Strength and Weakness of our Unemployment Compensation Program

By **George E. Bigge***

IN OUR DISCUSSIONS of the problems of social security, we sometimes overlook the fact that business, as business, has a vital interest in this matter. Businessmen are interested, not only because they pay a good portion of the contributions involved but because their prosperity is linked directly with the welfare of workers, both as producers and as consumers. This fact has always been recognized by a large portion of the business community, but at present we are increasingly conscious of it. And the aspect of our social security program in which businessmen are most directly interested is that dealing with unemployment. As Eric Johnston said recently: "Unemployment is the greatest problem of our civilization. We must solve it. It is a terrible, insistent, devastating disease in our lives." The analogy is a good one and, as in the case of most diseases, the best treatment is prevention. And certainly the business community is committed to an all-out effort to prevent unemployment.

This does not mean that we can ignore preparations for dealing with unemployment when it occurs. Prevention here, as in other fields, will be at best a gradual process of reducing the amount of unemployment which would otherwise occur. Regular employment is no more to be achieved merely by willing it than is full health. The will is necessary, but in addition we shall need to diagnose the causes of unemployment and the cure, the actual specific means of preventing it. And these means are not readily at hand. As has frequently been pointed out, to have reasonably full employment in the post-war period will mean producing and selling 30–40 percent more goods than in the best pre-war years. To realize the problems involved we need only ask ourselves why we did not produce those goods in 1940. It was not because of lack of capital; we complained of excess capacity in most fields, and there was ample free capital to build new facilities if opportunity presented itself. It was not because of scarcity of labor; there were 8 to 10 million unemployed men eager for jobs. We did not employ them solely because we did not know what to produce; business was unable to see a market which would take the output at a price equal to the cost of producing it.

That problem will still exist when the war is over. Higher wage levels in certain areas will make a better market while the workers are employed, but will likewise create new problems of cost and price adjustment, especially in lines where standard prices have been traditional. There will be difficult problems of readjustment to peacetime wages and prices even within the normal volume of production; and to absorb an additional 9 or 10 million people will require really superhuman efforts and will not be achieved in a day, or a month, or a year. In fact, as long as we have reasonable freedom of action for the employer, and freedom of movement for the worker, I dare say we shall need all the help we can get from such a device as unemployment compensation to take care of people who are unemployed for longer or shorter periods while business adjustments are made.

May I digress to say I realize that there are those who believe we can avoid unemployment entirely by adopting appropriate fiscal policies. They contend that, just as Government spending for war has practically eliminated unemployment now, an analogous policy of peacetime spending can assure maximum employment at all times. Actually, wartime spending has demonstrated only what everyone knew—that if, through unlimited credit expansion, the Government purchases and uses unlimited quantities of goods, people will be employed in producing these goods. But if such a philosophy were applied in peacetime, our system of private enterprise would have ceased to exist. I assume that in looking toward the future we shall not adopt such a policy. In time of war this is inevitable, but we assume that war conditions are temporary, and what we are considering now is a program for dealing with problems of employment and unemployment when the emergency ends.

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It is doubtless true that, if we should again face conditions such as we had in the 1930's, we would be forced to resort to some such emergency policy, but let us be clear about what we are doing. To use the analogy of disease again, deficit spending is like a drug which keeps the patient going temporarily while we diagnose the trouble and find a remedy. It is, in itself, no cure. In spite of all contentions to the contrary, deficit spending by Government does not tend to increase tax income to the point where the deficit can be reduced. Experience indicates that, as soon as any attempt is made to recapture by taxation any significant portion of the income produced, the stimulating effect ceases and income disappears. During the 1930's we spent large sums and there was some increase in employment and incomes; but when we attempted in the later years to reduce deficit spending, employment slumped and a cry went up immediately for more spending. Certainly in the post-war years, if we are to build a healthy economy, we cannot depend upon such a device either to stimulate employment or to provide income for individuals who are unemployed.

Unemployment compensation, on the other hand, has proved its value during the last few years. It is a mechanism through which industry itself can build up funds in good years to help tide over the slack periods. Since 1938, millions of workers, during longer or shorter periods of unemployment, have been provided with income—several billion dollars in all—and many thousands were kept off the relief rolls as a result. Also, the maintenance of buying power has been very beneficial to business in many communities. Experience has convinced us too, I think, that the general principle of relating both contributions and benefits to wages, which is found in all State laws, is preferable to the flat rate as used in Great Britain, for example. I think, too, we are developing a somewhat clearer conception of the function of unemployment compensation in relation to other programs—to work programs on the one hand, and to employment and personnel policies and labor relations, on the other hand. Many employers have found it an economical and systematic way of meeting a situation with which an individual employer finds it difficult to deal. As to the strength of the program, therefore, I shall say only that it has proved itself in general, and in considerable detail, and we may assume that it has become an integral part of our economic structure.

Benefit and Coverage Limitations

But experience also suggests that, if we are to depend upon unemployment compensation to play a major part in meeting the problems of the post-war period, it must be made a more effective device than it is at present. A statement on this subject, released by the Committee for Economic Development [1] some months ago, declared that "If, as seems probable, a major interruption of employment is unavoidable" in certain fields after the war, "an advance liberalization of unemployment compensation laws to provide larger benefits—over, say, 26 weeks instead of 12 weeks—might hasten a self-supporting readjustment and abort a demand for continuing to make useless explosives."

In this statement the Committee emphasized two of the major weaknesses of our unemployment compensation program to which the experience of the last 8 years has directed attention—relatively small benefits, and limited duration. I should like to add another—limited coverage. The program should reach more people. If a large proportion of those who are subjected to the risk of unemployment can be assured that in case they lose their jobs they will get something like half their ordinary wages, with a reasonable minimum and maximum for, say, 26 weeks, we would have a fairly suitable foundation on which to build other policies if these become necessary.

In the matter of coverage, most of the State laws are now more adequate than the Federal act. The act does not cover employers of less than eight people under the unemployment compensation provisions. The old-age and survivors insurance provisions apply to employers of one or more. If coverage for unemployment compensation were made the same as for old-age and survivors insurance, as has already been done in a number of State laws, 2 to 3 million persons would be added under the unemployment compensation program. This need be no great administrative burden on small employers. Since they are already reporting under the old-age program, it would seem that with minor changes one report could be made to serve both purposes so far as the Federal Government is

[1] *Business Week*, Jan. 2, 1943, p. 33. The Committee was organized by businessmen to work out a long-range program for meeting problems of post-war economy.

concerned. Also, coverage might well be extended to certain other groups now altogether excluded. While it will not be feasible to extend unemployment compensation protection as broadly as the Board has recommended extending old-age and survivors insurance, some further extension is certainly desirable.

With reference to the size of the weekly benefit, of course the Federal act sets no standard whatever. That is left entirely to the States. While the general average is fairly good—a little over $12.60 a week—25 percent of all checks for total unemployment in 1942 were still less than $10 per week, in 16 States more than half of the checks were for less than $10, and in 7 States 10 to 20 percent were under $5. This was for *total* unemployment. It should be remembered, too, that while we speak of benefits as being roughly equal to 50 percent of wages, the *average* benefit of $12.60 for 1942 is only about ⅓ the average weekly wage. The maximum of $15–20 in practically all States automatically limits all better-paid workers to less than 50 percent of their wages. It seems, therefore, that in a number of States some increase in the minimum benefit is desirable to meet minimum needs, and an increase in the maximum to maintain a reasonable relation to previous earnings.

In considering the adequacy of benefit payments, we immediately run into a second question—whether the general level of benefits should be raised or whether additional benefits should be paid for dependents. Initially, dependents' allowances were not included under either unemployment compensation or old-age benefits. However, in 1939 Congress amended the act to take account of dependents and survivors in old-age and survivors insurance. If a retired individual has an aged wife or a child under 18 dependent upon him, each dependent gets one-half as much as the worker himself, with a maximum which is double the benefit which could be drawn by the individual alone. In unemployment compensation, the only law which recognizes dependents is that of the District of Columbia, where $1 a week, with a maximum of $3 additional, may be allowed for dependents. The maximum payment in any case is still the same, $20, either with or without dependents. The Board feels that any additional money spent for unemployment benefits would do more good and would meet existing need to a greater extent if the increased benefits were related to dependents, than if distributed as an increase in the general level of benefits.

An even more serious limitation of unemployment compensation has been the limited period during which benefits can be drawn. As you know, in most States the duration is related to the amount of employment or earnings which the worker may have had in the preceding year, or in the base year, with a specified maximum duration. Discussion of duration is usually in terms of this maximum rather than in terms of what is actually available to the individual who becomes unemployed. This latter may be as little as 2 weeks. The maximum period during which benefits may be drawn is 16 weeks or less in 29 States. In 13 States payments may be made for as long as 20 weeks if the worker had sufficient previous employment. But the *average* period for which workers who became unemployed in 1942 were actually eligible on the basis of their wage records varied from 8½ weeks in some States to 20 weeks in others. In 6 States this average period for which workers might be eligible was less than 11 weeks.

A further indication of inadequate duration is found in the fact that a large proportion of claimants are still unemployed when their benefit rights are exhausted. In the rather good year 1941, for the country as a whole, one-half of all claimants were still unemployed when they had exhausted their benefit rights. In three States the proportion was more than 60 percent. Obviously these claimants would be more in need of help at the end of 8, or 10, or 12 weeks than when they first lost their jobs. Probably no change in the program would do more good than an extension of duration. The Committee for Economic Development has suggested 26 weeks, and this period would doubtless meet the need in the large majority of cases.

Another question which is receiving increasing attention is the desirability of paying benefits for the same length of time to all eligible workers, regardless of differences in previous employment or earnings. At present, in some States, after a worker has filed a claim and served his waiting period of 1 or 2 weeks, he may be entitled to benefits for only 2 or 3 weeks. It seems hardly worth while to go through the work involved to provide protection for so short a time. Sixteen States already pay benefits for the same length of time to all who continue eligible, without reference to

past employment. This uniform duration varies from 14 to 20 weeks—about the same as the maximum in other States. Of course, such a program will cost somewhat more than one providing more limited benefits, but the increase in cost will be relatively small compared with the increased protection afforded. If all who are eligible could draw benefits for as much as 26 weeks, if they are unemployed that long, unemployment compensation would be a much more effective device for dealing with unemployment. It would undoubtedly be necessary in some cases to provide more income, and it might be desirable, if necessary in some States, to provide somewhat more rigorous eligibility conditions so that only those who have been genuinely in the labor market will draw benefits. While such a procedure would exclude some who are most in need of help, they would be those who get relatively little help from this program now. It might be better for them to look at once to some other provision rather than to unemployment compensation, which is not well adapted to meet their needs.

Disqualifications

In the matter of benefits, as to minimum and maximum, and also as to duration, the State laws have been slightly liberalized in the past few years. Some States have made very substantial improvements, others little or none, but in general there has been some liberalization. In the matter of disqualifications, however, there is an opposite tendency. Here, as in the case of benefits, the States are free to introduce any provisions they choose—as long as they avoid certain disqualifications which are prohibited by the Federal act. A worker may not be disqualified for refusing to accept a job on which there is a strike, or if wages, hours, and other working conditions are less satisfactory than for other similar work in the same community, or if he would be required to join a company union or resign from a bona fide labor organization. But all unemployment compensation laws disqualify for various other acts, such as voluntary leaving without good cause, refusal of suitable work, misconduct, going on strike, and so forth. Such disqualifications are essential if payments are to be made only for involuntary unemployment. But it is clear, too, that if otherwise eligible workers are disqualified for extended periods or, worse still, if benefit rights are canceled entirely so that a worker who leaves a job voluntarily or refuses another job, regardless of his reasons for doing so, can never get benefits on the basis of past employment, then workers are being deprived of protection just as effectively as if benefits were slashed, or duration reduced, or conditions of eligibility made more stringent.

It is true the State laws commonly provide that the disqualification may be avoided if the worker shows good cause for leaving, or for refusing a job, and so on. But, more and more, the good cause must be "attributable to the employer" or related to the employment. Yet we can all cite circumstances not related to the employer in which a worker would be justified in leaving or refusing a job. While the Social Security Board has no authority to prescribe standards in this field, it has consistently suggested to the State agencies that "good cause" should include personal situations as well as conditions related to the employment, and that in any case disqualification should take the form of postponing benefits for a specified time rather than canceling benefit rights entirely.

Let me illustrate what is happening. Here is the case of a woman worker who left her job to look after a child who was seriously ill. Certainly that was justified. She was not available for work, so of course she would not draw benefits. When the child was well enough she wanted to return to work, but her job had been filled. She went to the employment office and registered for work and filed a claim for benefits. It was some time before she got another job. Obviously she was available for work, but because she had left her previous job voluntarily without any fault of the employer she was denied benefits. And not only that; her benefit rights were canceled, so that if for any reason she was laid off at any time within the next year she could get no benefits on the basis of her previous employment. Surely there can be no justification for such provisions in a system of social insurance. Under an experience-rating program it may be that such benefits should not be charged to the employer's account, but this should not mean that the worker is denied benefits.

Or take another case. A man and his wife were both working in nondefense jobs. His shop closed because of lack of materials, and he was offered another job in a defense industry some distance away. He had to move to the new location, and his wife went with him. She quit her job, reg-

istered for work in the new community, and filed a claim for benefits while waiting for another job. She was disqualified for a specified period because she left voluntarily, and benefit rights were canceled for this period. In addition, she was offered her old job back, and although taking it would have meant breaking up the home, the work was held suitable and her remaining benefit rights were canceled so she had to begin all over again. Such a provision is inexcusable. True, the employer was not at fault, but neither was she. This is the kind of situation which certainly should be covered by any unemployment compensation program.

When a worker leaves a job voluntarily, for personal reasons, it has become common practice in some States to disqualify him for benefits for a limited period and, if he remains unemployed and later claims benefits, to offer him the same job he quit earlier and disqualify him again and cancel his benefit rights entirely if he refuses to go back to the job. This is clearly penalizing a man twice for being unwilling to work on a given job.

These illustrations could be multiplied many times in State after State, and this practice of depriving workers of benefits by means of disqualifications is spreading rapidly. Initially only 2 States qualified the "good cause" proviso by requiring the cause to be attributable to the employer; by 1940 there were 4; and now there are 19 State laws which have such provisions. The cancelation of benefit rights was initially provided for in relatively few laws. Now 20 States cancel benefits in whole or in part for voluntary leaving, and 21 for refusing suitable work.

Experience Rating

This general tendency to impose more numerous and more rigorous disqualifications is one of the most serious developments in recent years, and there seems to be little doubt that it is related to the increasing emphasis on tax reduction in the form of experience rating. Here we come to one of the most fundamental problems of our unemployment compensation program. There is a basic inconsistency between the assumptions underlying experience rating as it is working out and the principles of social insurance. A social insurance program is a joint cooperative undertaking under which workers and employers, generally, cooperate to protect the individual against certain risks which are inherent in the industrial process. No one, I think, can deny that unemployment is caused primarily by general industrial conditions rather than by any particular employer's action. Yet experience rating rests, in the main, on the assumption that individual employers can control the risk of unemployment. This assumption finds expression, too, in the tax provisions of the Social Security Act, which put the whole contribution for unemployment on the employer instead of sharing it between the employer and the employee as in the case of old-age and survivors insurance. The Board believes a sharing of costs between employers and employees would provide a better basis for a social insurance program.

This conflict of philosophy between the insurance approach and experience rating has long been evident. As early as 1933, Paul Raushenbush said that, while there were certain similarities, "On two basic features, however, the issue in this country seems to be squarely joined between advocates of unemployment reserves on the one hand and proponents of unemployment insurance on the other . . . There is no practicable middle ground as yet visible between these two positions."[2] Experience rating has attempted to establish a middle ground by pooling the contributions so that the worker gets benefits regardless of the reserves of a given employer and yet the employer's rate will reflect his own experience. This procedure, it is suggested, provides incentive for the employer to stabilize and still protects the worker's benefits. However, experience so far raises serious doubts on both these points.

In the first place, no method has yet been devised for distinguishing between stability achieved through an employer's efforts and stable employment which derives from the natural conditions of the industry, as in public utilities, trade, service, and the like. Under any existing system an employer in public utilities may get a minimum rate without lifting a finger to stabilize employment, whereas under the same law a construction company may render heroic service in providing more stable employment and still pay penalty rates. To reflect individual achievement in this field it would be necessary to relate a given employer's experience to a norm for his industry, but

[2] *Annals of the American Academy of Political and Social Science*, Vol. 170 (November 1933), p. 69.

this has been too difficult and is not attempted. England tried it for a time but soon gave it up.

In practice too, as you know, the employer's rate is determined not in relation to the number of workers he lays off but according to the amount of benefits his former workers may draw, as long as 2 years after they are separated from him. Furthermore, charges are commonly made not to the last employer but, for the sake of convenience, to the last employer in the base period, or perhaps to all employers in the base period. Under such a system of charging, one employer may ruthlessly fire any number of his workers, and if they are lucky enough to get work throughout the subsequent benefit period, which may start a year later, nothing will be charged to the employer's account. Another employer laying off fewer workers who chance to be unemployed during the next benefit year may have very heavy charges and pay penalty rates as a result.

Experience leaves little doubt, too, that in part at least the unduly harsh disqualification provisions mentioned earlier grow out of a desire to limit payments which might be charged to an employer's account, as a means of securing reduced tax rates. It is very significant that of the States which do not have experience rating not one has this kind of disqualification, especially the mandatory cancelation of benefit rights and the double penalties; whereas in States which have reduced rates there has been a rapid spread of such disqualifications. One State agency recently reported to the Governor that more than half the workers in the State had been given notices of separation which appear to be intended to disqualify the workers if they later apply for benefits. If one accepts the underlying philosophy that benefits should be paid only when the individual employer is at fault, some of these disqualifications of course would be justified, but even then the cancelation of benefits would ordinarily be inexcusable. Under any unemployment compensation system, workers should be protected against involuntary unemployment regardless of whose fault it is. Ordinarily it is not the fault of any individual or of any group. If experience rating is to be defensible, the method of computing rates should be such that the employer's interest in reduced contributions does not serve to defeat the major purpose of the program.

The experience-rating provisions are inconsistent, also, in that they tend to reduce contribution rates in good times when it is easier to pay and increase them when business goes bad. This anomaly may be minimized by relating rates to average charges over a number of years, but the tendency is there nevertheless. It comes out very clearly at the present time. Many State agencies have seen the incongruity of charging such low rates on wartime employment, when it is obvious that the absence of unemployment is in no sense due to employers' efforts to stabilize, and equally obvious that workers are building up credits which may result in huge benefit payments in the years ahead. A number of States have adopted special provisions to maintain higher rates on wartime employment. But the same anomaly is present in every period of business activity; and just as the individual employer is not responsible for full employment now, so he will not be responsible for unemployment later. If rates are to be varied and the business community is to get maximum benefit from the program, then rates generally should go up when business is good and down when it is bad.

Costs of Administration

Experience has also shown certain weaknesses in the administrative provisions of the Social Security Act. The States pass their own laws, set up their administrative machinery, and in general operate their unemployment compensation program just as they do any other State agency; but they provide no funds to meet the costs of administration. Administrative funds are provided solely by grants from the Federal Government. The Social Security Board is responsible for seeing that Federal grants are adequate for proper and efficient administration—but no more. There is room for much difference of opinion as to the type of organization, the procedure, the equipment, and so forth, which is necessary for proper administration. In the main the Board has accepted the States' judgment on these matters. But this division of responsibility under which the State agency makes all substantive administrative decisions but has no financial responsibility, while the Federal agency is expected to secure proper and efficient use of Federal funds but has no control over the administrative procedures for which such funds are spent, poses an exceedingly difficult administrative problem. It may be

desirable to modify this provision so that States will bear at least part of their administrative costs. If such costs were shared equally between the State and the Federal Government, as is done in public assistance, for example, the budget problem would be much simpler.

Separate State Reserves

Another weakness which has become apparent, although the results are not at the moment serious, is the failure of the Federal-State program, so far, to develop any procedures for distributing over the country as a whole a part of the excessive burden which would fall on certain States in any period of serious unemployment. We should not let the abnormal conditions of today blot out the experience of 1938 and 1939. It was quite evident then that the burden of unemployment would ordinarily be many times as heavy in some States as in others, and that the full, normal contribution rate of 3 percent would not be sufficient to maintain solvency in some States even with very meager benefits. Even though conditions were continuously improving after benefit payments began, some States found it necessary to draw heavily upon their reserves. Within the past year, several States have reported that 2 years, or even a single year, of serious unemployment might require more funds than they had on hand. In part, of course, this is a problem of financing which must be faced by any such program; but it is made more difficult under our system, in which reserves are segregated in separate State funds. As the Business Advisory Council stated in 1935, "Unemployment is thus a problem of industry, and the Nation." This is obviously true. Unemployment is not controlled within a single State any more than employment is. If benefits in Michigan in the summer of 1939 were three times the contributions collected, while in the District of Columbia they were only a fraction of contributions, it was not because of any vice in Michigan or virtue in the District; it was simply because people all over the Nation—or all over the world—bought automobiles spasmodically, or stopped buying for a while, whereas a steady stream of purchasing power poured into the District to keep workers regularly employed. Until we devise some means of spreading the funds more evenly over the Nation in case of need, so that workers will have reasonably comparable protection regardless of State boundaries, and so that there will be no imminent danger of insolvency of certain State funds while other State funds are overflowing—or while employers in other States pay very small contributions or none at all—we cannot claim to have a sound and effective unemployment compensation program.

And I am not making an argument for federalizing the program. Much of the objective could be achieved by appropriate modifications of the existing program, without changing its basic Federal-State character. This would mean some kind of national standard for benefits, and some pooling of funds so that States which bear a disproportionate share of our national burden of unemployment will get some help from the rest of the Nation. So far there seems to have been little interest on the part of State administrators in developing such legislation. I realize it is not easy; but unless some changes are made which will protect the benefit rights of workers and the solvency of the several State funds, I am afraid that Federal operation would become inevitable in any period of serious unemployment.

Much of our thinking concerning unemployment compensation will undoubtedly be affected by the role we expect it to play in the post-war years, and in the longer future. If we think of it only as a sort of incentive taxation designed to stimulate the individual employer to do what he can to regularize his own operations, then the weaknesses we emphasize will be the failure of the present system to relate contributions, effectively, to employers' efforts at stabilization. The basic problems of social insurance will not loom large because such a program is not fundamentally social insurance. On the other hand, if we are interested in making the program a really effective first line of defense against unemployment—providing workers with a minimum income during substantial periods of involuntary unemployment and thus, in the words of the Committee for Economic Development, facilitating "a self-supporting readjustment" of private enterprise without the necessity for more direct interference on the part of Government—then it seems to me we should give our best thought to removing some of the other weaknesses of our present program which have been discussed here.