

The CHAIRMAN. Well, we are going to adjourn here in about 3 or 4 minutes. We have a number of witnesses on the calendar for tomorrow, but if we can get to you tomorrow we will do it.

Mr. KOLB. I would prefer to do it that way.

The CHAIRMAN. Is Mr. Ogburn here?

STATEMENT OF CHARLTON OGBURN, COUNSEL TO AMERICAN
FEDERATION OF LABOR

Mr. OGBURN. Mr. Chairman, I am appearing, in addition to my interest as a citizen, also as legal counsel to about 1,600 labor organizations and international unions affiliated with the American Federation of Labor., to which I am also legal adviser, and I appreciate the privilege which I would like to use in confining myself, in a few minutes to the unemployment-insurance features of this bill.

The CHAIRMAN. All right, Mr. Ogburn.

Mr. OGBURN. AS I go about the country I am deeply impressed with what is really an un-American trait that is developing and that is fear, that seems to permeate the ranks of the workers, which is occasioned by their tenuous employment and unemployment. I think I can relieve some apprehension that I meet occasionally that the worker does not want relief. The workers want work. Many of them will take short hours rather than go on relief.

What we do need in this country is security, a security that will bring back the American spirit that I find lacking in many quarters.

I testified before a Senate committee about a year ago and made the statement that I thought that perhaps the N. R. A. bill, if made permanent, might become the most important measure ever enacted by an American Congress. I think I can refine that forecast some by saying that it may well be that President Roosevelt may go down in history for this social-security measure more than for any other measure enacted during his administration.

I think that that may be the case with Lloyd George. One of the leading American correspondents, familiar with British legislation, who was the representative of every American newspaper for 12 years over there, has made the statement that Lloyd George, because of the fact that he enacted the British measure in 1911, may be known more for that even than for his career as prime minister during the war.

The CHAIRMAN. It is your opinion that the general principles of the bill are good?

Mr. OGBURN. Yes. There are some desired changes, of course. I think this is not only an emergency measure but it is a measure of such utmost importance that time ought to be taken to study it and to bring forth a bill that will be a real credit to social security and which will possibly not discount some of the objects to be achieved by this bill.

Senator COUZENS. Have you any suggested amendments to make?

Mr. OGBURN. I have a number. President Green of the American Federation of Labor, I believe left with you a bill.

The CHAIRMAN. He left some suggested amendments.

Mr. OGBURN. Yes; which I would like to suggest, or at least urge upon you reporting out a substitute bill. We are not at all satisfied with the method of raising the funds, the method of taxation by which those funds are raised. We are certainly not satisfied with

the lack of standards imposed on States for obtaining the benefits of the Federal funds. We think in both of those respects it should be changed.

I think myself that a tax on pay rolls, as outlined in the bill, is likely to be entirely inadequate and I think will prove to be unsound. I think the collection of pay-roll taxes is going to be cumbersome. There are two pay-roll taxes, I believe in the bill, and I think still a third under State reserves. The graduated tax is likely to prove insufficient.

The pooled funds, the pooled reserves I think are likely to work a hardship. There are certain industries that I may bring to your attention. For instance, the electric railway industry, where the pay rolls are very large indeed. Most of the operating cost of the electric railways are labor costs. The employment in electric railways is fairly stable in the summer and winter, there is very little change in the number of motormen and conductors. That pay-roll charge would be very large on electric railways. If that is pooled, for instance, with the funds, or the pay-roll tax on the beet-canning industry, which operates only a few months a year, we would have the electric railways contribute funds to support the unemployed in the beet-canning industry, where unemployment is very large.

Senator COUZENS. Do you believe in the Wisconsin unemployment insurance plan?

Mr. OGBURN. I believe, Senator, in a Federal tax rather than a tax on pay rolls, I mean as a supertax on incomes. I think we have accomplished two things or three things that way. I think we would raise an adequate sum and I think we could do it without a great, cumbersome machinery, tax-collecting machinery. The tax-collecting machinery on income taxes is great enough as it is.

Senator COUZENS. Do you think it can be created for a specific purpose?

Mr. OGBURN. I think it could be created for a specific purpose. I think the third object accomplished by it would be a remedying of one of the greatest social, financial, and economic ills of this country; that is, the building up of huge cash reserves by very large corporations. I think the supertax, income tax would tend to keep the funds in circulation and prevent their being accumulated in large holdings of these very large corporations.

Senator COUZENS. Have you given any consideration to an excess profits tax?

Mr. OGBURN. I think that would probably be the best method both from the point of efficiency and the point of financial and social soundness and reasonableness. I would like to supply you with a number of copies of this substitute bill.

The CHAIRMAN. We have them, Mr. Ogburn. I was going to suggest to you, Mr. Ogburn, if there are any particular things that you want to add to your statement, if there are any further suggestions in elaboration of your views, we would be glad to put them in the record.

Mr. OGBURN. May I have that privilege? Then I will send it in tomorrow. I feel that there are some further facts that I would like to bring out.

(Additional statement by Mr. Ogburn follows:)

STATEMENT OF CHARLTON OGBURN, NEW YORK, N. Y., FEBRUARY 12, 1935

Mr. Chairman and members of the committee:

I am grateful for the privilege of addressing myself briefly to the unemployment-insurance section of this bill, in which I am deeply interested, not only as a citizen, but as a legal counsel to about 1,600 labor unions and their international organizations affiliated with the American Federation of Labor, to whom I am also counsel.

As I travel throughout the country, advising with union workers, I am deeply impressed with the spirit of fear which is becoming prevalent among all workers, a very un-American spirit, but one which is naturally occasioned by the insecurity which comes from the tenuous employment these workers have and from their knowledge of the unemployment of 10,000,000 of them.

No greater accomplishment can be made by this Congress and this Administration than to restore to the workers of America a feeling of security.

In a statement before a Senate committee a year ago I made the hasty prediction that the N. I. R. A. Act, if made permanent, might well become the most important piece of legislation ever enacted by an American Congress. I make the prediction today that President Roosevelt will be known in history for his sponsoring and introduction of the Economic Security Act rather than for any other act of his administration. There is an analogy to Lloyd George, who, in 1911, was responsible for the enactment by the British Parliament of the British unemployment-insurance measure and whose place in history may rest more on that achievement than on any other. May I quote from a friend of mine who for 20 years has been one of the best-informed American newspaper correspondents in Europe:

"What is hard to explain in a country without a working security system is the difference it makes in the state of mind of a country. The mental background of the British is more peaceful than ours, not because of pride in the rising level of humanity, but because of the greatly enhanced safety. The social system, they feel there, has been fundamentally rebuilt though they still have a capitalist society. What is more, the security system is regarded not as a transition to a new Socialist order but as essential to the preservation of capitalism. The establishment of the system is recognized as the biggest thing the country has done in a generation. And many believe that Lloyd George, who is more responsible for it than any other individual, will be placed higher for it in history than for his leadership in helping win the war. And from conversation with him on this point I can say that he thinks so himself."

The tremendous importance of this Economic Security bill should insure its careful consideration by this committee. It is not an emergency measure. It is agreed that time will be required for its proper introduction and for administrative procedure. The experience of other nations over many years in unemployment insurance can well be studied to advantage by this committee. I spent 2 or 3 years in Europe out of the past 9 years. I realized in European countries that unemployment insurance is now taken for granted and is necessary legislation. The experience of these nations should certainly be made use of by this committee in reporting out a bill.

The present bill, S. 1130, is excellent in many respects but in its Unemployment Insurance Section it has serious defects which by all means should be cured before the enactment of the bill. To those who say that a half of a loaf is better than none, I reply that a legislative act sound in principle and desirable in its objectives may have defects that may well bring about its failure.

First of all, the method of "finding the funds", as the British say, as provided for in title VI, section 601, will likely prove inadequate and economically unsound. This section provides that if the industrial production averages for the year ending September 30, 1935, are not more than 84 percent of the average for the years 1923-25, the tax then for the coming year would be only 1 percent of the employer's pay roll. Selection of the years 1923-25 as 100, although justifiable for certain figures compiled by the Bureau of Labor Statistics, may prove a very unfortunate selection for the purposes of this task. With curtailed production under many of the codes, with a greatly decreased foreign trade in which there is little present prospect of improvement, and with production for 1934 only 2 percent above 1933, it is conceivable that the 3-percent tax might not be reached for many years. A more adequate provision would be a straight tax of 5 percent.

This committee, if it uses pay-roll tax, in our opinion, should consider nothing less than a straight 5-percent tax.

The constitutionality of this method of raising the funds has been attacked, I believe, by the counsel for the National Association of Manufacturers. I would like to submit to your committee a brief on the constitutionality of this tax.

The power of the Federal Government tax is very exclusive and is inherent in every sovereignty. The Constitution, article I, section 8, expressly confers upon Congress the taxing power: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; * * *", and here must be found the power to impose the tax provided for in the social security bill.

The Supreme Court, except for a brief period prior to the Civil War, has laid no serious restrictions to the power of the Congress to lay and collect taxes for "the general welfare" of the United States.

I recommend, however, to this committee for its consideration another means of raising the funds for the payment of the pensions and unemployment insurance provided for in this bill. A pay-roll tax is extremely difficult of collection. An army of accountants is already necessary for the collection of the income tax. Another army of accountants would be necessary for the collection of this tax and for checking the accuracy of pay-roll records. Much of it would be a duplication of the work done in collecting the income tax.

A better method, it seems to me, of raising the funds is by having payments made directly from the proceeds of the Federal income tax increased by an excess-profits tax or a surtax on corporations in the higher brackets. This surtax, in addition to providing these funds, would tend to remedy one of the greatest social and economic evils in America, the accumulation of huge funds by large corporations, and the tendency to hold these funds in the banks instead of keeping them in circulation.

The income tax is also admittedly constitutional. Not even the counsel for the National Association of Manufacturers could dispute its constitutionality.

The provision in the present bill for the pooling of company funds seems to me inequitable. For instance, in the electric railway industry, employment is stable with small turn-over and uniform throughout the year, with the labor costs representing a very high proportion of the cost of operation; therefore having large pay rolls. Should there be a 5-percent tax on the pay rolls of these electric railways to provide for unemployment insurance in the pea-canning industry where employment is seasonal, or in the automobile industry where there is a large turn-over?

I would like to have the privilege of submitting to you, as the best means of bringing to your attention the changes I urge in this measure! a substitute bill, with the urgent request that your committee carefully consider the improvements, as I believe them to be, and report out the substitute bill instead of the present bill. The main changes in the substitute bill are as follows:

1. Grant-in-aid to States with no credits or rebates to employers.
2. Minimum standards required of States in their unemployment compensation laws before being permitted to receive Federal allotments or grants, provided for in section 406 of this act, additional to the requirement in sections 407 and 602 of this act:
 - (a) Waiting time shall not be more than one week;
 - (b) Unemployed insured may draw compensation for 26 weeks if unemployed and unable to obtain work;
 - (c) Unemployed insured to receive during these 26 weeks, or any portion thereof he is unemployed or unable to obtain work, 50 percent of his normal wages with a maximum of \$15 a week;
 - (d) Which does not permit a company or industry "pooled" fund;
 - (e) Which does not permit a company or industry reserve or separate account;
 - (f) Which prohibits compulsory contributions by labor.
3. Federal funds to be raised by a straight 5-percent tax on pay rolls.
4. Striking sections 607 and 608 of the Wagner bill, S. 1130.

On the old-age provisions I have reduced the years by five, with the age limit of 60 by 1940 and with the compensation initiated at 65.

I have provided that at least one member of the Social Insurance Board shall be appointed from the ranks of labor.

There is a very close relation between unemployment insurance and collective bargaining. Unless workers are to have the benefits of collective bargaining through their own self-organization, which they will have if this Government will prevent the employers from interfering with that right, then workers will be able, not only to prevent a pay-roll tax from being taken out of their wages, but will be able in many ways to aid in the administration of this measure. The enactment of a law preventing employers from interfering with the organization of employees for collective bargaining is therefore a proper corollary to the enactment of an economic security bill.

This bill as drawn with no standards required of States and with the rebate or credit of 90 percent to employers makes what will be quite a patchwork of Federal-State unemployment insurance laws. We could easily have 48 different systems, many in conflict with one another, working injustice to the unemployed instead of operating for their benefit and entailing a great deal of confusion. State lines do not bar the removal of workers from one plant to another. The mobility of labor in the United States is very great. Steel workers go easily from Ohio to Pennsylvania; automobile workers from Michigan to Wisconsin. What we need is a uniform Federal statute with the subsidy or grant-in-aid to States with minimum standards required of these States so that we will not have this hodge-podge or patchwork but a uniform law.

The CHAIRMAN. Thank you very much. Mr. McCulloch.

STATEMENT OF FRANK W. McCULLOCH, REPRESENTING CHICAGO WORKERS UNEMPLOYMENT COMMITTEE

Mr. McCULLOCH. Mr. Chairman, I represent an unemployed group that you are attempting to deal with and perhaps their suggestions will not be completely without value.

The CHAIRMAN. Whom do you represent?

Mr. McCULLOCH. The Chicago Workers Unemployment Committee's group in Chicago, composed of some 35 local&here. Of course, their paid-up membership is not large, they haven't enough money. They are affiliated with the Illinois Workers' Alliance, which is the largest State group of organized unemployed, composed of some 235 locals throughout the State of Illinois! and they are intensely interested in the whole problem of social security and the matter of unemployment Insurance.

The CHAIRMAN. Do they generally endorse this measure?

Mr. McCULLOCH. They endorse the principle of social security, but they are far from satisfied with what the bill proposes to do. I think the Senate should realize that and should appreciate that it is going to be hard to make any such proposition prevail unless it does meet with the approval of these groups of unemployed.

I think if you have examined the bill which is commonly called the "Lundeen bill", which provides for a system of immediate benefits, you would know the passage of this measure is not going to allay greatly the disappointment of any of the citizens of this country and their feeling that there is nothing that is promising to them for immediate security.

We talk a good deal about building a first line of defense. The war is now on. To be sure this bill may provide only for some future war. You may say it is the business of the people to deal with future wars now, to provide now for future wars, but we think we should deal with the war that is facing us now. The bill which is now up purports to deal with the provision for jobs for no more than 3½ million, out of the conservatively estimated 11 million men in the country who are now without employment.

The CHAIRMAN. So your organization is in favor of the Lundeen bill but not in favor of this bill?

Mr. McCULLOCH. That is correct.

The CHAIRMAN. Have you a further statement to elaborate your views? Have you a statement in printed form?

Mr. McCULLOCH. No, sir; I have not. I have come to Washington on very short notice and I have not had an opportunity to prepare a statement.