to all standard dictionaries, according to the law as the courts have stated it, and according to the understanding of almost everyone, with the exception of members of the National Labor Relations Board, means someone who works for another for hire. But in the case of *National Labor Relations Board* v. *Hearst Publications, Inc.* (322 U. S. 111 (1944)) the Board expanded the definition of the term "employee" beyond anything that it ever had included before, and the Supreme Court, relying upon the theoretic "expertness" of the Board, upheld the Board. In this case the Board held independent merchants who bought newspapers from the publisher and hired people to sell the papers were "employees" of the merchants, but holding the merchants to be "employees" of the publisher of the papers was most far reaching. It must be presumed that when Congress passed the Labor Act, it intended words it used to have the meanings that they had when Congress passed the act, not new meanings that, 9 years later, the Labor Board might think up. In the law, there always has been a difference, and a big difference, between "employees" and "independent contractors." "Employees" work for wages or salaries under direct supervision. "Independent contractors" undertake to do a job for a price, decide how the work will be done, usually hire others to do the work, and depend for their income not upon wages but upon the difference between what they pay for goods, materials, and labor and what they receive for the end result, that is, upon profits. It is inconceivable that Congress, when it passed the act, authorized the Board to give to every word in the act whatever meaning it wished. On the contrary, Congress intended then, and it intends now, that the Board give to words not farfetched meanings but ordinary meanings. To correct what the Board has done, and what the Supreme Court, putting misplaced reliance upon the Board's expertness, has approved, the bill excluded "independent contractors" from the definition of "employee."

The act as finally enacted followed the House bill in this respect. In the conference committee report, dated June 3, 1947, the conference report stated:

(D) The House bill excluded from the definition of "employee" individuals having the status of independent contractors. Although independent contractors can in no sense be considered to be employees, the Supreme Court in *N. L. R. B.* v. *Hearst Publications, Inc.* ((1944) 322 U. S. 111), held that the ordinary tests for the law of agency could be ignored by the Board in determining whether or not particular occupational groups were "employees" within the meaning of the Labor Act. Consequently it refused to consider the question of whether certain categories of persons whom the Board had deemed to be "employees" were not in fact and in law really independent contractors.

* * * * * * *

(D) The conference agreement follows the House bill in the matter of persons having the status of independent contractors.

The Supreme Court also did not have before it the action of the Congress under the Taft-Hartley Act when it decided the Silk case.

THE ISSUE

The issue involved in the proposed regulations is whether the scope of social-security coverage should be determined by the Congress or

by other branches of the Government. The press release to the proposed regulations state specifically that—

> The proposed regulations * * * would supersede the common-law test, also known as the "control" or tort test, used to determine whether a "master and servant" relationship exists.

Accordingly, under the proposed regulations, the question of coverage will be determined, not by the Congress, but by the Social Security Agency, the Treasury, and the courts. The whole matter of social-security coverage is pending before the Committee on Ways and Means and the Senate Finance Committee. It is, therefore, important that the status quo of existing regulations be preserved pending a determination of the Congress of needed changes in the act or extension of coverage. This is especially true since the existing regulations correctly interpret the intent of Congress.

PRACTICAL CONSIDERATIONS

1. Businesses affected

Your committee has been unable as yet to evaluate the full extent to which various fields would be affected by recent judicial and administrative rulings and by the proposed Treasury regulations. However, your committee has already found that their effect extends into such diverse fields of normally independent operations as cattle, hay, feed, and grain buying, pulpwood and other logging, marketing of petroleum products, delivery, distribution or sale of newspapers, magazines and periodicals, and delivery, distribution, or sale of household and other items and appliances to the ultimate consumer, and also sales of fire, casualty, and some other types of insurance.

2. Effect of pay-roll-tax inclusion of nonemployees

Social-security pay-roll taxes by their very nature cannot be applied where the actual employer-employee relationship does not exist.

Pay-roll-tax laws require the employer to report accurately, both as to time and amount, the taxable remuneration paid his employees for their services, excluding any amounts not attributable to services, such as reimbursements for expenses.

Compliance with pay-roll-tax laws involves no change in contract or relationship where the common-law concepts of the employer-employee relationship are adhered to. For the employer has the right to direct and control the details of what the employee does, and thus, regardless of how the employee's compensation is arrived at, or by whom paid, the employer can require him to make appropriate reports and, if necessary, remittances, to be used as a basis of the employer's statutory duty to report periodically the employee's net remuneration and to comply with the withholding provisions.

For example, where A buys B's goods and resells them, and the contract gives no authority to B to direct A, it is obvious that a law which requires B to ascertain what A's net profits are each quarter, and to deduct money from A's "wages" when the proposed "employer" never has any funds of the "employee" in his hands, could not be complied with by B. Such a law could be complied with only by the exercise of directions and controls over A which are not exercisable under the contract. To say that the relation of employer-employee exists is mere name-calling, and applying a test such as

"economic dependence" to the situation does not change the fundamental fact that either the tax law or the existing contract and relationship must be abrogated. In other words, basic realities, not "economic dependence," of necessity determine the limits of application of a pay-roll tax, and these basic realities are necessarily determined by the common-law rule of right to exercise direction and control.

To force parties to an arrangement to comply with a pay-roll-tax law when they are not in fact in an employer-employee relationship is really to outlaw the existing contract, and to require the parties to establish a new relationship if they are to deal at all. Under the above illustration, for example, A must cease to sell goods on his own behalf and become B's employee.

In forcing A and B to change their relationship for purposes of social-security pay-roll-tax compliance, the resulting establishment of the necessary directions and controls may have widespread effects. For example, whether B is doing business in a State, whether he is subject to various and sundry labor laws, tort responsibilities, and other obligations, turn on the question of the employer-employee relationship.

The foregoing illustrates that Congress could not have intended the social-security pay-roll tax to extend beyond actual employees. Congress did not design the pay-roll-tax laws for application beyond the recognized employer-employee relationship. We find, even in the recent Silk case, the statement that:

> There is no indication that Congress intended to change normal business relationships * * *

ANALYSIS OF THE RESOLUTION

Subsection (a) of the joint resolution amends section 1426 (d) of the Internal Revenue Code, which defines the term "employee" for purposes of the employment tax and section 1607 (i) of the Internal Revenue Code relating to the unemployment tax. Under the existing law the term "employee" is defined as follows:

> The term "employee" includes an officer of a corporation.

Under the joint resolution, this definition is amended to read as follows:

> The term "employee" includes an officer of a corporation, but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship has the status of an independent contractor, or (2) any individual (except an officer of a corporation) who is not an employee under common-law rules.

The purpose of the exception in paragraph (1) is to apply the rule of the existing regulations that an independent contractor under the usual common-law rules is not an employee.

In determining whether an individual is an independent contractor, the existing regulations apply the usual common-law test of control, irrespective of the law of the particular State. It is the purpose of this resolution to reaffirm this rule. Paragraph 2 is intended to cover situations where the individual might not technically be classed as an "independent contractor" because of the absence of a contractual obligation to perform any particular act, but is not an employee

because of the absence of control. The section retains the provision of the existing law that an officer of a corporation is to be treated as an employee, even though he may not be regarded as such under the usual common-law rule.

Subsection (b) of the Internal Revenue Code provides that the provisions of subsection (a) shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment. Thus, this section makes it clear that the existing regulations are to be treated as a part of the Internal Revenue Code on and after February 10, 1939, the date of its enactment.

Section 2 (a) of the resolution relates to the provisions of the Social Security Act providing for the payment of old-age and survivors' insurance benefits; and to the taxing provisions of the Social Security Act which were in effect up to February 10, 1939, the date of the enactment of the Internal Revenue Code. The definition of "employee" is the same as that under the first section which has already been explained.

Subsection (b) of section 2 makes subsection (a) of section 2 effective as if included in the Social Security Act on August 14, 1935, the date of its enactment. However, in order not to invalidate individual benefit awards which have heretofore been made under title II of the Social Security Act, the resolution provides that its enactment shall not have the effect of voiding any determination respecting eligibility for, or amounts of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948. This will leave payments heretofore made under such awards unaffected and permit continuance of payments under such previously made awards. The section applies to individuals who have applied for and have been awarded benefits prior to January 1, 1948. It has no application to employment after that date.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 (a) of rule 13 of the Rules of the House of Representatives, changes in the Internal Revenue Code and the Social Security Act made by the resolution are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Section 1426 (d) and section 1607 (i) of the Internal Revenue Code:

EMPLOYEE.—The term "employee" includes an officer of a corporation[.], *but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules.*

Section 1101 (a) of the Social Security Act:

EMPLOYEE.—The term "employee" includes an officer of a corporation[.], *but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules.*

APPENDIX

MEMORANDUM CONTAINING REFERENCES TO LEGISLATIVE HISTORY RE EMPLOYER-EMPLOYEE STATUS FOR SOCIAL SECURITY PURPOSES

1935—The Original Social-Security Legislation

The definition of "employee" in the Social Security Act must be sharply contrasted with the definition proposed in the administration's bill (H. R. 4120) upon which hearings were held in 1935 by the Committee on Ways and Means.

The administration bill contained a lengthy definition of "employee," part of which was:

"The term 'employee' shall include every individual * * * under any contract of employment or hire, oral or written, express or implied."

Obviously a definition like the above would permit of a very broad interpretation, "employment" being defined in Webster's Dictionary as "that which engages or occupies time and attention, also an occupation, profession, or trade—synonymous with work, business, vocation, calling, trade, profession." It will also be noted that the definition also included "hire," connected by the disjunctive "or."

In the bill as reported out by the committee and enacted as the Social Security Act, instead of the above definition, the present provision (sec. 1101 (a) (6)) was adopted, that—

"The term 'employee' includes an officer of a corporation."

Again referring to Webster's Dictionary, it is apparent why the phrase "includes an officer of a corporation" was used. For the definition is: "one who works for wages or salary in the service of an employer—distinguished from official or officer."

It is significant in this respect that the dictionary, following the common-law concept of master and servant, would exclude an officer of a corporation from the definition of "employee" unless the term were defined to include such officers.

It is also significant that in using the term "employee" otherwise undefined, the Congress was using a term which the Supreme Court had construed in its ordinary common-law connotation. For example, in *Vane* v. *Newcombe* (132 U. S. 220), in denying a mechanic's lien given "employees," the Court had thought it "clear that the 'employee' must have been a servant, bound in some degree, at least, to the duties of a servant, and not, like the petitioner, a mere contractor * * * free to dispose of his own time and personal efforts according to his pleasure, without responsibility to the other party."

It was in the light of such decisions that Social Security regulations, following the common-law concept, were adopted both by the Social Security Board and the Treasury, and have to date never been changed by either.

1939—H. R. 6635

General recommendations of the Social Security Board for extensive amendment of previous Social Security Act legislation, based upon 3 years of intensive study, were submitted to the President of the United States on December 30, 1938. The President transmitted the Board's report to Congress with a special message on January 16, 1939.

The Committee on Ways and Means of the House of Representatives held extensive public hearings on these recommendations and alternative proposals relating to social security.

The bill was referred to the Senate Finance Committee on June 12, 1939. Extensive public hearings were held in both the House and Senate committees and all witnesses desiring to be heard were allowed to appear and submit testimony and statements, as shown by the records of these hearings.

Among the Board's recommendations for changes in the act there was one which proposed to change the law with respect to the employer-employee status. The Board's report stated:

"Old-age-insurance coverage is at present limited by the undefined terms 'employer' and 'employee.' The Board recommends that this provision be

expanded to the extent feasible to cover more of the persons who furnish primarily personal services * * *. At present, for example, insurance, real estate, and traveling salesmen are sometimes covered, sometimes not; the Board believes that all such individuals should be covered."

In respect to this proposal several appearances and statements were made at the House hearings. American Life Convention and the Association of Life Insurance Residents (House committee hearings, pp. 1547–1573) appeared before the Committee on Ways and Means, expressing satisfaction with the existing regulations under the act as well as court decisions, and opposing a proposed definition broadening the term "employee." Mr. P. M. Estes, representing the Industrial Insurance Conference, appeared requesting a specific exemption from the unemployment-compensation tax for industrial agents in the insurance field (House committee hearings, pp. 1573–1585).

Mr. Ansell, representing the American Federation of Musicians, at the House hearings stated (House committee hearings, p. 1820), with respect to orchestra leaders, that—

"The failure of Congress to define specifically these terms [employer-employee] has afforded room for the Bureau of Internal Revenue (apparently unconcerned with the social purpose of the act) to construe these terms as having the same technical meaning as 'master and servant' in the common law field of torts."

He then quoted Treasury regulation 90, article 205, and Treasury regulation 91, article 3, adding:

"Such administration of the Social Security Act can only be subversive of that act.

"Compare the above regulations with the following recent decision by the National Labor Relations Board as to the meaning of the terms 'employer' and 'employee.'"

He then quoted from *Seattle Post-Intelligencer case* (9 N. L. R. B. 119, November 29, 1938), which stated that "employee" included all employees in the conventional as well as the legal sense except those by express provision excluded. He added that—

"The purposes of the two acts (National Labor Relations Act and Social Security Act) lie in the field of social legislation."

He then referred to the Social Security Board proposal (p. 61 of the hearings) to broaden the coverage by an amendment, and pointed out the Wisconsin definition and the model bill for State unemployment-compensation legislation recommended by the Social Security Board, as well as the decisions under some State definitions. He recommended (House committee hearings, p. 1834) that "the conflict faced between the Social Security Act and the acts of the several States should be resolved by amending the Social Security Act."

The legislation on the subject matter of this memorandum involved in these hearings was H. R. 6635, Seventy-sixth Congress. It, in amending section 1426 (d) of the Internal Revenue Code, defined "employee" as follows:

"The term 'employee' includes an officer of a corporation. [The following is new material:] It also includes any individual who, for remuneration (by way of commission or otherwise) under an agreement or agreements contemplating a series of similar transactions, secures applications or orders or otherwise personally performs services as a salesman for a person in furtherance of such person's trade or business (but who is not an employee of such person under the law of master and servant); unless (1) such services are performed as a part of such individual's business as a broker or factor and, in furtherance of such business as broker or factor similar services are performed for other persons and one or more employees of such broker or factor perform a substantial part of such services, or (2) such services are not in the course of such individual's principal trade, business or occupation."

It may be seen from the foregoing proposed amendment of the act and the statements presented at the House hearings that full consideration was given to the subject of employer-employee status under the existing law and the Treasury regulations and rulings thereunder, with particular reference to the thought, claim, or theory that the undefined words "employer" and "employee" limited them to the long-standing legal or common-law concept and treated them as being synonymous with "master" and "servant."

It necessarily follows that this must be true or proposed amendments to the act would have been pointless.

Mr. Robert L. Hogg, representing the Association of Life Insurance Presidents (House committee hearings, p. 1563), stated:

"The only thing we are asking is that the law continue to be restricted to the employer-employee relationship of the common law."

The House committee report (p. 61) contains the following:

"The amendment * * * relates to salesmen * * * A restrictive view of the employer-employee relationship should not be taken * * * The tests for determining the relationship laid down in cases relating to tort liability and to the common-law concept of master and servant should not be narrowly applied. In certain cases even the most liberal view as to the existence of the employer-employee relationship will fall short of covering individuals who should be covered: for example, certain classes of salesmen. In the case of salesmen, it is thought desirable to extend coverage even where all the usual elements of the employer-employee relationship are wholly lacking and where accordingly even under the liberal application of the law the court would not ordinarily find the existence of the master-and-servant relationship."

H. R. 6635, referred to above, passed the House upon the recommendation of the Committee on Ways and Means containing the amendment to section 1426 (d) as quoted above, and that bill went into the Senate Finance Committee hearings.

Mr. Ansell, previously referred to, appeared before the Senate Finance Committee and there said (Senate committee hearings, pp. 226–227):

"I say that, on principle, the law of independent contractor has no place in the master-servant or employer-employee status in social-security legislation. The law of independent contractor has never been, to my knowledge, extended beyond the field of tort. Now I have tried to hammer home this point but, I confess to the gentlemen of the committee, so far without much success. I observe, as I understand the report, that the Ways and Means Committee in effect in its report cautions against the injection of this tort principle into the master-servant status of the Social Security Act. I regret that the committee of the lower House failed to carry through even this timid suggestion, and sadly enough, the bill carries no construction clause."

(Mr. Ansell had suggested to the House committee a specific amendment that orchestras and their leaders shall be deemed the employees of the purchaser of the music.)

The following persons appeared at the Senate committee hearings in relation to the subject matter of employer-employee status: William T. Reed, National Association of Insurance Agencies (Senate committee hearings, p. 323); C. B. Robbins, general counsel, American Life Convention (Senate committee hearings, p. 115); P. M. Estes, Industrial Insurers Conference (Senate committee hearings, p. 119); Ray Murphy, Association of Casualty and Surety Executives and the National Board of Fire Underwriters (Senate committee hearings, p. 314).

In respect to the application of social-security coverage to sales persons in the insurance field, the following discussion occurred at the hearings (Senate committee hearings, p. 98) while Dr. Altmeyer was making his statement:

"Senator DAVIS. Are these special contractors, life-insurance solicitors, brought in under this bill?

"Mr. ALTMEYER. Yes; there is a provision in the bill under the definition of 'employee.'

"Senator DAVIS. Are not they sort of independent contractors? They have been excluded heretofore.

"Mr. ALTMEYER. Yes; some kind of life insurance agents have been excluded heretofore. The industrial life insurance agent has been covered, because it has been held that the relationship of employer and employee exists, but in the case of certain types, at least, of ordinary life insurance agent it has been held that the relationship of employer and employee did not exist. There is a definition of employee in there that undertakes to cover the life insurance agent and similar occupations, when that is the principal occupation, but excludes it when it is just incidental to some other occupation." (Mr. Altmeyer referred to the proposed House amendment in H. R. 6635 relating to sales persons.)

"Senator DAVIS. Mr. Chairman, we will have an opportunity again to discuss this matter with him [Altmeyer] in executive session, will we not?

"The CHAIRMAN. Yes. There will be several opportunities."

At the Senate hearings Mr. Fuller (p. 202), referring to this sales person amendment, said:

"We believe there can be no justification for inserting in the Social Security Act a provision imposing taxes on employers in cases where it is specifically recognized that there is no actual relationship of employer and employee."

Mr. Fuller followed with a detailed reference to specific sales-person relationships. While Mr. Fuller was making his statement the following discussion occurred (Senate hearings, p. 206):

"Senator KING. * * * They are employed during the day for 6 or 7 hours. Then at night, or in the evening, or after their dinner, they accept some sort of a commission to go out and sell soap, or sell this or that, or write insurance; they may work 1 day a week or 2 or 3 or 4 days.

"Mr. FULLER. Or a few hours once a week.

"Senator KING. Yes; it would seem very difficult to classify them, to name them as employees and subject them to the provisions of this act."

The Texas Co., in objecting to the proposed sales-person amendment (Senate hearings, p. 370), pointed out:

"* * * the above-quoted regulations [the then-existing Treasury regulations] which have the force of law, provide an adequate and proper test for coverage, and under that test, which is the common-law test of employer-employee relationship, salesmen now come within the statute in those cases which the Social Security Act was intended to embrace; that is, where they are subject to the direction and control of their principals and are therefore employees."

Another exhaustive statement on the subject matter was submitted by Breed, Abbott & Morgan (Senate committee hearings, pp. 374–377) on behalf of a client having extensive sales-person relationships.

While Russell Severson, New York City, representing the National Association of Direct Selling Companies (Senate committee hearings, pp. 252–254), was making his statement the following discussion occurred:

"The CHAIRMAN. What are you discussing?

"Mr. SEVERSON. It is the independent contractor. I would like to read it if I may have permission.

"The CHAIRMAN. We will give every consideration to it, because that is one of the questions that has been brought up here and which will be discussed and considered fully by the committee. If you put your brief in the record it will receive the real consideration which it deserves."

Mr. Severson filed a letter dated June 16, 1939, and his brief was submitted for the record. Mr. Severson's appearance related to the sales person amendment proposed in the House bill, to which proposal he objected.

The brief just referred to quoted the remarks of Representative Carlson, which appear at page 6954, volume 84, part 7, of the Congressional Record, wherein the Congressman made a statement opposing the inclusion of the sales person amendment in the House bill or the Social Security Act.

The Senate Finance Committee, at the conclusion of the hearings, struck the sales person amendment from the bill. On pages 75 and 88 of the Senate committee report (Calendar No. 793, Rept. No. 734, 76th Cong., 1st sess.) there is the following language:

"The House proposal to extend coverage to salesmen who are not employees has been stricken out by the committee. It is believed inexpedient to change the existing law which limits coverage to employees. This action of the committee renders unnecessary the new definition of employer which was contained in subsection (e) of section 1426 as passed by the House. Subsection (e) is therefore stricken, and subsequent subsections of section 1426 have been relettered."

The following appears from the Senate floor discussion on the bill (H. R. 6635) (Congressional Record, July 11, 1939, p. 8842):

"The CHIEF CLERK. The next amendment was on page 72, line 21, after the word 'corporation' and the period, to strike out: * * *"

(The matter to be stricken was all of the new material proposed in the House bill in respect to sec. 1426 (d), being the proposed House sales person amendment, leaving that section to read in the bill as it now reads in the current law, merely providing that the term "employee" includes an officer of a corporation.)

"Mr. DANAHER. Mr. President, I was unable to hear the Senator from Mississippi when he spoke, as I understood, with reference to the amendment on page 72, line 21. Will the Senator please tell what happened to that amendment?

"Mr. HARRISON. Mr. President, we struck out the amendment which the House had put in which carried a definition of 'employee' covering salesmen who are not employees. We also propose an amendment at another place in the bill which expressly excludes from the unemployment insurance tax agents of insurance companies who work on commission—solely on commission."

On July 11, 1939, while the bill was being considered on the floor of the Senate, Mr. Harrison said (Congressional Record, vol. 84, pt. 8, p. 8829):

"There is a proposal in the House bill for the extension of coverage to salesmen. Under the present law, whether a salesman is covered depends upon the test of whether he is an employee in the legal sense, and your committee believes that

it would be unwise at this time to attempt any change. In this connection, however, your committee does propose an amendment with respect to the unemployment-compensation tax. Several States have exempted insurance salesmen from coverage, and your committee believes that it would be wise to exclude from the Federal unemployment-compensation tax insurance salesmen whose sole pay is by way of commission. This would, of course, still leave the States free to cover this employment when they choose to do so, but it would eliminate the present situation, where the entire Federal tax, without any offset for State unemployment-compensation contributions, comes to the Federal Government where the State exempts this employment."

The bill, after being amended in the Senate, went to conference committee and the House conference report states:

"Amendments Nos. 97 and 98: The House bill extended coverage to certain salesmen who are not employees. It is believed inexpedient to change the existing law which limits coverage to employees. The House recedes."

The Senate having stricken the proposed House amendment relating to sales persons and the House conferees having receded from the House proposal, such proposal was rejected, leaving the law as it had been prior to all of this legislative procedure in respect to this matter.

The considerable detail contained in this memorandum with respect to the 1939 legislative proceedings is given to show that the Congress definitely and thoroughly considered the question as to whether or not the meaning of the term "employee" should be extended beyond the previous concept, which concept was represented by the common law, court decisions and the Treasury regulations under the Social Security Act.

The regulations of the Treasury Department have not been changed in respect to this matter since 1939, or actually since their inception.

1947—THE TAFT-HARTLEY ACT (LABOR-MANAGEMENT RELATIONS ACT, 1947)

H. R. 3020, as it passed the House, contained, in section 2 (3), the provision that "the term 'employee' * * * shall not include * * * any individual having the status of an independent contractor" (Rept. No. 510, 80th Cong., 1st sess.).

This report, on pages 32 and 33, shows:

"(D) The House bill excluded from the definition of 'employee' any individuals having the status of independent contractors. Although independent contractors can in no sense be considered to be employees, the Supreme Court in *N. L. R. B.* v. *Hearst Publications, Inc.* (1944) (322 U. S. 111) held that the ordinary tests of the law of agency could be ignored by the Board in determining whether or not particular occupational groups were 'employees' within the meaning of the Labor Act. Consequently it refused to consider the question of whether certain categories of persons whom the Board had deemed to be 'employees' were not in fact and in law really independent contractors.

"(E) The House bill contained a clarifying provision to the effect that no individual was to be considered an employee for the purposes of the act unless he was employed by an employer as defined in the act."

This conference report also shows at the foot of page 33 that the conference agreement followed the House bill in the matter of persons having the status of independent contractors.

This particular amendment of the National Labor Relations Act is a distinct disapproval of the interpretations of the United States Supreme Court contained in the Hearst Publications case cited above, and constitutes legislative history consistent with that of 1939, showing conclusively that the Congress never intended in its social-security legislation to depart from the ordinary or common-law meaning ascribed to "employees" under the common-law master-and-servant doctrine. The purpose of this particular amendment was to overrule the Supreme Court interpretations which the Congress thereby shows to have been beyond or outside the legislative intent back of the legislation itself.

This Hearst Publications case, though relating to labor relations, was referred to by the United States Supreme Court in the Silk case as containing the theory or concept applicable under the Social Security Act. As evidenced by the treatment given to this case in the amendments to the National Labor Relations Act, this particular concept has already been rejected by the Congress.

VIEWS OF MINORITY MEMBERS ON HOUSE JOINT RESOLUTION 296

We, the undersigned minority members of the Committee on Ways and Means, submit the following views and reasons therefor to the House, with the recommendation that House Joint Resolution 296 be rejected:

This bill would exclude from certain provisions of the Social Security Act and the Internal Revenue Code some 500,000 to 750,000 employees and their dependents who now are entitled to the protection of social-security coverage under existing law. It takes the backward step of depriving these thousands of employees of insurance against their old age, and their wives and dependent children against the premature death of the family breadwinner.

The title of the bill, "To Maintain the Status Quo in Respect of Certain Employment Taxes and Social-security Benefits Pending Action by Congress on Extended Social-security Coverage" is, therefore, grossly misleading. Coverage of the estimated one-half to three-quarters of a million employees and their dependents under existing law is established by decision of the Supreme Court of the United States, the highest tribunal of the land.

The Treasury Department has prepared regulations in accordance with the Supreme Court decisions. The employees affected are entitled to benefits, and certainly should not be deprived of such protection merely because of prior improper interpretation of the Social Security Act and the Internal Revenue Code. This will be the result, however, if House Joint Resolution 296 is enacted. So, the bill would curtail social-security coverage. It cannot be disguised as maintenance of the status quo. Furthermore, it very probably would do greater harm than deprive the employees directly in question of the coverage originally granted them by Congress. Despite the intent to maintain the status quo, the bill, as amended, would prescribe the "usual common-law rules" in determining the employer and employee relationship for social-security purposes. As fully developed in the attached reports of the Treasury Department and the Federal Security Agency on the legislation, far greater doubt and uncertainty would prevail, if the technical, unrealistic provisions respecting the employer-employee relationship contained in the bill were enacted, than could possibly result under the application of the principles announced in the recent Supreme Court decisions.

For the foregoing reasons and others fully covered in the reports of the Treasury Department and the Federal Security Agency, which are incorporated herein as a part of these minority views, it is our opinion that this bill, in the words of the President on another social-security measure passed by the Eightieth Congress:

* * * proceeds in a direction which is exactly opposed to the one our Nation should pursue. It restricts and narrows coverage under our social-security law, while our objective should be to enlarge that coverage. The strength,

security, and welfare of the entire Nation, as well as that of the groups now excluded, demand an expanded Social Security System.

* * * * * * *

We must not open our social-security structure to piecemeal attack and to slow undermining. We must, instead, devote our energies to expanding and strengthening that system.

JOHN D. DINGELL.
WALTER A. LYNCH.
AIME J. FORAND.
HERMAN P. EBERHARTER.

TREASURY DEPARTMENT,
Washington 25, January 30, 1948.

Hon. HAROLD KNUTSON,
Chairman, Committee on Ways and Means,
House of Representatives, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: Further reference is made to Mr. Tawney's letter, dated January 23, 1948, requesting the views of this Department regarding House Joint Resolution 296, Eightieth Congress, second session.

The purpose of the proposed resolution is stated to be "to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage." The resolution would amend section 1426 (d) and section 1607 (i) of the Internal Revenue Code and section 1101 (a) (6) of the Social Security Act, as of the date of their enactment, to provide in effect that, for purposes of the social-security program and excepting cases in which "eligibility for benefits" was "determined" prior to January 1, 1948, the term "employee" shall not include any individual who is not an employee "under the common-law rules applicable in determining the employer-employee relationship."

In the first place, the proposed resolution would not maintain the "status quo," but would change the law as pronounced by the Supreme Court in June 1947 (*U. S.* v. *Silk*, 67 S. Ct. 1463; *Harrison* v. *Greyvan Lines, Inc.*, 67 S. Ct. 1463; and *Bartels* v. *Birmingham*, 67 S. Ct. 1547), and, in so doing, would deprive an estimated one-half to three-quarters of a million employees and their dependents of the social-security coverage to which they are now entitled. Thus, the proposed resolution implies a disregard for the protection afforded by the social-security program, and would reverse the trend toward expanded coverage which the President and this Department have repeatedly espoused.

In addition, the proposed resolution would require the courts and the administrative agencies to ignore the general purposes of the social-security legislation in identifying the persons to whom it should be applied. It would substitute the "common-law rules" for the principles of economic reality recently set forth by the Supreme Court, as governing the determination of employer-employee relationships for purposes of the social-security program.

Under common law the legal right to control the performance of services appears to be the primary test in determining the existence of the employer-employee relationship. In the absence of any other guide, this test was adopted by the Treasury Department in 1936, in the Department's original regulations under the Social Security Act. As experience developed under these regulations, however, it became increasingly clear that such a test permitted employers to avoid employment-tax liability and deprive their workers of social-security coverage by dressing up their relationship through so-called independent contracts but, without, in any material sense, altering their relative economic positions. Indicative of the artificiality which arose is the case, *Nevins Inc.* v. *Rothensies* (58 F. Supp. 460, aff'd per cur., 158 F. (2d) 189), in which a chain drug company converted former branch managers into licensees, advancing all necessary equipment and inventories to each store. The licensees were held to be independent contractors despite the fact that their economic relationship with the drug company remained virtually the same as when they were branch managers. The extent to which such artifices were employed might also be illustrated by the following advice published in a nationally known tax service:

"Many employers have taken steps to eliminate pay-roll-tax liability on certain individuals by changing their status from that of employees to that of independent contractors. The types of employees where such change is feasible include,

among others, salesmen, selling agents, factors, brokers, bulk oil operators, store managers, motion-picture-theater managers, and taxicab drivers.

"Before attempting to establish an independent contractor relationship with any individuals * * * be sure that the contract definitely provides for freedom from control as to the manner or method of performance of the work, and be extremely careful not to direct or influence the workers as to their choice of means or methods. Relinquish not only control of the way they do their work and the employees they hire, but also sever all contact with their customers."

In June 1947, the Supreme Court of the United States in the Silk, Greyvan, and Bartels cases finally established that, within the meaning and intent of the social-security legislation, the employment relationship would be determined on the basis of the worker's relationship in fact with the person for whom he performs services, rather than on his technical relationship under the common law. By thus elevating substance above form, the Supreme Court has effectively limited the possibilities of avoiding employment-tax liability and defeating the purposes of the social-security program through mere technical arrangements. The proposed resolution would nullify the results of these Supreme Court decisions and would reinstate the "control" test in spite of its obvious deficiencies.

It is significant that a majority of the States, even prior to the Silk, Greyvan, and Bartels decisions, recognized the inadequacy of the common-law "control" test and abandoned it for purposes of the unemployment-insurance program. Many of the workers whose status would be changed to independent contractor by the proposed resolution have been and would continue to be held employees under the unemployment compensation acts of such States. (See P-H Social Security Tax Service, vol. 1, sec. 27, 226 and cases cited therein.) The rest of the States retained the common-law "control" test only because they consider the unemployment-insurance program to be essentially a federally sponsored program, and have been reluctant to depart from the Federal rule. (See *Commercial Motor Freight, Inc.* v. *Ebright* (Ohio), 54 N. E. (2d) 297; *A. J. Meyer & Co.* v. *U. C. C.* (Mo.), 152 S. W. (2d) 184; *Gentile Bros. Co.* v. *Florida Ind. Com.* (Fla.), 10 S. (2d) 568; and *Meridith Publishing Co.* v. *Iowa Employment Security Commission* (Iowa), 6 N. W. (2d) 6. See also sec. 2 (K) of California Unemployment Insurance Act; sec. 2 (1) (7) of Delaware Unemployment Compensation Act; sec. 108.02 (h) of the Wisconsin Unemployment Reserves and Compensation Act; and similar provisions in other State unemployment-insurance laws.) Now that the Federal concept of "employee" has been brought substantially in line with the majority of the States, it is reasonable to presume that the rest of the States will quickly follow and that the employer-employee relationship will hereafter receive substantially uniform determinations for purposes of the unemployment-insurance program under both the Federal and the State laws. Enactment of the proposed resolution would prevent such a result. It would restore the unrealistic distinctions between legal right to control and economic position to control, and between workers on the premises and those off the premises which pervaded the Social Security System under the common-law "control" test. Once more thousands of workers would be deemed independent contractors under the Federal unemployment legislation but employees under most of the implemental State acts. Employers would again be able to avoid their proper share of contributions to the social-security program; and the protection of the program would again be denied to the more than 500,000 individuals whose coverage is assured under existing law.

The objections stated above as to the exclusion from coverage of the individuals against whom the proposed resolution is directed would by no means be removed even if such individuals were eventually to be brought within the old-age and survivors insurance program by a future extension of coverage to include self-employed individuals. There is considerable doubt as to the feasibility of covering self-employed individuals under the unemployment-insurance program. Accordingly, to legislate these workers into a self-employed status might forever deprive them of unemployment-insurance benefits. Furthermore, all plans proposed to date for the coverage of self-employed individuals contemplate a higher rate of contribution than that required from employees. Since all of the workers in this area occupy the same economic status as "common law" employees, it would be inequitable to make them pay more than their "common law" counterparts for social-security protection, particularly when it is considered that such excess represents a tax burden which should properly be borne by their employers. Likewise, by exempting employers of such individuals from employment taxes, the proposed resolution would revive the discrimination, which persisted under the "control" test, against other employers, including competitors, who either

preferred not, or were unable, to rearrange the status of their employees to fit the technical "common law" classification of independent contractor.

In addition to the foregoing there is some doubt as to the meaning of the phrase "common-law rules applicable in determining the employer-employee relationship," as used in the proposed resolution. The common-law rule of decision in a Federal court is ordinarily that of the State in which it is sitting (*Wheaton* v. *Peters*, 8 Pet. 591; *Erie R. R. Co.* v. *Tompkins*, 304 U. S. 64; and 15 C. J. S. 630). Moreover, the common law in one State may not be so considered in another. For example, under the common law of Mississippi lessee-operators of taxicabs are considered employees, whereas under the common law of the District of Columbia such lessee-operators are considered independent contractors. Compare *Meridian Taxicab Company* v. *Ward* (184 Miss. 499, 186 So. 636) with *Davis* v. *U. S.* (154 F. (2d) 314). See also *Texas* v. *Higgins* (188 F. (2d) 636) and *Gulf Refining Co.* v. *Brown* (93 F. (2d) 870), in which the courts demonstrate the wide split between State authorities regarding the status of bulk oil station operators under the common law. Under existing legislation the Social Security Administration and the Treasury Department have authority to ascribe a uniform meaning to the term "employee" for purposes of the Social Security Act, the Federal Insurance Contribution Act, and the Federal Unemployment Tax Act. Under the proposed amendments, however, there is a serious possibility that social-security coverage might be dependent upon the common law as applied in each local jurisdiction. If this should occur the administrative problem of redetermining all employment relationships in accordance with local concepts might be immense. Also, considerable inequities would develop from such divergent application of the social-security laws. Employers would be required to pay Federal employment taxes or would be exempt therefrom, depending on the locality in which they operate, rather than their relationship with the individuals working for them. Similar incongruity would develop with respect to the distribution of benefits to employees and their dependents. Where an employer operates in several States confusion would inevitably result.

Uncertainty likewise exists regarding the legal effect of section 2 (b) of the proposed resolution. It provides that the amendments proposed therein "shall not have the effect of voiding any determination respecting eligibility for, or amount of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948." In one respect this provision could mean that any individual who was deemed by the Social Security Administration or the courts to be an employee entitled to wage credits prior to January 1, 1948, would continue to be an employee thereafter for purposes of wage credits and insurance benefits. In this event a number of the individuals under consideration would be allowed to accumulate additional wage credits after January 1, 1948, without paying any taxes since the Social Security Administration has been making determinations on the basis of the Silk, Greyvan, and Bartels cases since June 1947. Yet to hold such individuals to be entitled to accumulate wage credits is meaningless without a simultaneous imposition of tax on their employers, since it is through the employment-tax return that the necessary wage data is obtained. It can hardly be contemplated that the employees themselves would furnish adequate wage data periodically to the Social Security Administration.

In another light the provisions of section 2 (b) of the proposed resolution might be interpreted to apply only to those individuals who were deemed by the Social Security Administration or the courts, prior to January 1, 1948, to be fully qualified, by age and otherwise, to receive insurance benefits. This interpretation would obviously produce an inequitable result. Moreover, under such an interpretation, the Social Security Administrator, in many cases, would be prevented by reason of section 2 (a) of the proposed resolution from applying the "work clause" (sec. 203 (d)) of the Social Security Act and reducing such individuals' benefits, even though such individuals thereafter continue to receive substantial remuneration in the same type of employment which qualified them for their benefits.

The proposed resolution was evidently drafted on the assumption that the "control" test has governed all determinations and assessments of employment-tax liability to date. Such, however, is not the case. In 1945 the Court of Appeals of the District of Columbia sustained an assessment against an employer of itinerant coal hustlers primarily on the ground that the social security "statutes are remedial and require construction which will give effect to the intention of

Congress in the light of the mischief to be corrected and the end to be attained * * *" (*Grace* v. *Magruder*, 148 F. (2d) 679, cert. den., 326 U. S. 720). Similar departures from common-law principles with respect to assessments of employment taxes for periods prior to January 1, 1948, have been pronounced in *La Lone* v. *U. S.* (57 F. Supp. 947, 1944), *Schwing et al.* v. *U. S.* (C. C. A. 3, No. 9190, January 1948), *Tapager* v. *Birmingham* (U. S. D. C., N. D., Iowa, Central Division, January 16, 1948), and *Atlantic Coast Life Ins. Co.* v. *U. S.* (U. S. D. C., E. D., South Carolina, Charleston Division, January 16, 1948), not to mention the Supreme Court's decision in the Silk case in June 1947. In all of these cases the taxes have been paid and wage credits have been posted to the employees' accounts with the Social Security Administration. Enactment of the proposed resolution might reopen all of such cases. The Commissioner of Internal Revenue would then have to determine whether to make refunds or relitigate such cases under the control test. In either event the administrative task would be difficult. Relitigation of the Silk, Greyvan and Bartels cases would also have to be considered since the truck owner-drivers and orchestra leaders involved in such cases were held by the Supreme Court not to be employees on the basis of their economic, rather than and in spite of their common law, relationship with the persons to whom they were rendering services.

On the basis of the foregoing considerations the Treasury Department is opposed to the enactment of House Joint Resolution 296.

With respect to the statistical data requested by the committee at the meeting of January 23, 1948, it is estimated that between 500,000 and 750,000 workers would be excluded from social-security coverage under the provisions of House Joint Resolution 296. Assuming average earnings of $2,000 by 625,000 workers, the total wages would approximate $1,250,000,000. The employers' and employees' taxes on such wages would run close to $25,000,000 annually.

Due to the expeditious nature of this report, the Department has not been advised by the Bureau of the Budget as to whether the proposed legislation is in accord with the program of the President.

Very truly yours,

A. L. M. WIGGINS,
Acting Secretary of the Treasury.

Hon. HAROLD KNUTSON,
Chairman, Committee on Ways and Means,
House of Representatives, Washington 25, D. C.

DEAR MR. CHAIRMAN: This is in response to the committee's letter of January 23, 1948, addressed to the Commissioner for Social Security, requesting an expression of our views on House Joint Resolution 296, to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

The resolution, if adopted, would exclude from the coverage provisions of the Internal Revenue Code and the Social Security Act those who are not under "common-law rules" in an employer-employee relationship. The proposed amendments, moreover, are designed to have the same effect for internal-revenue purposes, as if included in the Internal Revenue Code on February 10, 1939, the date of the code's enactment, and for social-security purposes, as if included in the original Social Security Act of 1935. It would preserve rights to title II benefits for those whose determinations with respect thereto were made prior to January 1, 1948, but would not preserve wage credits in cases in which no determination has been made by that date.

As above indicated, the title of the resolution states its purpose to be the maintenance of the status quo pending congressional action on extended social-security coverage. It is difficult, however, to reconcile that statement with the substantive provisions of the resolution. Far from preserving the status quo, the resolution would, it is estimated, exclude from coverage approximately one-half to three-quarters of a million workers now covered under the acts as interpreted by the Supreme Court and would take away from their dependents as well the protection they would otherwise have. The resolution would thus reverse the direction in which concededly the program should move. It has long been recognized by the President, the Congress, this Agency, and other competent authorities in this field that the coverage of the act should be broadened rather than narrowed.

The tests of coverage used by the Supreme Court in interpreting the act and followed in the proposed amendment of employment tax regulations, published in the Federal Register on November 27, 1947 (12 F. R., p. 7966), seem to us to furnish rules of determination which are at the same time more workable than those proposed in the resolution and more closely in harmony with the purpose of the program. That purpose, basically, is to provide to those who look for their livelihood to their earnings from services for others and the dependents of such workers, a minimum of protection against the risk of loss of those earnings by reason of temporary unemployment, retirement on account of age, or death. The rules stated by the Supreme Court reject as exclusively determinative the technical "control concept" pertinent to an employer's legal responsibility to third persons for the acts of his servants. Instead, they require, in addition, the weighing of other relevant factors, sometimes also considered by the common law, such as the permanency of the relation, the skill required in the performance of the work, the investment in the facilities for work, and the opportunity for profit or loss from the activities, giving to each such weight as it properly deserves in the light of the statutory aims. This approach, moreover, while realistic in relation to social security, lessens the possibility of artful avoidance of coverage through meaningless arrangements changing the form rather than the substance of the relationship.

Moreover, the definition proposed in the resolution, insofar as it would introduce into the program as a test for exclusion from its benefits the technical concept of master and servant as known to the common law, would not substitute certainty for uncertainty in determining coverage in this field. In examining the vast body of decisions in this area, one is struck with the innumerable and frequently irreconcilable distinctions and refinements drawn in tort cases by the courts in determining whether a person is a servant or independent contractor for that purpose. In its application, there is not a single common-law master-servant concept but, rather, a large measure of variation as between the different States, and even within any one State it is frequently impossible to find any consistent line of decisions.

The so-called control test, often stressed as the determinative factor under the common law as it has developed, is often all but impossible to apply. Even those courts which tend to treat the "control test" as determinative differ widely in their application of it. Some insist upon a right to control the details of physical performance of the work, while others are satisfied with "general control" over the person engaged. Still others have held, even in tort cases, that control in the physical sense is not a prerequisite at all, at least where it would seem an inconvenient or inefficient arrangement, or where the skill of the employee makes it unnecessary. The so-called common-law criteria, then, would not provide taxpayers, beneficiaries, administrators, or the courts with a definite rule of predetermined content.

In view of these considerations, we believe that the resolution should not be favorably considered by the Congress.

Your committee requested information concerning the amount of income lost to the Federal old-age and survivors insurance program by virtue of the noncollection of past contributions on behalf of the approximately one-half to three-quarters of a million workers affected by House Joint Resolution 296. Under the statute of limitations in section 205 (c) of title II of the Social Security Act, wages are credited, in general, only for four past years unless a tax return is submitted. The non-collected-contribution income is estimated at about $15,000,000 to $20,000,000 annually. If all workers affected secure establishment of wage credits for the past 4 years, which is not likely, the total loss to the fund for such 4-year period would be about $60,000,000 to $80,000,000.

In accordance with the oral request of your committee, I am enclosing an opinion of the General Counsel of the Federal Security Agency on the effect of the joint resolution.

Pursuant to established procedure this letter has been submitted to the Bureau of the Budget and I am advised by that Bureau that the enactment of House Joint Resolution 296 would not be in accord with the program of the President.

Sincerely yours,

OSCAR R. EWING, *Administrator.*

JANUARY 27, 1948.

To: Mr. Oscar R. Ewing, Administrator.
From: Alanson W. Willcox, General Counsel.
Subject: Opinion as to effect of House Joint Resolution 296.

At the conclusion of the meeting of the Ways and Means Committee on House Joint Resolution 296 on January 23, 1948, it was suggested by Mr. Reed that there be submitted to the committee an opinion of the General Counsel of the Federal Security Agency in regard to the resolution. I hope that the following observations may be helpful to the committee:

1. Enactment of the resolution would not automatically validate and reestablish the regulations of the Treasury Department and this Agency concerning the employment relationship which were in effect from 1936 until the recent Supreme Court decisions. There are other formulations of the so-called "common law" test which are as consistent with the text of the resolution as are those regulations. See, for example, American Law Institute, Restatement of the Law of Agency, section 220 (1933), which include factors in defining the "common law" relation more like those used by the Supreme Court in determining social-security coverage. The resolution, therefor, would not furnish a clear guide in the administration and interpretation of the law in this respect.

2. The "common-law test" is not a simple, uniform, and easily applicable test for determining the employer-employee relationship. Even in the limited field of tort liability there has been a great variety of application and conflict in result, as between States and even within the same State, in determining whether an employer-employee relationship exists; and this is even more true when the field is expanded to include all possible applications. As said by the United States Supreme Court in *N. L. R. B.* v. *Hearst Publications* (322 U. S. 111), in answer to the claim that because Congress did not explicitly define the term "employee" as used in the Labor Relations Act, its meaning must be determined by reference to common-law standards:

"The argument assumes that there is some simple, uniform, and easily applicable test which the courts have used, in dealing with such problems, to determine whether persons doing work for others fall in one class or the other. Unfortunately this is not true. Only by a long and tortuous history was the simple formulation worked out which has been stated most frequently as 'the test' for deciding whether one who hires another is responsible in tort for his wrongdoing. But this formula has been by no means exclusively controlling in the solution of other problems. *And its simplicity has been illusory because it is more largely simplicity of formulation than of application.* Few problems in the law have given greater variety of application and conflict in results than the cases arising in the borderland between what is clearly an employer-employee relationship and what is clearly one of independent entrepreneurial dealing. This is true within the limited field of determining vicarious liability in tort. It becomes more so when the field is expanded to include all of the possible applications of the distinction.

"It is hardly necessary to stress particular instances of these variations or to emphasize that they have arisen principally, first, in the struggle of the courts to work out common-law liabilities where the legislature has given no guides for judgment, more recently also under statutes which have posed the same problem for solution in the light of the enactment's particular terms and purposes. It is enough to point out that, with reference to an identical problem, results may be contrary over a very considerable region of doubt in applying the distinction, depending upon the state or jurisdiction where the determination is made; and that within a single jurisdiction a person who, for instance, is held to be an 'independent contractor' for the purpose of imposing vicarious liability in tort may be an 'employee' for the purposes of particular legislation, such as unemployment compensation. (See, e. g., *Globe Grain & Milling Co.* v. *Industrial Commn.*, 98 Utah 36, 91 P. 2d 512.) *In short, the assumed simplicity and uniformity, resulting from application of 'common-law standards,' does not exist.*" [Italics supplied.]

State courts have frequently commented upon the fact that application of the same common-law principles to similar facts frequently resulted in diverse results. Thus, in *Showers* v. *Lund* (Neb., 242 N. W. 258), in which a gravel hauler was held to be an employee, the court said:

"Much learning has been written into the decisions of the courts on the distinctions between an employee and an independent contractor. The result is confusing. It is difficult to reconcile the diverse results derived from quite similar facts."

And in *Burns* v. *Eno* (Iowa, 240 N. W. 209), in which a gravel hauler was held, under substantially similar facts, to be an independent contractor, the court said:

The question raised is one which lends itself to endless debate and rather plausible argument on either side. Discussion of the question abounds in the books. Harmony is apparent in the statement of principles and in the platitudes and abstract phases of the subject. But in the application of the abstract to the concrete, and of the principles to the particular case in hand, there is much diversity and confusion of opinion in the precedents in different jurisdictions. In this state of the precedents we can only hope to maintain, if we may, consistency in our own decisions."

The resolution does not make clear whether the Federal administratiors and Federal courts are expected to follow the diverse State rulings, applying different criteria in different places, or to adopt a uniform Federal rule.

3. Some of the lower Federal courts in social-security cases had interpreted the 1936 regulations and the "common law" about as broadly as the Supreme Court has now interpreted the statutes. For example, it was held in *Jones* v. *Goodson* (121 F. (2d) 176) that taxicab operators were employees. In *United States* v. *Wholesale Oil Co.* (154 F. (2d) 745) a filling station operator was held to be an employee. In *United States* v. *Vogue, Inc.* (145 F. (2d) 609), a seamstress was held to be an employee. In *Grace* v. *Magruder* (148 F. (2d) 679), coal hustlers were held to be employees. If House Joint Resolution 296 were taken to affirm decisions such as these, and to give them Nation-wide application, the coverage of the Social Security System would apparently not be greatly different from what it is today under the Supreme Court decisions.

A majority of the lower courts, on the other hand, had taken a more restrictive view. In *Magruder* v. *Yellow Cab Co.* (141 F. (2d) 324) the taxicab operators were held to be independent contractors. In *Glenn* v. *Standard Oil Co.* (148 F. (2d) 51) a bulk plant operator was held to be an independent contractor. In *Glenn* v. *Beard* (141 F. (2d) 376) a home worker was held to be an independent contractor. In *United States* v. *Mutual Trucking Co.* (141 F. (2d) 655) a truck operator was held to be an independent contractor. For other cases indicative of the varying standards affected by the Federal courts, see *Texas Co.* v. *Higgins* (118 F. (2d) 636), *Deecy Products Co.* v. *Welch* (124 F. (2d) 592), *American Oil Co.* v. *Fly* (135 F. (2d) 491), *McGowan* v. *Lazeroff* (148 F. (2d) 512), *United States* v. *Aberdeen Aerie No. 24* (148 F. (2d) 655, 658), *Nevins, Inc.* v. *Rothensies* (151 F. (2d) 189). Confirmation of views such as these would, as has been said, apparently deprive some half to three-quarters of a million persons of their present coverage.

Enactment of the resolution in its present form might be urged as support for either of these conflicting views. Perhaps it would serve to confirm each group of courts in its views of the common law and the 1936 regulations. If so, only the Supreme Court could again settle the issue.

4. Like the courts, the administrative agencies concerned have not always been able to agree in their application of the 1936 regulations. The result has been the payment of benefits in some situations in which no taxes have been collected.

Conflicting views were taken in connection with life-insurance agents, outside salesmen, mining lessees, home workers, variety entertainers, manufacturers' representatives, taxicab operators, truck owner-operators, construction workers, merchant policemen, and auctioneers. The Federal Security Agency has generally tended to hold that the individuals were employees, while the Bureau of Internal Revenue has tended to adopt a more restrictive view.

Discussions with the Treasury Department in recent months have evidenced a far larger measure of agreement concerning the meaning and effect of the Supreme Court decisions than it was possible to obtain with respect to the 1936 regulations. Adherence to those decisions, therefore, seems likely to reduce substantially the number of conflicting decisions.

5. The 1936 regulations have commonly been interpreted as assigning primary importance to the extent of the control over the performance of the work exercised or exercisable by the person for whom the work is performed. Such a test is peculiarly subject to manipulation by employers, who commonly can dictate the terms of a written contract so as to exclude the appearance of control, even where the worker's dependence on his job may actually subject him completely to the will of the employer. No small part of the difficulty in applying the 1936 regulations has arisen from the need to look through the form of a relationship to its substance, and from the difficulty of ascertaining how much control is in fact exercised despite contractual clauses negativing control.

6. If House Joint Resolution 296 were intended to enact the "control test" as the sole criterion of coverage, it might result in covering some persons, such as the owner-drivers of trucks involved in the Greyvan Lines case, whom the Supreme Court held to be presently not covered. The resolution is worded in the negative,

however, and perhaps it is intended to require that, to be covered, a job must meet both the "common law" test and the test laid down by the Supreme Court.

7. The resolution would protect benefits where a "determination" has been made prior to January 1, 1948, but would otherwise be applied retroactively. (It was suggested that the date might be changed to the date of enactment.) Just what is meant by "determination" is not clear—for example, where a wage earner, prior to his retirement, has raised a question concerning his wage record, as he is entitled to do under section 205 (c) of the Social Security Act.

The issue raised by this provision is, in my judgment, one of equity and fair dealing rather than of constitutionality. See Social Security Act, section 1104. H. R. 3997 (the "newsboy bill") contained a different provision, preserving all wage credits received before enactment of the bill. Of that provision the Ways and Means Committee said (House Rept. No. 733, 80th Cong., p. 2):

"In order to avoid wiping out benefits and benefit rights which have already accrued and on which individuals may have placed reliance, the amendment to section 299 (b) (15) of the Social Security Act, relating to benefits under the old-age and survivors insurance system, is made effective with respect only to services performed after the enactment of the bill. The amendments to the old-age and survivors insurance and unemployment taxing provisions in the Internal Revenue Code are applicable with respect to services performed after December 31, 1939. In the case of the unemployment tax, the bill provides that, as to services performed before July 1, 1946, the amendment shall operate in the same manner and have the same effect as if such amendment had been a part of section 1607 (c) (15) of the code as added to the code by section 614 of the Social Security Act amendments of 1939.

"The bill prohibits any credit or refund of any amount paid prior to the date of enactment of this bill which constitutes an overpayment of tax solely by reason of an amendment made by this bill."

ALANSON W. WILCOX.

○

Union Calendar No. 641

80TH CONGRESS
2D SESSION

H. J. RES. 296

[Report No. 1319]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 1948

Mr. GEARHART introduced the following joint resolution; which was referred to the Committee on Ways and Means

FEBRUARY 3, 1948

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1426 (d) and section 1607 (i) of the Internal Revenue Code are amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the *usual* common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a

corporation) who is not an employee under such common-law rules".

(b) The amendments made by subsection (a) shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment.

SEC. 2. (a) Section 1101 (a) (6) of the Social Security Act is amended by inserting before the period at the end ~~of each the following~~ *thereof the following*: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules".

(b) The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any determination respecting eligibility for, or amount of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948.

Union Calendar No. 641

80TH CONGRESS
2D SESSION

H. J. RES. 296

[Report No. 1319]

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

By Mr. GEARHART

JANUARY 15, 1948

Referred to the Committee on Ways and Means

FEBRUARY 3, 1948

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

SOCIAL SECURITY

Mr. HARNESS of Indiana. By direction of the Committee on Rules I call up House Resolution 458, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the joint resolution, and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the joint resolution shall be considered as having been read for amendment. No amendment shall be in order to said joint resolution except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the joint resolution at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion, except one motion to recommit.

Mr. HARNESS of Indiana. Mr. Speaker, this resolution provides consideration for House Joint Resolution 296, to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

The situation which necessitates this resolution is this. The Treasury Department has decided that more people should be covered by the social-security laws. Now, there was a time in American history when department heads would come to Congress and ask for legislation to change existing laws. But that day is passed—now department heads expand their own powers, and change existing law, simply by issuing an administrative regulation.

The principal question involved here is whether the Congress will continue to make the laws for the United States or whether we will lose this function by default to the bureaucrats. If Congress wants to retain its legislative functions, we must set up continual claim to this right—and resist every attempt to wrest the power from us. That is the purpose of this joint resolution, to reassert the power of Congress to legislate.

The situation which necessitated this resolution is, to my mind, one of the most flagrant and arrogant attempts to usurp the power of Congress that has yet been tried by a Government bureau.

Over the years, Congress has passed a number of laws involving employment taxes and social-security benefits. In all of these laws, certain clauses were applicable to employees while independent contractors were specifically exempted. At the time these laws were passed, the terms "employee" and "independent contractor" had definite meanings. Whether a person was an employee or an independent contractor was determined by certain well-fixed standards of the common law. Last year the Supreme Court handed down two decisions which rejected the traditional and long-standing test for determining whether an individual is an employee or an independent contractor.

The Bureau of Internal Revenue immediately seized upon the opportunity afforded by these two decisions to bring a large number of persons within the scope of the social-security laws. These persons were in a group which was specifically exempted by Congress at the time the law was passed. This group was the independent contractors. In making these laws, Congress had in mind the common-law definitions of the terms used. Any reasonable man would have recognized this. Anyone charged with interpreting the law should know that the common-law definition of terms at the time of the passage of the act is the meaning that should be construed as the intent of Congress. Although the intent of Congress should be obvious to anyone acting in good faith—the Treasury Department officials have interpreted the law otherwise. It is apparent that the bureaucrats are not interested in interpreting laws according to the intent of Congress—but they will seize upon every opportunity to defeat the will of Congress by giving meanings to words that Congress never intended.

The question involved here is not whether the scope of social-security coverage should be broadened—the question here is whether it should be done by the Congress of the United States, or by administrative orders from appointed bureau heads.

From time immemorial—regardless of which party was in the majority—all tax bills have come to the floor of the House under a closed rule. It is obvious to everyone that this is necessary. But, nevertheless, a cry of hurt surprise has always gone up from the minority on such occasions. We can expect to hear the same cry from the minority today.

Mr. Speaker, at this point in my remarks I would like to insert a copy of a letter which I received from a business firm operating in my district. It is a letter addressed to the Bureau of Internal Revenue, Department of the Treasury, under date of December 28, 1947. This firm, if such a regulation were to become effective, would be seriously injured. Their explanation of it is clear.

I ask unanimous consent to insert this letter as a part of my remarks, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Indiana [Mr. HARNESS]?

There was no objection.

The letter is as follows:

THE WARD-STILSON CO.,
Anderson, Ind., December 23, 1947.

Re employment tax regulations with respect to employer-employee relationship.

BUREAU OF INTERNAL REVENUE,
Department of the Treasury,
Washington, D. C.

GENTLEMEN: Pursuant to section 4 (b) of the Administrative Procedure Act request is hereby made for consideration of the following statement of views prior to the proposed final adoption of the above-mentioned regulations.

The Ward-Stilson Co. is an Indiana corporation with its offices and factory at Anderson, Ind.

The corporation is engaged in the manufacture and sale of women's wearing apparel which it sells direct to the public throughout the United States by means of house-to-house solicitation. Most of these solicitors are women.

The solicitor's compensation is the commission earned by her on each sale.

The solicitor has a right to sell other lines both competitive and noncompetitive and is under no restrictions in this respect.

These individuals are self-controlled and, in fact, are small-business men completely in charge of their own economic success or failure and it is impossible for us to control their activities.

Notwithstanding these outstanding features or factors, which are typical, they cannot be established in the face of these regulations as proposed for final adoption.

These individuals have always been classed as independent. The State minimum wage acts have never been applied to them. They were left out of any application of the National Recovery Act by common consent.

They are expressly exempted from application of the Federal Fair Labor Standards Act.

Notwithstanding these important factors, these individuals may and probably will be included under the Social Security Act because of the context and purport of the proposed regulations.

Typically, in house-to-house selling, the company never has possession or control of any funds belonging to the solicitor. Furthermore, as no wages are paid, and as the earnings of the individual are not measurable by time or other available yardsticks, there is no practical means whereby the amount of taxable earnings can be established, and no means of definitely assuring collection of the Federal insurance contribution tax from the individual, although the company is responsible for such collection.

During the calendar year 1947 there were 37,430 persons who became inactive after selling some of our merchandise, and in addition to these persons there were approximately 95,000 who signed one of our application and agreement forms but never became active.

As most of these persons are housewives it would have been necessary for us to have secured social security numbers for each one of them for we had no way of knowing whether or not they would have any earnings.

Many of the sales made by the solicitors are to relatives or friends from whom they collect no deposit, so any estimate of earnings based on sales made by them would be merely guesses. This is hardly a sound basis for the establishment of the amount of the tax or the operation of tax administration.

We strenuously object to the resulting economic impact upon our business coming from matters outside of the social relations field which will be caused by adoption of the proposed regulations.

The coverage of these individuals would automatically revamp and change the legal and business status of our company, an effect which is difficult to believe that Congress intended.

We are not opposed in any way to such economic benefits as application of the act might give to these individuals. We believe, however, that there is a much better way to accomplish it without the terrific impacts coming from doing the same by way of broad regulations of this kind.

We are entirely in favor of granting independent contractors and self-employed persons in general the benefits of social security. This, however, is definitely a matter for legislation and not a matter of administrative rule making.

Congress has recently indicated an intention to clarify its own definition of the word "employee." It has also claimed the right to do this legislatively. It has also indicated that when the clarification comes it will be contrary to the concept announced by the United States Supreme Court.

The House Ways and Means Committee has already given serious consideration to the inclusion under social security of persons having self-employed status. The Treasury Department, itself, through a special study, has determined that this is administratively feasible. Legislation of this kind is undoubtedly imminent and should be passed with the least practicable delay. New legislation on the foregoing subject matters would eliminate the necessity of the present regulations and the objectionable results which would flow from them and at the same time accomplish every social purpose which the proposed regulations are aimed to produce.

It is respectfully requested, in view of the points and objections here raised, and the terrific impact that the adoption of these regulations would have on all companies who are doing business as we are, that the effective date of the proposed regulations be indefinitely postponed until such time as the Congress may pass new legislation which will avoid all of the uncertainties and difficulties of operating under the proposed regulations.

Respectfully submitted.

THE WARD-STILSON CO.,
W. R. CLASS, *Secretary-Treasurer.*

Mr. HARNESS of Indiana. The rule provides 2 hours of general debate on the joint resolution, and waives points of order against it.

I am certain that an overwhelming majority of you are in favor of this joint resolution to retain the prerogatives of Congress, and I urge you to support this resolution to provide for its consideration.

Mr. Speaker, at this time I yield one-half hour to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, personally I regret very much that I did not have sufficient time to familiarize myself with the action on the part of the majority in reporting and calling up this bill. I was in hopes that we would broaden social-security benefits instead of revising the law, as is now proposed. Personally I know I cannot do better than to restate what the minority Members have stated in their minority report. They state:

> In the first place the proposed resolution would not maintain the status quo but would change the law as pronounced by the Supreme Court in June 1947. In so doing it would deprive an estimated one-half to three-quarters of a million employees and their dependents of social-security coverage to which they are now entitled. Thus, the proposed resolution implies a disregard for the protection afforded by the social-security program, and would reverse the trend toward expanded coverage which the President and this department have repeatedly espoused.

Of course, I am not the least surprised at what you are seeking to do again because all that the people can expect from the Republican Party now in power is legislation against the best interests of those that need aid and protection from Congress.

Mr. HOFFMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. SABATH. I hesitate to refuse to yield to the gentleman from Michigan. I yield to him for a question.

Mr. HOFFMAN. Yes. The gentleman says the Republicans are depriving people of needed benefits and that that seems to be their sole objective. Does the gentleman believe that if we give these people across the seas $17,000,000,000 that is depriving the people of those countries of anything?

Mr. SABATH. What $17,000,000,000 is the gentleman talking about?

Mr. HOFFMAN. I say in view of the fact that bipartisan policy proposes to give to the needy people of Europe some $17,000,000,000, how does the gentleman get the opinion that anyone is depriving the people abroad of anything?

Mr. SABATH. I did not want to touch upon that and I have said nothing about bipartisan efforts or the coalition that existed during the last Congress and still exists in this Congress. Personally, I regret very much that the Democratic Party permitted itself to be used by the present Republican majority. I think it is unfortunate because it is not in the best interests of our country and the people; and I fear very much that some day those who instigated that coalition and bipartisan activity will see the error of their ways in permitting themselves to be used by the Republican majority. But what can I do? I am doing the best I can by trying to call attention to the unfortunate situation existing in the country today which is due to the fact that in 1946 the people listened to the false promises and pledges the Republicans made as to what they were going to do for the people when they assumed power. None of these promises, of course, have been kept. Nevertheless, at that time housewives were led to believe that they were going to get a lot of meat, meat products and butter at reduced prices. Instead, the meat was withheld from the public by the packers who went on strike and stopped slaughtering in order to force the repeal of the OPA, notwithstanding that the packers had thousands upon thousands of well-fed cattle in their feeding pens. However, the moment that your party repealed the OPA the packers immediately began to slaughter because they increased the price of their meat and all its byproducts. This the people should remember because instead of eliminating the black market as they promised, the packers themselves, through their various distributors, created conditions that were worse than during the life of the OPA.

In view of the conditions that prevail in the House I am not going to prolong the debate. I know what is going to be done, I know what the vote will be. I cannot stop you, gentlemen. As I have said many times, you will not listen to my advice. Now, in view of the conditions I am going to conclude my remarks.

Mr. HOFFMAN. Mr. Speaker, before the gentleman concludes, will the gentleman yield?

Mr. SABATH. To the gentleman from Michigan again? Yes; the gentleman has been pretty fair.

Mr. HOFFMAN. Do I understand that the gentleman is complaining because certain Republicans in the other body have gone along and voted with you on this foreign proposition? Is that what the gentleman is complaining about?

Mr. SABATH. I claim that the administration has permitted itself to be used by some of these leading Republicans. Let us not say anything about the Members of the other body; that is in violation of the rules of the House.

Mr. HOFFMAN. Then the gentleman thinks the present foreign policy advocated by the President is a Republican policy?

Mr. SABATH. Do you want my candid opinion?

Mr. HOFFMAN. I would not have asked the question had I thought it would be anything else.

Mr. SABATH. I will give it to the gentleman.

Mr. HOFFMAN. Yes; that is what I want.

Mr. SABATH. Personally, my own opinion——

Mr. HOFFMAN. Heart to heart, now.

Mr. SABATH. Heart to heart. I am of the opinion that President Truman—remembering what the Republican Senate, under the leadership of Senator Lodge, did to the League of Nations—when urged by the Republican leadership and the Republican press to cooperate, assured them of his cooperation because he realized that he would need the votes of the Republicans to have any treaty entered into with any foreign country approved.

The President assured his cooperation and in order to keep his promise he followed the advice of some of the Republicans and others on the Foreign Affairs Committee. But, unfortunately, because of the action of the Republican leaders under the leadership of former President Hoover, his collaborators, and his Republican advisers, he was hamstrung, and it is extremely difficult for him to separate himself from their influence. He is following really the foreign policies urged and advocated by the Republicans.

Mr. HOFFMAN. Does the gentleman mean that his President has been seduced by the wicked Republicans and that he has entered into what your national committeemen described as a sort of corrupt deal with them?

Mr. SABATH. I did not use the word "seduced" nor the word "corrupt." However, being as candid as I always am, I am obliged to concede that I do not know whether the Democratic national committeemen have made such charges, but if they have, they hit the nail on the head.

Mr. HOFFMAN. Well, let us say led astray.

Mr. SABATH. I will criticize Republicans but I will not be abusive. I will criticize when I feel they are to be criticized and when I feel my humble remarks might convince some of them to vote right in the interest of the people, but I have not succeeded and I do not think anybody can because you are set to do what the National Association of Manufacturers and certain great interests demand of you. They seem to have complete control over you. In view of that fact, anything I may say will not stop you from legislating against the interests of the deserving people, as you unfortunately are doing again in this bill.

Mr. HOFFMAN. Let me withdraw something. I will withdraw that word "seduced" to which the gentleman objects and say instead of that: As I understand the gentleman, the President has been deceived, misled, and overinfluenced, and we got him in the wrong place, have we?

Mr. SABATH. Yes; he has been influenced on foreign policy.

Mr. HOFFMAN. Did he not get there himself?

Mr. SABATH. Having the best interests of our country at heart, the President sought advice and cooperation from men whom he believed to be well informed. However, it seems to me that these gentlemen have been unable to divest themselves of their former connections or interests, especially those gentlemen who are vitally interested in oil and the rebuilding of the powerful interests of the Axis nations who attempted to destroy us. Unfortunately, quite a few of our corporations have vested interests in these cartels and industries.

Mr. Speaker, due to the interruptions and time taken in answering the gentleman from Michigan [Mr. HOFFMAN], I have not, as I intended, pointed out the underlying reasons why this legislation is unfair to approximately 800,000 persons who are entitled to social-security benefits, but I am satisfied that the gentleman from New York [Mr. LYNCH], the gentleman from Rhode Island [Mr. FORAND], and the gentleman from Pennsylvania [Mr. EBERHARTER], as members of the Ways and Means Committee, will point out the objectionable features of the bill.

Mr. RAYBURN. Mr. Speaker, the gentleman from Louisiana [Mr. HÉBERT] is not in the city. I understand by some mistake he has been recorded as voting on the recent roll call. I ask unanimous consent that his name be removed from the list of those voting.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HARNESS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. WOLVERTON].

Mr. WOLVERTON. Mr. Speaker, I am submitting today a further fuel investigation progress report of the Committee on Interstate and Foreign Commerce on petroleum and the European recovery program.

The committee is of the opinion from the lengthy examination which it has been conducting into the fuel situation with special attention to the future supply of petroleum to the United States that there are several questions in connection with the recovery program which properly should be resolved. One relates to the reliance which can be placed upon the Middle East as a source of supply of petroleum for Europe, and another relates to the availability of steel to consummate the world-wide expansion program required to meet the European petroleum demand.

The committee presents this discussion of the petroleum aspects of the European recovery program and their interrelationships with the petroleum situation of the United States and of the world in the spirit of helpfulness to an understanding of what is involved in the program insofar as petroleum is concerned.

It is my feeling that a full review of the proposals which depend upon an increased European use of petroleum properly is in order so that the United States does not fail in any obligations it may assume in connection with the proposed European recovery program.

Mr. SABATH. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. EBERHARTER].

Mr. EBERHARTER. Mr. Speaker, I do not intend to make any argument for or against this resolution at this time. However, I am taking the floor because of some of the statements made by my good friend the gentleman from Indiana [Mr. HARNESS].

This bill is here not because of any desire of the Social Security Board or the Federal Security Administrator or the Treasury Department or anybody else to extend their powers. This bill is here because of an interpretation by the Supreme Court of the United States with respect to the definition of the words "employer" and "employee." The decision of the Supreme Court of the United States is the first complete over-all decision we have had which clarifies this whole subject, about which there has been much confusion, and there is certainly a misconception in the minds of many Members of Congress concerning the importance of this resolution here this afternoon.

I wish there were more Members on the floor. The purpose of the resolution before us today is to do only one thing, and that is to absolve a certain group of employers from the payment of social-security taxes. That is the only purpose of this bill, and I can prove it to you.

The bill was reported out by the Committee on Ways and Means before we had before us the report of the Treasury and the report of the Federal Security Administrator, which shows that proper consideration and thought as to the vast consequences of this resolution was not given to it by the Committee on Ways and Means.

Mr. HOFFMAN. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from Michigan.

Mr. HOFFMAN. Do I get it then that the purpose of this resolution is to overrule a decision of the Supreme Court?

Mr. EBERHARTER. Definitely. That is correct.

Mr. HOFFMAN. And to reestablish the original intention that the Congress had when it wrote the bill?

Mr. EBERHARTER. No. I am glad the gentleman asked me that question.

The original social-security bill passed in 1935, and its amendments passed in 1939, did not give any definition of the word "employer" or the word "employee." There are 48 States in the Union. There are about 48 different interpretations of what an employer is and what an employee is, both as respects contracts, as respects torts, as respects labor relations, as respects unemployment insurance, and as respects any number of different subjects. There are different interpretations in every State of the Union. Congress did not take it upon itself to say what it meant by "employer" and what it meant by "employee." Now we have a construction of the law which definitely and clearly states what those words mean. This resolution comes in here to create confusion and, in addition, as I said, to save some employers some money, and to take from certain people now on the rolls social-security benefits, such as unemployment compensation, and old-age and survivors insurance benefits. It will take these benefits away from about three-quarters of a million people who are now entitled to them under the law, under the decisions of the Supreme

Court, and under the proposed regulations of the Treasury Department. This measure has more importance than the majority have been trying to give the impression to Congress that it has.

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. SABATH. Mr. Speaker, I yield four additional minutes to the gentleman from Pennsylvania.

Mr. LYNCH. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from New York.

Mr. LYNCH. Is it not a fact that the definition stated in the regulation of the Social Security Administration is exactly the same and almost word for word in accordance with the decision of the United States Supreme Court?

Mr. EBERHARTER. The gentleman is absolutely correct. The decision of the Supreme Court was practically unanimous. I think there was some difference of opinion as to which court should make findings of fact, but no Justice of the Supreme Court took exception to the basic opinion of the Court.

I hope the Members of the House are not misled by the title of this bill. The title is deceptive in the highest degree, more so than in any measure that has ever come before the House since I have been a Member. I do not believe it is in conformity with the Congresses of the past to give a bill a title such as they have given this bill. I have had many Members come to me and say "This bill states it is to keep the status quo." But it does nothing of the sort. It changes the status quo. When did you ever need legislation to keep the status quo? "Status quo" means "as is." Did you ever pass any measure to keep things as is? You pass laws when you want to change things. So it is the most deceptive title that was ever presented to a Congress.

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from Rhode Island.

Mr. FORAND. Will my colleague from Pennsylvania agree with me that this will do absolutely nothing to clarify the meaning of the common-law term "master and servant"?

Mr. EBERHARTER. It will not only do nothing to clarify it, it will make confusion worse confounded. There are 48 different interpretations of the term "master and servant" and "employer and employee."

Mr. FORAND. Then the gentleman confirms the statement I made in the committee that, should this bill pass, it means that it is a full employment bill for lawyers and not relief for employees?

Mr. EBERHARTER. The gentleman is absolutely correct.

Mr. GEARHART. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from California.

Mr. GEARHART. The lawyers have done pretty well with all the cases that have been taken through all the courts up to the Supreme Court in connection with this matter.

Mr. FORAND. Under those circumstances they need no further relief.

Mr. GEARHART. That is why it is not that kind of a bill at all.

Mr. EBERHARTER. I agree with the gentleman from Rhode Island [Mr. FORAND]. There is not the slightest doubt in the world that this joint resolution will never become law. If by some miracle it should be put on the books, no administrator of unemployment compensation in any State in the Union would know where he stood.

Mr. BUCHANAN. If I understood the gentleman correctly, he stated that it will remove some 500,000 to 750,000 persons who are now on the rolls?

Mr. EBERHARTER. Absolutely, it will do that. It will take away from them the benefits to which they are entitled. It will make it impossible for some people ever to get the benefit of unemployment compensation. Right now they are entitled to it, but this will take some of them off the rolls. It will take away credits in the social security fund some of them already have. It will take them away from them, with no chance in the world of their ever getting them back unless by some future action of this Congress we recognize that we made a terrible mistake and give them relief in some respect; but we will have to pass a new law in order to do that.

Mr. LYNCH. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I am very glad to yield to the gentleman.

Mr. LYNCH. Then the people have paid for these benefits?

Mr. EBERHARTER. Yes; the people have paid for them, both the employer and the employee have already paid and are entitled to the credit.

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. FORAND. The truth of the matter is that these 500,000 or 750,000 employees referred to in the regulations that were issued which are being held up by the Treasury Department already are accruing benefits since the date that the Supreme Court decisions were handed down. The social-security law is written by sections, one section pertains to the accrual of benefits, whereas another section entirely distinct therefrom pertains to collections. Therefore the benefits are accruing to those people, but neither they nor their employers are contributing a penny toward the fund.

Mr. EBERHARTER. That is correct.

Mr. FORAND. Thus any benefit paid to those people will have to come out of the general fund which means that other people who are contributing to the fund will be paying for these additional employees who have been brought in under the social-security coverage.

Mr. EBERHARTER. That is absolutely correct. Whether or not their employer is paying taxes since the Supreme Court decisions were handed down, they are entitled to benefits.

Mr. FORAND. Not only are they entitled to benefits, but those benefits are accruing to them.

Mr. EBERHARTER. Yes, the benefits are accruing, but there are other types which have had an accumulation of benefits who will have their benefits wiped out if this resolution is passed. I hope that the matter will be gone into fully in committee, at which time I will be glad to answer any questions, but I do not wish to take up all of the time on a discussion of the rule.

SOCIAL SECURITY

Mr. HARNESS of Indiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUSE JOINT RESOLUTION 296

Mr. FORAND. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include excerpts from the regulations proposed by the Treasury Department.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. FORAND. Mr. Speaker, House Joint Resolution 296 is much more important than many seem to think it to be.

The effect of the resolution would be to exclude an estimated 500,000 to 750,000 persons from coverage under the social-security laws, to which they are now entitled. The people in question, by and large, are as much in need of social-security protection as are factory and office employees. The greater number of them are full-time insurance and other outside salesmen, each working for a single business concern. The dependence of such persons on their jobs, and the loss to them and their dependents if their earnings cease, do not turn upon the niceties of the common-law tests of employment.

The plight of the worker when he loses his job or retires, the plight of his family in case of his death, is no less real because the details of his activity were not controlled by the business to which he was attached. Such persons may be independent contractors in the technical eye of the common law, but in real life their independence is in most cases a myth.

To withdraw social-security protection from a half million or more people now entitled to it is a backward step, and a long one at that. Two years ago six Republican members of the Ways and Means Committee, who were then in the minority, bitterly complained that pleas for broader social-security coverage had not prevailed with the committee. Now, less than 2 years later, the present Republican majority of the committee not only make no move toward broader coverage but propose to restrict what we already have. At the behest of a few employers seeking to save a few tax dollars, they would oust more than a half million people from the coverage which they say ought to be expanded. One wonders if their support of social security is just lip service. In my opinion, this resolution is part of a plan to sabotage the social-security system.

In reporting out the resolution, the majority of the committee have made some very misleading statements.

First and foremost, they say that the Supreme Court "was evidently unaware of the legislative history" of the 1939 amendments to the Social Security Act. That statement is simply not true. If the committee had taken the trouble to look into the matter before writing their report they would have found that the legislative history, of which they make so much, was discussed on pages 41–45 of the Government's brief and was also discussed by the Government's opponents. So what now, in hindsight, looks so clear to the majority of the committee did not look at all clear to the Supreme Court of the United States.

If the Congress had been nearly as explicit in 1939 as the committee now thinks it was, of course this question would never have reached the Supreme Court at all. If Congress had made its intention plain in 1939, there never would have been the conflict of decisions in the lower Federal courts that was the only occasion for taking the matter to the Supreme Court. I, for one, refuse to take so dim a view of our judiciary as to suppose that the courts do not carry out the will of Congress when that will has been made clear.

If we look at what actually happened in the social security amendments in 1939, we find a confused and ambiguous record. The one thing that stands out clearly is that nobody in either House came out flatly and said that the common-law rules were to be the sole measuse of social-security coverage. The nearest that anyone came to that was in the report of the Ways and Means Committee, discussing an amendment which did not pass. So, at best, the majority of the committee are now relying on something that did not happen. And when the Senate Finance Committee decided to wash out that amendment, they were very silent indeed about whom they meant the word "employee" to cover.

The House amendment was designed to bring into the Social Security System salesmen who everybody agreed were not employees by any definition. The fact that Congress finally decided that these people should not be covered is a pretty weak argument to show that Congress did not mean to cover those salesmen who are employees by a liberal test.

Take, for example, the case of news vendors, who seem to be so much to the fore in this discussion. Under the House amendment proposed in 1939 probably all of them would have been covered except those under 18 who were specifically excepted. If a news vendor sells razor blades as a side line, the amendment would have made him an employee of the wholesaler of razor blades. Either at common law or under the Supreme Court decisions, on the other hand, most news vendors are classed as independent contractors, and certainly none of them are employees of a razor-blade company. Whether news vendors should be in or out of the system is not now the question, for this joint resolution (H. J. Res. 296) would affect few of them.

The point is that in 1939 Congress merely rejected a rule of thumb which would have covered all of them. That left wide open the question whether only those few should be covered who are employees at common law, or whether a few more should be covered under the Supreme Court interpretation. Actually, if the common-law rules are applied liberally, as the Ways and Means Committee in 1939 said they ought to be, the results would be pretty much the same on either theory. But the result would have been very different indeed if the House amendment had been passed in 1939 and had blanketed them all into coverage.

The history of what happened in 1939 has been argued before the Supreme Court, and that Court has spoken. Under our system, the Supreme Court is the final authority on what a statute means. If we want to change the statute we have undoubted authority to do it. But let us be frank enough to stop talking about maintaining the status quo and admit that what this resolution proposes to do is to take away social-security coverage from one-half million or more people who are entitled to it under the present law. Those who vote for this resolution should admit that they care less about impoverished old age than they do about saving a few taxpayers a little money.

PERMISSION TO EXTEND REMARKS AT THIS POINT

Mr. KELLEY. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KELLEY. Mr. Speaker, House Joint Resolution 296, which will be before the House in a few minutes, will be a disappointment to many people in this country. After all of the efforts made by certain groups in the Congress in the past few years to liberalize social-security benefits for the aged, we have for consideration this resolution, which attempts the exclusion of approximately three-quarters of a million people from those benefits. It represents a retrogression in the liberalization of the social-security program.

Certainly I have repeatedly urged increasing benefits for our aged people and lowering the age limit. That the time is long since past for such action is especially evidenced by the rising living costs seen in the last few years. Those who would be benefited under the program must content themselves with a mite. With rising life expectancy, more and more of our old people will be needing assistance, but there appears little hope for them when they are confronted with the small amount which will be theirs at the age of 65.

Instead of producing legislation narrowing the scope of those to be benefited, we should be directing our energies toward broadening the program and making it more adequate. Year after year it seems this problem comes before the Congress, and each time any liberalization has been denied. I hope the people of the country will realize the necessity of impressing their representatives with the urgency of supporting a liberal view on social security. Maybe then we will get somewhere. It remains one of the big problems to be dealt with by the Congress, and it will have to be faced.

SOCIAL SECURITY

Mr. REED of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Joint Resolution 296, to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Joint Resolution 296, with Mr. JACKSON of California in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

Mr. REED of New York. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. GEARHART].

Mr. GEARHART. Mr. Chairman, the very recent developments which have made necessary the enactment of this joint resolution are simple and can be readily understood if I can have for but a brief moment the attention of those who are gathered here today.

As you will all remember, the Social Security Act was enacted in 1935. At that time it was clearly understood what the intent of the Congress was in reference to the definition of "employer" and "employee." There was no dispute about it at all. At that time the Social Security Board, now the Social Security Administration, wrote a regulation which clearly reflected the intent of this legislative body.

Everyone understood that the ancient common-law definition of "master" and "servant," or of "employer" and "employee," as you may choose to describe the relationship, should be the definition which should control coverage under the Social Security Act. Everything went along all right until in 1939, when some people—among them some influential and inordinately ambitious officials of the Social Security Administration—began to evince a restiveness under the restraining influence of this ancient definition. It was not as broad as they would have it. Sharing the views of these bureaucrats, the House of Representatives, in an amendment to the Social Security Act, offered to broaden the definition to include certain excluded groups. With House approval, such a bill was passed, but the Senate promptly disagreed, reiterating its preference for the common-law definition. In conference the House receded, and reembraced the ancient doctrine. By this joint action of the House and Senate, the Congress again revealed its intent that the common-law definition of "master" and "servant" should control coverage under the social-security program.

But the boys down in the executive departments, the bureaucrats, as we frequently refer to them, like all bureaucrats from the beginning of time down to this moment, simply could not control their desire to expand their operations. They frantically called upon the Congress from time to time to enlarge their responsibilities—coverage, as it is called. As all of the Members of Congress are anxious to extend the benefits of social security to as many people as possible, there was no opposition to the desires of the bureaucrats as long as there was no attempt by them to usurp the legislative functions of the Congress. But when they embraced the idea of accomplishing their objective, laudable though the ends they pursued undoubtedly were, by methods other than legislative, trouble for them, the courts, and the Congress immediately ensued.

Becoming a little impatient with the failure of the Congress to act as rapidly as they would have it, these bureaucratic officials of the Social Security Administration have been for years pressing propositions upon the attention of our courts which, if approved of by the higher tribunals, would greatly extend the definition of master and servant; extend it way beyond anything that this Congress ever intended. They were able to get a few decisions from the Federal courts, one of which gave them the courage to propose a new regulation which, if allowed to go into effect by reason of congressional inaction, will so greatly expand the definition of employer and employee that people who have always regarded themselves as independent contractors and, therefore, uncovered, will find that they are subject to pay-roll taxes and qualified for the benefits of the Social Security Act—without an opportunity to be heard on the question at all.

The confusion with which we are now beset arises out of the fact that the courts, after rendering a correct decision under the common law definition of master and servant, went on and, in what is regarded by lawyers as obiter dicta, gave expression to an idea for which there was no precedent to be found in the lawbooks, startling indeed to those of us who, from their law-school days, knew, or thought they knew, something about the common law and its definitions. In the so-called Silk Coal Co. case, the Supreme Court held:

> The term "employee" is not a word of art having a definite meaning. The relationship of employer and employee for the purposes of the social-security legislation and the regulations in this part is not restricted by the technical legal relation of "master and servant," as the common law has developed that relation in all its variations.

In other words, the Supreme Court of the United States, at the behest and in accordance with the urgings of the officials of the Social Security Board has announced, in obiter dicta, that is, in words which were not necessary to the decision on any of the main issues which were involved, that the ancient common-law definition of employer and employee is no longer controlling. In effect, the Supreme Court has in effect repealed the intent of this Congress as twice declared on this very legislative floor. In another part of the decision the Court very apparently accepts this thesis:

> In the application of the Federal Insurance Contributions Act and in the regulations of this part an employee is an individual in a service relationship who is dependent as a matter of economic reality upon the business to which he renders service and not upon his own business as an independent contractor.

Imagine that. Without doubt, that inept pronouncement would, if not corrected by this Congress, throw more confusion into the relation of master and servant and create a greater necessity for more court decisions than any other loose expression that has ever been given utterance to by any judicial body in the history of this country. Just think how this judicially manufactured

definition will operate upon the business relationships of the Nation. Anyone can be dealt with and treated as an employee who is dependent as a matter of economic reality upon the business to which he renders service. No wonder that every worker in the country, every businessman in the United States, every labor unionite in this land rises up to inquire: "What does that mean?"

Well, it means anything and everything. It means that the bureaucrats are going to begin to assess taxes against all sorts of people who have always believed that they were independent contractors. If that loose definition of employee-employer which is announced in this decision of the Supreme Court which has been seized upon by all of these expansionists is not repudiated by this Congress the ancient common-law definition which has controlled legal thinking for generations will become a thing of the past and the classification of independent contractor will become so restricted as to cease to exist for all practical purposes.

No wonder the hundreds of thousands of insurance solicitors of this country, gathered in their national organizational meetings, are wondering whether or not they are employees now or independent contractors which they have always considered themselves to be.

The consequences of this new situation are so numerous as to defy contemplation. Let us consider this one: If they are found to be employees under this strange definition it will mean that they will have to pay social-security taxes and the insurance companies with which they are connected, companies by which, I say, they are not employed, will also have to crack down pay-roll taxes. What is the result? Though they are stuck for the taxes, they will never be able to collect any benefits, this for the simple reason that an insurance solicitor is never out of employment and therefore can never qualify for unemployment insurance. Later, when he reached his 65 years of age he would never be entitled to receive his paid-for old-age and survivors insurance for the simple reason that he will continue to be employed until his dying day. They will always be employed because under the ordinary contractual relationship between insurance companies and insurance solicitors, the solicitors continue to receive a percentage of the renewal premiums as long as the policies are kept alive. These collections and remittances may go on for years and years, sometimes for years after the death of the insurance solicitor has occurred.

Think of the great horde of Fuller Brush people who run around this country. They have always regarded themselves as independent contractors. They buy their brushes at a low price and sell them for a higher price and live on the difference between the two. They are in jeopardy of being declared employees because they are indeed and in fact dependent upon the Fuller Brush Co. as a matter of economic reality. What can we say in defense of a system which collects taxes and then denies benefits?

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I am happy to yield to the distinguished gentleman from California.

Mr. JOHNSON of California. Will not the very thing the gentleman is telling us about the insurance agents apply to every kind of business and agency in the United States?

Mr. GEARHART. It applies to hundreds of thousands of people in the United States who now think they are independent contractors, whose business associates have always regarded them as independent contractors, but nobody will know, if this new regulation which the Treasury proposes goes into effect, whether they are employees or whether they are independent contractors. The chances are that all will be declared employees and that none will remain independent contractors. Only by so deciding can the bureaucrats expand their bureau, swell their pay roll, augment their power, feed their vanity.

Mr. JENKINS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I am pleased to yield to the very able gentleman from Ohio.

Mr. JENKINS of Ohio. That is the very reason we give the title of this bill as maintaining the status quo?

Mr. GEARHART. I thank the gentleman from Ohio. The adoption of my resolution will restore and maintain the time-honored definition which is years untold old, a definition that has come down through the years and stood the test of time, a definition which is based upon logic and common sense, one that simply says in so many words that an employee is a person who is engaged for hire, one who, in his employment, submits himself to the control of his employer in respect to how and why and when his service shall be performed. That is simple and it is understandable and that is exactly what this Congress intended to be the rule that would govern the actions of the Social Security Board, now the Social Security Administration, in its relation to that part of the public it was and is intended to serve.

I do not want to go into this subject matter so deeply as to make it appear complicated, for indeed it is not that at all. My resolution will restore simplicity and understanding. Under it, there will be no fictional relation of master and servant, only the factual, commonplace. Before concluding, with the indulgence of the membership, may I point out that if you do not pass this joint resolution today you will, by that act, be granting to 625,000 American people social-security benefits for which they will have paid nothing and contributed nothing. In all probability and in the last analysis, your failure to enact my resolution will impose upon the United States an obligation to pay out of our Public Treasury over $12,000,000,000; that is, $1,250,000,000 per year for 10 years. In other words, an obligation would devolve upon the Treasury of the United States to pay into the social-security fund the billions of dollars of pay-roll taxes which have not been collected from this vast horde in the days gone by which the Social Security Administration will scoop into its voracious maw—if this new definition is allowed to stand.

These people have never paid a cent for this security. All the other people have paid money for that security and we are perfectly willing they now shall have the benefits for which they paid; but I do not think it is fair to lift from the shoulders of 625,000 people the responsibility of paying for the social-security benefits they are to receive and to impose that obligation upon the shoulders of taxpayers who will receive nothing in return. How can we justify the taxing of all of the people for the benefit of a select few who never dreamed that they were covered under the social-security law? Is this not special privilege at its worst?

Mr. SIMPSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I am happy to yield to my colleague of the Ways and Means Committee, the gentleman from Pennsylvania.

Mr. SIMPSON of Pennsylvania. I would like to ask the gentleman whether he believes that these hundreds of thousands who may be included under this court decision will not have a liability in addition to a benefit. If they did not pay taxes during the years when under that court decision they should have, they would be liable, and why may they not now be construed by the courts to be responsible? And will not every employer who under this court decision might be liable to pay the tax wake up some day to find millions of dollars of liability upon his shoulders?

Mr. GEARHART. There is no doubt in the world but what the gentleman from Pennsylvania is entirely accurate in the several points that he raises. I thank him for his interjection.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. REED of New York. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I yield to the gentleman from Nebraska.

Mr. CURTIS. The confusion is increased by the fact that the Treasury Department has the power to assess taxes retroactively. Although it has not been exercised, the power is there, and it would create untold chaos.

Mr. GEARHART. The gentleman is entirely right, and I would like to discuss that one phase. A moment ago I said that, in all probability, this liability will devolve upon the general taxpayers of this country—this for the simple reason that it would not be practical, perhaps impossible, to collect all of these back taxes from the people who owe them—that is, the employers and the employees themselves. But it becomes the duty of the Revenue Bureau, assuming the new regulation is issued, to try and collect those back taxes from the people who owe them, and that will involve checking up everyone who thought he was an independent contractor, but who now finds himself an employee; it will be the duty of the Treasury to double back and collect these back taxes, if it can. A lot of these people have little homes and

have, perhaps beyond that, accumulated a little property. These accumulations will be subject to a levy by the tax-collecting authorities of this country, and it may result in the wiping out of many a poor person because of the invoking of procedure of this kind.

Mr. BRADLEY. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I yield to the gentleman from California.

Mr. BRADLEY. Would this new ruling bring the many thousand independent milk dealers in our district under the social-security law?

Mr. GEARHART. Well, it depends entirely on whether the Social Security Administration thinks they are dependent upon the business in the light of economic reality — whatever that means—as long as the Supreme Court of the United States continues to look with favor upon such loose definitions of master and servant as dependency upon a business in the light of economic reality. I think that probably all of the people concerning whom the gentleman has inquired would be held to be employees, and somebody will be stuck—either the Government, the taxpayers, the employer, or the employee—for all of the back taxes. They may go back 10 years in the absence of a statute of limitations.

Mr. BRADLEY. I conclude that we would not know where we stand.

Mr. GEARHART. Why, somebody suggested earlier in the day that this might be a bill for the relief of lawyers. This is a lawyer's opportunity, this regulation which is proposed by the Treasury Department. Every man, woman, and child who thinks he or she is today an independent contractor will suddenly be in jeopardy and will have to fight for his or her economic life. What a wonderful thing that would be for the lawyers.

Mr. EBERHARTER. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I am pleased to yield to the able gentleman from Pennsylvania.

Mr. EBERHARTER. The gentleman has repeatedly made the statement that these taxes may be collected retroactively. Now, I want to call to the attention of the Members of the House that that statement absolutely is not in accordance with the facts, and as proof of it I will read from the proposed regulations:

PAR. 8. Pursuant to the authority of section 3791 (b) of the Internal Revenue Code, the amendments made by this Treasury decision to the respective regulations will be applied without retroactive effect to the extent that a taxpayer will not be required to pay taxes for periods prior to January 1, 1948, with respect to wages paid prior to such date to individuals.

Mr. GEARHART. Now, let us not get too far away from that.

Mr. EBERHARTER. If the rest of the gentleman's argument is as consistent as this, I submit that every other one of his arguments should fall.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. REED of New York. Mr. Chairman, I yield five additional minutes to the gentleman from California.

Mr. GEARHART. The gentleman from Pennsylvania is a very profound and good lawyer. He knows of his own knowledge, or if he does not know it of his own knowledge he knows it from the testimony given before the Committee on Ways and Means by people who came to discuss these regulations, that the regulation to which he referred is subject to change from day to day and also is subject to attack by every taxpayer in this country, any one of whom might bring an action tomorrow to mandamus the collection of these back taxes. The law under which the regulation to which the gentleman from Pennsylvania has reference confers upon the Collector of Internal Revenue the right to go back 4 years. Translating that into dollars, that means that if he goes back 4 years, instead of it amounting to $12,000,000,000 it will total $5,000,000,000. And $5,000,000,000 is not chicken feed.

Mr. EBERHARTER. The gentleman knows of course that this regulation is made pursuant to the authority granted the Secretary of the Treasury and the Internal Revenue Bureau by this Congress. The gentleman cannot recall a case in the history of this country where an action for mandamus was brought by a taxpayer to make another taxpayer pay money.

Mr. GEARHART. But many actions in mandamus have been brought to compel tax collectors to do their duty. In fact the law clearly defines their obligation in this regard.

Mr. EBERHARTER. The gentleman cannot recall a single case.

Mr. SIMPSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I am glad to yield again to the genial gentleman from Pennsylvania.

Mr. SIMPSON of Pennsylvania. May I point out that in the event the method is used whereby an arbitrary date is set back of which the tax collector will not collect the taxes, the burden is imposed directly upon the individual taxpayers of the country and upon the other members of the social-security fund, which certainly does not seem fair.

Mr. GEARHART. The gentleman is entirely right. It is utterly unfair.

In conclusion, may I point out one thing which I think is far more important than anything which has been said up to now. I pose this question: Where rests the legislative prerogative? Under the Constitution, shall laws be enacted by judicial decision, bureaucratic regulation, or congressional action? That question is squarely raised by the intolerable situation which has arisen, to consider which we are assembled at this moment.

The regulation which the Treasury proposes, the regulation which sets up this new definition of "dependency" upon a business in the light of "economic reality," is legislation, legislation by regulation enacted in a bureau. The old common-law definition of employer and employee is a definition which has come down through the years. That was the definition which this Congress intended should be the one to guide the Social Security Administration. This regulation we now consider would repeal the rule this Congress has laid down and substitute another far broader in its concept, quite different from anything this Congress intended, and that constitutes legislation by Executive ukase, bureaucratic fiat.

Any Member of this body, no matter on which side of the aisle he may sit, ought to be ready to stand up and defend to his last breath the constitutional prerogative which is ours, to write the legislation of this country.

I, for one, have long favored the broadening of the base of social security, so that all may enjoy its benefits at a minimum of cost.

I, for one, have long favored extending social security to include all of those who because of reasons beyond their control find themselves unable to provide for themselves.

I, for one, have long favored the generous enlargement of annuities of all of the benefits for which provision has and ought to be made, so that the aged, the sick, the blind may seek the retirement of contentment which should be the reward of the worthy.

And in this connection, I should say that I feel that every member of the Committee on Ways and Means, Republican or Democrat, shares these sentiments with me. Within the next few months social security will be extended; the base will be greatly broadened; the benefits will be greatly enlarged; but it will be done by the duly constituted legislative authority of the United States and not by "the boys down below."

Mr. JENKINS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GEARHART. I yield to the gentleman from Ohio.

Mr. JENKINS of Ohio. Is it not true that the Treasury by its very action supported the contention of the gentleman until the Supreme Court rendered its decision, because the Treasury did not collect these taxes and left these 750,000 people untaxed? They must have believed just as the gentleman believes that under the law these people were not taxable. When the Supreme Court rendered its decision, then of course the Department felt that it must act under the decision of the Supreme Court.

Mr. GEARHART. The gentleman is entirely correct. There was no doubt in anybody's mind as to what the Congress intended at the time the Social Security Act was adopted. At that time, and again in 1939 and 1945, everybody understood it was the definition of the ancient common law which was to apply. The first regulation which was adopted, the one which is in effect at this moment is in strict accord with that intent. The members of the Social Security Board of that day, understanding our intent quite well, drew that regulation and reflected accurately and faithfully our views. It is up to them to get back on the beam, the sooner the better for all concerned.

Mr. EBERHARTER. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I do not know whether my good friend, the gentleman from California, is criticizing the Supreme Court of the United States more than he is criticizing the Treasury Department or whether he is criticizing the Treasury Department more than he is criticizing the Supreme Court. He has been yelling bureaucrat in one sentence and in the next sentence blaming the Supreme

Court for its decision. I want to mention, Mr. Chairman, that the decision of the Supreme Court, on which there are nine Justices, was made without any dissent, insofar as the language of the decision was concerned. Justice Rutledge said that perhaps the case should go back for the District Court to make findings of fact, but he agreed with every definition and every word that was written in the opinion. So this is not a matter where there is a divided court.

Mr. Chairman, let me first call your attention to the title of this bill. It is called a joint resolution "to maintain the status quo in respect to certain employment taxes and social-security benefits pending action by the Congress on extended social-security coverage." What does status quo mean? Status quo in my dictionary means the position as it is today—the circumstances as they are today. I do not know of any time when it was necessary to pass any legislation or joint resolution except to change the situation as it is today. So that this title is the most misleading title that could possibly be attached to any measure. It is not a measure to maintain the status quo. It is a measure to change the present situation—to change the present law or the present statutes and to nullify an opinion of the Supreme Court.

If you are going to pass legislation, if you are not maintaining the status quo, then you are gong forward or backward. This legislation will make you go backward if you pass it. There is no question about that. The proper title of this resolution should be, Mr. Chairman, "a joint resolution to exempt from the payment of social-security taxes a certain favored group of employers." That is what it is. They are the ones who came to the Congress—a group of employers who will have to pay social-security taxes; who thought that they did not have to pay them, and who, under previous regulations, were not obligated to pay. The Supreme Court made a decision saying that those who are working for you that really have the status of an employee must be considered as such and you must pay social-security taxes according to the intention of the Congress. Whom does it affect, Mr. Chairman? Among others, it affects employees only—employees who receive regular pay of insurance companies who are under their employers' complete domination, control, and direction and can be hired and fired by them.

It affects industrial home workers; men and women, boys and girls who take work home and do so much work at home either on piece work or at so much per hour. They are an integral part of the business of their employer. It affects door-to-door salesmen of every type conceivable, who, as a matter of economic reality, are under the complete domination of their employers, on regular salaries or commissions. The employer fixes the hours of work and decides how much they must produce. Those are just a few who are affected by this resolution.

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. KEEFE. The gentleman has laid great emphasis on the fact that it seeks to relieve certain employers from the payment of social-security taxes.

Mr. EBERHARTER. That is correct.

Mr. KEEFE. It would likewise relieve certain employees, would it not?

Mr. EBERHARTER. The gentleman is absolutely correct. I am glad the gentleman made that observation, because I have never yet found an employee who was not delighted to pay his share of the social-security taxes, in order to see that in the future, if he lost his job, he would get some unemployment compensation, or when he became 65 years old he would receive some old-age benefits. I have not known any employee who was not willing to pay his share; but I do know a great many employers who do not want to pay the taxes. Employers get no direct benefit. But they get a benefit in that the country as a whole has a better-stabilized economy. I am certain the gentleman will agree with me that there is no more forward-looking act for the benefit of this country, the standard of living of its people and the taking care of the aged and unemployed than the Social Security Act that was passed in 1935 and amended in 1939.

Mr. SIMPSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. SIMPSON of Pennsylvania. When the gentleman speaks of wanting the status quo continued, is he not criticizing severely the Internal Revenue Bureau for its failure in the past 10 years to collect the taxes they should have collected?

Mr. EBERHARTER. Well, it is a matter that had never been decided by the Supreme Court of the United States. There were disputes and arguments between industry on the one hand and the revenue bureau on the other, and even between the Treasury Department and the Social Security Board. They could not agree on what should constitute an employer and an employee. Anybody who has any experience knows that the terms "employer" and "employee" can cover many, many thousands of different situations.

Mr. SIMPSON of Pennsylvania. Is not the net result this: If we accept the Supreme Court's decision as being the proper interpretation, that we are milking the fund and taking these new payments out of the premiums that have been paid in by workers in the past years?

Mr. EBERHARTER. Oh, no; I do not think so at all. The Treasury estimates that the tax that these employers would have to pay would amount to about $25,000,000 a year. Now, this $25,000,000 a year they would begin to pay as of last January, I think.

Mr. SIMPSON of Pennsylvania. But the liabilities would have started to accrue back in 1937.

Mr. EBERHARTER. Well, those people who were in fact employees are entitled to some benefits. They are entitled to benefits under the intent of Congress when the act was passed in 1935. The committee and the Congress considered that matter very carefully. This resolution seeks to exempt these employers from the annual future payment of $25,000,000 a year in taxes that would be paid under existing law. It was the intent of Congress, and it is in the act in plain language, that if an employee is entitled to benefits and if for some reason his employer evades the taxes, that does not deny the employee the benefits of the act. That was very carefully considered. If an employer fails to pay his taxes, under the law that does not deny his employee the right to benefits. That matter was very carefully considered, and it was decided.

Mr. SIMPSON of Pennsylvania. The result is, however, that the money to pay the benefits must come out of the money paid in by other workers.

Mr. EBERHARTER. We have many billions of dollars in the fund right now, I may say.

Mr. FORAND. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. FORAND. Following through on the statement just made by my friend the gentleman from Pennsylvania [Mr. SIMPSON] might I not say that the passage of this bill will further delay the collection of those very taxes.

Mr. EBERHARTER. Undoubtedly it will delay the collection of taxes from the employee and the employer, both. It amounts to $25,000,000 a year.

Mr. FORAND. Therefore the supporters of this bill have no sound ground to criticize the collection of taxes.

Mr. EBERHARTER. The gentleman is absolutely correct.

Mr. GEARHART. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. Yes; I yield to the gentleman from California.

Mr. GEARHART. A moment ago the gentleman said that he felt that these people would be very, very glad to pay these social-security taxes.

Mr. EBERHARTER. The employees; yes.

Mr. GEARHART. If they are employees. But how about these 625,000 that did not consider they were employees and have not paid any taxes whatsoever? Their employers, so-called, have not withheld these taxes. Does the gentleman believe they should be granted all these benefits back for 12 years without paying and without knowing they were covered?

Mr. EBERHARTER. I suggested to the gentleman from Pennsylvania [Mr. SIMPSON] that the matter was very carefully considered in 1935, and in its judgment the Congress of the United States decided that, if an employer cheated the Government out of taxes that made no difference, that the employee was entitled to his benefits anyhow.

Mr. GEARHART. The gentleman is talking all around my question.

Mr. EBERHARTER. Does not the gentleman agree with me on that?

Mr. GEARHART. My question is simply this: Does the gentleman believe that these 625,000 people who did not think they were covered and these employees do not think they were covered; they did not pay a cent of taxes; does the gentleman believe that at the expense of the

other taxpayers they should have all of the benefits the others get who have paid?

Mr. EBERHARTER. That was the intention of Congress when Congress passed the measure. It was debated in committee, it was debated on the floor of the House; it was debated in committee on the other side of the Capitol and on the floor of the other body. Now, if the gentleman wants to change what the intent of Congress was in 1935 and 1939 that is for him to decide. I never thought the gentleman would take the position of denying to an employee benefits which were intended that the 1935 act would bring him.

Mr. GEARHART. That we should give him benefits for which he had not paid, and to which he did not think he had any claim?

Mr. EBERHARTER. Absolutely; because that was the intent of Congress.

Mr. GEARHART. All right; does the gentleman think it is fair to those who did pay, the millions upon millions who did pay to drag in 625,000 and say they shall have the same benefits as these other people, when these 625,000 have paid nothing?

Mr. EBERHARTER. I will answer the question by asking the gentleman if he thinks it would be fair to deny these people benefits to which Congress intended they should be entitled when we passed the act in 1935 and amended it in 1939, just because the employer did not do his job?

Mr. GEARHART. Which Congress "intended"—that is the point of our argument in one word.

Mr. EBERHARTER. I refuse to yield further, Mr. Chairman.

Mr. LECOMPTE. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. I yield to the gentleman from Iowa.

Mr. LECOMPTE. I wanted to ask the gentleman how many millions or billions of dollars there is in the social-security fund to which he referred.

Mr. EBERHARTER. I am not certain of the amount but it seems to me it is around $17,000,000,000 in all.

Mr. KEEFE. Oh, no.

Mr. REED of New York. It is $9,000,000,000.

Mr. KEEFE. Which fund is the gentleman talking about? There is $9,000,000,000 in one fund and about $7,500,000,000 or $8,000,000,000 in the other.

Mr. EBERHARTER. I would appreciate it if the gentleman from Wisconsin would help me out in answering his colleague from Iowa.

Mr. KEEFE. The unemployment-compensation fund is one fund. The old-age and survivors trust fund is another.

Mr. LECOMPTE. There are billions in each of them?

Mr. KEEFE. My recollection is that there are approximately $9,000,000,000 in the OASI fund and between $7,000,000,000 and $8,000,000,000 in the other fund.

Mr. EBERHARTER. I thank the gentleman. I am glad he helped to properly answer the gentleman's question.

Mr. LECOMPTE. I thank the gentleman very much.

Mr. EBERHARTER. Frankly, Mr. Chairman, the title of this bill should be changed to read "A bill to narrow and restrict coverage." That is what it does. It narrows and restricts the coverage. Specifically, it will exclude nearly three-quarters of a million people who are now entitled to the benefits of the Social Security Act. Now, do you care to take that position? If this Congress wants to take that position, I would like them, and others, to know what position they are taking and exactly what they are doing. That is the reason I am taking so much time right now. So no one will be able to say: "I had no idea the resolution would have such an effect."

I am certain that this Congress, as a matter of fact I am certain that no one on either side of the aisle wants to go on record as narrowing the coverage or as restricting the coverage of the Social Security Act. If you pass this resolution that is what you are going on record in favor of.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. EBERHARTER. Mr. Chairman, I yield myself 15 additional minutes.

Mr. Chairman, I call your attention to the fact that the act of 1935 and the amendments of 1939 made no attempt to define what was meant by the word "employer." It made no attempt to define what was meant by the word "employee." I suppose the job was rather difficult. It is a tremendous job when you consider how many years the two words have been used and how the relationship of employer and employee has changed over the years, as well as the various court decisions on the subject and the varied ramifications the words might have.

Congress, not having the time, or perhaps the inclination, to tie itself down by some strict definition of what is meant by "employer" and "employee", just left it open. So the Treasury Department issued some regulations. Always there has been constant friction between certain employers and the Treasury Department and between the employees and the Social Security Board and even between the Social Security Board and the Treasury Department as to what the two words connoted.

We have now a Supreme Court decision which clarifies the whole matter and gives a perfect guide under which practically every employer and every employee can determine who are employees and who are in the status of employers. Now, here is the guide and here is what the Court in substance says in the five cases handed down in three different decisions. The rule shall be about as follows: "Whether the services performed by an individual constitute him an employee as a matter of economic reality or an independent contractor as a matter of economic reality is determined in the light of a number of factors, including the following—although their listing is neither complete nor in order of importance: Degree of control over the individual, permanency of relation, integration of the indiivdual's work in the business to which he renders service, skill required of the individual, investment by the individual in facilities for work, opportunities of the individual for profit or loss." These are some of the facts or elements which may be considered.

Now, Mr. Chairman, the Court goes on to say: "No one factor is controlling." All of them should be taken into consideration. Each should be given its proper importance, and if a person is, in fact, an employee, his employer should pay social-security taxes regardless of any agreements that may be made between one or the other in order to absolve one or the other from the payment of taxes. In other words, if an employer, who is in fact an employer, would say to a laborer, "Well, I do not want to pay social-security taxes. We will just make an agreement. We will call you an independent contractor, because if I call you an independent contractor, then I do not have to pay any social-security taxes." The Court would say that that does not matter. What should be considered is whether or not an employee is in fact an employee, and these are some of the factors to be considered.

Now, let me call your attention, Mr. Chairman, to something else that was said by the Supreme Court:

> Generality of the employment definitions indicates that the terms "employment" and "employee" are to be construed to accomplish the purposes of the legislation. As the Federal social-security legislation is an attack on recognized evils in our national economy, a constricted interpretation of the phrasing by the courts would not comport with its purpose. Such an interpretation would only make for a continuance, to a considerable degree, of the difficulties for which the remedy was devised and would invite adroit schemes by some employers and employees to avoid the immediate burdens at the expense of the benefits sought by the legislation.
>
> Of course, this does not mean that all who render service to an industry are employees.

Further, the Court says:

> This, of course, does not leave courts free to determine the employer-employee relationship without regard to the provisions of the act. The taxpayer must be an "employer" and the man who receives wages an "employee."

Why, if this decision is studied, Mr. Chairman, it will be considered for decades to come as one of the most sound decisions ever rendered by the Supreme Court in one of the most difficult problems ever brought before the Supreme Court of the United States. Mr. Chairman, I repeat, it is one of the most difficult problems. How many decisions have been rendered in every State in this Union which conflict with each other on the question of master and servant, on the question of employer and employee, on the question of who is in control and who is not in control? Why, there are thousands upon thousands of cases, and in some States on the same set of facts the courts will rule differently as to whether or not in a contract case they are considered employer and employee, and in a tort case whether they are considered employer and employee.

The usual common rule. Why, there is no such thing and any lawyer in the

world will tell you that there is no such thing as the usual common rule governing master and servant in present-day law.

I am going to read you what has been said with respect to that:

In examining the vast body of decisions in this area, one is struck with the innumerable and frequently irreconcilable distinctions and refinements drawn in tort cases by the courts in determining whether a person is a servant or independent contractor for that purpose. In its application, there is not a single common-law master-servant concept but, rather, a large measure of variation as between the different States, and even within any one State it is frequently impossible to find any consistent line of decisions.

I also read one other thing that was said by a very learned court, referring to the question of employer and employee, master and servant:

The question raised is one which lends itself to endless debate and rather plausible argument on either side. Discussion of the question abounds in the books. Harmony is apparent in the statement of principles and in the platitudes and abstract phases of the subject. But in the application of the abstract to the concrete, and of the principles to the particular case in hand, there is much diversity and confusion of opinion in the precedents in different jurisdictions. In this state of the precedents we can only hope to maintain, if we may, consistency in our own decisions.

Mr. Chairman, there is nothing worse and that would cause more confusion than trying to substitute the usual common-law rule.

A lot has been said here about independent contractors. Do you know that these Supreme Court decisions strengthen the exemption of anybody who is an independent contractor? It says so in so many words, that, if you are an independent contractor, of course you pay no taxes. It says that it depends upon the facts in the case.

You see these freight trucks driving through the streets. One company has truckers that go into 38 States. The Supreme Court held in this very case we are talking about that those truckers are independent contractors, that their employer does not have to pay a social-security tax because the trucker has the actual status of an independent contractor. It hangs on several factors, according to the Supreme Court. The trucker owns the truck. He gets a commission based upon the charge made for the delivery of the goods. He carries his own insurance and he hires his own helpers, although he is under the direction of the company. But the Court in this case said these men are independent contractors because they have an investment, they have control over their own work, they get a commission on a certain basis, and they are able to hire their own employees. Therefore, the Court held, they are independent contractors, and the over-all company that operates in 38 States is not subject to the payment of the tax. So you see how fair the Court decision is.

I wish everybody had an opportunity to study this decision and see how sound it is. It really puts the Social Security Act on a firm foundation, as far as is possible, so there will be less dispute in one of the most vexing problems that has ever come before the Social Security Board in its administration.

I want to say, though, that I excuse the Ways and Means Committee to a certain extent in voting out this bill. They voted it out without due consideration. They voted it out before these court decisions were before the committee for study. They voted it out before we had the report of the Secretary of the Treasury before us. They voted it out before we had the report of the Administrator of the Federal Security Agency. They voted it out without any testimony to amount to anything. They did not know the importance of it.

We find that the Treasury is opposed to it, we find that the Social Security Agency is opposed to it, we find that the general counsels of both these agencies say it will cause endless confusion and entanglements and upset the administration of the act, and that it will deprive anywhere up to three-quarters of a million employees, honest-to-God bona fide employees, of protection. This Congress does not want to do that. I am certain you do not.

Let me read you one more thing. This is in the report of the Acting Secretary of the Treasury, Mr. Wiggins:

Thousands of workers would be deemed independent contractors under the Federal unemployment legislation, but employees under most of the implemental State acts. Employers would again be able to avoid their proper share of contributions to the social-security program, and the protection of the program would again be denied to more than 500,000 individuals whose coverage is assured under existing law.

I quote again, Mr. Chairman:

Accordingly, to legislate these workers into a self-employed status might forever deprive them of unemployment-insurance benefits.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. REED of New York. The gentleman made the statement that this bill was reported out without any report from the Federal Security Agency. That is not correct.

Mr. EBERHARTER. I said that the report was not before the committee. It was never considered before the committee. The resolution was voted on shortly after 12 o'clock. The clerk was asked, "Is the report from the Secretary of the Treasury here? Is the report from the Federal Security Administrator here?" He said, "No; it is in my office." Then we were told that we would take a vote. A vote was taken, and it was reported out. I remember very distinctly, Mr. Chairman. I remember who voted for it, and who voted against it.

Mr. Chairman, in view of the importance of this legislation and in view of the recommendations of the Secretary of the Treasury and in view of the recommendations of the Federal Security Administrator, I say that it certainly should not pass the House.

Mr. REED of New York. Mr. Chairman, I yield such time as he may require to the gentleman from Connecticut [Mr. FOOTE].

Mr. FOOTE. Mr. Chairman, our social-security system must be revised. When Congress passed the Social Security Act it specified coverage to certain types of employees and exempted many others. Within the limits of employees who were clearly covered and those clearly not covered, there lay a field wherein, as a matter of future policy, Congress might make inquiry for extended coverage at a later date. The excluded categories as, you know, include agricultural workers and domestics, and I recently received inquiries from several employees of Yale University in my own congressional district, inquiring why they were not included under the social-security system.

To assist in the administration of the Social Security Act and the Internal Revenue Act where it applies, the Treasury over 10 years ago, promulgated regulations which followed the intent of Congress in defining employees for coverage under the Social Security Act. In 1939 and again in 1946, Congress had these regulations before it when it amended the act, and so far has never acted to extend coverage to persons outside the definition of "employee" contained in these regulations. Under these regulations administration of the law has covered many millions of workers. The regulations provide the substantial test for determination of those who are to be covered and having the force and effect of the law, they have been followed throughout the country for many years.

In June 1947, the Supreme Court of the United States decided that the Treasury regulations did not exhaust the congressional intent as to who should be covered as employees and that the regulations then and now in force, must be basically changed to extend as far as the Supreme Court says the law goes.

On November 27, 1947, the Treasury published in the Federal Register proposed new regulations which it believed necessary to apply the reasoning of the opinions of the Supreme Court in this field. Under these proposed regulations, the Social Security Act will be interpreted not as Congress wrote it, not as the existing Treasury regulations stated congressional intent, but as the Supreme Court says the law should be construed. Congress should determine the extent of any changes of the social-security law and I shall therefore support the House Joint Resolution 296, introduced by the gentleman from California [Mr. GEARHART], which is designed to say that Congress, not the Court, not the Social Security Administration, shall state our national policy as to social-security coverage. If the resolution should not be adopted, the entire method of doing business under contract between thousands of enterprises and tens of thousands of people who deal with them, will be thrown into chaos. It affects situations where vendors part with title to their goods, to customers who may work few hours or long hours in reselling these goods at prices fixed by themselves, and where it is utterly impossible for the vendor to know the customers' costs or what their profits are, and it is utterly impossible to effectuate a proper withholding. It affects a multitude of people who buy cattle or corn or cut wood, and who regulate their own income by their

own efforts. It affects people whose enterprise is that of marketing petroleum products or selling insurance, or engage in other widely differing fields of normal independent operations. The pending regulations are said to apply to many such independent operations on the basis of economic dependency. The yardstick of economic dependence is uncertain and may result in employees who would make a concern qualify to do business within each State. They could make the concern liable for the torts of independent operators, for workmen's compensation for wages and hours and in many other ways. It is submitted that Congress should make inquiry into the extent of the disruption of the normal methods of doing business of thousands of concerns before the administrative agencies of our Government shall be permitted to make determination of coverage on any such basis as is contemplated by these proposed regulations.

Congress should act in this matter and not permit a haphazard extension of the social-security law through judicial legislation or administrative flat. By this I do not wish to be understood that I am opposed to the liberalization of the Social Security Act to include certain additional designated employees and to an increase in the amount of benefits to those entitled to the same.

Mr. REED of New York. Mr. Chairman, I yield myself such time as I may desire.

Mr. Chairman, I want to clarify the situation so that the House will not be confused by the speech made by the gentleman from Pennsylvania [Mr. EBERHARTER]. In the first place, all he has done is to talk about title I. He is trying to show that these people should come in under title I. Title I is the old-age assistance proposition who come in and are not required to pay a tax. But under title II, no person is to get a benefit unless he pays a social-security tax. It is perfectly obvious that under the Supreme Court decision in controversy which we are hoping to correct you wish to sweep these people in under section 1 and not under section 2, because they would not, under the Court decision, have to pay a tax. Title I relates to and requires a need test.

When Congress passed the Social Security Act it specified coverage for certain types of employees. It specifically exempted many other categories of employees. Within the limits of employees, those who were clearly covered and those who were clearly not covered, there lay a field wherein, as a matter of future policy, Congress might make inquiry for extended coverage at a later date. The excluded categories include agricultural workers, domestics, and certain others. There are others gainfully employed who are self-employed, doctors, dentists, many who are engaged in the field of direct selling, of logging, cattle buying, and other fields who are not employees but who are possible beneficiaries for whom Congress may make provision. The Treasury recently reported on a feasible method of covering these self-employed.

To assist in the administration of the Social Security Act and the Internal Revenue Act where it applied, the Treasury over 10 years ago promulgated regulations which followed the intention of Congress in defining employees for coverage under the Social Security Act. In 1939 and again in 1946 Congress had these regulations before it when it amended the act, and so far has never acted to extend coverage to persons outside the definition of "employee" contained in these regulations. Under these regulations administration of the laws has covered many millions of workers. The regulations provide a substantial test for determination of those who are to be covered, and having the force and effect of law, they have been followed throughout the country for many years.

In June 1947 the Supreme Court decided that the Treasury regulations did not exhaust the congressional intent as to who should be covered as employees, and that the regulations then and now in force must be basically changed to extend as far as the Supreme Court says the law goes.

As of November 27, 1947, the Treasury published in the Federal Register proposed new regulations which it believed necessary to apply the reasoning of the opinions of the Supreme Court in this field. These proposed regulations are now pending and will become effective in the near future. Under the proposed regulations the Social Security Act will be interpreted not as Congress wrote it, not as the existing Treasury regulations stated congressional intent, but as the Supreme Court says the law can be construed.

House Joint Resolution 296 is designed to say that Congress, not the Court and not the Social Security Administration, should state our national policy as to social-security coverage. The resolution does not prevent Congress from making inquiry into how far its policy should go. Quite the contrary, the resolution explicitly would continue in present force the Treasury regulations exactly as the Treasury wrote them, pending action by Congress on extending social-security coverage. The resolution simply reaffirms congressional intent that the term "employee" shall be construed under the usual common-law rules applicable in determining the employer-employee relationship. The term "employee" will not include a person who has the status of an independent contractor, construed under such rule. The resolution does not disturb benefit awards made any individual before January 1, 1948.

That is all there is to it. The resolution has no hidden purpose. It has no ulterior objective. The resolution simply restates congressional intent and insures that Congress shall determine any changes of coverage when it writes legislation. The resolution simply says that when changes or extensions in social-security coverage are to be made, Congress will make them.

If the resolution should not be adopted, the entire method of doing business under contract between thousands of enterprises and tens of thousands of people who deal with them will be thrown into chaos. It affects situations where vendors part with title to their goods to customers who may work few hours or long hours in reselling these goods at prices fixed by themselves, and where it is utterly impossible for the vendor to know the customers' costs or what their profits are, and it is utterly impossible to effectuate a proper withholding.

It affects a multitude of people who buy cattle or corn or cut wood, and who regulate their own income by their own efforts. It affects people whose enterprise is that of marketing petroleum products or selling insurance, or engage in other widely differing fields of normal independent operations. The pending regulations are said to apply to many such independent operations on the basis of economic dependency. The yardstick of economic dependence is uncertain and may result in employees who would make a concern qualify to do business within each State. They could make the concern liable for the torts of independent operators, for workmen's compensation for wages and hours, and in many other ways. It is submitted that Congress should make inquiry into the extent of the disruption of the normal methods of doing business of thousands of concerns before the administrative agencies of our Government shall be permitted to make determination of coverage on any such basis as is contemplated by these proposed regulations.

And that is what House Joint Resolution 296 is about.

Mr. Chairman, under unanimous consent, I ask to insert a brief in the law relating to the proposed amendments of Treasury Regulations 106, 107, 90, and 91, with respect to employer-employee relationship:

The Commissioner of Internal Revenue, pursuant to the Administrative Procedure Act approved June 11, 1946, published notice in the Federal Register of November 27, 1947, of proposed regulations amending the above-captioned regulations relating respectively to the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, title IX of the Social Security Act, and title VIII of the Social Security Act. The stated purpose of the amendments is to conform the several regulations "to the principles enunciated in *United States* v. *Silk* (1947), 67 S. Ct. 1463; * * * *Bartels et al.* v. *Birmingham et al.* (1947), 67 S. Ct. 1547; * * * and related cases."

I

In the Silk case the Supreme Court stated that the problem of differentiating between an employee and an independent contractor or between an agent and an independent contractor for purposes of applying social security legislation should follow the same rule that was applied by the Court in the case of *Board* v. *Hearst Publications* (320 U. S. 111 (1944)), which had involved a similar problem in the administration and application of the National Labor Relations Act. In the Hearst case the Court had held that the National Labor Relations Board had correctly ruled that independent news vendors who purchased newspapers from the publisher and resold them to the public through people hired by the vendors were employees of the publisher. To reach this result the Court rejected traditional and long-standing concepts and tests for the determination of the status of a person as an employee or as an independent contractor in favor of a construction of the word "employee" in the light of the mischief intended to be corrected and the end to be attained by the legislation in which the term appeared and which necessitated its construction. The application of a similar test for construction

of the term in social security legislation has similarly resulted in the rejection by the Court of traditional concepts and long-standing tests in this latter field.

The Court's approach to the problem as exemplified by the Hearst case received special congressional consideration recently in connection with the Taft-Hartley amendments to the National Labor Relations Act. The report of the House committee accompanying the Taft-Hartley bill (H. Rept. No. 245, 80th Cong., 1st sess., dated April 11, 1947, accompanying H. R. 3020) contains the following statement (p. 18):

"(D) An 'employee,' according to all standard dictionaries, according to the law as the courts have stated it, and according to the understanding of almost everyone, with the exception of members of the National Labor Relations Board, means someone who works for another for hire. But in the case of *National Labor Relations Board* v. *Hearst Publications, Inc.* (322 U. S. 111 (1944)), the Board expanded the definition of the term 'employee' beyond anything that it ever had included before, and the Supreme Court, relying upon the theoretic 'expertness' of the Board, upheld the Board. In this case the Board held independent merchants who bought newspapers from the publisher and hired people to sell them to be 'employees.' The people the merchants hired to sell the papers were 'employees' of the merchants, but holding the merchants to be 'employees' of the publisher of the papers was most far reaching. It must be presumed that when Congress passed the Labor Act, it intended words it used to have the meanings that they had when Congress passed the act, not new meanings that, 9 years later, the Labor Board might think up. In the law, there always has been a difference, and a big difference, between 'employees' and 'independent contractors.' 'Employees' work for wages or salaries under direct supervision. 'Independent contractors' undertake to do a job for a price, decide how the work will be done, usually hire others to do the work, and depend for their income not upon wages, but upon the difference between what they pay for goods, materials, and labor and what they receive for the end result, that is, upon profits. It is inconceivable that Congress, when it passed the act, authorized the Board to give to every word in the act whatever meaning it wished. On the contrary, Congress intended then, and it intends now, that the Board gives to words not far-fetched meanings but ordinary meanings. To correct what the Board has done, and what the Supreme Court, putting misplaced reliance upon the Board's expertness, has approved, the bill excluded 'independent contractors' from the definition of 'employee.'"

The act as finally enacted followed the House bill in this respect. In the conference committee report dated June 3, 1947, the conference report stated:

"(D) The House bill excluded from the definition of 'employee' individuals having the status of independent contractors. Although independent contractors can in no sense be considered to be employees, the Supreme Court in *N. L. R. B.* v. *Hearst Publications, Inc.* ((1944), 322 U. S. 111), held that the ordinary tests of the law of agency could be ignored by the Board in determining whether or not particular occupational groups were 'employees' within the meaning of the Labor Act. Consequently it refused to consider the question of whether certain categories of persons whom the Board had deemed to be 'employees' were not in fact and in law really independent contractors.

* * * * *

"(D) The conference agreement follows the House bill in the matter of persons having the status of independent contractors."

It is submitted that the foregoing expressions of congressional interest, in the light of the situation to which they were directed, are highly significant in relation to the proposed amendments to Social Security regulations. The promulgation of the conference committee report preceded by a few days the decision in the Silk case. For that reason and for the further reason that Congress was addressing itself only to the National Labor Relations Act, neither the report of the House committee nor that of the conference committee commented upon the Silk case. Since the Taft-Hartley bill was not enacted into law until June 23, 1947, similarly the Supreme Court did not have the benefit of the congressional statements when it decided the Silk case on June 16, 1947. If it had it is hardly conceivable that it would have applied a presumed congressional intention which Congress itself had expressly rejected.

It is believed that the amendments proposed in respect of the social-security regulations have been promulgated without a proper consideration of the developments which have taken place since the decision of the Hearst case. The purpose of administrative regulations is, of course, to provide rules and regulations for the efficient administration and enforcement of laws enacted by Congress in accordance with their intent and purpose. It is hardly conceivable that congressional intent as to the meaning of the term "employee" in the Social Security Act would differ from its intent as to its meaning in National Labor Relations Act. On the contrary the congressional attitude toward the approach adopted in the Hearst case undoubtedly applies to the Silk case reasoning also. To adopt regulations which purport to embody a construction of a term different from the construction which Congress definitely has indicated was intended is, it is submitted, not only not required—it is unjustified. It is believed that the Treasury Department would also avoid confusion and uncertainty in the administration of the Social Security Act if it were to abandon its proposed test for determining who is an employee. If the novel and uncertain test contained in the proposed amendments were to be adopted, the difficulties of its application would certainly result in greatly increased litigation, which in the light of the developments above outlined would in turn ultimately result in rejection of the test. It is submitted that the proposed amendments should be withdrawn.

II

Even aside from the fact that any attempted amendment on the basis of the Silk and related cases is, for the reasons already stated, ill-advised at this time, the regulations now proposed are open to the further criticism that they prescribe tests for determining who are employees, even more far reaching in scope than those recognized in the decisions on which the proposals purport to be based. Furthermore, the tests suggested are vague, illusory, and in some instances self-contradictory.

Subsection (a) of the amendments includes a statement that "In most cases in which an individual renders services to a person, general understanding, and usage make clear the status of that individual either as an employee of such person or as an independent contractor." With this statement there may be no quarrel. It is followed, however, by this sentence:

"For example, in most cases, miners, bus drivers, manual laborers, and garage, hotel, and other service workers, as well as factory, office, and store workers, whether skilled or unskilled, and whether the work is permanent or impermanent, are clearly employees of the persons for whom they render services, and such persons are clearly the employers."

This statement is subject to the criticism that it ignores two factors which the Supreme Court said should enter into the determination, namely, the degree of skill and the degree of permanence of the relationship. Under the quoted provision "service workers * * * whether skilled or unskilled, and whether the work is permanent or impermanent * * *" are said to be clearly employees in most cases. This generalization would include highly skilled workers who are engaged to perform only a particular piece of work. These, it is submitted, are in most cases clearly independent contractors and not employees. As the degree of skill decreases it may become less clear that such individuals are independent contractors, but this is only because of the fact that in terms of total numbers there are probably fewer unskilled workers operating for their own account than the number who are employed by others. However, the prevalence of totally unskilled laborers who hire themselves out by the job and who clearly are independent contractors would render unsafe any attempt to generalize even with respect to this class.

Subsection (a) also contains the following provision:

"The typical independent contractor has a separate establishment distinct from the premises of the person for whom the services are performed; he performs services under an agreement to complete a specific job or piece of work for a total remuneration or price agreed on in advance; at times and places and under conditions fixed by him, he offers his services to a public or customers of his own selection rather than a single person; neither he nor the person for whom the services are performed has the right to terminate the contract except for cause; he may delegate the performance of the services to helpers; he performs the services in or under his own name or a trade name rather than in or under that of the person for whom the services are performed; the performance of the services supports or affects his own good will rather than that of the person for whom the services are performed; and he has a going business which he may sell to another."

Again, the generalization is unwarranted either by general understanding and usage or by anything expressed in or to be implied from the opinions of the Supreme Court. On the contrary, many features of the definition conflict with the various situations affecting the truckmen in the Silk and Greyvan cases, and the leaders of the name bands in the Bartels case, all of whom the Court held to be independent contractors. Thus, in Silk, the truckers could refuse to make deliveries without penalty and they could and did haul for others; in Greyvan they were under contract to haul exclusively for the taxpayer, their movements were made on orders from the company, and they could not offer their services to the public. Both classes of truckmen were held to be independent contractors. In Bartels the leaders of the name bands had no separate establishments, and because their names were one of the important features rendering their services valuable they could not have delegated the performance of their particular services to others. They, too, were held to be independent contractors.

Other instances of typical independent contractor relationships in which many of the features enumerated in the regulation are absent readily suggest themselves. One rather clear example is afforded by the now common practice in large department stores under which various departments of the stores are operated by concessionaires under arrangements with the proprietors of the stores. Under such arrangements the concessionaires commonly have complete charge of the operation of their departments. Inventories, personnel, advertisement and all other matters relating to the operation of the departments are directly under their control. Obviously, such concessionaires are independent contractors and neither they nor their employees are employees of the stores.

However, some of the so-called typical features absent in such arrangements are a separate establishment, an agreement to perform a specific piece of work for a price agreed on in advance, and the performance of services under the name of the concessionaire. In addftion, the activities of the concessionaire support or affect the good will of the store rather than his own good will, and either he or the proprietors of the store may or may not have the right to terminate the arrangement without cause.

Perhaps the chief objection to the paragraph quoted above is in the use of the word "typical." It is obvious that the factors listed in the definition are such that in any case where they exist in combination there would be no room for any possible doubt that the worker in question is an independent contractor. If this is all that is intended the statement should be revised to express the intent clearly and to eliminate the thought that the absence of one or more of the factors by itself will preclude the case from qualifying as a typical independent contractor situation.

Subsection (b) contains an enumeration of the various factors which the Supreme Court said were important and should enter into the determination of status. These are:

1. Degree of control over the individual.
2. Permanency of relation.
3. Integration of the individual's work in the business to which he renders service.
4. Skill required of the individual.
5. Investment by the individual in facilities or work.
6. Opportunities of the individual for profit or loss.

The integration factor is explained in paragraph (3) of subsection (d). Integration is said to exist if services are "merged into and performed in the course of" the business of another, the scope and functions of which must also be determined. The manner of ascertaining the scope and functions of a business is not explained, nor is any test suggested for determining when services are merged into a business. Instead, this paragraph continues and concludes with an enumeration of circumstances which may establish integration. The first of these is that the services are essential to the operation of the business of the person for whom they are rendered. This conveys little, if any, meaning since presumably services, whether to be performed by employees or by independent contractors, would not be contracted and paid for if they were not essential to operation of the proprietor's business. The second is that the services, though not essential to the business of the person for whom rendered, are performed in the course of such business. What is meant by this is not apparent. The rest of the circumstances listed are in large measure the same as those enumerated in subsection (d) (1) as tending to establish the existence of power of control. From this it would appear to follow that if the control factor exists the integration factor also exists and vice versa.

Subsection (c) entitled "Significance of factors" points out that no single factor is controlling; that all are to be weighed for their composite effect and that it is the total situation in the case that governs in the determination. This statement is in accordance with the Supreme Court's opinions. Subsection (c) concludes, however, with the following paragraph:

"One fact or element may establish or tend to establish the existence of more than one factor, and may even have an independent value of its own as tending to establish either the employer-employee relationship or the independent contractor relationship. For example, the fact that the person for whom services are performed has the right or power without cause or on short notice to terminate the relationship with the individual performing the services, is relevant not only to control as a factor but also permanency as a factor. Generally, the right or power to terminate the relationship without cause or on short notice also points directly to the existence of the employer-employee relationship."

This paragraph appears to conflict both with the previous statements in the same subsection already mentioned and with the Court's direction that no one factor is controlling, all should be considered and the determination made on the basis of the total situation. It is submitted that the right to terminate without cause or on short notice is relevant as to permanency but is irrelevant as to control. The concluding sentence in the statement last quoted is entirely unwarranted. Control is one factor; permanency of the relation is another. Not only are they independent of each other, and entitled each to separate consideration, but the separate existence of either of them or of any other single factor cannot constitute the total situation which the Court said shall be determinative. Some of the most obvious independent contractor relationships, especially in cases of performance of professional services, are subject to the right and power of the person for whom they are performed to terminate the relationship at any time. In most of them the relationships in fact continue for long indefinite periods. Certainly it cannot be said that such relationships are generally those of employer and employee. On the contrary they are almost universally independent contractor cases.

The last paragraph of subsection (d) (1) relating to the control factor expresses the same thought as the above-quoted paragraph in subsection (c) and is accordingly subject to the same criticism.

Subsection (d) (2) deals with the permanency factor. In Silk and Bartels the Court recognized that a permanent relationship is a factor tending to establish the employer-employee status. The regulation, however, contains a description of permanency which is apparently intended to cover situations comparable to that of the unloaders in the Silk case. It is submitted that the Court did not intend to characterize situations involving such floaters as constituting permanent relationship. The conclusion that the unloaders were employees did not carry with it a determination that the permanency factor existed. They were held to be employees because of the predominance of the other factors indicating that status, despite the absence of a permanent relationship, and the regulation errs in attempting to describe comparable situations as involving permanent relationships. Just as an employee status may exist in cases of impermanent relationships, so may an independent-contractor status exist where the relationships are continuous and of long duration.

Subsection (d) (4) relates to the skill factor. It begins with statements to the effect that the performance of services requiring a high degree of skill tends to establish an independent-contractor relationship, whereas the performance of services requiring little or no skill tends to establish an employer-employee relationship. Such a thought is apparently what the Supreme Court had in mind in mentioning this factor. The remainder of subsection (d) (4) is as follows:

"However, a requirement of little or no skill in the performance of the services is usually more indicative than is a requirement of a greater amount of skill in determining which relationship exists between the person for whom the services are performed and the individual performing them; that is, usually the absence of skill points more clearly toward an employer-employee relationship than the presence of skill points toward an independent relationship."

It is submitted that the quoted provision is entirely without justification. No explanation is offered why "the absence of skill points more clearly toward an employer-employee relationship than the presence of skill points toward an independent contractor relationship." It is believed that no rational explanation can be made. It may be that in terms of total numbers of workers in the Nation there are proportionately fewer unskilled laborers who are independent contractors than there are highly skilled workers occupying that status. To assume some figures for purposes of illustration it is conceivable that out of every 100 unskilled workers 99 are employees of others and only 1 is self-employed, whereas out of every 100 highly skilled workers perhaps only 10 or 20 are independent contractors and as many as 80 or 90 are employed by others. Such statistics, assuming their accuracy, only reflect a condition or factual situation which exists. They illustrate a result, not a cause. They would justify no more than the conclusion that as between a totally unskilled laborer and a highly skilled worker there is a greater probability under the law of averages that the former is an employee than there is that the latter is an independent contractor, but they furnish no premise whatever for the conclusion stated in the regulation. Again, the skill factor is only one of several entering into the determination of status. If the percentage of highly skilled workers who are employees is greater than the percentage of unskilled laborers who are independent contractors that is because material factors, other than the skill factor, predominate one way or the other and not because the absence of skill has more probative force than does its presence.

The discussion of the investment in facilities factor in subsection (d) (5) contains the statement that:

"* * * if the individual performing the services purchases a piece of equipment on a time basis either from the person for whom the services are performed or through the use of the credit of such person, and if the value of the individual's equity in the equipment is never substantial, the investment factor will have little or no significance as pointing to an independent contractor relationship. Likewise, the ownership by the individual of facilities which are inadequate to perform services of the nature involved independently of the facilities of another will have little or no significance in pointing toward an independent contractor relationship."

The above provision injects an element in this factor which is unwarranted under the Court's opinions. The fact that the purchase of equipment may be financed by the person for whom the services are performed does not derogate from the fact that there is still an investment by the purchaser. This investment should not become of little or no significance merely because the value of the purchaser's equity may never become substantial. Whether or not it does will depend largely upon the degree of financial success attained by his enterprise. Certainly the right to establish one's own business is not limited to those with means of their own sufficient to finance their undertakings, and in many small businesses outside financing at least initially furnishes the sole source of capital. They are nevertheless independent enterprises and they remain such whether or not they prosper and regardless of the sources from which necessary capital is borrowed.

One situation in which the facilities of independent contractors are commonly financed by the persons for whom they perform services is that existing with respect to lumber operations in the southern portions of the country. The owners of the timberlands commonly contract with others to cut timber on a cordage or board-foot basis. The timber owners frequently purchase the trucks and saws necessary for the operations and resell them to the cutters under contracts of conditional sale. Such arrangements have

been in existence long prior to the enactment of social-security legislation. The timber owners not only do not know the amount or basis of compensation paid by the cutters to persons engaged by them to do the actual work, but they do not even know and have no way of knowing who the workmen are. The persons contracting with the owners of the timber under such situations have always been regarded as the proprietors of independent enterprises and under general understanding and usage, which the proposed amendments recognize, they have been properly so regarded. It is submitted that this is not any less so merely because their equity in the equipment which they use may not become substantial.

The fact that facilities of others must be employed to perform the services in question also should not be of little or no significance in pointing toward an independent contractor relationship unless the facilities are owned by the person for whom the services are performed. The latter is not concerned with whether those with whom he does business own, rent, or borrow their equipment. The point is that facilities other than his are necessary for the work which is done for him, and if they are furnished and used by others than his own employees the fact that the persons so using them may not themselves own them does not detract from the independent contractor relationship.

There are even instances where the persons performing the services employ only facilities owned by those for whom the services are performed and yet clearly qualify as independent contractors. An instance of such situations may be found in the case of pilots engaged by the owners of ocean-going vessels to bring the ships into and out of port. The only facilities employed by such pilots for the performance of their services are the vessels themselves. Although the vessels remain the property of the owners at all times, it is recognized that the pilot from the moment he undertakes his duties until he completes them is in complete control.

Subsection (d) (6) dealing with the opportunities for profit or loss contains the statement that "profit or loss" generally implies the use of capital by the individual in a going business of his own. This statement entirely ignores the fact that personal-service businesses are no less independent enterprises than are those in which capital is a material income-producting factor.

This subsection also provides that:

"Opportunity for profit or loss may in particular cases be established, in varying degrees, by one or more of a variety of circumstances, such as the fact that the individual has continuing and recurring liabilities or obligations with risk of loss and opportunity for profit, depending upon the relation of receipts to expenditures and charges; the fact that the individual performing the services is assisted by helpers whom he is obligated to pay; the fact that the individual performs services under an agreement to complete a specific job or piece of work for a total remuneration or price agreed on in advance; and the fact that the services of the individual support or affect good will as an asset of his own rather than the separate good will of the person for whom the services are performed."

Many of the circumstances enumerated in this provision are the same as are listed in subsection (d) (3) as tending to establish the integration factor and the same as most of those enumerated in subsection (a) as characteristics of the typical independent contractor. This confusion of factors is subject to the same criticism which has been made with respect to other provisions of the amendments, namely, that the factors mentioned by the court are separate factors, independent of each other and entitled each to separate determination and consideration. In combination they comprise the total situation but one does not establish another and none of them alone can establish the ultimate question of status.

Mention should also be made of some of the specific provisions of subsection (e) entitled "Miscellaneous Provisions." For example, the fact that an individual performing services assisted by others of his own choosing whom he compensates and supervises is, it is submitted, a rather strong indication that he is an independent contractor and is not merely "in a doubtful case * * * some indication * * * of the existence of such relationship" as it is characterized in the amendments.

The last sentence in the second paragraph of this subsection states in effect that if an employee hires, supervises, or pays others to assist him in performing his services, his employer expressly or impliedly consenting to such arrangements, then the persons so hired are also employees of that employer. This statement cannot be accepted as a rule of universal application. In most instances, of course, an employee engaging assistants has authority to do so for the account of his employer and in all such cases those assistants are also employees of that employer. However, there is no reason in law or in fact why the employer cannot limit his consent to the hiring of assistants solely for the personal account of his employee and in the absence of such an arrangement being made solely for the purpose of shifting tax liability there is no reason why it should not be effective. The status of such assistants as between themselves and the employer of the person who engages them is to be determined in the light of the circumstances affecting the relationship between them. Again, all of such circumstances require consideration and there can be no absolute rule for determining the question of status.

As has been previously pointed out, the function of administrative regulations should be to provide rules which will serve to aid the efficient administration and enforcement of laws enacted by Congress in accordance with their intent and purpose. Employment-tax regulations should furnish, insofar as possible, reasonable and understandable guides for the employing public so that the status of a particular relationship can be determined in most instances without undue uncertainty. Under the existing regulations it is possible for employers to determine with some reasonable degree of certainty where they stand in most situations. The amendments propose now to discard the valuable experience of the 11-year period during which we have had social security legislation. They are so vague, illusory, and self-contradictory that they will serve to create vast areas of doubt and confusion in the place of existing certainty. Thousands of employers who have no doubt as to their status at this time will now have no reasonable idea where they stand under the proposed amendments.

III

The proposed amendments are open to criticism on the further ground that they attempt to prescribe rules of evidence and purport to state the findings which should follow where certain facts appear. This is scarcely the function of administrative officers charged with the duty of enforcing the statute. Rather it is the function of the courts and it is at least doubtful whether an attempt to thus foreclose the judicial branch of the Government by administrative regulations is valid or would be successful.

It has long been settled that a statute authorizing administrative regulations is not a delegation of legislative power. *U. S.* v. *Grimaud* (220 U. S. 506). Thus the authority to make regulations does not carry with it any power to declare that enumerated bits of evidence shall establish certain facts, even assuming the legislative power to do so. It has been repeatedly held that Treasury regulations cannot prescribe rules of evidence for judicial proceedings. *Second National Bank of Philadelphia* v. *Commissioner* (33 BTA 750, 755); *Safe Deposit & Trust Company of Baltimore, Executor* v. *Commisisoner* (35 BTA 259, 264, 95 F (2d) 806 (CCA 4)); *Commisisoner* v. *S. F. Shattuck* (97 F. (2d) 790 (CCA 7)).

Of course, the Commissioner may instruct his field force to give certain weight to certain evidence, but such instructions have no place in formal Treasury regulations. The reason is obvious. Appropriate Treasury regulations are given weight by the courts, but this practice is properly confined to regulations which merely state administrative procedures, exercise statutory discretion conferred upon the administrative officers by Congress, or state the administrative interpretation of the formal text of the statute. Congress attempted no definition of the term employee. Neither did it specifically delegate to the administrative officers the authority to supply an unorthodox definition. The Commissioner might well follow the example of Congress, as did the Supreme Court in a recent tax case—*Bazley* v. *Commissioner* (67 S. Ct. 1489). There the Court said:

"Congress has not attempted a definition of what is recapitalization and we shall follow its example. The search for relevant meaning is often satisfied not by a futile attempt at abstract definition but by pricking a line through concrete applications. Meaning frequently is built up by assured recognition of what does not come within a concept the content of which is in controversy."

In these circumstances the Commissioner should limit the regulations to the class of material which the courts recognize as a proper exercise of the rule-making power and not attempt to influence the courts by loading the regulations with other material which the courts should disregard. The inclusion of such extraneous matter can only serve to confuse and will at times result in a failure to distinguish between those portions of the regulations which are entitled to respect and those portions which should be disregarded as attempts to formulate rules of evidence.

Finally, it should be pointed out that the Treasury Department, contrary to its apparent belief, is under no compulsion as the result of the recent decisions of the Supreme Court to modify its existing regulations. Indeed, the Supreme Court in reaching its decisions in the recent cases before it cited the long-standing social-security regulations with approval in support of its decisions.

In no way did the Court express disapproval of those regulations or indicate that it believed them to require modification. In view of the respect which the Court has on numerous occasions shown to long-standing regulations of administrative agencies of the Government it would hardly have invalidated the existing regulations without making it plain that it was so doing.

Mr. REED of New York. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. MILLER].

Mr. MILLER of Connecticut. Mr. Chairman, the question of whether or not social security should be extended or expanded is not before us this afternoon as we consider this resolution. I personally believe it should be expanded, and I believe that in due time the House Committee on Ways and Means will bring legislation to us bringing untold thousands of additional citizens under the Social Security Act. A great deal has been said here this afternoon about the well-known Fuller brush salesmen and insurance agents. It so happens that the home office and the main factory of the

Fuller Brush Co. is in the congressional district which I have the honor to represent. I cannot understand for the life of me how anybody can contend that under their contracts Fuller brush salesmen are employees of the Fuller Brush Co. They simply buy their brushes at the wholesale price and sell them for as near the retail price as they can. How can the Fuller Brush Co. withhold for social security from the earnings of the Fuller brush salesmen? The company holds no money of theirs. They ship them the brushes. They bill them for the brushes. Within 30 days they are paid for the brushes. Nobody at the Fuller Brush Co. knows whether a particular brush was sold for 75 cents or $1.50. Nobody at the Fuller Brush Co. knows what the earnings of any particular salesman is in any part of the United States.

As to insurance agents, if you will pardon a personal reference, except for the time I have been in the Congress I have earned my livelihood by selling insurance. I have many friends in the insurance business. I have yet to meet an insurance agent who has expressed any desire to me of being brought under social security, because that is one group in our country who, under the terms of their contracts, certainly do not need the protection of social security. If I may use my own case as an illustration, at the present time I am licensed by 14 different companies with home offices in 9 different States. Who is going to withhold for social-security purposes? Or if things go a little further and they require withholding for tax purposes, who is going to do the withholding? I am not an employee of any of those companies. With some of the companies I have a contract. With other companies I have no contract, but I am licensed by their authority and approval by the State of Connecticut. I am empowered under that license to bind that company for millions of dollars, to issue policies and to collect premiums, but I am certainly not their employee. They have no control over my time. I do not know, as a practical matter, how any of those companies would know what to withhold. Am I to start out in the morning with my little notebook and say, "For the first hour I will be an employee of the Philadelphia National Fire Insurance Co."? I make that one call. Now I say, "I guess I will work for the Travelers for half an hour." But my prospect crosses me up, and instead of wanting fire insurance he wants a life-insurance policy, so I have to get my notebook and become an employee of the Aetna Life Insurance Co. As a practical matter, it simply will not work. When a life-insurance agent reaches retirement age, his renewals go on, in most cases as long as he lives; in many cases to his widow. So he certainly could not draw benefits under that particular section of the act.

When is an insurance salesman unemployed? Never, as long as he is an insurance agent, because he can go out and work any time he wants to, day or night, Sundays or holidays, or holy days, if he wants to. So he would be contributing to that fund with never any likelihood or opportunity of collecting from it. I do not think any fair-minded citizen can contend at this late date that it was ever the intention of Congress when this law was enacted that men engaged in these types of occupation, who, for all practical purposes, are independent businessmen, were ever intended to come under social security. So I contend that the title of this resolution is correct. It is to maintain the status quo, as Congress wrote the law, and as Congress intended it should be interpreted.

I hope the resolution is overwhelmingly agreed to.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MILLER] has expired.

Mr. EBERHARTER. Mr. Chairman, I yield to the gentleman from Arkansas [Mr. MILLS] such time as he may desire.

Mr. MILLS. Mr. Chairman, in studying House Joint Resolution 296, which would maintain the status quo of the existing Treasury regulations on social-security coverage, I examined into three major questions. The first was what the proposed regulations would do; the second was whether regulations such as are proposed are required under the Supreme Court decisions, and the third was whether House Joint Resolution 296 is justified.

I found that the proposed regulations are expected to reverse the status under the present regulations and rulings of between a half and three-quarters of a million individuals presently recognized as self-employed. This fact is disclosed by the letter of the Secretary of the Treasury, printed on page 13 of our committee report on the pending legislation.

I also found from studying the proposed regulations that no one could even hazard an intelligent guess as to what different types of independent contractors, brokers, and dealers would be considered employees. For, as stated by the Secretary of the Treasury, social-security coverage under the proposed regulations would be determined on the principles of economic reality instead of on the common-law principles reflected by the existing regulations. The Secretary refers to relative economic positions of parties to an arrangement. This emphasizes the uncertainty of the proposed test. I believe we can all agree on the relative economic positions of an automobile manufacturer and its dealers. However, I do not believe that many of us would conclude that these dealers are employees of the manufacturer because of their relative economic positions. The proposed regulations are so broad that no one can forecast just how the proposed economic reality test would be applied by the persons making administrative rulings. The concept is a new one, and there are no precedents.

The Treasury obviously must have determined already the more important types of arrangements which will be affected by the proposed regulations or it would have no basis for its estimate as to the number who will be affected. Nevertheless, the regulations themselves are so drawn that no one outside the Treasury can ascertain whether particular situations will be considered employment under the proposed yardstick of economic reality.

Before describing the important results which flow from retroactive features of the proposed regulations, I should like to point out why retroactivity is an inescapable feature whenever an attempt is made to extend social-security coverage by regulations instead of by amendment to the law. In case Congress decides to extend coverage, as it has in the past, for several important reasons it extends coverage prospectively, not retroactively. It changes the law so that certain employment will be covered after a certain date—so that wages from the newly covered employment will thereafter be subjected to the social-security tax, and will be counted for benefit purposes.

In contrast, the courts and administrative agencies can do no more than interpret the provisions Congress has written. They cannot go further than to state what Congress intended when it wrote and enacted the statute. As nothing has ever been enacted by the Congress changing the original definition of employee, any change in the regulations as to the employment relation is, therefore, necessarily retroactive to the beginning of the act. This is true of the proposed Treasury regulations. It must also be true of the identical new regulations which the Federal Security Agency will promulgate if the proposed Treasury regulations become effective. While Treasury proposes to exercise its authority to excuse social-security tax payments for past coverage as extended by the proposed regulations, Federal Security has no authority to exclude this past coverage for benefit purposes. These limitations on possible scope of action would result in an enormous amount of past wages being retroactively credited for benefit purposes, but no contributions payable.

After reading the provisions of the proposed regulations relieving employers from past taxes, I was struck by the fact that many taxpayers who had properly paid the employers' tax under existing regulations would be in a position to recover their payments if the proposed regulations are enacted, but that the person who would be substituted as employer under the proposed regulations would not be required to pay these back taxes. Recovery by the person who was ruled to be the employer under present regulations would be based on the fact that the proposed new regulations are made retroactive for coverage purposes. But the person held to be employer under the proposed regulations, by virtue of express provisions thereof, would be relieved from these taxes for past employment. Mention was made by the Secretary of the Treasury in his letter of selling agents, brokers, bulk oil operators, store managers, and motion-picture theater managers. It is easy to see that if such persons, who have been ruled to be the employers and who have paid the employers' tax on a large number of employees under existing regulations, are now held to be employees and accordingly entitled to recover these payments, there will be very large tax recoveries, but no offsetting amounts paid by those who would be substituted as the employers under the proposed regulations.

You will recall the recent Supreme Court case which held that an amusement company contracting for a name band was not the employer, as the "Petrillo" provision of the contract was a sham, and that the band leader was the employer. The amusement company can now recover its tax payments. The orchestra leaders must pay these back taxes. But under the proposed regulations, the orchestra leaders will be excused from paying them. The Government will be left holding the bag. This same result will follow in the case of the company and the truck operators in the Silk case and in the Greyvan case. The Treasury letter did not point out these results of the proposed regulations. The Treasury did not point out that if bulk station operators who have been held to be employers and subject to the tax are now held to be employees, they will receive not only free social-security coverage, but also a windfall social-security tax rebate.

Can anyone opposing House Joint Resolution 296 justify the tremendous total of free wage credit which would be provided for benefit purposes if it is defeated? The Treasury's letter estimates that wage credits under the proposed extended coverage amounts to a billion and a quarter dollars per year. Thus the total of retroactive credits will run to many billions. This free retroactive wage credit is important because it means that large amounts of free benefits will be paid based on the credits. How much these benefits will be was not estimated by the Treasury or the Federal Security Agency, but the total will obviously be a very large sum.

It is of deep concern to everyone who believes in the principles of the contributory system of old-age and survivors insurance that its basic principles be preserved. If we violate its basic principle by paying benefits for which no contributions have been required or paid, I am uncertain as to whether the contributory system can long endure. But that is exactly what will happen if the proposed Treasury regulations are put into effect. If we permit the proposed regulations to become effective we shall be giving billions of free wage credits to a fortunate half to three-quarters of a million individuals. If we thus give this fortunate group millions of dollars of free benefits at the expense of contributors, on what basis shall we resist the desire of other noncontributors to receive benefits out of the trust fund?

As I know that there will be ample discussion of the practical difficulties of the proposed regulations, their disturbing effect on large areas of business, and the unbridled administrative discretion in making coverage decisions which would result from the proposed regulations, I should like to pass on to the next major question—whether the proposed regulations are required under recent Supreme Court decisions.

I believe that reasonable men can come to different conclusions as to the effect of the Supreme Court decisions referred to in the proposed regulations—the Bartels case and the Silk and Greyvan cases. The conclusion one reaches depends upon whether he stresses certain language of the Court or of the Court's disposition of the actual issue before it.

In the Silk and Greyvan cases the Court said:

> Probably it is quite impossible to extract from the statute a rule of thumb to define the limits of the employer-employee relationship. The Social Security Agency and the courts will find that degrees of control, opportunities for profit or loss, investment in facilities, permanency of relation, and skill required in the claimed independent operation are important for decision. No one is controlling nor is the list complete.

It is quite apparent that the proposed regulations are based on this statement of the Court.

But in the Silk and Greyvan cases the actual issues before the Court were: First, whether certain coal shovelers were employees of Silk; second, whether certain coal truckers were employees of Silk, and, third, whether certain van operators were employees of Greyvan. In each of these situations the Commissioner of Internal Revenue had found that the persons concerned were employees under the existing regulations because of the direction and control vested in Silk and Greyvan over their activities.

In the case of the coal shovelers, who unloaded coal at so much per car on Silk's premises, the Court stated:

> Silk was in a position to exercise all necessary supervision over their simple tasks. Unloaders have often been held to be employees in tort cases.

This would have afforded ample basis for the actual holding, which sustained the Commissioner's ruling, as it brings them within the purview of existing regulations. The existing regulations certainly need no amendment to cover this type of situation as it is already covered.

In the case of the truck and van operators, likewise, there was very substantial direction and control. As stated in the majority opinion of the Court:

> There are cases, too, where driver-owners of truck or wagons have been held employees in accident suits at tort or under workmen's compensation laws.

The Court said of the employer-employee relationship in the Greyvan situation that—

> While many factors in this case indicate such control as to give rise to that relationship we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations.

The Supreme Court added certain additional reasons for holding the truck and van operators independent contractors despite direction and control, saying:

> We agree with the decisions below in Silk and Greyvan that where the arrangements leave the driver-owners so much responsibility for investment and management as here, they must be held to be independent contractors * * * they own their own trucks, they hire their own helpers.

In the Bartels case the Court held that, as the contract forced on the amusement operators by the musicians' union was a sham, Internal Revenue did not have the election of relieving the orchestra leaders of tax liability and imposing it on the operators. The fact that the Court referred to the Silk case in its opinion and repeated some of its dicta, of course, does not change what the Court actually held.

Thus the actual holdings in the Silk, Greyvan, and Bartels cases released from social-security coverage three of the four situations originally held covered under existing regulations. The question is whether the dicta in these cases require revised regulations extending coverage to a half million or more persons previously held to be independent contractors.

It would seem to be at least a debatable question as to whether these decisions justify, let alone require, the sweeping changes of the proposed regulations. I do not say that there is no reasonable basis for scrapping the existing regulations and substituting the proposed new yardsticks for determining the employer-employee relationship. I do feel, however, that as the proposed yardsticks were announced in cases where direction and control was ample to sustain coverage, and were used as a basis of excluding from coverage persons who might have been otherwise covered, there is no clear and compelling mandate to apply the yardstick to situations where there is little or no actual or potential control. It would seem to be a reasonable precaution to wait until the court had considered one of these cases before proposing regulations which may be construed to relieve a large number of independent contractors of their obligations as employers and provide them with free past social-security coverage, and with windfall tax rebates at the expense of the Old-Age and Survivors Insurance Trust Fund. The court did not have this type of situation before it in disposing of the Silk, Greyvan, and Bartels cases.

Regardless of how we may feel about the Court decisions and the proposed regulations, I believe we can agree on two or three fundamental considerations.

First, that it is perfectly clear from the legislative history of the Social Security Act, set forth at length in the report of House Joint Resolution 296, that Congress has never intended to base coverage on the economic reality test set out in the proposed regulations.

Second, that when coverage is extended it should not be on the basis of free retroactive coverage, for this is inequitable to those whose contributions have built up the fund, and incompatible with the American principle of special favors toward none.

Third, that when coverage is extended, there will be no provision giving retroactive tax rebates to band leaders and others who are employers under the tests laid down by the present regulations.

Fourth, that when coverage is changed it should be changed after careful consideration by the Congress itself, and not by action of any other division of the Government.

To me, at least, these are compelling reasons to vote for House Joint Resolution 296, which expresses the original and continuing intent of the Congress that the employer-employee relationship shall be determined under the common-law rules and precedents, and which will insure against departure from the present long-established regulations and rulings thereunder until the

Congress considers and acts on changes in social-security coverage.

Mr. EBERHARTER. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. LYNCH].

Mr. LYNCH. Mr. Chairman, I believe we have not a more sincere or earnest Member of the House than the gentleman from California who has proposed this resolution. I believe that he has but one thing in mind, and that is to clarify the definition of master and servant, as used in our social-security laws. I do not believe that he has in mind to withdraw from coverage any substantial amount of those employees who are presently covered, either by reason of the plain terms of the law itself or under the recent decisions of the Supreme Court. I feel, however, that our distinguished colleague has done just the reverse of what he intended to do. Under this resolution, in my opinion, he does not clarify the definition of master and servant, but makes it so vague and uncertain as to insure further litigation. On the other hand, he does by his resolution do exactly what I am sure he does not want to do; and that is to take out from under coverage somewhere between a half and three-quarters of a million people.

This definition of "employee" and "employer," which he says is to be found under the usual common-law rule, requires an examination of the court decisions in the several States. Instead of referring to the "usual common-law rule," if he wants to give a definition that is clear and convincing, why does he not give a precise definition of what constitutes the master-and-servant relationship? The usual common-law rule in New York State as to master and servant may be entirely different from the usual common-law rule, if they have a common-law rule, in the State of Louisiana, or any other State in the Union. So I am in accord with what the gentleman from Pennsylvania has said; namely, that instead of making this law more clear and concise, it just opens the door to future litigation.

I listened to the gentleman from Connecticut with respect to the insurance cases that he mentioned. I believe the answer to this proposition of his is to do what I think the Ways and Means Committee will eventually do, and that is to recommend to this House further and more extensive coverage of persons, so that those who are certainly employed, those who are what might be called on the border line of employment, and the self-employed will all be covered under social security. When that is done, we shall not be faced with these litigious questions that are now before us.

Mr. MILLER of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. LYNCH. I yield.

Mr. MILLER of Connecticut. I certainly would agree to that. There are groups in the insurance industry that I think should be covered; but I think it should be done by the committee and after giving the insurance companies a chance to change and revise their existing contracts, which I think would take months, rather than to do it by an order which came out unexpectedly and without warning.

Mr. LYNCH. I am glad the gentleman agrees with me in that respect, but this order has not come without warning, and this order follows the decision of the Supreme Court.

The gentleman from Pennsylvania [Mr. SIMPSON] asked whether the Treasury Department was not lax in not knowing what the decision was and in not collecting these taxes beforehand. I think it is common knowledge that on almost every piece of important legislation having to do with social welfare there has never been a final and ultimate decision until we got to the Supreme Court.

Mr. LYNCH. There is in all this social-welfare legislation, as I said, the necessity of going almost to the top court of the land before it is finally determined what the Congress had in mind. There is nothing unusual about that. That is why we have courts. They are the interpretative part of our Government. That is what the Supreme Court has done in this case. Of course, we can say, "Well, it was not the intention of Congress in 1935 that these border-line cases should be included, or the Congress in 1935 or 1939 did not go as far as the United States Supreme Court decision has indicated." The fact of the matter is that those decisions are the law of the land and the further fact that those persons who the Supreme Court has said are covered will be protected up until the time the resolution actually becomes law.

Whatever disagreement there may be about the pending bill, House Joint Resolution 296, it must be admitted that some 500,000 to 750,000 workers and their families entitled to social-security coverage under existing law will not have such protection if this bill is enacted.

Now, we could debate for weeks the question whether Congress back in 1935, when the Social Security Act was passed, considered these people to be employees within the scope of the act. The Supreme Court, the highest tribunal in the land, has finally decided that question for us.

So what is the question today? It is whether the Eightieth Congress is to curtail to a substantial degree the scope of social-security coverage provided by the Seventy-fourth Congress. If this bill becomes law, textile home workers—whose economic status is usually worse than workers in the sweatshops—will be denied coverage. Outside salesmen, who are just as much an integral part of a manufacturer's business as is the man in the foundry, will no longer be insured against the risks of unemployment and old age.

The majority report on the bill stated that coverage of persons engaged in delivery, distribution or sale of newspapers, magazines, and periodicals is an issue.

I find it difficult to understand why so many of those who are interested specifically in excluding newspaper and magazines vendors from social-security coverage are concentrating their support on House Joint Resolution 296. In the first place, to use a measure as sweeping as the one now before the House, which would deprive of social-security coverage anywhere from one-half to three-quarter million employees who have no connection with newspapers or magazines, in order to strike at the coverage of newspaper and magazine vendors is like using a blunderbuss to kill a sparrow or a sledge hammer to smash a gnat.

In the second place, it is doubtful to what extent the present resolution would accomplish these people's aim. Newspaper distributors under 18 are already excluded from coverage. Many, perhaps most, adult street vendors of newspapers and magazines are excluded even under the Supreme Court decisions which the resolution would nullify, because such vendors, even under a broad view, are independent contractors rather than employees of the publishers. On the other hand, even if this resolution should be finally enacted, some adult vendors would still be covered because they work under arrangements which make them employees of the publishers even at common law. For instance, in the case out in California which started all the excitement about news vendors, there was a great deal of control exercised by the newspapers and a minimum remuneration was guaranteed. I think it is very doubtful whether writing common-law rules into the law would exclude those vendors from the Social Security System. At any rate, the matter would have to be carried through the courts before anybody could be sure of the answer. Thus the most that could be said for the joint resolution is that it might reduce the number of vendors who would be held to be employees, but on the other hand might engender a great many lawsuits to determine just who is in and who is out.

It seems to me, therefore, that those who espouse the exclusion of newspaper and magazine vendors, and I am one, should concentrate on another bill, now pending in this House, which would accomplish specifically this aim and nothing else. This bill is H. R. 5052 which has been reported out by the Ways and Means Committee and is now on the calendar. In this way, Congress would have an opportunity to consider that question on its own merits, without being encumbered by the many questions and difficulties inherent in House Joint Resolution 296.

In my opinion, this bill should not pass.

Mr. GRANT of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LYNCH. I yield to the gentleman from Indiana.

Mr. GRANT of Indiana. When the Congress passed the Social Security Act it intended that employees who pay taxes under the system should get the benefits under title II. Those who today oppose this resolution are in effect saying that many who made no contribution whatever through social-security taxes are to drain this fund built up under title II by social-security taxes; is that not correct?

Mr. LYNCH. I can see some logic to the question put by the gentleman, but I think the answer to it is that because the Treasury Department or the Social Security Administration did not collect the tax does not alter the situation regarding the rights of employees to benefits. I do not believe that because of the failure of the Government to collect and the employer to pay and withhold a tax, that those who are entitled under the Supreme Court decision to coverage should

be denied this protection. The Social Security Board would clearly under the Social Security Act be obliged to pay benefits to these employees even though they had not in fact contributed.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. EBERHARTER. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. PRICE].

Mr. PRICE of Illinois. Mr. Chairman, the Republican Party in national convention in Chicago in June 1944, stated in its platform:

> Our goal is to prevent hardship and poverty in America. That goal is attainable by reason of the productive ability of free American labor, industry, and agriculture, if supplemented by a system of social security on sound principles. We pledge our support for the extension of the existing old-age insurance and unemployment insurance systems to all employees not already covered.

The President, the spokesman for the Democratic Party, in his message on the State of the Union on January 7, 1948, said:

> Over the past 12 years we have erected a sound framework of social security legislation. Many millions of our citizens are now protected against the loss of income which can come with unemployment, old age, or the death of wage earners. Yet our system has gaps and inconsistencies; it is only half-finished. We should now extend unemployment compensation, old-age benefits, and survivors' benefits to millions who are not now protected. We should also raise the level of benefits.

Both parties are committed to the policy of extending social-security benefits to groups not now covered by the act. Yet, today, we find support for a measure that is diametrically opposed to these commitments. House Joint Resolution 296 would amend the Social Security Act to take away from almost a million people the right to accumulate wage credits for benefits. Instead of extending protection against the economic hazards caused by death or old age, as promised, the sponsors of this measure would have this Congress snatch away the security to which these men and women are legally entitled. They would have us wipe social-security credits off the records of thousands of commission salesmen, piece workers, and women who work in their own homes instead of in the factories of their employers. We promise security for all, but actually we strip security from those who have it. This is hypocrisy.

And what is the justification for this action? It is said that the issue is whether the scope of social-security coverage should be determined by Congress or by other branches of the Government. It is alleged that the administering agencies and the Supreme Court have arbitrarily expanded coverage by misinterpreting the intent of Congress.

The Social Security Act specifies that employment covered by the law shall be "by an employee for the person employing him." It is not unreasonable for the administering agencies and the Supreme Court to examine the employment relationship to determine if a worker is in fact an employee.

For example, there are many different arrangements between salesmen and the organizations for which they sell. Many are regular employees paid a salary and expenses who would continue to have social-security rights even if this resolution is adopted. Others are truly independent contractors; for example, those who purchase a stock of goods outright and maintain their own business establishments. They are not covered under the present social-security law. In between there is every gradation of dependence and independence just as there is in the other areas affected by this proposed legislation. There is no single clear-cut test that determines which are sheep and which are goats. All of the elements of the relationship must be examined, such as its permanence, the skill required in the performance of the work, the investment in the facilities for work, the opportunity for the salesman's profit or loss and, finally, the degree of control that can be exercised over his activities. The Treasury Department and the Social Security Administration are simply applying these tests in determining whether particular workers are in fact employees or independent contractors. This is not a capricious interpretation of the law; it is reasonable, and it is so recognized by the Supreme Court. If these agencies were to limit their examination of employer-employee relationships to any one factor in this arrangement, many of their decisions inevitably would be artificial. House Joint Resolution 296 would compel these agencies to look at only part of the facts.

It has been the practice of certain employers to alter the form but not the effect of their agreements with their employees for the specific purpose of avoiding the common law "control test" of employer-employee relationship. I am told that some oil companies have changed the managers of their filling stations into licensees; of course, the company retains title to the station and to all its products sold. The licensee is required to maintain his station at certain standards but he is paid according to the number of gallons of gasoline he sells. It was not the intent of Congress to allow employers to avoid their responsibility to employees and to deprive them of social security benefits simply by changing certain superficial details of an employment arrangement.

The argument that other branches of Government have extended coverage of the Social Security Act when using realistic tests of employer-employee relationships is simply window dressing. The real question is whether the advantage and convenience of a certain few employers is sufficient justification for depriving almost a million families of security to which they are now legally and morally entitled.

I challenge both parties to stand by their solemn pledges to the people. I ask each Member of the Congress to examine and weigh the real implications of this hastily conceived resolution. I urge that it be defeated.

Mr. EBERHARTER. Mr. Chairman, I yield 10 minutes to gentlewoman from California [Mrs. DOUGLAS].

Mrs. DOUGLAS. Mr. Chairman, the cunning and deception of House Joint Resolution 296 is suggested by its title: "A bill to maintain the status quo in respect of certain employment taxes and social-security benefits," and so forth. Now we never need legislation to maintain the status quo—legislation is required only to create change. Change can be of two varieties of motion—forward or backward. In this case it is definitely backward.

The pending bill would exclude from social-security coverage—old-age and survivors' insurance benefits and unemployment insurance protection—some 500,000 to 750,000 employees and their dependents. The Supreme Court has held that the Seventy-fourth Congress intended to give all these thousands of people and their families the security against death, unemployment, and old age provided by the Social Security Act. The Eightieth Congress now proposes to take away this protection.

Mr. Chairman, I am opposed to this bill. I do not think that the gentleman from California [Mr. GEARHART] is able to stand here today and interpret the intention of Congress in 1935.

Under our system of Government we have a separation of powers. Here in the Congress we legislate. The executive branch of the Government administers the laws which we pass, and the Supreme Court interprets the intention of Congress. It was clearly the intention of Congress in 1935, and I do not think anybody has disputed this, that all employees, with certain specified exceptions, were to be covered by the social-security bill that they passed. Because of the complexity of our business life it has sometimes not been easy to determine in certain cases who is an employee and who is an employer. So, the matter of interpretation of who is an employer or employee has gone to the Supreme Court and the decision has been handed down by the highest tribunal of the land. The majority, however, now presume to take unto the Congress the interpretative powers vested in the Supreme Court and without justification castigate the executive department for complying with their constitutional duty to follow the decisions of the Supreme Court.

Mr. Chairman, this is a shocking piece of legislation. During the past several months I have grown accustomed to the sight of this Congress turning back the clock—crippling where they do not dare repeal, or boring away like termites in an effort to undermine the progress of the preceding 14 years.

This attack on social-security coverage was something I, at first, did not understand. I was not a Member of Congress in 1935, when the Social Security Act was passed, but it had been my impression that the Congress was practically unanimous in recognizing the need and the wisdom of its provisions. I decided to look into the matter—to check the record. And, Mr. Chairman, this is what I found:

The entire Republican membership of the Ways and Means Committee filed a minority report in 1935 on the original social-security bill protesting that the old-age and survivors insurance titles of the act were unconstitutional, and ex-

pressing doubt whether the unemployment insurance provisions would result in a general national benefit at that time.

The present chairman of the Committee on Ways and Means filed supplemental views in which he emphasized:

> The two pay-roll taxes which the bill imposes will greatly retard business recovery by driving many industries, now operating at a loss, into bankruptcy, or by forcing them to close down entirely, thereby further increasing unemployment, which would greatly retard recovery.

Instead of establishing the Social Security Board, the gentleman from Minnesota would have vested the program for economic security in the Veterans' Administration.

The Republican platform of 1936 echoed this opposition to a broad, actuarially sound program by asserting that "the unemployment insurance and old-age annuity sections of the present Social Security Act are unworkable." By 1940, however, the Republican Party professed to see the light and half-heartedly favored "extension of necessary old-age benefits on an earmarked pay-as-you-go basis" and actually advocated "extension of the unemployment compensation provisions of the Social Security Act, wherever practicable, to those groups and classes not now included."

By 1944 Republican enthusiasm for the New Deal Social Security Act had reached white heat—and the national platform of that year asserted unqualifiedly:

> We pledge our support of the following:
> 1. Extension of the existing old-age insurance and unemployment insurance systems to all employees not already covered.

But Republican support of social-security expansion quietly died upon their assumption of control of Congress. Now, instead of extending coverage and benefits, they seek to take away the protection Congress has already granted.

Who are the people whose rights are now in jeopardy? Mr. Chairman, these workers, principally in the distribution and industrial home work fields, are subject to the same economic hazards as all other employees. These men and women want and need this insurance protection. For the most part, their work is similar to that of any other job holder except that they do not come to the plant when the whistle blows or report to the office promptly at 9 o'clock. They are to be found among the thousands of commission salesmen who faithfully canvas the wholesale and retail outlets of the Nation, selling the dresses, the cosmetics, the hardware, of our manufacturers. Many are insurance agents working a 12- or 14-hour day to serve the policyholders and prospective policyholders of the Nation. Others are miners who work the mines of others and have few of the characteristics of an independent businessman. Some are women who eke out an existence in home industries tying trout flies, doing fancy needlework on bedspreads or dresses for the many companies that buy their services on a piecework basis. All of these workers add to our national income; all of them either help produce or help distribute the products of industry and commerce; all of them are economically dependent on their employers; very few of them have been able to accumulate sufficient wealth to be able to provide for their families in case of retirement or death.

Let us take a closer look at a typical worker that would have his right to build credit toward a small social-security retirement check taken away from him by this resolution. Let us find out if he really is independent or if he actually is an employee who is paid by the piece or by a commission rather than by the hour or by the week. Perhaps he is a lumberjack—Ole Johnson—that agrees to cut pulpwood on a section of land owned by the ABC company. Johnson furnishes his own tools; he gets to work when he wants to in the morning and lays off a day or two if he feels like going hunting. He is paid by the number of cords of pulpwood that he delivers. He is independent of control. But is he? Can he cut that patch of seed trees that is so easy to reach? No. Can he sell the pulp to the XYZ company? No. Can he cut trees under 4 inches in diameter? No. Can he lay off a month if he wants to? Well, he could but two things would happen. He would not pay for his groceries and he would not cut any more timber for the ABC company because they want that pulp all cut before the snow goes. If Johnson lays down on the job, Irv Hansen, down the road, could be called in to cut it in Johnson's place. Perhaps the ABC company has a small portable mill that they let Johnson operate to saw up a patch of hardwood trees that are in the pulp stand he is cutting. The rent for the use of the mill depends on how many thousand feet of lumber he saws. If he saws a lot, the rent is high and if he saws only a little, it is low. But is he independent? If the mill wasn't properly used Johnson wouldn't have it long. He cannot use the mill to saw timber for another company. Is this piece-work arrangement any more than a device to gage payment? Ole Johnson is as much an employee in fact as if he worked with a regular cutting crew.

Typical also is the elderly woman home-worker who gets little clay dogs to paint from the local novelty company. They send her a model to follow; furnish her with paint brushes, paint, and a supply of the dogs. She works when she has time and if she wants to visit her niece for a day, she does, but if she fails to paint neatly or lays off for too long a period, the company will look for a more dependable worker. She has no opportunity for profit or loss; she is paid only for her labor. This woman's independence may be recognized under common law but it is not real independence in fact.

Certain classes of salesmen comprise the largest group that would lose the social-security wage credits that they now have, or could have, established to their individual accounts. Salesmen generally render responsible service to the concerns whose products they sell to the buying public. These men want social-security protection for their widows and children. They want the security of a regular income in their old age. The attitude of those salesmen who are aware of what House Joint Resolution No. 296 will do to their established rights is forcefully shown by a resolution adopted January 29, 1948, by the Atlanta Life Underwriters Association, of Atlanta, Ga. I want to read this resolution:

Be it resolved, That—

Whereas it has come to our attention through the insurance press that an effort is being made to block the inclusion under the Social Security Act of life-insurance agents compensated wholly by commissions; and

Whereas Representative BERTRAND W. GEARHART, Republican, California, has presented a resolution known as House Joint Resolution 296, designed to deny the old-age and survivor insurance benefits of the Social Security Act to such commission agents; and

Whereas this association of over 500 members has advocated and vigorously sought the rightful inclusion of such life-insurance agents under the Social Security Act; and

Whereas the Social Security Board has approved, or now has pending, the individual applications of every such agent in our membership who has applied for the old-age and survivor benefits of the Social Security Act; and

Whereas the Supreme Court of the United States has confirmed the rulings of the Social Security Board in that an employer-employee relationship exists and has existed and that such agents are entitled to coverage under the Social Security Act; and

Whereas the exclusion from the Social Security Act of such commission life-insurance agents will represent gross discrimination: Therefore, be it

Resolved, That this association opposes the efforts of Representative BERTRAND W. GEARHART, Republican, California, or any other person or persons, individually or collectively, to retard or delay the acknowledgment by the Treasury Department of the inclusion under the Social Security Act of life-insurance agents compensated by commissions, and, with equal emphasis this association opposes the effort by any person or persons to thwart the apparent mandate of the Social Security Board and the Supreme Court of the United States to the Treasury Department for the inclusion under the Social Security Act of such commission agents; be it further

Resolved, That the inclusion under the Social Security Act of the life-insurance commission agents is of material interest and benefit to life-insurance companies as well as to the individuals involved, and by improving the efficiency and reducing the turnover of agency personnel the policyholders of life-insurance companies will benefit through improved service and reduced costs; it is further

Resolved, That a copy of this resolution be forwarded immediately via air mail to our Senators WALTER F. GEORGE and RICHARD B. RUSSELL, and to Congressman JAMES C. DAVIS, with the request, and it is herein requested, that these gentlemen use their fullest influence against the resolution referred to, namely, House Joint Resolution 296.

Adopted and approved at the regular monthly meeting of the Atlanta Life Underwriters Association, Atlanta, Ga.

Approved:

DUDLEY C. FORT,
President.

JANUARY 29, 1948.

Mr. Chairman, the door-to-door salesmen are fully as integral a part of the business as a stenographer in the office. A woman who does embroidery work or tailoring in her own home or shop may be just as much an employee, apart from technical, common-law concepts, as one who works in the factory production line.

We are discussing today something more than a theory. Economic insecurity because of death of the family breadwinner, old age, or unemployment is a tragically realistic problem for too many American families, even under existing law. As the President has so aptly said:

> The strength, security, and welfare of the entire Nation, as well as that of the groups now excluded, demand an expanded social-security system. * * * We must not open our social-security structure to piecemeal attack and to slow undermining.

Yet that is exactly what House Joint Resolution 296 would do. And, in view of the spotty initial record of the Republican Party on social security, which I have already reviewed, my fear is that this is just the beginning. There will be other holes in the dike against economic distress from old age and unemployment. How revealing of Republican sentiment on the social legislation enacted in recent years is the following extract from the majority report of the Committee on Ways and Means on the Knutson income-tax-reduction bill. That report states on page 16 that small businesses "are being bankrupted by competition of tax-free cooperatives, exorbitant Federal taxes, and strait-jacket regulations, like the wage-and-hour law. Providing Congress fails to recognize the urgency, and neglects to take prompt action to eliminate the cause for this crushing misfortune, commercial failures will not decrease but increase, and small manufacturers will in all likelihood be destroyed or obliterated."

This appears to be a clear recommendation by the majority membership of the Committee on Ways and Means for outright repeal of the Fair Labor Standards Act. Now, whether ultimate repeal of the Social Security Act also is recommended is not clear, but if the wage-and-hour law is a strait-jacket Government regulation, the social-security law may well fall into the same category. Only time can tell how far backward the Republican majority will turn, if that report reflects their views.

Now, instead of expanding the social-security system, we have a bill before us to take from 500,000 to 750,000 people out from under the social-security program.

You are either for social security or you are against it. This bill is the first attack on the social-security program by those who never really believed in it. A vote for this bill is a vote to begin the destruction of the greatest social program in the history of the country.

I think that is the issue before us, Mr. Chairman: Do we believe in social security or do we not?

Mr. HAYS. Mr. Chairman, this bill will correct injustices but if additional legislation is not passed other inequities will be created. Therefore, the debate points up the necessity for extending by congressional action social-security coverage for groups now deprived of it. If the House fails to work out a comprehensive plan for this extension our action today should give us slight consolation, though it appears to be necessary to correct a situation growing out of faulty interpretations.

Obviously additional legislation is required in order to provide for some groups not now receiving the benefit of social security laws and their coverage should be supported by specific legislation rather than questionable administrative regulations.

The Clerk read as follows:

Resolved, etc., That (a) section 1426 (d) and section 1607 (i) of the Internal Revenue Code are amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules."

(b) The amendments made by subsection (a) shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment.

SEC. 2. (a) Section 1101 (a) (6) of the Social Security Act is amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules."

(b) The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any determination respecting eligibility for, or amount of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948.

With the following committee amendments:

Page 1, line 6, after "under the", insert "usual."

Page 2, line 8, strike out "of each of the following" and insert "thereof the following."

The committee amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. JACKSON of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage, pursuant to House Resolution 458, he reported the resolution back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. EBERHARTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] One hundred and seventy-four Members are present, not a quorum.

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 275, nays 52, not voting 103, as follows:

[Roll No. 18]

YEAS—275

Abernethy	Elston	Landis
Allen, Calif.	Engel, Mich.	Lane
Allen, Ill.	Engle, Calif.	Larcade
Andersen, H. Carl	Fellows	Latham
Anderson, Calif.	Fenton	LeCompte
Andrews, Ala.	Fisher	LeFevre
Angell	Fletcher	Lemke
Arends	Foote	Lewis
Arnold	Fuller	Lichenwalter
Auchincloss	Gamble	Love
Bakewell	Gary	Lyle
Banta	Gathings	McConnell
Barden	Gavin	McCowen
Barrett	Gearhart	McCulloch
Bates, Mass.	Gillette	McDonough
Battle	Gillie	McGregor
Beall	Goff	McMahon
Beckworth	Goodwin	McMillan, S. C.
Bell	Gossett	Mack
Bennett, Mich.	Graham	Macy
Bennett, Mo.	Grant, Ala.	Mahon
Bishop	Grant, Ind.	Martin, Iowa
Blackney	Gregory	Mason
Boggs, Del.	Griffiths	Mathews
Bolton	Gross	Meade, Ky.
Boykin	Gwinn, N. Y.	Meade, Md.
Bradley	Gwynne, Iowa	Merrow
Bramblett	Hagen	Meyer
Brehm	Hale	Michener
Brooks	Hall, Edwin Arthur	Miller, Conn.
Brophy	Hall, Leonard W.	Miller, Md.
Brown, Ga.	Halleck	Miller, Nebr.
Brown, Ohio	Hand	Mills
Bryson	Hardy	Morris
Buck	Harless, Ariz.	Morton
Buffett	Harness, Ind.	Muhlenberg
Bulwinkle	Harris	Mundt
Busbey	Harrison	Murdock
Butler	Harvey	Murray, Tenn.
Byrnes, Wis.	Hays	Murray, Wis.
Camp	Hedrick	Nicholson
Canfield	Herter	Nixon
Carson	Heselton	Nodar
Case, S. Dak.	Hess	Norblad
Chadwick	Hill	O'Hara
Chelf	Hobbs	O'Konski
Chenoweth	Hoeven	Owens
Church	Hoffman	Pace
Clevenger	Holmes	Patman
Coffin	Horan	Patterson
Cole, Kans.	Jackson, Calif.	Peden
Cole, Mo.	Jarman	Philbin
Colmer	Jenison	Phillips, Tenn.
Corbett	Jenkins, Ohio	Pickett
Cotton	Jenkins, Pa.	Ploeser
Cravens	Jennings	Poage
Crawford	Johnson, Calif.	Potter
Crow	Johnson, Ill.	Potts
Cunningham	Johnson, Ind.	Poulson
Curtis	Jones, Ala.	Preston
Dague	Jones, N. C.	Priest
Davis, Tenn.	Jones, Wash.	Rains
Davis, Wis.	Jonkman	Ramey
Devitt	Judd	Rankin
D'Ewart	Kearney	Rayburn
Dolliver	Kearns	Redden
Dondero	Keefe	Reed, Ill.
Donohue	Kefauver	Reed, N. Y.
Dorn	Kerr	Rees
Doughton	Kersten, Wis.	Reeves
Elliott	Kilburn	Rich
Ellis	Kilday	Richards
Ellsworth	Kunkel	Riehlman
Elsaesser		Riley
		Rizley

Robertson	Simpson, Pa.	Vail
Rockwell	Smith, Ohio	Van Zandt
Rogers, Fla.	Smith, Va.	Vorys
Rogers, Mass.	Smith, Wis.	Vursell
Rohrbough	Snyder	Weichel
Ross	Stanley	Wheeler
Russell	Stefan	Whitten
Sadlak	Stevenson	Whittington
Sanborn	Stockman	Wigglesworth
Sasscer	Stratton	Wilson, Ind.
Schwabe, Mo.	Taber	Wilson, Tex.
Schwabe, Okla.	Talle	Winstead
Scott, Hardie	Teague	Wolcott
Scrivner	Thompson	Wolverton
Seely-Brown	Tibbott	Wood
Shafer	Tollefson	Woodruff
Sikes	Trimble	Youngblood
Simpson, Ill.	Twyman	

NAYS—52

Albert	Gordon	Marcantonio
Blatnik	Gorski	Miller, Calif.
Cannon	Granger	Monroney
Carroll	Hart	Morgan
Cooper	Havenner	Norton
Crosser	Holifield	O'Brien
Davis, Ga.	Huber	Peterson
Douglas	Hull	Powell
Eberharter	Jackson, Wash.	Price, Ill.
Evins	Keating	Sadowski
Fallon	Kee	Sheppard
Feighan	Kelley	Spence
Fernandez	Kirwan	Thomas, Tex.
Fogarty	Lusk	Walter
Folger	Lynch	Welch
Forand	McCormack	Williams
Fulton	Madden	
Garmatz	Mansfield	

NOT VOTING—103

Abbitt	Dirksen	Manasco
Allen, La.	Domengeaux	Mitchell
Almond	Durham	Morrison
Andresen,	Eaton	Multer
August H.	Flannagan	Norrell
Andrews, N. Y.	Gallagher	O'Toole
Bates, Ky.	Gore	Passman
Bender	Hartley	Pfeifer
Bland	Hébert	Phillips, Calif.
Bloom	Heffernan	Plumley
Boggs, La.	Hendricks	Price, Fla.
Bonner	Hinshaw	Regan
Buchanan	Hope	Rivers
Buckley	Javits	Rooney
Burke	Jensen	Sabath
Burleson	Johnson, Okla.	St. George
Byrne, N. Y.	Johnson, Tex.	Sarbacher
Case, N. J.	Karsten, Mo.	Scoblick
Celler	Kean	Scott,
Chapman	Kennedy	Hugh D., Jr.
Chiperfield	Keogh	Short
Clark	King	Smathers
Clason	Klein	Smith, Kans.
Clippinger	Knutson	Smith, Maine
Cole, N. Y.	Lanham	Somers
Combs	Lea	Stigler
Cooley	Lesinski	Sundstrom
Coudert	Lodge	Taylor
Courtney	Lucas	Thomas, N. J.
Cox	Ludlow	Towe
Dawson, Ill.	McDowell	Vinson
Dawson, Utah	McGarvey	Wadsworth
Deane	McMillen, Ill.	West
Delaney	MacKinnon	Worley
Dingell	Maloney	Zimmerman

So the joint resolution was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Boggs of Louisiana for, with Mr. Karsten of Missouri against.

Mr. Bender for, with Mr. Delaney against.

Mr. Sundstrom for, with Mr. Keogh against.

Mr. Towe for, with Mr. Cooley against.

Mr. Kean for, with Mr. Rooney against.

Mrs. Smith of Maine for, with Mr. Klein against.

Mr. Clason for, with Mr. Lesinski against.

Mr. MacKinnon for, with Mr. Pfeifer against.

Mr. Case of New Jersey for, with Mr. Multer against.

Mrs. St. George for, with Mr. Dingell against.

Mr. Vinson for, with Mr. Dawson of Illinois against.

Mr. Norrell for, with Mr. Celler against.

Mr. Courtney for, with Mr. Somers against.

Mr. Sarbacher for, with Mr. Heffernan against.

Mr. Hébert for, with Mr. Buckley against.

Mr. Zimmerman for, with Mr. Sabath against.

Mr. Cox for, with Mr. O'Toole against.

Mr. Bonner for, with Mr. Buchanan against.

Mr. McGarvey for, with Mr. Deane against.

Mr. Hugh D. Scott, Jr., for, with Mr. Bloom against.

Mr. Coudert for, with Mr. Byrne of New York against.

Additional general pairs:

Mr. Andrews of New York with Mr. Manasco.

Mr. Knutson with Mr. Durham.

Mr. Lodge with Mr. Chapman.

Mr. McDowell with Mr. Burleson.

Mr. Maloney with Mr. Lea.

Mr. Eaton with Mr. West.

Mr. Dawson of Utah with Mr. Rivers.

Mr. Cole of New York with Mr. Abbitt.

Mr. Chiperfield with Mr. Bland.

Mr. Clippinger with Mr. Kennedy.

Mr. Hope with Mr. Morrison.

Mr. Mitchell with Mr. Lucas.

Mr. McMillen of Illinois with Mr. Clark.

Mr. Jensen with Mr. King.

Mr. Hinshaw with Mr. Flannagan.

Mr. Carl H. Andersen with Mr. Domengeaux.

Mr. Burke with Mr. Hendricks.

Mr. Dirksen with Mr. Combs.

Mr. Scoblick with Mr. Johnson of Oklahoma.

Mr. Thomas of New Jersey with Mr. Bates of Kentucky.

Mr. Short with Mr. Allen of Louisiana.

Mr. Smith of Kansas with Mr. Worley.

Mr. Taylor with Mr. Smathers.

Mr. Wadsworth with Mr. Stigler.

Mr. Hartley with Mr. Johnson of Texas.

Mr. Phillips of California with Mr. Almond.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

Mr. EBERHARTER. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to extend their remarks in the RECORD on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

80TH CONGRESS
2D SESSION

H. J. RES. 296

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 2), 1948
Read twice and referred to the Committee on Finance

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1426 (d) and section 1607 (i) of the Internal Revenue Code are amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules".

(b) The amendments made by subsection (a) shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment.

SEC. 2. (a) Section 1101 (a) (6) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules".

(b) The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any determination respecting eligibility for, or amount of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948.

Passed the House of Representatives February 27, 1948.

Attest: JOHN ANDREWS,

Clerk.

80TH CONGRESS
2D SESSION

H. J. RES. 296

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

MARCH 1 (legislative day, FEBRUARY 2), 1948
Read twice and referred to the Committee on Finance

Calendar No. 1298

80TH CONGRESS, 2d Session | SENATE | REPORT No. 1255

MAINTAINING THE STATUS QUO IN RESPECT OF CERTAIN EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS PENDING ACTION BY CONGRESS ON EXTENDED SOCIAL-SECURITY COVERAGE

MAY 6 (legislative day, MAY 4), 1948.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. J. Res. 296]

The Committee on Finance, to whom was referred the bill (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage, having considered the same, report thereon with amendments and, as amended, recommend that the bill do pass.

The committee amendments strike out the language appearing after the word "any" in line 17 of the referred bill and substitute the following:

(1) Wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935.

(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

(2) There is hereby authorized to be appropriated to the Federal old-age and survivors' insurance trust fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1).

WHAT THE JOINT RESOLUTION WOULD DO

1. The joint resolution would reaffirm the unbroken intent of Congress that the usual common-law rules, realistically applied, shall

continue to be used to determine whether a person is an "employee" for purposes of applying the Social Security Act.

2. The resolution would maintain the status under the act of those who, prior to the enactment of the resolution, have been given coverage by erroneous construction of the term "employee" (as defined in the resolution) if social-security taxes have been paid into the old-age and survivors' insurance trust fund with respect to the covered services.

3. The resolution would assure continued benefits to those who will have attained age 65, and to the survivors of those who will have died prior to the close of the first calendar quarter which begins after the enactment of the act and who have coverage under the system because of misconstruction of the term "employee" (as defined in the resolution) even though social-security taxes have not been paid by them or in their behalf.

4. The resolution would stop extension of coverage of the act to between a half and three-quarters of a million persons who have not been, are not now, and should not be under the act, until coverage is provided by act of the Congress.

5. The resolution would stop the plan of the Treasury Department to give to these 500,000–750,000 persons free, retroactive coverage, and thus would stop a more than one-hundred-million-dollar impairment of the old-age and survivors' insurance trust fund which has been built up out of taxes collected on the wages of those who are truly "employees" and who have paid for their coverage under the system.

6. The pending resolution would not disturb the existing Treasury regulation which construes the term "employee" in the Social Security Act harmoniously with the usual common-law rules.

7. The pending resolution will maintain the moving principles of the decisions of the United States Supreme Court in the Silk, Greyvan, and Bartels cases where, in the opinion of your committee, the Court realistically applied the usual common-law rules. But if it be contended that the Supreme Court has invented new law for determining an "employee" under the social-security system in these cases, then the purpose of this resolution is to reestablish the usual common-law rules, realistically applied.

8. The resolution preserves the integrity of the trust fundby limiting payments out of the fund to persons who are "employees" under the act by the usual common-law rules, realistically applied. It leaves to Congress the opportunity to provide coverage for independent contractors and the self-employed, who are not "employees" under the act, or to those who are "employees" and are now expressly excluded from the coverage of the act.

9. The resolution would restore to the trust fund by appropriation moneys which have been paid out of the fund in the form of social-security benefits to persons not "employees" under the act and who have not contributed social-security taxes to the fund.

HISTORY LEADING TO THE JOINT RESOLUTION

The pending joint resolution arises from problems of application of the Social Security Act in the region between what is clearly employment and what is clearly independent entrepreneurial dealing.

"Employees," or their survivors, receive the benefits paid under the act; "employers" share the taxes to provide the benefits and have weighty administrative duties. Manifestly the applicable rules determining whether a relationship is that of employer and employee, or a relationship in which the parties deal independently with each other, involve important security, and tax and cost consequences for many of our citizens.

The basic assumption since the act became operative in 1936 has been that the term "employee" in the act has its common meaning; which is to say, the usual meaning under common law.

The usual common-law rule defining an "employee" is well stated in the Treasury's regulation:

> *Who are employees.*—Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.
>
> Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done.

This regulation correctly interprets the intent of Congress when it adopted the Social Security Act.

The usual meaning is inherent

The usual meaning of "employee" is natural in the scheme of the act. This is manifest in the report of the Committee on Economic Security transmitted to the Congress with the President's message of January 17, 1935, recommending social-security legislation.

This report proposed (1) a compulsory system of old-age insurance for employed workers to be supplemented by (2) a voluntary system of Government annuities for others.

Dr. J. Douglas Brown, a member of the Committee on Economic Security now serving the Committee on Finance as member of its Advisory Council on Social Security, in 1935 presented the outlines of these complementary plans to the Congress in the following words:

> * * * This is the old-age security part of the bill:
>
> * * * A Federal plan of *compulsory contributory old-age insurance* to provide a means whereby employed workers with the help of their employers may insure themselves against dependent old age, and lift themselves through thrift up from the level of dependency on public or private charity in old age. * * * [This] plan is contributory and contractual and affords an annuity as a matter of right. It applies to all employed persons receiving less than $250 a month * * *.
>
> A Federal plan of *voluntary old-age annuities* to provide self-employed persons such as shopkeepers and farmers a means whereby they may make secure and economical provision for old age.
>
> The * * * [two] plans complement each other, one covering employed persons, the other self-employed. (Economic Security Act, Hearings, House of Representatives, 1935, p. 240.)

The Congress did not adopt the voluntary plan, but did enact the compulsory plan substantially as recommended. Under a title providing definitions the act [Section 1101 (a) (6)] says, simply, that:

> The term "employee" includes an officer of a corporation.

It was not necessary to go beyond this simple statement to express the intent that the usual meaning of "employee" should prevail except

that the term should be taken to mean also "an officer of a corporation."

The usual meaning was accepted in the administrative regulations

At the time the act was adopted there was no doubt or dispute or question that "employee" in the act had its usual common-law meaning. The Federal Security Agency (then the Social Security Board) and the Treasury Department proceeded promptly after enactment of the act to issue their interpretative regulations and these, identical in their provisions, were substantially the same as the now-existing regulations:

REGULATIONS 91,[1] ARTICLE 3: WHO ARE EMPLOYEES

Who are employees.—Every individual is an employee if the relationship between him and the person for whom he performs services is the *legal relationship of employer and employee.*

Generally such relationship exists when the person for whom services are performed has *the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished.* That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so.

The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services.

In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

Considering this regulation years later a learned judge said:

> We accept Article 3 of Regulations 91 as an authoritative definition of the distinction between an "employee" and an "independent contractor"—it is really no more than a gloss upon the definition contained in Justice Gray's opinion in *Singer Manufacturing Co.* v. *Rahn* (132 U. S. 518, 523) * * *. The test lies in the degree to which the principal may intervene to control the details of the agent's performance; and that in the end is all that can be said, though the regulation redundantly elaborates it. * * * —Judge Learned Hand in *Radio City Music Hall Corp.* v. *U. S.* (135 F. (2d), 715 (1943)).

The Congress rejected as "unwise" proposals to enlarge the ordinary meaning of employee

The intention of the Congress that "employee" in the Social Security Act should have its usual meaning under common-law rules, realistically construed, was reaffirmed when the Congress made fundamental revisions of the act in 1939 to establish the present

[1] Presently numbered Regulations 106402.204.

system of old-age and survivors' insurance. The Congress at this time considered the definition of "employee" in the act and rejected a Social Security Board proposal to enlarge it so as to encroach into the field of independent contractors and the self-employed. The proposal was to broaden the definition of "employee" to:

> * * * cover more of the persons who furnish primarily personal services. The intention of such an amendment would be to cover persons who are for all practical purposes employees *but whose present legal status may not be that of an employee.* [Emphasis supplied.] At present, for example, insurance, real estate and traveling salesmen are sometimes covered and sometimes not. The Board believes that all such individuals should be covered. (Hearings, Committee on Ways and Means, House of Representatives, 1939, p. 8.)

In answer to questions submitted in writing to the Board the Board's proposal was further defined, and limited, as follows:

> Question. Do you mean by the inclusion of salesmen the inclusion of those people who are now classified as independent contractors?
> Answer. The intention of this proposal is to clarify the employee relationship of certain persons who are now on the border line of coverage. There is no intention to include all so-called independent contractors (id., p. 2300).

After hearings the Committee on Ways and Means of the House of Representatives reported a bill including an amended definition of "employee" to accomplish the proposal. In its report the Committee on Ways and Means said of the proposed amendment:

> *The tests for determining the (employer-employee) relationship laid down in cases relating to tort liability and other common-law concepts of master and servant should not be narrowly applied.* In certain cases even the most liberal view as to the existence of the employer-employee relationship will fall short of covering individuals who should be covered. For example, certain classes of salesmen. In the case of salesmen it is thought desirable to extend coverage *even where all the usual elements of the employer-employee relationship are wholly lacking* and where accordingly even under a liberal application of the law *the courts would not ordinarily find the existence of the master and servant relationship.* It is the intention of this amendment to set up specific standards so that individuals performing services as salesmen may be uniformly covered *without the necessity of applying any of the usual tests as to the relationship of employer and employee* (Rept. 728, 76th Cong., 1st sess., p. 61). [Emphasis supplied.]

The Committee on Finance, in hearings on the House-passed, amended bill, heard testimony by proponents and opponents of the amended definitions of "employee" and "employer," considering this testimony in the light of the common-law definitions of "employee" and "independent contractor" as stated in the Treasury Regulations, and deliberated on whether the term "employee" in the Social Security Act should have its meaning according to the usual principles of the common law or should be given a special statutory definition. In reporting its conclusion to the Senate the committee said:

> The House proposal to extend coverage to salesmen who are not employees has been stricken out by the Committee. It is believed inexpedient to change the existing law which limits coverage to employees * * * (Senate Report 734, 76th Cong., 1st sess., p. 75).

The committee action was explained on the floor of the Senate:

> Mr. HARRISON. There is a proposal in the House bill for the extension of coverage to salesmen. Under the present law, whether a salesman is covered depends upon the test of whether he is an employee in the legal sense, and your committee believes that it would be unwise at this time to attempt any change * * *.

The Senate adopted the recommendations of the committee, the bill went to conference and the action of the Senate was upheld (Conference report, Rept. 1461, 76th Cong., 1st sess., p. 14).

By enactment of the bill the Congress adopted the rules for distinguishing "employee" and "independent contractor" set out in the Treasury Regulation.[2]

The pending resolution (H. J. Res. 296) merely affirms the existing definition of "employee" in the act and the legislative action taken in 1939 with special reference to this definition.

Lack of uniformity of Federal court decisions applying the term "employee"

In the intervening years prior to the decisions of the United States Supreme Court in 1947, a lack of uniformity developed in Federal district and circuit court decisions construing the term "employee" in the Social Security Act.

The general tendency among the lower Federal courts, when presented with the problem of determining the existence of an employer–employee relationship, was to adopt the precedents of local law. These varying among the different States, considerable conflict in lower court decisions followed even though the factual situations presented for determination were not unlike.

Moreover when the cases presented were on a claim for benefits, the courts tended to a liberal construction of the term "employee." On the other hand, when the cases were on an assessment of taxes, particularly where penalties were involved, the courts tended to construe the term "employee" more strictly.

In consequence the application of the Social Security Act has not been uniform throughout the Nation.

Conflict of viewpoints and actions of the administrative agencies

The courts have not been aided by the administrative agencies, for here too there has been serious conflict of viewpoints and actions respecting application of the act. The Federal Security Agency, which has the responsibility for administering the benefits provided by the act, has strained the meaning of "employee" to place persons on the benefit rolls and—as was revealed to your committee during its consideration of the pending resolution, and as appears certain—has "gone too far in some cases." [3]

The Treasury Department, charged with the responsibility for collecting the taxes imposed on employees and employers under the act, has proceeded with more careful view of the authority conferred by the statute—at least until recently.

Dissipation of the old-age and survivors' insurance trust fund

The discordant meanings assigned to "employee" by the two administrative agencies charged with applying the tax and benefit provisions of the Social Security Act have resulted in uncompensated withdrawals from the trust fund which has been built up from the contributions of persons who have paid social-security taxes and to which the 33,000,000 persons now insured under the act look for payment of their benefits.

[2] "Treasury regulations and interpretations long continued without substantial change, applying to unamended or substantially re-enacted statutes are deemed to have received congressional approval and have the effect of law" [*Helvering* v. *Winmill* (59 S. Ct. 45)]. The existing regulations were specifically held to have been approved by Congress and therefore to be in conformity with the law in *Jones* v. *Goodson* (121 F. (2d) 176: C. C. A. 10, 1941).

[3] In the words of the testimony of the Federal Security Administrator (Hearings, Finance Committee p. 137).

This aspect of the present problem is discussed more fully further on. The pending resolution would restore the losses sustained by the fund and preserve it from further dissipation and loss.

Decisions of the Supreme Court

The conflict of decisions by Federal district and circuit courts did not manifest itself markedly until 1945. To resolve the conflict the Supreme Court assumed jurisdiction of three cases involving the coverage of the Social Security Act, handing down its decisions in these cases in June 1947. The cases are:

United States v. *Silk* (331 U. S. 704)
Harrison v. *Greyvan Lines, Inc.* (331 U. S. 704)
Bartels v. *Birmingham* (332 U. S. 126)

These cases are discussed at length in a following section of this report.

In the view of your committee these decisions affirm that the usual common-law rules, realistically applied, must be used to determine whether a person is an "employee" for purposes of applying the Social Security Act. And properly interpreted they should resolve the conflict of lower court decisions and encourage nation-wide uniformity of application of the act.

But, we repeat, if it be argued that the Supreme Court decisions establish a new definition of "employee," then it is the purpose of this resolution to reestablish its meaning according to the usual common-law rules, realistically applied.

The proposed Treasury Department regulation

In November 1947 the Treasury Department proposed, and unless stopped by the Congress will make effective, a new regulation construing the term "employee," with which it would supersede the regulation that has been in force during the period the act has been effective.

An analysis of this regulation is presented in the following pages. In a word, by unbounded and shifting criteria, it would confer in those administering the Social Security Act full discretion to include, or to exclude, from the coverage of the act any person whom they might decide to be, or might decide not to be, an "employee"; and like discretion to fasten tax liabilities and the administrative duties and costs of compliance with the act upon any person whom they might decide to be an "employer."

Moreover, at the cost of the many millions of workers who with their employers have faithfully paid for their status under the social-security system, and have the right to believe the trust fund established by the act will not be impaired or dissipated, this proposed regulation would grant retroactive, free coverage for a period of four years or more to, by the explicit statement of officials testifying to your committee, from five hundred to seven hundred and fifty thousand persons.

Need for the pending joint resolution

The situation thus outlined obviously calls for a reassertion of congressional intent regarding the application of the act, and for steps to preserve the integrity of the old-age and survivors' insurance trust fund. Both are provided in the pending joint resolution.

THE ISSUE

The issue presented by the proposed regulation is not whether the coverage of the Social Security Act ought to be extended. That is for Congress to decide.

The issue presented is whether, contrary to the intent of Congress manifested by the act and its legislative history and, in the opinion of your committee, contrary to the Supreme Court's recent decisions construing the meaning of "employee" in the act, the Treasury Department shall be allowed to make its own law as to the meaning of "employee" so as to bring within the scope of the act, by administrative regulation, persons not now covered; and whether the Federal Security Agency shall be permitted to dissipate the old-age and survivor's insurance trust fund through benefit payments to persons, not "employees" under the act, who have not, therefore, made contributions to the trust fund.

OUTLINE OF THE ARGUMENT

The following sections of this report discuss the proposed Treasury Department regulation; the Supreme Court decisions upon which the regulation, allegedly, is based; the answer afforded by the Supreme Court decisions to the arguments advanced by the Federal Security Agency in opposition of the pending resolution; the encroachment represented by the proposed Treasury regulation upon the exclusive power of Congress to extend the coverage of the act; the intended impairment of the old-age and survivors' insurance trust fund by the proposed Treasury regulation; and the situation presented by previous dissipations of the fund.

The falsity of the charges that the resolution would "retract" the coverage of the act from any entitled to its coverage and benefits will be demonstrated in the course of these sections, and on the basis of the record of the testimony given at the hearings.

While the references throughout this report are to the proposed Treasury regulation, it ought to be noted, and emphasized, that the Treasury regulation is the joint product of the Federal Security Agency and the Treasury Department. As your committee was informed by the Federal Security Administrator in his prepared statement at the hearings:

> When the Supreme Court decisions came down we quickly agreed with the Treasury Department that the existing regulations no longer adequately indicated to taxpayers and prospective beneficiaries the rules of the game. While the Court did not expressly hold the regulations invalid, they had plainly ceased to serve the function which interpretative regulations are designed to serve. Amendment seemed to all of us imperative.
>
> The Treasury and the Federal Security Agency set up a joint drafting committee, with specific instructions to devise a regulation which would incorporate and express the results of the Court decisions. What they came up with, with only minor modifications, is the proposed Treasury decision published in the Federal Register last November (hearings, Finance Committee, p. 159).

THE PROPOSED TREASURY REGULATION

Pursuant to the Administrative Procedure Act, the Secretary of the Treasury caused to be published in the Federal Register for Thursday, November 27, 1947, a proposed regulation to be effective on January

1, 1948, redefining the employer-employee relationship for the purpose of applying social-security taxes.

Introduction of the pending joint resolution in the House and Senate followed publication of this proposed Treasury Department regulation, but only after the Department had indicated it would persist in its intentions to promulgate the regulation notwithstanding protests that followed the announcement of it.[4]

Based on unsubstantiated, guesswork estimates by the Federal Security Agency, reports were widely circulated and Members of Congress were proselyted to persuade them to believe that the pending joint resolution would "take away the social-security coverage of some half to three-quarters of a million people."

On the contrary, the fact is that the pending resolution would stay the promulgation of a proposed Treasury law-making regulation which would broaden the term "employee" to bring this additional number of persons within the scope of the act and thus dilute its protection to those who are entitled to it.

The impression was cultivated that the resolution would snatch matured benefits from this large number of persons whereas the fact is that of this number only a small fraction is now receiving social-security benefits, and their benefits are not disturbed by the pending resolution in anywise, but on the contrary are by it given authority in law.

* * * The persons who have actually retired after having reached age 65 and are drawing benefits in accordance with the interpretation we have placed upon the Social Security Act * * * is not 500,000, but the persons who are entitled to wage credits * * * as the Administrator just mentioned, we estimate amount to between 500,000 and 750,000 persons.—Testimony of Mr. Arthur J. Altmeyer, Commissioner for Social Security, hearings, Finance Committee, April 1 and 2, 1948, page 126.

* * * That is an estimate based upon the total number of people estimated to be in this area which it is believed are not now covered.—Testimony of Mr. Adrian W. DeWind, tax legislative counsel, Treasury Department (id., p. 7).

The CHAIRMAN. * * * As to those that are on the benefit rolls, who are now eligible for benefits when they have met all of the benefit conditions, is that a large part of the four, five, six, or seven hundred thousand people, or is it a small part of them?

WITNESS. I could not even hazard a guess. My guess would be that, of the wage records that are now existing for this group of people within our agency, it is a very, very, small percentage of them.

The CHAIRMAN. So the bulk of them will come on if this regulation becomes effective?

WITNESS. That is true.—Testimony of Mr. Robert C. Ayers, Bureau of Old-Age and Survivors Insurance, Federal Security Agency (Finance Committee hearings, p. 202).

Typical of the persons which the proposed regulation would bring within the coverage of the act, in the light of the testimony at hearings before your committee, are persons who buy goods and sell them from door to door retaining for themselves the excess they secure for the goods over their cost; solicitors who take orders retaining for their services the deposits they collect when they write the order; manufacturers' representatives, commission agents, and insurance salesmen who represent several companies, are compensated by commissions, and are substantially free from direction or control over how they discharge their sales activities; advertising and newspaper and

[4] Notice of proposed rule making, Federal Register, Nov. 27, 1947, p. 7966. H. J. Res. 296 introduced Jan. 15, 1948; S. J. Res. 180 introduced Jan. 30, 1948.

magazine subscription solicitors; artists, entertainers, and writers; mine lessees; timber cutters; lessees of sawmills; bulk oil distributors and contract filling-station operators; many subcontractors in the construction field; journeyman tailors; home workers; taxicab operators; truckers and others who occupy themselves, full time or part time, in a variety of activities which are sometimes those of an employee and sometimes are not.

Frequently these services are performed where supervision of performance is impracticable, if not impossible, and the persons who engage in these activities are largely or wholly free from direction as to how they pursue them, and, in the frequent case, as to when or whether they pursue them.

When these services are performed without any direction or right of direction over the persons who perform them, and the persons who perform them are not in the least accountable for what they do as contrasted with the much tighter accountability of wage earners and salaried workers, then under the *existing* Treasury regulation, and quite properly so, such persons are recognized as "independent contractors," or self-employed in a class with "independent contractors."

By the criteria of the common-law rule they are classified as such. We repeat, the usual common-law rule is well stated in the *existing* Treasury Regulations:

> *Who are employees.*—Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.
>
> Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done.

Thus the inquiry when proceeding under the usual common-law rule, realistically applied, has a clearly focused and practical end point. The whole field of pertinent fact, documentary and otherwise is available to cast its weight one way or the other. Common sense and our own experiences tell us that the rule so applied will work a sensible sifting of difficult cases.

The concept of "economic reality" basic to proposed regulation

The *proposed* regulation discards the common-law rules for distinguishing the employer-employee relationship distilled from many decisions by many courts out of many insights of real situations, for a new rule of nebulous character.

Under the *proposed* regulation an "employee" is "an individual in a service relationship who is dependent as a matter of economic reality upon the business to which he renders service and not upon his own business as an independent contractor."

The rule, obviously, will not serve to make the necessary distinctions. Who, in this whole world engaged in any sort of service relationship, is not dependent as a matter of economic reality on some other person? The corner grocer, clearly not an employee, is economically dependent upon his customers, his banker, his supplier. No, the economic reality test must be given sharper meanings. It has an appropriate place in the business before us and we shall come to it after reviewing what the Treasury would make of its new and completely amorphous panacea.

The Treasury in its *proposed* regulation provides for determining whether the employer-employee relationship exists the following factors:

1. Integration of the individual's work in the business to which he renders service.
2. Investment by the individual in facilities for work.
3. Opportunities of the individual for profit and loss.
4. Permanency of relation.
5. Skill required of the individual.
6. Degree of control over the individual.[5]

Uncertainty of the proposed new regulation.

The *proposed* regulation specifies that the listing of the factors for determining the existence of an employer-employee relationship is "neither complete nor in order of importance."

Further it provides:

> Just as the above listed factors cannot be taken as all-inclusive so too the statement of facts or elements set forth in (an amplifying) paragraph * * * cannot be considered complete. *The absence of mention of any factor, fact, or element in these regulations * * * should be given no significance.* [Emphasis supplied.]

And further:

> No one factor is controlling. The mere number of factors pointing to a particular conclusion does not determine the result. All the factors are to be weighted for their composite effect. It is the total situation in the case that governs in the determination.
>
> One fact or element may establish or tend to establish the existence of more than one factor, and may even have an independent value of its own * * * .The weight to be given [the] factor in a particular case depends upon all the facts of that case * * *

Thus, while purporting to specify criteria by which rights and liabilities under the act can be ascertained, the *proposed* regulation concerns itself mainly, as was stated to your committee by a witness at the hearings:

> * * * with making it abundantly clear that on virtually no state of facts may anyone be certain whether or not he has a tax liability until the Commissioner has made up his mind about it. The regulation states many criteria which the Commissioner may take into account but then specifically says the list is not complete, that none of the criteria are controlling, that the weight to be given any factor will vary from case to case depending upon the particular facts of each case; that even if all stated factors point to one conclusion, others not set forth, or even hinted at, may result in an exactly opposite conclusion.—(Robert E. Canfield, Finance Committee Hearings, p. 166.)

Of course, all of the first five of the factors supra which are numbered and specified, and any others which are pertinent to the end-point determination of whether there is common-law control, may and should be used.

But the fatal error of the Treasury's proposed regulation is that this end-point determination of the existence or absence of control under the usual common-law rule as required by the act, as is correctly interpreted by existing regulations and by the legislative history of the act, has been subordinated and diluted and reduced to possibly inconsequential effect by making it into only one (No. 6) of the specified, numbered but completely unweighted factors, and into only one of an unlimited number of unspecified and unweighted factors which may be invented by the administrators to satisfy the exigencies of their future decisions.

[5] The criteria are listed above in the approximate order of emphasis they received at the hearings before the committee in lieu of their order of statement in the published regulation.

The reservation of unbridled powers

The classes of persons who purportedly are entitled to the coverage of the act are not delimited so an individual within the class may know his rights and claim them. The persons upon whom the proposed regulation would impose the duties and liabilities of the act—among the latter liabilities for taxes, and civil and criminal penalties that may involve imprisonment for felony—are provided no stated rule by which to determine their obligations, and must guess themselves to be subject to the uncertain language of the regulation or be at their peril. Whether persons have the rights and obligations of coverage is made by the regulation to depend entirely upon administrative findings and determinations.

While the regulation claims benevolent objectives, its character is despotic. It reposes in the administrator unfettered discretion to apply, or to take away, the coverage of the act.

The *existing* regulation as contrasted with the *proposed* regulation is not devoid of uncertainty, but its basis is in established standards of law which frame and limit its application. These standards are both restraints upon the subjects of the act and upon its administrators. There is nothing in the act that authorizes administrators or courts to extend its terms. Indeed, obvious jurisdictional limitations, and the protection of those who are clearly entitled to its benefits, negatives contrary assertion or practice.

The basic principle of the *proposed* regulation—economic reality—as has been pointed out, is a dimensionless and amorphous abstraction. Until precedents are established by administrative rulings applying the new principle in concrete cases, and the courts shall have surrounded the idea with empirical bounds, the meaning of the regulation would continue equivocal, and its application would be vagrant and capricious.

The Treasury and the Federal Security Agency admit the uninformative nature of the regulation but urge that a body of precedent will be quickly built up by administrative rulings, and a more uniform application of the act will ensue than has been possible under the existing regulation as variously interpreted by the courts.

* * * Now I am the first to admit that these proposed regulations are not as informative as we could wish in terms of telling the public who is in the system and who is out * * *.

In the course of its work on the proposed regulations the joint committee discussed a great many cases * * * to their surprise * * * found in nearly all cases they quickly reached a unanimity of opinion * * *.

Let me hazard this prophecy: That if these new regulations are allowed to become effective, administrative rulings under them will quickly build a body of precedent that will be more informative to the public than the rules we have tried to operate under in the past * * *.—Testimony of the Federal Security Administrator (hearings, Finance Committee, pages 159–160).

Thus there is unreserved administrative claim for functions that are, inherently, legislative and judicial.

The argument for these powers

The claim to the broad powers conferred by the proposed regulation is argued by the Federal Security Agency on grounds of the need for a liberal construction of the term "employee," and one that will apply uniformly throughout the country; as well as by asserted reasons of administrative convenience. According to the Treasury, the *proposed* regulations and the abandonment of the *existing* regula-

tions are compelled by intervening decisions of the United States Supreme Court.

THE SUPREME COURT DECISIONS

In June 1947 the Supreme Court considered the applicable standards for the determination of employees under the Social Security Act in *U. S.* v. *Silk* and *Harrison* v. *Greyvan Lines, Inc.* (331 U. S. 704); and in *Bartels* v. *Birmingham* (332 U. S. 126).

The Silk and Greyvan cases were considered together, and are the leading decisions.[6]

Prefacing its decisions in Silk and Greyvan with the statement that application of social-security legislation—

should follow the same rule that we applied to the National Labor Relations Act in the Hearst case (*Board* v. *Hearst Publications* (322 U. S. 111))[7]—

the Court observed that—

as Federal social-security legislation is an attack on recognized evils in our national economy, a constricted interpretation of the phrasing by the courts would not comport with its purpose [8]—

and that—

when the problem (of differentiating between employer and independent contractor) arose in the administration of the National Labor Relations Act * * * we rejected the test of the "technical concepts pertinent to an employer's legal responsibility to third persons for acts of his servants" * * *.[9]

and recalled:

We concluded that, since the end was the elimination of labor disputes and industrial strife, "employees" included workers who were such as a matter of economic reality.[9]

In these prefatory observations of the Court in Silk and Greyvan, and in the Hearst case primarily,[10] the Treasury Department finds the basic principle of its proposed regulation:

An employee is an individual in a service relationship who is dependent, as a matter of economic reality, upon the business to which he renders service * * *—

enlarging this vastly by the addition of—

* * * and not upon his own business as an independent contractor.

The Treasury seizes upon these prefatory remarks of the Court to promulgate its test of economic reality. It argues that the test is substantive and will determine the employer-employee relationship; that it replaces the common-law tests; that it is law pronounced by the Supreme Court. The Treasury contends that its *proposed* regula-

[6] It does not appear whether the Court in arriving at its opinions in these cases considered the definition of "employee" in the act. In its opinions the Court refers to the definitions of "employment" and "wages" cited in the Government's brief as among the pertinent statutory provisions to be considered, but the Government's brief did not cite the definition of "employee" and the Court's opinion omits all mention of that definition. It is therefore a matter of speculation whether the Court took particular notice of the definition of "employee" that is amended by the pending joint resolution, and what the effects on its decision might have been if it did not, and had taken, note of the definition.

[7] *United States* v. *Silk* (331 U. S. 704, 713–714.)

[8] *United States* v. *Silk* (331 U. S. 704, 712).

[9] *United States* v. *Silk* (331 U. S. 704, 713).

[10] The Treasury also relies on *Rutherford Food Corporation et al.* v. *McComb* (331 U. S. 722), a Fair Labor Standards Act case. The Treasury looks to that part of the opinion which refers to language of the circuit court to the effect that the test for determining who is an employee is not the common-law test of control. The Supreme Court did not accept this viewpoint as a part of its own philosophy. It proceeded to make its own analysis of the facts surrounding the work of the alleged independent contractors and, looking beyond the form of the arrangement to its real substance, concluded that "independent contractor" was a mere label and the worker who had it, together with the others who worked with him, were really employees. The Supreme Court pointed out that the individuals involved worked alongside of admitted employees, that they did their work as an integral part of the production line of the business, did all their work in that one plant, were subject to the frequent supervision of the manager of the plant, and that under the circumstances of the case the money they received was equivalent to piecework wages. The moving part of the case is consistent with the realistic application of the common-law control rule.

tion is compelled by the decisions of the Court, and that the regulation does no more than implement the Court's decisions.

By the same arguments, in its report to your committee, it opposes the pending resolution which would represent additional legislative approval of the *existing* Treasury regulation. Its report says:

> In the first place, the proposed resolution would not maintain the status quo but would change the law as pronounced by the Supreme Court in June 1947 * * *. It would substitute the common-law rules for the principles of economic reality recently set forth by the Supreme Court as governing the determination of the employer-employee relationship for purposes of the social-security program * * *.

As we have seen, the Treasury borrows this language of the Court in its prefatory remarks in Silk and Greyvan to comfort its arguments in support of the *proposed* regulation. It relies also on the dictum in Bartels where it is said:

> In *United States* v. *Silk* we held * * * control is characteristically associated with the employer-employee relationship, but in the application of social-legislation employees are those who as a matter of economic reality are dependent upon the business to which they render service * * * .[11]

However the argument that the Supreme Court, in the Silk and Greyvan cases, established new substantive law for determining an employer-employee relationship cannot be accepted. It is self-destructive, for Congress continues to have the exclusive power to make law.

Moreover from what the Court proceeds to say after stating that—

> application of social-security legislation should follow the same rule that we applied in the Hearst case [12]—

it appears that it was enunciating the principle that narrow and doctrinaire applications of technical concepts of tort liability do not comport with the purposes of legislation of a remedial character, and that no superseding "rule" of economic reality was intended. For by way of modification and limitation the Court proceeded immediately to say:

> This, of course, does not leave courts free to determine the employer-employee relationship without regard to the provisions of the act. The taxpayer must be an "employer" and the man who receives wages an "employee." There is no indication that Congress intended to change normal business relationships * * *. Few businesses are so completely integrated that they can themselves produce the raw material, manufacture and distribute the finished product to the ultimate consumer without assistance from independent contractors. *The Social Security Act was drawn with this industrial situation as a part of the surroundings in which it was to be enforced. Where a part of an industrial process is in the hands of independent contractors, they are the ones who should pay the social-security taxes.*[13] [Emphasis supplied.]

The decisions of the Court in Silk and Greyvan and Bartels and the tests, the moving principles by which the Supreme Court reached those decisions, were the usual common-law tests and principles realistically applied. Let us demonstrate this.

In the Silk and Greyvan cases the Commissioner of Internal Revenue had proceeded under the existing Treasury regulation in the assessment of social-security taxes, and the cases were brought for recovery. The lower courts held for the taxpayers and against the Commissioner.

[11] *Bartels* v. *Birmingham* (332 U. S. 126, 130).
[12] *United States* v. *Silk* (331 U. S. 704, 713).
[13] *United States* v. *Silk* (331 U. S. 704, 714).

The Silk case involved: (1) Unloaders of coal who made themselves available in coal yards at a waiting shed, some of them floaters who came only intermittently. As carloads of coal were delivered by the railroad the unloaders unloaded them into assigned bins at an agreed price per ton. Also (2) truckers who owned their own trucks, paid their own operating expenses, were free to work for others, and delivered coal for Silk at a uniform price per ton.

The Greyvan case involved a formal contract between Greyvan Lines, Inc., a common carrier licensed under the Motor Carrier Act, and local operators who performed the actual service of carrying the goods. The operators were required to haul exclusively for the company, furnish their own trucks, paint the designation "Greyvan Lines" on them, hire their own truckmen, pay all expenses, provide insurance, indemnify the company for losses, and to operate subject to the control of Greyvan dispatchers and under a manual of instructions which regulated in detail the conduct of the truckmen in the performance of their duties.

In the Silk case, where the employment arrangements were informal, the moving ground for the lower court's decision was:

> The undisputed facts failed to establish such reasonable measure of direction and control over the method and means of performing the services performed by these workers (the unloaders and truckers) as is necessary to establish a legal relationship of employer and employee between the appellee and the workers in question.[14]

In Greyvan, where a formal contract of employment was involved, the moving ground of the decision of the lower court was:

> The company cannot be held liable for employment taxes on the wages of persons over whom it exerts no control and of whose employment it has no knowledge. * * * While many factors in this case indicated such control as to give rise to [the employer-employee] relationship we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations.[15]

Thus, in both the Silk and Greyvan cases, the lower courts reached their decisions by applying the common-law test of direction and control.

The Supreme Court took jurisdiction because of conflicting decisions in the lower courts:

> Writs of certiorari were granted * * * because of the general importance * * * of deciding what are the applicable standards for the determination of employees under the act. Varying standards have been applied by the Federal Courts.[16]

The cases were considered together. The Court decided them on the basis of the existing Treasury regulation which is framed to secure realistic application of the usual common-law rules as intended by the Social Security Act.

> * * * The long-standing regulations of the Treasury and Federal Security Agency * * * recognize that independent contractors exist under the Act. * * * The Government points out that the regulations were construed by the Commissioner of Internal Revenue to cover the circumstances here presented.[17]

[14] *United States* v. *Silk* (155 F. (2d) 356, 359).
[15] *Greyvan Lines* v. *Harrison* (156 F. (2d) 412, 415-416).
[16] *United States* v. *Silk* (331 U. S. 704, 705).
[17] *United States* v. *Silk* (331 U. S. 704, 714-715).

As to the truckers in Silk and Greyvan:

So far as the regulations refer to the effect of contracts we think their statement of the law cannot be challenged successfully. Contracts, however, "skillfully devised," * * * should not be permitted to shift tax liability as definitely fixed by the statutes * * *.[18]

But we agree with the decisions below * * * that where the arrangements leave the driver-owners so much responsibility for investment and management as here, they must be held to be independent contractors. These driver-owners are small-business men. They own their own trucks. They hire their own helpers. In one instance they haul for a single business, in the other for any customer. The distinction, though important, is not controlling. It is the total situation, including the risk undertaken, the control exercised, the opportunity for profit from sound management, that marks these driver-owners as independent contractors.[19]

And as to the unloaders in Silk:

Giving full consideration to the concurrence of the two lower courts in a contrary result, we cannot agree that the unloaders in the Silk case were independent contractors. They provided only picks and shovels. They had no opportunity to gain or lose except from the work of their hands and these simple tools. That the unloaders did not work regularly is not significant. They did work in the course of the employer's trade or business. This brings them under the coverage of the act. They are of the group that the Social Security Act was intended to aid. *Silk was in a position to exercise all necessary supervision over their simple tasks.* Unloaders have often been held to be employees in tort cases * * *. [Emphasis supplied.][20]

The Court thus applied the existing regulation in deciding the truckers were independent contractors and sustained the finding of the Commissioner of Internal Revenue that the unloaders were employees in the sense of the term as set forth in the Treasury regulation.

We repeat that the existing regulations were framed to secure realistic application of the usual common-law rules as intended by Congress. We emphasize that those regulations have existed since the act became operative. They have survived several legislative revisions of the act. Therefore may be considered as valid expressions of congressional intent.

Since the Commissioner proceeded, and the Court proceeded, by applying the existing regulation, the decisions of the Court do not compel change of the regulation. Furthermore, the Court did not find that extension of the existing regulation was necessary to arrive at the conclusions it reached, and so enlargement of the regulation is not required.

On the contrary in three of the four situations presented for decision the Supreme Court held that the Treasury Department had proceeded without realistic regard for the industrial surroundings within which the act was drawn and in the light of which it was to be enforced. In two of the three situations it constricted the Treasury's application of its own existing regulation by holding that the parties involved were independent contractors rather than employees as claimed by the Treasury; and in the fourth it held that the Commissioner had exceeded his statutory authority in recognizing a contract which purported to make an "employer" of one who was not the employer in fact.

[18] *United States* v. *Silk* (331 U. S. 704, 715).
[19] *United States* v. *Silk* (331 U. S. 704, 719).
[20] *United States* v. *Silk* (331 U. S. 704, 716–718).

Rather than giving the Government a broader license, the decisions of the Supreme Court in Silk and Greyvan and Bartels were that the Government had overextended the powers it had under the *existing* Treasury regulation. Now, contrarily, and despite this rebuff, the Treasury Department brings forward a *proposed* regulation that would give the Department authority to make the very type of interpretations rejected by the Supreme Court. Rather than implementing the Supreme Court decisions, the proposed Treasury regulation attempts to surmount, supersede, and negative them.[21]

The doctrine of the Supreme Court in Silk, Greyvan, and Bartels, as reflected by its disposition of the specific situations presented in those cases, is an applied expression of the following statement of congressional intent in the legislative history:

> The tests for determining the (employer-employee) relationship laid down in cases relating to tort liability, and other common-law concepts of master and servant, should not be narrowly applied (H. Rept. No. 728, 76th Cong., 1st sess., p. 61).

Our interpretations of these decisions is strongly fortified by the fact they are brought into accord with the act, the legislative history of the act, and with the administrative regulations which have acquired force of law. Those who challenge this, and oppose with conflicting interpretations, have the unhappy burden of demonstrating that the Supreme Court has the right to make its own law in the field.

A sound reading of these cases requires that the prefatory and random remarks of the Court which have been seized upon to supply a spurious gloss of validity to the proposed Treasury regulation shall be harmoniously related to the facts involved, the decisions, and to their moving rules; and if this cannot be done they must be regarded as surplusage.

If we were compelled to interpret these remarks of the Court we would say, in untechnical and summary fashion and without aiming at complete exposition, that the lower courts and administrative agencies were told: Don't be fooled or unduly influenced by the form of the arrangement to which you must apply the Social Security Act. Look to the real substance. Illuminate the usual common-law control tests by regard for all the pertinent facts. This requires that all of the realities that will lead you to the truth must be consulted and weighed along with all other significant indicators of the real substance of the arrangement.

But this again should be said: If we have misinterpreted these decisions of the Supreme Court, if we have incorrectly called the real moving principles of these cases, if the Treasury's interpretations and the proposed regulation based upon them are correct, then by this resolution we propose to restore the usual common-law rules, realistically applied.

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[21] The rule of the Hearst case has been repudiated by the Congress. "* * * Although independent contractors can in no sense be considered to be employees, the Supreme Court in *NLRB* v. *Hearst Publications* (322 U. S. 111) * * * refused to consider the question whether certain categories of persons whom the Board had deemed to be 'employees' were not in fact and in law really independent contractors. The House bill contained a clarifying provision to the effect that no individual was to be considered an employee for the purposes of the act unless he was employed by an employer as defined by the act * * * (and) excluded from the definition of 'employee' any person having the status of independent contractors * * *" (conference report, H. R. 3020, H. Rept. No. 510, 80th Cong., 1st sess.). The conference report followed the House bill (cf. p. 33). Therefore, the Treasury Department proposes simultaneously to override the Congress' intent.

UNIFORMITY OF APPLICATION OF THE ACT PROMOTED BY SUPREME COURT DECISIONS APPLYING THE EXISTING REGULATION

The moving principles of the decisions of the Supreme Court in Silk, Greyvan, and Bartels, if we have interpreted them correctly, likewise provide answer to the arguments of the Federal Security Agency for a rule of common application promotive of more uniform coverage of the act than the varying standards reflected in past decisions of Federal district and circuit courts.

The Supreme Court prescribes lower court recognition of the Social Security Act as national legislation of national scope to be interpreted uniformly by applying the Federal rule expressed in the long-standing Treasury regulation. With this prescription, there is more assurance of uniform application of the act by continued application of the existing regulation than could be provided by a changed regulation giving rise to new uncertainties, more varied interpretations, a larger area for litigation, greater diversity of judicial decisions.

IRRELEVANCY OF MAJOR ARGUMENT OF FEDERAL SECURITY AGENCY IN OPPOSITION TO THE RESOLUTION

The major argument asserted by the Federal Security Agency against the pending joint resolution is that the resolution intends to reenact the past restrictive decisions of the lower Federal courts. In the words of the Federal Security Administrator:

> What disturbs me the most about House Joint Resolution 296 is this line of decisions * * *. As nearly as we can judge * * * it seems to be the intention of the sponsors of the resolution to reenact the restrictive court decisions I have referred to * * *.

This argument is based upon false premises. As stated in the report of the Committee on Ways and Means of the House:

> The purpose * * * is to apply the rule of the existing regulations that an independent contractor under the usual common-law rules is not an employee. In determining whether an individual is an independent contractor, the existing regulations apply the usual common-law test of control, irrespective of the law of the particular State. It is the purpose of the regulation to reaffirm this rule * * * (Rept. No. 1319, 80th Cong., 1st sess., p. 5).

INTERFERENCE WITH LEGISLATION BY THE CONGRESS TO EXTEND THE COVERAGE OF THE ACT

The extension of the coverage of the Social Security Act is a matter of great interest in the Congress.

Pursuant to Senate resolution the Senate Finance Committee has established a distinguished Council to survey the act and recommend improvement. The Council is busily at work and has recommended extension of the coverage of the act to the self-employed.

The proposed regulation will predetermine the bounds of that class, or confront the Congress with the undesirable alternative of another change in the status of the persons whose position is affected by the proposed regulation.

As recently as 18 months ago the Federal Security Agency, recognizing that any change in the definition of employee was the exclusive prerogative of the Congress, made the following recommendation in its report to the Congress:

Employer-employee relationship.— * * * It is important that contributors and administrative agencies know as precisely as possible what services and what wage payments are subject to contributions.

It would be desirable that the word "employee" be defined by statute so as to include all service relationships that fall short of being independent businesses. A statutory definition, amplified by suitable regulations, should provide a greater measure of certainty than even the most liberal judicial interpretation—as great a measure as can be attained in dealing with relationships so diverse as those under which one person performs service for another. If self-employment is covered, such a statutory test of the employment relation would afford a dividing line between the two modes of coverage that would be realistic and would be understandable by the man in the street. If self-employment continues to be excluded, it would limit the exclusion to persons who, in a substantial sense, are in business for themselves (Annual Report, Federal Security Agency, 1946, p. 453).

PRACTICAL EFFECTS OF THE PROPOSED REGULATION

1. Compliance difficulties

Persons having no right of direction or control over "employees" constituted such by the proposed regulation would nevertheless have to assume the responsibilities imposed by the act for accurate records showing the amount and time within which the services were performed and specifying exactly the remuneration received by such "employees." Reports on the withholding tax would have to be made and filed with the Bureau of Internal Revenue by such persons with respect to such "employees." Timely tax remittances, and supply of other information would be required.

In instances of failure to comply with the procedures of the law and regulations, persons assigned the status of "employers" by the proposed regulation—but having no right and no practical means to direct or control those who, under the new concept, would become their "employees"—would nevertheless be subject to the penalties that apply to employers generally, including delinquency assessments and civil and criminal penalties, the latter involving imprisonment for felony.

The following excerpt from testimony at the hearings relating to door-to-door salespersons points up some realities which make the proposed regulation unfeasible:

> We are at a loss to know how it would be within our power—no matter what expense we might be willing to undergo—to obtain accurate records on 12,000 or more individual salespeople, because we have no way of knowing what any individual receives from the sale of our hosiery.
>
> We do not know whether she raises or lowers the suggested commisssion, or whether she waives the commission entirely. We have no right to compel salespeople to report to us, nor any way to check the accuracy of such reports if * * * made.
>
> A considerable percentage of our salespeople would have difficulty in preparing a properly informative report.
>
> If a salesperson carries lines other than ours, we have no way of knowing what portion of her business expenses are properly allocated to our line.
>
> As a matter of fact, we seriously doubt the ability of the salesperson properly to make this allocation herself.
>
> Our salesperson may choose to sell as many orders or as few orders as she pleases, or for which she has the disposition, time, or energy. She may suspend or resume her operations when and if she chooses * * *. There are many instances where * * * we are out of touch with her for long periods of time.—Statement of Philip Adler, Jr., president, American Hosiery Mills, Indianapolis, Ind. (hearings, Finance Committee, p. 78).

The proposed regulation would shift to the newly and erroneously constituted "employers" the administrative difficulties which the

Treasury Department advanced in opposing extension of coverage when the subject was considered in prior years.[22]

2. Interference with long-standing relationships

To sustain the obligations of an "employer," changes would be forced in long-standing relationships that are natural in their industrial environment and which are, as the Supreme Court observed in Silk, a part of the surroundings with a view to which the act was drawn. This is another way of saying that businesses long established and which have been built up by distribution of their products through relationships other than those of employer and employee would have to change their distribution systems so as to use those who truly are employees, or if this is not feasible, to go out of business. The alterations of these relationships will tend to import other liabilities under other unrelated laws.

3. Levy of the Federal unemployment tax

About 25 States have standards for inclusion in their unemployment insurance laws which, if applied, might embrace some or all of the activities which the proposed regulation would bring under the act. But according to testimony presented at hearings few, if any, of the persons who would be embraced by the proposed regulation are now covered under State unemployment insurance laws. In these circumstances the proposed regulation will serve to levy a Federal tax,[23] unrelated to the provision of Federal old-age and survivors insurance, exceeding the tax imposed for the latter purpose on both employer and employee combined—a tax imposed upon employers alone.

4. Increased litigation and appeals for legislation

The uncertainty of the proposed regulation and the seriousness of its effects will burden the courts with increased litigation and the Congress with the task of enacting new legislation to allay the impacts of something invalid and unnecessary to begin with.

DISSIPATION OF THE TRUST FUND

It is a cardinal principle of the act that its benefits are paid, not as charity, but as a matter of right to persons who have contributed what the law requires toward the receipt of those benefits. Persons who are not "employees" in the ordinary sense of the term, who therefore have not paid taxes under the act, should not, in principle, share the benefits with those who are covered by the act and who have contributed the funds from which the benefits are paid.

The past practices of the Federal Security Agency and the proposed Treasury regulation thus take on added significance. An important question is raised whether the integrity of the social-security system is being maintained.

The proposed regulation would subject the persons brought under the act to the social-security tax appropriated to the Federal old-age and survivors trust fund only on wages paid on and after January 1, 1948. On the other hand, the proposed regulation would give these newly covered persons social-security coverage dating back to 1944 and, in an uncertain number of cases, beyond.

[22] Economic Security Act, Hearings, House of Representatives, 1935, pp. 901-904, 911; Social Security Act amendments of 1939, Hearings, House of Representatives, p. 2112.
[23] Under the Federal Unemployment Tax Act, sec. 1607 (i), Internal Revenue Code.

In a letter by the Acting Secretary of the Treasury Department, dated January 30, 1948, to the chairman of the Committee on Ways and Means of the House of Representatives, it is estimated the employers' and employees' taxes which would be collected by the force of the new regulation would be "close to $25,000,000 annually."[24]

It is an actuarial certainty that social-security taxes at current rates represent less than the value of annuities and insurance benefits to which the taxes are appropriated. Accordingly the proposed retroactive grant of coverage, without any offsetting contribution of taxes, represents a potential donation of more than $100,000,000 from the funds in the Federal old-age and survivors insurance trust fund which have been accumulated for the payment of benefits to persons who have contributed to the fund.

What is proposed has already occurred, although to a lesser extent. The Federal Security Agency for some time past has established wage credits and paid benefits to persons from whom the Treasury Department has consistently refused to collect social-security taxes on the grounds they were not covered by the act.

For example your committee is advised of one case in which persons having selling relations with more than 200 companies received letter determinations from the Federal Security Agency granting them coverage under the act, although the Treasury Department has consistently refused to collect social-security taxes.

The number of persons who have received benefit payments without contribution of taxes, according to information furnished by the Federal Security Agency to your committee, is at least 5,000. The amount paid out to these persons has not been specified.

Thus what has been done, and what it is proposed to do by the new regulation, poses serious questions whether the trust fund to which the more than 33,000,000 persons now insured under the act look for the payment of their benefits is being preserved for the purposes to which it is dedicated.

The pertinent provisions of law establishing the trust fund are as follows:

FEDERAL OLD-AGE AND SURVIVORS' INSURANCE TRUST FUND

SEC. 201. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors' Insurance Trust Fund" (hereinafter in this title called the "Trust Fund"). The Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, * * * and, in addition, such amounts as may be appropriated to the Trust Fund as hereinafter provided. There is hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of the taxes (including interest, penalties, and additions to the taxes) received under the Federal Insurance Contributions Act and covered into the Treasury. There is also authorized to be appropriated to the Trust Fund such additional sums as may be required to finance the benefits and payments provided under this title.

(b) There is hereby created a body to be known as the Board of Trustees of the Federal Old-Age and Survivors' Insurance Trust Fund (hereafter in this title called the "Board of Trustees") which Board of Trustees shall be composed

[24] Under the Federal Insurance Contributions Act alone. Unmentioned is the $37,500,000 in taxes which would be collected annually from employers under the Federal Unemployment Tax Act, in addition to their half-share of the above-mentioned $25,000,000. The $37,500,000 might become subject to off-set by contributions under State unemployment compensation laws, but this is speculative.

of the Secretary of the Treasury, the Secretary of Labor, and the Federal Security Administrator, all ex officio. * * * It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund * * *.

* * * * * * *

(f) The Managing Trustee is directed to pay from the Trust Fund into the Treasury * * * (expenses) * * * for the administration of Title II and Title VIII of this Act, and the Federal Insurance Contributions Act.

* * * * * * *

(g) All amounts credited to the Trust Fund shall be available for making payments required under this title.

The above provisions were introduced into the law in 1939 excepting the last sentence of section 201 (a) which was added by the Revenue Act of 1943.

When the act was adopted in 1935, constitutional doubts dictated the separation of the benefit and tax titles, without allocation of the revenues from social-security taxes to the payment of the benefits provided by the act. The Supreme Court, in *Helvering* v. *Davis* (301 U. S. 619, 640–45 (1937)), which decided the constitutionality of the old-age insurance provisions of the Social Security Act, sanctioned appropriation of the special tax imposed by the act to finance the provided benefits. This was followed in the action of the Congress in amending the act to make the appropriation provided by section 201 (a) set out above.

Your committee described the 1939 amendment as follows:

Section 201: This section creates a Federal old-age and survivors' insurance trust fund in place of the present old-age reserve account, which is abolished by these amendments. * * * Amounts equivalent to 100 percent of the taxes received under the Federal Insurance Contributions Act (formerly title VIII of the Social Security Act) are permanently appropriated to the trust fund, and old-age and survivors' insurance benefits will be paid out of the fund. This should clarify the relationship between contributions under the social-security program in the form of taxes and the source of benefit payments (S. Rept. 734, 76th Cong., 1st sess., p. 41).

The Federal Security Agency recognized the intended correlation of benefits and taxes in its report to the Congress dated November 1, 1940:

The coverage provisions of the old-age insurance benefit title of the Social Security Act and of the Federal Insurance Contributions Act are identical in terms. Procedures in uniform application of those provisions by the Board and the Bureau of Internal Revenue had previously been inaugurated but an intensified effort has been made during the year to implement these procedures and to adapt them to new interpretations necessitated by amendments to the act as well as to new cases arising under original or unchanged coverage provisions.

In this effort the Board has maintained that the benefit and tax provisions were intended by Congress to be, and have been generally accepted by the public as being one contributary social insurance program rather than separate benefit and tax programs, and that the legislative objective of a single coordinated program must be borne in mind in approaching all administrative problems involving coverage of this program, notwithstanding the vesting of administrative jurisdiction in two separate agencies of the Federal Government (Fifth annual Report of the Social Security Board (1940), p. 42).

In successive annual reports, through its report for the fiscal year 1946, the Agency referred to the coordinate responsibilities of the two Departments charged with administration of the act, and to the importance of resolving conflicting viewpoints respecting coverage.

Therefore, it is difficult to reconcile the conflicting actions of the Agency in granting wage credits and disbursing benefits when the Treasury Department, proceeding under identical definitions and

under interpretative regulations phrased in the same words, had ruled in the same situations that the services performed were not employment under the coverage of the act.

The case, it should be emphasized, is not that where, because of mistake of law or evasion on the part of the employer, persons within the definitions of the act are paid benefits although social-security taxes have not been paid with respect to the wage credits on which the benefits are based. These are risks which are distributed over the covered group in consonance with the ordinary principles of group insurance, and the spread of these risks is in the mutual benefit.

The case is, rather, that persons outside the group which has contributed to the old-age and survivors' insurance trust fund have been paid benefits out of the fund by the action of one administrative agency, while the other administrative agency has ruled they were not within the coverage of the act and had neither the obligation nor the privilege of contributing to the fund.

○

Calendar No. 1298

80TH CONGRESS
2D SESSION

H. J. RES. 296

[Report No. 1255]

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 2), 1948
Read twice and referred to the Committee on Finance

MAY 6 (legislative day, MAY 4), 1948
Reported by Mr. MILLIKIN, with an amendment

[Omit the part struck through and insert the part printed in italic]

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1426 (d) and section 1607 (i) of the Internal Revenue Code are amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a

corporation) who is not an employee under such common-law rules".

(b) The amendments made by subsection (a) shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment.

SEC. 2. (a) Section 1101 (a) (6) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules".

(b) The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any ~~determination respecting eligibility for, or amount of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948.~~ *(1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act or (2) wage credits with respect to services performed prior to the close of the first calendar*

quarter which begins after the date of the enactment of this Act in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935.

(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1).

Passed the House of Representatives February 27, 1948.

Attest: JOHN ANDREWS,

Clerk.

Calendar No. 1298

80TH CONGRESS
2D SESSION

H. J. RES. 296

[Report No. 1255]

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

MARCH 1 (legislative day, FEBRUARY 2), 1948
Read twice and referred to the Committee on Finance

MAY 6 (legislative day, MAY 4), 1948
Reported with an amendment

MAINTENANCE OF STATUS QUO OF EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS

Mr. WHERRY. Mr. President, I ask unanimous consent that the unfinished business be temporarily set aside and that the Senate proceed to the consideration Calendar 1298, House Joint Resolution 296.

The PRESIDENT pro tempore. For the information of the Senate, the clerk will state the joint resolution by title.

The CHIEF CLERK. A joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Mr. BARKLEY. I am not seeking to delay the consideration of business. I want to be as cooperative as possible in getting all essential legislation enacted. There are Members of the Senate who I am told have not had an opportunity to study carefully the report on the joint resolution. By letting it go over until tomorrow, it would give them that opportunity, and I would not interpose any further request.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nebraska?

Mr. BARKLEY. Mr. President, reserving the right to object, the unfinished business, the draft legislation, will be the unfinished business tomorrow. I hope the Senator from Colorado can agree to let the House joint resolution go over until tomorrow. It will take no more time tomorrow, perhaps not so much as it would take this afternoon. I see no disadvantage that the Senator would suffer if that course were pursued.

Mr. MILLIKIN. Mr. President, nothing would please me more than to be accommodating in the matter, but we have had to go through a great many arrangements and understandings in order to bring ourselves to this point. I have no assurance we could bring the joint resolution up tomorrow if it were postponed until then. We have the position the resolution now occupies by virtue of the cooperation of those in charge of the unfinished business. It was distinctly understood we would proceed with the resolution today.

Mr. WHERRY. Mr. President, if the minority leader will let me make an observation, the plan that worked out for a unanimous consent order was that the draft bill should be made the unfinished business; after the presentation of that bill by the distinguished Senator from South Dakota, it was a part of the order that then the unfinished business would be temporarily laid aside and the three appropriation bills and this joint resolution would be taken up for consideration. It is a part of the program. The minority leader well knows how difficult it is to arrange the program when there is unfinished business and other measures intervene. I am very well satisfied that the proponents of the draft legislation are not prepared to go on and complete the unfinished business before tomorrow. I should deeply appreciate it if we might proceed at this time on the joint resolution.

Mr. BARKLEY. The draft legislation I may say has been pending longer than has the joint resolution.

Mr. WHERRY. I understand that. Of course the minority leader was necessarily absent and it was during his absence that the arrangement was entered into. I am very well satisfied that the joint resolution is a part of the order, but I do not want to insist upon the order. I do say it will expedite matters. I agree that it will not take any more time for consideration of the joint resolution on one day than on another, but it is very important to continue with it this afternoon, in view of the fact that all Senators, with the exception of the minority leader, have made arrangements to follow that procedure.

Mr. BARKLEY. Before the unanimous consent is granted, I wish to make a point of no quorum.

Mr. WHERRY. I was going to do that anyway

Mr. BARKLEY. Let us do it now.

Mr. WHERRY and Mr. GURNEY addressed the Chair.

Mr. WHERRY. Mr. President, have I the floor?

The PRESIDENT pro tempore. The Senator from Kentucky has the floor, reserving the right to object to the unanimous-consent agreement.

Mr. BARKLEY. Mr. President, I now 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:

Aiken	Hatch	Morse
Ball	Hawkes	Murray
Barkley	Hayden	Myers
Bricker	Hickenlooper	O'Conor
Bridges	Hill	O'Daniel
Brooks	Hoey	O'Mahoney
Buck	Holland	Pepper
Butler	Ives	Reed
Byrd	Jenner	Revercomb
Cain	Johnson, Colo.	Robertson, Va.
Capehart	Johnston, S. C.	Russell
Capper	Kem	Saltonstall
Chavez	Kilgore	Smith
Connally	Knowland	Sparkman
Cooper	Langer	Stennis
Cordon	Lodge	Taft
Donnell	Lucas	Taylor
Downey	McCarthy	Thomas, Okla.
Dworshak	McClellan	Thye
Eastland	McFarland	Tydings
Ecton	McGrath	Umstead
Ellender	McKellar	Vandenberg
Feazel	McMahon	Watkins
Ferguson	Magnuson	Wherry
Flanders	Malone	White
Fulbright	Martin	Wiley
George	Maybank	Williams
Green	Millikin	Wilson
Gurney	Moore	Young

The PRESIDENT pro tempore. Eighty-seven Senators having answered to their names, a quorum is present.

The pending question is the unanimous consent request of the Senator from Nebraska [Mr. WHERRY] to proceed to the consideration of House Joint Resolution 296. Is there objection?

Mr. BARKLEY. Mr. President, still reserving the right to object, I wish to say that I shall oppose the joint resolution, but under the circumstances under which it comes before the Senate I shall not object to its present consideration. I think it will involve some discussion and will take some time, but I shall not interpose any objection.

There being no objection, the Senate proceeded to consider the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social security benefits pending action by Congress on extended social security coverage, which had been reported from the Committee on Finance with an amendment.

Mr. MILLIKIN. Mr. President, this joint resolution poses several issues. One is whether the Treasury Department, by regulation, shall be permitted to expand the coverage of the Social Security Act contrary to the existing law of Congress.

Another issue is whether the Federal Security Agency shall be permitted to dissipate the trust fund from which the benefits to those who properly have coverage must be paid and which has been built up by the wages of those who have legitmate coverage under the system.

I believe that I should describe, first, the type of persons who would be swept into coverage by the proposed regulation of the Treasury Department. These are typical. They are persons who buy goods and sell them from door to door, retaining for themselves the difference between what they can get for the goods and what they pay for them; solicitors who take orders, retaining for their services the deposits they collect when they write the orders; manufacturers' representatives; commission agents; insurance salesmen who represent several companies, who work only when they want to, and who may be engaged in several other and different lines of business; newspaper and magazine solicitors, artists, entertainers, writers, mine lessees, timber cutters, lessees of sawmills, bulk oil distributors, certain filling station operators; many subcontractors in the construction field, home workers, taxicab operators, truckers, and others who occupy themselves, full time or part time, in a variety of activities some of whom are truly in the employer-employee relationship and some of whom or not.

Frequently these services are performed where supervision is impracticable, where the person who supplies the goods can have no possible control over the person who sells the goods, and could not, if he wanted to, make intelligence reports necessary to satisfy the requirement of a sound social security system. They are not employees under the usual common-law rules, which is the rule laid down, as I expect to demonstrate fully, by the Social Security Act.

The present existing Treasury regulation gives a very good definition of who is an employee under the Social Security Act. I quote it:

> Who are employees: Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.
>
> Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done.

Mr. President, that is the interpretation of the usual common-law rule now in effect under regulations of the Treasury Department, and, as I shall show later, it has become a part of the fixed law on the subject.

The act itself merely refers to "employee." It does not define "employee," except that we may gather that when it included the officers of corporations, it meant that to be the sole exception to the usual interpretation of the term.

The Treasury, unless stopped, will put into effect a regulation which will sweep into the coverage of social security from 500,000 to 750,000 of these independent contractors, or self-employed.

Let me describe to the Senate the rule of law which the Treasury proposes to make effective in this field. The following shall be considered: The integration of the individual's work in the business to which he renders service, investment by the individual in facilities for work. Opportunities of the individual for profit and loss, permanency of relation, skill required of the individual, and the degree of control over the individual, shall be considered.

I am quite sure that under the usual common-law rule, realistically applied, in determining the degree of control which the alleged employer has over the alleged employee, it would be entirely pertinent to examine into the integration of the individual's work in the whole business, the investment by the individual in his facilities for work, his opportunities for profit and loss, the permanency of the relations, and the skill required of the individual. As I shall show later, there is no limit to the field of inquiry in determining whether the usual common-law rule has been met. Any fact which will throw pertinent light on the question is admissible, and may be considered.

The Treasury, however, falls into a fatal error under this proposed regulation. It takes the usual common-law test of control and adulterates it, and tosses it in with half a dozen other tests, so that under its own definitions the usual common-law rule which is a part of the social-security law may become entirely obscured, indeed, may be lost altogether.

Let me proceed and read further a part of the proposed regulation so that I can make that completely clear. The regulation goes on to say:

Just as the above-listed factors cannot be taken as all-inclusive so too the statement of facts or elements set forth in (an amplifying) paragraph * * * cannot be considered complete. The absence of mention of any factor, fact, or element in these regulations * * * should be given no significance.

No one factor is controlling. The mere number of factors pointing to a particular conclusion does not determine the result. All the factors are to be weighted for their composite effect. It is the total situation in the case that governs in the determination.

One fact or element may establish or tend to establish the existence of more than one factor, and may even have an independent value of its own * * *. The weight to be given [the] factor in a particular case depends upon all the facts of that case.

Thus it is made clear that the Department is not confined even to the factors which it lists. It can give any weight it chooses to anyone of them, and it can import any factor which it chooses to, out of its own invention, to meet the exigencies of any particular case. In other words, the proposed regulation is usurpation by an executive agency of the law-making power of the Congress.

As I said before, all the things it mentions might pertinently be considered to determine the end law point, namely, Have the requirements of the usual common-law rule, realistically applied, been established in this case? But, I repeat, they have subordinated that which is the law into one of an indefinite number of unweighted factors which may or may not be considered.

The proposed regulation would have the following practical effects—and I am reading from the report on page 19:

Persons having no right of direction or control over "employees" constituted such by the proposed regulation would nevertheless have to assume the responsibilities imposed by the act for accurate records showing the amount and time within which the services were performed and specifying exactly the remuneration received by such "employees." Reports on the withholding tax would have to be made and filed with the Bureau of Internal Revenue by such persons with respect to such "employees." Timely tax remittances, and supply of other information would be required.

In instances of failure to comply with the procedures of the law and regulations, persons assigned the status of "employers" by the proposed regulation—but having no right and no practical means to direct or control those who, under the new concept, would become their "employees"—would nevertheless be subject to the penalties that apply to employers generally, including delinquency assessments and civil and criminal penalties, the latter involving imprisonment for felony.

This was from the testimony of a witness who said:

We are at a loss to know how it would be within our power—no matter what expense we might be willing to undergo—to obtain accurate records on 12,000 or more individual salespeople, because we have no way of knowing what any individual receives from the sale of our hosiery.

We do not know whether she raises or lowers the suggested commission, or whether she waives the commission entirely. We have no right to compel salespeople to report to us, nor any way to check the accuracy of such reports if * * * made.

A considerable percentage of our salespeople would have difficulty in preparing a properly informative report.

If a salesperson carries lines other than ours, we have no way of knowing what portion of her business expenses are properly allocated to our line.

As a matter of fact, we seriously doubt the ability of the salesperson properly to make this allocation herself.

Our salesperson may choose to sell as many orders or as few orders as she pleases, or for which she has the disposition, time, or energy. She may suspend or resume her operations when and if she chooses * * * There are many instances where * * * we are out of touch with her for long periods of time.

The substance of this testimony was repeated time and time again by other witnesses before the committee.

Now another practical effect, and again I read from the report:

To sustain the obligations of an "employer," changes would be forced in long-standing relationships that are natural in their industrial environment and which are, as the Supreme Court observed in Silk, a part of the surroundings with a view to which the act was drawn. This is another way of saying that businesses long established and which have been built up by distribution of their products through relationships other than those of employer and employee would have to change their distribution systems so as to use those who truly are employees, or if this is not feasible, to go out of business.

I digress to say that the Supreme Court itself in decisions which I shall bring to the attention of the Senate, has said that there was no intention in the Social Security Act to interrupt long-standing relationships of that kind. Yet the proposed Treasury regulation would sweep into social-security coverage hundreds of thousands of persons, who under long-standing relationships, are not "employees."

Then we must think of the levy of the Federal employment tax. I continue to read from the report:

Abcut 25 States have standards for inclusion in their unemployment-insurance laws which, if applied, might embrace some or all of the activities which the proposed regulation would bring under the act. But according to testimony presented at hearings few, if any, of the persons who would be embraced by the proposed regulation are now covered under State unemployment-insurance laws. In these circumstances the proposed regulation will serve to levy a Federal tax, unrelated to the provision of Federal old-age and survivors insurance, exceeding the tax imposed for the latter purpose on both employer and employee combined—a tax imposed upon employers alone.

The proposed regulation would bring about increased litigation and appeals for litigation. It would result in uncertainty. I have shown its unweighted and amorphous character. I have shown that there are no definite number of factors; that those which exist have no specific weighting; that newly invented factors serving temporary purposes may be imported into the situation.

A regulation of that kind would inject a whole new Pandora's box of questions, uncertainty, and litigation far exceeding any we have known under the old regulation. One of the reasons why the Treasury Department wants new regulations is to get rid of uncertainty. I repeat that by the very nature of the proposed regulation uncertainty and confusion would be multiplied.

In some aspects of it, the most serious feature of the proposed regulation is the dissipation of the trust fund which would be involved. At the present time there is a trust fund made up of the taxes which are collected and put into it to pay the social-security benefits. Those who are rightfully covered into the system have paid for their right to the benefits. Yet under the proposed regulation from 500,000 to 750,000 persons who are not now in the system, who under the law have no place in the system, would be brought into the system retroactively, on a free-ride basis, at the cost to the trust fund of more than $100,000,000. This means at the cost of the 30,000,000 employees who have rightful coverage and who have paid for it.

I think it is interesting to understand that very thoroughly, because I doubt whether any matter which has come before the Senate for a long time has been subjected to greater misrepresentation. The impression has been given to the country that we are taking benefits away from 500,000 to 750,000 persons. The fact of the matter is we are by this joint resolution not taking benefits away from a single person who is receiving them. We are providing, as a matter of fact, that persons who are now receiving benefits and who have not paid for their coverage, who have had a free ride shall continue to receive those benefits. We are doing that because those people were led to change their positions by erroneous construction of the act by the Federal Security Agency. We are doing it as an act of governmental grace, governmental amelioration of hardship

which would result if those benefits were taken away.

In contrast with the statements which have been made over the country, let me make this clear: We are keeping in the system persons who have been erroneously included, but whose position in the system is supported by tax payment. Logically they ought to be dropped from the system and be given a refund of their taxes. But we are blinking the fact that they have no rightful place in the system. We let them stay in because they are pulling their weight in the boat.

I wish to make it as emphatic as I can that not a single person is being deprived of benefits to which he is entitled. What are we doing? We are preventing between 500,000 and 750,000 coming in and getting a free ride on the contributions which have already been made by employees who are rightfully in the system.

What is the proper test for determining whether one is an employee under the law, under the existing regulations, and under the history of the subject in the Congress? As I have said, the law mentioning the word "employee," must have meant "employee" in the usual sense at the time the act was passed, which means the usual common-law conception, realistically applied. Shortly after the enactment of the Social Security Act, the Treasury put out its regulation interpreting the law—interpreting the meaning of "employee." In connection with revisions of the act, this interpretative regulation has been before the Congress on several occasions and has never been disturbed and thus has been congressionally affirmed.

Every lawyer knows that when that is the case, when a regulation of that type has been promulgated, has been repeatedly before the Congress, and has survived numerous revisions of the act, that regulation has become law just as though it had been written in the statute itself.

Let me read from the existing regulation. I have read two paragraphs of it, including the paragraph which sets up the usual common-law control test. I read further:

> The right to discharge is also an important factor indicating that the person possessing that right is an employer.

I do not think anyone would complain of that.

> Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services.

I do not see how anyone could complain of that. Sometimes the furnishing of the tools may indicate the employer-employee relationship. Sometimes it may not. Sometimes furnishing the place of work may indicate the relationship; sometimes it may not. For example, there is a case which I shall discuss a little later, in which the Supreme Court held that the employer-employee relationship existed because, among other things, the person finally determined to be an employee worked in the production line of the factory. In the West we have the lessee system in our mines. In one part of a mine employees, in the true sense of the term, are working. In another part of the mine independent contractors and lessees may be found working. The place of work has been provided for both. We must look at the facts of our cases.

> In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such service an employee.
>
> Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

It is easy to visualize cases on both sides. The regulation gives leeway to study the facts of the particular case and reach an intelligent decision as to whether the common law control test has been met. Normally a lawyer would not be an employee; but a man could be a lawyer with but one client and have a relationship of such a nature that he would be an employee, would not have the independence of a general practicing lawyer. On the other hand, a man could have but one client, and yet preserve a relationship of complete professional independence, and not be an employee.

Reading further from the regulation:

> Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

That makes sense to me.

> If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial.

That is the law. I respectfully suggest that it should be the law. A man who is really an employee should not be deprived of coverage, because a fictitious contract calls him something else. Under this regulation we can penetrate the heart of the substance of the matter and reach a decision according to the way the facts point.

Reading further from the regulation:

> The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

In other words, a man may work in a factory as an employee, and work on a piecework basis. His pay corresponds to his energy and skill. On the other hand, a man may work as a private independent contractor, as a self-employed man, at a job for which he is paid according to his output. However, he would not be an employee.

I should like to double-rivet the proposition that these regulations are law, just as though they had been written into the statute, and that there is no authority in the Social Security Administration or in the Treasury to write a law of its own. There is no such authority—and I say this most respectfully—even in the United States Supreme Court. I shall give some interpretations of the decisions of that Court which will reconcile themselves with our theory of this case. But if we are wrong, if we have misinterpreted the Supreme Court decisions, if the Supreme Court decisions have themselves made new law, or if they authorize the Treasury Department to make new law, then the purpose of this resolution is to halt the effect of such decisions.

Back in 1939 we made some fundamental revisions of the Old-age and Survivors Insurance Act. At that time the Congress considered the definition of "employee," and it rejected a social-security suggestion which runs along the line of the proposed regulation.

The proposal was to broaden the word "employee", so that it would "cover more of the persons who furnish primarily personal services. The intention of such an amendment would be to cover persons who are for all practical purposes employees but whose present legal status may not be that of an employee. At present, for example, insurance, real-estate, and traveling salesmen are sometimes covered and sometimes not. The Board believes that all such individuals should be covered"—Hearings, Committee on Ways and Means, House of Representatives, 1939, page 8.

In answer to questions submitted in writing to the Board the Board's proposal was further defined, and limited as follows:

> Question. Do you mean by the inclusion of salesmen the inclusion of those people who are now classified as independent contractors?
>
> Answer. The intention of this proposal is to clarify the employee relationship of certain persons who are now on the border line of coverage. There is no intention to include all so-called independent contractors (id., p. 2200).

After hearings the House Ways and Means Committee decided that it would recommend increased coverage. It said:

> The tests for determining the (employer-employee) relationship laid down in cases relating to tort liability and other common-law concepts of master and servant should not be narrowly applied. In certain cases even the most liberal view as to the existence of the employer-employee relationship will fall short of covering individuals who should be covered. For example, certain classes of salesmen. In the case of salesmen it is thought desirable to extend coverage even where all the usual elements of the employer-employee relationship are wholly lacking—

Mind you, please, Mr. President, this is a report of the Ways and Means Committee of the House of Representatives accompanying a proposed amendment to enlarge the coverage, just as the proposed Treasury regulation would enlarge coverage at this time; and the report said:

> In the case of salesmen it is thought desirable to extend coverage even where all the usual elements of the employer-employee relationship are wholly lacking and where, accordingly, even under a liberal application of the law the courts would not ordinarily find the existence of the master-and-servant relationship. It is the intention of this amendment to set up specific standards so

that individuals performing services as salesmen may be uniformly covered without the necessity of applying any of the usual tests as to the relationship of employer and employee (Rept. 728, 76th Cong., 1st sess., p. 61).

What happened to that? The bill with that amendment came to the Senate, and the Senate Finance Committee considered the matter.

In reporting its conclusion to the Senate, the Senate Finance Committee said:

The House proposal to extend coverage to salesmen who are not employees has been stricken out by the committee. It is believed inexpedient to change the existing law, which limits coverage to employees. (S. Rept. 734, 76th Cong., 1st sess., p. 75.)

In the debate the late Senator Harrison, of Mississippi, who then was chairman of the Senate Finance Committee, said:

There is a proposal in the House bill for the extension of coverage to salesmen. Under the present law, whether a salesman is covered depends upon the test of whether he is an employee in the legal sense, and your committee believes that it would be unwise at this time to attempt any change.

Briefly, Mr. President, that amendment, as proposed by the House, similar to that which is proposed by the new regulation, was knocked out in the Senate. It went to conference. The conference did not restore it, and thus it never became the law.

That, Mr. President, is one of the reasons why I say this regulation as it exists is the law, and that attempts to do the very things which are now proposed in the new regulation have been expressly rejected by the Congress.

It may be asked, Should not this category of 500,000 to 750,000 persons be given the benefit of social-security coverage? Mr. President, I think they should. Personally, I believe that every employee should be given coverage. From my personal standpoint I think there is an outrageous discrimination in the fact that we cover some employees, but do not cover all of them. However, my personal views are not important.

The point is that Congress has declined to add coverage in the way proposed by these regulations, and Congress has the sole authority to decide what additional coverage it wishes to give.

Let me say again something which I believe probably is known to all Senators: The Senate is deeply interested in this subject of social security, and last summer the Senate Committee on Finance, in bipartisan cooperation, set up, pursuant to a bipartisan resolution of the Senate, a council, advisory to the Senate Committee on Finance, to go over the whole range of social security and to give us advice and recommendations as to what should be done. We appointed that council. The members of the council represent every geographical section of the United States. The council is composed of distinguished men and women. They have been working diligently at that job. They have been sending their reports to us as they have finished them. This is not something we are going to do; this subject of coverage is something we are working on now, and we have adopted an intelligent method for doing a good job.

Two years ago, as I recall, the House of Representatives evolved the famous Calhoun report on the same subject. The House of Representatives, I understand, may send over here a limited coverage bill. I have my own opinion of approaching the matter from a limited coverage basis. I believe it could be argued—although I am not making anything of it now—that the Senate has committed itself to an over-all revision of the system. But the duty and the only power to give that added coverage, to give added benefits, to change that law, is here in the Senate and over in the House of Representatives, not in the Treasury Department, not in the Supreme Court.

The Treasury insists that this new regulation is compelled by several Supreme Court decisions. They are concisely analyzed in the report, on several pages, and I should like to read from the report. I think this is rather important; because if the Treasury Department does not have the authority of the Supreme Court to make this proposed regulation, it has no authority at all; and if the Supreme Court is making new law in order to give support for the regulation, then I respectfully say the Supreme Court has exceeded its proper authority.

But as I intimated a while ago, the theory of the committee is that the new regulation is not consistent with the Supreme Court's decisions, and that the existing, present regulation is entirely consistent. Of course, it is our duty, when we can reconcile the decisions of the Supreme Court with the law of Congress and the history of Congress in a particular matter, to do so; and those who take upon themselves the burden of saying that the Supreme Court has departed from the law of Congress and has a right to do so are taking on a very unhappy and difficult burden.

In June 1947 the Supreme Court—

I am now reading from page 13 of the report—

considered the applicable standards for the determination of employees under the Social Security Act in *U. S.* v. *Silk* and *Harrison* v. *Greyvan Lines, Inc.* (331 U. S. 704); and in *Bartels* v. *Birmingham* (332 U. S. 126).

The Silk and Greyvan cases were considered together, and are the leading decisions.

Prefacing its decisions in Silk and Greyvan with the statement that application of social-security legislation "should follow the same rule that we applied to the National Labor Relations Act in the Hearst case (*Board* v. *Hearst Publications* (322 U. S. 111))" the Court observed that "as Federal social-security legislation is an attack on recognized evils in our national economy, a constricted interpretation of the phrasing by the courts would not comport with its purpose."

No one is advocating a constricted interpretation of any kind. It goes on:

And that when the problem (of differentiating between employer and independent contractor) arose in the administration of the National Labor Relations Act * * * we rejected the test of the technical concepts pertinent to an employer's legal responsibility to third persons for acts of his servants.

No one has contended that such technical concepts should be followed. The existing regulation of the Treasury Department expressly gets away from technical concepts, and recalled:

We concluded that, since the end was the elimination of labor disputes and industrial strife, "employees" included workers who were such as a matter of economic reality.

I do not know of anyone who would object to making an employee who is truly an employee under the common law control test, where that test is satisfied by economic reality, eligible for coverage under social security. Economic reality, of course, is a test available to those who must make the decision as to whether the common law controls are present.

The Treasury would make economic reality the new and exclusive law for its proposed regulation. I think, with scarcely any reflection we can see that without more it cannot serve to determine any issue. Who in this whole world is not economically dependent on someone else or some other business? The independent grocer, in his little corner store, as a matter of economic reality, is dependent on his customer, on his banker, on his supplier. Obviously that, Mr. President, cannot be set up as a completely determinative test or rule of law. The thing to do, I respectfully suggest, is to determine whether a person meets the test of being an employee under the usual common law rule, realistically applied, by using the facts of "economic reality," and all other factors pertinent to the inquiry.

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

Mr. MILLIKIN. I yield gladly.

Mr. DONNELL. I have been greatly interested in the discussion by the Senator of the test applied in the proposed rule. The complete sentence, as I have observed from the rule, is:

In the application of the Federal Insurance Contributions Act and the regulations in this part an employee is an individual in a service relationship who is dependent, as a matter of economic reality, upon the business to which he renders service, and not upon his own business as an independent contractor.

I notice also in the report, at page 10, it is stated:

We repeat, the usual common-law rule is well stated in the existing Treasury regulations:

Who are employees—Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

Obviously, I take it, Mr. President, that the statement in the last-mentioned rule sounds reasonable, and I believe most lawyers would agree it is reasonable.

The question to which I wish to invite the Senator's attention is, Where does the Treasury Department find any decision of any court or any law in support for changing the definition in the existing Treasury regulation and using instead a definition to the effect that in the application of the regulations an employee is no longer to be considered as one who bears the legal relationship of employer and employee, but is one who is

"dependent as a matter of economic reality upon the business to which he renders service." Where does the Treasury Department find any authority anywhere for thus changing the meaning of statutory language?

Mr. MILLIKIN. I am very grateful to the Senator for raising the question. In brief, the Treasury Department looks at three or four decisions of the Supreme Court. The Supreme Court several times uses the words "economic reality," so the Treasury Department seizes upon the words "economic reality" to make a new rule of law, which it cannot do because Congress has established the rule of law, which the Supreme Court itself could not do, because we have a congressional rule of law which requires the existence of the legal relationship to which the Senator is referring.

Mr. DONNELL. Mr. President, will the Senator permit me to ask another question?

Mr. MILLIKIN. I yield.

Mr. DONNELL. Is there anything the Senator has observed in any decision of the Supreme Court which says that in the interpretation of the law respecting which the proposed regulation is to apply, the well-established definition of employer and employee shall be abandoned and the economic reality definition proposed by the regulation be applied instead?

Mr. MILLIKIN. I may say to the Senator, there are random and prefatory expressions which, in my opinion, do not constitute a part of the moving principles of the decision which can be seized upon out of context to make a flimsy argument of that kind. Let me show the distinguished Senator how the Supreme Court has protected itself in the Silk and Greyvan cases. After referring to the application of the rule which it followed in the Hearst case, which, by the way, was repudiated by the Congress in the Taft-Hartley Act, the Supreme Court then went on to say:

> This, of course, does not leave courts free to determine the employer-employee relationship without regard to the provisions of the act. The taxpayer must be an employer and the man who receives wages an employee.

That is precisely what the distinguished Senator has been talking about.

> There is no indication that Congress—

Please mark this well, Mr. President, because it is a part of the moving principles of the decision:

> There is no indication that Congress intended to change normal business relationships. Few businesses are so completely integrated that they can themselves produce the raw material, manufacture and distribute the finished product to the ultimate consumer without assistance from independent contractors. The Social Security Act was drawn with this industrial situation as a part of the surroundings in which it was to be enforced. Where a part of an industrial process is in the hands of independent contractors, they are the ones who should pay the social-security taxes.

In every one of these cases—and I am frank to say that there are some random expressions which could be seized upon out of context to make an argument, not to make a law—when the court comes to the moving principle of decision, it is the usual common-law rule realistically applied. And, I add, in not one of these cases has the Supreme Court of the United States declared invalid the existing regulations of the Treasury Department, which have become law in the manner I have stated.

I add also that the Supreme Court did not have fully before it, the legislative history which I have recited and which gives force of law to the existing Treasury regulation.

Mr. DONNELL. Mr. President, if the Senator will permit me, I should like to ask whether or not he agrees with the interpretation which would appear at least to me reasonable, of one of the sentences he read a moment ago. That sentence, from the observation of the Supreme Court, reads:

> Where a part of an industrial process is in the hands of independent contractors, they are the ones who should pay the social-security taxes.

My understanding, from what I have read—I have not read the case—is that the Court is indicating, in effect, that in such an instance the independent contractor should pay the social-security taxes, not the person who engages the services of independent contractors.

Mr. MILLIKIN. Exactly.

Mr. DONNELL. Which, as I understand, is precisely in line with the argument being presented by the distinguished Senator from Colorado.

Mr. MILLIKIN. The distinguished Senator is completely correct.

The decisions of the Court in Silk, Greyvan, and Bartels, and the tests, the moving principles by which the Supreme Court reached those decisions, were the usual common-law tests and principles realistically applied.

In the Silk and Greyvan cases the Commissioner of Internal Revenue had proceeded under the existing Treasury regulation in the assessment of social-security taxes, and the cases were brought for recovery. The lower courts held for the taxpayers and against the Commissioner.

The Silk case involved: First, unloaders of coal who made themselves available in coalyards at a waiting shed, some of them floaters who came only intermittently. As carloads of coal were delivered by the railroad, the unloaders unloaded them into assigned bins at an agreed price per ton; also, second, truckers who owned their own trucks, paid their own operating expenses, were free to work for others, and delivered coal for Silk at a uniform price per ton.

The Greyvan case involved a formal contract between Greyvan Lines, Inc., a common carrier licensed under the Motor Carrier Act, and local operators who performed the actual service of carrying the goods. The operators were required to haul exclusively for the company, furnished their own trucks, paint the designation "Greyvan Lines" on them, hire their own truckmen, pay all expenses, provide insurance, indemnify the company for losses, and to operate subject to the control of Greyvan dispatchers and under a manual of instructions which regulated in detail the conduct of the truckmen in the performance of their duties.

In the Silk case, where the employment arrangements were informal, the moving ground for the lower court's decision was:

> The undisputed facts failed to establish such reasonable measure of direction and control—

Please note, direction and control is the ultimate test:

> The undisputed facts failed to establish such reasonable measure of direction and control over the method and means of performing the services performed by these workers (the unloaders and truckers) as is necessary to establish a legal relationship of employer and employee between the appelle and the workers in question.

That is precisely what the distinguished Senator from Missouri [Mr. DONNELL] was referring to a while ago. The Supreme Court squarely planted itself upon the necessity for establishing the legal relationship of employer and employee.

In the Greyvan case—the moving-van case, where it was found that the truckers put "Greyvan" on their own trucks and had to take out insurance and operate under a manual of instructions supplied by Greyvan—the Supreme Court said:

> The company cannot be held liable for employment taxes on the wages of persons over whom it exerts no control and of whose employment it has no knowledge.

See the applicability of that to the hundreds of thousands of door-to-door salesmen of the type which I described a while ago. There is no opportunity for the supplier of the goods to keep track of the activities of the person who sells them.

> While many factors in this case indicated such control as to give rise to [the employer-employee] relationship we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations.

I believe I should mention this. The Treasury has been very much disturbed over the diversity of opinions, in closely related cases in this subject matter, of our lower Federal courts. Many of those Federal courts, in the earlier days of the subject, would look only to the contract. If the contract seemed to establish the employer-employee relationship, it was established. If the face of the contract did not establish it, it was not established. In other words, they applied narrow, strictly technical concepts to reach their decisions.

Thus, in many cases, undoubtedly they excluded from coverage men who deserved coverage as employees.

Many Federal courts, following the rule which is common in connection with many subjects, would accept the differing interpretations of different States as the controlling feature of whether there was an employer-employee relationship. Of course that would cause a great diversity of opinion.

The opinions of the Supreme Court to which I have referred and as interpreted perform, in my opinion, a constructive service, because they all emphasize that

we are dealing with a national law which is intended to extend its power and influence all over the United States and which should be interpreted nationally and not provincially. With the guidance of the Supreme Court, we now should have uniform application of a national law.

Let me summarize what the resolution, under the proposed amendments, will do. We have set it out on pages 1 and 2 of the report:

1. The joint resolution would reaffirm the unbroken intent of Congress that the usual common-law rules, realistically applied, shall continue to be used to determine whether a person is an "employee" for purposes of applying the Social Security Act.

I would say at the outset that several thousand persons have been swept into coverage who are not entitled to coverage. We are not taking them out; we are keeping them in, if they are 65 or more years of age and are receiving benefits. Also we are keeping them in even though logically they should be out, if they are carrying their weight in the boat by paying taxes.

2. The resolution would maintain the status under the act of those who, prior to the enactment of the resolution, have been given coverage by erroneous construction of the term "employee" (as defined in the resolution) if social-security taxes have been paid into the old-age and survivors' insurance trust fund with respect to the covered services.

Mr. DONNELL. Mr. President——

The PRESIDING OFFICER (Mr. CAIN in the chair). Does the Senator from Colorado yield to the Senator from Missouri?

Mr. MILLIKIN. I yield.

Mr. DONNELL. Will the Senator be kind enough to point out, if he has it immediately at hand, the portion of the joint resolution which accomplishes the result of assuring continued benefits to those who will have attained the age of 65, and so forth, as the Senator has just stated?

Mr. MILLIKIN. I invite the attention of the Senator to the bottom of page 2 and the top of page 3. I am referring now especially to the words occurring after "(2)" on line 24:

Wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this act in the case of individuals who have attained age 65 or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935.

Mr. DONNELL. I thank the Senator.

Mr. MILLIKIN. I am glad the Senator raised the question. I repeat, no person now receiving benefits, whether or not he is entitled to them, is taken out of the coverage and the benefit status of the act by the joint resolution.

The resolution would assure continued benefits to those who will have attained age 65, and to the survivors of those who will have died prior to the close of the first calendar quarter which begins after the enactment of the act and who have coverage under the system because of misconstruction of the term "employee"—as defined in the resolution—even though social-security taxes have not been paid by them or in their behalf.

The resolution would stop extension of coverage of the act to between a half and three-quarters of a million persons who have not been, are not now, and should not be under the act, until coverage is provided by act of the Congress.

The resolution would stop the plan of the Treasury Department to give to these 500,000 to 750,000 persons free, retroactive coverage, and thus would stop a more than $100,000,000 impairment of the old-age and survivors' insurance trust fund which has been built up out of taxes collected on the wages of those who are truly employees and who have paid for their coverage under the system.

The pending resolution would not disturb the existing Treasury regulation which construes the term "employee" in the Social Security Act harmoniously with the usual common-law rules.

The pending resolution will maintain the moving principles of the decisions of the United States Supreme Court in the Silk, Greyvan, and Bartels cases where, in the opinion of your committee, the Court realistically applied the usual common-law rules. But if it be contended that the Supreme Court has invented new law for determining an employee under the social-security system in these cases, then the purpose of this resolution is to reestablish the usual common-law rules, realistically applied.

The resolution preserves the integrity of the trust fund by limiting payments out of the fund to persons who are employees under the act by the usual common-law rules, realistically applied. It leaves to Congress the opportunity to provide coverage for independent contractors and the self-employed, who are not employees under the act or to those who are employees and are now expressly excluded from the coverage of the act.

There is no more reason for bringing under the act one class of persons who are not now employees by interpretation or by the invention of law by executive agencies than there is to bring in farm hands and domestic employees, and the great class of persons who are not now covered. It is the job of Congress to determine who shall have coverage under the act, and, as I have said before, I favor the Congress doing a liberal job in that, when it gets around to it, and I do not believe it will be long before it does get around to it.

The resolution would restore to the trust fund by appropriation moneys which have been paid out of the fund in the form of social-security benefits to persons not employees under the act and who have not contributed social-security taxes to the fund.

Mr. President, that is our obvious duty. This fund has been impaired by the giving of benefits to people who have not paid for them. It is our duty to restore that fund by congressional appropriation, and the authority to do it is here.

The PRESIDING OFFICER. The clerk will state the amendment of the committee.

The LEGISLATIVE CLERK. On page 2, line 17, after the word "any", it is proposed to strike out "determination respecting eligibility for, or amount of, benefits of any individual under title II of the Social Security Act made prior to January 1, 1948, or of preventing any such determination so made from continuing to apply on or after January 1, 1948," and to insert "(1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this act or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this act in the case of individuals who have attained age 65 or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935.

"(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

"(2) There is hereby authorized to be appropriated to the Federal old-age and survivors' insurance trust fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1)."

Mr. HATCH. Mr. President, when House Joint Resolution 296 was first called to my attention, when it was pending in the House of Representatives, and was represented to me to be a measure which would be in effect a prohibition directed against departments in the executive branch of the Government to make regulations under existing law, and that it would also have the effect of maintaining the status quo as it existed prior to the recent decision of the Supreme Court of the United States, I was seriously disturbed, for it seemed to me that if that were the effect of the resolution, the Congress itself was doing that which it was forbidden by the Constitution to do, in that it was actually invading not only the executive branch of Government, but also the judicial branch, and that we were being asked to construe and interpret not only regulations of the executive branch of the Government, but also judicial decisions, as the courts of the land had applied the law to existing regulations, clearly a thing which the Congress had not and does not have the right to do.

As this matter is presented in the Senate committee amendment, under the argument which has been made by the distinguished Senator from Colorado, it now appears to me that the resolution attempts to amend existing law, and to set forth in the law of the land that which Congress does have

the right to do. No person can doubt the right of Congress, whether by joint resolution or by other legislative act, to set forth what the law of the land is according to legislative enactment. The legislative power is vested in the Congress of the United States. I believe and I hope that is the purpose of the joint resolution.

However, the argument made does approach judicial interpretation of laws, and also a direction or prohibition against an executive department of Government making rules and regulations which it believes to be in conformity with the law and with the decisions of the courts. I do not say that such regulations have to be in conformity with law or with the decisions of the courts. A department in the executive branch of the Government has as much right to be wrong as to be right. Congress has no more right to interfere with the powers vested in the other branches of Government than they have the right to interfere with the legislative branch.

The question before us, Mr. President, is a serious one, a difficult and complicated one. A proper consideration of it requires familiarity with the decisions of the courts and the proper interpretation of those decisions. It requires familiarity with the regulations of the Treasury Department and the Federal Security Agency, and a proper interpretation of the power of those agencies to make regulations.

Unfortunately, Mr. President, in the stress of business which confronts all of us no one has the time to make that careful, detailed study of these decisions which should be made when we enter upon such a complicated case. Although I shall refer to regulations and court decisions respecting them, I shall not lay down rules of finality and complete decision on my own part, because I realize how complicated the field is and how wrong any of us may be. However, I do want to present to the Senate today some considerations with regard to existing law, the decisions of the courts, and the regulations.

Mr. President, I agree wholeheartedly with the Senator from Colorado when he said—and I was happy to hear him say it—that the coverage of the social-security laws should not be narrowed and restricted, but, if anything, should be enlarged and expanded. I think it most necessary that we preserve the laws we now have on these subjects, and provide for their extension, so there will not exist, as the Senator from Colorado has said, unfair and unjust discrimination in social benefits.

This morning I picked up the Washington Post and read a brief but interesting editorial which has some bearing on what I have just said. The editorial is entitled "A Word in Time." I read from it as follows:

> The Reverend Edmund A. Walsh of Georgetown University, speaking on communism the other day at the annual meeting of the National Industrial Conference Board, made some telling points that ought to be pondered by the advocates of the Mundt bill.

I abandon the quotation for a moment to say that it is not my purpose now to discuss the Mundt bill, which I believe is pending before a Senate committee of which the distinguished Senator from Missouri [Mr. DONNELL] is a member and which it is now considering. Probably they hear enough of it in committee, without listening to a discussion of it on the floor at this time.

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

Mr. HATCH. I yield.

Mr. DONNELL. I may say to the Senator that we of the committee are seeking advice and counsel, and will be glad to have it from the Senator.

Mr. HATCH. I shall continue to read from the editorial, and it might be helpful in that connection:

> He said the best way to meet the Communist menace "is to wage war in terms of the economic and social needs of the moment, strengthen our domestic economy, assist other people to do the same" and to "expose the hollowness of the Communist claim that Soviet Russia is the champion of human freedom." At present, Congress appears to be following the opposite course. Essential reforms and progressive measures languish while the reactionary Mundt-Nixon bill is pushed. The inescapable effect is to give communism an attractive issue and democracy a shabby record.

Mr. President, the editorial bears on what I said, which was that I was concerned when I learned that it was thought by some, not by a committee of the Senate, but by others, that the joint resolution would have the effect of narrowing and restricting the social security benefits under existing law. I submit, Mr. President, that instead of being restricted and narrowed, those laws should be expanded and enlarged until there can exist and will exist no discrimination against any person in this land of ours. I was happy to hear the Senator from Colorado make the statement he did in his address, and I hope—of course it is impossible before the present session of Congress ends—that before long our whole system of social-security laws will be revised and extended until no injustice and no discrimination shall exist anywhere.

I proceed now to a discussion of the joint resolution itself. Its sponsors are attempting, as I read it, to write into the Social Security Act and the related sections of the Internal Revenue Code a provision which they believe would provide for a clear, reasonable, and even an automatic test for determining under what circumstances an individual can be classed as an employee and under what circumstances he becomes an independent contractor and therefore not subject to social-security laws. If the joint resolution would accomplish that purpose, or even if it would be a forward step toward that purpose, then indeed much could be said in its support.

However, Mr. President, defining an employee as one who is an employee under the usual rules of common law does not, to my mind, clarify the situation at all. On the other hand, to me at least, the important effect of the joint resolution would be not to clarify but further to confuse the situation. I am afraid it would have the effect of depriving several hundred thousand employees of benefits under existing interpretations of the law.

The construction given the "usual common-law rules" by the courts varies from complete dependency on the legal right to control the performance of service to an interpretation as broad as that proposed by the Treasury Department and the Social Security Administration in their new regulations. Whether the joint resolution would enact a broad or a narrow common-law rule it is now impossible to determine. The administrative agencies and the courts are left to guess, with only such guidance as the committee reports and congressional debates may give to them. Yet the gap between a broad and a narrow common-law rule is about as wide as the whole twilight zone of coverage.

The report of the Finance Committee has a great deal to say about the Supreme Court decisions and their relation to the common-law rules. If the joint resolution is not intended to change the rules announced by the Supreme Court—and that is what the committee appears to say—then the joint resolution is unnecessary. Its enactment would serve no good purpose and could only confuse.

If, on the other hand, the resolution is intended to incorporate a narrow definition of the employer-employee relationship, it would result in serious inequities. The control test is subject to manipulation to avoid tax liability. It also would exclude from coverage several hundred thousand individuals who are easily recognized as employees in fact. But perhaps it is easier to understand the implications of this resolution by tracing the history of the Social Security Act.

In 1936 the Treasury Department and the Social Security Board issued regulations in which standards were set up for determining what constituted an employer-employee relationship. These standards, based on a current interpretation of the usual rules governing these relationships, place emphasis on the legal right to control the performance of services, but also enumerate other factors which might influence decisions. These regulations do not place a narrow construction on common-law rules. The regulations state that:

> Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services.

Although these regulations do not draw a definite line of demarcation between employees and independent contractors, they did produce logical, equitable, and

consistent results in most cases. However, there remained an area of employment where the line was indistinct, in which each case had to be carefully weighed to determine in which group it fell.

The Treasury Department and the Social Security Board in the first years of operation under the regulations issued a consistent series of decisions in which the ordinary meaning and the common-law meaning of the term "employee" was properly interpreted as not being wholly restricted to instances in which the legal right of control was present. The Treasury Department in 1937 and 1938 ruled that truck owner-drivers were employees of the company for whom they worked. Outside salesmen who were an integral part of a company's distribution system were held to be employees, even though they worked solely on a commission basis and were relatively free from ordinary controls.

It was found, however, that the working agreements between employers and outside salesmen were so varied that generally applicable precedents could not be established. Consequently, when the general amendments to the Social Security Act were being considered in 1939, the Committee on Ways and Means of the House of Representatives suggested the adoption of a rule of thumb for determining the coverage of salesmen. This proposal, which was ultimately rejected by the Senate and the Congress, would have brought salesmen under the law who were not employees; all salesmen would have been included unless they were brokers or factors selling on behalf of more than one company and employing at least one assistant salesman in their brokerage or factoring business or unless the selling was "casual service" not in the course of the salesman's principal occupation. This approach would have brought under the law all salesmen in the twilight zone of employment relationship and in addition a large number obviously self-employed.

The failure of Congress to enact this proposed amendment does not indicate any congressional intent to narrow the definition of employer-employee relationship. All that the action indicated, and all that the Finance Committee said, was that they did not want to go beyond employees. They said absolutely nothing about how the term "employee" should be defined, and any argument that by its failure to adopt the provision Congress intended that future determinations should be narrowly construed is erroneous. Since the term was left entirely undefined, just as it was in the 1935 act, it is subject to reasonable administrative and judicial interpretation in the light of the purpose of the statute.

The first narrowing of the definition of employee-employer relationship in practice occurred in 1941. Certain Federal circuit courts issued a series of decisions against the Government, beginning with the case of the Texas Co. against Higgins, decided on April 4, 1941. In the Texas Co. case and several of the following lower court decisions the court was guided by the language of the contracts between the parties. Apparently the real substance of the arrangements was not considered. As a result of the decisions, the Treasury Department felt that it was forced to adopt with respect to employment taxes under the Internal Revenue Code a narrower interpretation of the term "employee" than it had used in the past, although it never reached the point of placing sole emphasis on the control test. The Social Security Board on the other hand continued to use the broader interpretation for its determinations on benefit rights under title II of the Social Security Act. The decisions of the two agencies therefore at times were at a variance on the same set of facts, the Treasury Department holding that there was no tax liability and the Social Security Board holding that benefits were payable. Of course, that was a perfectly impossible situation.

A more serious result of these lower-court decisions was the encouragement it gave some persons to write contracts with many of their employees for the specific purpose of avoiding Federal unemployment and old-age and survivors' insurance taxes. The contracts usually did not substantially alter the economic relationship between the parties. The testimony given at the hearing before the Finance Committee and the reports issued by the Ways and Means Committee of the House on this resolution cite several examples of this practice. In a court decision, Nevins, Inc., against Rothensies, it was brought out that a chain drug company converted former branch managers into licensees, yet the company advanced all necessary equipment and inventories to each store. The licensees were held to be independent contractors, despite the fact that the economic relationship with the drug company remained virtually the same as it had been before.

Federal Security Administrator Oscar R. Ewing testified that his agency had seen a job in a factory, right in the assembly line, contracted out to a so-called independent contractor. Tax services advised their subscribers on how to write contracts that would get by the courts. A great many companies that employed full-time salesmen on a salary or commission basis attempted to change those men into independent contractors by means of purchase-and-sales arrangements which gave them title to goods on credit and allowed the return of all unsold articles. A typical agreement usually guaranteed the salesman a minimum profit, gave him a territory, and retained the right to terminate the contracts on short notice if sales fell below expectations. This type of sales arrangement would be the company's regular distribution method. The company could make price adjustments as it saw fit, and it could control the amount and kind of merchandise made available to the salesman. It also would furnish the salesman the leads and the advertising materials. Usually the salesman had no capital investment of any consequence. He was, in fact, an employee of the company; yet some of the lower courts held that a salesman of this type was an independent contractor.

Of course the elements establishing the actual degree of independence or control vary in every case and in every type of business relationship. The essential thing is that the statement in a contract that a particular individual is or is not an employee cannot govern the determination. The substance of the agreement must be examined in every case. As the Federal Security Administrator said in his testimony to the Senate Finance Committee in opposing House Joint Resolution 296:

> One needs no profound knowledge of the ways of the world to know that a man who depends for his bread and butter on his earnings from the job will generally take orders from the boss no matter what clauses may have been written into his contract.

Judge Cardozo, in Glielmi against Netherland Dairy Co., a workman's compensation case in New York, said:

> If he (the employee) does anything at variance with the will of his employer, its policy or preference, he knows that his contract of employment may be ended overnight.

After the first few lower court decisions holding for a narrower interpretation of employer-employee relationship the legal situation became more chaotic. In 1944 and 1945 several of the courts held for the Government, while others followed the 1941 precedents. To date about 250 cases have been taken to the courts. Interpretations of the common-law rule have varied in each jurisdiction. For example, it was held in the Jones against Goodson case that taxicab operators are employees. In the United States against Wholesale Oil Company, a filling station operator was held to be an employee. In the United States against Vogue, Inc., a seamstress was held to be an employee. In Grace against Magruder, coal hustlers were held to be employees. Several of the lower courts, on the other hand, took a more restrictive view. In Magruder against Yellow Cab Co., the taxicab operators were held to be independent contractors. In Glenn against Standard Oil Co., a bulk plant operator was held to be an independent contractor. In Glenn against Beard, a home worker was held to be an independent contractor. In United States against Mutual Trucking Co., a truck operator as held to be an independent contractor. All those cases, which were in the lower courts, involved almost identical facts; yet one of them would be decided in one way, and the next would be decided in the other. In short, as Mr. Justice Rutledge said:

> The assumed simplicity and uniformity resulting from "common law standards" does not exist.

It was the welter of conflicting opinions of lower courts that persuaded the Supreme Court to review a series of cases involving the proper interpretation of employer-employee relationships. In June 1947 in three decisions which already have been discussed by the Senator from Colorado—United States against Silk, Harrison against Greyvan Lines, Inc., and Bartels against Birmingham—the Supreme Court decided that within the meaning and intent of the social-security legislation, the employment relationship should be determined on the

basis of the worker's relationship in fact with the persons for whom he performed services, rather than on the basis of his technical relationship under common law. The court further stated that all relevant factors in a given relationship should be considered. Relevant factors include the degree of control which is or can be exercised over the performance of services, the permanency of the relationship, the skill required in the performance of the work, the investment in facilities for work, and the opportunity for profit and loss from the activities, giving to each such weight as it properly deserves in the light of the statutory aims.

These decisions affirmed, in the main, the position taken by the Social Security Administration, and indicated that the Treasury Department should in the future look to the economic reality of an employment relationship. The decisions involve no sharp break with the past. Many courts, avowedly following the common law, have found that they must look behind any formal or informal agreement that technically does away with the right to supervise the performance of service, and must see what control is actually exercised, what investment the independent contractor must make, and what opportunity there is for his profit or loss. The court did not step into the legislative field, as has been alleged. It simply set up guides for interpreting common-law rules as applied to social-security legislation.

Mr. President, it is too early to tell for sure whether these guides will finally furnish the answer to the major problems in determining who are employees under Federal social insurance laws. However, as Federal Security Administrator Ewing stated in his testimony on this resolution:

> Let me hazard this prophecy: That if these new regulations are allowed to become effective, administrative rulings under them will quickly build a body of precedent that will be more informative to the public than the rules we have tried to operate under in the past.
>
> In support of this prophecy I can offer you one item of evidence. Since the Supreme Court decisions last June, 15 cases involving this question have been decided by the Federal district and circuit courts, 10 in favor of the Government and 5 against it. In all these cases, of course, the courts have been bound to give effect to the rulings of the Supreme Court. In most of them the results have been in accord with our interpretation of those rulings, even where the holdings were against the Government.
>
> Of greater importance than uniformity of result is the fact that the courts have already begun to show a better record of uniformity of approach in applying the tests of employment set forth by the Supreme Court.

May I suggest, and would it not be wiser, that we permit the Treasury Department and the Social Security Administration to publish their new regulations and operate under them for a sufficient period of time, to see if the answer to this troublesome problem has been found?

If Congress should pass this joint resolution, it could easily destroy what progress has been made toward defining the employer-employee relationship. Who knows what the usual common-law rules governing such relationships are? Apparently the courts have not known in the past. Would not this joint resolution simply reenact the conflict which the decision of the Supreme Court attempted to resolve? The joint resolution itself gives us no guide. Would the test be confined to the legal right of control? Is it designed to revitalize the restrictive decisions of the lower courts after 1941, or to substantiate the more liberal decisions in 1944–45? Both types of decisions apparently were rendered under what were considered to be the rules of the common law. Court decisions, even in the limited field of tort liability, are no guide, because there has been a great variety of applications and conflict in results as between States and even within the same State.

If the common-law rules are ambiguous, passage of this resolution will not clarify them. It is true that nearly if not quite all persons who are covered under the Supreme Court decisions would be held to be "employees" under a liberal application of common-law rules. If that is the purpose of the committee, the purpose could be better served by rejecting the resolution and permitting the Court decisions to operate without impairment. And if this is the committee's intention, the old Treasury regulations, which the committee would continue in effect, are certainly misleading to the public. Fortunately, there is no need to spend time analyzing the argument. It has already been answered in the 15 circuit and district court cases decided in the 12 months since the Supreme Court decisions were rendered. The lower Federal courts have not found in the Supreme Court opinions a mandate to apply the "usual common-law rules," but on the contrary have found in them a direction to apply the very principles set forth in the proposed new Treasury regulations. In *Fahs, Collector, v. Tree-Gold Cooperative Growers of Florida, Inc.* (166 F. (2d) 40), for example, the Circuit Court of Appeals for the Fifth Circuit, in reversing a lower court's decision which had held that an employer-employee relationship did not exist, said:

> At the time of the decision below, the common-law tests of master and servant were widely thought to be controlling upon the courts.

That is, in determining whether an employer-employee relationship existed. After referring to the Supreme Court's decisions in the Silk, Greyvan, and Bartels cases the decision continues:

> The statutory coverage is not limited to those persons whose services are subject to the direction and control of their employer, but rather to those who, as a matter of economic reality, are dependent upon the business to which they render service. • • • There is no rule of thumb that defines precisely the relationship between the employer and the employee.

This being the consistent view of the Federal courts about the effect of the Supreme Court decisions, it seems futile to argue that those decisions merely reaffirmed the common-law control test.

Equally unfounded is the charge that the proposed regulations would give a free rein to the administrative agencies to include or exclude whom they will.

I agree thoroughly with the Senator from Colorado that that is a field in which the decision is to be made by the Congress, and no administrative agency has a right to determine who should or should not be included within the coverage, which certainly is the sole prerogative of the Congress.

If the lower courts have shown themselves able, as they have, to draw practical rules of decision from the opinions of the Supreme Court, the administrative agencies are equally able to do so. And on both tax and benefit sides of the system administrative decisions are subject to judicial review. There is no more danger of uncontrolled administrative action under the new regulations than under the old.

The control test standing alone might even cover some employees, such as the owner-driver of trucks involved in the Greyvan Lines case, whom the Supreme Court held not to be presently covered because of the investment in equipment and the opportunity for profit or loss. Since the resolution is worded in the negative it might mean that employees must meet both the control test and the rules laid down by the Supreme Court.

This resolution as it stands is not clear in its intent and would only cause additional confusion and litigation. It would inject a new set of legal conditions in a complicated legal situation that for the first time show signs of clearing up. Above all, it would deprive many persons of benefits who now have social-security protection under the present law, benefits which a reasonable Congress and a realistic Supreme Court have seen fit to give them.

MAINTENANCE OF STATUS QUO OF EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS

The Senate resumed the consideration of the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Mr. McFARLAND. Mr. President, I send to the desk an amendment to the pending bill, and ask that it be printed and lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. MURRAY. Mr. President, the joint resolution now under consideration purports to remove three quarters of a million people from social security coverage under the law. These people are salesmen, miners, lumberjacks, journeymen tailors, industrial house workers, and a number of other workers in miscellaneous activities. It is argued that they are not employees as contemplated by the act, and should be classed as independent contractors and covered as self-employed.

In the hearings and debate on House Joint Resolution 296 there has been con-

siderable testimony on the legal aspects of the problem of determining when a man is an employee and when his work shades off into self-employment. The legal aspects under the present statutes, of course, have been settled by the Supreme Court. We can change the law if we desire. But in deciding whether we ought to change it, we should give proper emphasis to the effect of this joint resolution on the men and women who would be deprived of their old-age benefits, and benefits for their widows and children.

Some of the men and women who would have their social security coverage destroyed have been paying into the fund since 1937, and many more have been paying in for a shorter time.

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

Mr. MURRAY. I yield.

Mr. MILLIKIN. On the question whether a person entitled to coverage will be deprived of the coverage, I suggest to the Senator he would not be under the amendment if he has been paying in.

Mr. MURRAY. If he has been paying in?

Mr. MILLIKIN. Yes.

Mr. MURRAY. The joint resolution as it passed the House would have wiped out wage credits even in cases where the employees had been taxed to establish them. I understand that is one of the effects of the joint resolution as it is worded.

Mr. MILLIKIN. It has been amended, so that even though a person who is in the system has no right to be there, if he has been paying his taxes, he will continue to be in the system.

Mr. MURRAY. If the amendment has accomplished that effect, of course, that is fine.

The Finance Committee proposes an amendment apparently meant to avoid this most obvious inequity. But the committee has overlooked a more fundamental inequity. To take coverage away from people who have paid contributions into the system will mean in all too many cases that they will never get any benefits in return for what they have paid. One of the weaknesses of the system, because of its present limited coverage, is that too many people make contributions without working long enough to establish full insurance rights. Even with the Finance Committee amendment, this joint resolution would for a multitude of people make it impossible to continue to contribute, and would thus make it impossible for them to realize on what they have already invested in the system.

The men and women who would be denied social-security coverage by this resolution are found in all walks of life. The largest single group are outside salesmen in the manufacturing and wholesale trades. These are the men who sell the products of manufacturers to retail outlets throughout the Nation. According to Treasury Department estimates, there are at least 440,000 persons in this group who might be affected by the resolution. Actually the number might be even larger. The National Council of Salesmen's Organizations, Inc., estimates the total number of salesmen in the industry to be almost one and one-half million.

These are the men and women whose work keeps the channels of commerce open. They sell every conceivable product made in the United States. Although their arrangements with their employers differ, most of them are given a territory to work. Some carry a single line, others carry two or more lines. Generally the term of their employment is one ending at will, subject to termination or discharge without notice. A comparatively small group of wholesale salesmen are independent sales agents, brokers, and factors. They are real independent contractors both in the legal and economic sense. However, the majority of wholesale salesmen are, in fact, employees. Some of them would not be affected by the resolution since the degree of control exercised by their employers is sufficient to establish the relationship under the narrowest of definitions. However, the bulk are in danger of losing their social-insurance protection.

These men are not taking House Joint Resolution 296 lightly. The National Council of Salesmen's Organizations, Inc., a central body for various salesmen's associations and clubs, alerted its member groups throughout the Nation. Such organizations as the Associated Millinery Men, the Allied Textile Association, Inc., Fur Garment Traveling Salesmen's Association, Inc., Garment Salesmen's Guild of New York, Inc., Luggage and Leather Goods Salesmen's Association, Inc., Cotton States Fashion Exhibitors, National Paint Salesmen's Association, Western Textile Association, the Shoe Club, New York-Penn-Ohio Travelers, Inc., the Southeastern Shoe Travelers, and many others, have jumped into the fight against the resolution.

The National Paint Salesmen's Association wired:

> You are assured of our full cooperation and this telegram is your credentials to represent us at the hearing, for which we thank you.

The National Association of Men's Apparel Clubs wired:

> National Association will go along with you wholeheartedly in fighting passage of GEARHART'S Resolution 296.

The Cotton States Fashion Exhibitors called a general meeting in Memphis and passed a resolution opposing the Gearhart bill, which was forwarded to Members of Congress.

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

Mr. MURRAY. I yield.

Mr. MILLIKIN. I should like to repeat that anyone who is in the system and whose position in the system is being supported by tax payments is not removed from the system by the joint resolution, whether or not under any interpretation he should properly be in the system. The alternative is that certain people should be in the system and have a free ride. The joint resolution, except as provided by the amendment, will not give anyone a free ride, and they should not have a free ride, because the free riders take it out of the hides of the 30,000,000 workers who have built up the trust fund which pays the benefits.

Mr. MURRAY. I understand that these associations of salesmen I have mentioned have made a study of the measure and feel that it deprives them of rights which they are entitled to enjoy under the act.

Mr. MILLIKIN. Mr. President, will the Senator yield further?

Mr. MURRAY. I yield.

Mr. MILLIKIN. Many persons in sales activities are already in the system and their position in it is being supported by tax payments, and the joint resolution will not deprive them of their coverage. But anyone, whether a salesman or in any other occupation, who is in the system and is not entitled to be in it, and is not paying for his ride, will not be covered and should not be covered.

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

Mr. MURRAY. I yield.

Mr. BARKLEY. May I ask the Senator from Colorado on that point whether other persons in the same situation as those who have been paying taxes into the fund, and who are covered under the amendment the committee adopted, would be deprived hereafter of qualifying to pay the taxes and be taken in under the system and on the same basis as those who are already in?

Mr. MILLIKIN. The same rule would apply to everyone. The joint resolution does not set up any discrimination against the type of persons the Senator from Kentucky is speaking of.

Mr. BARKLEY. Those who are in this category, who have already paid in, would not be turned out, but it would bar others in the same category who have not paid taxes from qualifying and paying taxes and coming into the system?

Mr. MILLIKIN. That is correct, because, under the theory of the joint resolution, they are not employees.

Mr. BARKLEY. They would be just as much employees in the Senator's theory of the word, as those who are in the categories now of having paid the taxes, who, according to the interpretation, would not be employees, but because they have come in and are paying the taxes are kept in?

Mr. MILLIKIN. We put that provision in the joint resolution as a practical measure so as not to do any injustice to people who have already changed their positions in their reliance on coverage and who are paying for it. That was our theory.

Mr. MURRAY. At any rate, these organizations I have referred to feel that they are entitled to come in under the act, and whether or not they have already qualified seems to me not to be important. If the joint resolution as it is now worded would prevent them from qualifying later, it seems to me it would be doing an injustice to these people who might be entitled to qualify.

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

Mr. MURRAY. I yield.

Mr. MILLIKIN. I think that out of that whole category of salesmen the

Senator has referred to, many of them are truly employees, and therefore would be entitled to come in. But those who are not truly employees would be disqualified from coming in, because the present law does not intend that persons other than employees should be in the system.

Mr. MURRAY. Then the question will be whether or not they are employees, and if they are in a vague sort of a position it might be contended that under the joint resolution they are wiped out, and would be precluded from having their rights under the law.

Mr. MILLIKIN. Will the Senator again yield?

Mr. MURRAY. I yield.

Mr. MILLIKIN. Of course some of these cases are difficult to decide. But the decision has to be made, and there is a presumption that when made it will be made right, even though difficult to make.

Mr. MURRAY. Cannot that decision be made without the necessity of the joint resolution? Why is it necessary to have the joint resolution affect these people if the Senator acknowledges now that any one of these salesmen who is really an employee could qualify under the system?

Mr. MILLIKIN. Because, I say respectfully to the Senator, the Treasury Department under its new regulation intends to bring persons into the system who are not truly employees, and that is what we are striving to prevent, because we consider that as a raid on the trust fund which has been built up by 30,000,000 workers.

Mr. MURRAY. The National Council of Salesmen's Organization, Inc., has submitted a brief to the Finance Committee outlining their objection to the resolution. I suppose that brief discusses these questions, and has already been before the committee.

Mr. MILLIKIN. If the Senator will yield I should like to make it very clear that anyone in any of these fields of activity to which the Senator has referred, who can qualify as an employee, is entitled to stay in the system, if he is already in it. He is entitled to get into the system if he is not in it. But if he is an independent contractor or if he is self-employed he is not entitled to come in, because the law does not provide for that.

Mr. MURRAY. The brief to which I have referred declares that the joint resolution "would serve to deny them the social-security coverage which they otherwise would receive."

The National Council of Salesmen's Organizations, Inc., submitted a brief to the Finance Committee outlining their objection to the resolution.

The brief declared that—

> The Gearhart resolution would serve to deny them the social-security coverage which they otherwise would receive.
>
> If that be the purpose or ultimate effect of House Joint Resolution 296, and we believe it is, then the wholesale salesmen of America raise their voices in most vehement objection to this resolution and urge that it not be approved by the Senate committee and not be passed by the Senate.

It declared the resolution would circumvent the Supreme Court decision which interpreted the intent of Congress, in enacting the Social Security Act, to extend coverage to many hitherto not eligible; and these, the council maintained included wholesale salesmen exclusive of independent contractors.

The brief stated that the contributory old-age provisions of the Social Security Act, the Supreme Court has held, should apply to—

> Any person who is dependent as a matter of economic reality upon the business to which he renders service and not upon his own business as an independent contractor.

The council contended that with the exception of independent contractors, wholesale salesmen are employees under the Social Security Act in "every realistic, sound, genuine and practical sense of the word" and expressed the hope not only that the Gearhart resolution would not be passed but ultimately that the Congress, by means of an appropriate amendment, may expressly include wholesale salesmen and thereby remove any question of their rights to the benefits under the act.

The brief concluded with a plea that the Senate committee would give careful consideration to the problem of wholesale salesmen. It said:

> In a peacetime economy he is the key to the business and industrial prosperity in our country. When prosperity is with us he is among the last to share its benefits, yet in those recurrent periods of economic distress he is among the first to suffer. He is in many respects the "forgotten man" of both business and industry.
>
> Is he also to be denied the full benefits and protection afforded by the Social Security Act?

The National Council of Salesmen's Organizations next called a general meeting of all wholesale salesmen's organizations in New York on April 16. The secretary reporting on the meeting said that no circumstance within recent years has so aroused the wholesale salesmen of this country nor had any instance so served to draw them together to work for the welfare of the entire group.

A resolution adopted at the meeting and unanimously declared that—

> Whereas the various associations comprising 30,000 salesmen in various lines of industry in the country are firm in the belief that wholesale salesmen of America should and were intended to be afforded the benefits and protection granted by the Social Security Act; and
>
> Whereas they believe House Joint Resolution 296 may serve to deny social-security coverage to many thousands of wholesale salesmen whose status under the act has been made certain and clear by recent decisions of the United States Supreme Court; and
>
> Whereas we further believe House Joint Resolution 296 will promote further confusion and diversity of interpretation as to the status of wholesale salesmen under the act and with it place those employers who do accept their social responsibility to the wholesale salesman under serious economic disadvantage as against those other employers, who, by legal technicalities or subterfuge, refuse to do so; and
>
> Whereas we believe that in all events, any proposed amendment of the social-security coverage should be deferred until the report of the Senate Advisory Committee on extended social-security coverage has been completed and rendered: Now be it unanimously
>
> *Resolved*, That the National Council of Salesmen's Organization, Inc., be, and it hereby is authorized and directed to oppose passage of House Joint Resolution 296 and apprise members of the Senate Finance Committee and of the Senate of the same; and it is further
>
> *Resolved*, That the undersigned associations continue to remain in session as a body, subject to call by the president of the national council, for the further purpose of such other and further action as may be deemed necessary in order to defeat H. J. Res. 296 and to effectuate a complete and definite inclusion of the wholesale salesmen of America under the Social Security Act.

The resolution is supported by 55 sales organizations and clubs.

Such resolutions, letters, and telegrams have come from other persons affected by House Joint Resolution 296. They have come from individuals in the borderline group of 200,000 journeyman tailors, subcontractors, and contract filling station operators, most of whom are covered under the existing law. They have come from individuals among the 40,000 industrial home workers; the 70,000 house-to-house salesmen, the 10,000 mine lessees, the 36,000 entertainers, and the 17,000 contract loggers—all of whom may have their right to social security credits wiped out or endangered. In addition, other groups who have an interest in the resolution are the thousands of taxicab operators who do not own their own cabs, commercial oil plant operators, and above all, insurance salesmen.

Commercial insurance agents are more aware of the dangers of House Joint Resolution 296 than any other single group with the possible exception of the wholesale salesmen, because they know from their day-to-day work how desirable it is to have protection under old-age and survivors' insurance. The letters and telegrams which they have sent to all branches of the Government show their fear that this Congress will snatch away their retirement protection and the protection their families have in the event of their death. This is protection they have earned and depend upon.

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

Mr. WHERRY. I yield.

Mr. MILLIKIN. I should like to emphasize again that, as to any protection which any of those folks have earned and paid for, they will not be deprived of it. Even if they have not earned and paid for it, but if they are in the system and have reached the age of 65, they will continue to receive benefits. But as to the future the test will be as to whether they are employees. If they are employees, they will be qualified to enter. If they are not employees, they will not be.

In that connection, I should like to suggest that undoubtedly many of these salesmen are employees in the true sense of the word. I presume that some of them would take the status of being self employed, or of independent contractors. But I do not believe that we can generalize and say that all the wholesale salesmen are employees, or that all of

them could be called either self-employed or independent contractors. The facts of the situation must be looked into.

Mr. MURRAY. Of course the facts of each situation must be looked into. These men feel that they are entitled to come in under the Social Security Act. They feel that they may be deprived of that right as a result of the passage of this joint resolution. It seems to me that they are justified in taking that position, because if it leaves them in an uncertain position, where they may be deprived of the right, they certainly should have the law made clear and distinct.

So great is the interest of commercial insurance agents that the National Association of Life Underwriters at its midyear meeting in Louisville, Ky., on March 16 to 19 devoted a large portion of the meeting time to the problem. The association adopted the following strongly worded resolutions:

RESOLUTION BY THE COMMITTEE ON COMPENSATION

This committee recommends to the national council that it suggest to the companies that the independent contractor status be reexamined to the end that, except where the facts indicate an independent contractor relationship, they may consider the advisability of recognizing their agents as employees. (Approved March 17, 1948, as an amendment to committee report.)

MOTION PASSED BY THE NATIONAL COUNCIL

The national council recommends to the board of trustees that, at its meeting on March 19, 1948, it consider favorably the report of the committee on compensation relative to the proposal that the companies be requested to consider the advisability of recognizing their agents as employees, except where the facts indicate an actual independent contractor relationship. (Passed March 19, 1948.)

RESOLUTION OF THE BOARD OF TRUSTEES

Whereas the ordinary commission agents who are members of NALU have repeatedly expressed their desire to enjoy the benefits of the old-age and survivors' insurance section of the Social Security Act; and

Whereas the efforts of this association to secure an amendment to the Social Security Act to extend benefits to all gainfully employed have not been successful and, even if successful, would have applied only to those agents who are actually independent contractors; and

Whereas it appears unlikely that the recently issued amended Treasury regulations will be promulgated in the event the Gearhart resolution (H. J. Res. 296) becomes law, thus leaving our members in a probably less favorable position to secure determination of wage credits by the Social Security Administration; and

Whereas grave problems confront our members with regard to income-tax liability upon the vesting of company contributions to pension plans, most of which plans cannot properly qualify under section 165A so far as ordinary commission agents are concerned: Now, therefore, be it

Resolved, That the board of trustees of NALU respectfully requests the life-insurance companies to consider favorably the advisability of recognizing their ordinary commission agents as employees, except in those instances whe the facts clearly indicate an independent contractor relationship. (Adopted by unanimous vote of board of trustees, March 19, 1948.)

The National Association of Life Underwriters, seeing Congress' quick action to exclude news vendors from the Social Security Act, is putting forth every effort to protect the existing coverage of insurance agents. They, like many others, are aware that if this resolution should become law, the tendency of employers would be to write more and more contracts which would place employees outside of the social-insurance laws.

In my opinion there is absolutely no justification for taking three-quarters of a million people out of the social-security system. Only the wholesale salesmen and the insurance agents are sufficiently organized to take concerted action against the resolution, but every single wage earner who is aware that Congress may wipe out his wage credits is angry. Even the groups that would not be directly affected have regarded House Joint Resolution 296 as another move to undermine our social-security structure. In direct contradiction of the pledges of both the Republican and the Democratic Parties this Congress seems to be following a course which will undermine our social-insurance program. House Joint Resolution 296 must be defeated.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment.

Mr. McFARLAND. Mr. President, on behalf of the Senator from Colorado [Mr. JOHNSON], the Senator from Tennessee [Mr. STEWART], the Senator from Georgia [Mr. RUSSELL], the Senator from Montana [Mr. MURRAY], the Senator from Florida [Mr. PEPPER], the Senator from Pennsylvania [Mr. MYERS], the Senator from Alabama [Mr. SPARKMAN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from West Virginia [Mr. KILGORE], the Senator from North Carolina [Mr. HOEY], the Senator from Florida [Mr. HOLLAND], the Senator from Mississippi [Mr. EASTLAND], the Senator from Washington [Mr. MAGNUSON], the Senator from South Carolina [Mr. MAYBANK], the Senator from Arkansas [Mr. McCLELLAN], the Senator from Idaho [Mr. TAYLOR], the Senator from North Dakota [Mr. LANGER], the Senator from Oregon [Mr. MORSE], the Senator from Texas [Mr. O'DANIEL], the Senator from Indiana [Mr. JENNER], the Senator from Wisconsin [Mr. McCARTHY], the Senator from California [Mr. DOWNEY], and myself, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Arizona, for himself and other Senators, will be stated.

The CHIEF CLERK. At the end of the joint resolution, it is proposed to insert the following new section:

SEC. 3. (a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"(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 October 1, 1948, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy 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 such individual for any month as exceeds $50—

"(A) three-fourths of such expenditure, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 403 (a) of such act, as amended, is amended to read as follows:

"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 October 1, 1948, (1) an amount, which shall be used exclusively as aid to dependent children equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $30, or if there is more than one dependent child in the same home, as exceeds $27 with respect to one such dependent child and $18 with respect to each of the other dependent children—

"(A) three-fourths of such expenditures, not counting so much of any expenditures with respect to any month as exceeds the product of $12 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose."

(c) Section 1003 (a) of such act, as amended, is amended to read as follows:

"(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 October 1, 1948, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $50—

"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator

for the proper and efficient administration of the State plan, which amount 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."

(d) The amendments made by this section shall become effective on October 1, 1948.

Mr. McFARLAND. Mr. President, I should like to explain the amendment.

Mr. RUSSELL. 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:

Aiken	Hatch	Morse
Ball	Hawkes	Murray
Barkley	Hayden	Myers
Bricker	Hickenlooper	O'Conor
Bridges	Hill	O'Daniel
Brooks	Hoey	O'Mahoney
Buck	Holland	Pepper
Butler	Ives	Reed
Byrd	Jenner	Revercomb
Cain	Johnson Colo.	Robertson, Va.
Capehart	Johnston, S. C.	Russell
Capper	Kem	Saltonstall
Chavez	Kilgore	Smith
Connally	Knowland	Sparkman
Cooper	Langer	Stennis
Cordon	Lodge	Taft
Donnell	Lucas	Taylor
Downey	McCarthy	Thomas, Okla.
Dworshak	McClellan	Thye
Eastland	McFarland	Tydings
Ecton	McGrath	Umstead
Ellender	McKellar	Vandenberg
Feazel	McMahon	Watkins
Ferguson	Magnuson	Wherry
Flanders	Malone	White
Fulbright	Martin	Wiley
George	Maybank	Williams
Green	Millikin	Wilson
Gurney	Moore	Young

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

Mr. McFARLAND. Mr. President, the amendment I have proposed on behalf of myself and other Senators, is the same as the one which was submitted by the Senator from Tennessee [Mr. STEWART] for himself and a group of us last March, except the present amendment cuts in half the increases provided for in the Stewart amendment.

Mr. President, 2 years ago the Congress increased the amount of Federal aid for the aged, the blind, and dependent children as follows: The amount of the monthly payments for the aged was increased $5 a month, and the increase was to be accomplished in this manner: Of the first $15, the Federal Government would put up $10 and the State would put up $5; thereafter, the State would match the Federal funds on a 50–50 basis, up to a maximum of $45.

This amendment would change the provisions of that law, in that it would increase the amount to be paid. The Federal Government would put up $15 of the first $20, and thereafter the State and the Federal Government would match each other's payments, on a 50–50 basis, up to a maximum of $50 a month. The same provisions would be made in regard to the amount provided for the blind. The amount provided for dependent children would be increased $3 a month.

Mr. President, 2 years ago, when this matter was up for consideration, it was stated that general consideration would be given to broadening the social-security laws and particularly to increasing the amounts paid to the aged, the blind, and the dependent children. We expected that study to be completed last year, but it has not been completed to this date.

The law which was passed in 1946 was a temporary measure which extended until only December 31, 1947. A year ago we passed a measure extending that date to December 31, 1949, a period of 2 years. In the meantime, Mr. President, the cost of living has continued to soar. The Bureau of Labor Statistics informs me that the cost of living rose 69 percent from the base period—1939–40—to 1946, and that from April 15, 1946, to April 15, 1948, it rose 29.17 percent.

In other words, Mr. President, the cost of living has increased approximately 100 percent since we passed this old-age assistance law. But what have we done about it? We have done nothing, except 2 years ago we increased the amount of Federal assistance $5—a little, measly $5 a month. This was the result of an amendment, proposed by the junior Senator from Arizona, to a House bill.

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

Mr. McFARLAND. I yield.

Mr. PEPPER. Have not there been, during that time, greater pay increases for Federal employees and other beneficiaries, such as veterans; and also have not there been increases in the salaries of Members of Congress?

Mr. McFARLAND. Certainly. I appreciate the Senator's suggestion. There have been increases in the pay of Federal employees. There have been increases in the salaries of the Members of Congress. There have been increases for practically everyone except the aged, the blind, and the dependent children. They are the forgotten people.

Mr. President, this is a temporary measure. We do not propose by this amendment to change the effective terminal date of December 31, 1949; and I am hopeful that in the meantime the study, which the distinguished Senator from Colorado said was being made of the social security law, will be completed, and that these aged and blind persons and the dependent children may have what they so richly deserve. We have voted aid to practically everyone in the world except the aged, the blind, and the dependent children. I trust and hope, Mr. President, the distinguished chairman of the committee will accept the amendment. It is only a temporary proposition.

I know someone will probably ask what it is going to cost the United States Government. I have obtained that information. As of February 1, 1948, there were 81,750 blind persons in the United States receiving assistance; of the aged there were 2,340,862; and of dependent children, 1,096,609. That would represent a total monthly cost of $15,402,887, or a total annual increase because of this amendment of $184,834,644.

Surely, Mr. President, when we can afford to vote money for everything else, we can afford to pay that sum in order to take care of the old people, the blind, and the dependent children in our own country.

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

Mr. McFARLAND. I yield.

Mr. EASTLAND. Is it not true that we are now voting to spend several hundred million dollars a year in order to underwrite the deficit of Great Britain?

Mr. McFARLAND. That is correct.

Mr. EASTLAND. If we are doing that, what possible argument could there be against giving bread and the other necessities of life to the aged people of this country?

Mr. McFARLAND. I thank the distinguished Senator from Mississippi, but he will have to ask someone other than the junior Senator from Arizona, because I do not think there is any argument against it.

Mr. EASTLAND. Mr. President, if the Senator will yield further, under the amendment the Federal Government would put up 75 percent of the first $20, would it not?

Mr. McFARLAND. That is correct.

Mr. EASTLAND. As the law stands now, the Federal Government puts up two-thirds of the first $15, does it not?

Mr. McFARLAND. That is correct.

Mr. EASTLAND. Mr. President, I think the amendment would tend to correct a great injustice. It is a monstrous proposition that an old man in the State of New York may receive more money from the National Government than an old man in the State of Mississippi or in some other State. It is a monstrous proposition that the poorer States are penalized because there is poverty in those States. The point should be made that the Federal Government should pay the aged of every State the same amount of money from the Federal Treasury. While the amendment does not correct that situation it is certainly a step in the right direction, and I think it should be adopted.

Mr. McFARLAND. I agree with the Senator. I have previously stated on the floor of the Senate that I feel that old-age assistance and assistance to the blind and to dependent children should be paid entirely by the Federal Government in order that equal amounts would be received in every State, and in order that the aged might travel and reside wherever they desire. If they had relatives in another State and they could live there cheaper, they could move. But under the present law they cannot. Another reason is that as people approach an age when they are going to have to retire, when they know they will no longer be employed, they move to the State furnishing the greatest benefit. That places an undue burden upon the States giving proper aid to the aged.

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

Mr. McFARLAND. I am glad to yield.

Mr. LANGER. Does the Senator feel that $50 a month is adequate for an aged person?

Mr. McFARLAND. No; the Senator from Arizona does not feel that $50 a month is adequate, but this measure would provide a maximum of $30 to be paid by the Federal Government. I am hopeful the States would match that $30, making it $60. The increase proposed by

the previous amendment, in which the Senator from Arizona was joined by others of his colleagues, has by the present amendment been reduced from $10 to $5, not because the latter figure is deemed adequate but because of the dire need for an increase; and it is thought that there is a considerably greater chance for the adoption of the $5 increase, which is better than none at all. We have come almost to the end of this session, and there has been no increase. I would rather have $5 than nothing; I would rather have half a loaf for these people than none.

Mr. LANGER. Mr. President, will the Senator yield further?

Mr. McFARLAND. I yield.

Mr. LANGER. The Senator is making exactly the same argument that was made last July when the amount was increased $5. On that occasion the salaries of Representatives and Senators were increased. Both the distinguished Senator from Georgia and the Senator from Michigan rose and stated they thought the increase was not sufficient, but they wanted to make a study. The Senator will remember they were put at the head of the joint committee. Since that time the cost of living has risen very greatly.

At that time I offered an amendment fixing the amount at $100. The amendment was voted down. I still think the 4-year amendment does not go far enough. I think it should go very much further than it does.

Mr. McFARLAND. I agree with the Senator, and that is the reason I have not tried to make the increase proposed by the amendment become a permanent law. I am hopeful that a general study will be made and that a report will come from the committee, increasing the benefits much more than the amount now proposed, but I feel that such amount is the least we could possibly provide by way of increase until more permanent benefits become feasible. As I stated—probably the Senator did not hear me—the cost of living has increased approximately 100 percent since the law was originally passed. The Federal Government has only increased the amount it is giving these individuals by $5 a month.

Mr. President, I think Members of the Senate are familiar with the necessity for this law and for the increase.

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

Mr. McFARLAND. I yield.

Mr. EASTLAND. Is it not true that the beneficiaries of the system comprise the only great group in this country whose standard of living is actually lower today than before the war?

Mr. McFARLAND. That is correct.

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

Mr. McFARLAND. I yield.

Mr. TYDINGS. Has the Senator statistics to show that with the present tax, as the rate is now fixed, there is available sufficient money to pay the increase and still leave a surplus in the Treasury?

Mr. McFARLAND. I think that is true, but I do not have exact figures.

Mr. TYDINGS. So that the Senator may understand my question, if the rate remains frozen as it is, to what extent will that rate furnish the money to pay the increase for which the Senator asks? Will it be sufficient? My information is it will.

Mr. McFARLAND. I understand it will. I understand there is sufficient money now and that there will be for some time to come.

Mr. President, I do not want to take up too much of the time of the Senate in discussing the amendment. I believe the Senate is well informed as to the importance of the amendment. I am hopeful that the Senate will adopt this amendment. It is, as has been stated, the least we should do. We should not try to save money at the expense of our own flesh and blood who are in need. Certainly the Congress of the United States cannot afford to turn its back on needy people at this time, when we have voted billions of dollars for other countries, and particularly at a time, as suggested by the distinguished Senator from Maryland [Mr. TYDINGS] when there is money in the Treasury to meet the increase.

Mr. PEPPER. Mr. President, in case this debate should not be concluded this afternoon, I certainly should appreciate it, and I dare say there are other Senators who share my sentiments, if the able chairman of the Finance Committee would consider and advise us of his reaction to a proposal tomorrow, if the matter should go over, that the maximum figure be $75 a month. That is, in case the States wish to raise the amount, the Federal Government would match the States, so that the total amount, from Federal and State contributions, upon the ratio suggested in the amendment, might be $75 a month. I wanted to give notice to the chairman of the Finance Committee, and request that he give consideration to that proposal, because it may be brought up tomorrow.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Arizona [Mr. McFARLAND] on behalf of himself and other Senators.

Mr. PEPPER. Mr. President, I had understood that there might be a possibility of the joint resolution going over until tomorrow. Is it desired to dispose of it at this time?

Mr. WHERRY. Mr. President, it is evident that we cannot dispose of this joint resolution today, unless the Senators desire to hold a night session. I said this morning that we would not have a night session unless it should become necessary. The chairman of the Armed Services Committee has been very cooperative in permitting us to displace the selective-service bill to take up the joint resolution which the Senate is now considering. I do not want any longer to impose upon the chairman of the Armed Services Committee. I feel, however, that inasmuch as we had a session last night which lasted until 11:30, and many of the Members are tired today, possibly we could expedite the consideration of the joint resolution and come to a vote on it tomorrow through a unanimous-consent agreement, if every Senator is in a receptive mood. It is my intention, if it is agreeable to the Members of the Senate, to move that when the Senate takes a recess it be until tomorrow at 11 o'clock a. m. I am wondering if we could not vote on the amendment which is now pending, on all amendments to the joint resolution, and on the joint resolution itself at 1 o'clock tomorrow afternoon, dividing the time equally between 11 o'clock and 1 o'clock. I make such a unanimous-consent request. If it is desired to modify it, I shall be glad to listen to any suggestions. I suggest that the hour set at 1 o'clock and that the time be divided equally between the proponents and the opponents of the joint resolution from the time the Senate convenes tomorrow until 1 o'clock p. m.

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

Mr. WHERRY. I yield.

Mr. BARKLEY. Mr. President, I appreciate the desire of the Senator from Nebraska and other Senators to expedite business. I want to cooperate. I realize the embarrassment which has been caused the chairman of the Armed Services Committee. It is obvious that we cannot finish today without running very late. I think, if we meet at 11 o'clock, have 2 hours' debate, and vote at 1 o'clock on the joint resolution and all amendments, every Member will be accommodated. The Senator from Arizona [Mr. McFARLAND] has indicated his agreement, as has the Senator from Florida [Mr. PEPPER].

Mr. McFARLAND. Mr. President, will the Senator yield.

Mr. WHERRY. I yield.

Mr. McFARLAND. Some Senators would like to have the hour fixed at 2 o'clock.

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

Mr. WHERRY. I yield.

Mr. PEPPER. I do not know that there is much difference between fixing the hour at 1 o'clock or at 2 o'clock. The Senator from Nebraska suggested voting on the resolution itself, as well as on all amendments. If the proposal to which I referred is included, it is doubtful that the entire matter can be disposed of by 2 o'clock. I shall be satisfied to have it debated until 2 o'clock. If the other Members are agreeable to voting earlier, that would also be agreeable.

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

Mr. WHERRY. I yield to the distinguished Senator from Colorado.

Mr. MILLIKIN. I wonder if I might inquire whether any other amendments will be offered to the resolution tomorrow.

Mr. LANGER. I shall offer one.

Mr. REVERCOMB. It is possible that there will be other amendments.

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

Mr. WHERRY. I yield.

Mr. TYDINGS. Mr. President, I suggest the hour of 1:30 p. m.

Mr. WHERRY. I should like to inquire of the distinguished Senator from South Dakota [Mr. GURNEY] if he is agreeable to the hour of 2 o'clock.

Mr. GURNEY. Mr. President, at the time we were requested to delay action on the selective-service bill it was said that this joint resolution might be passed

within an hour, that there were a few appropriation bills to be passed, and that we would return to the consideration of the selective-service bill in the middle of the afternoon. We now come to a point where we talk about the middle of tomorrow afternoon. Then we might as well recess over the week-end. I am very reluctant even to agree to the hour of 1 o'clock for a vote. We might as well agree not to return to the consideration of the selective-service legislation until next week. I am sure we all agree that the selective-service legislation is of paramount importance. If there are only a few more amendments to the pending joint resolution why not remain in session tonight and finish them? I am very reluctant to agree to the request. I am certainly reluctant to agree to the hour of 2 o'clock.

Mr. WHERRY. The Senator comes from a section of the country where everyone cooperates. I suggest that the hour be fixed at 1:30. By the time a quorum is called there will be 2 hours in which to debate.

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

Mr. WHERRY. I yield to the Senator from West Virginia.

Mr. REVERCOMB. Does the Senator's request preclude additional amendments?

Mr. WHERRY. I suggested that the Senate vote on all amendments and on the bill itself. We will start to vote at 1:30 p. m. Amendments can be offered at any time. We can remain here tonight for a time, if necessary, to receive any amendments which may be offered. I should like to have the request agreed to. It meets the desires of the Senator from West Virginia [Mr. REVERCOMB] and the desires of the Senator from North Dakota [Mr. LANGER]. The only question is with regard to fixing the time at 1:30.

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

Mr. WHERRY. I yield to the Senator from Arkansas.

Mr. McCLELLAN. Reserving the right to object, will the Senator modify his unanimous consent request to require that any amendments offered be germane to the joint resolution?

Mr. WHERRY. If it is agreeable, I do not know why I should not modify it in that way. I see what the Senator means. I modify the unanimous consent request to include provision that the amendments which may be offered be germane to the subject matter of the joint resolution, and that a vote be taken at the hour of 1:30 o'clock p. m.

Mr. LODGE. Mr. President, may the unanimous consent request be stated for the information of those who were out of the Chamber at the time it was suggested?

The PRESIDING OFFICER. The rule requires a quorum call before such a unanimous consent request can be agreed to. In view of the recent quorum call, is there objection to waiving the quorum call? The Chair hears none.

Mr. LODGE. Mr. President, I was on my feet. I should like to have the request stated, because several of us came into the Chamber after the request was submitted and do not know what it is about. It may be that I shall not ask for a quorum call, but I ask that the unanimous consent request be read by the clerk.

The PRESIDING OFFICER. The clerk does not have the request at the desk.

Mr. WHERRY. Mr. President, I will restate the proposed unanimous consent agreement. It is that the Senate reconvene tomorrow at 11 o'clock a. m., and that the vote be had on the pending amendment and on all amendments which may be offered to the joint resolution——

Mr. LODGE. Which joint resolution?

Mr. WHERRY. House Joint Resolution 296, relating to social security benefits; that a final vote be had at 1:30 o'clock p. m., and that the time be divided equally, from 11 o'clock a. m. when the Senate meets until 1:30 o'clock p. m., between the proponents and opponents of the joint resolution, and that all amendments which are offered shall be germane to the subject matter of the joint resolution.

Mr. BARKLEY. I suggest to the Senator, inasmuch as the amendment which is now pending, and other amendments to the joint resolution, may be disposed of before 1:30 o'clock, that the Senator designate who is to control the time for and against the joint resolution, and not necessarily for and against an amendment.

Mr. WHERRY. I certainly thought that would be clear, that the time for the proponents of the joint resolution be in the control of the distinguished Senator from Colorado [Mr. MILLIKIN] and the time of the opponents in charge of the Senator from Arizona [Mr. McFARLAND].

Mr. BARKLEY. I take it that if the amendment of the Senator from Arizona shall be agreed to, he will not be opposed to the joint resolution.

Mr. WHERRY. Would the minority leader like to take charge for the opponents?

Mr. BARKLEY. No.

Mr. WHERRY. Would some other Senator like to take charge of the time for the opponents?

Mr. McFARLAND. I think we can arrange that.

Mr. WHERRY. Very well.

Mr. McFARLAND. I wish to make one statement. I have no objection to the unanimous-consent request, but some of my distinguished friends have complained to me that I did not give them opportunity to have their names appear on the amendment as sponsors. Senators who were included as sponsors were those who came around my desk. I will welcome any Senator who wishes to put his name on the amendment. And if there is any Senator who desires to join us, we will be glad to have him do so.

The PRESIDING OFFICER. Is there objection to waiving the quorum call for the consideration of the unanimous-consent request? The Chair hears none, and the quorum call is waived. Is there objection to the unanimous-consent request submitted by the Senator from Nebraska [Mr. WHERRY]?

Mr. O'MAHONEY. Mr. President, reserving the right to object, I desire to call attention to the fact that the discussion which has just taken place illustrates the utter futility of attempting to drive through the Congress of the United States important legislation by the 19th of June. This will require the Members of the Senate to neglect many of the important measures to be considered.

I wish to point out that the subcommittee of the Committee on Appropriations, having before it the Interior Department appropriation bill, has been called in session for 7:30 o'clock this evening. There will be a meeting of the subcommittee of the Committee on Interstate Commerce tomorrow morning at 9 o'clock to conduct additional hearings on a resolution to provide for an inquiry into the basing point system.

The appropriation bills, the pending joint resolution, the draft bill, and many other bills which are on the calendar, all demand the very best attention of every Member of the Senate. But if we persist in going through night sessions of the Senate and morning and night sessions of committees, just for the purpose of adjourning the present session of the Congress by the 19th of June, the country should know that it will be physically impossible for the Members of the Senate to give adequate attention to the measures which are before it.

Everyone who has any experience at all in a legislative body knows that it is under such circumstances that riders and jokers are put through on measures. I submit that there are very few Members of the Senate here this evening.

Mr. HATCH. A parliamentary inquiry. Who has the floor?

Mr. WHERRY. I have the floor, and I yielded to the Senator from Wyoming.

Mr. O'MAHONEY. Mr. President, I have the floor. If I do not have the floor, I shall take my seat and wait until I have it.

Mr. WHERRY. Very well. I yield the floor to the distinguished Senator from Wyoming.

Mr. O'MAHONEY. Mr. President, I was recognized in my own right.

The PRESIDING OFFICER. The Senator from Wyoming was recognized.

Mr. MAYBANK. Mr. President, I may say to the Senator from Wyoming that I am certain there is no rider or joker in the amendment which is now pending to the joint resolution.

Mr. O'MAHONEY. The Senator is utterly mistaken if he thinks I mean any such implication. As a matter of fact, if I understand what the amendment is, I shall be very glad to support it.

Mr. MAYBANK. It should be supported.

Mr. O'MAHONEY. Let no one misunderstand that.

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

Mr. O'MAHONEY. I yield to the Senator from Maryland.

Mr. TYDINGS. I should like to make a constructive suggestion in line with what the Senator from Wyoming has said, that is, for the Republican Party to

call off its national convention, and leave the country in good Democratic hands. [Laughter.]

Mr. O'MAHONEY. I think the Senator from Maryland has made an eminently good suggestion.

Mr. MAYBANK. I wish to repeat that I am certain that there is no rider or joker in the amendment. It is a measure of justice.

Mr. O'MAHONEY. Of course; I was not speaking about any amendment. I came upon the floor from a meeting of the Committee on Appropriations. I have not the slightest idea what the particular amendment is, and I submit that my position is no different from that of most of the other Members of the Senate. They have had no opportunity either to read the report which is before us, read the joint resolution which is before us, or read the amendment which is before us. The result is going to be that we will be passing legislation without the due consideration which it should have at the hands of the Members of this body.

Mr. HATCH. Mr. President——

Mr. O'MAHONEY. I yield to the Senator from New Mexico.

Mr. HATCH. I am standing now in an effort to get the floor in my own right.

Mr. WHERRY rose.

Mr. O'MAHONEY. Was the Senator from Nebraska about to ask a question?

Mr. WHERRY. No. I should like to have action on my unanimous-consent request. Did the Senator object?

Mr. O'MAHONEY. No, but I reserved the right to object.

Mr. WHERRY. I hope the Senator will not object. I am quite as anxious to get to the committee meeting as he is.

Mr. O'MAHONEY. The Senator is the chairman of the subcommittee.

Mr. WHERRY. That is why I wanted to have the joint resolution go over until tomorrow, and have a final vote tomorrow rather than tonight, because if the Senate continues in session, it will be impossible for me to attend the meeting of the subcommittee of the Committee on Appropriations considering the Interior Department appropriation bill, which covers reclamation, in which I am intensely interested.

Mr. O'MAHONEY. I know the Senator is intensely interested in it, and I am also, so I shall be present, too. I am merely pointing out that neither the Senator from Nebraska nor the Senator from Wyoming can distribute himself into two or three places at the same time, but that is what is being required of the Members of the Senate by the procedure which is being forced upon us in order that we may drive through certain legislation by the 19th of June.

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

Mr. O'MAHONEY. I yield.

Mr. WHERRY. I am trying to bring about an arrangement whereby we can attend the session of the Committee on Appropriations tonight, then return to the Senate tomorrow afternoon and vote upon the joint resolution.

Mr. O'MAHONEY. I shall not object.

Mr. WHERRY. I appreciate that very much.

Mr. O'MAHONEY. I am taking this time in order to make it clear to all who may listen that we are doing an improper thing. We are depriving ourselves, as Members of this body, of the opportunity to study important legislative proposals, and, more than that, we are depriving our constituents of the right which they have that Members of this body should have the time to consider the bills that are presented before us.

Mr. CAPEHART. Mr. President, I wish I could agree with the able Senator from Wyoming, but in my humble opinion the best interests of the Nation would be served and will be served by our adjourning on June 19. I think we will save the taxpayers a great deal of money by doing so. I think the country will be much better off by our adjourning than by our remaining here and continuing to spend literally hundreds of millions of dollars, and passing a great deal of legislation which possibly is not needed, which could well remain on the docket until next year. I am thoroughly convinced that the best interests of the Nation lie in Congress adjourning on June 19.

Mr. HATCH. Mr. President, I call attention to one situation which has been developed by the submission of the amendment by the Senator from Arizona [Mr. McFARLAND] for himself and other Senators. I do not suppose there is a single Member of the Senate who would oppose what is sought to be achieved by the amendment offered by the Senator from Arizona. Unfortunately, the situation with which we are confronted in considering an amendment of this nature may present complications, and I am sure do present complications, which were not dreamed of by the Senator from Arizona at the time he offered the amendment.

Probably the Senate is going to adopt the pending joint resolution, but there are many serious objections to it. One of those objections is that the adoption of the joint resolution will have the effect of removing from the social-security rolls several hundred thousands of persons now receiving social-security benefits.

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

Mr. HATCH. I yield.

Mr. MILLIKIN. I suggest that the proposed joint resolution will not remove a single person who is receiving social-security benefits under the system; not one.

Mr. HATCH. I understood the Senator's argument, and I wish to repeat, that what I said was that it was seriously contended it would have that effect.

Mr. MILLIKIN. Well, the amendment which is in the bill, which can be read by all Senators, makes it very clear that not a single person who is receiving benefits will be deprived of them, even if he has a free ride in the system, has not paid a penny of taxes to get there.

Mr. HATCH. Then I will also add, in addition to what I have said, that it is seriously argued and contended that if the joint resolution is passed, it will prevent several hundred thousands of persons from receiving social-security benefits who would receive them if the contemplated regulations are permitted to go into effect.

Mr. MILLIKIN. Mr. President, will the Senator again yield?

Mr. HATCH. I yield

Mr. MILLIKIN. The passage of the joint resolution will result in keeping several hundred thousand people from qualifying in the future for social-security benefits until the Congress, by act of Congress, qualifies them, and who at the present time are not entitled to qualify for social security under the laws which exist.

Mr. HATCH. Mr. President, I am not arguing the merits of the proposal now, but I do insist that what I said was exactly correct, that it is seriously believed and argued that the joint resolution will have the effect I said it would have.

Mr. President, the point I rose to make is that if the amendment of the Senator from Arizona is adopted it will absolutely assure the passage of the joint resolution. The joint resolution, as thus amended, giving necessary assistance to the aged, would make possible, if the construction placed upon it is correct, the complete elimination or prevention of several hundred thousands from receiving social-security benefits.

The point I am driving at is the inadvisability of legislating in this manner, of accomplishing certain results, desirable as they may be, but actually destroying benefits to many thousands of others.

Mr. President, I will not be here tomorrow. It is necessary that I leave, and I will not be permitted to vote on this matter. But if I were present, for the reasons I have stated—and I want to make my record on the matter now—I would vote against the amendment of the Senator from Arizona, even as I would also vote against the joint resolution.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Nebraska [Mr. WHERRY]? The Chair hears none, and the agreement is entered into.

The unanimous-consent agreement, as reduced to writing, is as follows:

Ordered, That on the calendar day of Friday, June 4, 1948, at the hour of 1:30 o'clock p. m., the Senate proceed to vote, without further debate, upon any amendment that may be pending or that may be proposed to the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits, and upon the final passage of the joint resolution: *Provided*, That no amendment that is not germane to the subject matter shall be received.

Ordered further, That the time between 11 o'clock a. m. and 1:30 o'clock p. m. on said day be equally divided between the proponents and the opponents of the joint resolution and controlled, respectively, by the Senator from Colorado [Mr. MILLIKIN] and the Senator from Arizona [Mr. McFARLAND].

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Arizona [Mr. McFARLAND], for himself and other Senators.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Chair will have to state that all debate is out of order, under the unanimous-consent agreement which was entered into when the Senate recessed yesterday. The time from 11 until 1:30 o'clock is to be divided between the proponents and opponents of the pending joint resolution, to be controlled by the Senator from Colorado [Mr. MILLIKIN] and the Senator from Arizona [Mr. MCFARLAND]. Senators cannot be recognized except by release of time from one or the other of the Senators.

MAINTENANCE OF STATUS QUO OF EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS

The Senate resumed the consideration of the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Arizona [Mr. MCFARLAND] for himself and other Senators to House Joint Resolution 296, and, as previously indicated, the Senate is proceeding under the unanimous-consent agreement which limits debate.

Mr. WHERRY. I am about to ask for a quorum, the time to be charged equally to the proponents and opponents of the pending measure, if that is satisfactory

to the distinguished Senator from Arizona and the distinguished Senator from Colorado.

Mr. McFARLAND. It is satisfactory to the Senator from Arizona.

The PRESIDENT pro tempore. Does the Senator from Colorado agree to a quorum call, half the time to be charged to each side?

Mr. MILLIKIN. The Senator from Colorado agrees.

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

The PRESIDENT pro tempore. The clerk will call the roll, the time to be divided equally.

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

Aiken	Gurney	O'Conor
Baldwin	Hayden	O'Daniel
Ball	Hickenlooper	O'Mahoney
Barkley	Hill	Pepper
Bricker	Hoey	Reed
Bridges	Holland	Revercomb
Brooks	Ives	Robertson, Va.
Butler	Johnston, S. C.	Russell
Byrd	Kem	Saltonstall
Cain	Kilgore	Smith
Capehart	Knowland	Sparkman
Capper	Langer	Stennis
Chavez	Lodge	Stewart
Connally	McCarthy	Taylor
Cooper	McClellan	Thomas, Okla.
Cordon	McFarland	Thomas, Utah
Donnell	McGrath	Thye
Downey	McKellar	Tydings
Dworshak	McMahon	Umstead
Eastland	Magnuson	Vandenberg
Ecton	Malone	Watkins
Ellender	Martin	Wherry
Feazel	Maybank	White
Ferguson	Millikin	Wiley
Flanders	Moore	Williams
Fulbright	Morse	Wilson
George	Murray	Young
Green	Myers	

Mr. WHERRY. I announce that the Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from South Dakota [Mr. BUSHFIELD], the Senator from Indiana [Mr. JENNER], and the Senator from Ohio [Mr. TAFT] are necessarily absent.

The Senator from New Jersey [Mr. HAWKES] and the Senator from Wyoming [Mr. ROBERTSON] are absent on official business.

The Senator from New Hampshire [Mr. TOBEY] is absent by leave of the Senate.

Mr. BARKLEY. I announce that the Senator from New Mexico [Mr. HATCH] is absent by leave of the Senate.

The Senator from Colorado [Mr. JOHNSON] is absent on official business.

The Senator from Illinois [Mr. LUCAS] is absent on public business.

The Senator from Nevada [Mr. McCARRAN] and the Senator from New York [Mr. WAGNER] are necessarily absent.

The PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present.

Mr. McFARLAND. Mr. President, I yield 10 minutes to the Senator from Texas [Mr. O'DANIEL].

The PRESIDENT pro tempore. The Senator from Texas is recognized for 10 minutes.

Mr. O'DANIEL. Mr. President, I am glad that we have the opportunity again in the Senate to give some consideration to increasing the amount of pensions to the senior citizens of this Nation. This is a subject near and dear to my heart and one to which I have given much time, thought, and labor over a period of many years. I am a cosponsor of the amendment offered by the Senator from Arizona [Mr. McFARLAND] and am strongly in favor of the amendment; yet at the same time I should like to see us go much further than this amendment provides. Inasmuch as the debate is limited today on this amendment and the joint resolution which it proposes to amend, we shall not have time to go into a thorough revision of the amendment offered by the Senator from Arizona and other Senators, or to offer a substitute for that amendment which would be more liberal toward our aged citizens. Consequently I shall content myself by lending my support to the amendment as it has been offered.

If there is one group of citizens in our country who have been overlooked and not properly taken care of, it is the pioneer aged citizens who are drawing very meager pensions from the States and from the Federal Government. I receive thousands of letters from old folks in Texas. These letters prove conclusively that their writers are in a very desperate condition. These aged people do not have sufficient food to satisfy their needs. They are unable to obtain the services of a doctor or even to get medicine from the drug store for the ailments which beset many elderly citizens. They are ill-housed.

Most of this condition has been brought about by the increased cost of living. According to statistics given by the Senator from Arizona, the increase in the cost of living is 100 percent or more.

The senior citizens of this Nation have been led to believe that they will be properly cared for by their Federal and State governments. As a consequence, the children of these citizens have taken on other responsibilities and have got out of the habit of taking care of their parents, as once was the case. The senior citizens have been led to believe that they have friends in their State and Federal Governments; but they are now finding out that those two friends, the State government and the Federal Government, are not taking care of them in accord with their actual needs because of the increased cost of living.

Our aged citizens are helpless, and we are responsible for their helplessness insofar as we have undertaken the responsibility of caring for them. Had we not done so, they would have been cared for by other methods, methods by which they were cared for prior to the adoption of the social-security program.

This responsibility is a grave one. We do not give it sufficient consideration in the Senate. It seems that every time a Senator who is deeply interested in the subject wants to give consideration to increasing old-age pensions the time is limited or other Senators claim that the subject is not germane to the bill under consideration. If bills are introduced they fail to get through the committees.

In the meantime, we are very generous not only with the aged persons but with all other classes of people in foreign countries. That is the policy which has been adopted by the Congress. We give billions of dollars to foreign countries. When the Marshall plan was under consideration in the Senate, on March 13, I offered an amendment which would allow an increase to the senior citizens of our own country in exactly the same amount that our Government was giving to Great Britain for the purpose of providing a food subsidy to all the citizens of Great Britain. I produced an article which appeared in the public prints showing that the British Government was issuing a food subsidy which amounted to 70 cents a day to every man, woman, and child in the British Empire. It totaled $21 a month. That was undisputed. Twenty-one dollars a month of our tax dollars went to each individual citizen of Great Britain—not only to the aged citizens, the blind, and the dependent children, but to wealthy citizens. It went to everyone, regardless of his financial status or age, from the day-old babe to the oldest person living.

Inasmuch as we were about to pass that multibillion-dollar bill, designed to deal generously with the citizens of a foreign country with reference to food subsidies, I thought we might at the same time consider augmenting the food bills of our own aged citizens. Therefore I offered the amendment to which I have referred.

The estimate given to me at that time by the Government agency was that there were in the United States 2,297,995 aged pioneer citizens drawing pensions. The estimated cost of my amendment, to give an additional $21 to each of those persons, would have been $600,000,000, which was a very small amount compared to the billions of dollars we were then proposing to give away to foreign countries. It was stated that my amendment was not germane to the then pending measure. It was further stated that my amendment was one which should be given more complete consideration by some committee of the Senate. Although those criticisms of my amendment were made on the floor of the Senate, there was no objection to having a record vote taken, and a yea-and-nay vote was taken on that amendment at that time. Only 13 Senators voted for the amendment. Seventy-three Senators voted against it.

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

Mr. O'DANIEL. I am glad to yield to the Senator from Colorado.

Mr. MILLIKIN. Let me ask what would be the cost of the Senator's substitute.

Mr. O'DANIEL. I am not offering a substitute, Mr. President. I am talking about an amendment previously offered to the Marshall plan.

Mr. MILLIKIN. Is the Senator offering an amendment to the amendment now pending?

Mr. O'DANIEL. The Senator from Texas is not offering this as an amendment, because of the limited time for debate. I should like very much to offer the amendment; but some of the authors of the amendment now pending have suggested that its adoption might be interfered with if I attempted to offer a substitute. Certainly I do not wish to do anything on the floor of the Senate which will interfere with the adoption of

the amendment offered by the Senator from Arizona [Mr. McFARLAND] and other Senators.

The PRESIDENT pro tempore. The time of the Senator from Texas has expired.

Mr. O'DANIEL. Mr. President, let me ask the Senator from Arizona if I may have a few minutes more.

Mr. McFARLAND. I yield to the Senator from Texas whatever additional time he desires.

Mr. O'DANIEL. Mr. President, I am simply discussing the amendment I previously offered, so that all may know that I am in favor of going much further with respect to taking care of these destitute and aged citizens of our country than is proposed to be done under the amendment now pending. But time does not permit me to go further with the matter at this time.

Consequently, I am lending my wholehearted support to the amendment offered by the Senator from Arizona which, as he very ably stated yesterday on the floor of the Senate, is at least half a loaf, and of course it is better to take half a loaf if it is not possible to get a whole loaf.

So I am supporting the amendment, and I trust that all Members of the Senate will realize the need of the aged citizens of our country and will lend their aid to the pending amendment.

The PRESIDENT pro tempore. To whom does the Senator from Arizona yield?

Mr. McFARLAND. Perhaps the Senator from Colorado wishes to yield to some Senator at this point.

The PRESIDENT pro tempore. The Senator from Colorado.

Mr. MILLIKIN. Mr. President, the Senator from Colorado has no Senator to yield to at the present time. He will be very glad if the proponents of the McFarland amendment will move forward with it.

Mr. McFARLAND. Mr. President, the Senator from Arizona is in the same position as the Senator from Colorado. One of the difficulties, of course, in view of the stipulation that a vote shall be had at a definite time, is that it is not always possible to have on the floor of the Senate, Senators who desire to speak.

If any Senator now present would like to speak on the amendment, I shall be glad to yield time to him.

Mr. REVERCOMB. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. REVERCOMB. Under the agreement, as I understand it, beginning at 1:30 all amendments which have been submitted to the joint resolution will be voted upon. Does that mean that if a proposed amendment is sent to the desk—of course, we cannot call it up until the present amendment is disposed of—but if an additional amendment is sent to the desk and is there at 1:30, can it be considered then?

The PRESIDENT pro tempore. The Senator may propose any amendment he desires to propose, and it will be laid down at 1:30, subject only to the limitation that it must be germane.

Mr. WHERRY. Mr. President, if neither of the Senators in charge of the time wishes to use any of the time allotted to them, let me suggest to the distinguished Senator from West Virginia that if he intends to propose an amendment, he might do so now.

The PRESIDENT pro tempore. The Senator from West Virginia could not do so without a release of time to him from one or the other of the two principals.

Mr. REVERCOMB. Mr. President, I do not care to do so at this time.

MAINTENANCE OF STATUS QUO OF EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS

The Senate resumed the consideration of the joint resolution (H. J. Res. 296) to maintain the status quo in respect to certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Mr. REVERCOMB. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from West Virginia?

Mr. MILLIKIN. May I ask for how long, please?

Mr. REVERCOMB. I should like about 15 minutes, if that is possible.

Mr. MILLIKIN. Fifteen minutes?

Mr. REVERCOMB. Or less, if that is transgressing upon the time of the Senator.

Mr. MILLIKIN. Would the Senator attempt to confine himself to 10 minutes?

Mr. REVERCOMB. I should be very happy to do that.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized for 10 minutes.

Mr. REVERCOMB. Mr. President, I invite the attention of the Senator from Colorado, please, to my opening remarks.

On March 4 of this year I introduced in the Senate the bill (S. 2269) to amend title II of the Social Security Act in order to reduce the qualifying age for old-age and survivors' insurance benefits to 60 and broaden the old-age and survivors' insurance system to include benefits on account of disability, which was referred to the Committee on Finance. The bill has a twofold purpose. Its first purpose is to reduce the pension age limit from 65 to 60. The second purpose is to write into the social-security law an entirely new feature which would permit the payment of disability benefits to persons who become disabled at any age.

I can well understand that, as to the second part of the bill, it would require a great deal of study and probably much information, together with recasting of the law. As to the first part, it is quite simple, substituting the figure "60" for "65." So, Mr. President, I want to call to the attention of the Senate this morning certain very pertinent facts with respect to this phase of social security and to the bill which I have introduced, which is now pending before the Senate Finance Committee.

The reserve fund under social security has at this time in excess of $9,500,000,000, I am informed. Seven hundred and two thousand persons are currently receiving old-age benefits. Approximately 880,000 additional persons are eligible, but they have not chosen to accept retirement benefits. A lowering of the age limit to 60 would make an addition of approximately 1,000,000 men and women eligible for old-age benefits.

I should like to address some remarks to the able Senator from Colorado, the chairman of the Finance Committee—we have discussed this subject before upon the floor—with respect to the bill which I introduced, which would lower the age limit from 65 to 60 years. The joint resolution now under consideration proposes to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage. It seems to me that one of the very first subjects which should be considered under this resolution is a change of age limitation. We are finding throughout the country that in many employments men and women are often worn out and become frail before they reach the age of 65. They cannot carry on. The amendment would not require anyone to retire at the age of 65. Those who were blessed with health and strength could continue their employment; but there are many, particularly in industries which are very exacting with respect to physical strength, such as the mining of coal, work in steel mills, and other heavy industries, who find themselves broken in strength before they reach the age of 65. It seems to me that as we carry on this plan to care for the aged—and age is never the fault of any man or woman, and the frailties that accompany it can never be attributed to any wrong on their part—we must, as time progresses, expand the benefits. One of the most definite and fair expansions that I consider to be subject to consideration is that of lowering the age from 65 to 60. Under my proposal, a man or woman would not have to take a pension at the age of 60 years, but it would take care of those who need it.

I should like to ask the Senator from Colorado, Would it not be an entirely proper procedure to amend the resolution which is before the Senate by reducing the age from 65 to 60? What objection could there be?

Mr. MILLIKIN. Mr. President, the Senator from West Virginia and I have had frequent discussions on this subject, because of his great interest in it. I know he is aware that, pursuant to a resolution of the Senate adopted last year, we established a very able advisory council which is reviewing the entire social security system and is making recommendations for improvements. The council has already made a recommendation to lower the retirement age of women to 60 years, but not to lower the retirement age of men. The difficulty—and I say this in a respectful way—the difficulty of a piecemeal approach to the whole problem is that the recommendations which we are receiving from the able council are integrated recommendations, each one having relation to the other. I suggest that that is the way it should be.

The Senate Finance Committee has not taken action on the recommendations of the council, because they have not been completed and because we have not received legislation from the House. If we start to nibble at the subject and make piecemeal approaches to it, we shall lose half the advantage of our comprehensive approach. I do not believe such an approach could be considered as fair to the able council, whose members, without compensation, are leaving their ordinary tasks and giving the Senate and the country the benefit of their great abilities in making a comprehensive survey and integrated recommendations. If I may say so, I am very much interested in the retirement limits which the social-security system should have. It certainly is one of the fundamental questions which must be decided in relation to the whole integrated series of recommendations which we shall receive.

I can say with certainty that this will be a subject of prime importance for the consideration of the Senate Finance Committee in connection with social-security legislation. As a matter of general principle I do not believe we should proceed piecemeal. The council is moving expeditiously toward comprehensive recommendations. Therefore I hope the Senator will exercise a reasonable degree of patience, so that the committee may consider his views along with those of the council and others interested when we come to grapple with a revision of the system on an integrated and comprehensive basis.

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

Mr. MILLIKIN. I have already agreed to yield to the Senator from West Virginia.

Mr. MAYBANK. Mr. President, will the Senator from West Virginia yield to me for the purpose of asking one question?

The PRESIDING OFFICER (Mr. CAIN in the chair). Will the Senator from South Carolina suspend for a moment while the Chair suggests that he has been advised that the time allotted to the Senator from West Virginia has expired.

Mr. MILLIKIN. The Senator from Colorado will yield another 5 minutes to the Senator from West Virginia.

I yield to the Senator from South Carolina, if I have the floor.

Mr. MAYBANK. I wanted to say to the distinguished and most able Senator from Colorado, who is chairman of the Finance Committee, that I understood him to make the suggestion—and if I misunderstood him I want him to correct me—that the pension laws and the social security laws should be amended at some time in the future, and that a committee had been appointed to make a study and to report. Did I correctly understand the Senator to say that he thought the laws should be amended and adjusted? I understand he is against this amendment, but he does believe that justice should be done to many persons to whom injustice is being done today.

Mr. MILLIKIN. Let me say to the distinguished Senator from South Carolina, first, that so far I have not taken any position with reference to the amendment. Secondly, it is my personal belief that the act is in need of revision, indeed, of comprehensive revision. Thirdly, the advisory council has not completed its recommendations. It is in process of sending to the Senate a series of recommendations on a coordinated basis. We consider ourselves very fortunate to have the benefit of the council's advice.

Mr. MAYBANK. Mr. President, I am very grateful for the remarks the Senator from Colorado has made, because they indicate that he feels, as I do, that the law should be adjusted in some manner. I thank the Senator from West Virginia for yielding the floor to me to ask that one question.

Mr. MILLIKIN. I think our experience under the system has been such that now we are in good position to take a look at the whole situation, and recommend some adjustments which should be made.

Mr. SMITH. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. REVERCOMB. Mr. President, I am very much impressed with the remarks of the Senator from Colorado, who advises me of the advisory council which is at work, but I find that the advisory council has acted upon the question of lowering the age limit, and desires to lower the age limit to 60 years, only with respect to women. I cannot see any reasonable basis for such a conclusion. If the age limit is to be lowered, it should be lowered for both men and women, and that is covered by the bill which I have introduced and to which I have referred.

I feel that it is proper to offer an amendment on this subject at this time. Let me say to the able Senator from Colorado that I can understand, with respect to the payments of benefits because of injury at any age, there would be a requirement regarding the subject, because it is entirely in addition to the act, but when it comes to a matter of merely reducing the age limit from 65 to 60, there is no tearing apart of the act, the figures are already available to show who may be affected by it and how many more there will be.

I would accede to the view of the Senator from Colorado insofar as concerns the adoption of any amendment or the passage of any bill at this time dealing with the payment of benefits because of injury or illness at any age, but I am certainly of the view, and particularly so since the advisory council has said that it desires to recommend a lowering of the age limit only as to women from 65 to 60, that now is the time when we should have an opportunity to consider the lowering of the age limit so far as both men and women are concerned.

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

Mr. REVERCOMB. In my time?

Mr. MILLIKIN. I shall be glad to make the additional allowance.

Mr. REVERCOMB. I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. MILLIKIN. The Senate Committee on Finance is taking its assignment in this matter very seriously. I feel that it is a very able committee. It would have its own procedures for weighing this particular question. It would, for example, have the social security authorities before it, and probably have representatives of the advisory council before it. It would seek enlightenment on the question from all available competent sources.

I most respectfully suggest that it may not be sound here on the floor of the Senate, where we do not have the benefit of witnesses, and are operating on limited time, to legislate on these questions which are committed to a responsible committee of the Senate.

Perhaps a very good argument can be made for reducing the age limit so far as men are concerned to 60, but perhaps there is good reason for not doing it. In any event, the advisory council in its preliminary recommendation has suggested that the age limit be lowered to 60 years in the case of women.

Mr. REVERCOMB. Will the Senator yield at that point?

Mr. MILLIKIN. Let me say that that was not an impulsive decision. The council meets from time to time as a full body, with remarkable attendance, and has the constant assistance of a highly trained and specialized staff. There is a presumption, I respectfully suggest, that it knows what it is doing. That is far from saying that the Congress or the Senate Committee on Finance will accept its recommendations, but we certainly would like to have the opportunity to consider them after they have been made, and when we are in position to integrate all the problems which are involved.

Mr. REVERCOMB. Mr. President, let me say to the able Senator from Colorado that it is very apparent that great weight is being given to the advisers and their reports. While this does not preclude the committee from taking a different viewpoint, yet at the same time we have here a report which in my opinion is thoroughly bad in that it does not reduce the age limit as to men from 65 to 60. While I do not want the Senate to act with undue haste, or to take any action upon any legislative subject without fair consideration, I may say that my bill has been before the committee since March 4, and no action has been taken on it. The report of the advisers has been there, I do not know for how long, with this bill asking a reduction of the age limit from 65 to 60.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. REVERCOMB. May I have 2 minutes more?

Mr. MILLIKIN. I yield the Senator 2 minutes more.

Mr. MAYBANK. Mr. Presdent, will the Senator yield?

Mr. REVERCOMB. Just a moment. I have 2 minutes only, and I should like to proceed for the 2 minutes, and then I shall be glad to yield.

I feel very strongly that the time has come for action upon this subject. I do not want action taken that would bar the committee from considering the subject, but, as I have said, it has been before the committee since March in connection with the bill to which I have referred, and the advisor's report is now in, and the advisor's report does not follow the bill. It deprives men of the right of reduction in their age limit. They are the workers in the heavy industries of the country; they are the ones who should have consideration along with the women. My bill covers both, and provides what I think should be done.

I think the Senate should have an opportunity at this time to consider this subject, and I am sending to the desk an amendment, to lie upon the table and to be called up and considered in due time.

The PRESIDING OFFICER. The amendment will be received and will lie on the table.

Mr. MAYBANK. Mr. President, I wish to have the RECORD show the names of the members of the advisory council. I ask unanimous consent that at this point in the RECORD there be printed the names of the members of the advisory council who are going to help the poor people for whom we are pleading.

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

MEMBERSHIP OF THE ADVISORY COUNCIL

Edward R. Stettinius, Jr., rector, University of Virginia; Chairman.

Sumner H. Slichter, Lamont University professor, Harvard University: Associate chairman.

Frank Bane, executive director, Council of State Governments.

J. Douglas Brown, dean of the faculty, Princeton University.

Malcolm Bryan, vice chairman of board, Trust Co. of Georgia.

Nelson H. Cruikshank, director of social-insurance activities, American Federation of Labor.

Mary H. Donlon, chairman, New York State Workmen's Compensation Board.

Adrien J. Falk, president, S & W Fine Foods, Inc.

Marion B. Folsom, treasurer, Eastman Kodak Co.

M. Albert Linton, president, Provident Mutual Life Insurance Co.

John Miller, assistant director, National Planning Association.

William I. Myers, dean, New York State College of Agriculture.

Emil Rieve, president, Textile Workers' Union and vice president, Congress of Industrial Organizations.

Florence R. Sabin, scientist.

S. Abbot Smith, president, Thomas Strahan Co.

Delos Walker, vice president, R. H. Macy & Co.

Ernest C. Young, dean of the graduate school, Purdue University.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McFARLAND. I yield to the senior Senator from Kentucky such time as he may desire.

Mr. BARKLEY. Mr. President, I shall not take much time, but I do wish to register one or two ideas with regard to the pending legislation.

For many years I have advocated an increase in the pensions paid to the old people of this country, and I have gone so far as to say that in my judgment it should be an exclusive Federal field of operation and of action, that the obligation is a national one, and should be assumed as a national obligation, that the amounts of money drawn by old persons should not depend upon the whim of any State legislature or any State administration, because the amounts they receive, regardless of the fact that the Federal Government is willing to put up more as its share, are determined by the local authorities.

It costs just as much to live in Kentucky as in Massachusetts or in Ohio; it costs just as much to live in Texas as in Indiana or Illinois; yet there is such a diversity in the amounts drawn by equally meritorious people who are charged with the responsibility of living under standards which are approximately the same, that I have reached the conclusion that the only way ever to level the payments off and have a uniform system, depending upon the circumstances of each particular beneficiary, is to make the obligation a Federal one, and the amounts payable out of the Treasury of the United States.

I am satisfied that the States which are now contributing to this fund could use advantageously the money they are now paying for old-age pensions in education and other activities which are purely State functions. Therefore, I do not modify my opinion held for years that the old-age pension system of the country ought to be a national system and that all persons under the same circumstances ought to draw the same amount, instead of depending upon where they live and the action or failure to act on the part of any legislature to appropriate sufficient money to give them a decent amount on which to live.

So believing, Mr. President, and as long as the present system is the law of the land, I have urged an increase. I voted for the $5 additional Federal contribution when that was added to the law a couple of years ago—I have forgotten the date—and I favor the pending amendment and the increase it provides.

But it is extremely unfortunate that in order to provide an increase which is overdue we have got to vote on it as an amendment to a measure which, in my mind, is without justification. In other words, in order to increase the pensions of the old people of the United States now we have got to vote for a bill which will take away from 750,000 persons any opportunity to get on the rolls or draw anything at all. It presents a very embarrassing and very difficult and inconsistent situation.

The whole subject of increased pensions ought to have been reviewed. It ought to have had the benefit of a committee report upon it. It is not for me to say where the fault lies. It has not been given consideration. There are some who contend that we cannot increase the pensions even though there is not a penny of additional tax involved, unless the measure originates in the House of Representatives. I do not adhere to that view myself. The Constitution gives the House of Representatives the right to originate revenue legislation, that is legislation raising revenues, but it does not in my judgment give the House exclusive original jurisdiction to increase pensions for old-age pensioners in this country when no increase in taxes is involved. The amendment does not involve any increase in taxes. The amount is payable out of the Treasury of the United States like all other charges on the Treasury.

Be that as it may, somebody has been grossly negligent in allowing this situation to drift until now the only opportunity to vote for an increase in old-age pensions is on a joint resolution which some of us oppose, and if the amendment should be adopted we are then confronted with the proposition whether we shall vote for a measure which is, from my standpoint, undesirable, in order to get an increase of pensions, something which I have advocated for years.

I am going to vote for the amendment. What I do after that is in the lap of my feeble mind. [Laughter.] I will cross that bridge when I get to it, and I think I am going to get to it. It looks as though I am. When I arrive I shall probably have to decide whether to go across the bridge or balk at the approach.

I cannot vote against the increase since I have for years advocated not only an increase, but have advocated the complete assumption of this obligation by the Government of the United States in order that all our citizens might be treated alike, no matter where they live.

When Congress originally voted a $30 pension to be contributed one-half by the Government of the United States, all of us had an idea that the pension would be $30 a month; that some of the State legislatures would not whittle and whittle down on the pittance they were supposed to contribute up to $15, which would be matched by the Government of the United States. They were not limited to $15. They could go as much beyond that as they wanted to, and some States have gone a considerable distance beyond the $15 that is matched by the Federal Government. So in some States pension laws are fairly liberal, because the legislatures have increased their contribution beyond that which is matched by the Federal Government. But, taking it by and large, there is to me an inexcusable difference, distinction, diversity, and inconsistency in the law as it now exists, and we cannot change it except by action of Congress, unless all the legislatures themselves raise their contributions to an amount sufficient to give to these old people a decent pension.

So much for the pension theory. So much for the amendment. The bill itself, which I opposed in committee, I presume is going to pass, at the very time when the President of the United States and everyone who has made a study of the social security set-up and the provisions of the law are advocating an extension, a broadening of the coverage, rather than a contraction of the coverage.

There have been investigations, there have been reports on the problem of including self-employed persons, and it is conceivable that one who all his life has been self-employed may find himself, when old age approaches, as indigent as those who have been hired by others upon a salary during their entire lives. So, from the standpoint of society, from the standpoint of preventing these aged people from becoming charges upon their relatives or their friends or local institutions, they are just as deserving as those who are employed upon salaries.

It has been suggested that farm labor be included, that domestic employees be included, and that others be included, involving several million persons. I believe that Congress must in the very near future give serious consideration to the extension of coverage under the Social Security System. But at the very time—and this is one of the objections I have to the original House Joint Resolution 296—at the very time when we all recognize that there must be an expansion of the base of coverage under the Social Security Act, we are asked to take away from 750,000 persons who are not now on the rolls but who might come on the rolls, or at least a number of them, the opportunity of being placed on the rolls, and deprive them of the hope of getting on the rolls under the law as it exists now—and why? Because the Supreme Court rendered a decision in which it modified the old common-law rule of employment, and said other factors should be taken into account in determining whether these people are entitled to consideration under the social-security law.

I am opposed to House Joint Resolution 296 and voted in the committee against reporting it. If it is voted on, and it stands alone, I shall vote against the joint resolution again. If the amendment for which I am going to vote, and which I have advocated in principle for years, is added to the joint resolution, I shall be in a situation which the Irishman described during the Russo-Japanese War, when Port Arthur had been besieged for 6 months, and all the reports that came over the wires said that Port Arthur is "in statu quo." Every day the report came that Port Arthur was in statu quo. Finally some newspapermen asked an Irishman what that meant, and he said that from the best he could understand it meant that Port Arthur was in a hell of a fix. [Laughter.] That may be my situation if this amendment is added to the joint resolution. I shall determine that question when I reach it.

But I am opposed to the principle involved in House Joint Resolution 296. I

do not believe that this is any time to narrow the base of our social-security program when everyone is advocating that it be extended and broadened. My votes here today may be a package of inconsistencies, dependent upon what I have to vote on, but I think it is unfortunate that at this particular time we are asked to narrow the base of our social-security program. It is especially unfortunate that we must use a measure denying to American citizens rights to which the Supreme Court has held that they are entitled, or might be entitled, as a vehicle to obtain an increase in pensions to those who are already beneficiaries of this law. The whole situation presents an inconsistency. It presents a serious indictment of the legislative inefficiency with which the entire subject has been treated by the Congress of the United States.

Mr. President, there is nothing further that I could say if I stood here all day. Therefore I yield back the time which I have not used.

Mr. McFARLAND. Mr. President, I yield 5 minutes to the Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Mr. President, I am grateful for an opportunity to associate myself with the thought which the pending amendment brings to the floor of the Senate concerning the subject of social security. I am not one of those who believe that the social-security program is a panacea for all the problems which confront us, including old age; but I am convinced that in considering the future economy and the general welfare of our Nation the Congress could not address itself to a more far-reaching or more important subject than that involving some kind of security for old age.

I am very much interested in what the Senator from Colorado [Mr. MILLIKIN] had to say about the general study which is now in progress. I believe that in these times of plenty and prosperity we shall be derelict and negligent if we do not give careful and complete study to the solution of this far-reaching problem. I believe that our plans for the aged should be placed on a sound basis for the future, and that that is one of the high contributions which we can make and should make.

I believe that this subject is closely related to the employment problem of the future. I have been greatly impressed over the years with the scientific achievements which have brought prolonged life to a great number of our citizens. That is a blessed work; but it brings with it economic problems which can be solved only through a sound plan—not something to bubble like a pot in political campaigns from year to year, but a plan designed on a sound basis.

Generally, I favor the idea of some local contribution. I think that continued State contributions is one of the fundamentals which will have to be included in any sound plan which is to serve in the future. However, I do not believe that this is exclusively a local problem to be solved by the States alone. It has a national aspect. From the national standpoint and in the national interest, the problem will not be met until the contribution of the Federal Government is increased, particularly in view of present prices and present conditions.

I am supporting the pending amendment, not merely because of the small increase for which it provides, but because I believe that it points in the direction of solving the problem on a broad basis, and because I believe that the problem is a part of the national picture. I do not believe that we can solve the problem until the contribution of the Federal Government is increased.

I do not believe that the public dollar has ever reached, or can ever reach, a higher plane of service than when it is devoted to lessening the hardships and the physical daily burdens of life of men and women who have carried their part of the freight in their time, but who now, because of the infirmities of age, cannot quite make the grade alone. It is not a question of sentiment or emotion. It is not a question of a pension. In most cases it is merely a question of simple justice that the aged be given an added lift. They carried their freight in their day, and most of them are willing to carry it now.

I respectfully submit to the sound judgment of the Senate not only the favorable consideration and the adoption of this amendment, but the continuation of the fine studies which are now in progress, and which give promise of leading to a sound, broad base which will serve us well in years to come.

Mr. McFARLAND. Mr. President, I yield 20 minutes to the Senator from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. President, on the brow of the noble marble edifice which houses the Supreme Court of the United States, so near to this Capitol, is inscribed the motto of the judiciary, "Equal justice under law."

What we are seeking here today, Mr. President, is equal justice under law for the deserving citizenry of our country now discriminated against in respect to the matters involved in the pending joint resolution.

We are presented with two immediate issues to which I shall address myself. The first is the McFarland amendment, which attempts to raise, by a mere pittance, the amount of old-age assistance funds to be available to the honorable aged of this country. The second is the joint resolution itself.

I regret very much to feel the necessity of facing the choice described in the remarks of the able minority leader [Mr. BARKLEY]. I shall support the McFarland amendment to raise the Federal contribution for old-age assistance. I shall support the Revercomb amendment, to lower the age of eligibility from 65 to 60 years; and, whatever may be done with respect to the joint resolution by way of amendment, unless all after the enacting clause is stricken out, I shall oppose the joint resolution.

I base that announcement upon what I believe to be sound principle. The joint resolution to which our amendments are offered proposes to reverse, for all practical purposes, three recent decisions of the Supreme Court of the United States. It proposes to arrest the action of the executive branch of the Government in implementing the decisions of the Supreme Court interpreting the law of Congress, which decisions hold that between 500,000 and 750,000 of our citizens are eligible for old-age and survivors insurance benefits.

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

Mr. PEPPER. I yield.

Mr. BARKLEY. Does not the Senator regret the seeming tendency on the part of Congress, every time the Supreme Court renders a decision which some Member of Congress does not think it ought to have rendered, to propose to reverse that decision by an act of Congress?

Mr. PEPPER. I heartily share that sentiment. In case after case Congress has considered itself the final court of appeal to review decisions of the highest court in the land interpreting acts of Congress. I recall the Southeastern Underwriters case. The Supreme Court held that the Southeastern Underwriters were subject to prosecution under the antitrust laws. We were confronted with legislation designed to give them immunity, as distinguished from other business elements which were subject to the operation of the salutary principle of the antitrust laws. Another instance is the antitrust laws as they might affect the fixing of rail rates, and recently we had to deal with the congressional efforts to override the liability of the railroads, as held by the judiciary of this country, to the antitrust laws if they violated them in fact.

Another case—and there are many—was the portal-to-portal case, the Mount Clemens Pottery case, in which the Supreme Court of the United States had laid down in certain decisions regarding the workday, the right of the worker to be paid for what he did. Congress was appealed to; and in the portal-to-portal bill we were expected, of course, to lay down a different standard from that prescribed by the Supreme Court of the United States.

Mr. President, if there is a pitiful appeal that could be made to the Congress of the United States by a section of our population for aid which they never have had, it is the appeal from the elder citizenry of our country. I do not need to dwell upon the service they have rendered the United States or the patriotism with which they have built the greatest democracy upon the face of the earth, this country of ours, which they have fathered and mothered, this country they have built up, which stands as the dividing bulwark for the protection of democracy not only in this hemisphere but in the wide world.

Yet I turn to the table which shows the assistance they have received from the Public Treasury, both State and Federal. I ask unanimous consent that this table be printed in the RECORD at this point, as a part of my remarks.

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

Public assistance: Average assistance payment per recipient, by program and State, March 1939 and March 1948

State	Old-age assistance		Aid to dependent children (per family)		Aid to the blind	
	March 1939	March 1948	March 1939	March 1948	March 1939	March 1948
Total	$19.37	$37.71	$32.21	$65.85	$23.29	$40.63
Alabama	9.39	19.54	12.37	33.17	8.79	22.14
Alaska	27.43	43.27	(1)	31.30	(1)	(1)
Arizona	26.19	47.73	32.48	48.61	24.87	56.56
Arkansas	6.08	18.19	8.14	35.46	6.61	20.99
California	32.47	57.13	42.02	106.35	48.00	72.65
Colorado	27.12	60.57	30.27	79.51	28.18	51.04
Connecticut	26.89	48.79	(1)	99.79	26.57	42.37
Delaware	10.84	25.32	30.60	73.75	(1)	29.97
District of Columbia	25.56	40.09	46.48	76.13	26.65	44.64
Florida	13.83	38.03	25.52	41.97	14.56	39.25
Georgia	8.59	18.50	20.85	36.27	10.79	22.06
Hawaii	12.59	33.33	34.99	84.94	14.78	36.87
Idaho	21.29	41.66	26.52	80.40	21.64	46.20
Illinois	18.83	40.92	(1)	86.94	(1)	42.65
Indiana	16.89	32.18	27.50	49.54	19.51	34.24
Iowa	19.84	42.40	(1)	71.16	23.24	45.93
Kansas	19.47	39.48	29.65	72.39	20.44	42.18
Kentucky	8.68	17.38	(1)	34.36	(1)	18.52
Louisiana	10.42	22.22	21.17	39.95	13.43	27.24
Maine	20.53	36.50	37.60	79.03	23.10	33.60
Maryland	17.47	32.53	31.56	72.39	21.28	35.40
Massachusetts	28.08	55.11	59.66	104.13	22.04	53.19
Michigan	16.83	38.46	40.31	77.83	25.66	41.16
Minnesota	20.60	43.11	35.84	68.74	25.16	50.32
Mississippi	7.13	15.78	(1)	26.33	7.10	24.08
Missouri	18.65	36.38	24.18	46.31	(1)	(1)
Montana	20.55	39.57	28.37	70.96	20.91	41.09
Nebraska	16.64	30.68	24.94	74.01	20.39	45.25
Nevada	26.47	48.57	(1)	(1)	(1)	(1)
New Hampshire	23.44	39.53	39.58	81.25	22.27	41.78
New Jersey	19.60	42.36	29.85	81.76	22.70	44.66
New Mexico	11.50	35.84	20.04	55.19	14.38	39.41
New York	24.47	49.92	48.69	103.40	24.46	55.20
North Carolina	9.54	18.07	15.49	35.61	14.66	29.02
North Dakota	17.60	39.42	32.53	86.62	20.10	41.35
Ohio	22.54	41.73	39.69	71.94	19.87	39.23
Oklahoma	19.86	42.40	14.19	44.15	16.12	42.81
Oregon	21.27	43.58	39.47	99.03	25.34	50.31
Pennsylvania	19.04	35.14	34.99	77.60	(1)	(1)
Rhode Island	18.79	41.59	46.68	78.32	(1)	45.34
South Carolina	7.78	19.81	14.39	25.99	10.14	22.51
South Dakota	19.24	32.07	(1)	45.30	19.17	29.48
Tennessee	13.23	20.35	18.40	44.21	14.65	30.38
Texas	13.96	31.15	(1)	37.34	(1)	34.56
Utah	20.61	46.70	33.62	102.33	25.33	55.45
Vermont	15.00	33.51	28.24	48.05	18.15	37.98
Virginia	9.67	18.44	22.28	41.55	12.88	24.04
Washington	22.14	56.61	29.19	99.07	30.62	68.54
West Virginia	13.90	20.34	21.27	40.86	17.33	23.42
Wisconsin	21.03	37.45	37.82	87.65	22.61	39.37
Wyoming	21.82	49.21	31.16	91.58	28.74	46.30

[1] No Federal-State program.

Mr. PEPPER. Mr. President, I shall refer to only two or three States. My dear native State of Alabama, of which I am so proud, pays only $19.54 a month on an average. Another of the great States of the Union, South Carolina, in the soil of which I am proud that my ancestors were sired, pays only $19.81 a month.

I turn now to the great State of Michigan, one of the great States of the Union and one of the rich States in many respects. The average paid there is only $38.46 a month.

In the great State of Georgia the average is $18.50.

The figures for aid to the blind and for aid to dependent children are comparable.

Mr. MILLIKIN. Mr. President, will the Senator yield to me for a moment?

Mr. PEPPER. I yield.

Mr. MILLIKIN. What does the table show about Colorado, please?

Mr. PEPPER. I am proud that the Senator has given me an opportunity to compliment his State upon what it has done. It leads the Union in this respect; it pays $60.57 on an average. California comes next, with $57.13.

Since we are speaking of pointing with pride, I am glad that the figure for Florida is up to $38.03. I hope it will reach the figure for California and the figure for Colorado.

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

Mr. PEPPER. I yield.

Mr. MAYBANK. I look forward to the day when South Carolina reaches the figures the Senator has mentioned for California and Colorado. I have always worked for that. I worked for it as Governor. The legislature passed whatever legislation was necessary. I only hope we can reach the peak that the State of the distinguished Senator from Colorado has attained for its people. I appreciate what the Senator from Florida has said.

Mr. PEPPER. Mr. President, I am sure the Senator feels that sentiment very deeply. He has always been in the forefront of those struggling to improve the remittances that are made to this segment of our citizenry.

I should also like to have printed at this point in the RECORD, as a part of my remarks, two additional pages giving data as to the average monthly payments for old age and survivors' insurance, civil-service retirement, old-age assistance, veterans, and railroad retirement.

I pause only to say that in the case of old age and survivors' insurance, the average paid to the insured upon retirement is only $24.20 a month.

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

	Number of recipients	Average monthly payment (December 1947)
Old-age and survivors insurance:		
Primary benefit to—		
Insured only	874,724	$24.20
Benefit to insured and wife	269,174	39.60
Insured and 1 child	21,100	38.40
Insured and 2 or more children	16,500	47.70
Insured, wife, and 1 or more children	600	53.70
Survivor benefit to—		
Widow or widower	164,200	20.40
Widow or widower and 1 child	138,300	35.40
Widow or widower and 2 children	117,800	48.80
Widow or widower and 3 or more children	52,100	52.20
Total	1,978,200	(1)

[1] Not available.

	Number of recipients	Average monthly payment (March 1948)
Civil-service retirement	123,300	$75.77
Old-age assistance	2,345,136	37.71
Veterans:		
Disabled	2,324,500	62.44
Survivors	949,000	34.77
Railroad retirement:		
Retired workers	215,300	70.27
Survivors:		
Widows	51,115	29.18
Widowed mothers	8,913	27.02
Children	27,289	16.77
Parents	517	16.40

Mr. PEPPER. Mr. President, it has already been pointed out by the Senator from Arizona that since 1939 the cost of living has increased at least 70 percent. I think the housewife who has to struggle with scarcity as well as with high prices will attest that as a matter of fact the actual increase has been at least 100 percent. Yet all we have done to date, as was pointed out here yesterday, has been to add $5 a month to the Federal contribution to old-age assistance. That does not have to be matched by the States. This amendment proposes to add an additional $5 to the fund, and that would not have to be matched by the several States.

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

Mr. PEPPER. I yield.

Mr. SALTONSTALL. I thank the Senator for yielding to me. In connection with what he has just been saying, I wish to ask a question regarding the financial stability of the old-age and survivors insurance trust fund. I should like to ask the question of the Senator from Colorado, if the Senator from Florida does not object to having me do so.

Mr. PEPPER. I have only 20 minutes' time, but I am always eager to yield to my learned and able friend, the Senator from Massachusetts.

Mr. SALTONSTALL. I thank the Senator.

I should like to ask this question: I have the trust accounts as of June 2, 1948, in the statement of the Treasury Department. It shows receipts in the Federal old-age and survivors trust fund during this year, up to that time, of $1,606,000,000. It shows benefit payments of $465,000,000.

I am informed that that in 1947 there was $1,557,000,000 collected and $466,000,000 paid out, and that at the present time the fund has over $9,600,000,000 in its account.

My question is this: If this $5 additional amount is paid out, it will come out of that trust fund and will increase the payments by approximately $184,000,000 a year, I believe. Is that a correct statement?

Mr. MILLIKIN. I regret to say that it is not a correct statement. The cost of the McFarland amendment will come out of the General Treasury, not out of the trust fund.

Mr. SALTONSTALL. Then the statements which have been made to the effect that this additional payment will come out of the trust fund are incorrect; are they?

Mr. MILLIKIN. They are.

Mr. SALTONSTALL. And this additional payment, as proposed, will have to be appropriated out of the General Treasury, will it?

Mr. MILLIKIN. That is correct.

Mr. SALTONSTALL. Does not the $10 presently contributed by the Federal Government out of the first $15 come out of the trust fund?

Mr. MILLIKIN. The public assistance payments are made out of the General Treasury funds which have to be appropriated.

Mr. PEPPER. Mr. President, the figures which I have show that the average

old-age assistance payments throughout the whole Nation are $37.71 a month. With the present high cost of living, we ask a man or woman 65 years of age or older to subsist on $37.71 a month, as both State and Federal payments to them. Yet we have appropriated $5,300,000,000 for 1 year to save democracy in Europe—and I voted for it. We are appropriating from $12,000,000,000 to $14,000,000,000 a year for national defense, and I am in favor of it. We have appropriated other hundreds of millions and billions of dollars for other worthy purposes throughout this Nation and throughout the world, and I have supported every one of them. But, Mr. President, we have over 9,000,000 of our citizens above 65 years of age today, most of whom are living in squalor and penury and poverty of which the United States Congress should be ashamed.

What I regret is that they are the neglected segment of our citizenry. Instead of following the Biblical injunction, "Honor thy father and thy mother," we have dishonored them with the disregard we have afforded them.

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

Mr. PEPPER. I yield.

Mr. LANGER. Let me call the attention of the distinguished Senator from Florida to the fact that in North Dakota, for example, although the table shows that the average old age recipient is paid $41.35 a month, that is not so at all. Those figures are misleading. Aside from 11 States, when an elderly person applies for a pension, the authorities get a list of everything that person owns. I know of a case, a few years ago, in which a woman had a ring on her finger, but the authorities made her take off the ring and sign it over. If such a person has a life insurance policy of a few hundred dollars, he or she has to sign it over. If such a person has a little piece of land, he or she has to sign it over, no matter how large a mortgage there may be on it. It is manifestly unjust that in the State of North Dakota, for example, an old-age beneficiary must sign over his property while in Minnesota he does not have to do that. Of the money or property signed over, the Federal Government receives one-half and the State keeps one-half.

I should like to suggest, if it would be of interest to the Senator from Florida, that at an appropriate place on page 2 of the amendment, a few words be added providing that an old-age pension beneficiary need not turn over the little property he has when it is found to be needed by him.

Mr. PEPPER. Yes, Mr. President, I am thankful to the able Senator from North Dakota for pointing out the fact to which he has referred and for mentioning the average; $37.71 is the average. The limit is $45 a month, under the present Federal contribution; that is, the Federal Government only puts up $25 as its maximum. Of course the States may supplement it, and a few of them do.

Mr. MAYBANK. Mr. President, will the Senator yield to me?

Mr. PEPPER. I yield to the Senator from South Carolina.

Mr. MAYBANK. The law in South Carolina is the same as that stated by the distinguished Senator from North Dakota. A note must be signed in order to receive a pension.

Mr. PEPPER. Mr. President, the infamous and iniquitous means test is applied. If a family through thrift and sacrifice has saved enough money to own a little home, a humble cottage, and a room is rented in it, that diminishes the amount the family can receive, if they can receive anything at all.

Mr. President, I have not the time to labor this matter further, but I may say that the Social Security Board in giving an estimate as to the minimum cost of living for an aged couple has fixed it at $770.85, or $463.88 for a single aged person in June 1938 and would be about $1,250 and about $800, respectively, in 1948 based on the increase in the cost of living. Yet, Mr. President, 12 times $40 would be but $480. Are they to go to the poorhouse? Are they to subsist upon the charity of neighbors or through dependency on relatives, to make up the remainder of the money required? Or are they to be ignored and neglected in a way we would not treat a faithful old horse, Mr. President, after a lifetime of honorable service?

Mr. President, I am in favor of the suggestion made by the able Senator from North Dakota. As I said I am favorable to lowering the age limit to 60. But we cannot effectively deal with the matter of old-age subsistence and social security here on the floor of the Senate, especially when our amendments can be attached only to a resolution which itself would deprive 500,000 to 700,000 of the other honorable citizenry of this country from eligibility to share in the old-age and survivors insurance plan. But, Mr. President, I do call upon the able chairman of the Finance Committee, I call upon the majority of the Congress, I call upon all our colleagues, and I tender my own service for whatever it may be worth, to meet this problem squarely and fairly.

I am not ashamed to say—in fact, I am proud to say—that I am the author of the Townsend plan bill which would provide $100 a month, it is estimated, to every person in this country 60 years of age and over, and to every totally and permanently disabled person from the receipts of a 3-percent tax on the gross income of every person and every business in the country. There is no means test in my bill. It is available to every eligible person without any stigma of the poor laws. Let us at long last by this or other adequate legislation deal justly with the aged people of America, so we can show the world by example that we believe in democracy and that we practice it here, rather than to be dependent upon the persuasion of our preachments alone.

Mr. President, in the brief moments I have left I address myself to the resolution proper. What does the resolution do? Why, Mr. President, it simply says the social security authorities are forbidden to implement the decisions of the Supreme Court of the United States holding eligible some 500,000 to 750,000 employees of this country who, the Supreme Court said, are eligible to share in the old-age and survivors insurance system. Mr. President, let it be remembered that they contribute to that system. It is not like the old-age assistance program, under which the funds are derived solely from the Federal and State treasuries. They and their employer provide all, or substantially all, the funds under that program.

Mr. President, what the employer contributes is, of course, generally passed on to the public, so that the public at large shares the employer's burden. The employee pays directly. What does he get? If he makes the maximum payments for the maximum length of time that he may be covered under the program, Mr. President, he cannot receive upon retirement, as I recall it, in excess of $80 a month. All this is a means by which he can take cheap insurance, in which his employer, and through his employer, the public, will share, giving him a maximum of $80 a month, if he makes the maximum contribution for the maximum time that he may share in the system.

Mr. President, I have a letter here from one of the dearest friends I have in Florida, Mr. Payne H. Midyette, of Tallahassee.

The PRESIDENT pro tempore. The time of the Senator from Florida has expired.

Mr. McFARLAND. Mr. President, I yield to the Senator from Florida an additional 5 minutes.

The PRESIDENT pro tempore. The Senator from Florida is recognized for five additional minutes.

Mr. PEPPER. I thank the Chair. Hon. Payne H. Midyette, of Tallahassee, Fla., one of the finest and most able citizens of my State, expresses concern that a general insurance agency would be subject to coverage under the Supreme Court decisions and the regulations of the Federal departments, which this resolution would restrain. I am advised by the highest legal counsel in the Treasury that that would not be so. A general insurance agent would not be covered. He is an independent contractor. He deals principal to principal with his principal, Mr. President. But it would cover those who, in terms of fact instead of in accordance with some old technical common-law definition, are employees—his employees, and employees of a company engaged in the insurance business. They also tell me that hardly any, if any at all, of the general fire-insurance agents who do a fire-insurance agency business, representing several different companies, would be covered. I am stating that here upon the floor for the RECORD as coming to me from the tax legislative counsel for the Treasury in response to my special inquiry.

But, Mr. President, what it does is to make the matter of agency a question of fact. We know that in truth and in fact one man may be a principal and the other may be an agent. He may make his subsistence by commissions. He may derive his compensation upon some other basis mutually agreeable and satisfactory. But the question is, Does the relationship of principal and agent in fact exist? If it does, he is an employee

and is eligible to participate in this program.

Mr. President, why should we want to deny these employees the privilege of participating? Why should the employers resist the inclusion of particular employees? A great many of them, I am proud to say, have private insurance and annuity programs. They can supplement the public program. But the employees contribute one-half of the fund. Is it not in the public interest, and is it not to the satisfaction of the employer, as well, that he know that his employee is contributing to his own security in a period of disability or at the time of retirement?

So, Mr. President, the decision of the Supreme Court of the United States was a wise decision; it was a practical decision; at the same time, it was a humane decision. Do not let this Congress arrest the wheels of progress when they are moving forward. Let us not put the dead hand of congressional stricture upon the progress which the Supreme Court has made possible. This is the first time that I have seen a law which has been called on its face a law to maintain the status quo. I think the resolution should be called in statu quo. Humanity is moving forward. I had hoped that this Congress was moving forward. I believe the people are moving forward. I hope, therefore, that this Congress will not allow the restraining shackles of this unjustified prohibition to be put upon the advancing social-security program of the Nation.

Mr. SMITH. Mr. President, will the Senator from Colorado yield for some questions on the subject?

Mr. MILLIKIN. I yield.

Mr. SMITH. I should like to suggest to the Senator from Colorado the quandary in which I find myself with respect to the joint resolution and the pending amendment. I understood from the very able speech made by the Senator yesterday that he in no way is negativing the idea that social-security coverage should be extended so as to cover groups not now covered. He is simply taking the position that under the existing legislation a certain trust fund has been established by those who have contributed to the fund, and that there is no authority, legal or otherwise, by which the fund can be used to cover persons other than those contemplated in the original legislation. Is that correct?

Mr. MILLIKIN. That is entirely correct.

Mr. SMITH. If that be true, I want to go to the further point that, in voting for the joint resolution, I do not want to be put in the position, as the Senator from Florida [Mr. PEPPER] has just suggested, of placing a status quo on any progress in connection with the social-security program. I want to say to the Senator, and I am sure he agrees with me, that we want, in a proper, legislative way, to expand the program so that it will be effective and have legislative authority for whatever may be done in the future. Am I correct in that statement?

Mr. MILLIKIN. The Senator is entirely correct.

Mr. SMITH. Mr. President, I hold in my hand a report to the Senate Committee on Finance from the Advisory Council on Soci. Security. It is dated April 20, 1948, and was submitted to the Senate Committee on Finance by Edward R. Stettinius, Jr., Chairman of the Council which apparently was appointed to advise the Senate Committee on Finance with regard to a legislatively-sound social-security program of expanding benefits. Am I correct in that statement?

Mr. MILLIKIN. The Senator is correct.

Mr. SMITH. I should like to read into the RECORD the names of the members of that advisory council, in order to make clear what I have in mind, namely, that this matter is not being neglected, but is being approached in the most intelligent way in which it can be approached, through a committee composed of persons who are thoroughly familiar with the program.

The members of the advisory council, whose names I want to read into the RECORD, are as follows:

Edward R. Stettinius, Jr., rector, University of Virginia; chairman.

Sumner H. Slichter, Lamont University professor; Harvard University; associate chairman.

Frank Bane, executive director, council of State governments.

J. Douglas Brown, dean of the faculty, Princeton University.

Let me say that I have discussed this matter with Dean Brown, and I appreciate the approach to the subject which he and his group are making. He has made a study of social and labor legislation all his life, and he feels, as the distinguished Senator from Colorado feels, that we must take a sound legislative approach to the problem.

I continue reading the names of the members of the advisory council:

Malcolm Bryan, vice chairman of board, Trust Co. of Georgia.

Nelson H. Cruikshank, director of social-insurance activities, American Federation of Labor.

Mary H. Donlon, chairman, New York State Workmen's Compensation Board.

Adrien J. Falk, president, S & W Fine Foods, Inc.

Marion B. Folsom, treasurer, Eastman Kodak Co.

M. Albert Linton, president, Provident Mutual Life Insurance Co.

John Mill, assistant director, National Planning Association.

William I. Myers, dean, New York State College of Agriculture.

Emil Rieve, president, Textile Workers' Union, and vice president, Congress of Industrial Organizations.

Mr. Rieve, from the standpoint of the labor group, is one of the outstanding authorities on the entire problem, and he is a member of the council which is advising the Senate Finance Committee.

I continue reading the names of the council:

Florence R. Sabin, scientist.

S. Abbot Smith, president, Thomas Strahan Co.

Delos Walker, vice president, R. H. Macy & Co.

Ernest C. Young, dean of the graduate school, Purdue University.

Mr. President, I am bringing this to the attention of the Senate because it seems to me that we should commend the distinguished Senator from Colorado and his committee for making an overall approach to deal with the problem, rather than to do it by piecemeal amendments on the floor of the Senate.

I am supporting the joint resolution, because I believe the Senator from Colorado has properly pointed out the limitations by law with reference to dealing with the present trust fund. We cannot extend the use of that fund beyond our legal authorization under existing statutes.

The Council which has been established to study the subject has a membership which everyone must admit, from reading the names, is widely representative of opinion and ability throughout this great country. The Council will undoubtedly present, in the near future, a program for the expansion of the social-security laws which we can wholeheartedly endorse.

Am I correct in my assumption that that is the purpose of the establishment of the Council, and that is what it is doing, and that we can expect in the reasonably immediate future an orderly program?

Mr. MILLIKIN. I should like to say to the distinguished Senator that that is the precise purpose for which the Council was established. It was created pursuant to the instructions of a bipartisan resolution adopted by the Senate last year. Its personnel was selected without reference to partisanship, but with complete cooperation during the summer between the Senator from Georgia [Mr. GEORGE], the ranking Democratic member of the Senate Finance Committee and its former distinguished chairman, and myself.

Mr. SMITH. Then the Senator will agree with me, will he not, when I say that support of the joint resolution on my part in no way negatives my strong position that I want to see social-security legislation extended to cover those groups not now covered and who should be covered, and that I want to see it done in a sound, legal, legislative way, and not by piecemeal. Is that a correct assumption?

Mr. MILLIKIN. That is my own feeling. The minute we commence to tamper with the trust fund, the minute we commence to breach its integrity by including in it free riders, persons who have no right to its benefits, we take a step which ultimately will destroy it.

Mr. SMITH. I thank the Senator for that additional statement.

Mr. MILLIKIN. If I may make this additional point, the persons we are hurting if we cover into the system individuals who have no right to be there, giving them free rides, as has been proposed, are the 30,000,000 workers who have paid money into the trust fund, who have created the trust fund so that there might be a fund available to make good the benefits which they have purchased.

Mr. SMITH. The implication from that statement is that the order of the Treasury which has been made to extend the use of the fund to persons who have not contributed to it would do the

very thing which the Senator is suggesting. Is that correct?

Mr. MILLIKIN. The proposed regulation of the Treasury would admit from 500,000 to 750,000 persons who, I again suggest, have no legitimate coverage in the present system. It would give them retroactive coverage for 4 years without their having paid a penny for it, and at a cost to the trust fund of $100,000,000. That statement has not been challenged on the floor of the Senate since the debate started, and it was not challenged at the hearings.

Mr. SMITH. I congratulate the Senator from Colorado on the able way in which he has presented that matter. Yesterday I was very much impressed with his presentation, and the purpose of my question was to emphasize what appeared to me to be the perfectly sound and unassailable position the Senator has taken. To cover into the system persons who have no right to be there would be attempting by congressional action to legalize the taking of funds which have been contributed by other people to a general pot to take care of their old-age requirements. Am I correct in that?

Mr. MILLIKIN. It seems to me we would be stultifying the Congress if we made ourselves a party to a procedure of that kind.

Mr. SMITH. Is it an unfair implication, in supporting the pending joint resolution, to say that to provide such coverage now would be holding back the wheels of progress, when we are trying to act in a legal way, through the Advisory Council which has been established to study this matter, formulate a complete program, and provide adequate coverage in the social-security system?

Mr. MILLIKIN. In the short time I have been in the Senate I have never seen such misrepresentation of any subject. There has been an organized campaign of propaganda to give the appearance that we are taking benefits away from people who are entitled to benefits. We are not taking a single benefit away from anyone who is receiving benefits.

Mr. SMITH. That is what I understand.

Mr. MILLIKIN. On the contrary, we are continuing to give benefits, where they have matured, to persons who have paid nothing for them and have no right to be in the system, and we are doing it, as I said yesterday, as an act of governmental grace, to ameliorate the hardship which would result to men who have changed their position in life through an erroneous construction of the act by the Federal Security Agency if they were now to be deprived of the right to benefits they are presently receiving.

Mr. SMITH. A few minutes ago the Senator from Massachusetts called attention to the fact that about a billion dollars plus came into the fund during the last year and four hundred million plus went out, which seemed to indicate that there was a surplus in the fund which might be used for some purpose. As I understand the facts, the accumulations will be needed because the load will be heavier as the years go on, and those who have contributed insurance premiums to the fund will be coming in for their benefits.

Mr. MILLIKIN. The Senator is entirely correct. In other words, that surplus is not a grab bag which is available for irresponsible disposition. The surplus has been built up by 30,000,000 wage earners, who have created it in order to assure the protection of the benefits which they ultimately will receive.

Mr. SMITH. And to take that away now, or impair it, would be a breach of trust, assuming that trust fund has been created under the legislation as originally passed, in order to provide a social-security fund.

Mr. MILLIKIN. I do not know of any type of breach of trust that would be more flagrant.

Mr. SMITH. One more question, and I shall be through. Does the Senator feel that the adoption of the amendment proposed by the Senator from Arizona [Mr. MCFARLAND] and other Senators would violate the principles laid down in the joint resolution, or could we at this time, as funds were made available, increase the old-age pensions provided for?

Mr. MILLIKIN. I am continuing to observe the debate on that question, and I am not quite ready to declare a personal position on it.

Mr. SMITH. I am in the same position. I am not clear as to whether we could not still adopt the amendment, or possibly some modification of it, to take care of the increased cost of living, without violating the principles of the law. I think the Senator is perfectly correct in his position.

Mr. MILLIKIN. I thank the Senator from New Jersey for the very careful clarification he has given this subject this morning.

Mr. SMITH. I thank the Senator from Colorado.

Mr. MILLIKIN. I now yield to the junior Senator from Kentucky.

Mr. COOPER. Mr. President, the Senator from Colorado will remember that I have upon several occasions discussed with him the matter of the revision of the Social Security Act. I have noted in his argument the statement that the act should not be revised piecemeal.

Mr. MILLIKIN. Yes.

Mr. COOPER. Last year, acting upon the belief that the act has heretofore been amended piecemeal and that it should not again be considered in such fashion, I introduced, as the Senator will recall, Senate bill 1355, as a proposed comprehensive revision of the Social Security Act, one provision of which would equalize Federal aid among the States in proportion to the fiscal ability of the States.

Specifically it proposed a new title to the Social Security Act, title XIV, which would revise the present provision with respect to assistance and welfare. I do not wish to detail all the changes which were proposed, and I ask consent to insert in the RECORD at this point a statement of the objectives of the bill, and a copy of the bill itself.

The PRESIDENT pro tempore. Is there objection?

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

First. Federal financial aid would be available not only for the aged, blind, and dependent children as at present, but for all needy persons.

Second. Welfare services for adults, families, and children could be included in the public-welfare program, and child-welfare services could include foster care, temporary institutional care, and services needed to supplement home care.

Third. Federal financial aid would be extended to the States on a basis ranging from 50 to 75 percent of total costs, depending on the relative per capita income of the States.

Fourth. Standards of assistance would be determined by the State on a basis of individual need and resources but in such a way as to assure equitable treatment to persons in similar circumstances throughout the State. Standards of assistance would be left to the States without maximum limitations specified in the Federal act.

Fifth. Persons requiring medical care would be able voluntarily to enter public medical institutions, other than those for tuberculosis or mental illness, without loss of assistance if the institutions met standards established by the State.

Sixth. Welfare agencies would be authorized to make payment for medical care rendered assistance recipients and other needy persons, directly to the individual or institution furnishing such care.

Seventh. Residence requirements and required transfer of property to the State during the lifetime of an assistance recipient would be prohibited.

Eighth. Administration through a single agency at each level of government would be required.

A bill to amend the Social Security Act to enable States to establish more adequate public-welfare programs, and for other purposes.

Be it enacted, etc.—

SEC. 1. This act may be cited as the "Public Welfare Act of 1947."

SEC. 2. Effective July 1, 1947, the Social Security Act, as amended, is amended by adding at the end thereof the following new title:

"TITLE XIV—COMPREHENSIVE PUBLIC WELFARE PROGRAM

"PURPOSE

"SEC. 1401. (a) The Congress finds and declares that a public-welfare program is an essential part of the social-security system in promoting the security and welfare of the people of the United States.

"(b) The purpose of this title is to enable each State, as far as practicable under the conditions in such State, to develop a comprehensive public-welfare program of assistance and welfare services for families, adults, and children; to make assistance available to all needy individuals in the State whose resources are not sufficient to enable them to maintain a minimum standard of economic security, with due recognition given to the special needs of the aged, the blind, the children, and handicapped individuals; and to make welfare services available in order to promote personal well-being and a maximum degree of self-help.

"APPROPRIATION

"SEC. 1402. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1948, and for each fiscal year thereafter, sums sufficient (a) for making payments to each State which has submitted a State public-welfare plan and had it approved by the Federal Security Agency, hereinafter referred to as the Agency; and (b) for expenditure directly by the Agency for the training of personnel for public-welfare work

and for demonstration projects in cooperation with State agencies administering approved public-welfare plans.

"DEFINITIONS

"SEC. 1403. As used in this title—

"(a) the term 'public welfare' means assistance and, where the State plan so provides, welfare services.

"(b) The term 'assistance' means—

"(1) money payments to needy individuals who have attained the age of 18 years and are not living in a public institution except as patients in a medical institution, and, with respect to needy individuals under the age of 18 years, money payments to parents, or to relatives or other individuals assuming responsibility for parental care and support of such children, who maintain a family home for them; provided, that such needy individuals are not patients in an institution for tuberculosis or mental diseases, or in any medical institution following diagnosis of tuberculosis or psychosis; and

"(2) where the State plan so provides, and where not otherwise available, medical services for needy individuals, provided through payments to persons, agencies, or institutions furnishing or procuring such services, but does not include medical services for individuals living in a public institution except as patients in a medical institution, or for patients in an institution for tuberculosis or mental diseases, or in a medical institution following a diagnosis of tuberculosis or psychosis.

"(c) the term 'welfare services' means family and adult welfare services and child welfare services, including (1), with respect to family and adult welfare services, social services designed to help families and individuals to become self-supporting, to meet individual or family social problems, and to make use of community resources and to contribute to community life; and (2) with respect to child welfare services, social services designed to assure the welfare of children and to help them overcome problems resulting from parental neglect or other circumstances likely to result in dependency, neglect, or juvenile delinquency, and care necessary to provide for children without parental care and supervision and children requiring temporary care outside their own homes, such care to be given in foster-family homes, temporary homes, or other facilities needed to supplement home care.

"STATE PUBLIC WELFARE FUNDS

"SEC. 1404. (a) A State public welfare plan must—

"(1) provide for the establishment or designation of (A) a single State agency to administer or to supervise the administration of the plan, and (B) not more than one agency of a local subdivision of the State to administer the plan within such subdivision;

"(2) provide, (A), with respect to assistance, that the plan shall be in effect in all political subdivisions of the State, and if administered by them, be mandatory on them, and (B) with respect to welfare services, for the progressive development of a State-wide program as rapidly as trained personnel can be secured to administer it;

"(3) provide for financial participation by the State in all parts of the State plan, and for such distribution of funds for assistance and its administration as to assure equitable treatment of needy individuals in similar circumstances, wherever they may live in the State;

"(4) provide for the establishment and application through the State of standards necessary to the operation of the plan, including standards directed toward enabling each recipient to secure the essentials of living through assistance and his other income and resources, which standards shall include provision that the State agency shall, in determining need, take into consideration any income and resources of an individual claiming assistance;

"(5) if assistance is administered by categories, provide for a reasonable basis for establishing such categories, such as age or blindness;

"(6) provide that all individuals wishing to make application for assistance shall have opportunity to do so, and that assistance shall be furnished promptly to all eligible individuals;

"(7) provide for granting an opportunity for a fair hearing before the State agency to any individual, whose claim for assistance or welfare services included in the State plan is denied or is not acted upon.

"(8) provide that the assistance and welfare services included in the State plan shall be available without discrimination because of race, creed, or color;

"(9) provide such methods of administration as are found by the Agency to be necessary for the proper and efficient operation of the plan, including (A) methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Agency shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods; and (B) a training program for the personnel necessary to the administration of the plan;

"(10) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

"(11) provide, after July 1, 1951, if the plan includes assistance to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such types of institutions; and

"(12) provide that the State agency shall make such reports, in such form and containing such information, as the Agency may from time to time require, and comply with such provisions as the Agency may from time to time find necessary to assure the correctness and verification of such reports.

"(b) The Federal Security Administrator or head of the appropriate constituent unit or units of the Agency, duly authorized by him to do so, shall approve any public welfare 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 assistance or welfare services (1) any citizenship or residence requirement, (2) any requirement that individuals must accept any other assistance or welfare services under the plan, or (3) any requirement that an applicant or recipient must, during his lifetime, transfer to the State title or control to any property which such individual may own.

"PAYMENTS TO STATES

"SEC. 1405. (a) From the sums appropriated therefor the Secretary of the Treasury shall pay to each State which has an approved public-welfare plan, for each period after June 30, 1947, an amount which shall be used exclusively for carrying out the State plan equal to the Federal percentage for such State, as determined in accordance with section 1405 of the total of the sums expended during such period under the State plan, not counting so much of such total expenditures by the State as are included in any other State plan aided by Federal funds.

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

"(1) The agency shall, prior to the beginning of each period for which a payment is to be made to the State under subsection (a), estimate the amount to be paid to such State for such period 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 period 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 period, and if the sum of such amount and the estimated Federal grant to be paid the State under subsection (a) is less than the total sum of such estimated expenditures, the source from which the difference is expected to be derived, and (B) such other data as to such estimated expenditures and such other investigation as the agency may find necessary.

"(2) The Agency shall then certify to the Secretary of the Treasury the amount so estimated by the Agency, (A) reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior period was greater or less than the amount which should have been paid to the State under subsection (a) for such period; and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Agency, of the net amount recovered during any prior period by the State or any political subdivision thereof under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior period greater or less than the amount estimated by the Agency for such prior period; *Provided:* That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

"(3) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Agency, the amount so certified.

"(4) The period for which estimates and certifications are made under this section shall be a calendar quarter, except that, upon application by a State, the Agency may extend the period for such State to not more than four calendar quarters.

"FEDERAL GRANT PERCENTAGES

"SEC. 1406. (a) The Federal percentage for any State shall not be less than 50 percent and not more than 75 percent. The Federal percentage for the District of Columbia, Alaska, and Hawaii, and for each State whose per capita income is greater than or equal to the per capita income of the continental United States, shall be 50 percent. The Federal percentage for each State, whose per capita income is less than the per capita income of the continental United States, shall be 50 percent plus one-half of the percentage by which the per capita income of the State is below the per capita income of the continental United States, except that such percentage for each such State shall not exceed 75 percent and shall be rounded to the nearest whole percent: *Provided,* That the Federal percentage for Puerto Rico and the Virgin Islands shall be 75 percent.

"(b) The Federal percentage for each State shall be promulgated by the Agency between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall for purposes of this section be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided,* That the Agency shall promulgate such percentages as soon as possible after the enactment of this Act, which promulgation shall be conclusive for the purposes of this sec-

tion for each of the eight quarters in the period beginning July 1, 1947, and ending June 30, 1949.

"OPERATION OF STATE PLANS

"SEC. 1407. In the case of any State public welfare plan which has been approved by the Agency, if the Agency, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

"(a) that the plan has been so changed as to impose any requirement prohibited by section 1404 (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

"(b) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1404 (a) to be included in the plan; the Agency shall notify such State agency that further payments will not be made to the State under such plan or, in its discretion, that further payments will not be made to the State for activities in which there is such failure, until the Agency is satisfied that such prohibited requirement is no longer imposed or 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, or shall limit payment to activities in which there is no such failure."

SEC. 3. Section 1101 (a) (1) of the Social Security Act, as amended, to read as follows:

"(1) The term 'State' includes Alaska, Hawaii, and the District of Columbia, and when used in titles V and XIV of such act, includes Puerto Rico and the Virgin Islands."

SEC. 4. No payment shall be made to a State under title I, IV, or X of the Social Security Act for any period for which funds are made available to such State under title XIV of such Act and for any period thereafter, or under part 3 of title V of such act, for any period for which funds for child welfare services are made available to such State under title XIV of such act; and in any event, for any period after June 30, 1949.

SEC. 5. In the case of a State which has a plan approved under title XIV of the Social Security Act, adjustments, which have not previously been made with respect to overpayments or underpayments under titles I, IV, or X, or under part 3 of title V of such act, shall be made in connection with payments to such State under title XIV of such act.

Mr. COOPER. Mr. President, the Senator from Colorado will remember that the bill which I introduced had three chief objectives. The first was that there should be a comprehensive program of Federal assistance to the aged and blind, and to dependent children, and for all purposes, upon the basis of need. The second objective was that there should be greater emphasis on local planning, administration, and responsibility. The third objective, which I thought was important, was that Federal payments should be made to the States on the basis of their fiscal ability to contribute to the program. The last provision would make possible greater aid to the aged, blind, and dependent children of the less prosperous States. Section 1406 of the bill, which was called the variable-grant section, would carry into effect the last objective.

I have reviewed the records of the congressional debates in 1946, when a proposed revision of the Social Security Act was before the Senate. I found that at that time the distinguished Senator from Colorado [Mr. MILLIKIN]; the Senator from Georgia [Mr. GEORGE], then chairman of the Finance Committee; and other Members of this body stated that they recognized that the principle of variable grants was sound.

After the introduction of S. 1355 in April of last year, I conferred with the distinguished Senator from Colorado, and he told me that the bill would receive the consideration of his committee. It has been approved by the officials of several States and by a great number of public-welfare agencies. As far as I know, it is the only bill before this body today which does propose a comprehensive revision of the Social Security Act.

I should like to ask the Senator at this time whether his committee has taken into consideration the provisions of Senate bill 1355, and whether it has made any report upon the revisions suggested in the bill with respect to increased aid for the aged, blind, and dependent children?

Mr. MILLIKIN. Mr. President, first, I should like to say that the distinguished Senator from Kentucky has made aware to me many times since he has been a Member of the Senate his sympathetic understanding of the problems of social security, and he has discussed with me the bill to which he has referred.

The specific question is asked whether the committee has considered that particular bill, and has made a report on it. The answer must be in the negative. It has been the intention of the committee to receive all the reports of its advisory council and have them available for its information when a social-security bill should come from the House of Representatives. The House of Representatives has been working diligently on a social-security bill. I understand that there may come over during this session a bill which will afford a limited increase in coverage intended to permit municipal employees, State employees, and employees of philanthropic institutions to have coverage on a compact or voluntary basis. That bill has not yet arrived, and I do not know whether it will arrive in time for processing during this session. The question which is raised is, obviously, whether we wish to content ourselves with that from the Senate viewpoint, or whether we wish to approach it on a more comprehensive basis. As I said yesterday, I have my personal views on that, but I doubt whether there is any point in airing them at this time.

I believe I have answered the Senator's specific question.

Mr. COOPER. Mr. President, will the Senator yield to me for another question?

Mr. MILLIKIN. I yield.

Mr. COOPER. I intend to vote for the amendment increasing assistance to the aged, blind, and dependent children. If it should be adopted, would the money needed for its purposes be a charge against the trust fund of which the Senator has spoken?

Mr. MILLIKIN. It would not be a charge against the trust fund, because it does not come out of the trust fund. It would be sustained out of the general revenues and by appropriation.

Mr. COOPER. I should like to ask the Senator if the amendment relating to old-age assistance is in his opinion an application of the principle of variable grants, of which I spoke a few moments ago.

Mr. MILLIKIN. It is not my understanding that the proposed amendment follows the variable-grant theory that was in the Senator's bill.

Mr. COOPER. I thank the Senator.

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

Mr. MILLIKIN. I yield.

Mr. HOLLAND. I recall that last week at a hearing in a subcommittee, of which my distinguished friend the junior Senator from Connecticut is the chairman, a subcommittee of the Public Works Committee, it was stated to us there by Mr. MacDonald, the head of the Bureau of Public Roads, that in reexamining his budget situation he found that the Congress had voted an average increase of salaries to his personnel of about 37 percent because of the increase of living costs, and because of that increase the Public Roads Administrator requested, and, insofar as the recommendation of the subcommittee and now of the full Committee on Public Works in its report to the Senate are concerned, they have agreed to his contention that the allowance to his department for the necessary cost of carrying on the work of the department should be considerably increased, the largest factor being to take care of this 37 percent of increase of salaries under action of the Congress.

I was hoping that the Senator from Colorado would be willing to see that the grant of this minor pittance of an added $5 to the monthly benefits payable to the aged and the blind, and the lesser pittance of $3 to the dependent children, might be considered as a partial recognition of the fact that for them too the cost of living has gone up, and a smaller recognition of that fact than has been granted to our employees here in the making of increases of their salaries, which I suspect have been increased on the average about in line with those increases reported to us by Mr. MacDonald.

From that point of view, and basing my request simply on the compelling justice of the situation, as it appears to me, I want to ask the distinguished Senator from Colorado if he will consent to the approval of the amendment offered by the distinguished Senator from Arizona and other Senators, solely from the viewpoint of trying to make up in part for the increased cost of living to these wards of our Nation and of our several States? I hope the distinguished Senator will feel that it is in line with his conception of simple justice in the situation that the amendment may be accepted.

Mr. MILLIKIN. Mr. President, I thank the Senator from Florida for his very wise observations, and I appreciate the circumstances which press on many of our needy people, and which the Senator understands so thoroughly, and which activate his warm interest in this matter.

There can be no question at all that many of the people of this country are finding it hard to get along under the

present cost of living and on the money which is available to them. Of course, in the case of the aged and needy there is not the elasticity of earning power and the access to other sources of income which enable other people to make adjustments. These needy people are facing very grim facts of life. I wish that by legislative magic we could relieve all their problems in one fell swoop. But because we cannot relieve them all in one fell swoop, let us not argue against doing that which can be done.

We have several things to balance. We have to consider the cost which, compared to many other expenditures which we make, might, as has been said, be regarded as a pittance. But it is $200,000,000, and it will have to come out of the general revenues.

The amendment as drawn is technically adequate for its purpose. If one agrees with its theory the mechanics of the amendment will perform the objective. It follows the scheme which the Congress adopted in 1946 when it made the last raise in the pension benefits.

On the other hand, we are in process and are moving expeditiously to make a comprehensive revision, and public assistance, of course, is a very important part of that field.

The question is, therefore: Shall we in the interests of preserving the orderliness and the symmetry of that general revision say "No" to this amendment, or shall we recognize the needs to which the Senator has referred and say that they rise above these other considerations—that they require us to do something now rather than 6 or 8 or 9 months from now? Six, eight, or nine months are a long time for people who are hungry. And, in the interest of perspective, 6, 8, or 9 months are a long time also for our taxpayers who drudge to accumulate the money with which we sustain our Government.

If we did not have these humanistic angles, if we did not have the obligation, as I feel we have, to keep ourselves sensitively adjusted to the needs of our citizens, especially those who are in want and in distress, I should not hesitate one moment to say that we would be doing an irresponsible and a disorderly thing if we accept the amendment. But under the circumstances I cannot say that we would be doing it.

We have asked a distinguished council of citizens of this country to join the Senate Finance Committee in making a comprehensive survey, and I regret that we cannot wait until they have done so to reach a more orderly, symmetrical plan of adjustment. I am hopeful that if the Senate decides to adopt this amendment, members of the Council who have labored so diligently on this problem will understand the humanities which will have overridden other considerations of importance and will not feel that we are inappreciative of their splendid labors.

Under all these circumstances, I am willing that the amendment be taken to conference.

Mr. HOLLAND. I thank the Senator.

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

Mr. MILLIKIN. I yield.

Mr. BALL. Perhaps my question should be directed to the author of the amendment. As I read it, its effect would be as follows: If a State is now paying the maximum of $45, and goes up to $50 under the provisions of the joint resolution, the effect will be to increase the Federal contribution $7.50, and actually reduce the State contribution $2.50. Am I correct? If so, I wonder why, if we are trying to increase old-age assistance—and it seems to me, in view of the increased cost of living, that is desirable—we should increase the Federal share and actually decrease the State share. Perhaps the Senator from Arizona can answer that question.

Mr. MILLIKIN. I believe that the Senator from Arizona should answer the question.

Mr. McFARLAND. I did not understand the question.

Mr. BALL. Mr. President——

The PRESIDENT pro tempore. The time of the Senator from Colorado has expired. The Senator from Arizona [Mr. McFARLAND] is now charged with the remainder of the time.

Mr. McFARLAND. I yield to the Senator from Minnesota.

Mr. BALL. If a State is now paying the maximum—and I agree that they do not all pay the maximum—of $45, the State puts up $20 and the Federal Government, $25. If the State paid $50, the joint resolution would increase the Federal share by $7.50 to $32.50, but would actually decrease the State contribution to $17.50.

Mr. McFARLAND. The joint resolution would increase the Federal share by only $5. I take it that every State will enact legislation which will give the benefit of the additional $5. Not only that, but I hope the States will match the contribution with another $5.

Mr. BALL. How does the Senator figure? One-half of $20 is $10. Adding three-fourths of $30, we get $32.50.

Mr. McFARLAND. The amendment will require the Federal Government to put up the first $15, matched by $5 of State money. That makes $20. Thereafter it is on a 50–50 basis, with a maximum of $50, which makes the maximum amount which the Federal Government may contribute $30.

Mr. BALL. Has the Senator modified his amendment? That is not the way it reads.

Mr. McFARLAND. Yes; that is the way it reads.

Mr. BALL. It says three-fourths of the expenditure over $20, and one-half of the first $20.

Mr. McFARLAND. The language is:

> Three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who receive old-age assistance for such month, plus——

Mr. MILLIKIN. Mr. President, I should like to reserve the remaining few minutes of my time. I am willing to allow very short interruptions.

The PRESIDENT pro tempore. The Chair must say that all the time of the Senator from Colorado has expired.

Mr. MILLIKIN. That is a very excellent disposition of the matter.

Mr. McFARLAND. Mr. President, I yield 5 minutes to the Senator from Tennessee [Mr. STEWART].

Mr. STEWART. Mr. President, I thank the Senator from Arizona.

I am lending my support to the amendment offered by the Senator from Arizona for himself and other Senators, which would increase the payments to the aged, the blind, and dependent children. I think the amendment is in keeping with the times. From time to time we have increased the pay of many Federal employees. The cost of living continues to increase, and I regret that the increase is not even more than that provided for in the amendment. I myself have introduced legislation along this line. A bill which I recently introduced sought to increase the amount by more than this amendment provides for.

Our Government cannot escape its responsibility of caring for those who are unable to take care of themselves. Ours is a prime responsibility. We must look to the interests of the aged, the blind, and dependent children. For that reason I shall support the amendment. I am glad that the Senator from Colorado has accepted it, and I hope it will be adopted.

I thank the Senator from Arizona.

Mr. McFARLAND. Mr. President, I wish to use the few minutes remaining to point out that this amendment is only a temporary measure. The increase will expire on December 31, 1949.

All the amendment does is to require the Federal Government to put up an additional $5 for the aged, an additional $5 for the blind, and an additional $3 for dependent children.

It has been stated that the need clause should be eliminated from this law. I agree with that contention. I have introduced legislation to eliminate the need clause, but that is a question which we must consider as a part of the over-all study. All this amendment does is to permit the aged to live a trifle more easily until the study can be completed. It would not do some of them any good if they were to starve to death before the study was completed. We are trying to offer them a little assistance so that they may enjoy a more decent livelihood until that time comes.

Mr. President, I wish to modify my amendment. On page 3 there is a typographical error, in line 14. The figure "$30" should be "$27."

Mr. WHERRY. Mr. President, the amendment has been accepted; has it not?

Mr. McFARLAND. The Senate has not yet voted on the amendment.

The PRESIDENT pro tempore. The Senator's amendment will be perfected, as he requests.

Mr. McFARLAND. Mr. President, I thank the distinguished Senator from Colorado for his willingness to accept this amendment. I have been requested to ask for the yeas and nays, because a number of Senators who did not have the opportunity of placing their names on the amendment desire the opportunity of recording their votes in favor of it. I, therefore, ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. REVERCOMB. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. REVERCOMB. Will the amendments which have been sent to the desk, and which, of course, could not be considered with another amendment pending, be taken up in order after 1:30?

The PRESIDENT pro tempore. They will.

All time has expired.

Mr. WHERRY. 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:

Aiken	Gurney	O'Daniel
Baldwin	Hayden	O'Mahoney
Ball	Hickenlooper	Pepper
Barkley	Hill	Reed
Bricker	Hoey	Revercomb
Brooks	Holland	Robertson, Va.
Butler	Ives	Russell
Byrd	Johnston, S. C.	Saltonstall
Cain	Kem	Smith
Capehart	Kilgore	Sparkman
Capper	Knowland	Stennis
Chavez	Langer	Stewart
Connally	McCarthy	Taylor
Cooper	McClellan	Thomas, Okla.
Cordon	McFarland	Thomas, Utah
Donnell	McGrath	Thye
Downey	McKellar	Tydings
Dworshak	McMahon	Umstead
Eastland	Magnuson	Vandenberg
Ecton	Martin	Watkins
Ellender	Maybank	Wherry
Feazel	Millikin	Wiley
Ferguson	Moore	Williams
Flanders	Morse	Wilson
Fulbright	Murray	Young
George	Myers	
Green	O'Conor	

The PRESIDENT pro tempore. Seventy-nine Senators having answered to their names, a quorum is present.

Under the unanimous-consent agreement, the Senate will now proceed to vote on the pending amendment and all other amendments that may be pending and called up, and on the bill itself, without further debate.

The pending amendment is the one submitted by the Senator from Arizona [Mr. MCFARLAND] for himself and other Senators.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. MCFARLAND. Mr. President, I wish to announce that the Senator from Colorado [Mr. JOHNSON], who is a coauthor of this amendment, has been called away on official business. He would not have left the Senate if it had not been apparent that this vote would be practically unanimous, and he so informed the Senator from Arizona. If he were present, he would vote "yea."

Mr. WHERRY. I announce that the junior Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from South Dakota [Mr. BUSHFIELD], the Senator from Indiana [Mr. JENNER], the Senator from Massachusetts [Mr. LODGE], the Senator from Ohio [Mr. TAFT], and the senior Senator from Maine [Mr. WHITE] are necessarily absent. If present and voting, the junior Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from South Dakota [Mr. BUSHFIELD], the Senator from Indiana [Mr. JENNER], the Senator from Massachusetts [Mr. LODGE], the Senator from Ohio [Mr. TAFT], and the senior Senator from Maine [Mr. WHITE] would vote "yea."

The Senator from New Hampshire [Mr. BRIDGES] and the Senator from Nevada [Mr. MALONE] are detained on official committee business. If present and voting, the Senator from New Hampshire and the Senator from Nevada would vote "yea."

The Senator from New Jersey [Mr. HAWKES] and the Senator from Wyoming [Mr. ROBERTSON] are absent on official business. If present and voting, the Senator from New Jersey and the Senator from Wyoming would vote "yea."

The Senator from New Hampshire [Mr. TOBEY] is absent by leave of the Senate. If present and voting, the Senator from New Hampshire would vote "yea."

Mr. BARKLEY. I announce that the Senator from New Mexico [Mr. HATCH] is absent by leave of the Senate.

The Senator from Illinois [Mr. LUCAS] is absent on public business.

The Senator from Nevada [Mr. MCCARRAN] and the Senator from New York [Mr. WAGNER] are necessarily absent.

I announce further that if present and voting the Senator from Nevada [Mr. MCCARRAN] and the Senator from New York [Mr. WAGNER] would vote "yea."

The result was announced—yeas 77, nays 2, as follows:

YEAS—77

Aiken	Gurney	O'Daniel
Baldwin	Hayden	O'Mahoney
Ball	Hickenlooper	Pepper
Barkley	Hill	Reed
Bricker	Hoey	Revercomb
Brooks	Holland	Robertson, Va.
Butler	Ives	Russell
Cain	Johnston, S. C.	Saltonstall
Capehart	Kem	Smith
Capper	Kilgore	Sparkman
Chavez	Langer	Stennis
Connally	McCarthy	Stewart
Cooper	McClellan	Taylor
Cordon	McFarland	Thomas, Okla.
Donnell	McGrath	Thomas, Utah
Downey	McKellar	Thye
Dworshak	McMahon	Tydings
Eastland	Magnuson	Umstead
Ecton	Martin	Vandenberg
Ellender	Maybank	Watkins
Feazel	Millikin	Wherry
Ferguson	Moore	Wiley
Flanders	Morse	Williams
Fulbright	Murray	Wilson
George	Myers	Young
Green	O'Conor	

NAYS—2

Byrd Knowland

NOT VOTING—17

Brewster	Jenner	Robertson, Wyo.
Bridges	Johnson, Colo.	Taft
Buck	Lodge	Tobey
Bushfield	Lucas	Wagner
Hatch	McCarran	White
Hawkes	Malone	

So the amendment submitted by Mr. MCFARLAND (for himself, Mr. JOHNSON of Colorado, Mr. STEWART, Mr. RUSSELL, Mr. SPARKMAN, Mr. JOHNSTON of South Carolina, Mr. KILGORE, Mr. PEPPER, Mr. HOEY, Mr. HOLLAND, Mr. EASTLAND, Mr. ELLENDER, Mr. MAGNUSON, Mr. MURRAY, Mr. TAYLOR, Mr. LANGER, Mr. MORSE, Mr. MYERS, Mr. O'DANIEL, Mr. JENNER, Mr. MCCARTHY, Mr. DOWNEY, Mr. WHERRY, Mr. MAYBANK, and Mr. MCCLELLAN) was agreed to.

The PRESIDENT pro tempore. Are there any other amendments which Senators wish to call up?

Mr. REVERCOMB. Mr. President, I desire at this time to call up my amendment that is on the desk.

The PRESIDENT pro tempore. For the information of the Senate, the clerk will state the amendment.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following:

AGE OF BENEFICIARY LOWERED

SEC. 2. (a) Clause (2) of subsection (a) of section 202 of the Social Security Act is amended by striking out "65" and inserting in lieu thereof "60."

(b) Effective only with respect to applications filed prior to July 1, 1949, and after the end of the third calendar month which begins after enactment of this act, clause (A) of paragraph (1) of subsection (b) of such section 202 is amended to read as follows: "(A) has attained the age of 60."

(c) Clause (B) of paragaph (1) of subsection (d) of such section 202 is amended by striking out "65" and inserting in lieu thereof "60."

(d) Clause (A) of paragraph (1) of subsection (f) of such section 202 is amended by striking out "65" and inserting in lieu thereof "60."

(e) Paragraph (1) of subsection (g) of section 209 of such act is amended by striking out "65" and inserting in lieu thereof "60."

(f) The amendments made by subsections (a), (c), (d), and (e) of this section shall be applicable only in cases of applications for benefits filed under title II of the Social Security Act after the end of the third calendar month which begins after the enactment of this act.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from West Virginia [Mr. REVERCOMB]. The "noes" seem to have it.

Mr. REVERCOMB. I ask for a division.

On a division, the amendment was rejected.

The PRESIDENT pro tempore. Are there any further amendments to be called up? If not, the question is on engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The PRESIDENT pro tempore. The joint resolution having been read the third time, the question is, Shall it pass?

Mr. MILLIKIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. WHERRY. I announce that the junior Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from South Dakota [Mr. BUSHFIELD], the Senator from Indiana [Mr. JENNER], the Senator from Massachusetts [Mr. LODGE], the Senator from Ohio [Mr. TAFT], and the senior Senator from Maine [Mr. WHITE] are necessarily absent. If present and voting the junior Senator from Maine [Mr. BREWSTER], the Senator from Delaware [Mr. BUCK], the Senator from South Dakota [Mr. BUSHFIELD], the Senator

from Indiana [Mr. JENNER], the Senator from Massachusetts [Mr. LODGE], the Senator from Ohio [Mr. TAFT], and the senior Senator from Maine [Mr. WHITE] would vote "yea."

The Senator from New Hampshire [Mr. BRIDGES] is detained on official committee business. If present and voting, the Senator from New Hampshire would vote "yea."

The Senator from New Jersey [Mr. HAWKES] and the Senator from Wyoming [Mr. ROBERTSON] are absent on official business. If present and voting, the Senator from New Jersey and the Senator from Wyoming would vote "yea."

The Senator from New Hampshire [Mr. TOBEY] is absent by leave of the Senate. If present and voting, the Senator from New Hampshire would vote "yea."

Mr. BARKLEY. I announce that the Senator from New Mexico [Mr. HATCH] is absent by leave of the Senate.

The Senator from Colorado [Mr. JOHNSON], who is absent on official business, would vote "yea" if present.

The Senator from Illinois [Mr. LUCAS] is absent on public business.

The Senator from Nevada [Mr. MCCARRAN] and the Senator from New York [Mr. WAGNER] are necessarily absent.

I announce also that if present and voting, the Senator from New York [Mr. WAGNER] would vote "nay."

The result was announced—yeas 74, nays 6, as follows:

YEAS—74

Aiken	Green	O'Conor
Baldwin	Gurney	O'Daniel
Ball	Hayden	O'Mahoney
Bricker	Hickenlooper	Reed
Brooks	Hill	Revercomb
Butler	Hoey	Robertson, Va.
Byrd	Holland	Russell
Cain	Johnston, S. C.	Saltonstall
Capehart	Kem	Smith
Capper	Kilgore	Sparkman
Chavez	Knowland	Stennis
Connally	Langer	Stewart
Cooper	McCarthy	Thomas, Okla.
Cordon	McClellan	Thomas, Utah
Donnell	McFarland	Thye
Downey	McGrath	Tydings
Dworshak	McKellar	Umstead
Eastland	Magnuson	Vandenberg
Ecton	Malone	Watkins
Ellender	Martin	Wherry
Feazel	Maybank	Wiley
Ferguson	Millikin	Williams
Flanders	Moore	Wilson
Fulbright	Murray	Young
George	Myers	

NAYS—6

Barkley	McMahon	Pepper
Ives	Morse	Taylor

NOT VOTING—16

Brewster	Jenner	Taft
Bridges	Johnson, Colo.	Tobey
Buck	Lodge	Wagner
Bushfield	Lucas	White
Hatch	McCarran	
Hawkes	Robertson, Wyo.	

So the joint resolution (H. J. Res. 296) was passed.

Mr. MILLIKIN. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. MILLIKIN, Mr. TAFT, Mr. BUTLER, Mr. GEORGE, and Mr. CONNALLY conferees on the part of the Senate.

(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1).

(2) Page 2, after line 20, insert:

SEC. 3. (a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"(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 October 1, 1948, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy 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 such individual for any month as exceeds $50—

"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 403 (a) of such Act, as amended, is amended to read as follows:

"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 October 1, 1948, (1) an amount, which shall be used exclusively as aid to dependent children equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $27, or if there is more than one dependent child in the same home, as exceeds $27 with respect to one such dependent child and $18 with respect to each of the other dependent children—

"(A) three-fourths of such expenditures, not counting so much of any expenditures with respect to any month as exceeds the product of $12 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose."

(c) Section 1003 (a) of such Act, as amended, is amended to read as follows:

"(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 October 1, 1948, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $50—

"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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."

(d) The amendments made by this section shall become effective on October 1, 1948.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED of New York. Mr. Speaker, in the interests of clearing up the confusion and misunderstanding created by opponents to House Joint Resolution 296, it is appropriate to point out briefly the real purpose and effect of this resolution which the House and Senate overwhelmingly agreed to.

This resolution merely proposes to continue the existing Treasury regulations setting forth the tests to be used in determining whether a given individual rendering service for another is an employee or not an employee under the Social Security Act for the purpose of establishing his rights to benefits under the insurance provisions of the law.

Opponents of the resolution have mislead many people into believing that it will exclude from coverage under the insurance provisions a great host of employed persons numbering anywhere from 500,000 to 750,000 or more. This is not true. The people it will affect have never been covered by the Social Security Act, were never intended to be covered by the Social Security Act and are not now covered by any act. They will not be denied the opportunity of establishing the fact that they are entitled to coverage if they can prove that their relationships with their employers are the relations of an employee under existing Treasury regulations.

The real objection to the resolution is based entirely upon the desire of the Federal Security Agency to arrogate to itself the right to determine who is and who is not entitled to coverage and to benefits under the Social Security Act. They want to do this under a proposed Treasury regulation which would permit

SOCIAL-SECURITY BENEFITS

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk House Joint Resolution 296, to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage, with Senate amendments thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

On page 2, line 15, strike out all after "any" down to line 20, inclusive, and insert "(1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this act; or (2) wage credits with respect to services performed prior to the close of the first calendar quarter, which begins after the date of enactment of this act in the case of individuals who have attained age 65 or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935."

MESSAGE FROM THE SENATE

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H. J. Res. 296. Joint resolution to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social security coverage.

The message also announced that the Senate insists upon its amendments to the foregoing joint resolution, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MILLIKIN, Mr. TAFT, Mr. BUTLER, Mr. GEORGE, and Mr. CONNALLY to be the conferees on the part of the Senate.

(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1).

(2) Page 2, after line 20, insert:

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"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 403 (a) of such Act, as amended, is amended to read as follows:

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"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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."

(d) The amendments made by this section shall become effective on October 1, 1948.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED of New York. Mr. Speaker, in the interests of clearing up the confusion and misunderstanding created by opponents to House Joint Resolution 296, it is appropriate to point out briefly the real purpose and effect of this resolution which the House and Senate overwhelmingly agreed to.

This resolution merely proposes to continue the existing Treasury regulations setting forth the tests to be used in determining whether a given individual rendering service for another is an employee or not an employee under the Social Security Act for the purpose of establishing his rights to benefits under the insurance provisions of the law.

Opponents of the resolution have mislead many people into believing that it will exclude from coverage under the insurance provisions a great host of employed persons numbering anywhere from 500,000 to 750,000 or more. This is not true. The people it will affect have never been covered by the Social Security Act, were never intended to be covered by the Social Security Act and are not now covered by any act. They will not be denied the opportunity of establishing the fact that they are entitled to coverage if they can prove that their relationships with their employers are the relations of an employee under existing Treasury regulations.

The real objection to the resolution is based entirely upon the desire of the Federal Security Agency to arrogate to itself the right to determine who is and who is not entitled to coverage and to benefits under the Social Security Act. They want to do this under a proposed Treasury regulation which would permit

SOCIAL-SECURITY BENEFITS

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The Clerk read the title of the joint resolution.

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the use of any test that anyone can think of at any time for determining whether a given individual is an employee or is not an employee. They rely upon a series of court decisions as justification for this proposed regulation. Actually they do not rely upon the decisions of the Court at all, but upon purely incidental, prefatory language in the Court's opinions which confer no authority whatever upon the Treasury Department or the Federal Security Agency to decide for itself the matter of coverage under the Social Security Act. Rather than giving the Government a broader license than it now has, these decisions actually held in effect that the Government had overextended the power it already had under the existing Treasury regulation.

Notwithstanding this rebuff the Treasury Department brings forward a proposed regulation that would give the Department and the Federal Security Agency authority to make the very type of interpretation which the Court rejected in its opinions. Rather than implementing the Supreme Court decision the proposed Treasury regulation attempts to surmount, supersede, and negative them.

A sound analysis of these cases requires that the prefatory and random remarks of the Court which have been seized upon to supply a spurious gloss of validity to the proposed Treasury regulation shall be harmoniously related to the facts involved, the decisions, and to their moving rules. If this cannot be done these offhand comments by the Court or courts must be regarded as surplusages. The purpose of House Joint Resolution 296 can, therefore, be said to continue to treat employee relations under the existing regulations which are based upon fundamental principles of the common law, and which do not permit any wild guesses as to whether an individual is an employee or is not an employee.

Another purpose of the resolution is to prevent a large number of people from obtaining benefits under the Social Security Act without having paid the necessary taxes or premiums for such benefits. In other words, the resolution would prevent these persons from obtaining a "free ride" at the expense of others who contribute their money to the program. Unless the resolution becomes law there will be retroactive grants of coverage without any offsetting contribution of taxes.

This will impair the Federal old-age and survivors trust fund to the possible extent of approximately $100,000,000. This raises the all-important question of whether the integrity and soundness of the Social Security System will be maintained if the opponents to the resolution have their way.

Obviously the approximately 33,000,000 persons now insured under title II of the act look for the payment of their benefits out of the trust fund. They have bought their privilege with hard-earned tax dollars. Opponents of the resolution would disregard this fact and pay benefits to people regardless of the lack of contributions.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND REMARKS

Mr. REED of New York. Mr. Speaker, I ask unanimous consent that all Members, especially members of the Committee on Ways and Means, may have five legislative days to extend their remarks on House Joint Resolution 296.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

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 amendment of the Senate to the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

THE JOURNAL

The Journal of the proceedings of Friday, June 4, 1948, was read.

The SPEAKER pro tempore (Mr. HALLECK). Without objection, the Journal will stand approved.

Mr. EBERHARTER. Mr. Speaker, reserving the right to object, and, before the Journal is approved, I do not think the Journal as read correctly carries the proceedings of last Friday, and I refer especially to the action taken Friday evening, I might say, with relation to House Joint Resolution 296. Mr. Speaker, according to the RECORD, at that time one Senate amendment to the resolution was called up and that one Senate amendment was agreed to, when in fact there were two amendments to be considered by the House. The important amendment was not considered by the House, and the RECORD so shows. Therefore I make the request that the approval of the Journal of Friday lay over until tomorrow until we have had time to look into the matter and so the Members and the people may know if in fact only one or both the Senate amendments were agreed to. The Senate amendment which I believe was not agreed to is an amendment increasing in many instances the old-age assistance grants by the Federal Government provided the States do the same thing.

Mr. Speaker, I make the request that the approval of the Journal go over until tomorrow and we have a chance to look into it. This can be done on a day when we will not have any memorial services, we hope.

The SPEAKER pro tempore. The Chair may say that the Journal as prepared and read states the true facts and the true record of the situation. The Chair may say to the gentleman that if the RECORD is in error, that, of course, can be corrected. The gentleman could ask unanimous consent to correct the RECORD and have it state the true facts in conformity with the Journal. Again, the Chair will say to the gentleman that the Journal as prepared and read today does state the true facts and does reflect the true action taken by the House to which the gentleman has referred.

Mr. EBERHARTER. Mr. Speaker, then the RECORD must be wrong in three separate instances.

The SPEAKER pro tempore. The Chair has examined the RECORD and is of the opinion that the RECORD is in error. To change the Journal and make it state what is not the true fact would not add anything to clarification of the situation. The RECORD is in error, and, of course, the RECORD can be corrected. The Journal does state the true situation. So, as far as adoption of the Journal is concerned, the Chair is of the opinion the Journal should be approved as read.

Mr. EBERHARTER. Mr. Speaker, I do not know whether anyone who was on the floor of the House at that time is prepared to say that this very important Senate amendment was read, or even considered as read, because there is no motion to that effect in the RECORD at all. In the absence of any certification or statement by a Member definitely to the effect that the amendment was read, or that an inspection of the notes of the House Official Reporters will show to that effect, I think approval of the Journal should go over, because the RECORD has gone out all over the country with only the adoption of one Senate amendment. This is very important legislation.

The SPEAKER pro tempore. The Chair does not wish to prolong this discussion in view of the circumstances that confront us today, which I am sure the gentleman is familiar with. However, the Chair was on the floor at the time this matter was presented. The Clerk was directed to report the bill and the Senate amendments, and that was done. The Chair may also say that he was informed that the matter at that time had been cleared with the ranking members of the committee on the minority side.

Mr. EBERHARTER. In view of the Speaker's statement that he heard the two Senate amendments read, I withdraw my reservation of objection and ask unanimous consent that the RECORD be corrected accordingly, to show the true facts.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CASE of South Dakota. Mr. Speaker, reserving the right to object, does the Journal as reported this morning disclose that the Senate amendments were considered and agreed to?

The SPEAKER pro tempore. It does.

Mr. CASE of South Dakota. Then the present request is merely to make the RECORD conform to the Journal as reported?

The SPEAKER pro tempore. That is correct.

Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Without objection, the Journal will stand approved as read.

There was no objection.

Benefits for the Aged—Dependent Children and Needy Blind

REMARKS
OF
HON. DANIEL A. REED
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 9, 1948

Mr. REED of New York. Mr. Speaker, it was my pleasure a day or two ago in behalf of the Committee on Ways and Means to remove the last obstacle as far as the Congress is concerned, to enactment of House Joint Resolution 296. Under this resolution, which is now on the President's desk awaiting his signature, individuals in all States, in need of financial assistance, or who are now obtaining such assistance, will obtain increased benefits if the States find such increases are justified in individual cases.

The resolution authorizes an increase of approximately $185,000,000 in expenditures from the Federal Treasury to be paid to the several States on account of benefits to needy aged individuals under the State-operated old-age-assistance program established in title I of the Social Security Act and to dependent children and the needy blind under similar assistance programs. This does not mean the increases in benefit will be limited to a distribution of the $185,000,000 among the three-million-three-hundred-and-sixty-four-thousand-odd beneficiaries now receiving such assistance, but that the Federal participation will be increased by this amount and probably supplemented by increased State contributions to such beneficiaries.

Under the matching formula provided for in the resolution the Federal Government will contribute three-fourths of the first $20 paid to any individual recipient of assistance, under titles I and X of the act, and 50 percent of amounts in excess of $20 up to a maximum Federal contribution of $30 in any given case.

The following table shows how Federal contributions in these programs will be increased above the existing level of Federal payments:

Federal participation in old-age assistance and aid to the blind programs under titles I and II, Social Security Act

Total benefit paid by State	Federal share under existing law	Federal share under H. J. Res. 296
$15	$10.00	$11.25
20	12.50	15.00
25	15.00	17.50
30	17.50	20.00
35	20.00	22.50
40	22.50	25.00
45	25.00	27.50
50	25.00	30.00

Federal contributions to benefits to dependent children will also be increased, under the resolution as shown in the following table:

Federal participation in aid to dependent children program under title IV, Social Security Act

Total benefit paid by State	Federal share under existing law	Federal share under H. J. Res. 296
$6.00	$4.00	$4.50
9.00	6.00	6.75
10.00	6.50	7.50
12.00	7.00	9.00
15.00	9.00	10.50
20.00	12.50	13.00
24.00	13.50	15.00
27.00	[1] 15.00	16.50
30.00	16.50	[1] 18.00
40.00	21.50	23.00
45.00	[2] 24.00	24.50
48.00	24.00	[2] 27.00

[1] Maximum contributed by the Federal Government with respect to the second and each successive dependent child.
[2] Maximum contributed by the Federal Government with respect to 1 dependent child.

The general effect of enactment of House Joint Resolution 296 will be the direct encouragement of the States either to increase their monthly benefits under all these grant-in-aid programs or more recipients to the rolls.

In 1946 Congress increased the authorization for Federal participation in these three grant-in-aid programs from a 50–50 matching formula to two-thirds of the first $15 of any benefit and 50 percent of amounts paid to any recipient in excess of $15, with a maximum Federal share in any case of $25. The matching formula with respect to aid to dependent children was proportionately increased. This resulted in an increase in the average payments for old-age assistance beneficiaries of $5.56 per month; blind-aid recipients, $10.43 per month; aid to dependent children, $5.99 per month—average increase per family. There is no reason to believe that the increases authorized in House Joint Resolution 296 will not result in a similar increase in the average benefits under these programs. As of March 1948, the national average benefit payments under the three programs were as follows: Old-age assistance, $37.71 per month per recipient; aid to the blind, $40.63 per month per recipient; aid to dependent children, $65.85 per month per family.

VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—EMPLOYMENT TAXES AND SOCIAL SECURITY BENEFITS (H. DOC. NO. 711)

The SPEAKER. The Chair lays before the House the following message from the President of the United States.

Mr. EBERHARTER. Mr. Speaker, a point of order.

I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and forty Members are present, a quorum.

The Clerk read as follows:

To the House of Representatives:

I return herewith, without my approval, House Joint Resolution 296, to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Despite representations to the contrary, sections 1 and 2 of this resolution would exclude from the coverage of the old-age and survivors' insurance and unemployment-insurance systems up to 750,000 employees, consisting of a substantial portion of the persons working as commission salesmen, life-insurance salesmen, piece workers, truck drivers, taxicab drivers, miners, journeymen tailors, and others. In June 1947, the Supreme Court held that these employees have been justly and legally entitled to social-security protection since the beginning of the program in 1935. I cannot approve legislation which would deprive many hundreds of thousands of employees, as well as their families, of social-security benefits when the need for expanding our social-insurance system is so great.

Furthermore, if enacted into law, this resolution would overturn the present sound principle that employment relationships under the social-security laws should be determined in the light of realities rather than on the basis of technical legal forms. In so doing, it would make the social-security rights of the employees directly excluded, and many thousands of additional employees, depend almost entirely upon the manner in which their employers might choose to cast their employment arrangements. Employers desiring to avoid the payment of taxes which would be the basis for social-security benefits for their employees could do so by the establishment of artificial legal arrangements governing their relationship with their employees. I cannot approve legislation which would permit such employers at their own discretion to avoid the payment of social-security taxes and to deny social-security protection to employees and their families.

It has been represented that the issue involved in this resolution is whether or not the legislative branch of the Government shall determine what individuals are entitled to social-security protection. This is not the issue at all. The real issue is whether the social-security coverage of many hundreds of thousands of individuals should be left largely to the discretion of their employers. On this issue the proper course is obvious.

The expressed purpose of the sponsors of this resolution is to exclude from the coverage of the Social Security Act persons who have the status of independent contractors, rather than that of employees. But no legislation is needed to accomplish this objective. Under present law, as interpreted by the Supreme Court, only persons who are bona fide employees are covered by our social-security system.

When all of the considerations regarding sections 1 and 2 of the resolution are sifted, two basic facts remain unrefuted. Hundreds of large employers are assured of an exemption from social-security taxes, while hundreds of thousands of employees and their families are equally assuredly prevented from receiving the social security protection which the Supreme Court in June of last year clearly indicated was justly theirs. These two facts were minimized by the sponsors of the resolution who would have us believe, for example, that a traveling salesman who devotes full working time in the service of one company and depends completely upon that company for his livelihood is not an employee of that company but is an independent businessman and does not need social-security protection.

Instead of clarifying the distinction between independent contractors and employees, which is a difficult legal issue in many cases, this resolution would revive the confusion which has plagued the administration of the Social Security Act for so many years. Benefits which are now payable to thousands of persons would have to be withheld pending final determination of the new and complex legal problems raised by this resolution.

Moreover, the resolution purports to preserve the past coverage of employees who have already made contributions under this system. But in fact, under the terms of the Social Security Act, such coverage would expire in a few years, and previous contributions would be made worthless.

It has been asserted that it would be difficult for employers to keep the necessary records and meet other requirements of the law with respect to the employees affected by this resolution. This is reminiscent of the objections made in opposition to the original Social Security Act in 1935. If such objections had prevailed in 1935, our social-security program never would have been enacted. To allow them to prevail now would threaten the very foundation of the system. I cannot believe that the mere convenience of employers should be considered more important than the social-security protection of employees and their families.

It has also been urged that without this resolution some persons would receive credit toward old age and survivors benefits for three or four past years during which contributions were not collected. If the elimination of these credits had been the real purpose of the resolution, it could readily have been achieved without permanently excluding anyone from social-insurance protection.

If our social-security program is to endure, it must be protected against these piecemeal attacks. Coverage must be permanently expanded and no employer or special group of employers should be permitted to reverse that trend by efforts to avoid a tax burden which millions of other employers have carried without serious inconvenience or complaint.

Section 3 of this resolution contains provisions—completely unrelated to sections 1 and 2—for additional public assistance of $5 per month to the needy aged and blind, and $3 per month to dependent children.

These changes fall far short of the substantial improvements in our public-assistance program which I have recommended many times. Nevertheless, I am strongly in favor of increasing the amount of assistance payments. Were it not for the fact that the Congress still has ample opportunity to enact such legislation before adjournment, I would be inclined to approve the resolution in spite of my serious objections to sections 1 and 2. Speedy action on public-assistance legislation is clearly possible. I note that section 3 of this resolution was adopted as an amendment on the floor of the Senate, and passed by both houses in a single afternoon. Accordingly, I am placing this matter before the Congress in adequate time so that the public-assistance program will not suffer because of my disapproval of this resolution.

At the same time, I urge again that the Congress should not be satisfied at this session merely to improve public-assistance benefits—urgent as that is. There are other equally urgent extensions and improvements in our social-security sys-

tem which I have repeatedly recommended. They are well understood and widely accepted and should be enacted without delay.

Because sections 1 and 2 of this resolution would seriously curtail and weaken our social-security system, I am compelled to return it without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *June 14, 1948.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the bill and message ordered to be printed.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Mr. GEARHART. Mr. Speaker, I appreciate the limitation of time, and for that reason I will confine myself to merely stating the ultimate facts in relation to this resolution. Some time ago the Supreme Court of the United States rendered two decisions in what are known as the Silk and Gray Van cases, cases which involved the question whether or not certain persons were employees, and therefore covered by social security, or whether they were independent contractors.

In each of these decisions the correct result was reached by the Supreme Court, applying, as they should, the ancient common-law definition of employment. However, there crept into these decisions a little of what lawyers call obiter dicta; that is, some words which were quite unnecessary to the result. These words were to the effect that, for purposes of social security, the Social Security Administration was not necessarily bound in extending social-security coverage, by the ancient common-law definition of master and servant, or employer and employee, as you may choose to call it, but that they could take into the system as employees any persons who were dependent upon a business in the light of economic realities, thereby throwing into the entire system a confusion which required immediate legislative attention.

The Social Security Administration and the Treasury proceeded immediately to prepare a departmental regulation to carry that obiter dicta definition into effect. If this Congress had not interfered, tens of thousands of people in America who never dreamed they were employed by anybody and never for one moment thought they were covered by social security or subject to pay-roll taxes would have found that they had been swept into the social-security system by bureaucratic ukase. In other words, they would suddenly have found that they had more employers than a dog had fleas. So, to end this confusion, this Congress acted promptly, and, after thoroughgoing debate, and by a vote of nearly 7 to 1, proceeded by legislation to put the matter in order once again by restoring the ancient doctrine of the common law defining the relation of master and servant, employer and employee.

There is another reason why the passage of this resolution is very, very important, and that is, the preservation of the integrity of the social-security fund into which some 30,000,000 people at considerable sacrifice have paid pay-roll taxes, some of them ever since this system was inaugurated. Under the loose definition which the inept statement of the Supreme Court inspired, innumerable persons would receive benefits from the social-security fund who never paid anything into it whatsoever, thereby placing in jeopardy the right of these 30,000,000 people, whose contributions in pay-roll taxes had created the fund, to receive the annuities they had purchased upon their reaching the age of 65.

This resolution passed the House by a vote of 7 to 1 after careful discussion by its Members. The measure then went to the other body, where, after careful discussion, the resolution was amended so as to restore the integrity of the social-security fund by authorizing Congress to appropriate moneys from the general fund to the social-security fund to replace moneys which had been paid in as pay-roll taxes and illegally paid out by the Social Security Administration to persons who had never contributed anything to it.

The Senate further amended the resolution by providing that an additional $5 per month should be paid to every needy, aged person who is now receiving benefits under title I of the Social Security Act; by providing that every blind person in the United States should receive an additional $5 a month, and, by providing that every dependent child should receive an additional $3 per month.

So the bill comes back to us now from the White House as a bill which will restore the integrity of the social-security fund, carrying, in addition, new benefits for the needy old people of the country, this to the extent of $5 per capita; $5 additional for each blind person, and $3 additional for each dependent child.

These benefits, which this resolution will make available are in no sense of the word inconsiderable, for, indeed, these increased benefits which will go to the aged, the blind, and the dependent children, will involve a Treasury expenditure of $185,000,000 a year.

So, Mr. Speaker, the resolution under consideration is a very, very important one, from the standpoint of many of our deserving fellow citizens, dependent, in a large degree, if not entirely, upon the integrity of our social-security system.

The arguments of the President, which are contained in his veto message were presented to this Congress in a pocket veto last year. They were thoroughly considered and painstakingly weighed by the Members of this Congress when this resolution was before the House earlier in the year, and again later when it was before the Senate. In each instance those arguments were rejected as fear arguments, arguments unworthy of the attention of a legislative body. In view of the Chief Executive's poverty of argument, his utter inability to advance anything worthy of our attention, I ask that the resolution be passed, the objections of the President nothwithstanding.

Mr. Speaker, early in the day I agreed to yield to the gentleman from Michigan [Mr. DINGELL] time equal to that which I have consumed in this debate. Therefore, I now yield the gentleman from Michigan 6 minutes.

Mr. DINGELL. Mr. Speaker, I am sorry that because of a misunderstanding we have not been able to arrive at a more equitable distribution of time. The gentleman from New York [Mr. LYNCH], the gentleman from Rhode Island [Mr. FORAND], and the gentleman from Pennsylvania [Mr. EBERHARTER] desired some time, but, unfortunately, I could not get the gentleman from California to yield.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I will be very happy to yield to my distinguished friend from Tennessee.

Mr. COOPER. May I say to the gentleman and to the House that I voted against the passage of House Joint Resolution 296 when it passed the House. It is my intention to vote today to sustain the veto of the President. The passage of House Joint Resolution 296 will have the effect of overturning a unanimous decision of the Supreme Court of the United States and will deprive about 750,000 people of their rights and benefits under the social-security program. The passage of this joint resolution will reestablish all the confusion and uncertainty that made it necessary for the Supreme Court to decide the question, and that confusion will continue until the Court again has to decide the question if this resolution is passed. All of those who are sincerely in favor of a social-security program should vote to sustain the President's veto.

Mr. DINGELL. I thank the gentleman.

Mr. Speaker, the veto of House Joint Resolution 296 reflects the refusal of President Truman to subordinate principle to politics in the field of social security. The President has repeatedly asked the Eightieth Congress to expand social-security coverage and to liberalize benefits.

The Republican response has been to pass legislation this very morning under suspension of the rules and to exclude from social-security protection roughly 750,000 workers and their families to whom the Supreme Court has ruled the Democratic Seventy-fourth Congress intended to grant coverage in 1935. Passage of this bill is convincing proof that the original Republican opposition to social security is not yet dead. We may soon expect a revival of Chairman KNUTSON'S recommendation that social security be made an appendix of the Veterans' Administration.

The NAM lobbyists who pressured House Joint Resolution 296 through Congress were so eager that they also arranged to have the same provision included in H. R. 6777—the social security revision bill just passed by the House.

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield.

Mr. FORAND. The gentleman from California made quite a point of the fact

that this resolution now contains by virtue of an amendment coming from the other body a certain amount of increase in the benefits for the aged, blind, and children. If they are sincere in their desire to provide these increases, there is no reason in the world why the other body cannot insert the same provision in the bill that passed the House this morning.

Mr. DINGELL. I intend fully to cover that point.

The sponsors of this plan to reverse the Supreme Court and the Seventy-fourth Congress tried in each instance to sugar-coat the bitter pill. House Joint Resolution 296 went to the White House with a Senate amendment providing for a slight increase in the Federal share of public-assistance payments made by the States.

H. R. 6777—the Reed bill—combines this restriction of coverage, to make it palatable, with two commendable provisions extending protection on a voluntary basis to State and local employees and employees of churches, schools, and other nonprofit institutions.

House Joint Resolution 296 would affect others than the 750,000 employees directly deprived of coverage. The technical, legalistic definition of an "employee" under the bill would be an open invitation to employers to rig up fictitious contracts to avoid liability for social-security taxes. Confusion and delay in payment of both taxes and benefits would result until the Supreme Court could pass on the new language.

All loyal and sincere supporters of a strong system of social security, in my opinion, must vote to sustain the veto of House Joint Resolution 296. They cannot allow the people on relief to be used as hostages to deprive 750,000 workers and their families of unemployment and old-age and survivors' insurance. It took less than 24 hours for the public-assistance rider to pass both Houses. When the veto of House Joint Resolution 296 has been sustained, the public-assistance provision of the resolution can be just as promptly passed by enactment of H. R. 6837, now in the Committee on Ways and Means, which contains the identical language of the rider to House Joint Resolution 296.

A vote to sustain the veto of the President will be the test in this Congress of the advocates of a sound and adequate program of social security, and especially of the sincerity of Members who have introduced bills to expand the social-security system.

House Joint Resolution 296 is vicious and inexcusable.

Mr. GEARHART. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, if this bill does not pass, the President's objections notwithstanding, these mythical 750,000 people, who are yet to be identified, will become charges against the social-security fund, into which they have never paid a red penny—not a nickel of pay-roll taxes. These free riders will take whatever is paid to them from that fund and thereby impair the rights of the 30,000,000 people who have at great personal sacrifice created and built up the fund out of which they hope to receive their retirement annuities when they reach age 65.

Ours, Mr. Speaker, is a great responsibility. This is the choice we must make.

Mr. Speaker, I move the previous question.

Mr. EBERHARTER. Mr. Speaker, I hope that the House will vote to sustain the President's veto on House Joint Resolution 296.

House Joint Resolution 296, in its present form, should not be allowed to become law.

The specific purpose of sections 1 and 2 of the resolution is to prevent 500,000 to 750,000 persons from building up wage credits under the old-age and survivors' insurance and unemployment insurance systems. The right of these thousands of persons to their social security protection was confirmed last year by a decision of the United States Supreme Court in the Silk case.

A vote to override the veto is a vote to prevent these thousands of persons from having the social security protection to which they are rightfully due.

A vote to sustain the veto is a vote to protect the social security rights of these thousands of persons. A vote to sustain the veto will mean that hundreds of aged persons, widows, and orphans will be able to draw benefits during the coming months.

A vote to override the veto is a vote against the interests of these people. A vote to override means that you are taking social security benefits away from widows and orphans.

Various legal and technical reasons have been given by those in favor of the passage of the resolution. The arguments made in behalf of the resolution are complicated, confusing, contradictory, and unsound.

The argument against the resolution and in support of the veto is very simple, very clear, very compelling.

It all comes down to this very simple propcsition: Are you for social security or against it?

Do you favor taking social security protection away from thousands of persons? Do you favor denying benefits to widows and orphans which are payable under the terms of the United States Supreme Court decision?

Let us be clear about this one point: If you vote to override the veto it will be interpreted as a vote against social security.

I urge you to consider this fact very carefully. Do not vote against social security. Vote to sustain the veto.

Those who wish to vote for the additional $5 for the aged and the blind and the additional $3 for dependent children, which is part of the resolution, can do so by passing a separate bill for this purpose. I have already introduced such a bill. There is plenty of time to do this. But the first step is to sustain the veto. Then we can quickly pass a bill for the additional money to the aged, the blind, and dependent children.

Mr. LYNCH. Mr. Speaker, in vetoing this resolution, the President made it unmistakably clear that he is not opposed to the increase in public assistance provided therein for the aged, the blind and dependent children. In fact he recommends that these or even more liberal public assistance provisions be enacted prior to the adjournment of this Congress.

What the President could not tolerate in this legislation, and the part which, I fear, escaped the attention of many Members of this Chamber, is the fact that it puts the social-security protection of hundreds of thousands of employees and their families almost completely at the mercy of their employers, and would thus deprive millions of people of protection against the hazards of old age, unemployment, and premature death of the breadwinner of the family.

When this resolution was originally considered by the House, it was represented to be a harmless piece of legislation that merely prevented the Federal Security Agency from going out of bounds in its efforts to expand coverage. It was also held out as an appropriate measure to prevent a large number of individuals from getting wage credits without paying contributions into the fund.

Since that time, however, the real purpose of the resolution has become increasingly clear.

In June of last year, the Supreme Court finally declared that technical common law rules had no place in a social-security system. The Court, in effect, held that common sense, rather than common law, should determine whether an individual is an employee or an independent businessman. These decisions of the Supreme Court finally brought order out of the confusion which had theretofore prevailed under the social-security laws. Prior thereto the lower courts were split wide open on the question whether common law or common sense should govern their determinations. Many of the courts had gone to the extent of holding, for example, that a traveling salesman was a covered employee if he worked on a salary plus commission basis, but was not entitled to social-security protection if he were paid straight commissions.

It was that sort of condition that the Supreme Court remedied last June, and it is that very condition which this resolution would restore.

Do not for 1 minute, believe that this legislation will clarify the status of individuals under the social-security program. Since the Supreme Court's decisions last June the lower courts have had no trouble whatever in applying the test of realities, or as I call it, common sense. Under this legislation, the status of the individual would first depend on whether his employer put him on a salaried basis or a commission basis and thereafter would depend on whether the court is willing to elevate substance above form.

A lot has been said about the free wage credits which employees will receive if this resolution is not enacted. No one, however, has yet come forward with the suggestion that the Treasury Department might collect the back taxes with respect to those wages. The period of limitations is open just as long for the assessment of taxes as it is for the posting of benefit credits. Why has not someone upbraided the Treasury Department for not having assessed back taxes for the last 4 years in this newly covered area of employment? That would prevent any of the "free rides"

that have so concerned all of us. I will tell you why—the main purpose of this resolution is to guarantee a continued tax exemption for many large industrial and commercial organizations which, the Supreme Court last June, and many lower courts since then, have held, are no longer able to avoid their share of social-security contributions by mere artificial arrangements.

What is more important, however, is the fact that up to 750,000 employees and their families will be deprived of the social-security protection which the Supreme Court declared is rightfully theirs.

I do not object to legislation preventing the accrual of free wage credits but I do object to a deliberate effort to deprive these hundreds of thousands of salesmen, piece workers, truck drivers, miners, branch managers, and others of their opportunity to make future contributions and to continue their present coverage under the program.

I agree wholeheartedly with the President and am proud of his statesmanlike stand on this resolution.

I am in favor of increasing public assistance to the aged, the blind and dependent children much higher than is proposed in this resolution and will do all in my power to have such legislation enacted before we adjourn. Yet, I am gratified and proud that the President was able to discern the serious damage which the other sections of this resolution would have on our social-security program.

I sincerely hope that at least the Members on my side of the aisle will also recognize this resolution for what it really is. Stripped of its masquerade, it is nothing but special-privilege legislation. It is a tax exemption for hundreds of large established concerns which can well afford to pay their share of social-security contributions; but more significantly, it is a tax exemption which results in the denial of social-security protection to hundreds of thousands of individuals and their families who are now entitled to such protection.

The danger inherent in this resolution, as the President has pointed out, lies in the fact that the main considerations on which it seems to be based are the same as those offered in opposition to the original Social Security Act in 1935. I cannot believe that most of the Members of this Congress consider that the mere convenience of employers is more important to our country than the protection of employees and their families against the hazards of old age, unemployment, and premature death. It is obvious, however, that such is the attitude of the sponsors of this legislation.

Accordingly, unless this Congress wishes to go on record with a precedent which might well result in the destruction of the whole social-security program as we now know it, I beseech you to sustain the President's veto of this legislation.

I am not unmindful of the fact that this resolution carries with it increased benefits for the needy. I am also well aware of the desperate plight of these individuals because of the constantly rising cost of living.

However, if the House can take the time it is now taking to debate a resolution which is designed only to grant a tax exemption to a small group of employers, it can certainly spare the time to enact separate legislation on public assistance before adjournment.

Therefore, I repeat, we should vote down this piece of special-privilege legislation. As the President said, we are not forced to accept it merely because of its public-assistance provisions.

On voting it down, we should make every effort to enact public-assistance legislation before adjournment. We shall then see more clearly just how sincerely interested the majority leadership of this Congress is in its efforts to aid the needy individuals who are on the public-assistance rolls.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

Mr. KNUTSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KNUTSON. Those who wish to override the President's veto will vote "yea."

The SPEAKER. Those who wish the bill to become law will vote "yea."

The question was taken; and there were—yeas 298, nays 75, not voting 57, as follows:

[Roll No. 105]

YEAS—298

Abernethy	Chenoweth	Graham
Albert	Chiperfield	Grant, Ala.
Allen, Calif.	Church	Grant, Ind.
Allen, Ill.	Clason	Gregory
Allen, La.	Clevenger	Griffiths
Andersen, H. Carl	Cole, Kans.	Gross
	Cole, Mo.	Gwynne, Iowa
Anderson, Calif.	Colmer	Hagen
Andresen, August H.	Combs	Hale
	Cooley	Hall, Edwin Arthur
Andrews, Ala.	Corbett	
Andrews, N. Y.	Cotton	Hall, Leonard W.
Angell	Coudert	
Arends	Cox	Halleck
Arnold	Cravens	Hand
Bakewell	Crawford	Hardy
Banta	Crow	Harless, Ariz.
Barrett	Curtis	Harness, Ind.
Bates, Mass.	Dague	Harris
Battle	Davis, Ga	Harrison
Beall	Davis, Wis.	Harvey
Beckworth	Dawson, Utah	Hays
Bennett, Mich.	Devitt	Hébert
Bennett, Mo.	D'Ewart	Hedrick
Bishop	Dirksen	Hendricks
Blackney	Domengeaux	Heselton
Boggs, Del.	Donohue	Hess
Boggs, La.	Doughton	Hill
Bonner	Eaton	Hoeven
Boykin	Elliott	Hoffman
Bradley	Ellis	Holmes
Bramblett	Ellsworth	Hope
Brehm	Elsaesser	Horan
Brooks	Elston	Hull
Brophy	Engel, Mich.	Jackson, Calif.
Brown, Ga.	Fallon	Jenison
Bryson	Fellows	Jenkins, Ohio
Buck	Fenton	Jensen
Buffett	Fletcher	Johnson, Calif.
Bulwinkle	Folger	Johnson, Ill.
Burke	Fuller	Johnson, Ind.
Burleson	Gamble	Jones, Ala.
Busbey	Gary	Jones, N. C.
Butler	Gathings	Jones, Wash.
Byrnes, Wis.	Gavin	Jonkman
Camp	Gearhart	Judd
Canfield	Gillette	Kean
Cannon	Gillie	Kearney
Carson	Goff	Kearns
Case, N. J.	Goodwin	Keefe
Case, S. Dak.	Gore	Kennedy
Chadwick	Gossett	Kerr
Kersten, Wis.	Mundt	Schwabe, Okla.
Kilburn	Murdock	Scott, Hardie
Kilday	Murray, Wis.	Scott, Hugh D., Jr.
Knutson	Nicholson	
Kunkel	Nixon	Scrivner
Landis	Nodar	Seely-Brown
Larcade	Norblad	Shafer
Latham	Norrell	Sheppard
LeCompte	O'Hara	Short
Lemke	O'Konski	Sikes
Lewis, Ky.	Passman	Simpson, Ill.
Lewis, Ohio	Patman	Smathers
Lichtenwalter	Patterson	Smith, Kans.
Lodge	Peterson	Smith, Va.
Love	Phillips, Calif.	Smith, Wis.
Lucas	Phillips, Tenn.	Snyder
Lyle	Pickett	Stefan
McConnell	Plumley	Stockman
McCowen	Poage	Stratton
McCulloch	Potter	Sundstrom
McDonough	Potts	Taber
McDowell	Poulson	Talle
McGregor	Preston	Taylor
McMahon	Price, Fla.	Teague
McMillen, Ill.	Priest	Thompson
Mack	Ramey	Tibbott
MacKinnon	Rankin	Tollefson
Macy	Redden	Trimble
Mahon	Reed, Ill.	Twyman
Maloney	Reed, N. Y.	Vail
Manasco	Rees	Van Zandt
Martin, Iowa	Reeves	Vinson
Mason	Regan	Vorys
Mathews	Rich	Vursell
Meade, Ky.	Richards	Wadsworth
Meade, Md.	Riehlman	Welchel
Merrow	Rivers	Wheeler
Meyer	Rizley	Whitten
Michener	Rockwell	Whittington
Miller, Conn.	Rogers, Fla.	Wigglesworth
Miller, Md.	Rogers, Mass.	Williams
Miller, Nebr.	Rohrbough	Wilson, Tex.
Mills	Ross	Winstead
Mitchell	Russell	Wolcott
Monroney	Sadlak	Wolverton
Morris	St. George	Wood
Morrison	Sanborn	Woodruff
Morton	Sarbacher	Worley
Muhlenberg	Schwabe, Mo.	Youngblood

NAYS—75

Bates, Ky.	Forand	Lusk
Bland	Fulton	Lynch
Blatnik	Garmatz	McCormack
Bloom	Gordon	Mansfield
Buchanan	Gorski	Marcantonio
Byrne, N. Y.	Granger	Miller, Calif.
Carroll	Hart	Morgan
Chelf	Havenner	Multer
Cooper	Heffernan	Norton
Courtney	Hobbs	O'Brien
Crosser	Holifield	O'Toole
Davis, Tenn.	Huber	Pace
Dawson, Ill.	Isacson	Powell
Deane	Jackson, Wash.	Price, Ill.
Delaney	Jarman	Rayburn
Dingell	Javits	Rooney
Douglas	Karsten, Mo.	Sabath
Durham	Keating	Sadowski
Eberharter	Kee	Sasscer
Engle, Calif.	Kelley	Somers
Evins	King	Spence
Feighan	Kirwan	Thomas, Tex.
Fernandez	Klein	Walter
Flannagan	Lanham	Welch
Fogarty	Lesinski	Whitaker

NOT VOTING—57

Abbitt	Foote	Murray, Tenn.
Auchincloss	Gallagher	Peden
Barden	Gwinn, N. Y.	Pfeifer
Bell	Hartley	Philbin
Bender	Herter	Ploeser
Bolton	Hinshaw	Rains
Brown, Ohio	Jenkins, Pa.	Riley
Buckley	Jennings	Robertson
Celler	Johnson, Okla.	Scoblick
Chapman	Johnson, Tex.	Simpson, Pa.
Clark	Kefauver	Smith, Maine
Clippinger	Keogh	Smith, Ohio
Coffin	Lane	Stanley
Cole, N. Y.	Lea	Stevenson
Cunningham	LeFevre	Stigler
Dolliver	Ludlow	Thomas, N. J.
Dondero	McGarvey	Towe
Dorn	McMillan, S. C.	West
Fisher	Madden	Wilson, Ind.

So (two-thirds having voted in favor thereof) the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

On this vote:

Mr. Auchincloss and Mr. Towe for, with Mr. Keogh against.

Mr. Dondero and Mr. Simpson of Pennsylvania for, with Mr. Celler against.

Mr. Cole of New York and Mr. LeFevre for, with Mr. Madden against.

Mr. McGarvey and Mr. Stanley for, with Mr. Pfeifer against.

Mr. Foote and Mr. Herter for, with Mr. Buckley against.

Additional general pairs:

Mrs. Smith of Maine with Mr. McMillan of South Carolina.

Mr. Brown of Ohio with Mr. Peden.

Mr. Hartley with Mr. Fisher.

Mr. Coffin with Mr. Philbin.

Mr. Gwinn of New York with Mr. Dorn.

Mr. Thomas of New Jersey with Mr. Chapman.

Mr. Stevenson with Mr. Lane.

Mr. Ploeser with Mr. Rains.

Mr. Jenkins of Pennsylvania with Mr. Riley.

Mrs. Bolton with Mr. Stigler.

Mr. Jennings with Mr. Kefauver.

Mr. Gallagher with Mr. Abbitt.

Mr. Cunningham with Mr. West.

Mr. Clippinger with Mr. Johnson of Texas.

Mr. Bender with Mr. Barden.

Mr. Hinshaw with Mr. Bell.

Mr. Dolliver with Mr. Clark.

Mr. Scoblick with Mr. Murray of Tennessee.

Mr. GORE changed his vote from nay to yea.

Mr. BONNER changed his vote from nay to yea.

Mr. DONOHUE changed his vote from nay to yea.

Mr. LANHAM changed his vote from yea to nay.

The result of the vote was announced as above recorded.

GENERAL LEAVE TO EXTEND REMARKS

Mr. GEARHART. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may extend their remarks on the bill just passed, that they may have five legislative days within which to do so, and that their remarks be printed prior to the roll call.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—EMPLOYMENT TAXES AND SOCIAL SECURITY BENEFITS (H. DOC. NO. 711)

The SPEAKER. The Chair lays before the House the following message from the President of the United States.

Mr. EBERHARTER. Mr. Speaker, a point of order.

I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and forty Members are present, a quorum.

The Clerk read as follows:

To the House of Representatives:

I return herewith, without my approval, House Joint Resolution 296, to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Despite representations to the contrary, sections 1 and 2 of this resolution would exclude from the coverage of the old-age and survivors' insurance and unemployment-insurance systems up to 750,000 employees, consisting of a substantial portion of the persons working as commission salesmen, life-insurance salesmen, piece workers, truck drivers, taxicab drivers, miners, journeymen tailors, and others. In June 1947, the Supreme Court held that these employees have been justly and legally entitled to social-security protection since the beginning of the program in 1935. I cannot approve legislation which would deprive many hundreds of thousands of employees, as well as their families, of social-security benefits when the need for expanding our social-insurance system is so great.

Furthermore, if enacted into law, this resolution would overturn the present sound principle that employment relationships under the social-security laws should be determined in the light of realities rather than on the basis of technical legal forms. In so doing, it would make the social-security rights of the employees directly excluded, and many thousands of additional employees, depend almost entirely upon the manner in which their employers might choose to cast their employment arrangements. Employers desiring to avoid the payment of taxes which would be the basis for social-security benefits for their employees could do so by the establishment of artificial legal arrangements governing their relationship with their employees. I cannot approve legislation which would permit such employers at their own discretion to avoid the payment of social-security taxes and to deny social-security protection to employees and their families.

It has been represented that the issue involved in this resolution is whether or not the legislative branch of the Government shall determine what individuals are entitled to social-security protection. This is not the issue at all. The real issue is whether the social-security coverage of many hundreds of thousands of individuals should be left largely to the discretion of their employers. On this issue the proper course is obvious.

The expressed purpose of the sponsors of this resolution is to exclude from the coverage of the Social Security Act persons who have the status of independent contractors, rather than that of employees. But no legislation is needed to accomplish this objective. Under present law, as interpreted by the Supreme Court, only persons who are bona fide employees are covered by our social-security system.

When all of the considerations regarding sections 1 and 2 of the resolution are sifted, two basic facts remain unrefuted. Hundreds of large employers are assured of an exemption from social-security taxes, while hundreds of thousands of employees and their families are equally assuredly prevented from receiving the social security protection which the Supreme Court in June of last year clearly indicated was justly theirs. These two facts were minimized by the sponsors of the resolution who would have us believe, for example, that a traveling salesman who devotes full working time in the service of one company and depends completely upon that company for his livelihood is not an employee of that company but is an independent businessman and does not need social-security protection.

Instead of clarifying the distinction between independent contractors and employees, which is a difficult legal issue in many cases, this resolution would revive the confusion which has plagued the administration of the Social Security Act for so many years. Benefits which are now payable to thousands of persons would have to be withheld pending final determination of the new and complex legal problems raised by this resolution.

Moreover, the resolution purports to preserve the past coverage of employees who have already made contributions under this system. But in fact, under the terms of the Social Security Act, such coverage would expire in a few years, and previous contributions would be made worthless.

It has been asserted that it would be difficult for employers to keep the necessary records and meet other requirements of the law with respect to the employees affected by this resolution. This is reminiscent of the objections made in opposition to the original Social Security Act in 1935. If such objections had prevailed in 1935, our social-security program never would have been enacted. To allow them to prevail now would threaten the very foundation of the system. I cannot believe that the mere convenience of employers should be considered more important than the social-security protection of employees and their families.

It has also been urged that without this resolution some persons would receive credit toward old age and survivors benefits for three or four past years during which contributions were not collected. If the elimination of these credits had been the real purpose of the resolution, it could readily have been achieved without permanently excluding anyone from social-insurance protection.

If our social-security program is to endure, it must be protected against these piecemeal attacks. Coverage must be permanently expanded and no employer or special group of employers should be permitted to reverse that trend by efforts to avoid a tax burden which millions of other employers have carried without serious inconvenience or complaint.

Section 3 of this resolution contains provisions—completely unrelated to sections 1 and 2—for additional public assistance of $5 per month to the needy aged and blind, and $3 per month to dependent children.

These changes fall far short of the substantial improvements in our public-assistance program which I have recommended many times. Nevertheless, I am strongly in favor of increasing the amount of assistance payments. Were it not for the fact that the Congress still has ample opportunity to enact such legislation before adjournment, I would be inclined to approve the resolution in spite of my serious objections to sections 1 and 2. Speedy action on public-assistance legislation is clearly possible. I note that section 3 of this resolution was adopted as an amendment on the floor of the Senate, and passed by both houses in a single afternoon. Accordingly, I am placing this matter before the Congress in adequate time so that the public-assistance program will not suffer because of my disapproval of this resolution.

At the same time, I urge again that the Congress should not be satisfied at this session merely to improve public-assistance benefits—urgent as that is. There are other equally urgent extensions and improvements in our social-security sys-

tem which I have repeatedly recommended. They are well understood and widely accepted and should be enacted without delay.

Because sections 1 and 2 of this resolution would seriously curtail and weaken our social-security system, I am compelled to return it without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *June 14, 1948.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the bill and message ordered to be printed.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Mr. GEARHART. Mr. Speaker, I appreciate the limitation of time, and for that reason I will confine myself to merely stating the ultimate facts in relation to this resolution. Some time ago the Supreme Court of the United States rendered two decisions in what are known as the Silk and Gray Van cases, cases which involved the question whether or not certain persons were employees, and therefore covered by social security, or whether they were independent contractors.

In each of these decisions the correct result was reached by the Supreme Court, applying, as they should, the ancient common-law definition of employment. However, there crept into these decisions a little of what lawyers call obiter dicta; that is, some words which were quite unnecessary to the result. These words were to the effect that, for purposes of social security, the Social Security Administration was not necessarily bound in extending social-security coverage, by the ancient common-law definition of master and servant, or employer and employee, as you may choose to call it, but that they could take into the system as employees any persons who were dependent upon a business in the light of economic realities, thereby throwing into the entire system a confusion which required immediate legislative attention.

The Social Security Administration and the Treasury proceeded immediately to prepare a departmental regulation to carry that obiter dicta definition into effect. If this Congress had not interfered, tens of thousands of people in America who never dreamed they were employed by anybody and never for one moment thought they were covered by social security or subject to pay-roll taxes would have found that they had been swept into the social-security system by bureaucratic ukase. In other words, they would suddenly have found that they had more employers than a dog had fleas. So, to end this confusion, this Congress acted promptly, and, after thoroughgoing debate, and by a vote of nearly 7 to 1, proceeded by legislation to put the matter in order once again by restoring the ancient doctrine of the common law defining the relation of master and servant, employer and employee.

There is another reason why the passage of this resolution is very, very important, and that is, the preservation of the integrity of the social-security fund into which some 30,000,000 people at considerable sacrifice have paid pay-roll taxes, some of them ever since this system was inaugurated. Under the loose definition which the inept statement of the Supreme Court inspired, innumerable persons would receive benefits from the social-security fund who never paid anything into it whatsoever, thereby placing in jeopardy the right of these 30,000,000 people, whose contributions in pay-roll taxes had created the fund, to receive the annuities they had purchased upon their reaching the age of 65.

This resolution passed the House by a vote of 7 to 1 after careful discussion by its Members. The measure then went to the other body, where, after careful discussion, the resolution was amended so as to restore the integrity of the social-security fund by authorizing Congress to appropriate moneys from the general fund to the social-security fund to replace moneys which had been paid in as pay-roll taxes and illegally paid out by the Social Security Administration to persons who had never contributed anything to it.

The Senate further amended the resolution by providing that an additional $5 per month should be paid to every needy, aged person who is now receiving benefits under title I of the Social Security Act; by providing that every blind person in the United States should receive an additional $5 a month, and, by providing that every dependent child should receive an additional $3 per month.

So the bill comes back to us now from the White House as a bill which will restore the integrity of the social-security fund, carrying, in addition, new benefits for the needy old people of the country, this to the extent of $5 per capita; $5 additional for each blind person, and $3 additional for each dependent child.

These benefits, which this resolution will make available are in no sense of the word inconsiderable, for, indeed, these increased benefits which will go to the aged, the blind, and the dependent children, will involve a Treasury expenditure of $185,000,000 a year.

So, Mr. Speaker, the resolution under consideration is a very, very important one, from the standpoint of many of our deserving fellow citizens, dependent, in a large degree, if not entirely, upon the integrity of our social-security system.

The arguments of the President, which are contained in his veto message were presented to this Congress in a pocket veto last year. They were thoroughly considered and painstakingly weighed by the Members of this Congress when this resolution was before the House earlier in the year, and again later when it was before the Senate. In each instance those arguments were rejected as fear arguments, arguments unworthy of the attention of a legislative body. In view of the Chief Executive's poverty of argument, his utter inability to advance anything worthy of our attention, I ask that the resolution be passed, the objections of the President nothwithstanding.

Mr. Speaker, early in the day I agreed to yield to the gentleman from Michigan [Mr. DINGELL] time equal to that which I have consumed in this debate. Therefore, I now yield the gentleman from Michigan 6 minutes.

Mr. DINGELL. Mr. Speaker, I am sorry that because of a misunderstanding we have not been able to arrive at a more equitable distribution of time. The gentleman from New York [Mr. LYNCH], the gentleman from Rhode Island [Mr. FORAND], and the gentleman from Pennsylvania [Mr. EBERHARTER] desired some time, but, unfortunately, I could not get the gentleman from California to yield.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I will be very happy to yield to my distinguished friend from Tennessee.

Mr. COOPER. May I say to the gentleman and to the House that I voted against the passage of House Joint Resolution 296 when it passed the House. It is my intention to vote today to sustain the veto of the President. The passage of House Joint Resolution 296 will have the effect of overturning a unanimous decision of the Supreme Court of the United States and will deprive about 750,000 people of their rights and benefits under the social-security program. The passage of this joint resolution will reestablish all the confusion and uncertainty that made it necessary for the Supreme Court to decide the question, and that confusion will continue until the Court again has to decide the question if this resolution is passed. All of those who are sincerely in favor of a social-security program should vote to sustain the President's veto.

Mr. DINGELL. I thank the gentleman.

Mr. Speaker, the veto of House Joint Resolution 296 reflects the refusal of President Truman to subordinate principle to politics in the field of social security. The President has repeatedly asked the Eightieth Congress to expand social-security coverage and to liberalize benefits.

The Republican response has been to pass legislation this very morning under suspension of the rules and to exclude from social-security protection roughly 750,000 workers and their families to whom the Supreme Court has ruled the Democratic Seventy-fourth Congress intended to grant coverage in 1935. Passage of this bill is convincing proof that the original Republican opposition to social security is not yet dead. We may soon expect a revival of Chairman KNUTSON'S recommendation that social security be made an appendix of the Veterans' Administration.

The NAM lobbyists who pressured House Joint Resolution 296 through Congress were so eager that they also arranged to have the same provision included in H. R. 6777—the social security revision bill just passed by the House.

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield.

Mr. FORAND. The gentleman from California made quite a point of the fact

that this resolution now contains by virtue of an amendment coming from the other body a certain amount of increase in the benefits for the aged, blind, and children. If they are sincere in their desire to provide these increases, there is no reason in the world why the other body cannot insert the same provision in the bill that passed the House this morning.

Mr. DINGELL. I intend fully to cover that point.

The sponsors of this plan to reverse the Supreme Court and the Seventy-fourth Congress tried in each instance to sugar-coat the bitter pill. House Joint Resolution 296 went to the White House with a Senate amendment providing for a slight increase in the Federal share of public-assistance payments made by the States.

H. R. 6777—the Reed bill—combines this restriction of coverage, to make it palatable, with two commendable provisions extending protection on a voluntary basis to State and local employees and employees of churches, schools, and other nonprofit institutions.

House Joint Resolution 296 would affect others than the 750,000 employees directly deprived of coverage. The technical, legalistic definition of an "employee" under the bill would be an open invitation to employers to rig up fictitious contracts to avoid liability for social-security taxes. Confusion and delay in payment of both taxes and benefits would result until the Supreme Court could pass on the new language.

All loyal and sincere supporters of a strong system of social security, in my opinion, must vote to sustain the veto of House Joint Resolution 296. They cannot allow the people on relief to be used as hostages to deprive 750,000 workers and their families of unemployment and old-age and survivors' insurance. It took less than 24 hours for the public-assistance rider to pass both Houses. When the veto of House Joint Resolution 296 has been sustained, the public-assistance provision of the resolution can be just as promptly passed by enactment of H. R. 6837, now in the Committee on Ways and Means, which contains the identical language of the rider to House Joint Resolution 296.

A vote to sustain the veto of the President will be the test in this Congress of the advocates of a sound and adequate program of social security, and especially of the sincerity of Members who have introduced bills to expand the social-security system.

House Joint Resolution 296 is vicious and inexcusable.

Mr. GEARHART. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, if this bill does not pass, the President's objections notwithstanding, these mythical 750,000 people, who are yet to be identified, will become charges against the social-security fund, into which they have never paid a red penny—not a nickel of pay-roll taxes. These free riders will take whatever is paid to them from that fund and thereby impair the rights of the 30,000,000 people who have at great personal sacrifice created and built up the fund out of which they hope to receive their retirement annuities when they reach age 65.

Ours, Mr. Speaker, is a great responsibility. This is the choice we must make.

Mr. Speaker, I move the previous question.

Mr. EBERHARTER. Mr. Speaker, I hope that the House will vote to sustain the President's veto on House Joint Resolution 296.

House Joint Resolution 296, in its present form, should not be allowed to become law.

The specific purpose of sections 1 and 2 of the resolution is to prevent 500,000 to 750,000 persons from building up wage credits under the old-age and survivors' insurance and unemployment insurance systems. The right of these thousands of persons to their social security protection was confirmed last year by a decision of the United States Supreme Court in the Silk case.

A vote to override the veto is a vote to prevent these thousands of persons from having the social security protection to which they are rightfully due.

A vote to sustain the veto is a vote to protect the social security rights of these thousands of persons. A vote to sustain the veto will mean that hundreds of aged persons, widows, and orphans will be able to draw benefits during the coming months.

A vote to override the veto is a vote against the interests of these people. A vote to override means that you are taking social security benefits away from widows and orphans.

Various legal and technical reasons have been given by those in favor of the passage of the resolution. The arguments made in behalf of the resolution are complicated, confusing, contradictory, and unsound.

The argument against the resolution and in support of the veto is very simple, very clear, very compelling.

It all comes down to this very simple propcsition: Are you for social security or against it?

Do you favor taking social security protection away from thousands of persons? Do you favor denying benefits to widows and orphans which are payable under the terms of the United States Supreme Court decision?

Let us be clear about this one point: If you vote to override the veto it will be interpreted as a vote against social security.

I urge you to consider this fact very carefully. Do not vote against social security. Vote to sustain the veto.

Those who wish to vote for the additional $5 for the aged and the blind and the additional $3 for dependent children, which is part of the resolution, can do so by passing a separate bill for this purpose. I have already introduced such a bill. There is plenty of time to do this. But the first step is to sustain the veto. Then we can quickly pass a bill for the additional money to the aged, the blind, and dependent children.

Mr. LYNCH. Mr. Speaker, in vetoing this resolution, the President made it unmistakably clear that he is not opposed to the increase in public assistance provided therein for the aged, the blind and dependent children. In fact he recommends that these or even more liberal public assistance provisions be enacted prior to the adjournment of this Congress.

What the President could not tolerate in this legislation, and the part which, I fear, escaped the attention of many Members of this Chamber, is the fact that it puts the social-security protection of hundreds of thousands of employees and their families almost completely at the mercy of their employers, and would thus deprive millions of people of protection against the hazards of old age, unemployment, and premature death of the breadwinner of the family.

When this resolution was originally considered by the House, it was represented to be a harmless piece of legislation that merely prevented the Federal Security Agency from going out of bounds in its efforts to expand coverage. It was also held out as an appropriate measure to prevent a large number of individuals from getting wage credits without paying contributions into the fund.

Since that time, however, the real purpose of the resolution has become increasingly clear.

In June of last year, the Supreme Court finally declared that technical common law rules had no place in a social-security system. The Court, in effect, held that common sense, rather than common law, should determine whether an individual is an employee or an independent businessman. These decisions of the Supreme Court finally brought order out of the confusion which had theretofore prevailed under the social-security laws. Prior thereto the lower courts were split wide open on the question whether common law or common sense should govern their determinations. Many of the courts had gone to the extent of holding, for example, that a traveling salesman was a covered employee if he worked on a salary plus commission basis, but was not entitled to social-security protection if he were paid straight commissions.

It was that sort of condition that the Supreme Court remedied last June, and it is that very condition which this resolution would restore.

Do not for 1 minute, believe that this legislation will clarify the status of individuals under the social-security program. Since the Supreme Court's decisions last June the lower courts have had no trouble whatever in applying the test of realities, or as I call it, common sense. Under this legislation, the status of the individual would first depend on whether his employer put him on a salaried basis or a commission basis and thereafter would depend on whether the court is willing to elevate substance above form.

A lot has been said about the free wage credits which employees will receive if this resolution is not enacted. No one, however, has yet come forward with the suggestion that the Treasury Department might collect the back taxes with respect to those wages. The period of limitations is open just as long for the assessment of taxes as it is for the posting of benefit credits. Why has not someone upbraided the Treasury Department for not having assessed back taxes for the last 4 years in this newly covered area of employment? That would prevent any of the "free rides"

that have so concerned all of us. I will tell you why—the main purpose of this resolution is to guarantee a continued tax exemption for many large industrial and commercial organizations which, the Supreme Court last June, and many lower courts since then, have held, are no longer able to avoid their share of social-security contributions by mere artificial arrangements.

What is more important, however, is the fact that up to 750,000 employees and their families will be deprived of the social-security protection which the Supreme Court declared is rightfully theirs.

I do not object to legislation preventing the accrual of free wage credits but I do object to a deliberate effort to deprive these hundreds of thousands of salesmen, piece workers, truck drivers, miners, branch managers, and others of their opportunity to make future contributions and to continue their present coverage under the program.

I agree wholeheartedly with the President and am proud of his statesmanlike stand on this resolution.

I am in favor of increasing public assistance to the aged, the blind and dependent children much higher than is proposed in this resolution and will do all in my power to have such legislation enacted before we adjourn. Yet, I am gratified and proud that the President was able to discern the serious damage which the other sections of this resolution would have on our social-security program.

I sincerely hope that at least the Members on my side of the aisle will also recognize this resolution for what it really is. Stripped of its masquerade, it is nothing but special-privilege legislation. It is a tax exemption for hundreds of large established concerns which can well afford to pay their share of social-security contributions; but more significantly, it is a tax exemption which results in the denial of social-security protection to hundreds of thousands of individuals and their families who are now entitled to such protection.

The danger inherent in this resolution, as the President has pointed out, lies in the fact that the main considerations on which it seems to be based are the same as those offered in opposition to the original Social Security Act in 1935. I cannot believe that most of the Members of this Congress consider that the mere convenience of employers is more important to our country than the protection of employees and their families against the hazards of old age, unemployment, and premature death. It is obvious, however, that such is the attitude of the sponsors of this legislation.

Accordingly, unless this Congress wishes to go on record with a precedent which might well result in the destruction of the whole social-security program as we now know it, I beseech you to sustain the President's veto of this legislation.

I am not unmindful of the fact that this resolution carries with it increased benefits for the needy. I am also well aware of the desperate plight of these individuals because of the constantly rising cost of living.

However, if the House can take the time it is now taking to debate a resolution which is designed only to grant a tax exemption to a small group of employers, it can certainly spare the time to enact separate legislation on public assistance before adjournment.

Therefore, I repeat, we should vote down this piece of special-privilege legislation. As the President said, we are not forced to accept it merely because of its public-assistance provisions.

On voting it down, we should make every effort to enact public-assistance legislation before adjournment. We shall then see more clearly just how sincerely interested the majority leadership of this Congress is in its efforts to aid the needy individuals who are on the public-assistance rolls.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

Mr. KNUTSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KNUTSON. Those who wish to override the President's veto will vote "yea."

The SPEAKER. Those who wish the bill to become law will vote "yea."

The question was taken; and there were—yeas 298, nays 75, not voting 57, as follows:

[Roll No. 105]

YEAS—298

Abernethy	Chenoweth	Graham
Albert	Chiperfield	Grant, Ala.
Allen, Calif.	Church	Grant, Ind.
Allen, Ill.	Clason	Gregory
Allen, La.	Clevenger	Griffiths
Andersen, H. Carl	Cole, Kans.	Gross
	Cole, Mo.	Gwynne, Iowa
Anderson, Calif.	Colmer	Hagen
Andresen, August H.	Combs	Hale
	Cooley	Hall, Edwin Arthur
Andrews, Ala.	Corbett	
Andrews, N. Y.	Cotton	Hall, Leonard W.
Angell	Coudert	
Arends	Cox	Halleck
Arnold	Cravens	Hand
Bakewell	Crawford	Hardy
Banta	Crow	Harless, Ariz.
Barrett	Curtis	Harness, Ind.
Bates, Mass.	Dague	Harris
Battle	Davis, Ga	Harrison
Beall	Davis, Wis.	Harvey
Beckworth	Dawson, Utah	Hays
Bennett, Mich.	Devitt	Hébert
Bennett, Mo.	D'Ewart	Hedrick
Bishop	Dirksen	Hendricks
Blackney	Domengeaux	Heselton
Boggs, Del.	Donohue	Hess
Boggs, La.	Doughton	Hill
Bonner	Eaton	Hoeven
Boykin	Elliott	Hoffman
Bradley	Ellis	Holmes
Bramblett	Ellsworth	Hope
Brehm	Elsaesser	Horan
Brooks	Elston	Hull
Brophy	Engel, Mich.	Jackson, Calif.
Brown, Ga.	Fallon	Jenison
Bryson	Fellows	Jenkins, Ohio
Buck	Fenton	Jensen
Buffett	Fletcher	Johnson, Calif.
Bulwinkle	Folger	Johnson, Ill.
Burke	Fuller	Johnson, Ind.
Burleson	Gamble	Jones, Ala.
Busbey	Gary	Jones, N. C.
Butler	Gathings	Jones, Wash.
Byrnes, Wis.	Gavin	Jonkman
Camp	Gearhart	Judd
Canfield	Gillette	Kean
Cannon	Gillie	Kearney
Carson	Goff	Kearns
Case, N. J.	Goodwin	Keefe
Case, S. Dak.	Gore	Kennedy
Chadwick	Gossett	Kerr
Kersten, Wis.	Mundt	Schwabe, Okla.
Kilburn	Murdock	Scott, Hardie
Kilday	Murray, Wis.	Scott, Hugh D., Jr.
Knutson	Nicholson	
Kunkel	Nixon	Scrivner
Landis	Nodar	Seely-Brown
Larcade	Norblad	Shafer
Latham	Norrell	Sheppard
LeCompte	O'Hara	Short
Lemke	O'Konski	Sikes
Lewis, Ky.	Passman	Simpson, Ill.
Lewis, Ohio	Patman	Smathers
Lichtenwalter	Patterson	Smith, Kans.
Lodge	Peterson	Smith, Va.
Love	Phillips, Calif.	Smith, Wis.
Lucas	Phillips, Tenn.	Snyder
Lyle	Pickett	Stefan
McConnell	Plumley	Stockman
McCowen	Poage	Stratton
McCulloch	Potter	Sundstrom
McDonough	Potts	Taber
McDowell	Poulson	Talle
McGregor	Preston	Taylor
McMahon	Price, Fla.	Teague
McMillen, Ill.	Priest	Thompson
Mack	Ramey	Tibbott
MacKinnon	Rankin	Tollefson
Macy	Redden	Trimble
Mahon	Reed, Ill.	Twyman
Maloney	Reed, N. Y.	Vail
Manasco	Rees	Van Zandt
Martin, Iowa	Reeves	Vinson
Mason	Regan	Vorys
Mathews	Rich	Vursell
Meade, Ky.	Richards	Wadsworth
Meade, Md.	Riehlman	Welchel
Merrow	Rivers	Wheeler
Meyer	Rizley	Whitten
Michener	Rockwell	Whittington
Miller, Conn.	Rogers, Fla.	Wigglesworth
Miller, Md.	Rogers, Mass.	Williams
Miller, Nebr.	Rohrbough	Wilson, Tex.
Mills	Ross	Winstead
Mitchell	Russell	Wolcott
Monroney	Sadlak	Wolverton
Morris	St. George	Wood
Morrison	Sanborn	Woodruff
Morton	Sarbacher	Worley
Muhlenberg	Schwabe, Mo.	Youngblood

NAYS—75

Bates, Ky.	Forand	Lusk
Bland	Fulton	Lynch
Blatnik	Garmatz	McCormack
Bloom	Gordon	Mansfield
Buchanan	Gorski	Marcantonio
Byrne, N. Y.	Granger	Miller, Calif.
Carroll	Hart	Morgan
Chelf	Havenner	Multer
Cooper	Heffernan	Norton
Courtney	Hobbs	O'Brien
Crosser	Holifield	O'Toole
Davis, Tenn.	Huber	Pace
Dawson, Ill.	Isacson	Powell
Deane	Jackson, Wash.	Price, Ill.
Delaney	Jarman	Rayburn
Dingell	Javits	Rooney
Douglas	Karsten, Mo.	Sabath
Durham	Keating	Sadowski
Eberharter	Kee	Sasscer
Engle, Calif.	Kelley	Somers
Evins	King	Spence
Feighan	Kirwan	Thomas, Tex.
Fernandez	Klein	Walter
Flannagan	Lanham	Welch
Fogarty	Lesinski	Whitaker

NOT VOTING—57

Abbitt	Foote	Murray, Tenn.
Auchincloss	Gallagher	Peden
Barden	Gwinn, N. Y.	Pfeifer
Bell	Hartley	Philbin
Bender	Herter	Ploeser
Bolton	Hinshaw	Rains
Brown, Ohio	Jenkins, Pa.	Riley
Buckley	Jennings	Robertson
Celler	Johnson, Okla.	Scoblick
Chapman	Johnson, Tex.	Simpson, Pa.
Clark	Kefauver	Smith, Maine
Clippinger	Keogh	Smith, Ohio
Coffin	Lane	Stanley
Cole, N. Y.	Lea	Stevenson
Cunningham	LeFevre	Stigler
Dolliver	Ludlow	Thomas, N. J.
Dondero	McGarvey	Towe
Dorn	McMillan, S. C.	West
Fisher	Madden	Wilson, Ind.

So (two-thirds having voted in favor thereof) the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

On this vote:

Mr. Auchincloss and Mr. Towe for, with Mr. Keogh against.

Mr. Dondero and Mr. Simpson of Pennsylvania for, with Mr. Celler against.

Mr. Cole of New York and Mr. LeFevre for, with Mr. Madden against.

Mr. McGarvey and Mr. Stanley for, with Mr. Pfeifer against.

Mr. Foote and Mr. Herter for, with Mr. Buckley against.

Additional general pairs:

Mrs. Smith of Maine with Mr. McMillan of South Carolina.

Mr. Brown of Ohio with Mr. Peden.

Mr. Hartley with Mr. Fisher.

Mr. Coffin with Mr. Philbin.

Mr. Gwinn of New York with Mr. Dorn.

Mr. Thomas of New Jersey with Mr. Chapman.

Mr. Stevenson with Mr. Lane.

Mr. Ploeser with Mr. Rains.

Mr. Jenkins of Pennsylvania with Mr. Riley.

Mrs. Bolton with Mr. Stigler.

Mr. Jennings with Mr. Kefauver.

Mr. Gallagher with Mr. Abbitt.

Mr. Cunningham with Mr. West.

Mr. Clippinger with Mr. Johnson of Texas.

Mr. Bender with Mr. Barden.

Mr. Hinshaw with Mr. Bell.

Mr. Dolliver with Mr. Clark.

Mr. Scoblick with Mr. Murray of Tennessee.

Mr. GORE changed his vote from nay to yea.

Mr. BONNER changed his vote from nay to yea.

Mr. DONOHUE changed his vote from nay to yea.

Mr. LANHAM changed his vote from yea to nay.

The result of the vote was announced as above recorded.

GENERAL LEAVE TO EXTEND REMARKS

Mr. GEARHART. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may extend their remarks on the bill just passed, that they may have five legislative days within which to do so, and that their remarks be printed prior to the roll call.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House having proceeded to reconsider the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage, returned by the President of the United States, with his objections, to the House of Representatives, in which it originated, it was—

Resolved, That the said bill pass, two thirds of the House of Representatives agreeing to pass the same.

MAINTENANCE OF STATUS QUO OF EMPLOYMENT TAXES AND SOCIAL-SECURITY BENEFITS—VETO MESSAGE (H. DOC. NO. 711)

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which was read.

(For text of President's message, see today's proceedings of the House of Representatives on p. 8188.)

During the reading of the veto message the following occurred:

Mr. WHERRY. Mr. President, I wish to announce to Senators that the veto message of the President of House Joint Resolution 296 is now being read, and the Senator from Colorado [Mr. MILLIKIN] expects immediate consideration of it. After the conclusion of action on the veto message there will be brought before the Senate two appropriation bills and some other business, and as I announced this morning, the expectation is that there will be a night session. The question now before the Senate is the veto message and I trust that Senators will be prepared to debate it if they care to, or vote on it immediately.

Mr. LUCAS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. LUCAS. What was before the Senate when the veto message was taken up?

The PRESIDENT pro tempore. House bill 6705, the Interior department appropriation bill, is the business which has been taken up, after the unfinished business had been temporarily laid aside.

Mr. LUCAS. Does the veto message have preference?

The PRESIDENT pro tempore. It is privileged matter.

Mr. LUCAS. At any time?

The PRESIDENT pro tempore. The Senator is correct.

Mr. LUCAS. The other business is automatically laid aside?

The PRESIDENT pro tempore. The Senator is correct. The clerk will continue the reading.

The clerk resumed and concluded the reading of the veto message.

Mr. MILLIKIN. Mr. President, I move that the Senate proceed to the reconsideration of House Joint Resolution 296.

The motion was agreed to; and the Senate proceeded to reconsider the joint resolution (H. J. Res. 296) to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

The PRESIDENT pro tempore. The question is, Shall the joint resolution pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. MILLIKIN. Mr. President, I shall give a very brief review of what is in the joint resolution.

The joint resolution would reaffirm the unbroken intent of Congress that the usual common-law rules, realistically applied, shall continue to be used to determine whether a person is an "employee" for purposes of applying the Social Security Act.

The resolution would maintain the status under the act of those who, prior to the enactment of the joint resolution, have been given coverage by erroneous construction of the term "employee"—as defined in the joint resolution—if social-security taxes have been paid into the old-age and survivors' insurance trust fund with respect to the covered services.

The joint resolution would assure continued benefits to those who will have attained age 65, and to the survivors of those who will have died prior to the close of the first calendar quarter which begins after the enactment of the act and who have coverage under the system because of misconstruction of the term "employee"—as defined in the joint resolution—even though social-security taxes have not been paid by them or in their behalf.

The joint resolution would stop extension of coverage of the act to between a half and three-quarters of a million persons who have not been, are not now, and should not be under the act, until coverage is provided by act of the Congress.

The joint resolution would stop the plan of the Treasury Department to give to these 500,000–750,000 persons free, retroactive coverage, and thus would stop a more than $100,000,000 impairment of the old-age and survivors' insurance trust fund which has been built up out of taxes collected on the wages of those who are truly employees and who have paid for their coverage under the system.

The pending resolution would not disturb the existing Treasury regulation which construes the term "employee" in the Social Security Act harmoniously with the usual common-law rules.

The pending resolution will maintain the moving principles of the decisions of the United States Supreme Court in the Silk, Greyvan, and Bartels cases, where, in the opinion of your committee, the Court realistically applied the usual common-law rules. But if it be contended that the Supreme Court has invented new law for determining an "employee" under the social-security system in these cases, then the purpose of this joint resolution is to reestablish the usual common-law rules, realistically applied.

The joint resolution preserves the integrity of the trust fund by limiting payments out of the fund to persons who are employees under the act by the usual common-law rules, realistically applied. It leaves to Congress the opportunity to

provide coverage for independent contractors and the self-employed, who are not employees under the act, or to those who are employees and are now expressly excluded from the coverage of the act.

The joint resolution would restore to the trust fund by appropriation moneys which have been paid out of the fund in the form of social-security benefits to persons not employees under the act and who have not contributed social-security taxes to the fund.

The bill also provides increased old-age-assistance payments and payments for dependent children and the blind.

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

Mr. MILLIKIN. I yield.

Mr. PEPPER. Will the Senator from Colorado kindly tell the Senate what the language in the original Social Security Act which was the subject of the Supreme Court decision deals with? What is the language of coverage which was interpreted by the United States Supreme Court decision?

Mr. MILLIKIN. The question is, What is meant by "employee"?

Mr. PEPPER. No, Mr. President, the Senator from Florida is asking what the language is in the act.

Mr. MILLIKIN. The single word is employee.

Mr. PEPPER. No, Mr. President. Will the Senator yield further?

Mr. MILLIKIN. Yes.

Mr. PEPPER. In the original Social Security Act affecting old-age and survivors' insurance, employees were covered.

Mr. MILLIKIN. Employees were covered, except farm employees and domestics, and certain excepted categories.

Mr. PEPPER. Now when the Supreme Court had the matter before it, it was interpreting the meaning of the term "employee," was it not?

Mr. MILLIKIN. Yes, and it interpreted it, in the view of the committee, entirely in accord with the existing Treasury regulations, and if it did not do so, then it was making law of its own, a privilege which is exclusively with the Congress.

Mr. PEPPER. Mr. President, the able Senator from Colorado has stated very clearly what is the issue involved in this matter. The Senator has stated clearly and rightly that the original Social Security Act respecting old-age and survivors' insurance covered "employees." The question arose later as to who was an employee. Naturally the decision went to the judiciary, and finally to the Supreme Court of the United States.

Mr. MILLIKIN. Mr. President, there is more to it than that. The Senator asked me a very narrow question. The Congress itself has decided who is an employee. The Social Security Agency attempted to secure the type of enlargement which it now contemplates in its proposed regulation, and the Congress refused its request. Shortly after the Social Security Act became effective, the Treasury Department put out regulations interpreting the word "employee." Those regulations were before Congress again and again in connection with revisions of the Social Security Act. Congress accepted them, did not change them and thus they became the Congress' own interpretation of the word "employee." They became the law of Congress.

Mr. PEPPER. Mr. President, what the able Senator from Colorado has stated does not change the basic assumption upon which the Senator from Florida began, namely, that the Social Security Act extended the coverage to employees. The Social Security administrators in their interpretation of the term "employee" embraced a certain category of persons. Their coverage was questioned, and the issue went to the Supreme Court of the United States as to what the term "employee" as used in the act meant. That involved an interpretation by the Supreme Court of the United States of legislative language as well as intent.

Now, Mr. President, the Supreme Court of the United States in the performance of its review function interpreted the word "employee" to be based upon a factual and a realistic predicate. It did not regard itself—nor did it regard the language of the law—to be confined within the narrow limitations of the common-law definition of employer and employee or master and servant.

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

Mr. PEPPER. Let me finish the sentence. What is involved in the joint resolution is an attempt on the part of the sponsors thereof to induce the Congress of the United States to reverse the Supreme Court of the United States in its interpretation of the term "employee," or to lay down a different standard of coverage, which would exclude the people who the Supreme Court said are in fact employees.

Mr. MILLIKIN. Let me say to the distinguished Senator that he is assuming that the Congress is reversing the decisions of the Supreme Court. It is the contention of the sponsors of the joint resolution that nothing of the kind happened, and that the Treasury is perverting the intent of those decisions in order to give itself new fields of legislative power. But, I repeat, if the Supreme Court of the United States is giving a definition of its own which is contrary to the law as established by the words and by the practice and by the regulations which have been accepted by the Congress, then we mean to reverse the Supreme Court, as we have the right to do.

Mr. PEPPER. Yes, Mr. President, we have a right to pass a law that will invalidate the decision of the Supreme Court of the United States, and that procedure has been attempted in numerous cases here in the last year or two. There is a considerable tendency to reverse the Supreme Court of the United States in the Congress when the Supreme Court lays down a definition that generally will be in the public interest. In this instance, Mr. President, I think it is in the public interest for half a million or 700,000 men and women who are in fact employees to be given the advantage of coverage under the social-security and old-age and survivors' program. They pay by their own contribution into this fund. They are not beneficiaries of charity.

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

Mr. PEPPER. If the Senator will allow me to continue a moment. They pay into the fund a sum equal to the amount the employer pays into the fund. That makes the common fund. They contribute to it, and they are denied by this joint resolution, nearly 700,000 of them in this country, the right to contribute to this fund, to be the beneficiaries of it, by a definition which will be, in the language of the President in his veto message, within the whim and the caprice of an employer's legal contract of employment.

Mr. MILLIKIN. The Senator is making a misstatement, which I am sure is not deliberate.

Mr. PEPPER. Certainly I did not intentionally make a misstatement.

Mr. MILLIKIN. There is not one person, not one, who is covered in this system, who has carried his weight of the load, who has contributed any taxes for coverage, who has been denied it—not one person.

Mr. PEPPER. If the Senator——

Mr. MILLIKIN. If the Senator will wait a moment. I intend to demonstrate that point, because it is very important. Moreover, if there is anyone in this system who is not an employee, but who has paid his taxes, he receives benefit credits, and moreover, if there is anyone whose benefits have matured, who has had no place in the system rightfully, even though he has paid no taxes into the system, those benefits continue. That is contained in express language in the joint resolution.

Mr. PEPPER. Mr. President, I am afraid it is the Senator from Colorado who is laboring under a misrepresentation, or else the Senator from Florida has been misunderstood. I mean the 500,000 or 700,000 who would be covered by the Supreme Court's interpretation of the term "employee" are to be excluded by this joint resolution if it becomes law, and I mean that those people would not be the beneficiaries of charity. They contribute to this plan. I am not talking about someone who contributed in the past and whose rights are in jeopardy. I am talking about the right of this class to come into the system. I am saying that they pay part of their wage. They put up as much as does the employer. This is not just a charity we are speaking about. This is the right to contribute to a system which will give them some protection in case of disability, or give their dependents some benefits in case of their death.

Mr. BARKLEY and Mr. MILLIKIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Florida yield; and if so, to whom?

Mr. PEPPER. I yield first to the Senator from Kentucky, and then I shall be glad to yield to the Senator from Colorado.

Mr. BARKLEY. The fact that they may not heretofore have paid any contribution into the fund would not preclude them from being eligible to do so hereafter under the decision of the Supreme Court.

Mr. PEPPER. That is correct.

Mr. BARKLEY. While it is probably true that technically no one who is on the rolls is taken off by this legislation, it bars the door to their entry in the future.

Mr. PEPPER. That is what I mean to say. Between 500,000 and 700,000 are precluded from sharing in the program. They are precluded from contributing. They are precluded from the benefits which the program would afford, contrary to the decision of the Supreme Court of the United States.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. I challenge that statement frontally. There is not one person who is an employee who will be disestablished from the opportunity of future coverage under the act—not one person.

Mr. PEPPER. I think we can at least come to an understanding about the facts. Let me see if I am correct——

Mr. MILLIKIN. The Supreme Court, in the moving principles leading to its decisions in the Silk and Greyvan cases and the Bartels versus Birmingham case, adopted the usual common-law rule realistically applied, which is the present rule of the Treasury Department.

Mr. PEPPER. What is the Senator trying to do by this resolution?

Mr. MILLIKIN. We are trying to prevent the Treasury from making new rules which would misinterpret the decision of the Supreme Court and would give to itself the law-making power.

Mr. PEPPER. If the Senator from Colorado is trying to review in the Congress an administrative interpretation of the Bureau, that is certainly a new and peculiar procedure. If a bureau of the Government attempts to promulgate a regulation which is in violation of the law as laid down by the Supreme Court of the United States, is it necessary to come to Congress to curb it? Can it not be curbed in some court? Here is the Senator from Colorado, in the Congress, trying to keep the Social Security Agency from exceeding its lawful power. Are we going to review in the Congress of the United States every administrative transgression? Either the Bureau is acting within the scope of the United States Supreme Court decision, or it is not. If it is not, then we have no right to stop it. If it is, it can be stopped by the courts, and it will be stopped by the courts of this land. It is not the function and prerogative of Congress to review every attempted exercise of administrative authority, or to review a decision of the Supreme Court of the United States; and both those attempts are involved in this resolution.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. PEPPER. I yield.

Mr. MILLIKIN. I think the Senator's declaration that it is not within the province of the Congress to review the assertion of law-making power by a bureau which has powers delegated from the Congress is one of the most fantastic doctrines I have ever heard. I do not believe the Senator means it. The question of coverage depends on the interpretation of the word "employee." It is a word which has been used by Congress. The jurisdiction of the subject is in Congress. Congress has the complete right to interpret the word as it sees fit.

Mr. PEPPER. Yes; but when the Congress uses a word to cover a class, and when the Supreme Court of the United States defines and interprets that word, and determines and defines and delimits that class, we ought not in the Congress to be asked to take away from the beneficiaries of that definition the coverage which the definition extends. That is what is attempted here. The insurance companies and those who are not friendly to the extension of social security are the ones behind this resolution. They are the ones trying to freeze an administrative interpretation. They are the ones trying to reverse the Supreme Court definition. They are the ones trying to find a new definition which will limit the coverage of a class. The Senator well knows that that is what is involved in this resolution.

Mr. MILLIKIN. The Supreme Court was not dealing with the inclusion of the 500,000 to 700,000 people to whom the Senator refers. The Supreme Court was dealing with the Social Security Act as it related to parties in cases before it, and with the regulations of the Treasury Department. I respectfully suggest—there may be argument about it—that the Supreme Court decision does not authorize the proposed regulation. It does not authorize the inclusion of all these people. It simply goes back to the old common law rules, realistically applied, where the facts of each case determine the situation. Some of the 500,000 to 700,000 are employees. Some of them are self-employed. Some are independent contractors. They can find their place in the system if they are employees; and neither this resolution nor the present regulations of the Treasury will prohibit it, nor will the Supreme Court decision.

Mr. HATCH. Mr. President——

Mr. PEPPER. Let me first answer the Senator from Colorado, and then I shall be glad to yield to the able Senator from New Mexico.

The Supreme Court had before it the interpretation of the word "employee," as used in the Social Security Act affecting old-age and survivors' insurance. The Supreme Court held that the definition of "employee" should be on a realistic basis, and that it was a question of fact when one man worked for another, that was to be determined in the light of all the circumstances and facts surrounding the case. It was not to be predicated upon some phraseology in a lawyer's document, or on the way the contract was worded, phrased, or termed. It was simply a question of fact in each case. But the Supreme Court said, "We are not going to be bound by the technical requirements of the antiquated common-law definition of master and servant, employer, and employee." When the Supreme Court rendered that decision, the Bureau attempted to implement the decision in its regulations by beginning to see that people who were in fact employees were covered by the bill. No one else, mind you, is covered, except one who in fact is an employee.

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

Mr. PEPPER. If the Senator will allow me just a moment, in the debate on the resolution I stated that I had been in contact with the legal authorities in the Treasury. I asked them about a man who was general agent for an insurance company. They said that he was not covered because he was in fact an independent contractor and not an employee. I said, "What about a man who is in the general insurance business, who represents many fire-insurance companies, and sells insurance for those companies to the public. Is he covered?" The Treasury officials said, "No; he is not in fact an employee. He is actually an independent contractor." But in the other cases, where a man was an employee of an insurance office or an insurance company, when, as a salesman, he was an employee in fact, he should be covered, and he would be covered under the definition which was interpreted by the United States Supreme Court.

The Senator from Colorado and the sponsors of this resolution do not want the realistic, factual interpretation of "employee" by the Supreme Court of the United States. They want to take us back to the technical conditions of the common-law definition of employer and employee, under which the master is expected to give detailed instructions to the employee. That is made the criterion of the relationship between the two.

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

Mr. PEPPER. Certainly, Mr. President, there is a very fundamental question involved in this decision.

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

Mr. PEPPER. I yield to the Senator from New Mexico.

Mr. HATCH. I have been trying to attract the attention of both Senators. There is one thing about this resolution that has puzzled me since the beginning. For a long period of time, as Senators will recall, we had much criticism of the executive department of the Government and of the bureaus, because they could make arbitrary regulations and decisions, and there was no method whatever to review them by any agency of Government.

So, after a long period of consideration, we passed the administrative law bill. Among other features, it contains a feature for judicial review. If I am correctly informed, if the regulations which now are under discussion violated the laws of Congress, if they violated the Supreme Court's decisions, if they were as bad as the Senator from Colorado thinks they are, they could be reached; and the decision could be made regularly and in accordance with the administrative law bill, which provides for full and complete judicial review.

But instead of that, we are asked to take the extraordinary step of having the Congress determine the validity of the regulation, and interpret the decision of the Supreme Court, and say that the regulation violates the decision of the Supreme Court.

To my mind, it is most extraordinary for the Congress to attempt to do that, when for months and years we went through the procedure of setting up the administrative machinery.

Mr. PEPPER. I thank the Senator very much for his valuable contribution.

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

The PRESIDING OFFICER (Mr. BALDWIN in the chair). Does the Senator from Florida yield to the Senator from Colorado?

Mr. PEPPER. I yield.

Mr. MILLIKIN. The Senator has said that the Senator from Colorado favors going back to the determination of coverage according to the technical concepts of the old common-law rule. He has said that the Senator from Colorado does not want a realistic application of the rule.

I invite the Senator's attention to the report of the Senate Committee on Finance which makes it completely clear that the Committee on Finance does favor the realistic application of the rule; and from that report the Senator will see that the Treasury Department has promulgated regulations which are in existence at the present time, and which do provide for the realistic application of the common-law rule.

The point is that the Treasury Department is now using a Supreme Court decision to go off into the stratosphere and make a lot of law of its own.

So it certainly is within the jurisdiction of the Congress, and the Congress should take hold of its jurisdiction, and should stop that.

Mr. PEPPER. Mr. President, I have two answers to make to my able friend. The first is as to what the resolution means. As to that, let us look at the language of the resolution. The Senator says I am accusing him of desiring to go back to the common-law definition. I have before me a copy of House Joint Resolution 296, Calendar No. 1298. Is that the correct one?

Mr. MILLIKIN. Yes.

Mr. PEPPER. I shall read the title and a part of what follows:

> Joint resolution to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage
>
> *Resolved, etc.*, That (a) section 1426 (d) and section 1607 (i) of the Internal Revenue Code are amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules."

I respectfully submit that the language of the joint resolution will take priority over anything that may have been said in the committee report.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. Let me invite the Senator's attention to the interpretation of similar language which has been made by the existing Treasury regulation which, as I said a while ago, has been before the Congress in connection with several revisions, and has never been changed by the Congress, and which under a very elementary rule, which the Senator is fully acquainted with, has become the law. Let me read it to the distinguished Senator, so that he may see that the present regulation interpreting the statute adopts the common-law rule, realistically applied.

I shall quote the regulation. It is not very long, and it will help clarify our discussion if I read it now:

> REGULATIONS 91, ARTICLE 3: WHO ARE EMPLOYEES
>
> Who are employees: Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

That would seem to be rather self-evident.

I continue to read:

> Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished.

That is the usual, common-law rule.

I read further:

> That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so.

That is the first penetration of what the documents might show, what some phony arrangement might show. In other words, you look through that to find the substance.

Continuing:

> The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services.

I remind the distinguished Senator that that was a factor which was considered in one of the cases before the Supreme Court. There was a slaughterhouse case involving some men who were working along a production line, but they had a sort of contract which the owners of the business claimed made them independent contractors. The Supreme Court looked at all the circumstances, just as this regulation authorizes, and said that under all the circumstances, due to the placement of those men in the continuity of the business, and so forth, and so on, and looking at it realistically, they were truly employees.

Continuing with this regulation:

> In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

The Supreme Court has not said anything different.

Continuing with the regulation:

> Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.
>
> Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of the case.
>
> If the relationship of employer and employee exists the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial.
>
> The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

In other words, look through the form, and go to the substance.

Mr. PEPPER. That is what the regulations now provide.

Mr. MILLIKIN. Yes; and that is what we are sustaining.

Mr. PEPPER. But the Senator is trying to invalidate the regulations which have been promulgated by the Social Security.

Mr. MILLIKIN. Oh, no; we are retaining the present regulations, and are invalidating the proposed regulations.

Mr. PEPPER. Oh, yes; the regulations have been promulgated since the Supreme Court's decision.

Mr. MILLIKIN. The regulation I have read is the existing one which has been in effect since immediately after the act was enacted, and which the Congress has reviewed again and again, and which therefore has become the law.

Mr. PEPPER. But the able Senator from Colorado now is ignoring the effect of the decision of the Supreme Court of the United States and the changes in the regulations that are contemplated as a result of the Supreme Court's decision. The Senator is asking us to reaffirm in a congressional enactment what the law was before the Supreme Court passed upon it. That is what the able Senator is asking us to do. He wants to maintain the status quo, he says; but what is meant by that, according to those who make that statement? Do they mean to maintain the regulations which were in effect before the Supreme Court's decision, without any amendment or change in light of the Supreme Court's decision?

The joint resolution has the title:

> To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

In other words the able Senators who are authors of the resolution do not want extended coverage, which is about to be put into effect by the Supreme Court's authority. They want to freeze the coverage where it was before the Supreme Court spoke. They want to slam the door against those new people coming in whom

the Supreme Court said had the right to come in. That is what is involved here.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. We are not trying to exclude from coverage any man who is an employee.

Mr. PEPPER. According to whose definition, may I ask?

Mr. MILLIKIN. According to the law of Congress as interpreted by the existing regulations, and according to our interpretation of the rule of the Supreme Court. I repeat, I think the issue is a good thing to debate.

Mr. PEPPER. Oh, I agreed to.

Mr. MILLIKIN. I repeat, if the Supreme Court has set up a law of its own that is different from the existing law which the Congress has continued as interpreted in the existing regulations, then we should stop it.

Mr. PEPPER. Oh, I see.

Mr. MILLIKIN. In other words, any man who is an employee, we want him covered, but we do not want anybody covered who is not an employee.

Mr. PEPPER. And the Senator from Colorado is not willing for the Supreme Court of the United States to determine and to interpret what the word "employee" means. He wants to decide it for himself. He does not want the judiciary to pass on legislation in the usual course if it gives benefit to somebody he does not want to see receive it.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. On the contrary, I respectfully submit we are trying to sustain the Supreme Court decision as we interpret it, to prevent an abuse and a misinterpretation of it by the Treasury.

Mr. PEPPER. Mr. President, Congress is a rather busy body. I shudder to think how many cases we shall have here if we are going to become the tribunal of review of every asserted transgression of administrative authority by the administrative hosts of this Government.

Mr. President, I affirm that if a single taxpayer is assessed with a tax as an employee and he is not in fact an employee as determined by the courts of this country he will never have to pay it, nor will an employer have to pay it, because all he has to do is to go into court and ask for a definition of the term "employee" or "employer" and if it is not in the category where it should be, I have sufficient confidence in the judiciary of this country to believe he will not be required to make the payment.

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

Mr. PEPPER. I yield to the Senator.

Mr. MILLIKIN. I think one of the most important features of this proposed regulation which has not been touched upon and perhaps the Senator will come to it, is that the proposed regulation intends to give coverage retroactively to 500,000 or 750,000 people for free, without paying a penny for the retroactive benefit, and these free benefits must come out of the trust fund which has been accumulated by the 30,000,000 workers who have been building it up so that their claims for benefits will be paid when they mature.

Mr. PEPPER. Mr. President, I am unwilling to believe that the Social Security Board will use the fund to give an unfair advantage to one class at the expense of another.

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

Mr. PEPPER. I yield.

Mr. MILLIKIN. The Social Security Board said it intended to do that very thing, at the hearings.

Mr. PEPPER. Yes, Mr. President; but the Senator from Colorado is not so much concerned about retroactive coverage as he is about future coverage.

Mr. MILLIKIN. The Senator from Colorado is concerned in not impairing the trust fund to the extent of $100,000,000 at the cost of 30,000,000 people.

Mr. PEPPER. That is the third position I have heard the able Senator from Colorado take, and no doubt there will be other positions he will be able to take in the debate, but it is very obvious to anyone who examines the legislative history of this proposal that the real milk in the coconut is, there are certain people in this country who do not want to extend social-security benefits, and under the United States Supreme Court decision there is about to be an extended coverage of those entitled to participate and share in the old-age and survivors' program, and this joint resolution is designed to prevent that extended coverage from taking place.

I read in the title of the joint resolution a confirmation of what I have said:

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Mr. President, I believe in social security.

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

Mr. PEPPER. I yield.

Mr. HATCH. Is it not also true that the President of the United States has for a very long period of time advocated, by message and otherwise, that the benefits of the Social Security Act be extended to all who are in fact employees?

Mr. PEPPER. That is exactly correct.

Mr. HATCH. Is it not true that the purpose and intent of the new regulations has been to carry that policy into effect?

Mr. PEPPER. That is correct.

Mr. HATCH. And it will be carried into effect if the President's veto is sustained and the resolution is defeated, will it not?

Mr. PEPPER. The Senator is exactly correct, and it could not be stated better.

Mr. President, as I said a little bit earlier, I am in favor of the extension of social-security coverage. I believe it to be in the public interest as well as in the interest of those directly affected. After all, if citizens of this country become subject to public support, it means a public burden to which they may not make a contribution; but if they are permitted while they are working and while they are earning money to make a contribution to an insurance fund which the employer matches, then there is a fund being stored up to protect them not only against personal distress but against public responsibility and support, perhaps in their old age or a period of disability in their lives.

So, Mr. Presdent, I think it is a very salutary step forward that the social-security authorities propose to make. I think we should protect them instead of striking down what they are about to do. If they go outside the scope of the Supreme Court's definition, they will be stopped by competent judicial authority. We do not have to perform that function here in the Congress of the United States.

Now, Mr. President, just this last word: Unhappily, there is involved in the joint resolution the question of the $5 addition to the Federal contribution to old-age assistance, which was passed by the Senate and was later concurred in by the House of Representatives. We are in the dilemma either of denying the old people of the country who benefit from old-age assistance this $5 protection and assistance, or we are on the other horn of the dilemma, if we give them that protection, of withdrawing social-security coverage under the old-age and survivors' insurance plan from more than half a million worthy citizens who also are striving for protection in periods of disability and old age, and some security for their dependents in case of their passing.

Mr. President, I think I have supported old-age assistance as strongly as any other Member of this body. I have never missed an opportunity to aid it in every way within my power. I am ashamed almost of the pettiness of the contribution we have made to our senior citizens. I feel that we have been delinquent and we have been in default in the discharge of obligations to the senior citizenry of the country. I welcomed a chance to join in the amendment sponsored by the able and illustrious Senator from Arizona [Mr. McFARLAND], but I stated at the time that I voted for the amendment that even if it were adopted I was going to vote against the joint resolution on final passage, because it would take away from more than half a million of our fellow citizens protection and coverage the Supreme Court has said they were entitled to enjoy under our social-security system.

If we enact this joint resolution and take that coverage away from those half million people, they will not get it back unless a new law shall be enacted, and that will be very difficult. It would have to be initiated as new legislation. But if the President's veto is sustained and we lose the $5 added to old-age assistance by the amendment adopted by the Senate, we can put that amendment on another bill which will be coming through the Senate before we adjourn.

We can add it to an appropriation bill or we can add it to an authorization bill. There are many vehicles to which we can attach the amendment with a view to its ultimate enactment.

So, Mr. President, I am not voting against old-age assistance; I am simply saying that we do not have to deprive a half million persons entitled to another stage of social-security coverage because of the additional $5 which the old people would receive with this

amendment attached. For my part, Mr. President, I shall vote as I did when the joint resolution was previously before the Senate. I shall vote against the resolution by voting to sustain the President's veto and progress the salutary extension of social-security coverage.

Mr. McFARLAND. Mr. President, I regret that I must differ with my distinguished friend, the senior Senator from Florida, regarding our ability to attach this old-age assistance legislation to another bill. I think there is no question that if we vote to sustain the veto we shall lose the increased $5 payments to the aged, the blind, and the $3 for dependent children. We may hold different views regarding the first part of this resolution, but I would say to my friend from Florida that that legislation could be attached to another bill as well as legislation for increases for the aged, blind, and dependent children. If we disagree as to the first part of the resolution, our point of view depends upon what we consider more important. I say it is far more important to increase assistance for the aged, the blind, and dependent children. They need this assistance now.

So I hope, Mr. President, that, regardless of their views in regard to the first section of this legislation, Senators will vote for the resolution. I consider it most important that we give this assistance to the aged, the blind, and dependent children. After Congress adjourns we cannot tell them that we can put an amendment on another bill. Mr. President, if we want to give assistance to those persons, it is my humble opinion that we had better vote for it at this time.

Mr. WHERRY. Mr. President, if the debate is concluded, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KILGORE in the chair). The clerk will call the roll.

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

Aiken	Hayden	O'Daniel
Baldwin	Hickenlooper	O'Mahoney
Ball	Hill	Pepper
Barkley	Hoey	Robertson, Va.
Bricker	Holland	Robertson, Wyo.
Bridges	Jenner	Russell
Buck	Johnson, Colo.	Saltonstall
Butler	Johnston, S. C.	Smith
Byrd	Kem	Sparkman
Capehart	Kilgore	Stennis
Connally	Knowland	Stewart
Cooper	Langer	Taft
Cordon	Lodge	Taylor
Donnell	Lucas	Thomas, Okla.
Downey	McCarthy	Thye
Dworshak	McClellan	Tydings
Eastland	McFarland	Umstead
Ecton	McGrath	Vandenberg
Ellender	McKellar	Watkins
Feazel	McMahon	Wherry
Ferguson	Magnuson	White
Fulbright	Martin	Wiley
Green	Millikin	Williams
Gurney	Morse	Wilson
Hatch	Myers	Young
Hawkes	O'Conor	

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

The question is, Shall the joint resolution pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. REVERCOMB. Mr. President, I wish to address a question to the Senator from Colorado. I understand the measure which has been vetoed by the President did provide, among other things, that there should be an increase of $5 a month to those pensioned because of age. Is that correct?

Mr. MILLIKIN. Mr. President, I shall appreciate very much if the distinguished Senator will address his question to the author of the amendment the Senator from Arizona [Mr. McFARLAND].

Mr. REVERCOMB. Then I do address the question to the Senator from Arizona. As I understand, the amendment which was offered and adopted when the joint resolution was before the Senate, and which was accepted by the House of Representatives and went to the President and was vetoed, provided for the payment of an additional $5 a month to those who were recipients of old-age pensions. Is that correct?

Mr. McFARLAND. The Senator is correct. The existing law provides that of the first $15 put up, the Federal Government contributes $10, and the States, $5. This amendment provides that the Federal Government would supply $15 out of the first $20, and then the payments are to be on a 50–50 basis thereafter to a maximum of $50.

Mr. REVERCOMB. In other words, as I understand, at the present time, of the portion paid up to $15, $10 has been paid by the Federal Government and $5 by the States.

Mr. McFARLAND. The Senator is correct.

Mr. REVERCOMB. Under the amendment in the measure which was vetoed, the Federal Government would pay $15 of any amount paid and the State $5.

Mr. McFARLAND. Fifteen dollars of the first twenty dollars.

Mr. REVERCOMB. That is correct; I understand that.

Mr. McFARLAND. That applies to the aged and blind; and an increase of $3 is made to dependent children,

Mr. REVERCOMB. Then I understand that if the pensions are paid today upon the same basis it would really result in an increase of $15 Federal payment to each old-age pensioner, and perhaps a double amount, or $10 a month, from the States?

Mr. McFARLAND. That is correct. If the States would match that amount, it would mean an increase of $10. In other words, if a State would match the $30 of the Federal Government, the aged and blind would get a maximum of $60 a month.

Mr. REVERCOMB. I thank the Senator. Let me say that this is a subject in which I have been interested for a matter of years. I have felt that old-age pensions should be applicable at the age of 60 years instead of 65, not that anyone would be required to accept old-age benefits at 60, but those who were not possessed of strength sufficient to carry on their work could, if they chose to do so, retire at the age of 60 and receive the benefits to which they were entitled.

When the joint resolution was before the Senate I asked that an amendment to that effect be adopted, but it was not adopted by the Senate. I wish to say that I intend to continue to push that proposal so long as I am a Member of the Senate, until it is adopted, because I feel it is unjust and unfair to keep the age point at 65.

I understand the President has recommended that the age limit be dropped from 65 to 60 with respect to women. The bill which I have introduced at this session would drop the age limit from 65 to 60 for both men and women.

I hope that the Congress, though it perhaps will not act at this session, will in time, and at any early date, proceed to the expansion and the improvement of the social-security law, which would help the aged and the needy, and that Congress will extend the provisions so that the age limit will be fixed at 60 for both men and women.

Furthermore, I hope the law will be changed so that those who become disabled from injury or iliness at any age may have some aid for the maintenance of themselves and their families.

Mr. President, it seems to me that with respect to the joint resolution which has been vetoed, there is a good provision—and from my own viewpoint it is the best provision—one I discussed a few moments ago with the Senator from Arizona, by which it will be made possible to increase, with Federal help, the aid to the aged and the blind, and to dependent children as much as $10 a month. That has been vetoed. The joint resolution is not all I want, but it is that much a step in the right direction, and for that reason it is my hope that the joint resolution may become the law of the land, notwithstanding the veto of the President.

Mr. BARKLEY. Mr. President, I shall not detain the Senate. I voted against the joint resolution when it passed a few days ago, though I supported the amendment offered by the Senator from Arizona. I voted against the joint resolution in the committee for reasons identical with those set forth by the President in his veto message. I do not care to repeat what I then said in regard to the joint resolution. I content myself with saying that I shall vote to sustain the veto of the President.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WHERRY. A vote to override the veto will be a vote "yea," will it not?

The PRESIDING OFFICER. A "yea" vote is a vote to override the veto.

Mr. PEPPER. Mr. President, I merely wish to call attention to a portion of the President's veto message which reads as follows:

> I note that section 3 of this resolution was adopted as an amendment on the floor of the Senate and passed by both Houses in a single afternoon. Accordingly, I am placing this matter before the Congress in adequate time so that the public-assistance program will not suffer because of my disapproval of this resolution.

I can say that some of us will certainly see to it that this identical amendment,

the McFarland amendment, providing this $5 old-age-assistance increase, will be offered to other legislation in the Senate, and Senators will have a chance to vote for the old-age assistance even if the President's veto shall be sustained.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding? The clerk will call the roll.

The Chief Clerk called the roll.

Mr. WHERRY. I announce that the Senator from Maine [Mr. BREWSTER], the Senator from Illinois [Mr. BROOKS], the Senator from Washington [Mr. CAIN], the Senator from New York [Mr. IVES], the Senator from Nevada [Mr. MALONE], the Senator from West Virginia [Mr. REVERCOMB], and the Senator from New Hampshire [Mr. TOBEY] are detained on official business. If present and voting, the Senator from Maine [Mr. BREWSTER], the Senator from Illinois [Mr. BROOKS], the Senator from Washington [Mr. CAIN], the Senator from Nevada [Mr. MALONE], and the Senator from West Virginia [Mr. REVERCOMB] would vote "yea."

The Senator from South Dakota [Mr. BUSHFIELD], the Senator from Oklahoma [Mr. MOORE], and the Senator from Kansas [Mr. REED] are necessarily absent.

The Senator from Kansas [Mr. CAPPER] and the Senator from Vermont [Mr. FLANDERS] are unavoidably detained.

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. CHAVEZ], the Senator from Nevada [Mr. MCCARRAN], and the Senator from New York [Mr. WAGNER] are necessarily absent.

The Senator from Georgia [Mr. GEORGE] is absent because of a death in his family.

The Senator from South Carolina [Mr. MAYBANK] is absent on public business.

The Senator from Montana [Mr. MURRAY] is absent on official business.

The Senator from Utah [Mr. THOMAS] is absent by leave of the Senate, having been appointed a national delegate by the President to the annual conference of the International Labor Organization, meeting in San Francisco, Calif.

The Senator from Georgia [Mr. GEORGE], who would vote "yea" if present, and the Senator from South Carolina [Mr. MAYBANK], who, if present, would vote "yea," are paired with the Senator from New York [Mr. WAGNER], who would vote "nay" if present.

If present and voting, the Senator from Utah [Mr. THOMAS] would vote "yea."

The yeas and nays resulted—yeas 65, nays 12, as follows:

YEAS—65

Aiken	Ellender	Knowland
Baldwin	Feazel	Lodge
Ball	Ferguson	McCarthy
Bricker	Fulbright	McClellan
Bridges	Gurney	McFarland
Buck	Hawkes	McKellar
Butler	Hayden	Magnuson
Capehart	Hickenlooper	Martin
Connally	Hill	Millikin
Cooper	Hoey	Myers
Cordon	Holland	O'Conor
Donnell	Jenner	O'Daniel
Downey	Johnson, Colo.	Robertson, Va.
Dworshak	Johnston, S. C.	Robertson, Wyo.
Eastland	Kem	Russell
Ecton	Kilgore	Saltonstall
Smith	Thye	White
Sparkman	Tydings	Wiley
Stennis	Umstead	Williams
Stewart	Vandenberg	Wilson
Taft	Watkins	Young
Thomas, Okla.	Wherry	

NAYS—12

Barkley	Langer	Morse
Byrd	Lucas	O'Mahoney
Green	McGrath	Pepper
Hatch	McMahon	Taylor

NOT VOTING—19

Brewster	George	Reed
Brooks	Ives	Revercomb
Bushfield	McCarran	Thomas, Utah
Cain	Malone	Tobey
Capper	Maybank	Wagner
Chavez	Moore	
Flanders	Murray	

The PRESIDING OFFICER. On this question the yeas are 65, the nays 12. More than two-thirds of the Senators present having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

The Chair announces the time is 7 o'clock and 19 minutes p. m.

[PUBLIC LAW 642—80TH CONGRESS]

[CHAPTER 468—2D SESSION]

[H. J. Res. 296]

JOINT RESOLUTION

To maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1426 (d) and section 1607 (i) of the Internal Revenue Code are amended by inserting before the period at the end of each the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules".

(b) The amendments made by subsection (a) shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment.

SEC. 2. (a) Section 1101 (a) (6) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules".

(b) The amendment made by subsection (a) shall have the same effect as if included in the Social Security Act on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any (1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935.

(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act which would not have been paid had the amendment made by subsection (a) been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b).

(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the

aggregate of the amounts reported to the Congress under paragraph (1).

SEC. 3. (a) Section 3 (a) of the Social Security Act, as amended, is amended to read as follows:

"(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 October 1, 1948, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy 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 such individual for any month as exceeds $50—

"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received old-age assistance for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose."

(b) Section 403 (a) of such Act, as amended, is amended to read as follows:

"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 October 1, 1948, (1) an amount, which shall be used exclusively as aid to dependent children equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $27, or if there is more than one dependent child in the same home, as exceeds $27 with respect to one such dependent child and $18 with respect to each of the other dependent children—

"(A) three-fourths of such expenditures, not counting so much of any expenditures with respect to any month as exceeds the product of $12 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose."

(c) Section 1003 (a) of such Act, as amended, is amended to read as follows:

"(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 October 1, 1948, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds $50—

"(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $20 multiplied by the total number of such individuals who received aid to the blind for such month, plus

"(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A); and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount 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."

(d) The amendments made by this section shall become effective on October 1, 1948.

JOSEPH W. MARTIN, Jr.
Speaker of the House of Representatives.

A H VANDENBERG
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
June 14, 1948.

The House of Representatives having proceeded to reconsider the joint resolution (H. J. Res. 296) entitled "Joint Resolution to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said joint resolution pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

JOHN ANDREWS
Clerk.

I certify that this Joint Resolution originated in the House of Representatives.

JOHN ANDREWS
Clerk.

IN THE SENATE OF THE UNITED STATES,
June 14 (legislative day, June 1), 1948.

The Senate having proceeded to reconsider the joint resolution (H. J. Res. 296) entitled "Joint resolution to maintain the status quo in respect of certain employment taxes and social-security benefits pending action by Congress on extended social-security coverage", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said joint resolution pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

CARL A. LOEFFLER
Secretary.

PROPOSED TREASURY REGULATION GOVERNING EMPLOYER-EMPLOYEE STATUS FOR SOCIAL SECURITY PURPOSES

BASIC DOCUMENTS

Compiled for the use of the Committee on Ways and Means

JANUARY 7, 1948

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1948

PREFATORY NOTE

On November 27, 1947, the Treasury Department published in the Federal Register a proposed revision of employment tax regulations to be prescribed by the Commissioner of Internal Revenue with respect to the employer-employee relationship under the Old-Age and Survivors Insurance and Unemployment Compensation programs. (Federal Insurance Contributions Act and Federal Unemployment Tax Act, being respectively subchapters A and C of chapter 9 of the Internal Revenue Code).[1] In defining the term "employment" the language used in both acts is essentially the same and in both acts the term is defined by particular types of services or employment. Neither act exactly defines the terms "employer" or "employee."

Recently, the Supreme Court of the United States, in five major cases, considered in three decisions, had occasion to construe both of these statutes for the purpose of determining who was and who was not an employee. In one of these cases, that of *Rutherford et al.* v. *Administrator*, the same question was considered under the Fair Labor Standards Act. These decisions in turn gave rise to the proposed regulation. To facilitate the committee's study of the matter, the old and new regulations and copies of the four Supreme Court opinions on the subject have been brought together and reproduced in this pamphlet.

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[1] Subchapter A, Employment Taxes, Employment by Others Than Carriers, was based on title VIII of the Federal Social Security Act, approved August 14, 1935, ch. 531, 49 Stat. 636. Subchapter A was amended by the Social Security Act amendments of 1939, approved August 10, 1939, ch. 666, 53 Stat. 1360. This subchapter was designated the "Federal Insurance Contributions Act" by the amendments of 1939.

Subchapter C, Employment Taxes, Tax on Employers of Eight or More, was based on title IX of the Federal Social Security Act, approved August 14, 1935, ch. 231, 49 Stat. 639. Subchapter C was amended by the Social Security Act amendments of 1939, approved August 10, 1939, ch. 666, 53 Stat. 1360, as noted herein. This subchapter was designated the "Federal Unemployment Tax Act" by the amendments of 1939.

PROPOSED REGULATION

TREASURY DEPARTMENT

BUREAU OF INTERNAL REVENUE

[26 CFR, Parts 400–403]

EMPLOYMENT TAX REGULATIONS WITH RESPECT TO EMPLOYER-EMPLOYEE RELATIONSHIP

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1429, 1609, and 3791 of the Internal Revenue Code (53 Stat. 178, 188, 467; 26 U. S. C., 1429, 1609, 3791) and sections 808 and 908 of the Social Security Act (49 Stat. 638, 643; 42 U. S. C., 1008, 1108).

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

In order to conform Regulations 106 (26 CFR, Part 402), relating to the employees' tax and the employers' tax under the Federal Insurance Contributions Act (Subchapter A, Chapter 9, Internal Revenue Code); Regulations 107 (26 CFR, Part 403), relating to the excise tax on employers under the Federal Unemployment Tax Act (Subchapter C, Chapter 9, Internal Revenue Code); Regulations 90 (26 CFR, Part 400), relating to the excise tax on employers under Title IX of the Social Security Act; such Regulations 90 as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876); Regulations 91 (26 CFR, Part 401), relating to the employees' tax and the employers' tax under Title VIII of the Social Security Act; and such Regulations 91 as made applicable to the Internal Revenue Code by such Treasury Decision 4885, to the principles enunciated in "United States v. Silk" (1947) 67 S. Ct. 1463; 1947 Int. Rev. Bull., No. 15, at 36, "Bartels et al. v. Birmingham et al." (1947) 67 S. Ct. 1547; 1947 Int. Rev. Bull., No. 15, at 43, and related cases, such regulations are amended as follows:

PARAGRAPH 1. Section 402.204 of Regulations 106 (26 CFR 402.204) is amended to read as follows:

§ 402.204. *Who are employees*—(a) *In general.* Whether an individual is an employee under the Federal Insurance Contributions Act must be determined primarily from the terms and purposes of the pertinent provisions of the social security legislation, of which such act is a part. The Congressional purpose in enacting the social security legislation was to establish and maintain a national system of old-age and survivors insurance and to promote the establishment and maintenance of a nation-wide system of unemployment compensation. These measures are designed to replace a part of the wage income lost through old age, premature death, or unemployment.

The term "employee" is not a word of art having a definite meaning. The relationship of employer and employee for the purposes of the social security legislation and the regulations in this part is not restricted by the technical legal relation of "master and servant," as the common law has developed that relation in all its variations; and at the same time the relationship of employer and employee does not include the entire area of rendering service to others.

An individual performing services for a person is generally an employee of such person unless he is performing such services in the pursuit of his own business as an independent contractor. In most cases in which an individual renders services to a person, general understanding and usage make clear the status of that individual either as an employee of such person or as an independent contractor. For example, in most cases, miners, bus drivers, manual laborers, and garage, hotel and other service workers, as well as factory, office, and store workers, whether skilled or unskilled, and whether the work is permanent or impermanent, are clearly employees of the persons for whom they render services, and such persons are clearly the employers.

On the other hand, physicians, lawyers, dentists, veterinarians, building contractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are in most cases clearly independent contractors and not employees. The typical independent contractor has a separate establishment distinct from the premises of the person for whom the services are performed; he performs services under an agreement to complete a specific "job" or piece of work for a total remuneration or price agreed on in advance; at times and places and under conditions fixed by him, he offers his services to a public or customers of his own selection rather than a single person; neither he nor the person for whom the services are performed has the right to terminate the contract except for cause; he may delegate the performance of the services to helpers; he performs the services in or under his own name or trade name rather than in or under that of the person for whom the services are performed; the performance of the services supports or affects his own good will rather than that of the person for whom the services are performed; and he has a going business which he may sell to another.

In the case of individuals in the intermediate class between those individuals who are clearly employees and those individuals who are clearly independent contractors, the determination of which relationship exists will be made upon an examination of the particular facts of the case. Some of the factors to be considered in determining whether the relationship of employer and employee exists are listed in paragraph (b) of this section.

Persuasive in making such determinations is the status of the individual under the National Labor Relations Act and the Fair Labor Standards Act of 1938.

(b) *Factors to be considered.* In the application of the Federal Insurance Contributions Act and the regulations in this part an employee is an individual in a service relationship who is dependent, as a matter of economic reality, upon the business to which he renders service and not upon his own business as an independent contractor. It is immaterial that the individual may have personal means and security from sources other than such relationship. Whether the services performed by an individual constitute him an employee as a matter of economic reality or an independent contractor as a matter of economic reality is determined in the light of a number of factors, including the following (although their listing is neither complete nor in order of importance):

(1) Degree of control over the individual.
(2) Permanency of relation.
(3) Integration of the individual's work in the business to which he renders service.
(4) Skill required of the individual.
(5) Investment by the individual in facilities for work.
(6) Opportunities of the individual for profit or loss.

Some of the facts or elements which may be considered in applying the above-listed factors are stated in paragraph (d) of this section. Just as the above-listed factors cannot be taken as all inclusive, so too the statement of facts or elements set forth in paragraph (d) of this section cannot be considered as complete. The absence of mention of any factor, fact, or element in these regulations in this part should be given no significance, since the nation's economy is blanketed with many forms of service relationship, with infinite and subtle variations in terms, which render impracticable an analysis applicable to all situations.

(c) *Significance of factors.* Each of the factors is to be examined and applied in a particular case for its significance in determining in that case whether, as a matter of economic reality, the individual is dependent upon, or independent of, the business to which he renders service. Thus, the pertinent inquiry in the case of each factor is whether the facts found thereunder are compatible, as a matter of economic reality, with the business being that of the person for whom the services are performed, or, on the other hand, that of the individual performing the services.

No one factor is controlling. The mere number of factors pointing to a particular conclusion does not determine the result. All the factors are to be weighed for their composite effect. It is the total situation in the case that governs in the determination.

One fact or element may establish or tend to establish the existence of more than one factor, and may even have an independent value of its own as tending to establish either the employer-employee relationship or the independent contractor relationship. For example, the fact that the person for whom services are performed has the right or power without cause or on short notice to terminate the relationship with the individual performing the services, is relevant not only to control as a factor but also permanency as a factor. Generally, the right or power to terminate the relationship without cause or on short

notice also points directly to the existence of the employer-employee relationship.

(d) *Explanation of factors*—(1) *Degree of control.* The higher the degree of control by the person for whom services are performed over the performance of such services by an individual, the more the "degree of control" factor tends to establish the dependence of the individual upon the business of such person as a matter of economic reality. Conversely, the lower the degree of control over the performance of the services, the less the "degree of control" factor tends to establish such dependence as a matter of economic reality.

It is to be especially emphasized, however, that the degree of control in a particular case may not be taken as conclusive of the existence of either the employer-employee relationship or independent contractor relationship, but that control is only one factor to be weighed together with the others for their composite effect. Although control is characteristically associated with the employer-employee relationship, determination of whether, as a matter of economic reality, an individual is an employee of the person for whom he is performing services, or is a independent contractor, is not to be made solely on the basis of control which such person may or can exercise over the details of such services. (See paragraph (c) of this section.)

Control of the nature here pertinent exists if supervision is or can be exercised over the performance of service. It is not necessary that the person for whom the services are performed actually control the performance of such services; it is sufficient that he have the right or power to do so.

In many cases the nature of the work, the method of remuneration, or the skill of the worker renders detailed control unnecessary or inappropriate, or distance renders its frequent exercise impracticable. In such instances the lack of detailed control does not necessarily mean that there is not some degree of control of the kind here pertinent. Control of the kind pertinent is not limited to the right of control or its exercise over the means and methods of performance as the common law has developed that test for tort liability and other purposes unrelated to social security legislation.

The right or power of control over the performance of an individual's services may be established either by its actual exercise or by the terms of any agreement under which the services are performed, or may be inferred from all the circumstances of the relationship viewed as a whole. Such right or power of control may in particular cases be established, in varying degrees, by one or more of a variety of circumstances, such as the performance of services as an integral part of the functions of the enterprise carried on by the person for whom the services are performed; the fact that the person for whom the services are performed furnishes the place for the work, or the tools or equipment; the fact that the individual's services are performed in accordance with procedures, or at times, fixed by the person for whom the services are performed rather than by the individual performing them; the fact that control over the individual's services by the person for whom the services are performed is necessary to the compliance by such person with laws or regulations applicable to the conduct of his enterprise; the fact that the arrangement contemplates essentially the performance by the individual of personal serv-

ices which he may not delegate (whether or not the arrangement contemplates that the individual will also furnish the services of others); and the right or power of the person for whom the services are performed to control or change the amount of the individual's earnings from such services.

One of the most significant elements in establishing control is the right or power of the person for whom the services are performed to terminate the relationship without cause or on short notice. The individual performing the services knows that the relationship may be terminated by the exercise of such right or power if he does something at variance with the will, policy, or preference of the person for whom the services are performed. Such right or power is generally incompatible with the freedom from control enjoyed by an independent contractor.

(2) *Permanency of relation.* A permanent relationship between the person for whom services are performed and the individual performing them tends to establish the dependence of the individual upon the business of such person as a matter of economic reality. Conversely, an impermanent relationship tends to establish the independence of the individual from the business of such person as a matter of economic reality.

The permanency here pertinent implies continuity of the relation. Permanency may, however, be inferred if the work is performed at frequently recurring though somewhat irregular intervals, either on call of the person for whom the services are performed or at the election of the individual peforming the services or whenever the work is available. Moreover, the continuity need not be evidenced by the performance of services on consecutive workdays. A relationship may be permanent whether the work is full time or part time. The relationship is permanent if the arrangement contemplates the performance of continuing or recurring work even if the individual actually works only a short time.

The relation is impermanent if it is of limited duration and nonrecurring. It may be impermanent if there is a fixed time of termination in terms of a fixed date or a fixed or specified job or project to be completed. The fact that the person for whom services are performed has the right or power to terminate the relationship without cause or on short notice does not render the relation impermanent; on the contrary that fact raises an inference that the relation is of indefinite duration.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section).

(3) *Integration of individual's work in business to which he renders service.* Integration of the individual's work in the business of a person to which the individual renders service tends to establish the dependence of the individual upon the business of such person as a matter of economic reality. Conversely, the absence of integration of the individual's work in the business of a person tends to establish the independence of the individual from the business of such person as a matter of economic reality.

The integration here pertinent implies the merger of the individual's services into the business of a person, so that such services constitute a part of the unit or whole which comprises such business. In

determining whether integration exists it is necessary to determine the scope and function of such person's business, and then to determine whether the services of the individual are merged into and performed in the course of such business.

Once the limits of the scope and function of the business are determined, the point at which, in the process of operation of such business, the services of the individual are performed is immaterial. Thus integration may exist whether the services of the individual are performed at the beginning or end or at any intermediate point, so long as they fall within the limits of the scope and function of the business.

Integration of the individual's services in the business of a person for whom the services are performed may in particular cases be established by one or more of a variety of circumstances, such as the fact that the services are essential to the operation of the business; the fact that the services, though not essential to the function of the business of the person for whom rendered, are performed in the course of such business; the fact that the services of the individual are performed in accordance with the procedures, or at times, fixed by the person for whom they are performed; the fact that the person for whom the services are performed furnishes the place for the work, or the tools or equipment; the fact that the services performed by the individual are of the same nature and are performed in the same manner as those performed by individuals admitted to be employees; the fact that the services of the individual are performed in or under the name or trade name of the person for whom the services are performed; the fact that the services of the individual support or affect good will of the person for whom the services are performed and not separate good will as an asset of the individual; the fact that the services of the individual are performed under the license of the person for whom the services are performed, or under any license which permits performance only for the person for whom the services are performed; and the fact that control over the individual's services by the person for whom the services are performed is necessary to the compliance by such person with laws or regulations applicable to the conduct of his enterprise.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section).

(4) *Skill required of the individual.* The higher the degree of skill required in the performance of services by an individual, the more the "skill" factor tends to establish the independence of the individual, as a matter of economic reality, from the business of the person for whom the services are performed. Conversely, the lower the degree of skill, the more the "skill" factor tends to establish the dependence of the individual, as a matter of economic reality, upon the business of the person for whom the services are performed. However, a requirement of little or no skill in the performance of the services is usually more indicative than is a requirement of a greater amount of skill in determining which relationship exists between the person for whom the services are performed and the individual performing them; that is, usually the absence of skill points more clearly toward an employer-employee relationship than the presence of skill points toward an independent contractor relationship.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section).

(5) *Investment by the individual in facilities for work.* The greater the investment by the individual in facilities used by him in performing services for a person, the more the "investment" factor tends to establish the independence of the individual from the business of such person as a matter of economic reality. Conversely, the smaller the investment by the individual in facilities used by him, the less the "investment" factor tends to establish such independence as a matter of economic reality.

The facilities here pertinent include equipment and premises available for the work or enterprise as distinguished from education, training, and experience, but do not include such tools, instruments, equipment, or clothing as are commonly or frequently provided by employees. A typical investment for the conduct of an independent enterprise is evidenced by the ownership of a separate establishment distinct from the premises of the person for whom the services are performed.

The reality and essentiality of the investment, and the adequacy of the facilities for the operation of an independent business, are important in evaluating the significance of this factor. For example, if the individual performing the services purchases a piece of equipment on a time basis either from the person for whom the services are performed or through the use of the credit of such person, and if the value of the individual's equity in the equipment is never substantial, the "investment" factor will have little or no significance as pointing to an independent contractor relationship. Likewise, the ownership by the individual of facilities which are inadequate to perform services of the nature involved independently of the facilities of another will have little or no significance in pointing toward an independent contractor relationship. On the other hand, the ownership by the individual of facilities which are adequate to perform services of the nature involved independently of the facilities of another, will have significance in pointing toward an independent contractor relationship.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section).

(6) *Opportunities of the individual for profit or loss.* The greater the opportunities for profit or loss of an individual performing services for a person, the more the "profit or loss" factor tends to establish the independence of the individual from the business of such person as a matter of economic reality. Conversely, the lesser the opportunities of the individual for profit or loss, the less the "profit or loss" factor tends to establish such independence as a matter of economic reality.

"Profit or loss" generally implies the use of capital by the individual in a going business of his own. Thus, mere opportunity for higher earnings such as from pay on a piecework basis, or the possibility of gain or loss from a commission arrangement, without capital as a material income producing element, is not implied in the term "profit or loss" as here used. Whether a profit is realized or loss suffered is generally dependent to an important degree upon management decisions by the individual.

Opportunity for profit or loss may in particular cases be established, in varying degrees, by one or more of a variety of circumstances, such as the fact that the individual has continuing and recurring liabilities or obligations with risk of loss and opportunity for profit,

depending upon the relation of receipts to expenditures and charges; the fact that the individual performing the services is assisted by helpers whom he is obligated to pay; the fact that the individual performs services under an agreement to complete a specific "job" or piece of work for a total remuneration or price agreed on in advance; and the fact that the services of the individual support or affect good will as an asset of his own rather than the separate good will of the person for whom the services are performed.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section).

(e) *Miscellaneous provisions.* All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is generally an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, dealer, broker, distributor, vendee, lessee, independent contractor, or the like. The fact that an individual performing services is assisted therein by others of his own choosing, whom he compensates and supervises, is not necessarily inconsistent with the existence of the employer-employee relationship. In a doubtful case, however, this fact is some indication against, and the contrary is some indication in support of, the existence of such relationship. If in connection with the performance of services for an employer, an employee engages, supervises, or pays other employees to perform or assist in performing the services, with the express or implied consent of the employer, all such other employees also are employees of that employer in the rendition of such services.

On the other hand, the act does not convert into a relationship of employer and employee a normal business relationship where one business organization obtains the services of an independent business organization to perform a portion of production or distribution. Thus, as to the performance of such services, the owner of such independent business organization is not an employee within the meaning of the act, but is himself the employer of individuals in his employ.

If the employer-employee relationship exists, the form or method of compensation for the services is immaterial. Such compensation may be determined on a time or unit basis; it may be in whole or in part a commission; it may be denominated by the parties as an arrangement for purchase, rental, or other kind of transaction; or it may take the form of a retention by the employee of money collected by him from customers of the employer.

The form or method of compensation may, however, bear upon the question whether the employer-employee relationship exists. Thus, payment of compensation on a salary or other time basis, especially where payment is made periodically, indicates that such relationship exists. Payment on a piecework basis and payment of

commissions, though less clearly indicative, are other typical methods of compensating employees. Other forms of payment may be consistent with the existence of the employer-employee relationship. On the other hand, payment "by the job," where the work is of considerable duration and nonrecurring, is indicative of an independent contractor relationship.

Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act and the regulations in this part (see § 402.203).

PAR. 2. Section 403.204 of Regulations 107 (26 CFR 403.204) is amended by striking out the provisions of such section (other than the designation "§ 403.204") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "Federal Unemployment Tax Act" shall be substituted for the words "Federal Insurance Contributions Act" wherever such words appear in such amendment; (2) the following sentence shall be added at the end of the second paragraph of such amendment: "(The word 'employer' as used in this section only, notwithstanding the provisions of § 403.201 (a), includes a person who employs one or more employees.)"; and (3) the designation "§ 403.203" shall be substituted for the designation "§ 402.203" in the last sentence of such amendment.

PAR. 3. Article 205 of Regulations 90 (26 CFR 400.205) is amended by striking out the provisions of such article (other than the designation "Art. 205") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "Title IX of the Social Security Act" shall be substituted for the words "the Federal Insurance Contributions Act" wherever such words appear in such amendment; (2) the clause "of which such act is a part" and the comma immediately preceding such clause, appearing in the first sentence of such amendment, shall be deleted; (3) the following sentence shall be added at the end of the second paragraph of such amendment: "(The word 'employer' as used in this article only, notwithstanding the provisions of article 1 (a) (26 CFR 400.1 (a)), includes a person who employs one or more employees.)"; (4) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (5) the designation "article 206 (26 CFR 400.206)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 4. Article 205 of Regulations 90 (26 CFR 400.205) as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876) is amended by striking out the provisions of such article (other than the designation "Art. 205") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "the Federal Unemployment Tax Act" shall be substituted for the words "the Federal Insurance Contributions Act" or "the Act" wherever such words appear in such amendment; (2) the following sentence shall be added at the end of the second paragraph of such amendment: "(The word 'employer' as used in this article only, notwithstanding the provisions of article 1

(a) (26 CFR 400.1 (a)), includes a person who employs one or more employees.)"; (3) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (4) the designation "article 206 (26 CFR 400.206)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 5. Article 3 of Regulations 91 (26 CFR 401.3) is amended by striking out the provisions of such article (other than the designation "Art. 3") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "Title VIII of the Social Security Act" shall be substituted for the words "the Federal Insurance Contribution Act" wherever such words appear in such amendment; (2) the clause "of which such Act is a part" and the comma immediately preceding such clause, appearing in the first sentence of such amendment, shall be deleted; (3) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (4) the designation "article 2 (26 CFR 401.2)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 6. Article 3 of Regulations 91 (26 CFR 401.3) as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876) is amended by striking out the provisions of such article (other than the designation "Art. 3") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "the Federal Insurance Contributions Act" shall be substituted for the words "the Act" wherever such words appear in such amendment; (2) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (3) the designation "article 2 (26 CFR 401.2)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 7. The amendment to Regulations 106 (26 CFR, Part 402) made by paragraph 1 of this Treasury decision, and the amendment to Regulations 107 (26 CFR, Part 403) made by paragraph 2 of this Treasury decision shall be applicable with respect to services performed after December 31, 1939. The amendment to Regulations 90 (26 CFR, Part 400) made by paragraph 3 of this Treasury decision shall be applicable with respect to services performed after December 31, 1935, and prior to January 1, 1939. The amendment to Rgulations 90 (26 CFR, Part 400) as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876), made by paragraph 4 of this Treasury decision, shall be applicable with respect to services performed after December 31, 1938, and prior to January 1, 1940. The amendment to Regulations 91 (26 CFR, Part 401) made by paragraph 5 of this Treasury decision shall be applicable with respect to services performed after December 31, 1936, and prior to April 1, 1939. The amendment to Regulations 91 (26 CFR, Part 401) as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876), made by paragraph 6 of this Treasury decision, shall be applicable with respect to services performed after March 31, 1939, and prior to January 1, 1940.

PAR. 8. Pursuant to the authority of section 3791 (b) of the Internal Revenue Code, the amendments made by this Treasury decision to the respective regulations will be applied without retroactive effect to the extent that a taxpayer will not be required to pay taxes for periods prior to January 1, 1948, with respect to wages paid prior to such date to individuals if (1) the individuals were deemed not to be employees under a written ruling in the taxpayer's case, or other written ruling upon which he reasonably relied, issued prior to January 1, 1948, by the Commissioner of Internal Revenue, a Deputy Commissioner, a Collector, or other duly authorized representative of the Bureau of Internal Revenue, (2) such taxpayer files returns or supplemental returns on Form SS–1a or statements on Form SS–1c to furnish or correct wage information with respect to wages paid to such individuals during the period January 1, 1944, to December 31, 1947, inclusive, to the extent that such wage information is obtainable, and (3) such taxpayer files with the Collector a statement under oath (a) adequately identifying the ruling in his case, or other ruling upon which he relied, and, if not a ruling in his case, stating the reasons he believes himself to have been entitled to rely on such other ruling, (b) stating whether or not the wage information furnished to the Collector is complete, and stating in what respect, if any, it is incomplete, and (c), if the wage information is not obtainable or is incomplete, setting forth the reasons therefor. The granting of similar relief from the payment of taxes for periods prior to January 1, 1948, under other circumstances will depend upon the facts in the particular case.

[F. R. Doc. 47–10511; Filed, Nov. 26, 1947; 8:48 a. m.]

PRESENT REGULATION

SEC. 402.204. *Who are employees.*—Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation, but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the

corporation other than those required by attendance at and participation in meetings of the board of directors.

Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the Act (*see* section 402.203).

THE SILK CASE

Nos. 312 AND 673.—OCTOBER TERM, 1946.

312 The United States of America, Petitioner, *v.* Albert Silk, Doing Business as Albert Silk Coal Company.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit.
673 Carter H. Harrison, Individually and as Collector of Internal Revenue, Petitioner, *v.* Greyvan Lines, Inc.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Tenth Circuit.

[June 16, 1947.]

MR. JUSTICE REED delivered the opinion of the Court.

We considered together the above two cases. Both involve suits to recover sums exacted from businesses by the Commissioner of Internal Revenue as employment taxes on employers under the Social Security Act.[1] In both instances the taxes were collected on assessments made administratively by the Commissioner because he concluded the persons here involved were employees of the taxpayers. Both cases turn on a determination as to whether the workers involved were employees under that Act or whether they were independent contractors. Writs of certiorari were granted, — U. S. — and — U. S. —, because of the general importance in the collection of social security taxes of deciding what are the applicable standards for the determination of employees under the Act. Varying standards have been applied in the federal courts.[2]

Respondent in No. 312, Albert Silk, doing business as the Albert Silk Coal Co., sued the United States, petitioner, to recover taxes alleged to have been illegally assessed and collected from respondent for the years 1936 through 1939 under the Social Security Act. The taxes were levied on respondent as an employer of certain workmen

[1] Titles VIII and IX, Social Security Act, 49 Stat. 636 and 639, as repealed in part 53 Stat. 1.
See Internal Revenue Code, chap. 9, subchap. A and C.

[2] *Texas Co.* v. *Higgins*, 118 F. 2d 636; *Jones* v. *Goodson*, 121 F. 2d 176; *Deecy Products Co.* v. *Welch*, 124 F. 2d 592; *American Oil Co.* v. *Fly*, 135 F. 2d 491; *Glenn* v. *Beard*, 141 F. 2d 376; *Magruder* v. *Yellow Cab Co.*, 141 F. 2d 324; *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655; *Glenn* v. *Standard Oil Co.*, 148 F. 2d 51, 53; *McGowan* v. *Lazeroff*, 148 F. 2d 512; *United States* v. *Wholesale Oil Co.*, 154 F. 2d 745; *United States* v. *Vogue, Inc.*, 145 F. 2d 609, 612; *United States* v. *Aberdeen Aerie, No. 24*, 148 F. 2d 655, 658; *Grace* v. *Magruder*, 148 F. 2d 679, 680–81; *Nevins, Inc.* v. *Rothensies*, 151 F. 2d 189.

some of whom were engaged in unloading railway coal cars and the others in making retail deliveries of coal by truck.

Respondent sells coal at retail in the city of Topeka, Kansas. His coalyard consists of two buildings, one for an office and the other a gathering place for workers, railroad tracks upon which carloads of coal are delivered by the railroad, and bins for the different types of coal. Respondent pays those who work as unloaders an agreed price per ton to unload coal from the railroad cars. These men come to the yard when and as they please and are assigned a car to unload and a place to put the coal. They furnish their own tools, work when they wish and work for others at will. One of these unloaders testified that he worked as regularly "as a man has to when he has to eat" but there was also testimony that some of the unloaders were floaters who came to the yard only intermittently.

Respondent owns no trucks himself but contracts with workers who own their own trucks to deliver coal at a uniform price per ton. This is paid to the trucker by the respondent out of the price he receives for the coal from the customer. When an order for coal is taken in the company office, a bell is rung which rings in the building used by the truckers. The truckers have voluntarily adopted a call list upon which their names come up in turn, and the top man on the list has an opportunity to deliver the coal ordered. The truckers are not instructed how to do their jobs, but are merely given a ticket telling them where the coal is to be delivered and whether the charge is to be collected or not. Any damage caused by them is paid for by the company. The District Court found that the truckers could and often did refuse to make a delivery without penalty. Further, the court found that the truckers may come and go as they please and frequently did leave the premises without permission. They may and did haul for others when they pleased. They pay all the expenses of operating their trucks, and furnish extra help necessary to the delivery of the coal and all equipment except the yard storage bins. No record is kept of their time. They are paid after each trip, at the end of the day or at the end of the week, as they request.

The Collector ruled that the unloaders and truckers were employees of the respondent during the years 1936 through 1939 within the meaning of the Social Security Act and he accordingly assessed additional taxes under Titles VIII and IX of the Social Security Act and Subchapters A and C of Chapter 9 of the Internal Revenue Code. Respondent filed a claim for a refund which was denied. He then brought this action. Both the District Court and the Circuit Court of Appeals [3] thought that the truckers and unloaders were independent contractors and allowed the recovery.

Respondent in No. 673, Greyvan Lines, Inc., a common carrier by motor truck, sued the petitioner, a Collector of Internal Revenue, to recover employment taxes alleged to have been illegally assessed and collected from it under similar provisions of the Social Security Act involved in Silk's case for the years or parts of years 1937 through the first quarter of 1942. From a holding for the respondent in the District Court petitioner appealed. The Circuit Court of Appeals affirmed. The chief question in this case is whether truckmen who perform the actual service of carrying the goods shipped by the public

[3] 155 F. 2d 356.

are employees of the respondent. Both the District Court and the Circuit Court of Appeals [4] thought that the truckmen were independent contractors.

The respondent operates its trucking business under a permit issued by the Interstate Commerce Commission under the "grandfather clause" of the Motor Carrier Act. 32 M. C. C. 719, 723. It operates throughout thirty-eight states and parts of Canada, carrying largely household furniture. While its principal office is in Chicago, it maintains agencies to solicit business in many of the larger cities of the areas it serves, from which it contracts to move goods. As early as 1930, before the passage of the Social Security Act, the respondent adopted the system of relations with the truckmen here concerned, which gives rise to the present issue. The system was based on contracts with the truckmen under which the truckmen were required to haul exclusively for the respondent and to furnish their own trucks and all equipment and labor necessary to pick up, handle and deliver shipments, to pay all expenses of operation, to furnish all fire, theft, and collision insurance which the respondent might specify, to pay for all loss or damage to shipments and to indemnify the company for any loss caused it by the acts of the truckmen, their servants and employees, to paint the designation "Greyvan Lines" on their trucks, to collect all money due the company from shippers or consignees, and to turn in such moneys at the office to which they report after delivering a shipment, to post bonds with the company in the amount of $1,000 and cash deposits of $250 pending final settlement of accounts, to personally drive their trucks at all times or be present on the truck when a competent relief driver was driving (except in emergencies, when a substitute might be employed with the approval of the company), and to follow all rules, regulations, and instructions of the company. All contracts or bills of lading for the shipment of goods were to be between the respondent and the shipper. The company's instructions covered directions to the truckmen as to where and when to load freight. If freight was tendered the truckmen, they were under obligation to notify the company so that it could complete the contract for shipment in its own name. As remuneration, the truckmen were to receive from the company a percentage of the tariff charged by the company varying between 50 and 52% and a bonus up to 3% for satisfactory performance of the service. The contract was terminable at any time by either party. These truckmen were required to take a short course of instruction in the company's methods of doing business before carrying out their contractual obligations to haul. The company maintained a staff of dispatchers who issued orders for the truckmen's movements, although not the routes to be used, and to which the truckmen, at intervals, reported their positions. Cargo insurance was carried by the company. All permits, certificates and franchises "necessary to the operation of the ehicle in the service of the company as a motor carrier under any Federal or State Law" were to be obtained at the company's expense.

The record shows the following additional undisputed facts, not contained in the findings. A manual of instructions, given by the respondent to the truckmen, and a contract between the company and Local No. 711 of the International Brotherhood of Teamsters, Chauf-

[4] 156 F. 2d 412.

feurs, Stablemen and Helpers of America were introduced in evidence. It suffices to say that the manual purported to regulate in detail the conduct of the truckmen in the performance of their duties, and that the agreement with the Union provided that any truckman must first be a member of the union, and that grievances would be referred to representatives of the company and the union. A company official testified that the manual was impractical and that no attempt was made to enforce it. We understand the union contract was in effect. The company had some trucks driven by truckmen who were admittedly company employees. Operations by the company under the two systems were carried out in the same manner. The insurance required by the company was carried under a blanket company policy for which the truckmen were charged proportionately.

The Social Security Act of 1935 was the result of long consideration by the President and Congress of the evil of the burdens that rest upon large numbers of our people because of the insecurities of modern life, particularly old age and unemployment. It was enacted in an effort to coordinate the forces of government and industry for solving the problems.[5] The principal method adopted by Congress to advance its purposes was to provide for periodic payments in the nature of annuities to the elderly and compensation to workers during periods of unemployment. Employment taxes, such as we are here considering, are necessary to produce the revenue for federal participation in the program of alleviation. Employers do not pay taxes on certain groups of employees, such as agricultural or domestic workers but none of these exceptions are applicable to these cases. §§ 811 and 907. Taxes are laid as excises on a percentage of wages paid the nonexempt employees. §§ 804 and 901; I. R. C. §§ 1410, 1600. "Wages" means all remuneration for the employment that is covered by the Act, cash or otherwise. §§ 811, 907; I. R. C. §§ 1426, 1607 (b). "Employment" means "any service, of whatever nature, performed . . . by an employee for his employer, except . . . agricultural labor *et cetera*." §§ 811 (b), 907 (c); I. R. C. §§ 1426 (b), 1607 (c). As a corollary to the coverage of employees whose wages are the basis for the employment taxes under the tax sections of the social security legislation, rights to benefit payments under federal old age insurance depend upon the receipt of wages as employees under the same sections. 53 Stat. 1360, §§ 202, 209 (a), (b), (g), 205 (c) (1). See *Social Security Board* v. *Nierotko*, 327 U. S. 358. This relationship between the tax sections and the benefit sections emphasizes the underlying purpose of the legislation—the protection of its beneficiaries from some of the hardships of existence. *Helvering* v. *Davis*, *supra*, 640. No definition of employer or employee applicable to these cases occurs in the Act. See § 907 (a) and I. R. C. § 1607 (h). Compare, as to carrier employment, I. R. C. § 1532 (d), as amended by P. L. 572, 79th Cong., 2d Sess., § 1. Nothing that is helpful in determining the scope of the coverage of the tax sections of the Social Security Act has come to our attention in the legislative history of the passage of the Act or amendments thereto.

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[5] Message of the President, January 17, 1935, and Report of the Committee on Economic Security, H. Doc. No. 81, 74th Cong., 1st Sess.; S. Rep. No. 628, 74th Cong., 1st Sess.; S. Rep. No. 734, 76th Cong., 1st Sess.; H. Rep. No. 615, 74th Cong., 1st Sess.; H. Rep. No. 728, 76th Cong., 1st Sess. *Steward Machine Co.* v. *Davis*, 301 U. S. 548; *Helvering* v. *Davis*, 301 U. S. 619.

Since Congress has made clear by its many exemptions, such as, for example, the broad categories of agricultural labor and domestic service, 53 Stat. 1384, 1393, that it was not its purpose to make the Act cover the whole field of service to every business enterprise, the sections in question are to be read with the exemptions in mind. The very specificity of the exemptions, however, and the generality of the employment definitions[6] indicates that the terms "employment" and "employee," are to be construed to accomplish the purposes of the legislation. As the federal social security legislation is an attack on recognized evils in our national economy, a constricted interpretation of the phrasing by the courts would not comport with its purpose. Such an interpretation would only make for a continuance, to a considerable degree, of the difficulties for which the remedy was devised and would invite adroit schemes by some employers and employees to avoid the immediate burdens at the expense of the benefits sought by the legislation.[7] These considerations have heretofore guided our construction of the Act. *Buckstaff Bath House Co.* v. *McKinley*, 308 U. S. 358; *Social Security Board* v. *Nierotko*, 327 U. S. 358.

Of course, this does not mean that all who render service to an industry are employees. Compare *Metcalf & Eddy* v. *Mitchell*, 269 U. S. 514, 520. Obviously the private contractor who undertakes to build at a fixed price or on cost-plus a new plant on specifications is not an employee of the industry thus served nor are his employees. The distributor who undertakes to market at his own risk the product of another, or the producer who agrees so to manufacture for another ordinarily cannot be said to have the employer-employee relationship. Production and distribution are different segments of business. The purposes of the legislation are not frustrated because the Government collects employment taxes from the distributor instead of the producer or the other way around.

The problem of differentiating between employee and an independent contractor or between an agent and an independent contractor has given difficulty through the years before social legislation multiplied its importance. When the matter arose in the administration of the National Labor Relations Act, we pointed out that the legal standards to fix responsibility for acts of servants, employees or agents had not been reduced to such certainty that it could be said there was "some simple, uniform and easily applicable test." The word "employee," we said, was not there used as a word of art, and its content in its context was a federal problem to be construed "in the light of the mischief to be corrected and the end to be attained." We concluded that, since that end was the elimination of labor disputes and industrial strife, "employees" included workers who were such as a matter of economic reality. The aim of the Act was to remedy the inequality of bargaining power in controversies over wages, hours and working conditions. We rejected the test of the "technical concepts pertinent to an employer's legal responsibility to third persons for acts of his servants." This is often referred to as power of control, whether exercised or not, over the manner of performing service to the industry. Restatement

[6] See 53 Stat. 1384, 1393, "The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—." Compare 49 Stat. 639 and 643.

[7] Nothing to suggest tax avoidance appears in these records.

of the Law, Agency, § 220. We approved the statement of the National Labor Relations Board that "the primary consideration in the determination of the applicability of the statutory definition is whether effectuation of the declared policy and purposes of the Act comprehend securing to the individual the rights guaranteed and protection afforded by the Act." *Board* v. *Hearst Publications*, 322 U. S. 111, 120, 123, 124, 128, 131.

Application of the social security legislation should follow the same rule that we applied to the National Labor Relations Act in the *Hearst* case. This, of course, does not leave courts free to determine the employer-employee relationship without regard to the provisions of the Act. The taxpayer must be an "employer" and the man who receives wages an "employee." There is no indication that Congress intended to change normal business relationships through which one business organization obtained the services of another to perform a portion of production or distribution. Few businesses are so completely integrated that they can themselves produce the raw material, manufacture and distribute the finished product to the ultimate consumer without assistance from independent contractors. The Social Security Act was drawn with this industrial situation as a part of the surroundings in which it was to be enforced. Where a part of an industrial process is in the hands of independent contractors, they are the ones who should pay the social security taxes.

The long-standing regulations of the Treasury and the Federal Security Agency (H. Doc. 595, 79th Cong., 2d Sess.) recognize that independent contractors exist under the Act. The pertinent portions are set out in the margins.[8] Certainly the industry's right to control how "work shall be done" is a factor in the determination of whether the worker is an employee or independent contractor. The Government points out that the regulations were construed by the Commissioner of Internal Revenue to cover the circumstances here presented. This is shown by his additional tax assessments. Other instances of such administrative determinations are called to our attention.[9]

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[8] Treasury Regulation 90, promulgated under Title IX of the Social Security Act, Art. 205:

"Generally the relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it shall be done. . . . The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor, not an employee.

"If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if two individuals in fact stand in the relationship of employer and employee to each other, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

"The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

"Individuals performing services as independent contractors are not employees. Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees." 26 C. F. R. § 400.205. See also Treasury Regulation 91, 26 C. F. R. § 401.3.

[9] The citation of these cases does not imply approval or disapproval of the results. The cases do show the construction of the regulation by the agency. *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655; *Jones* v. *Goodson*, 121 F. 2d 176; *Magruder* v. *Yellow Cab Co.*, 141 F. 2d 324; *Texas Co.* v. *Higgins*, 118 F. 2d 636; *American Oil Co.* v. *Fly*, 135 F. 2d 491; *Glenn* v. *Standard Oil Co.*, 148 F. 2d 51.

See also note 2.

So far as the regulations refer to the effect of contracts, we think their statement of the law cannot be challenged successfully. Contracts, however "skilfully devised," *Lucas* v. *Earl*, 281 U. S. 111, 115, should not be permitted to shift tax liability as definitely fixed by the statutes.[10]

Probably it is quite impossible to extract from the statute a rule of thumb to define the limits of the employer-employee relationship. The Social Security Agency and the courts will find that degrees of control, opportunities for profit or loss, investment in facilities, permanency of relation and skill required in the claimed independent operation are important for decision. No one is controlling nor is the list complete. These unloaders and truckers and their assistants are from one standpoint an integral part of the businesses of retailing coal or transporting freight. Their energy, care and judgment may conserve their equipment or increase their earnings but Greyvan and Silk are the directors of their businesses. On the other hand, the truckmen hire their own assistants, own their trucks, pay their own expenses, with minor exceptions, and depend upon their own initiative, judgment and energy for a large part of their success.

Both lower courts in both cases have determined that these workers are independent contractors. These inferences were drawn by the courts from facts concerning which there is no real dispute. The excerpts from the opinions below show the reasons for their conclusions.[11]

Giving full consideration to the concurrence of the two lower courts in a contrary result, we cannot agree that the unloaders in the *Silk*

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[10] *Gregory* v. *Helvering*, 293 U. S. 465; *Griffiths* v. *Commissioner*, 308 U. S. 355; *Higgins* v. *Smith*, 308 U. S. 473; *Helvering* v. *Clifford*, 309 U. S. 331.

[11] *United States* v. *Silk*, 155 F. 2d 356, 358–9: "But even while they work for appellee they are not subject to his control as to the method or manner in which they are to do their work. The undisputed evidence is that the only supervision or control ever exercised or that could be exercised over the haulers was to give them the sales ticket if they were willing to take it, and let them deliver the coal. They were free to choose any route in going to or returning. They were not required even to take the coal for delivery.

"We think that the relationship between appellee and the unloaders is not materially different from that between him and the haulers. In response to a question on cross examination, appellee did testify that the unloaders did what his superintendent at the coal yard told them to do, but when considered in the light of all his testimony, all that this answer meant was that they unloaded the car assigned to them into the designated bin. . . .

"The undisputed facts fail to establish such reasonable measure of direction and control over the method and means of performing the services performed by these workers as is necessary to establish a legal relationship of employer and employee between appellee and the workers in question."

Greyvan Lines v. *Harrison*, 156 F. 2d 412, 414–16. After stating the trial court's finding that the truckmen were not employees, the appellate court noted:

"Appellant contends that in determining these facts the court failed to give effect to important provisions of the contracts which it asserts clearly show the reservation of the right of control over the truckmen and their helpers as to the methods and means of their operations which, it is agreed, furnish the test for determining the relationship here in question. . . ."

It then discussed the manual and concluded:

"While it is true that many provisions of the manual, if strictly enforced, would go far to establish an employer-employee relationship between the Company and its truckmen, we agree with appellee that there was evidence to justify the court's disregarding of it. It was not prepared until April, 1940, although the tax period involved was from November, 1937, through March, 1942, and there was no evidence to show any change or tightening of controls after its adoption and distribution; one driver testified that he was never instructed to follow the rules therein provided; an officer of the Company testified that it had been prepared by a group of three men no longer in their employ, and that it had been impractical and was not adhered to."

After a discussion of the helper problem, this statement appears: ". . . The Company cannot be held liable for employment taxes on the wages of persons over whom it exerts no control, and of whose employment it has no knowledge. And this element of control of the truckmen over their own helpers goes far to prevent the employer-employee relationship from arising between them and the Company. While many factors in this case indicate such control as to give rise to that relationship we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations. . . ."

case were independent contractors.[12] They provided only picks and shovels. They had no opportunity to gain or lose except from the work of their hands and these simple tools. That the unloaders did not work regularly is not significant. They did work in the course of the employer's trade or business. This brings them under the coverage of the Act.[13] They are of the group that the Social Security Act was intended to aid. Silk was in a position to exercise all necessary supervision over their simple tasks. Unloaders have often been held to be employees in tort cases.[14]

There are cases, too, where driver-owners of trucks or wagons have been held employees[15] in accident suits at tort or under workmen's compensation laws. But we agree with the decisions below in *Silk* and *Greyvan* that where the arrangements leave the driver-owners so much responsibility for investment and management as here, they must be held to be independent contractors.[16] These driver-owners are small businessmen. They own their own trucks. They hire their own helpers. In one instance they haul for a single business, in the other for any customer. The distinction, though important, is not controlling. It is the total situation, including the risk undertaken, the control exercised, the opportunity for profit from sound management, that marks these driver-owners as independent contractors.

No. 312, *United States* v. *Silk*, is affirmed in part and reversed in part.

No. 673, *Harrison* v. *Greyvan Lines, Inc.*, is affirmed.

MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS and MR. JUSTICE MURPHY are of the view that the applicable principles of law, stated by the Court and with which they agree, require reversal of both judgments in their entirety.

THE SILK CASE

Dissenting Opinion of Mr. Justice Rutledge

MR. JUSTICE RUTLEDGE.

I join in the Court's opinion and in the result insofar as the principles stated are applied to the unloaders in the *Silk* case. But I think a different disposition should be made in application of those principles to the truckers in that case and in the *Greyvan* case.

So far as the truckers are concerned, both are border-line cases.[17]

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[12] Cf. *Grace* v. *Magruder*, 148 F. 2d 679.

[13] I. R. C., chap. 9, subchap. A, § 1426 (b):

"The term 'employment' means any service performed . . . by an employee for the person employing him . . . except—

. . . . . .

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

[14] *Swift & Co.* v. *Alston*, 48 Ga. App. 649; *Holmes* v. *Railroad Co.*, 49 La. Ann. 1465; *Muncie Foundry Co.* v. *Thompson*, 70 Ind. App. 157; *Chicago, R. I. & P. R. Co.* v. *Bennett*, 36 Okla. 358; *Murray's Case*, 130 Me. 181; *Decatur R. Co.* v. *Industrial Board*, 276 Ill. 472; *Benjamin* v. *Fertilizer Co.*, 169 Miss. 162.

[15] *Western Express Co.* v. *Smeltzer*, 88 F. 2d 94; *Industrial Commission* v. *Bonfils*, 78 Colo. 306; *Coppes Bros. & Zook* v. *Pontius*, 76 Ind. App. 298; *Burruss* v. *B. M. C. Logging Co.*, 38 N. M. 254; *Bradley* v. *Republic Creosoting Co.*, 281 Mich. 177; *Rouse* v. *Town of Bird Island*, 169 Minn. 367; *Industrial Commission* v. *Hammond*, 77 Colo. 414; *Kirk* v. *Lime Co. and Insurance Co.*, 137 Me. 73; *Showers* v. *Lund*, 123 Neb. 56; *Burt* v. *Davis-Wood Lumber Co.*, 157 La. 111; *Dunn* v. *Reeves Coal Yards Co., Inc.*, 150 Minn. 282; *Waters* v. *Pioneer Fuel Co.*, 52 Minn. 474; *Warner* v. *Hardwood Lumber Co.*, 231 Mich. 328; *Frost* v. *Blue Ridge Timber Corp.*, 158 Tenn. 18; *Lee* v. *Mark H. Brown Lumber Co.*, 15 La. App. 294.

See particularly *Singer Manufacturing Co.* v. *Rahn*, 132 U. S. 518.

[16] Compare *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655; *Glenn* v. *Standard Oil Co.*, 148 F. 2d 51.

[17] The opinion of the Circuit Court of Appeals in the *Greyvan* case stated, after referring to *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655: "It is true that the facts of that case do not present as close a question as in the case at bar." And see note 3.

That would be true, I think, even if the so-called "common law control" test were conclusive,[18] as the District Court and the Circuit Court of Appeals in each case seem to have regarded it.[19] It is even more true under the broader and more factual approach the Court holds should be applied.

I agree with the Court's views in adopting this approach and that the balance in close cases should be cast in favor of rather than against coverage, in order to fulfill the statute's broad and beneficent objects. A narrow, constricted construction in doubtful cases only goes, as indeed the opinion recognizes, to defeat the Act's policy and purposes *pro tanto*.

But I do not think it necessary or perhaps in harmony with sound practice, considering the nature of this Court's functions and those of the district courts, for us to undertake drawing the final conclusion generally in these borderline cases. Having declared the applicable principles of law to be applied, our function is sufficiently discharged by seeing to it that they are observed. And when this has been done, drawing the final conclusion, in matters so largely factual as the end result must be in close cases, is more properly the business of the district courts than ours.

Here the District Courts and the Circuit Courts of Appeals determined the cases largely if not indeed exclusively by applying the so-called "common law control" test as the criterion. This was clearly wrong, in view of the Court's present ruling. But for its action in drawing the ultimate and largely factual conclusion on that basis, the error would require remanding the causes to the District Courts in order for them to exercise that function in the light of the present decision.

I would follow that course, so far as the truckers are concerned.

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[18] It is not at all certain that either Silk or Greyvan Lines would not be held liable in tort, under application of the common law test, for injuries negligently inflicted upon persons or property of others by their truckers, respectively, in the course of operating the trucks in connection with their businesses. Indeed this result would seem to be clearly indicated, in the case of Greyvan particularly, in view of the fact that the trucks bore its name, in addition to other factors including a large degree of control exercised over the trucking operations. For federal cases in point see *Silent Automatic Sales Corp.* v. *Stayton*, 45 F. 2d 471 (applying Missouri law); *Falstaff Brewing Corp.* v. *Thompson*, 101 F. 2d 301 (applying Nebraska law); *Young* v. *Wilky Carrier Corp.*, 54 F. Supp. 912, aff'd, 150 F. 2d 764 applying Pennsylvania law). And see for a general collection of state cases, 9 Blashfield, Cyclopedia of Automobile Law and Practice (1941) § 6056.

Certainly the question of coverage under the statute, as an employee, should not be determined more narrowly than that of employee status for purposes of imposing vicarious liability in tort upon an employer, whether by application of the control test exclusively or of the Court's broader ruling.

[19] In the *Silk* case formal findings of fact and conclusions of law by the District Court do not appear in the record. But a "Statement by the Court" recites details of the arrangements with the truckers and unloaders in the focus of whether Silk exercised control over them and concludes he did not; hence, there was no employer-employee relation. The opinion of the Circuit Court of Appeals, through recognizing the necessity for liberal construction of the Act, treats the facts found in the same focus of control. The court was influenced by the regulations promulgated under the Act (Reg. 90, Art. 205) and also by the Bureau of Internal Revenue (Reg. 91, Art. 3). The opinion concludes: "The undisputed facts fail to establish such reasonable measure of direction and control over the methods and means of performing the services . . . as is necessary" to create the employer-employee relation. 155 F. 2d 356, 359.

In the *Greyvan* case formal findings and conclusions were filed. The Circuit Court of Appeals, accepting the findings, concluded they did not show "change or tightening of controls" after the company's adoption of a manual in 1940, although its provisions "if strictly enforced would go far to establish an employer-employee relationship . . ." 156 F. 2d 412, 415. However, it found another factor conclusive: "While many factors in this case indicate such control as to give rise to that relationship, we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they may make use of in their operations." 156 F. 2d at 416. Apparently not control of the method of performing the work in general but absence of expressly reserved right of control in a single feature became the criterion used.

THE RUTHERFORD CASE

No. 562.—October Term, 1946.

Rutherford Food Corporation and the George Kaiser Packing Company, Petitioners, *v.* William R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Tenth Circuit.

[June 16, 1947.]

Mr. Justice Reed delivered the opinion of the Court:

The Administrator of the Wage and Hour Division of the Department of Labor brought this action to enjoin the Rutherford Food Corporation and the Kaiser Packing Company from further violating the Fair Labor Standards Act.[1] The Administrator alleged that the defendants had repeatedly failed to keep proper records and to pay certain of its employees overtime as required by § 7 of the Act.[2] The District Court refused to grant the injunction. The Circuit Court of Appeals reversed on appeal, and directed the entry of the judgment substantially as prayed for. *Walling* v. *Rutherford Food Corporation*, 156 F. 2d 513. We brought the case here because of the importance of the issues presented by the petition for certiorari to the administration of the Act.

The Fair Labor Standards Act of 1938, enacted June 25, 1938, is a part of the social legislation of the 1930's of the same general character as the National Labor Relations Act of July 5, 1935, 49 Stat. 449, and the Social Security Act of August 14, 1935, 49 Stat. 620. Decisions that define the coverage of the employer-employee relationship under the Labor and Social Security acts are persuasive in the consideration of a similar coverage under the Fair Labor Standards Act. See *Board* v. *Hearst Publications*, 322 U. S. 111; *United States* v. *Silk*, Nos. 312 and 673, decided today.

The petitioners are corporations of Missouri authorized to do business in Kansas. The slaughterhouse of the Kaiser Packing Company, the place of the alleged violations with which we are concerned, and the principal place of business of that company, is in Kansas City, Kansas, from which it ships meat in interstate commerce. Since 1942 most of its product has been boned beef. The petitioner, Rutherford Food Corporation, has its principal place of business and its plant for processing meat products in Kansas City, Missouri. In 1943, Rutherford bought 51% of the stock of Kaiser in order to assure itself of a constant supply of boned beef for contracts it had with the U. S.

[1] 52 Stat. 1060.
[2] 29 U. S. C. § 207.

Army. Kaiser had been operating and continued to operate at a loss, and Rutherford advanced more than $50,000 to Kaiser between March, when Rutherford bought the Kaiser stock, and July, 1943. To assure itself of a continued supply of meat, Rutherford leased Kaiser's facilities and took over operation of the slaughterhouse in July. In May, 1944, the lease was terminated and Rutherford's stock interest in Kaiser sold, so that Kaiser might qualify for subsidies granted by the Defense Supplies Corporation to unaffiliated nonprocessing slaughterers under its Regulation No. 3.[8]

Prior to 1942 Kaiser had one hourly paid employee who acted as a combined butcher, beef boner and order filler. During 1942, in order to be able to furnish beef boned to Army specifications to the Army under contract, Kaiser entered into a written contract with one Reed, an experienced boner, which provided that Reed should assemble a group of skilled boners to do the boning at the slaughterhouse. The terms of the contract were that Reed should be paid for the work of boning an amount per hundred-weight of boned beef, that he would have complete control over the other boners, who would be his employees, that Kaiser would furnish a room in its plant for the work, known as the boning vestibule, into which the carcasses of cattle slaughtered by Kaiser would be moved on overhead rails by Kaiser employees, that Kaiser would also furnish barrels for the boned meat which would be washed and moved out of the vestibule by Kaiser's employees. Reed abandoned the work in February, 1943, and the work was taken over under an oral contract by one of the boners who had worked with him. This boner, Schindel, also abandoned the work in May, 1944, and an oral contract was then made by the company with Hooper and Deere, who had worked with Schindel. After a few months Deere left, at which time Hooper entered into a written contract substantially like the one between Kaiser and Reed, save that it provided for rent to be paid by Hooper for the boning room, although as a matter of fact no rent was ever paid. The District Court found that since the boning work had started in 1942, the money paid by Kaiser had been shared equally among all the boners, except for a short time after Hooper took over the work when he paid some of the boners by the hour. It was stipulated further that the boners owned their own tools, although these consisted merely of a hook to hold the meat, a knife to cut it, a sharpener for the knife, and a leather belt (apron). Although the C. I. O. union which was the representative of the workers of the company insisted that the boners be members, and although the written contracts provided that they should join, it was stipulated that the union dues of the boners were not checked off and that the boners were not subject to the authority of the union steward at the plant.

The slaughterhouse operations, of which the boning is a part, are carried on in a series of interdependent steps. The cattle are slaughtered, skinned, and dressed in the killing room, and the carcasses are moved thence on overhead rails into an overnight cooler by employees of Kaiser. The next day they are moved into another cooler and then into the boning vestibule, on the same overhead rail. They move around the boning room on the rail, each boner cutting off a section for boning. The boneless meat is put into barrels, or passed to a

[8] 8 F. R. 10826; 8 F. R. 14641; 9 F. R. 1820.

trimmer, an employee of Kaiser, who trims waste matter from the boned meat. Waste is put into other barrels. The barrels are moved from the boning room by employees of Kaiser into another room, called the dock, where the meat is weighed and put on trucks. Kaiser has never attempted to control the hours of the boners, but they must "keep the work current and the hours they work depend in large measure upon the number of cattle slaughtered." 156 F. 2d 513, 515. It is undisputed that the president and manager of Kaiser goes through the boning vestibule many times a day and "is after the boners frequently about their failure to cut all of the meat off the bones."

The Administrator thought these facts brought the boners within the classification of employees, as that term is used in the Act. But the District Court thought that they were independent contractors, and denied the injunction sought by the Administrator. The Circuit Court of Appeals, however, said: "The operations at the slaughterhouse constitute an integrated economic unit devoted primarily to the production of boneless beef. Practically all of the work entering into the unit is done at one place and under one roof. . . . The boners work alongside admitted employees of the plant operator at their tasks. The task of each is performed in its natural order as a contribution to the accomplishment of a common objective." In its view of the test for determining who was an employee under the Act was not the common law test of control, "as the Act concerns itself with the correction of economic evils through remedies which were unknown at common law . . ." It concluded that the "underlying economic realities . . . lead to the conclusion that the boners were and are employees of Kaiser . . ." 156 F. 2d 513, 516–17.

The Fair Labor Standards Act was passed by Congress to lessen, so far as seemed then practicable, the distribution in commerce of goods produced under subnormal labor conditions. An effort to eliminate low wages and long hours was the method chosen to free commerce from the interferences arising from production of goods under conditions that were detrimental to the health and well-being of workers. It was sought to accomplish this purpose by the minimum pay and maximum hour provisions and the requirement that records of employees' services be kept by the employer.[4] To make the method effective, the Act contains a section granting to the district courts of the United States jurisdiction to enjoin certain violations of the Act here involved, relating to the keeping of records of employment and the paying of overtime.[5] Whether or not the acts charged in this complaint violate the Act depends, so far as the meat boners are concerned, upon a determination as to whether either or both respondents are employers of the boners. As our conclusion requires further action in the trial court to frame the injunction, we shall treat only the question of the relationship of the boners to the alleged employers. We shall not in our consideration undertake to reach any conclusion as to the appropriate form of an injunction. We pass only upon the question whether the boners were employees of the operator of the Kansas plant under the Fair Labor Standards Act.

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[4] 52 Stat. 1060, §§ 2, 6, 7, 11 (c). *United States* v. *Darby*, 312 U. S. 100, 125; *Overnight Motor Co.* v. *Missel*, 316 U. S. 572, 577–78.
[5] 52 Stat. 1060, §§ 17, 15, 7 (a), 11 (c).

As in the National Labor Relations Act and the Social Security Act, there is in the Fair Labor Standards Act no definition that solves problems as to the limits of the employer-employee relationship under the Act. Provisions which have some bearing appear in the margin.[6] The definition of "employ" is broad. It evidently derives from the child labor statutes and it should be noted that this definition applies to the child labor provisions of this Act, § 12.[7] We have decided that it is not so broad as to include those "who, without any express or implied compensation agreement, might work for their own advantage on the premises of another." *Walling* v. *Portland Terminal Co.* No. 336, this term, decided February 17, 1947. In the same opinion, however, we pointed out that "This Act contains its own definitions, comprehensive enough to require its application to many persons and working relationships, which prior to this Act, were not deemed to fall within an employer-employee category:" Slip op., p. 3. We have said that the Act included those who are compensated on a piece rate basis. *United States* v. *Rosenwasser*, 323 U. S. 360. We have accepted a stipulation that station "red-caps" were railroad employees. *Williams* v. *Jacksonville Terminal Co.*, 315 U. S. 386, 391. There may be independent contractors who take part in production or distribution who would alone be responsible for the wages and hours of their own employees. See *United States* v. *Silk*, *supra;* compare *Roland Electrical Co.* v. *Walling* 326 U. S. 657; *Martino* v. *Michigan Window Cleaning Co.*, 327 U. S. 173. We conclude, however, that these meat boners are not independent contractors. We agree with the Circuit Court of Appeals, quoted above, in its characterization of their work as a part of the integrated unit of production under such circumstances that the workers performing the task were employees of the establishment. Where the work done, in its essence, follows the usual path of an employee, putting on an "independent contractor" label does not take the worker from the protection of the Act.[8]

The District Court was of the view that:

> The right to contract is not only an inherent right but a constitutional right, and independent contracts, as a method of quantity production of boned beef, have not been uncommon in the packing business, generally. * * * The plan under which boners share equally in the boning money is commonly employed in Kansas City and elsewhere, and most of the boners who have worked in the Kaiser plant have worked at various times and in various plants under independent contractors. There is nothing inequitable in the sharing method under which

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[6] 52 Stat. 1060, § 3:
"As used in this Act—
"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee. . . .
"(e) 'Employee' includes any individual employed by an employer.
"(g) 'Employ' includes to suffer or permit to work."

[7] Note 11 in the brief for the United States summarizes the relevant data:
"At the time of the enactment of the Fair Labor Standards Act, the phrase 'employed, permitted or suffered to work' was contained in the child labor statutes of thirty-two States and the District of Columbia. The same phraseology appeared in the Uniform Child Labor Laws recommended in 1911 and in 1930 by the National Conference of Commissioners on Uniform State Laws (Child Labor Bulletin, Vol. I, No. 2, August 1912; Proceedings of the National Conference, 1930), in the Standard Child Labor Law recommended in the Child Labor Legislation Handbook compiled by Josephine C. Goldmark (See *e. g.*, issue of 1904, p. 11), and in the Standards Recommended for Child Labor Legislation by the International Association of Governmental Labor Officials. The phrase 'employed or permitted to work' was found in seventeen State statutes as well as in the Federal statutes held unconstitutional in *Hammer* v. *Dagenhart*, 247 U. S. 251, and *Child Labor Tax Case*, 259 U. S. 20. The statutes are cited in the Appendix to this brief, *infra*, pp. 58–60."

[8] See *Walling* v. *American Needlecrafts*, 139 F. 2d 60; *United States* v. *Vogue, Inc.*, 145 F. 2d 609; *Walling* v. *Twyeffort, Inc.*, 158 F. 2d 944.

compensation is divided equally among the group. It gives each man an interest in the amount of work being done by the other members of the group. It also gives no advantage to the man who is boning the fleshier parts of the carcass. Under this plan beginners and casual boners can be equitably taken care of by payment on an hourly basis out of the boning money.

We think, however, that the determination of the relationship does not depend on such isolated factors but rather upon the circumstances of the whole activity. Viewed in this way, the workers did a specialty job on the production line. The responsibility under the boning contracts without material changes passed from one boner to another. The premises and equipment of Kaiser were used for the work. The group had no business organization that could or did shift as a unit from one slaughterhouse to another. The managing official of the plant kept close touch on the operation. While profits to the boners depended upon the efficiency of their work, it was more like piecework than an enterprise that actually depended for success upon the initiative, judgment or foresight of the typical independent contractor. Upon the whole, we must conclude that these meat boners were employees of the slaughtering plant under the Fair Labor Standards Act.

We therefore affirm the conclusion to that effect of the Circuit Court of Appeals and modify the direction of the judgment of that court "for entry of a judgment substantially as prayed," so as to leave the District Court free to frame its decree in accordance with this decision.

It is so ordered.

E. R. MORRISON (HOMER H. BERGER, R. L. HECKER, MORRISON, NUGENT, BERGER, HECKER & BUCK with him on the brief) for petitioners; BESSIE MARGOLIN, Assistant Solicitor, U. S. Department of Labor (GEORGE T. WASHINGTON, Acting Solicitor General, PHILIP ELMAN, WILLIAM S. TYSON, Solicitor, U. S. Department of Labor, MORTON LIFTIN, and EUGENE GREEN with her on the brief) for respondent.

THE SILK CASE

Nos. 312 AND 673.—OCTOBER TERM, 1946.

312 The United States of America, Petitioner, *v.* Albert Silk, Doing Business as Albert Silk Coal Company.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Seventh Circuit.
673 Carter H. Harrison, Individually and as Collector of Internal Revenue, Petitioner, *v.* Greyvan Lines, Inc.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Tenth Circuit.

[June 16, 1947.]

MR. JUSTICE REED delivered the opinion of the Court.

We considered together the above two cases. Both involve suits to recover sums exacted from businesses by the Commissioner of Internal Revenue as employment taxes on employers under the Social Security Act.[1] In both instances the taxes were collected on assessments made administratively by the Commissioner because he concluded the persons here involved were employees of the taxpayers. Both cases turn on a determination as to whether the workers involved were employees under that Act or whether they were independent contractors. Writs of certiorari were granted, — U. S. — and — U. S. —, because of the general importance in the collection of social security taxes of deciding what are the applicable standards for the determination of employees under the Act. Varying standards have been applied in the federal courts.[2]

Respondent in No. 312, Albert Silk, doing business as the Albert Silk Coal Co., sued the United States, petitioner, to recover taxes alleged to have been illegally assessed and collected from respondent for the years 1936 through 1939 under the Social Security Act. The taxes were levied on respondent as an employer of certain workmen

[1] Titles VIII and IX, Social Security Act, 49 Stat. 636 and 639, as repealed in part 53 Stat. 1.
See Internal Revenue Code, chap. 9, subchap. A and C.

[2] *Texas Co.* v. *Higgins*, 118 F. 2d 636; *Jones* v. *Goodson*, 121 F. 2d 176; *Deecy Products Co.* v. *Welch*, 124 F. 2d 592; *American Oil Co.* v. *Fly*, 135 F. 2d 491; *Glenn* v. *Beard*, 141 F. 2d 376; *Magruder* v. *Yellow Cab Co.*, 141 F. 2d 324; *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655; *Glenn* v. *Standard Oil Co.*, 148 F. 2d 51, 53; *McGowan* v. *Lazeroff*, 148 F. 2d 512; *United States* v. *Wholesale Oil Co.*, 154 F. 2d 745; *United States* v. *Vogue, Inc.*, 145 F. 2d 609, 612; *United States* v. *Aberdeen Aerie, No. 24*, 148 F. 2d 655, 658; *Grace* v. *Magruder*, 148 F. 2d 679, 680–81; *Nevins, Inc.* v. *Rothensies*, 151 F. 2d 189.

some of whom were engaged in unloading railway coal cars and the others in making retail deliveries of coal by truck.

Respondent sells coal at retail in the city of Topeka, Kansas. His coalyard consists of two buildings, one for an office and the other a gathering place for workers, railroad tracks upon which carloads of coal are delivered by the railroad, and bins for the different types of coal. Respondent pays those who work as unloaders an agreed price per ton to unload coal from the railroad cars. These men come to the yard when and as they please and are assigned a car to unload and a place to put the coal. They furnish their own tools, work when they wish and work for others at will. One of these unloaders testified that he worked as regularly "as a man has to when he has to eat" but there was also testimony that some of the unloaders were floaters who came to the yard only intermittently.

Respondent owns no trucks himself but contracts with workers who own their own trucks to deliver coal at a uniform price per ton. This is paid to the trucker by the respondent out of the price he receives for the coal from the customer. When an order for coal is taken in the company office, a bell is rung which rings in the building used by the truckers. The truckers have voluntarily adopted a call list upon which their names come up in turn, and the top man on the list has an opportunity to deliver the coal ordered. The truckers are not instructed how to do their jobs, but are merely given a ticket telling them where the coal is to be delivered and whether the charge is to be collected or not. Any damage caused by them is paid for by the company. The District Court found that the truckers could and often did refuse to make a delivery without penalty. Further, the court found that the truckers may come and go as they please and frequently did leave the premises without permission. They may and did haul for others when they pleased. They pay all the expenses of operating their trucks, and furnish extra help necessary to the delivery of the coal and all equipment except the yard storage bins. No record is kept of their time. They are paid after each trip, at the end of the day or at the end of the week, as they request.

The Collector ruled that the unloaders and truckers were employees of the respondent during the years 1936 through 1939 within the meaning of the Social Security Act and he accordingly assessed additional taxes under Titles VIII and IX of the Social Security Act and Subchapters A and C of Chapter 9 of the Internal Revenue Code. Respondent filed a claim for a refund which was denied. He then brought this action. Both the District Court and the Circuit Court of Appeals [3] thought that the truckers and unloaders were independent contractors and allowed the recovery.

Respondent in No. 673, Greyvan Lines, Inc., a common carrier by motor truck, sued the petitioner, a Collector of Internal Revenue, to recover employment taxes alleged to have been illegally assessed and collected from it under similar provisions of the Social Security Act involved in Silk's case for the years or parts of years 1937 through the first quarter of 1942. From a holding for the respondent in the District Court petitioner appealed. The Circuit Court of Appeals affirmed. The chief question in this case is whether truckmen who perform the actual service of carrying the goods shipped by the public

[3] 155 F. 2d 356.

are employees of the respondent. Both the District Court and the Circuit Court of Appeals [4] thought that the truckmen were independent contractors.

The respondent operates its trucking business under a permit issued by the Interstate Commerce Commission under the "grandfather clause" of the Motor Carrier Act. 32 M. C. C. 719, 723. It operates throughout thirty-eight states and parts of Canada, carrying largely household furniture. While its principal office is in Chicago, it maintains agencies to solicit business in many of the larger cities of the areas it serves, from which it contracts to move goods. As early as 1930, before the passage of the Social Security Act, the respondent adopted the system of relations with the truckmen here concerned, which gives rise to the present issue. The system was based on contracts with the truckmen under which the truckmen were required to haul exclusively for the respondent and to furnish their own trucks and all equipment and labor necessary to pick up, handle and deliver shipments, to pay all expenses of operation, to furnish all fire, theft, and collision insurance which the respondent might specify, to pay for all loss or damage to shipments and to indemnify the company for any loss caused it by the acts of the truckmen, their servants and employees, to paint the designation "Greyvan Lines" on their trucks, to collect all money due the company from shippers or consignees, and to turn in such moneys at the office to which they report after delivering a shipment, to post bonds with the company in the amount of $1,000 and cash deposits of $250 pending final settlement of accounts, to personally drive their trucks at all times or be present on the truck when a competent relief driver was driving (except in emergencies, when a substitute might be employed with the approval of the company), and to follow all rules, regulations, and instructions of the company. All contracts or bills of lading for the shipment of goods were to be between the respondent and the shipper. The company's instructions covered directions to the truckmen as to where and when to load freight. If freight was tendered the truckmen, they were under obligation to notify the company so that it could complete the contract for shipment in its own name. As remuneration, the truckmen were to receive from the company a percentage of the tariff charged by the company varying between 50 and 52% and a bonus up to 3% for satisfactory performance of the service. The contract was terminable at any time by either party. These truckmen were required to take a short course of instruction in the company's methods of doing business before carrying out their contractual obligations to haul. The company maintained a staff of dispatchers who issued orders for the truckmen's movements, although not the routes to be used, and to which the truckmen, at intervals, reported their positions. Cargo insurance was carried by the company. All permits, certificates and franchises "necessary to the operation of the ehicle in the service of the company as a motor carrier under any Federal or State Law" were to be obtained at the company's expense.

The record shows the following additional undisputed facts, not contained in the findings. A manual of instructions, given by the respondent to the truckmen, and a contract between the company and Local No. 711 of the International Brotherhood of Teamsters, Chauf-

[4] 156 F. 2d 412.

feurs, Stablemen and Helpers of America were introduced in evidence. It suffices to say that the manual purported to regulate in detail the conduct of the truckmen in the performance of their duties, and that the agreement with the Union provided that any truckman must first be a member of the union, and that grievances would be referred to representatives of the company and the union. A company official testified that the manual was impractical and that no attempt was made to enforce it. We understand the union contract was in effect. The company had some trucks driven by truckmen who were admittedly company employees. Operations by the company under the two systems were carried out in the same manner. The insurance required by the company was carried under a blanket company policy for which the truckmen were charged proportionately.

The Social Security Act of 1935 was the result of long consideration by the President and Congress of the evil of the burdens that rest upon large numbers of our people because of the insecurities of modern life, particularly old age and unemployment. It was enacted in an effort to coordinate the forces of government and industry for solving the problems.[5] The principal method adopted by Congress to advance its purposes was to provide for periodic payments in the nature of annuities to the elderly and compensation to workers during periods of unemployment. Employment taxes, such as we are here considering, are necessary to produce the revenue for federal participation in the program of alleviation. Employers do not pay taxes on certain groups of employees, such as agricultural or domestic workers but none of these exceptions are applicable to these cases. §§ 811 and 907. Taxes are laid as excises on a percentage of wages paid the nonexempt employees. §§ 804 and 901; I. R. C. §§ 1410, 1600. "Wages" means all remuneration for the employment that is covered by the Act, cash or otherwise. §§ 811, 907; I. R. C. §§ 1426, 1607 (b). "Employment" means "any service, of whatever nature, performed . . . by an employee for his employer, except . . . agricultural labor *et cetera*." §§ 811 (b), 907 (c); I. R. C. §§ 1426 (b), 1607 (c). As a corollary to the coverage of employees whose wages are the basis for the employment taxes under the tax sections of the social security legislation, rights to benefit payments under federal old age insurance depend upon the receipt of wages as employees under the same sections. 53 Stat. 1360, §§ 202, 209 (a), (b), (g), 205 (c) (1). See *Social Security Board* v. *Nierotko*, 327 U. S. 358. This relationship between the tax sections and the benefit sections emphasizes the underlying purpose of the legislation—the protection of its beneficiaries from some of the hardships of existence. *Helvering* v. *Davis*, *supra*, 640. No definition of employer or employee applicable to these cases occurs in the Act. See § 907 (a) and I. R. C. § 1607 (h). Compare, as to carrier employment, I. R. C. § 1532 (d), as amended by P. L. 572, 79th Cong., 2d Sess., § 1. Nothing that is helpful in determining the scope of the coverage of the tax sections of the Social Security Act has come to our attention in the legislative history of the passage of the Act or amendments thereto.

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[5] Message of the President, January 17, 1935, and Report of the Committee on Economic Security, H. Doc. No. 81, 74th Cong., 1st Sess.; S. Rep. No. 628, 74th Cong., 1st Sess.; S. Rep. No. 734, 76th Cong., 1st Sess.; H. Rep. No. 615, 74th Cong., 1st Sess.; H. Rep. No. 728, 76th Cong., 1st Sess. *Steward Machine Co.* v. *Davis*, 301 U. S. 548; *Helvering* v. *Davis*, 301 U. S. 619.

Since Congress has made clear by its many exemptions, such as, for example, the broad categories of agricultural labor and domestic service, 53 Stat. 1384, 1393, that it was not its purpose to make the Act cover the whole field of service to every business enterprise, the sections in question are to be read with the exemptions in mind. The very specificity of the exemptions, however, and the generality of the employment definitions[6] indicates that the terms "employment" and "employee," are to be construed to accomplish the purposes of the legislation. As the federal social security legislation is an attack on recognized evils in our national economy, a constricted interpretation of the phrasing by the courts would not comport with its purpose. Such an interpretation would only make for a continuance, to a considerable degree, of the difficulties for which the remedy was devised and would invite adroit schemes by some employers and employees to avoid the immediate burdens at the expense of the benefits sought by the legislation.[7] These considerations have heretofore guided our construction of the Act. *Buckstaff Bath House Co.* v. *McKinley*, 308 U. S. 358; *Social Security Board* v. *Nierotko*, 327 U. S. 358.

Of course, this does not mean that all who render service to an industry are employees. Compare *Metcalf & Eddy* v. *Mitchell*, 269 U. S. 514, 520. Obviously the private contractor who undertakes to build at a fixed price or on cost-plus a new plant on specifications is not an employee of the industry thus served nor are his employees. The distributor who undertakes to market at his own risk the product of another, or the producer who agrees so to manufacture for another ordinarily cannot be said to have the employer-employee relationship. Production and distribution are different segments of business. The purposes of the legislation are not frustrated because the Government collects employment taxes from the distributor instead of the producer or the other way around.

The problem of differentiating between employee and an independent contractor or between an agent and an independent contractor has given difficulty through the years before social legislation multiplied its importance. When the matter arose in the administration of the National Labor Relations Act, we pointed out that the legal standards to fix responsibility for acts of servants, employees or agents had not been reduced to such certainty that it could be said there was "some simple, uniform and easily applicable test." The word "employee," we said, was not there used as a word of art, and its content in its context was a federal problem to be construed "in the light of the mischief to be corrected and the end to be attained." We concluded that, since that end was the elimination of labor disputes and industrial strife, "employees" included workers who were such as a matter of economic reality. The aim of the Act was to remedy the inequality of bargaining power in controversies over wages, hours and working conditions. We rejected the test of the "technical concepts pertinent to an employer's legal responsibility to third persons for acts of his servants." This is often referred to as power of control, whether exercised or not, over the manner of performing service to the industry. Restatement

[6] See 53 Stat. 1384, 1393, "The term 'employment' means any service performed prior to January 1, 1940, which was employment as defined in this section prior to such date, and any service, of whatever nature, performed after December 31, 1939, within the United States by an employee for the person employing him, irrespective of the citizenship or residence of either, except—." Compare 49 Stat. 639 and 643.

[7] Nothing to suggest tax avoidance appears in these records.

of the Law, Agency, § 220. We approved the statement of the National Labor Relations Board that "the primary consideration in the determination of the applicability of the statutory definition is whether effectuation of the declared policy and purposes of the Act comprehend securing to the individual the rights guaranteed and protection afforded by the Act." *Board* v. *Hearst Publications*, 322 U. S. 111, 120, 123, 124, 128, 131.

Application of the social security legislation should follow the same rule that we applied to the National Labor Relations Act in the *Hearst* case. This, of course, does not leave courts free to determine the employer-employee relationship without regard to the provisions of the Act. The taxpayer must be an "employer" and the man who receives wages an "employee." There is no indication that Congress intended to change normal business relationships through which one business organization obtained the services of another to perform a portion of production or distribution. Few businesses are so completely integrated that they can themselves produce the raw material, manufacture and distribute the finished product to the ultimate consumer without assistance from independent contractors. The Social Security Act was drawn with this industrial situation as a part of the surroundings in which it was to be enforced. Where a part of an industrial process is in the hands of independent contractors, they are the ones who should pay the social security taxes.

The long-standing regulations of the Treasury and the Federal Security Agency (H. Doc. 595, 79th Cong., 2d Sess.) recognize that independent contractors exist under the Act. The pertinent portions are set out in the margins.[8] Certainly the industry's right to control how "work shall be done" is a factor in the determination of whether the worker is an employee or independent contractor. The Government points out that the regulations were construed by the Commissioner of Internal Revenue to cover the circumstances here presented. This is shown by his additional tax assessments. Other instances of such administrative determinations are called to our attention.[9]

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[8] Treasury Regulation 90, promulgated under Title IX of the Social Security Act, Art. 205:

"Generally the relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it shall be done. . . . The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor, not an employee.

"If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if two individuals in fact stand in the relationship of employer and employee to each other, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

"The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

"Individuals performing services as independent contractors are not employees. Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees." 26 C. F. R. § 400.205. See also Treasury Regulation 91, 26 C. F. R. § 401.3.

[9] The citation of these cases does not imply approval or disapproval of the results. The cases do show the construction of the regulation by the agency. *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655; *Jones* v. *Goodson*, 121 F. 2d 176; *Magruder* v. *Yellow Cab Co.*, 141 F. 2d 324; *Texas Co.* v. *Higgins*, 118 F. 2d 636; *American Oil Co.* v. *Fly*, 135 F. 2d 491; *Glenn* v. *Standard Oil Co.*, 148 F. 2d 51.

See also note 2.

So far as the regulations refer to the effect of contracts, we think their statement of the law cannot be challenged successfully. Contracts, however "skilfully devised," *Lucas* v. *Earl*, 281 U. S. 111, 115, should not be permitted to shift tax liability as definitely fixed by the statutes.[10]

Probably it is quite impossible to extract from the statute a rule of thumb to define the limits of the employer-employee relationship. The Social Security Agency and the courts will find that degrees of control, opportunities for profit or loss, investment in facilities, permanency of relation and skill required in the claimed independent operation are important for decision. No one is controlling nor is the list complete. These unloaders and truckers and their assistants are from one standpoint an integral part of the businesses of retailing coal or transporting freight. Their energy, care and judgment may conserve their equipment or increase their earnings but Greyvan and Silk are the directors of their businesses. On the other hand, the truckmen hire their own assistants, own their trucks, pay their own expenses, with minor exceptions, and depend upon their own initiative, judgment and energy for a large part of their success.

Both lower courts in both cases have determined that these workers are independent contractors. These inferences were drawn by the courts from facts concerning which there is no real dispute. The excerpts from the opinions below show the reasons for their conclusions.[11]

Giving full consideration to the concurrence of the two lower courts in a contrary result, we cannot agree that the unloaders in the *Silk*

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[10] *Gregory* v. *Helvering*, 293 U. S. 465; *Griffiths* v. *Commissioner*, 308 U. S. 355; *Higgins* v. *Smith*, 308 U. S. 473; *Helvering* v. *Clifford*, 309 U. S. 331.

[11] *United States* v. *Silk*, 155 F. 2d 356, 358–9: "But even while they work for appellee they are not subject to his control as to the method or manner in which they are to do their work. The undisputed evidence is that the only supervision or control ever exercised or that could be exercised over the haulers was to give them the sales ticket if they were willing to take it, and let them deliver the coal. They were free to choose any route in going to or returning. They were not required even to take the coal for delivery.

"We think that the relationship between appellee and the unloaders is not materially different from that between him and the haulers. In response to a question on cross examination, appellee did testify that the unloaders did what his superintendent at the coal yard told them to do, but when considered in the light of all his testimony, all that this answer meant was that they unloaded the car assigned to them into the designated bin. . . .

"The undisputed facts fail to establish such reasonable measure of direction and control over the method and means of performing the services performed by these workers as is necessary to establish a legal relationship of employer and employee between appellee and the workers in question."

Greyvan Lines v. *Harrison*, 156 F. 2d 412, 414–16. After stating the trial court's finding that the truckmen were not employees, the appellate court noted:

"Appellant contends that in determining these facts the court failed to give effect to important provisions of the contracts which it asserts clearly show the reservation of the right of control over the truckmen and their helpers as to the methods and means of their operations which, it is agreed, furnish the test for determining the relationship here in question. . . ."

It then discussed the manual and concluded:

"While it is true that many provisions of the manual, if strictly enforced, would go far to establish an employer-employee relationship between the Company and its truckmen, we agree with appellee that there was evidence to justify the court's disregarding of it. It was not prepared until April, 1940, although the tax period involved was from November, 1937, through March, 1942, and there was no evidence to show any change or tightening of controls after its adoption and distribution; one driver testified that he was never instructed to follow the rules therein provided; an officer of the Company testified that it had been prepared by a group of three men no longer in their employ, and that it had been impractical and was not adhered to."

After a discussion of the helper problem, this statement appears: ". . . The Company cannot be held liable for employment taxes on the wages of persons over whom it exerts no control, and of whose employment it has no knowledge. And this element of control of the truckmen over their own helpers goes far to prevent the employer-employee relationship from arising between them and the Company. While many factors in this case indicate such control as to give rise to that relationship we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they make use of in their operations. . . ."

case were independent contractors.[12] They provided only picks and shovels. They had no opportunity to gain or lose except from the work of their hands and these simple tools. That the unloaders did not work regularly is not significant. They did work in the course of the employer's trade or business. This brings them under the coverage of the Act.[13] They are of the group that the Social Security Act was intended to aid. Silk was in a position to exercise all necessary supervision over their simple tasks. Unloaders have often been held to be employees in tort cases.[14]

There are cases, too, where driver-owners of trucks or wagons have been held employees[15] in accident suits at tort or under workmen's compensation laws. But we agree with the decisions below in *Silk* and *Greyvan* that where the arrangements leave the driver-owners so much responsibility for investment and management as here, they must be held to be independent contractors.[16] These driver-owners are small businessmen. They own their own trucks. They hire their own helpers. In one instance they haul for a single business, in the other for any customer. The distinction, though important, is not controlling. It is the total situation, including the risk undertaken, the control exercised, the opportunity for profit from sound management, that marks these driver-owners as independent contractors.

No. 312, *United States* v. *Silk*, is affirmed in part and reversed in part.

No. 673, *Harrison* v. *Greyvan Lines, Inc.*, is affirmed.

MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS and MR. JUSTICE MURPHY are of the view that the applicable principles of law, stated by the Court and with which they agree, require reversal of both judgments in their entirety.

THE SILK CASE

Dissenting Opinion of Mr. Justice Rutledge

MR. JUSTICE RUTLEDGE.

I join in the Court's opinion and in the result insofar as the principles stated are applied to the unloaders in the *Silk* case. But I think a different disposition should be made in application of those principles to the truckers in that case and in the *Greyvan* case.

So far as the truckers are concerned, both are border-line cases.[17]

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[12] Cf. *Grace* v. *Magruder*, 148 F. 2d 679.

[13] I. R. C., chap. 9, subchap. A, § 1426 (b):

"The term 'employment' means any service performed . . . by an employee for the person employing him . . . except—

. . . . . .

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

[14] *Swift & Co.* v. *Alston*, 48 Ga. App. 649; *Holmes* v. *Railroad Co.*, 49 La. Ann. 1465; *Muncie Foundry Co.* v. *Thompson*, 70 Ind. App. 157; *Chicago, R. I. & P. R. Co.* v. *Bennett*, 36 Okla. 358; *Murray's Case*, 130 Me. 181; *Decatur R. Co.* v. *Industrial Board*, 276 Ill. 472; *Benjamin* v. *Fertilizer Co.*, 169 Miss. 162.

[15] *Western Express Co.* v. *Smeltzer*, 88 F. 2d 94; *Industrial Commission* v. *Bonfils*, 78 Colo. 306; *Coppes Bros. & Zook* v. *Pontius*, 76 Ind. App. 298; *Burruss* v. *B. M. C. Logging Co.*, 38 N. M. 254; *Bradley* v. *Republic Creosoting Co.*, 281 Mich. 177; *Rouse* v. *Town of Bird Island*, 169 Minn. 367; *Industrial Commission* v. *Hammond*, 77 Colo. 414; *Kirk* v. *Lime Co. and Insurance Co.*, 137 Me. 73; *Showers* v. *Lund*, 123 Neb. 56; *Burt* v. *Davis-Wood Lumber Co.*, 157 La. 111; *Dunn* v. *Reeves Coal Yards Co., Inc.*, 150 Minn. 282; *Waters* v. *Pioneer Fuel Co.*, 52 Minn. 474; *Warner* v. *Hardwood Lumber Co.*, 231 Mich. 328; *Frost* v. *Blue Ridge Timber Corp.*, 158 Tenn. 18; *Lee* v. *Mark H. Brown Lumber Co.*, 15 La. App. 294.

See particularly *Singer Manufacturing Co.* v. *Rahn*, 132 U. S. 518.

[16] Compare *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655; *Glenn* v. *Standard Oil Co.*, 148 F. 2d 51.

[17] The opinion of the Circuit Court of Appeals in the *Greyvan* case stated, after referring to *United States* v. *Mutual Trucking Co.*, 141 F. 2d 655: "It is true that the facts of that case do not present as close a question as in the case at bar." And see note 3.

That would be true, I think, even if the so-called "common law control" test were conclusive,[18] as the District Court and the Circuit Court of Appeals in each case seem to have regarded it.[19] It is even more true under the broader and more factual approach the Court holds should be applied.

I agree with the Court's views in adopting this approach and that the balance in close cases should be cast in favor of rather than against coverage, in order to fulfill the statute's broad and beneficent objects. A narrow, constricted construction in doubtful cases only goes, as indeed the opinion recognizes, to defeat the Act's policy and purposes *pro tanto*.

But I do not think it necessary or perhaps in harmony with sound practice, considering the nature of this Court's functions and those of the district courts, for us to undertake drawing the final conclusion generally in these borderline cases. Having declared the applicable principles of law to be applied, our function is sufficiently discharged by seeing to it that they are observed. And when this has been done, drawing the final conclusion, in matters so largely factual as the end result must be in close cases, is more properly the business of the district courts than ours.

Here the District Courts and the Circuit Courts of Appeals determined the cases largely if not indeed exclusively by applying the so-called "common law control" test as the criterion. This was clearly wrong, in view of the Court's present ruling. But for its action in drawing the ultimate and largely factual conclusion on that basis, the error would require remanding the causes to the District Courts in order for them to exercise that function in the light of the present decision.

I would follow that course, so far as the truckers are concerned.

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[18] It is not at all certain that either Silk or Greyvan Lines would not be held liable in tort, under application of the common law test, for injuries negligently inflicted upon persons or property of others by their truckers, respectively, in the course of operating the trucks in connection with their businesses. Indeed this result would seem to be clearly indicated, in the case of Greyvan particularly, in view of the fact that the trucks bore its name, in addition to other factors including a large degree of control exercised over the trucking operations. For federal cases in point see *Silent Automatic Sales Corp.* v. *Stayton*, 45 F. 2d 471 (applying Missouri law); *Falstaff Brewing Corp.* v. *Thompson*, 101 F. 2d 301 (applying Nebraska law); *Young* v. *Wilky Carrier Corp.*, 54 F. Supp. 912, aff'd, 150 F. 2d 764 applying Pennsylvania law). And see for a general collection of state cases, 9 Blashfield, Cyclopedia of Automobile Law and Practice (1941) § 6056.

Certainly the question of coverage under the statute, as an employee, should not be determined more narrowly than that of employee status for purposes of imposing vicarious liability in tort upon an employer, whether by application of the control test exclusively or of the Court's broader ruling.

[19] In the *Silk* case formal findings of fact and conclusions of law by the District Court do not appear in the record. But a "Statement by the Court" recites details of the arrangements with the truckers and unloaders in the focus of whether Silk exercised control over them and concludes he did not; hence, there was no employer-employee relation. The opinion of the Circuit Court of Appeals, through recognizing the necessity for liberal construction of the Act, treats the facts found in the same focus of control. The court was influenced by the regulations promulgated under the Act (Reg. 90, Art. 205) and also by the Bureau of Internal Revenue (Reg. 91, Art. 3). The opinion concludes: "The undisputed facts fail to establish such reasonable measure of direction and control over the methods and means of performing the services . . . as is necessary" to create the employer-employee relation. 155 F. 2d 356, 359.

In the *Greyvan* case formal findings and conclusions were filed. The Circuit Court of Appeals, accepting the findings, concluded they did not show "change or tightening of controls" after the company's adoption of a manual in 1940, although its provisions "if strictly enforced would go far to establish an employer-employee relationship . . ." 156 F. 2d 412, 415. However, it found another factor conclusive: "While many factors in this case indicate such control as to give rise to that relationship, we think the most vital one is missing because of the complete control of the truckmen as to how many, if any, and what helpers they may make use of in their operations." 156 F. 2d at 416. Apparently not control of the method of performing the work in general but absence of expressly reserved right of control in a single feature became the criterion used.

THE RUTHERFORD CASE

No. 562.—October Term, 1946.

Rutherford Food Corporation and the George Kaiser Packing Company, Petitioners, *v.* William R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Tenth Circuit.

[June 16, 1947.]

Mr. Justice Reed delivered the opinion of the Court:

The Administrator of the Wage and Hour Division of the Department of Labor brought this action to enjoin the Rutherford Food Corporation and the Kaiser Packing Company from further violating the Fair Labor Standards Act.[1] The Administrator alleged that the defendants had repeatedly failed to keep proper records and to pay certain of its employees overtime as required by § 7 of the Act.[2] The District Court refused to grant the injunction. The Circuit Court of Appeals reversed on appeal, and directed the entry of the judgment substantially as prayed for. *Walling* v. *Rutherford Food Corporation*, 156 F. 2d 513. We brought the case here because of the importance of the issues presented by the petition for certiorari to the administration of the Act.

The Fair Labor Standards Act of 1938, enacted June 25, 1938, is a part of the social legislation of the 1930's of the same general character as the National Labor Relations Act of July 5, 1935, 49 Stat. 449, and the Social Security Act of August 14, 1935, 49 Stat. 620. Decisions that define the coverage of the employer-employee relationship under the Labor and Social Security acts are persuasive in the consideration of a similar coverage under the Fair Labor Standards Act. See *Board* v. *Hearst Publications*, 322 U. S. 111; *United States* v. *Silk*, Nos. 312 and 673, decided today.

The petitioners are corporations of Missouri authorized to do business in Kansas. The slaughterhouse of the Kaiser Packing Company, the place of the alleged violations with which we are concerned, and the principal place of business of that company, is in Kansas City, Kansas, from which it ships meat in interstate commerce. Since 1942 most of its product has been boned beef. The petitioner, Rutherford Food Corporation, has its principal place of business and its plant for processing meat products in Kansas City, Missouri. In 1943, Rutherford bought 51% of the stock of Kaiser in order to assure itself of a constant supply of boned beef for contracts it had with the U. S.

[1] 52 Stat. 1060.
[2] 29 U. S. C. § 207.

Army. Kaiser had been operating and continued to operate at a loss, and Rutherford advanced more than $50,000 to Kaiser between March, when Rutherford bought the Kaiser stock, and July, 1943. To assure itself of a continued supply of meat, Rutherford leased Kaiser's facilities and took over operation of the slaughterhouse in July. In May, 1944, the lease was terminated and Rutherford's stock interest in Kaiser sold, so that Kaiser might qualify for subsidies granted by the Defense Supplies Corporation to unaffiliated nonprocessing slaughterers under its Regulation No. 3.[8]

Prior to 1942 Kaiser had one hourly paid employee who acted as a combined butcher, beef boner and order filler. During 1942, in order to be able to furnish beef boned to Army specifications to the Army under contract, Kaiser entered into a written contract with one Reed, an experienced boner, which provided that Reed should assemble a group of skilled boners to do the boning at the slaughterhouse. The terms of the contract were that Reed should be paid for the work of boning an amount per hundred-weight of boned beef, that he would have complete control over the other boners, who would be his employees, that Kaiser would furnish a room in its plant for the work, known as the boning vestibule, into which the carcasses of cattle slaughtered by Kaiser would be moved on overhead rails by Kaiser employees, that Kaiser would also furnish barrels for the boned meat which would be washed and moved out of the vestibule by Kaiser's employees. Reed abandoned the work in February, 1943, and the work was taken over under an oral contract by one of the boners who had worked with him. This boner, Schindel, also abandoned the work in May, 1944, and an oral contract was then made by the company with Hooper and Deere, who had worked with Schindel. After a few months Deere left, at which time Hooper entered into a written contract substantially like the one between Kaiser and Reed, save that it provided for rent to be paid by Hooper for the boning room, although as a matter of fact no rent was ever paid. The District Court found that since the boning work had started in 1942, the money paid by Kaiser had been shared equally among all the boners, except for a short time after Hooper took over the work when he paid some of the boners by the hour. It was stipulated further that the boners owned their own tools, although these consisted merely of a hook to hold the meat, a knife to cut it, a sharpener for the knife, and a leather belt (apron). Although the C. I. O. union which was the representative of the workers of the company insisted that the boners be members, and although the written contracts provided that they should join, it was stipulated that the union dues of the boners were not checked off and that the boners were not subject to the authority of the union steward at the plant.

The slaughterhouse operations, of which the boning is a part, are carried on in a series of interdependent steps. The cattle are slaughtered, skinned, and dressed in the killing room, and the carcasses are moved thence on overhead rails into an overnight cooler by employees of Kaiser. The next day they are moved into another cooler and then into the boning vestibule, on the same overhead rail. They move around the boning room on the rail, each boner cutting off a section for boning. The boneless meat is put into barrels, or passed to a

[8] 8 F. R. 10826; 8 F. R. 14641; 9 F. R. 1820.

trimmer, an employee of Kaiser, who trims waste matter from the boned meat. Waste is put into other barrels. The barrels are moved from the boning room by employees of Kaiser into another room, called the dock, where the meat is weighed and put on trucks. Kaiser has never attempted to control the hours of the boners, but they must "keep the work current and the hours they work depend in large measure upon the number of cattle slaughtered." 156 F. 2d 513, 515. It is undisputed that the president and manager of Kaiser goes through the boning vestibule many times a day and "is after the boners frequently about their failure to cut all of the meat off the bones."

The Administrator thought these facts brought the boners within the classification of employees, as that term is used in the Act. But the District Court thought that they were independent contractors, and denied the injunction sought by the Administrator. The Circuit Court of Appeals, however, said: "The operations at the slaughterhouse constitute an integrated economic unit devoted primarily to the production of boneless beef. Practically all of the work entering into the unit is done at one place and under one roof. . . . The boners work alongside admitted employees of the plant operator at their tasks. The task of each is performed in its natural order as a contribution to the accomplishment of a common objective." In its view of the test for determining who was an employee under the Act was not the common law test of control, "as the Act concerns itself with the correction of economic evils through remedies which were unknown at common law . . ." It concluded that the "underlying economic realities . . . lead to the conclusion that the boners were and are employees of Kaiser . . ." 156 F. 2d 513, 516–17.

The Fair Labor Standards Act was passed by Congress to lessen, so far as seemed then practicable, the distribution in commerce of goods produced under subnormal labor conditions. An effort to eliminate low wages and long hours was the method chosen to free commerce from the interferences arising from production of goods under conditions that were detrimental to the health and well-being of workers. It was sought to accomplish this purpose by the minimum pay and maximum hour provisions and the requirement that records of employees' services be kept by the employer.[4] To make the method effective, the Act contains a section granting to the district courts of the United States jurisdiction to enjoin certain violations of the Act here involved, relating to the keeping of records of employment and the paying of overtime.[5] Whether or not the acts charged in this complaint violate the Act depends, so far as the meat boners are concerned, upon a determination as to whether either or both respondents are employers of the boners. As our conclusion requires further action in the trial court to frame the injunction, we shall treat only the question of the relationship of the boners to the alleged employers. We shall not in our consideration undertake to reach any conclusion as to the appropriate form of an injunction. We pass only upon the question whether the boners were employees of the operator of the Kansas plant under the Fair Labor Standards Act.

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[4] 52 Stat. 1060, §§ 2, 6, 7, 11 (c). *United States* v. *Darby*, 312 U. S. 100, 125; *Overnight Motor Co.* v. *Missel*, 316 U. S. 572, 577–78.
[5] 52 Stat. 1060, §§ 17, 15, 7 (a), 11 (c).

As in the National Labor Relations Act and the Social Security Act, there is in the Fair Labor Standards Act no definition that solves problems as to the limits of the employer-employee relationship under the Act. Provisions which have some bearing appear in the margin.[6] The definition of "employ" is broad. It evidently derives from the child labor statutes and it should be noted that this definition applies to the child labor provisions of this Act, § 12.[7] We have decided that it is not so broad as to include those "who, without any express or implied compensation agreement, might work for their own advantage on the premises of another." *Walling* v. *Portland Terminal Co.* No. 336, this term, decided February 17, 1947. In the same opinion, however, we pointed out that "This Act contains its own definitions, comprehensive enough to require its application to many persons and working relationships, which prior to this Act, were not deemed to fall within an employer-employee category:" Slip op., p. 3. We have said that the Act included those who are compensated on a piece rate basis. *United States* v. *Rosenwasser*, 323 U. S. 360. We have accepted a stipulation that station "red-caps" were railroad employees. *Williams* v. *Jacksonville Terminal Co.*, 315 U. S. 386, 391. There may be independent contractors who take part in production or distribution who would alone be responsible for the wages and hours of their own employees. See *United States* v. *Silk*, *supra;* compare *Roland Electrical Co.* v. *Walling* 326 U. S. 657; *Martino* v. *Michigan Window Cleaning Co.*, 327 U. S. 173. We conclude, however, that these meat boners are not independent contractors. We agree with the Circuit Court of Appeals, quoted above, in its characterization of their work as a part of the integrated unit of production under such circumstances that the workers performing the task were employees of the establishment. Where the work done, in its essence, follows the usual path of an employee, putting on an "independent contractor" label does not take the worker from the protection of the Act.[8]

The District Court was of the view that:

> The right to contract is not only an inherent right but a constitutional right, and independent contracts, as a method of quantity production of boned beef, have not been uncommon in the packing business, generally. * * * The plan under which boners share equally in the boning money is commonly employed in Kansas City and elsewhere, and most of the boners who have worked in the Kaiser plant have worked at various times and in various plants under independent contractors. There is nothing inequitable in the sharing method under which

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[6] 52 Stat. 1060, § 3:
"As used in this Act—
"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee. . . .
"(e) 'Employee' includes any individual employed by an employer.
"(g) 'Employ' includes to suffer or permit to work."

[7] Note 11 in the brief for the United States summarizes the relevant data:
"At the time of the enactment of the Fair Labor Standards Act, the phrase 'employed, permitted or suffered to work' was contained in the child labor statutes of thirty-two States and the District of Columbia. The same phraseology appeared in the Uniform Child Labor Laws recommended in 1911 and in 1930 by the National Conference of Commissioners on Uniform State Laws (Child Labor Bulletin, Vol. I, No. 2, August 1912; Proceedings of the National Conference, 1930), in the Standard Child Labor Law recommended in the Child Labor Legislation Handbook compiled by Josephine C. Goldmark (See *e. g.*, issue of 1904, p. 11), and in the Standards Recommended for Child Labor Legislation by the International Association of Governmental Labor Officials. The phrase 'employed or permitted to work' was found in seventeen State statutes as well as in the Federal statutes held unconstitutional in *Hammer* v. *Dagenhart*, 247 U. S. 251, and *Child Labor Tax Case*, 259 U. S. 20. The statutes are cited in the Appendix to this brief, *infra*, pp. 58–60."

[8] See *Walling* v. *American Needlecrafts*, 139 F. 2d 60; *United States* v. *Vogue, Inc.*, 145 F. 2d 609; *Walling* v. *Twyeffort, Inc.*, 158 F. 2d 944.

compensation is divided equally among the group. It gives each man an interest in the amount of work being done by the other members of the group. It also gives no advantage to the man who is boning the fleshier parts of the carcass. Under this plan beginners and casual boners can be equitably taken care of by payment on an hourly basis out of the boning money.

We think, however, that the determination of the relationship does not depend on such isolated factors but rather upon the circumstances of the whole activity. Viewed in this way, the workers did a specialty job on the production line. The responsibility under the boning contracts without material changes passed from one boner to another. The premises and equipment of Kaiser were used for the work. The group had no business organization that could or did shift as a unit from one slaughterhouse to another. The managing official of the plant kept close touch on the operation. While profits to the boners depended upon the efficiency of their work, it was more like piecework than an enterprise that actually depended for success upon the initiative, judgment or foresight of the typical independent contractor. Upon the whole, we must conclude that these meat boners were employees of the slaughtering plant under the Fair Labor Standards Act.

We therefore affirm the conclusion to that effect of the Circuit Court of Appeals and modify the direction of the judgment of that court "for entry of a judgment substantially as prayed," so as to leave the District Court free to frame its decree in accordance with this decision.

It is so ordered.

E. R. MORRISON (HOMER H. BERGER, R. L. HECKER, MORRISON, NUGENT, BERGER, HECKER & BUCK with him on the brief) for petitioners; BESSIE MARGOLIN, Assistant Solicitor, U. S. Department of Labor (GEORGE T. WASHINGTON, Acting Solicitor General, PHILIP ELMAN, WILLIAM S. TYSON, Solicitor, U. S. Department of Labor, MORTON LIFTIN, and EUGENE GREEN with her on the brief) for respondent.

THE BARTELS CASE

Nos. 731 AND 732.—OCTOBER TERM, 1946.

731

Roy Bartels, Ed Bartels, Carl Bartels and Justin Conlon, d. b. a. Crystal Ballroom, Petitioners,

v.

E. H. Birmingham, Individually and as Collector of Internal Revenue for the State of Iowa, Griff Williams et al.

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Larry V. Geer and Margaret Geer d. b. a. Larry Geer Ballrooms, Petitioners,

v.

E. H. Birmingham, Individually and as Collector of Internal Revenue for the State of Iowa.

On Writs of Ceritorari to the United States Circuit Court of Appeals for the Eighth Circuit.

[June 23, 1947.]

MR. JUSTICE REED delivered the opinion of the Court.

Petitioners, operators of public dance halls, brought these actions, which were consolidated for trial, against the respondent Collector of Internal Revenue to recover taxes paid under the Social Security Act, Titles VIII and IX, and I. R. C., c. 9, subchap, A and C. Recovery depends on whether petitioners' arrangements for bands to play at the dance halls made the band leaders and other members of the bands employees of the petitioners or whether, despite the arrangements, the leaders were independent contractors and therefore themselves the employers of the other members. Several band leaders were allowed to intervene in the *Bartels* case as defendants to protect their own interests. After a recovery in the District Court was reversed by the Circuit Court of Appeals, *Birmingham* v. *Bartels*, 157 F. 2d 295, they sought certiorari which we granted because of the importance of the issue to the administration of the Act. — U. S. —. See Nos. 312 and 673, *United States* v. *Silk* and *Harrison* v. *Greyvan Lines*, decided June 16, 1947.

These cases are not concerned with musicians hired by petitioners to play regularly for their dance halls but with "name bands" hired to play for limited engagements at their establishments. These bands are built around a leader whose name, and distinctive style in the presentation and rendition of dance music, is intended to give each band a marked individuality. The leader contracts with different ballroom operators to play at their establishments for a contract

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The American Federation of Musicians, of which the leaders and the musicians are members, adopted a standard contract known as "Form B." The terms of this contract create the difficulties in the determination of this case. As compensation to the bands, some contracts call for a guaranteed sum, with the privilege to the bands to take a percentage of the gross. Other contracts are for a fixed sum, only, and others for a percentage of gross, not to exceed a fixed sum. The contract states that the ballroom operator is the employer of the musicians and their leader, and "shall have complete control of the services which the employees will render under the specifications of this contract." The form paragraph, so far as pertinent, is set out in the margin.[1] The District Court found that the contract was adopted by the Union in order to shift the incidence of the social security taxes from the leader to the ballroom operator, and that it had no practical effect on the relations between the musicians, leader, and operator. The District Court held that the question of employment under the Act was one of fact, and that the contract was only one factor to be considered. Since the District Court believed that the contract was not entered into "by fair negotiation" and that its purpose was to protect the leaders from taxes as employers, it concluded that the contract was of no effect and that the leader was an independent contractor employing the musicians.

The Circuit Court of Appeals thought otherwise. It concluded that the test of employment was the common law test of control, *i. e.*, that one was an employer if he had the "right" to direct what should be done and how it should be done. It concluded that the contract between the parties gave the ballroom operators the "right" to control the musicians and the leader, whether or not the control was actually exercised. While the majority thought that such a contract was not binding on the Government, they thought it was binding on the par-

[1] "Witnesseth, That the employer employs the personal services of the employees, as musicians severally, and the employees severally, through their representative, agree to render collectively to the employer services as musicians in the orchestra under the leadership of Griff Williams, according to the following terms and conditions:

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"The employers shall at all times have complete control of the services which the employees will render under the specifications of this contract. On behalf of the employer the Leader will distribute the amount received from the employer to the employees, including himself, as indicated on the opposite side of this contract, or in place thereof on separate memorandum supplied to the employer at or before the commencement of the employment hereunder and take and turn over to the employer receipts therefor from each employee, including himself. The amount paid to the Leader includes the cost of transportation, which will be reported by the Leader to the employer. The employer hereby authorizes the Leader on his behalf to replace an employee who by illness, absence, or for any other reason does not perform any or all of the services provided for under this contract. . . ."

ties and would control liability for employment taxes if the Bureau of Internal Revenue chose to accept the arrangement as valid. *Birmingham* v. *Bartels*, *supra*, at 300.

The Government here relies entirely on the contract, conceding that otherwise the bandleaders are independent contractors employing the musicians. On the other hand, the bandleaders involved contend also that though the contract be thought inconclusive, the leaders and musicians are employees of the operators. They rely upon the dependence of the orchestra members upon the ballroom operators judged in the light of the purposes of the Act.

In *United States* v. *Silk*, No. 312, *supra*, we held that the relationship of employer-employee, which determines the liability for employment taxes under the Social Security Act was not to be determined solely by the idea of control which an alleged employer may or could exercise over the details of the service rendered to his business by the worker or workers. Obviously control is characteristically associated with the employer-employee relationship but in the application of social legislation employees are those who as a matter of economic reality are dependent upon the business to which they render service. In *Silk*, we pointed out that permanency of the relation, the skill required, the investment in the facilities for work and opportunities for profit or loss from the activities were also factors that should enter into judicial determination as to the coverage of the Social Security Act. It is the total situation that controls. These standards are as important in the entertainment field as we have just said, in *Silk*, that they were in that of distribution and transportation.

Consideration of the regulations of the Treasury and the Federal Security Agency, quoted in *Silk* at note 8, is necessary here. I. R. C., chap. 9, §§ 1429, 1609. Under those regulations, the Government successfully resisted the effort of a leader of a "name" band, like those here involved, to recover social security taxes paid on the wages of the members of his organization. *Williams* v. *United States*, 126 F. 2d 129. The contract in that case was not "Form B" and did not contain any corresponding control clause. Two years later, the Commissioner of Internal Revenue issued mimeographs 5638, 1944–5–11651, and 5767, 1944–22–11889, C. B. 1944, pp. 547–48. They were directed at the status of musicians and variety entertainers appearing in theatres, night clubs, restaurants and similar establishments. Collectors and others were therein advised that a "Form B" or similar contract with the entertainers made operators of amusement places liable as employers under the Social Security Act. In the absence of such a contract, that is, in reality, the absence of the control clause of "Form B," the entertainers, "with short-term engagements for a number of different operators" of amusement places, would be considered "independent contractors." The argument of respondents to support the administrative interpretation of the regulations is that the Government may accept the voluntary contractual arrangements of the amusement operators and entertainers to shift the tax burden from the band leaders to the operators.[2] Cases are cited to support

[2] There is a contention that the contracts were coerced because the operators could not secure these musicians under other arrangements. We do not find it necessary to rely or pass upon that contention.

this position.[3] All of these cases, however, involve the problem of corporate or association entity. They are not pertinent upon the question of contracts to shift tax liability from one taxpayer to another wholly distinct and disconnected corporation or individual. We do not think that such a contractual shift authorizes the Commissioner to collect taxes from one not covered by the taxing statute. The interpretive rulings on the Regulations, referred to in this paragraph do not have the force and effect of Treasury Decisions.[4] We are of the opinion that such administrative action goes beyond routine and exceeds the statutory power of the Commissioner. *Social Security Board* v. *Nierotko*, 327 U. S. 358, 369–70.

This brings us then to a determination of whether the members of a "name band" under the circumstances heretofore detailed are employees of the operator of the dance hall or of the leader. If the operator is the employer, the leader is also his employee.

We are of the opinion that the elements of employment mark the band leader as the employer in these cases. The leader organizes and trains the band. He selects the members. It is his musical skill and showmanship that determines the success or failure of the organization. The relations between him and the other members are permanent; those between the band and the operator are transient. Maintenance costs are a charge against the price received for the performance. He bears the loss or gains the profit after payment of the members' wages and the other band expenses.

The judgments of the Circuit Court of Appeals are reversed and those of the District Court are affirmed.

THE BARTELS CASE

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MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK and MR. JUSTICE MURPHY concur, dissenting.

As the opinion of the Court points out, the Form B contract involved in the present case was adopted, with the approval of the Commissioner of Internal Revenue, after it had been held under an earlier form of contract that members of the orchestra were employees of the band leader. On the face of the present contract the dance hall proprietor is the employer even under traditional concepts of master and servant. For he has all of the conventional earmarks of the entrepreneur—ownership, profit, loss, and control—if the provisions of the contract alone are considered. Then the requirements of the Social Security Acts are satisfied. And to hold the dance hall proprietor liable for the tax is not to contract the coverage contemplated by the statutory scheme.

I think the tax collector should be entitled to take such private arrangements at their face. In other situations a taxpayer may not escape the tax consequences of the business arrangements which he

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makes on the grounds that they are fictional. The Government may "sustain or disregard the effect of the fiction as best serves the purposes of the tax statute." *Higgins* v. *Smith*, 308 U. S. 473, 477. That rule is not restricted in its application to the use by taxpayers of corporate or related devices to obtain tax advantages. It was applied in *Gray* v. *Powell*, 314 U. S. 402, where a railroad sought exemption from the Bituminous Coal Act by contending that the operations of one who appeared to be an independent contractor were in fact its operations. The Court in rejecting the contention said that "The choice of disregarding a deliberately chosen arrangement for conducting business affairs does not lie with the creator of the plan." *Id.*, 414. I see no reason for creating an exception to that rule here. If the Government chooses to accept the contract on its face, the parties should be barred from showing that it conceals the real arrangement. Tax administration should not be so easily embarrassed.

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MILLER v. BURGER et ux.

No. 11480.

Circuit Court of Appeals. Ninth Circuit.

June 5, 1947.

Appeal from the District Court of the United States for the Southern District of California, Northern Division; William C. Mathes, Judge.

Proceedings by James F. Burger and Maude L. Burger husband and wife, against the Social Security Board and others to review a decision of the board holding that remuneration received by the plaintiff husband subsequent to January 1, 1940, was for agricultural labor within Social Security Act and could not be included in total wages for purpose of computing benefits payable to plaintiffs under the Act. From a summary judgment for plaintiffs, 66 F. Supp. 619, the defendants appealed. Thereafter Watson B. Miller, Federal Security Administrator, was substituted as appellant.

Affirmed.

John F. Sonnett, Asst. Atty. Gen., and James M. Carter, U. S. Atty., Ronald Walker and Charles H. Veale, Asst. U. S. Attys., all of Los Angeles, Cal. and Arthur C. Miller, of San Francisco, Cal. (J. Francis Hayden, Sp.Asst. to Atty. Gen., Hubert H. Margolies, and Leonard B. Zeisler, both of Washington, D. C., of counsel), for appellant.

W. H. Stammer, of Fresno, Cal., for appellees.

Clarence A. Linn, of San Francisco, Cal., for California State Fed. of Labor, amicus curiae.

Before STEPHENS, HEALY and BONE, Circuit Judges.

BONE, Circuit Judge.

This is an appeal from an order and final judgment of the district court reversing the decision of the Social Security Board [1] and directing that the Board recompute appellees' benefits under the Social Security Act by including as part of the total statutory wages, payments in the amount of $265.71 made to appellee, James F. Burger, by Rosenberg Bros. & Co. in 1940. The

[1] By order of a judge of this court dated January 13, 1947, Watson B. Miller, Federal Security Administrator, was substituted as appellant for all purposes, the functions of the Social Security Board and members thereof having been transferred to said Administrator under Reorganization Plan No. 2 of 1946, 5 U.S.C.A. § 133y—16 note. See Reorganization Act of 1945, 5 U.S.C.A. §§ 133y–133y—16. Title 42 U.S.C.A. §§ 901, 902, 903, 904.

decision of the Social Security Board reversed by the judgment of the lower court found that Burger's services in 1940 were in "agricultural labor" as defined in Section 209(*l*) (4) of the Social Security Act, 42 U.S.C.A. § 409(*l*) (4), and therefore were not includible as wages in determining Burger's benefits.

In November, 1940, James F. Burger and his wife, appellees herein, having attained the age of sixty-five, filed with the Bureau of Old Age and Survivors Insurance of the Social Security Board, applications for insurance benefits under Title II of the Social Security Act, as amended. James F. Burger applied for primary insurance benefits under Section 202(a), 42 U. S.C.A. 402(a), and his wife, Maude, for wife's insurance benefits under Section 202 (b), 42 U.S.C.A. 402(b).

The controversy here relates to the correctness of the exclusion from James F. Burger's total *wages* of certain payments in the first two quarters of 1940 for services rendered as an employee of Rosenberg Bros. & Co. The Bureau excluded these payments on the ground that they were for "agricultural labor" as defined in the Act, as amended, and consequently were not "wages" paid for "employment". The Bureau on March 15, 1941 awarded appellees monthly benefits lower than they would have been if the pay for services in 1940 had been counted *as wages* in covered employment.

On the record presented to the lower court under Section 205(g) of the Act, 42 U.S.C.A. § 405(g), appellant and appellees each moved for summary judgment under Rule 56(c) of the Federal Rules of Civil Procedure, 28 U.S.C.A. following section 723c. Being of the view (and we think correctly so) that on the record before him there was no genuine issue as to any material fact, the district judge held that the only issue for decision was one of law, i.e., whether or not, after January 1, 1940, Burger's work of emptying containers of dried fruit into hoppers of grading and processing machines at and in the packing plant of his employer was "agricultural labor" within the meaning of the Act, as amended. The judge wrote a lengthy and illuminating opinion disposing of the issue in the case which is reported in 66 F.Supp. 619 in which he held that the services performed for Rosenberg Bros. & Co. were not "agricultural labor" as defined in the Act, as amended.

Since we are in substantial accord with the legal conclusions reached by the lower court in disposing of the material and controlling issue in the case, it would serve no useful purpose to restate the facts at length or to enter upon an extensive discussion of the law of the case. For a more extended discussion reference is made to the reported opinion of the district court which in the main adequately presents these matters.

It is clear, from the record, that the conclusion of the Social Security Board ultimately rested upon the assumption that the services of an industrial worker (like Burger) were necessarily "agricultural labor" *under the language of the Act.* In our view of the matter, the lower court did not usurp nor transgress upon the functions of the Board in applying the statute, as thus construed, to admitted material and controlling facts. In so doing, it did not depart from the rule emphasized in the LaLone case (United States v. LaLone, 9 Cir., 152 F.2d 43, 45). As suggested in appellant's brief, "the Board had to construe the phrases 'incident to the preparation of * * * fruits * * * for market' and 'terminal market for distribution for consumption,' as explained in its own regulations".

Appellant further points out that it (the Appeals Council) "reached the conclusion that *in the sense of the statute* the services [of Burger] were incident to the preparation of fruits for market before delivery to a terminal market. It is immaterial that the underlying evidentiary facts were undisputed." [Emphasis supplied.] The argument is that this conclusion (of the Board) is not "manifestly unreasonable" and must be sustained. This on the theory that where an administrative agency is charged with applying general statutory language to a concrete factual situation, the courts will not disturb the conclusion reached.

[1] It will be noted that the terms quoted in the preceding paragraphs and which appellant says the Board "had to construe", did not originate in the regulations, but in the statute. It is not to be doubted that in the final analysis, statutory construction is a legal function, and if the Board (under the facts of this case) can construe the language of the Act, the courts can examine that construction and determine its validity or invalidity.[2]

Adverting to the LaLone case, supra, it appears that the widow of LaLone applied for child's insurance benefits on behalf of four infant children. The Board denied her application on the ground that her deceased husband was not an *employee* of his alleged employer, but was a partner or joint venturer with the said employer, and as such, not eligible to be classified as an employee under the Act. It is obvious that the Board confronted a situation where a fact determination had to be made—a situation where clearly such a determination resting on substantial evidence, was conclusive. In the case at bar we are not faced by a controversy over the facts. In essence, the arguments in this case revolve around the meaning of the language of the Act itself and reflect the doubt engendered by its terminology. Here we are not forced to consider a holding of the lower court which, in effect, substitutes the judgment of that court, on a set of facts for the judgment of the Board thereon. The lower court did not reach a decision contrary to the facts found by the Appeals Council. We believe that the ultimate question presented to the lower court was one of law.

[2, 3] We agree with that court that under the admitted facts in this case, Rosenberg Bros. plant was a "terminal market" for the farmer producers who sold and delivered their dried fruit to that concern; that it was "the market" of such farmer producers, or to state it in another way, "the growers' market" since this commercial plant was the place where the farmer producer of dried fruit customarily parted with all of his economic interest in the fruit, its future form or destiny. The facts make abundantly clear that it was only *after* the farmer producer sold and delivered the fruit to Rosenberg Bros. that Burger's services (described in the opinion of the district court) were performed for that commercial concern. In this state of the record we regard his services as being performed after all "agricultural labor" in connection with such dried fruit had ceased. Accordingly, the questioned 1940 payments for Burger's services should be treated as "wages" within the coverage of the Act.

Certain observations of Judge McCormick in Latimer v. United States, D. C., 52 F.Supp. 228, 234, are persuasive in their logic as we contemplate the problem here presented. In commenting on the nature of this sort of an issue, that able judge had this to say: "a realistic approach to the social and economic security of employees in present-day large scale enterprises of all kinds requires that all doubt in construing remedial statutes providing unemployment insurance and old age protection and containing tax impositions should favor coverage rather than exemption. * * * Revenue raising is not the sole purpose in such legislation and the rule of strict construction in favor of the taxpayer is not applicable."

[4] Speaking through Judge Stephens, this court made plain its views about some of the practical aspects of the problem we here confront. In North Whittier Heights Citrus Ass'n v. National Labor Relations Board, 9 Cir., 109 F.2d 76, 80 we discussed the nature and functions of commercial packing houses and gave full recognition to the principle that the nature of the work modified by the custom of doing it determines whether the worker is or is not an agricultural laborer. We pointed out that "when the product of the soil leaves the farmer, as such, and enters a factory for processing and marketing *it has entered upon the status of 'industry.'* * * *

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[2] See Social Security Board v. Nierotko, 327 U.S. 358, 66 S.Ct. 637, 90 L.Ed. 718, 162 A.L.R. 1445, where the Supreme Court discusses the permissible limits of administrative interpretation. Such determinations must have a basis in law and be within the authority granted an administrative agency, and it may not determine the scope of its statutory power; that is a judicial function.

The packing house activity is much more than the mere treatment of the fruit. When it reaches the packing house it is then in the practical control of a great selling organization which accounts to the individual farmer under the terms of the statute law and its own by-laws." [Emphasis supplied.]

The emphasis is even greater in the case of wage earners employed in the Rosenberg plant since it was not (like the petitioner in the North Whittier case) a plant owned by an association of member fruit growers operating under corporate form. Rosenberg was a private business corporation organized under the laws of California to conduct a purely commercial operation in the business of buying from farmers and thereafter selling the purchased product for its private profit after processing it. All aspects of a "cooperative" venture are missing in the relations of the Rosenberg plant to its employees and the farmer producers from whom it purchased the fruit it processed in its plant.

While the findings of fact of the Social Security Board are supported by the evidence, we think its decision was incorrect when measured off against the language of the Act and the intent of Congress in adopting the 1939 amendment thereto. The district court was justified in reversing the decision of the Board, and the Summary Judgment of that court setting aside and reversing the decision, dated May 4, 1945, and directing the Board to recompute the benefits to which appellees are entitled under the Act, was proper.

The Summary Judgment is affirmed.

LISTING OF REFERENCE MATERIAL

U.S. Congress. Senate. Committee on Finance. *Social Security Status Quo Resolution. Hearings. . .80th Congress, 2d session on H.J. Res. 296.*