

# \* *Social Security* \*



*William Beveridge, author of the British "cradle to the grave" social security plan, and Arthur J. Altmeyer, Chairman of the Social Security Board, in New York (June 5, 1943)*

Have you ever read the first SSA?

Who were the real founders of Social Security?

Who brought the Social Security plan to America?

Where does all the money go?

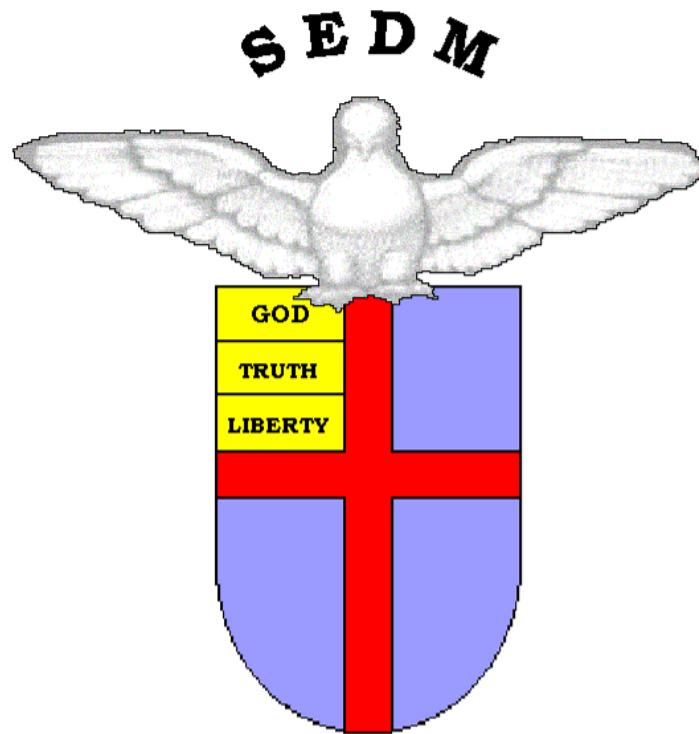
Why is there no accountability?

Volume 16, July/August 2003

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## *Introduction-Social Security Act of 1935*

- A. They take a big portion of your check for Social Security purposes but what actually happens to it and where does it go?
- B. We started our own personal investigation of the SSA back in the middle 1980's. We never expected to find out just how corrupt the system actually is.
- C. For whatever reason we began studying the Social Security System and at first we had a very hard time breaking through the veil of information. Our local county Law Library had some information but I was looking for the original SSA. After finally obtaining a copy of the August 14, 1935 Act, and reading it for the first time we wondered how this Act could be constitutional. We reread and reread this SSA and from that we have collected thousands of pages of information about the Social Security Scheme.
- D. Instead of having to go through what we went through we have included the original SSA of August 14, 1935 in the next section. You can read it for yourself. Pay careful attention to the definitions.
- E. When you have finished reading the original SSA you join only a very small percent of people who have done so. When someone challenges you about the SSA, you can ask them if they have ever read the SSA. If they haven't read it, tell them to go and read it before challenging you. By reading this you will have the FACTS, while the challengers will only have hearsay.
- F. There has been over the years dozens of people who have told me that it is the law that you are required to have a SSN. SHOW ME THE LAW! Even the Department of Justice website will tell you that obtaining a SSN is voluntary not mandatory.
  - 1. Most people actually "BELIEVE" that there is actually a law that says every American is required to obtain a SSN.
  - 2. Have you every noticed how people react when you start popping their "BELIEFS" like balloons?
  - 3. Have you ever noticed their comebacks when their "belief" system is destroyed?
  - 4. We have been the targets of a number of these comebacks.
- G. Not only is there no law requiring an American to have a SSN but of all the money that has been collected by the Bureau of Internal Revenue (section 807) and now the Internal Revenue Service has never been accounted for.
  - 1. Under section 904 of the SSA, all moneys that are collected are paid into the private coffers of the Federal Reserve Bank. When you read the GAO reports you will realize that the GAO, the head accounting office for the Federal Government does not have a clue as to how much has been deposited into the Fed.
- H. In Section 1104 of the SSA you will see that Congress can alter or amend the SSA anytime it wishes to and has done so many times over the years.
- I. After you study this "VIP Dispatch" you will have at your fingertips the history and development of the Social Security Scheme.
- J. We have so much information about Social Security that we decided to create a "Part II" in an upcoming issue of the "VIP Dispatch."

# **The Social Security Act**

August 14, 1935

74<sup>th</sup> Congress Session 1  
Chapter 531

United States Statutes at Large

## [CHAPTER 531.]

## AN ACT

August 14, 1935.  
[H. R. 7290.]  
[Public, No. 271.]

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

Social Security Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Title I—Grants to States for old-age assistance.

TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

Appropriation.

APPROPRIATION

Amount for fiscal year 1936.  
Post, p. 1113.

Subsequent fiscal years.  
Post, p. 1605.  
Availability to States.

Post, p. 635.

State old-age assistance plans.

Requirements.

Approval of plan by Board.

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

STATE OLD-AGE ASSISTANCE PLANS

SEC. 2. (a) A State plan for old-age assistance must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that, if the State or any of its political subdivisions collects from the estate of any recipient of old-age assistance any amount with respect to old-age assistance furnished him under the plan, one-half of the net amount so collected shall be promptly paid to the United States. Any payment so made shall be deposited in the Treasury to the credit of the appropriation for the purposes of this title.

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

(1) An age requirement of more than sixty-five years, except that the plan may impose, effective until January 1, 1940, an age requirement of as much as seventy years; or

(2) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application; or

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

PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each individual who at the time of such expenditure is sixty-five years of age or older and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose: *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

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

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

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

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

Payment to States.

Amount to be paid quarterly.

Matching funds by States.

Administrative costs.

*Proriso.*  
Time of financial participation.

Method of computing and paying amounts.

Estimate to be submitted prior to beginning of quarter.  
Basis of estimates.

Certification of amount by Board; adjustments.

Payments; prior audit by General Accounting Office waived.

## Operation of State plans.

## OPERATION OF STATE PLANS

Payments withheld when State not complying with approved plan; notice and hearing.

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

*Ante*, p. 620.

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

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

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

## Administration.

## ADMINISTRATION

Appropriation authorized for Board expenses.  
*Post*, p. 1118.

SEC. 5. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$250,000, for all necessary expenses of the Board in administering the provisions of this title.

## Definition.

## DEFINITION

"Old-age assistance."

SEC. 6. When used in this title the term "old-age assistance" means money payments to aged individuals.

## Title II—Federal old-age benefits.

## TITLE II—FEDERAL OLD-AGE BENEFITS

## OLD-AGE RESERVE ACCOUNT

"Old-Age Reserve Account", created.

Annual appropriation.  
*Post*, p. 1635.

Determination of amount.

Annual estimate of appropriation.

Investment of amounts credited to Account.

Acquisition of United States obligations.

Second Liberty Bond Act.  
Vol. 40, p. 503; *Ante*, p. 20; *Post*, p. 699; U. S. C. p. 1419.  
Special obligations; interest rate.

SECTION 201. (a) There is hereby created an account in the Treasury of the United States to be known as the "Old-Age Reserve Account" hereinafter in this title called the "Account". There is hereby authorized to be appropriated to the Account for each fiscal year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments required under this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the Account.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per

annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

(c) Any obligations acquired by the Account (except special obligations issued exclusively to the Account) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Account shall be credited to and form a part of the Account.

(e) All amounts credited to the Account shall be available for making payments required under this title.

(f) The Secretary of the Treasury shall include in his annual report the actuarial status of the Account.

#### OLD-AGE BENEFIT PAYMENTS

SEC. 202. (a) Every qualified individual (as defined in section 210) shall be entitled to receive, with respect to the period beginning on the date he attains the age of sixty-five, or on January 1, 1942, whichever is the later, and ending on the date of his death, an old-age benefit (payable as nearly as practicable in equal monthly installments) as follows:

(1) If the total wages (as defined in section 210) determined by the Board to have been paid to him, with respect to employment (as defined in section 210) after December 31, 1936, and before he attained the age of sixty-five, were not more than \$3,000, the old-age benefit shall be at a monthly rate of one-half of 1 per centum of such total wages;

(2) If such total wages were more than \$3,000, the old-age benefit shall be at a monthly rate equal to the sum of the following:

(A) One-half of 1 per centum of \$3,000; plus

(B) One-twelfth of 1 per centum of the amount by which such total wages exceeded \$3,000 and did not exceed \$45,000; plus

(C) One-twenty-fourth of 1 per centum of the amount by which such total wages exceeded \$45,000.

(b) In no case shall the monthly rate computed under subsection (a) exceed \$85.

(c) If the Board finds at any time that more or less than the correct amount has theretofore been paid to any individual under this section, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under this section to the same individual.

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

#### PAYMENTS UPON DEATH

SEC. 203. (a) If any individual dies before attaining the age of sixty-five, there shall be paid to his estate an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936.

Other obligations; acquisition of.

Sale of.

Interest and proceeds of sale credited to Account.

Availability.

Annual report of actuarial status.

Old-age benefit payments.

Persons entitled to receive.  
Post, p. 623.

Amounts to be paid.  
Post, p. 625.

Restriction on total monthly rate.

Adjustments.

Reductions.

Payments upon death.

When individual dies before receiving any benefit payment.

When recipient dies before receiving total payable benefits.

(b) If the Board finds that the correct amount of the old-age benefit payable to a qualified individual during his life under section 202 was less than 3½ per centum of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which such 3½ per centum exceeds the amount (whether more or less than the correct amount) paid to him during his life as old-age benefit.

Adjustments when underpaid recipient dies.

(c) If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was less than the correct amount to which he was entitled under section 202, and that the correct amount of such old-age benefit was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which the correct amount of the old-age benefit exceeds the amount which was so paid to him during his life.

Payments to aged individuals not qualified for benefits.  
Amount.

#### PAYMENTS TO AGED INDIVIDUALS NOT QUALIFIED FOR BENEFITS

SEC. 204. (a) There shall be paid in a lump sum to any individual who, upon attaining the age of sixty-five, is not a qualified individual, an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five.

Restriction on other payments.

(b) After any individual becomes entitled to any payment under subsection (a), no other payment shall be made under this title in any manner measured by wages paid to him, except that any part of any payment under subsection (a) which is not paid to him before his death shall be paid to his estate.

Amounts of \$500 or less payable to estates.  
Regulations.

#### AMOUNTS OF \$500 OR LESS PAYABLE TO ESTATES

SEC. 205. If any amount payable to an estate under section 203 or 204 is \$500 or less, such amount may, under regulations prescribed by the Board, be paid to the persons found by the Board to be entitled thereto under the law of the State in which the deceased was domiciled, without the necessity of compliance with the requirements of law with respect to the administration of such estate.

Overpayments during life.

#### OVERPAYMENTS DURING LIFE

Repayment from estate of recipient.

SEC. 206. If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was more than the correct amount to which he was entitled under section 202, and was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then upon his death there shall be repaid to the United States by his estate the amount, if any, by which such total amount paid to him during his life exceeds whichever of the following is the greater: (1) Such 3½ per centum, or (2) the correct amount to which he was entitled under section 202.

Method of making payments.

#### METHOD OF MAKING PAYMENTS

Payment on certification of Board.

SEC. 207. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this title, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Account-



ing Office, shall make payment in accordance with the certification by the Board.

#### ASSIGNMENT

SEC. 208. The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Assignment.

Right to receive payment not assignable; exemption from legal process.

#### PENALTIES

SEC. 209. Whoever in any application for any payment under this title makes any false statement as to any material fact, knowing such statement to be false, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

Penalties.

False statements.

#### DEFINITIONS

Definitions.

SEC. 210. When used in this title—

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

"Wages."

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

"Employment."

(1) Agricultural labor;

(2) Domestic service in a private home;

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

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

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

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

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

(c) The term "qualified individual" means any individual with respect to whom it appears to the satisfaction of the Board that—

"Qualified individual."

(1) He is at least sixty-five years of age; and

(2) The total amount of wages paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five, was not less than \$2,000; and

(3) Wages were paid to him, with respect to employment on some five days after December 31, 1936, and before he attained the age of sixty-five, each day being in a different calendar year.

Title III—Grants to States for unemployment compensation administration.

### TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

#### Appropriation.

#### APPROPRIATION

Administration expenses.  
*Post*, pp. 1113, 1605.

SECTION 301. For the purpose of assisting the States in the administration of their unemployment compensation laws, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of \$4,000,000, and for each fiscal year thereafter the sum of \$49,000,000, to be used as hereinafter provided.

#### Payments to States.

#### PAYMENTS TO STATES

Certification of amount determined by Board.

SEC. 302. (a) The Board shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Board under Title IX, such amounts as the Board determines to be necessary for the proper administration of such law during the fiscal year in which such payment is to be made. The Board's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper administration of such law; and (3) such other factors as the Board finds relevant. The Board shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

Basis of Board's determination.

Restriction on total amount.

Payment of certified amount; prior audit waived.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a), pay, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

Provisions of State laws.

#### PROVISIONS OF STATE LAWS

Requirements to be incorporated.

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

Approved methods of administration.

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

Payment of compensation through public employment offices.

(2) Payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve; and

Hearing when compensation claim denied.

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

Payment to credit of Unemployment Trust Fund.

(4) The payment of all money received in the unemployment fund of such State, immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904; and

Expenditure of requisitioned money for unemployment compensation payments.

(5) Expenditure of all money requisitioned by the State agency from the Unemployment Trust Fund, in the payment of unemployment compensation, exclusive of expenses of administration; and

Reports to Board.

(6) The making of such reports, in such form and containing such information, as the Board may from time to time require, and compliance with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law.

Information respecting recipients.

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

Notification to State agency of suspension of payments; when.

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

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

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

#### TITLE IV—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

Title IV—Grants to States for aid to dependent children.

##### APPROPRIATION

Appropriation.

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

Amount authorized. Post, pp. 1113, 1605.

Availability.

##### STATE PLANS FOR AID TO DEPENDENT CHILDREN

State plans for aid to dependent children.

Requirements.

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

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application

Approval of plan by Board.

for such aid, or (2) who was born within the State within one year immediately preceding the application, if its mother has resided in the State for one year immediately preceding the birth.

Payment to States.

PAYMENT TO STATES

Amount to be paid quarterly.

To be one-third of amount expended under State plan.

When more than one dependent child.

Method of computing and paying amounts.

Estimates to be submitted prior to beginning of quarter.

Basis of estimates.

Certification of amount by Board; adjustments.

Payments; prior audit waived.

Operation of State plans.

Payments withheld when State not complying with approved plan; notice and hearing.

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

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

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

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

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

OPERATION OF STATE PLANS

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

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

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

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

## ADMINISTRATION

Administration.

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

Appropriation authorized for Board expenses.

## DEFINITIONS

Definitions.

SEC. 406. When used in this title—

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

"Dependent child."

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

"Aid to dependent children."

## TITLE V—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

Title V—Grants to States for maternal and child welfare.

## PART 1—MATERNAL AND CHILD HEALTH SERVICES

Part 1—Maternal and child health services.

## APPROPRIATION

Appropriation.

SECTION 501. For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$3,800,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

Amount authorized. *Publ.*, pp. 1121, 1130.

Availability to States.

## ALLOTMENTS TO STATES

Allotments to States.

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

Amount to each State; division of balance. *Publ.*, p. 1121.

(b) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to the States \$980,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan, as determined by him after taking into consideration the number of live births in such State.

Additional to assist in carrying out State plan.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment

Amount of allotment remaining unpaid.

to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

Approval of State plans.

#### APPROVAL OF STATE PLANS

Requirements.

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

Approval by Chief of Children's Bureau; notification.

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

Payment to States.

#### PAYMENT TO STATES

Amount to be paid quarterly.  
Pub. p. 1121.

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

To be one-half of amount expended under State plan.

Method of computing and paying amounts.

Estimates to be submitted prior to beginning of quarter.

Basis of estimates.

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

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

Certification of amount by Secretary of Labor; adjustments.

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

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

(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 502 (b), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

Payments; prior audit waived.

OPERATION OF STATE PLANS

Operation of State plans.

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

Payments withheld when State not complying with approved plan; notice and hearing.

PART 2—SERVICES FOR CRIPPLED CHILDREN

Part 2—Services for crippled children.

APPROPRIATION

Appropriation.

SEC. 511. For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$2,850,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

Amount authorized. Post, pp. 1121, 1130.

Availability to States.

ALLOTMENTS TO STATES

Allotments to States.

SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Secretary of Labor shall allot to each State \$20,000, and the remainder to the States according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them.

Amount to each State; division of balance. Post, p. 1121.

(b) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 514 until the end of the second succeeding fiscal year. No payment to a State under section 514 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

Amount of allotment remaining unpaid.



Approval of State plans.

APPROVAL OF STATE PLANS

Requirements.

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

Approval by Chief of Children's Bureau; notification.

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

Payment to States.

PAYMENT TO STATES

Amount to be paid quarterly.

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

To be one-half of amount expended under State plan. Method of computing and paying amounts.

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

Estimates to be submitted prior to beginning of quarter.

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

Basis of estimates.

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

Certification of amount by Secretary of Labor; adjustments.

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

Payments; prior audit waived.

OPERATION OF STATE PLANS

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

Operation of State plans.

Payments withheld when State not complying with approved plan; notice and hearing.

PART 3—CHILD-WELFARE SERVICES

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

Part 3—Child-welfare services.

Appropriation authorized. Post, pp. 1121, 1250.

Amount. Allotments to States.

Amount to each State; division of remainder.

Expenditure.

Amount of allotment remaining unpaid.

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

Certification of amounts to be paid.

Prior audit waived.

PART 4—VOCATIONAL REHABILITATION

SEC. 531. (a) In order to enable the United States to cooperate with the States and Hawaii in extending and strengthening their programs of vocational rehabilitation of the physically disabled, and to continue to carry out the provisions and purposes of the Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return

Part 4—Vocational rehabilitation.

Appropriation authorized. Post, pp. 1119, 1728.

Apportionment to  
Hawaii.

Appropriation au-  
thorized for adminis-  
tration.  
Post, pp. 1119, 1708.

Part 5—Administra-  
tion.

Appropriation au-  
thorized.  
Post, pp. 1122, 1349.

Studies and investi-  
gations by Children's  
Bureau.

Annual report.

Title VI—Public  
Health Work.

Appropriation.

Sum authorized.  
Post, pp. 1126, 1841.

State and local public  
health services.

Allotments to States  
by Surgeon General.

Amounts.

Determination of.

Certification to Sec-  
retary of the Treasury.

Availability of allot-  
ment remaining un-  
paid.

to civil employment", approved June 2, 1920, as amended (U. S. C., title 29, ch. 4; U. S. C., Supp. VII, title 29, secs. 31, 32, 34, 35, 37, 39, and 40), there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of \$841,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of \$1,938,000. Of the sums appropriated pursuant to such authorization for each fiscal year, \$5,000 shall be apportioned to the Territory of Hawaii and the remainder shall be apportioned among the several States in the manner provided in such Act of June 2, 1920, as amended.

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

#### PART 5—ADMINISTRATION

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

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

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

#### TITLE VI—PUBLIC HEALTH WORK

##### APPROPRIATION

SECTION 601. For the purpose of assisting States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public-health services, including the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$8,000,000 to be used as hereinafter provided.

##### STATE AND LOCAL PUBLIC HEALTH SERVICES

SEC. 602. (a) The Surgeon General of the Public Health Service, with the approval of the Secretary of the Treasury, shall, at the beginning of each fiscal year, allot to the States the total of (1) the amount appropriated for such year pursuant to section 601; and (2) the amounts of the allotments under this section for the preceding fiscal year remaining unpaid to the States at the end of such fiscal year. The amounts of such allotments shall be determined on the basis of (1) the population; (2) the special health problems; and (3) the financial needs; of the respective States. Upon making such allotments the Surgeon General of the Public Health Service shall certify the amounts thereof to the Secretary of the Treasury.

(b) The amount of an allotment to any State under subsection (a) for any fiscal year, remaining unpaid at the end of such fiscal year, shall be available for allotment to States under subsection (a) for the succeeding fiscal year, in addition to the amount appropriated for such year.

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

Determination of quarterly accounts.

Certification thereof. Payments; prior audit waived.

(d) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in section 601, and in accordance with plans presented by the health authority of such State and approved by the Surgeon General of the Public Health Service.

Expenditure.

INVESTIGATIONS

Investigations.

SEC. 603. (a) There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$2,000,000 for expenditure by the Public Health Service for investigation of disease and problems of sanitation (including the printing and binding of the findings of such investigations), and for the pay and allowances and traveling expenses of personnel of the Public Health Service, including commissioned officers, engaged in such investigations or detailed to cooperate with the health authorities of any State in carrying out the purposes specified in section 601: *Provided*, That no personnel of the Public Health Service shall be detailed to cooperate with the health authorities of any State except at the request of the proper authorities of such State.

Sum authorized for disease and sanitation investigations. Post, pp. 1126, 1841.

Proviso. Detail of Public Health Service personnel.

(b) The personnel of the Public Health Service paid from any appropriation not made pursuant to subsection (a) may be detailed to assist in carrying out the purposes of this title. The appropriation from which they are paid shall be reimbursed from the appropriation made pursuant to subsection (a) to the extent of their salaries and allowances for services performed while so detailed.

Reimbursement for salaries and allowances.

(c) The Secretary of the Treasury shall include in his annual report to Congress a full account of the administration of this title.

Annual report.

TITLE VII—SOCIAL SECURITY BOARD

Title VII—Social Security Board.

ESTABLISHMENT

Establishment.

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

Composition. Post, pp. 1114, 1604.

Restriction on other employment.

Political affiliation. Salary; terms of office.

Vacancies.

**Chairman.** of six years, after the date of the enactment of this Act. The President shall designate one of the members as the chairman of the Board.

**Duties.** **DUTIES OF SOCIAL SECURITY BOARD**

SEC. 702. The Board shall perform the duties imposed upon it by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects.

**Expenses.** **EXPENSES OF THE BOARD**

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

**Reports.** **REPORTS**

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

**Title VIII—Taxes with respect to employment.** **TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT**

**Income tax on employees.** **INCOME TAX ON EMPLOYEES**

**Rates.**

SECTION 801. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

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

**Deduction of tax from wages.** **DEDUCTION OF TAX FROM WAGES**

**Collection by employer.** **Liability for.** SEC. 802. (a) The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

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

## DEDUCTIBILITY FROM INCOME TAX

SEC. 803. For the purposes of the income tax imposed by Title I of the Revenue Act of 1934 or by any Act of Congress in substitution therefor, the tax imposed by section 801 shall not be allowed as a deduction to the taxpayer in computing his net income for the year in which such tax is deducted from his wages.

Deductibility from income tax.

Vol. 48, p. 688; Post, p. 197.

## EXCISE TAX ON EMPLOYERS

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

Excise tax on employers.

Payment by. Vol. 48, pp. 688-691.

Post, p. 639.

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

Rates.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

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

## ADJUSTMENT OF EMPLOYER'S TAX

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

Adjustment of employers' tax.

Regulations.

## REFUNDS AND DEFICIENCIES

SEC. 806. If more or less than the correct amount of tax imposed by section 801 or 804 is paid or deducted with respect to any wage payment and the overpayment or underpayment of tax cannot be adjusted under section 802 (b) or 805 the amount of the overpayment shall be refunded and the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

Refunds and deficiencies.

## COLLECTION AND PAYMENT OF TAXES

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

Collection and payment of taxes.

Collection.

Tax interest on payment in default.

Rate.

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

Regulations governing payment.

Provisions of law applicable.  
Vol. 44, pp. 93, 99;  
U. S. C., pp. 1107, 1133.  
Vol. 48, p. 768.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to the taxes imposed by this title.

Fractional part of cent.

(d) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

Rules and regulations.

#### RULES AND REGULATIONS

Authority to prescribe.

SEC. 808. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title.

Sale of stamps by postmasters.

#### SALE OF STAMPS BY POSTMASTERS

SEC. 809. The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 807 for the collection or payment of any tax imposed by this title, to be distributed to, and kept on sale by, all post offices of the first and second classes, and such post offices of the third and fourth classes as (1) are located in county seats, or (2) are certified by the Secretary of the Treasury to the Postmaster General as necessary to the proper administration of this title. The Postmaster General may require each such postmaster to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to, the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe. The Postmaster General shall at least once a month transfer to the Treasury as internal-revenue collections all receipts so deposited together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this Act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department.

Penalties.

#### PENALTIES

Unlawful use of stamps.

SEC. 810. (a) Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device, prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, shall be fined not more than \$1,000 or imprisoned for not more than six months, or both.

Counterfeiting.

(b) Whoever, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, or uses, sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the



material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

DEFINITIONS

Definitions.

SEC. 811. When used in this title—

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

"Wages."

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

"Employment."

- (1) Agricultural labor;
- (2) Domestic service in a private home;
- (3) Casual labor not in the course of the employer's trade or business;
- (4) Service performed by an individual who has attained the age of sixty-five;
- (5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;
- (6) Service performed in the employ of the United States Government or of an instrumentality of the United States;
- (7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;
- (8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

TITLE IX—TAX ON EMPLOYERS OF EIGHT OR MORE

Title IX—Tax on employers of eight or more.

IMPOSITION OF TAX

Imposition of tax.

SECTION 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

Percentages.

- (1) With respect to employment during the calendar year 1936 the rate shall be 1 per centum;
- (2) With respect to employment during the calendar year 1937 the rate shall be 2 per centum;
- (3) With respect to employment after December 31, 1937, the rate shall be 3 per centum.

Post, p. 642.

CREDIT AGAINST TAX

Credit against tax.

SEC. 902. The taxpayer may credit against the tax imposed by section 901 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a

Contributions into unemployment funds.

**Total credit.**

State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 903.

**Certification of State laws.****CERTIFICATION OF STATE LAWS****Approval; conditions.**

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

**Payment of compensation through public employment offices.**

(1) All compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve;

(2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

**Payment to credit of Unemployment Trust Fund.**

(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904;

**Expenditure of requisitioned funds.**

(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

**Refusal of employable to accept work under certain conditions.**

(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

**Amendment of State laws.**

(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

**Notification to Governor of State.**

The Board shall, upon approving such law, notify the Governor of the State of its approval.

**Annual certification by Board of approved State laws.**

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

**Restriction on approval.****Notification to Governor, when.**

(c) If, at any time during the taxable year, the Board has reason to believe that a State whose law it has previously approved, may not be certified under subsection (b), it shall promptly so notify the Governor of such State.

**Unemployment Trust Fund.****UNEMPLOYMENT TRUST FUND****Establishment.**

**SEC. 904. (a)** There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this title called the "Fund". The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency

**Receipt of deposited funds.**

from a State unemployment fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date.

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment.

ADMINISTRATION, REFUNDS, AND PENALTIES

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

(b) Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under this title for such taxable year. Each such return shall be made under oath, shall be filed with the collector of internal revenue for the district in which is located the principal place of business of the

Investments; duty to make.

Nature of.

Acquisition of obligations of United States.  
Second Liberty Bond Act.  
Vol. 4, p. 258; U. S. C., p. 1419.  
Ante, pp. 20, 622; Post, p. 659.  
Special obligations; interest rate.

Other obligations; acquisition of.

Sale of.

Interest and proceeds of sale credited to Fund.

Investment accounts.

Requisitions on Fund by States; payments.

Administration, refunds, and penalties.

Taxes; collection of.

Interest on tax payment in default.

Returns by employers; when to be made.

Form; filing.

- Provisions of law applicable. Vol. 44, p. 93.
- Extension of time for filing. Vol. 44, p. 51.
- Publicity of returns. Vol. 44, p. 51.
- Installment payment of tax.
- Extensions authorized.
- Fractional part of cent.
- Interstate commerce.
- Persons engaged in; payments.
- Definitions.
- "Employer."
- "Wages."

employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Maryland, and shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title. The Commissioner may extend the time for filing the return of the tax imposed by this title, under such rules and regulations as he may prescribe with the approval of the Secretary of the Treasury, but no such extension shall be for more than sixty days.

(c) Returns filed under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments instead of in a single payment, in which case the first installment shall be paid not later than the last day prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such last day. If the tax or any installment thereof is not paid on or before the last day of the period fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed six months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

(f) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

#### INTERSTATE COMMERCE

SEC. 906. No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that the State law does not distinguish between employees engaged in interstate commerce and those engaged in intrastate commerce.

#### DEFINITIONS

SEC. 907. When used in this title—

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

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

"Employment."

- (1) Agricultural labor;
- (2) Domestic service in a private home;
- (3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;
- (4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
- (5) Service performed in the employ of the United States Government or of an instrumentality of the United States;
- (6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;
- (7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) The term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

"State agency."

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

"Unemployment fund."

(f) The term "contributions" means payments required by a State law to be made by an employer into an unemployment fund, to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ.

"Contributions."

(g) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

"Compensation."

RULES AND REGULATIONS

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

Rules and regulations.

Authority to prescribe.

ALLOWANCE OF ADDITIONAL CREDIT

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

Allowance of additional credit.

Deduction of contributions from tax.

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

Amounts.

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

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

Total credits allowed.

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

Conditions of additional credit allowance.

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

When credit allowance to be granted.

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

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

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than  $7\frac{1}{2}$  per centum of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than  $7\frac{1}{2}$  per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

Reductions.

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

Definitions.

"Reserve account."

(c) As used in this section—

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

"Pooled fund."

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

"Guaranteed employment account."

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

(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after

a probationary period (included within twelve or less consecutive calendar weeks), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties, from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

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

"Year of compensation experience."

**TITLE X—GRANTS TO STATES FOR AID TO THE BLIND**

Grants to States for aid to blind.

**APPROPRIATION**

Appropriation.

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

Sum authorized. Post, pp. 1113, 1506.

Availability to States.

**STATE PLANS FOR AID TO THE BLIND**

State plans for aid to blind.

Requirements.

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

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

Approval by Board.

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



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

## Payment to States.

## PAYMENT TO STATES

Amount to be paid quarterly.

Matching funds by States.

Administration costs.

Method of computing and paying amounts.

Estimates to be submitted.

Basis of.

Certification of amount by Board; adjustments.

Payments; prior audit waived.

Operation of State plans.

Payments withheld when State not complying with approved plan; notice and hearing.

SEC. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as aid to the blind, equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose.

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

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

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

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

## OPERATION OF STATE PLANS

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

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

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

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

## ADMINISTRATION

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

## DEFINITION

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

## TITLE XI--GENERAL PROVISIONS

## DEFINITIONS

SECTION 1101. (a) When used in this Act—

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

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

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this Act or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

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

## RULES AND REGULATIONS

SEC. 1102. The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

Administration.

Appropriation authorized for Board expenses.

Definition.

"Aid to the blind."

General provisions.

Definitions.

"State."

"United States."

"Person."

"Corporation."

"Shareholder."

"Employeee."

"Includes"; "including."

Amounts deducted from remuneration of employee.

Children; care and custody.

Rules and regulations.

Separability of provisions.

SEPARABILITY

SEC. 1103. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

Reservation of power.

RESERVATION OF POWER

SEC. 1104. The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress.

Short title.

SHORT TITLE

SEC. 1105. This Act may be cited as the "Social Security Act".  
Approved, August 14, 1935.

[CHAPTER 532.]

AN ACT

To amend the Packers and Stockyards Act.

August 14, 1935.  
[S. 12.]  
[Public, No. 272.]

Packers and Stockyards Act, amendments.  
Vol. 42, p. 159.  
U. S. C., p. 125.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes, approved August 15, 1921 (U. S. C., title 7, secs. 131-229), is hereby amended by the addition of the following title:

Title V—Live poultry dealers and handlers.  
Necessity for regulation.  
Post, p. 1432.

"TITLE V—LIVE POULTRY DEALERS AND HANDLERS

"SECTION 501. The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices.

Licenses; designation of areas where required.

"SEC. 502. (a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in the preceding section and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in title II of said Act and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of

Publication of effective date of designation.

Requirement of license thereafter.  
Vol. 42, p. 160.

## **Federal Reserve Bank**

- A. As you read in section 904 of the August 14, 1935 SSA the money that is collected goes to the Fed.
- B. After FDR received the rough draft of the SSA he sent it over to the Treasury Department. There, his life long friend Paul Warburg, Jr., whose father had been the first head of the Fed, had a private office in the Treasury. Even though he did not work for the Treasury Department, Paul Warburg, Jr. made sure that section 904 was put into the SSA.
- C. The next section will go through some background about the Fed. If you would like to read the Ninth circuit case of Lewis vs. United states, go to the December 2002 issue of the VIP Dispatch.

# Court Rules Federal Reserve is Privately Owned

## *Case Reveals Fed's Status as a Private Institution*

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*Below are excerpts from a court case proving the Federal Reserve system's status. As you will see, the court ruled that the Federal Reserve Banks are "independent, privately owned and locally controlled corporations", and there is not sufficient "federal government control over 'detailed physical performance' and 'day to day operation'" of the Federal Reserve Bank for it to be considered a federal agency:*

### **Lewis v. United States, 680 F.2d 1239 (1982)**

John L. Lewis, Plaintiff/Appellant,  
v.  
United States of America, Defendant/Appellee.

No. 80-5905  
United States Court of Appeals, Ninth Circuit.  
Submitted March 2, 1982.  
Decided April 19, 1982.  
As Amended June 24, 1982.

Plaintiff, who was injured by vehicle owned and operated by a federal reserve bank, brought action alleging jurisdiction under the Federal Tort Claims Act. The United States District Court for the Central District of California, David W. Williams, J., dismissed holding that federal reserve bank was not a federal agency within meaning of Act and that the court therefore lacked subject-matter jurisdiction. Appeal was taken. The Court of Appeals, Poole, Circuit Judge, held that federal reserve banks are not federal instrumentalities for purposes of the Act, but are independent, privately owned and locally controlled corporations.

Affirmed.

#### 1. United States

There are no sharp criteria for determining whether an entity is a federal agency within meaning of the Federal Tort Claims Act, but critical factor is existence of federal government control over "detailed physical performance" and "day to day operation" of an entity. . . .

#### 2. United States

Federal reserve banks are not federal instrumentalities for purposes of a Federal Tort Claims Act, but are independent, privately owned and locally controlled corporations in light of fact that direct supervision and control of each bank is exercised by board of directors, federal reserve banks, though heavily regulated, are locally controlled by their member banks, banks are listed neither as "wholly

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owned" government corporations nor as "mixed ownership" corporations; federal reserve banks receive no appropriated funds from Congress and the banks are empowered to sue and be sued in their own names. . . .

3. United States

Under the Federal Tort Claims Act, federal liability is narrowly based on traditional agency principles and does not necessarily lie when a tortfeasor simply works for an entity, like the Reserve Bank, which performs important activities for the government. . . .

4. Taxation

The Reserve Banks are deemed to be federal instrumentalities for purposes of immunity from state taxation.

5. States Taxation

Tests for determining whether an entity is federal instrumentality for purposes of protection from state or local action or taxation, is very broad: whether entity performs important governmental function.

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Lafayette L. Blair, Compton, Cal., for plaintiff/appellant.

James R. Sullivan, Asst. U.S. Atty., Los Angeles, Cal., argued, for defendant/appellee; Andrea Sheridan Ordin, U.S. Atty., Los Angeles, Cal., on brief.

Appeal from the United States District Court for the Central District of California.

Before Poole and Boochever, Circuit Judges, and Soloman, District Judge. (The Honorable Gus J. Solomon, Senior District Judge for the District of Oregon, sitting by designation)

Poole, Circuit Judge:

On July 27, 1979, appellant John Lewis was injured by a vehicle owned and operated by the Los Angeles branch of the Federal Reserve Bank of San Francisco. Lewis brought this action in district court alleging jurisdiction under the Federal Tort Claims Act (the Act), 28 U.S.C. Sect. 1346(b). The United States moved to dismiss for lack of subject matter jurisdiction. The district court dismissed, holding that the Federal Reserve Bank is not a federal agency within the meaning of the Act and that the court therefore lacked subject matter jurisdiction. We affirm.

In enacting the Federal Tort Claims Act, Congress provided a limited waiver of the sovereign immunity of the United States for certain torts of federal employees. . . . Specifically, the Act creates liability for injuries "caused by the negligent or wrongful act or omission" of an employee of any federal agency acting within the scope of his office or employment. . . . "Federal agency" is defined as:

the executive departments, the military departments, independent

establishments of the United States, and corporations acting primarily as instrumentalities of the United States, but does not include any contractors with the United States.

28 U.S.C. Sect. 2671. The liability of the United States for the negligence of a Federal Reserve Bank employee depends, therefore, on whether the Bank is a federal agency under Sect. 2671.

[1,2] There are no sharp criteria for determining whether an entity is a federal agency within the meaning of the Act, but the critical factor is the existence of federal government control over the "detailed physical performance" and "day to day operation" of that entity. . . . Other factors courts have considered include whether the entity is an independent corporation . . . , whether the government is involved in the entity's finances. . . . , and whether the mission of the entity furthers the policy of the United States, . . . Examining the organization and function of the Federal Reserve Banks, and applying the relevant factors, we conclude that the Reserve Banks are not federal instrumentalities for purpose of the FTCA, but are independent, privately owned and locally controlled corporations.

Each Federal Reserve Bank is a separate corporation owned by commercial banks in its region. The stockholding commercial banks elect two thirds of each Bank's nine member board of directors. The remaining three directors are appointed by the Federal Reserve Board. The Federal Reserve Board regulates the Reserve Banks, but direct supervision and control of each Bank is exercised by its board of directors. 12 U.S.C. Sect. 301. The directors enact by-laws regulating the manner of conducting general Bank business, 12 U.S.C. Sect. 341, and appoint officers to implement and supervise daily Bank activities. These activities include collecting and clearing checks, making advances to private and commercial entities, holding reserves for member banks, discounting the notes of member banks, and buying and selling securities on the open market. See 12 U.S.C. Sub-Sect. 341-361.

Each Bank is statutorily empowered to conduct these activities without day to day direction from the federal government. Thus, for example, the interest rates on advances to member banks, individuals, partnerships, and corporations are set by each Reserve Bank and their decisions regarding the purchase and sale of securities are likewise independently made.

It is evident from the legislative history of the Federal Reserve Act that Congress did not intend to give the federal government direction over the daily operation of the Reserve Banks:

It is proposed that the Government shall retain sufficient power over the reserve banks to enable it to exercise a direct authority when necessary to do so, but that it shall in no way attempt to carry on through its own mechanism the routine operations and banking which require detailed knowledge of local and individual credit and which determine the funds of the community in any given instance. In other words, the reserve-bank plan retains to the Government power over the exercise of the broader banking functions, while it leaves to individuals and privately owned institutions the actual direction of routine.

H.R. Report No. 69 Cong. 1st Sess. 18-19 (1913).

The fact that the Federal Reserve Board regulates the Reserve Banks does not make them federal agencies under the Act. In *United States v. Orleans*, 425 U.S. 807, 96 S.Ct. 1971, 48 L.Ed.2d 390 (1976), the Supreme Court held that a community action agency was not a federal agency or instrumentality for purposes of the Act, even though the agency was organized under federal



regulations and heavily funded by the federal government. Because the agency's day to day operation was not supervised by the federal government, but by local officials, the Court refused to extend federal tort liability for the negligence of the agency's employees. Similarly, the Federal Reserve Banks, though heavily regulated, are locally controlled by their member banks. Unlike typical federal agencies, each bank is empowered to hire and fire employees at will. Bank employees do not participate in the Civil Service Retirement System. They are covered by worker's compensation insurance, purchased by the Bank, rather than the Federal Employees Compensation Act. Employees travelling on Bank business are not subject to federal travel regulations and do not receive government employee discounts on lodging and services.

The Banks are listed neither as "wholly owned" government corporations under 31 U.S.C. Sect. 846 nor as "mixed ownership" corporations under 31 U.S.C. Sect. 856, a factor considered is *Pearl v. United States*, 230 F.2d 243 (10th Cir. 1956), which held that the Civil Air Patrol is not a federal agency under the Act. Closely resembling the status of the Federal Reserve Bank, the Civil Air Patrol is a non-profit, federally chartered corporation organized to serve the public welfare. But because Congress' control over the Civil Air Patrol is limited and the corporation is not designated as a wholly owned or mixed ownership government corporation under 31 U.S.C. Sub-Sect. 846 and 856, the court concluded that the corporation is a non-governmental, independent entity, not covered under the Act.

Additionally, Reserve Banks, as privately owned entities, receive no appropriated funds from Congress. . . .

Finally, the Banks are empowered to sue and be sued in their own name. 12 U.S.C. Sect. 341. They carry their own liability insurance and typically process and handle their own claims. In the past, the Banks have defended against tort claims directly, through private counsel, not government attorneys . . . , and they have never been required to settle tort claims under the administrative procedure of 28 U.S.C. Sect. 2672. The waiver of sovereign immunity contained in the Act would therefore appear to be inapposite to the Banks who have not historically claimed or received general immunity from judicial process.

[3] The Reserve Banks have properly been held to be federal instrumentalities for some purposes. In *United States v. Hollingshead*, 672 F.2d 751 (9th Cir. 1982), this court held that a Federal Reserve Bank employee who was responsible for recommending expenditure of federal funds was a "public official" under the Federal Bribery Statute. That statute broadly defines public official to include any person acting "for or on behalf of the Government." . . . The test for determining status as a public official turns on whether there is "substantial federal involvement" in the defendant's activities. *United States v. Hollingshead*, 672 F.2d at 754. In contrast, under the FTCA, federal liability is narrowly based on traditional agency principles and does not necessarily lie when the tortfeasor simply works for an entity, like the Reserve Banks, which perform important activities for the government.

[4, 5] The Reserve Banks are deemed to be federal instrumentalities for purposes of immunity from state taxation. . . . The test for determining whether an entity is a federal instrumentality for purposes of protection from state or local action or taxation, however, is very broad: whether the entity performs an important governmental function. . . . The Reserve Banks, which further the nation's fiscal policy, clearly perform an important governmental function.

Performance of an important governmental function<sup>39</sup>, however, is but a single factor and not

determinative in tort claims actions. . . . State taxation has traditionally been viewed as a greater obstacle to an entity's ability to perform federal functions than exposure to judicial process; therefore tax immunity is liberally applied. . . . Federal tort liability, however, is based on traditional agency principles and thus depends upon the principal's ability to control the actions of his agent, and not simply upon whether the entity performs an important governmental function. . . .

*Brinks Inc. v. Board of Governors of the Federal Reserve System*, 466 F.Supp. 116 (D.D.C.1979), held that a Federal Reserve Bank is a federal instrumentality for purposes of the Service Contract Act, 41 U.S.C. Sect. 351. Citing Federal Reserve Bank of Boston and Federal Reserve Bank of Minneapolis, the court applied the "important governmental function" test and concluded that the term "Federal Government" in the Service Contract Act must be "liberally construed to effectuate the Act's humanitarian purpose of providing minimum wage and fringe benefit protection to individuals performing contracts with the federal government." *Id.* 288 Mich. at 120, 284 N.W.2d 667.

Such a liberal construction of the term "federal agency" for purposes of the Act is unwarranted. Unlike in *Brinks*, plaintiffs are not without a forum in which to seek a remedy, for they may bring an appropriate state tort claim directly against the Bank; and if successful, their prospects of recovery are bright since the institutions are both highly solvent and amply insured.

For these reasons we hold that the Reserve Banks are not federal agencies for purposes of the Federal Tort Claims Act and we affirm the judgement of the district court.

AFFIRMED.

*It is clear from this that in some circumstances, the Federal Reserve Bank can be considered a government "instrumentality", but cannot be considered a "federal agency", because the term carries with it the assumption that the federal government has direct oversight over what the Fed does. Of course it does not, because most people who know about this subject know that the Fed is "politically independent."*

*The only area where one might disagree with the judge's decision is where he states that the Fed furthers the federal government's fiscal policy, and therefore performs an important governmental function. While we would like to think that the federal government and the Fed work cooperatively with each other, and they may on occasion, the Fed is by no means required to do so. One example is where Rep. Wright Patman, Chairman of the House Banking Committee, said in the Congressional Record back in the '60s, that depending on the temperament of the Fed's Chairman, sometimes the Fed worked with the government's fiscal policy, and other times either went in the complete opposite direction, or threatens to do so in order to influence policy.*

*The common claim that the Fed is accountable to the government, because it is required to report to Congress on its activities annually, is incorrect. The reports to Congress mean little unless what the Chairman reports can be verified by complete records. From its founding to this day, the Fed has never undergone a complete independent audit. Congress time after time has requested that the Fed voluntarily submit to a complete audit, and every time, it refuses.*

*Those in the know about the Fed, realize that it does keep certain records secret. The soon-to-be-former Chairman of the House Banking Committee, Henry Gonzales, has spoken on record repeatedly about how the Fed at one point says it <sup>40</sup> does not have certain requested records, and then*

*it is found through investigation that it in fact does have those records, or at least used to. It would appear that the Fed Chairman can say anything he wants to to Congress, and they'll have to accept what he says, because verification of what he says is not always possible.*

[END]

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[Back to BBS Files Menu...](#)

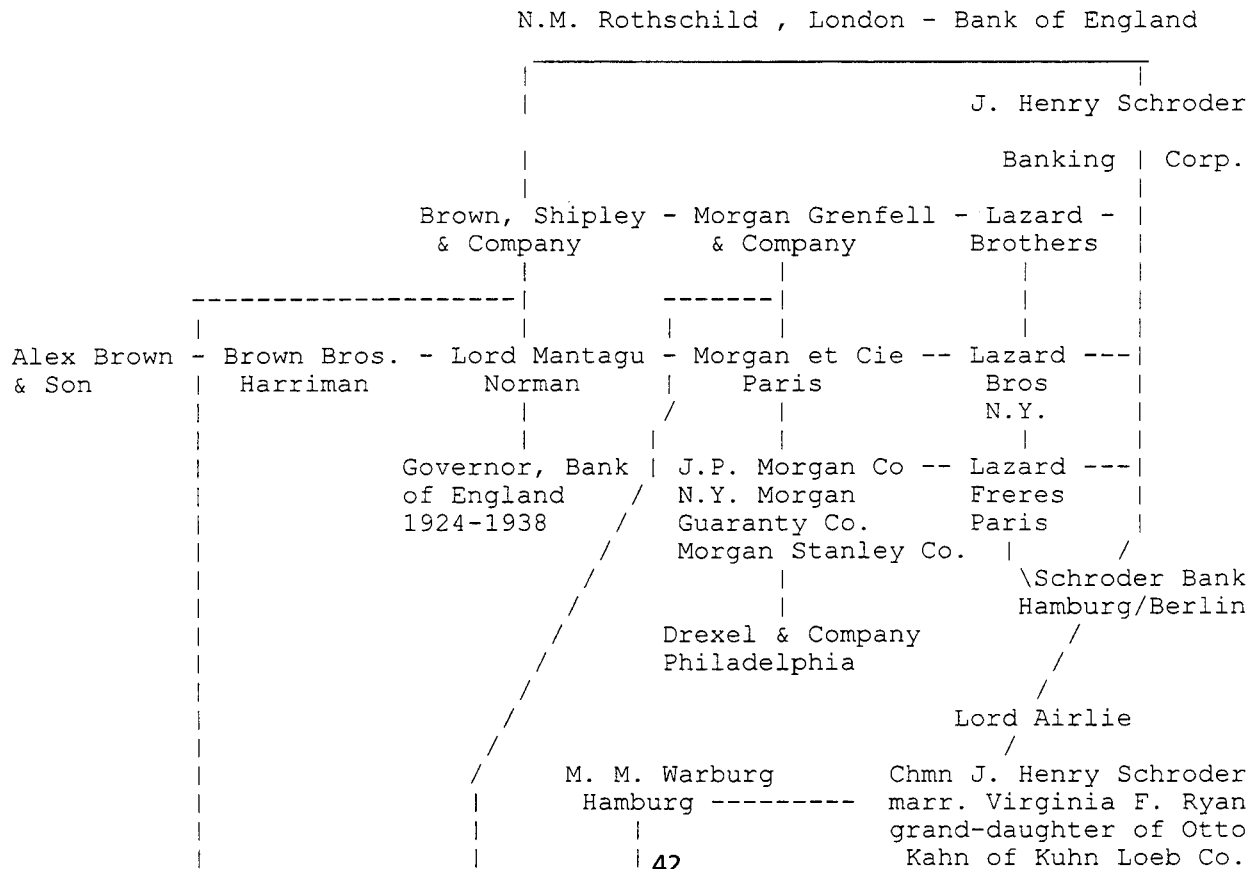
# Chart of who "owns" the Federal Reserve

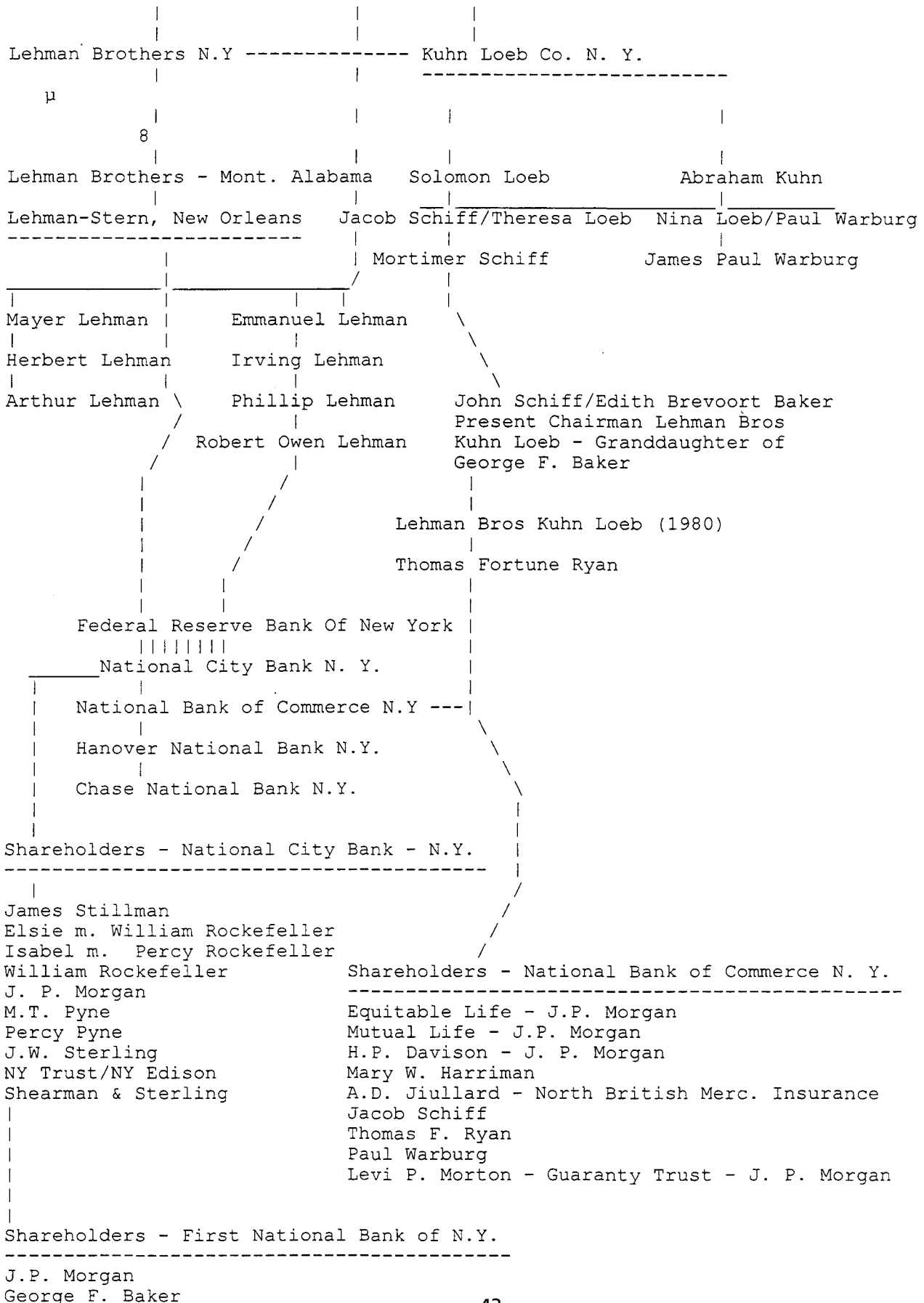
## Chart 1

### Federal Reserve Directors: A Study of Corporate and Banking Influence

Published 1976

Chart 1 reveals the linear connection between the Rothschilds and the Bank of England, and the London banking houses which ultimately control the Federal Reserve Banks through their stockholdings of bank stock and their subsidiary firms in New York. The two principal Rothschild representatives in New York, J. P. Morgan Co., and Kuhn,Loeb & Co. were the firms which set up the Jekyll Island Conference at which the Federal Reserve Act was drafted, who directed the subsequent successful campaign to have the plan enacted into law by Congress, and who purchased the controlling amounts of stock in the Federal Reserve Bank of New York in 1914. These firms had their principal officers appointed to the Federal Reserve Board of Governors and the Federal Advisory Council in 1914. In 1914 a few families (blood or business related) owning controlling stock in existing banks (such as in New York City) caused those banks to purchase controlling shares in the Federal Reserve regional banks. Examination of the charts and text in the House Banking Committee Staff Report of August, 1976 and the current stockholders list of the 12 regional Federal Reserve Banks show this same family control.





George F. Baker Jr.  
Edith Brevoort Baker  
US Congress - 1946-64

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|  
|

Shareholders - Hanover National Bank N.Y.

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James Stillman  
William Rockefeller

|  
|  
|  
|

Shareholders - Chase National Bank N.Y.

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George F. Baker

Chart 2

**Federal Reserve Directors: A Study of Corporate and Banking Influence**

- Published 1983

The J. Henry Schroder Banking Company chart encompasses the entire history of the twentieth century, embracing as it does the program (Belgium Relief Commission) which provisioned Germany from 1915-1918 and dissuaded Germany from seeking peace in 1916; financing Hitler in 1933 so as to make a Second World War possible; backing the Presidential campaign of Herbert Hoover ; and even at the present time, having two of its major executives of its subsidiary firm, Bechtel Corporation serving as Secretary of Defense and Secretary of State in the Reagan Administration.

The head of the Bank of England since 1973, Sir Gordon Richardson, Governor of the Bank of England (controlled by the House of Rothschild) was chairman of J. Henry Schroder Wagg and Company of London from 1963-72, and director of J. Henry Schroder,New York and Schroder Banking Corporation,New York,as well as Lloyd's Bank of London, and Rolls Royce. He maintains a residence on Sutton Place in New York City, and as head of "The London Connection," can be said to be the single most influential banker in the world.

J. Henry Schroder

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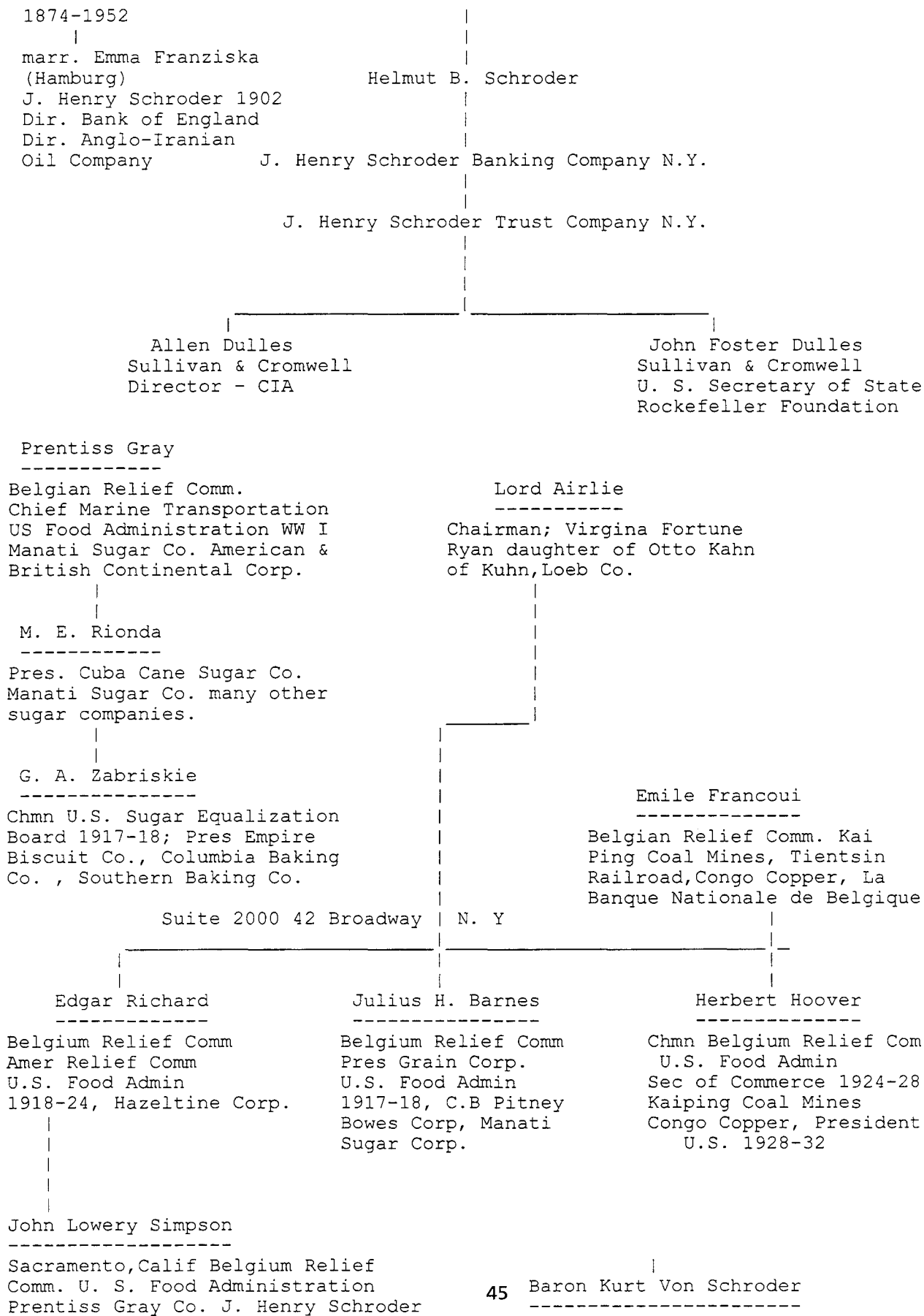
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Baron Rudolph Von Schroder  
Hamburg - 1858 - 1934

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|

Baron Bruno Von Schroder  
Hamburg - 1867 - 1940

F. C. Tiarks



Trust, Schroder-Rockefeller, Chmn  
Fin Comm, Bechtel International  
Co. Bechtel Co. (Casper Weinberger  
Sec of Defense, George P. Schultz  
Sec of State (Reagan Admin).

Schroder Banking Corp. J.H. Stein  
Bankhaus (Hitler's personal bank  
account) served on board of all  
German subsidiaries of ITT . Bank  
for International Settlements,  
SS Senior Group Leader, Himmler's  
Circle of Friends (Nazi Fund),  
Deutsche Reichsbank, president

Schroder-Rockefeller & Co. , N.Y.

Avery Rockefeller, J. Henry Schroder  
Banking Corp., Bechtel Co., Bechtel  
International Co. , Canadian Bechtel  
Company.

Gordon Richardson

Governor, Bank of England  
1973-PRESENT C.B. of J. Henry Schroder N.Y.  
Schroder Banking Co., New York, Lloyds Bank  
Rolls Royce

Chart 3

**Federal Reserve Directors: A Study of Corporate and Banking Influence**

- Published 1976

The David Rockefeller chart shows the link between the Federal Reserve Bank of New York, Standard Oil of Indiana, General Motors and Allied Chemical Corporation (Eugene Meyer family) and Equitable Life (J. P. Morgan).

DAVID ROCKEFELLER

Chairman of the Board  
Chase Manhattan Corp

Chase Manhattan Corp. |  
Officer & Director Interlocks |

Private Investment Co. for America

Allied Chemicals Corp.

Firestone Tire & Rubber Company

General Motors

Orion Multinational Services Ltd.

Rockefeller Family & Associates

ASARCO. Inc

Chrysler Corp.

Southern Peru Copper Corp.

Intl' Basic Economy Corp.





Chart 4

**Federal Reserve Directors: A Study of Corporate and Banking Influence**

- Published 1976

This chart shows the interlocks between the Federal Reserve Bank of New York J. Henry Schroder Banking Corp., J. Henry Schroder Trust Co., Rockefeller Center, Inc., Equitable Life Assurance Society ( J.P. Morgan), and the Federal Reserve Bank of Boston.

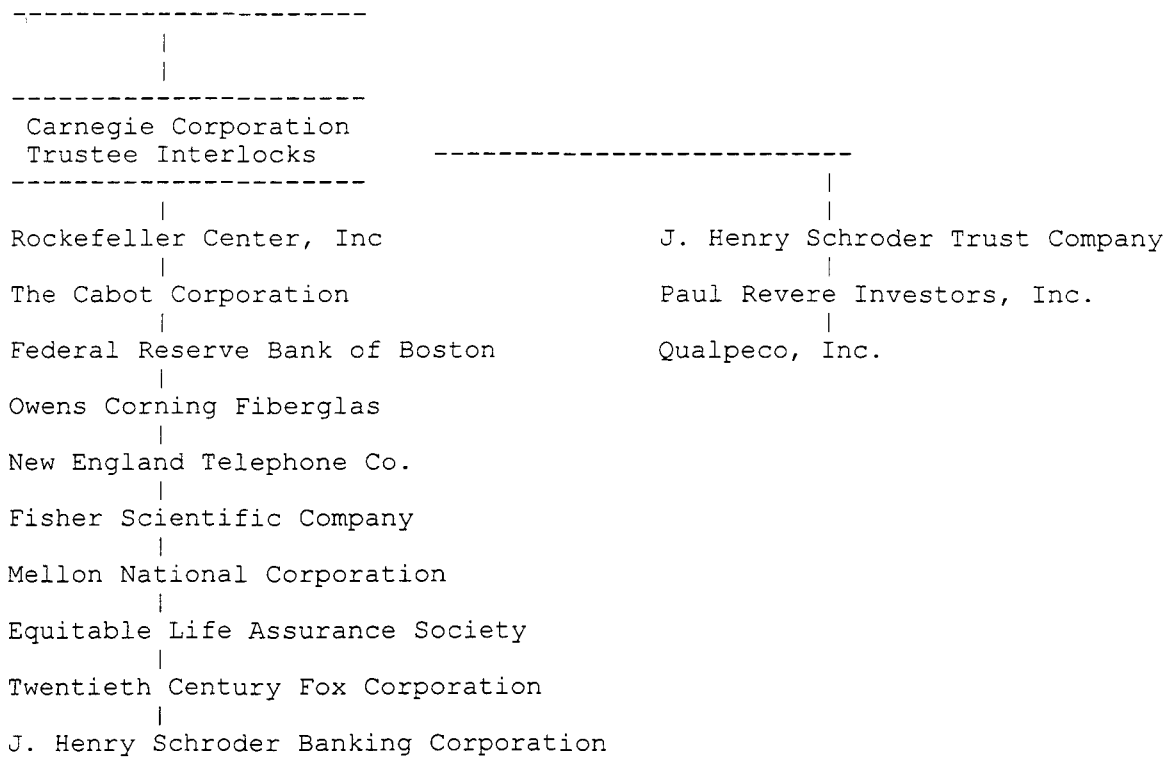


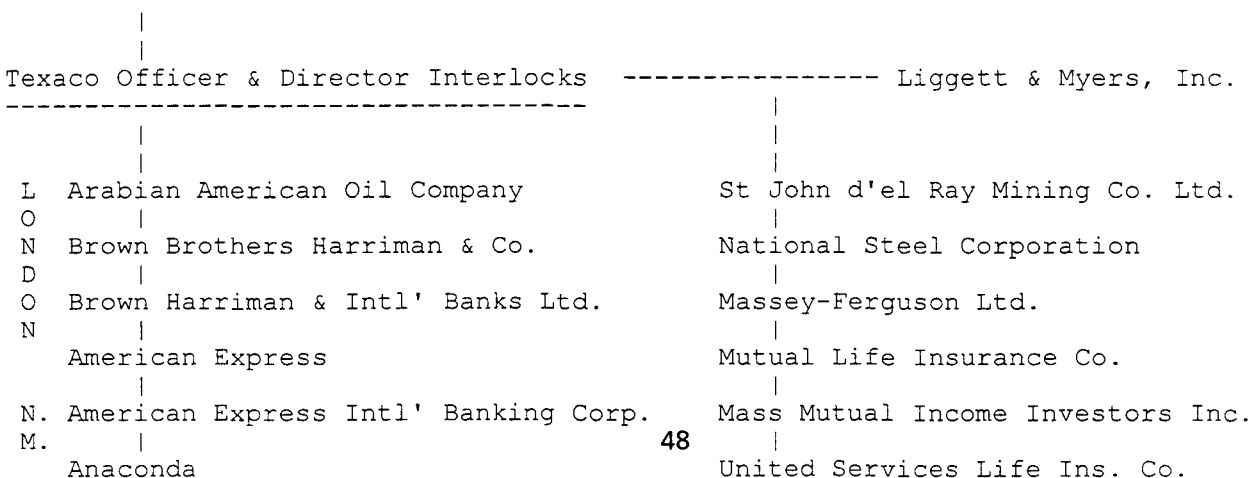
Chart 5

**Federal Reserve Directors: A Study of Corporate and Banking Influence**

- Published 1976

This chart shows the link between the Federal Reserve Bank of New York, Brown Brothers Harriman, Sun Life Assurance Co. (N.M. Rothschild and Sons), and the Rockefeller Foundation.

Maurice F. Granville  
 Chairman of The Board  
 Texaco Incorporated



R		
O	Rockefeller Foundation	Fairchild Industries
T		
H	Owens-Corning Fiberglas	Blount, Inc.
S		
C	National City Bank (Cleveland)	William Wrigley Jr. Co
H		
I	Sun Life Assurance Co.	National Blvd. Bank of Chicago
L		
D	General Reinsurance	Lykes Youngstown Corporation
	General Electric (NBC)	Inmount Corporation

\*\* Source: Federal Reserve Directors: A Study of Corporate and Banking Influence. Staff Report, Committee on Banking, Currency and Housing, House of Representatives, 94th Congress, 2nd Session, August 1976.

[END]

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Back to BBS Files Menu...

**First Financial Audits of IRS and Customs**  
**Revealed Serious Problems**

- A. We wanted you to have a clean copy of this document as it can be used as an exhibit in your favor. Just white out the page numbers of the “VIP Dispatch” and not the ones on the document itself.
  
- B. This is a revealing document that needs to be read several times so it sinks in as to what the GAO is actually saying.

GAO

Testimony

Before the Committee on Governmental Affairs  
United States Senate

For Release on Delivery  
Expected at  
9:30 a.m.  
Wednesday,  
August 4, 1993

FINANCIAL  
MANAGEMENT

First Financial Audits of IRS  
and Customs Revealed Serious  
Problems

Statement of Charles A. Bowsler  
Comptroller General of the United States



Mr. Chairman and Members of the Committee:

We are pleased to be here today to discuss the results of our recently completed financial statement audits at the Internal Revenue Service (IRS) and the Customs Service and the need to accelerate governmentwide financial management reform through the full and effective implementation of the Chief Financial Officers (CFO) Act of 1990.

Our financial audits at IRS and Customs show that serious financial management problems exist at the Department of the Treasury. The results of these audits and our work at the Department of Defense, on which I testified before you on July 1, 1993,<sup>1</sup> demonstrate the necessity of preparing and auditing annual financial statements.

The CFO Act's pilot program of agency-level audited financial statements has proven that this process pinpoints problems and provides the road map needed to establish financial accountability and control. The audits are demonstrating that there are specific flaws in budget execution needing correction, that particular steps should be taken to improve the efficiency and effectiveness of government, and that better accountability measures will protect against unnecessary losses. It is my hope that the requirement for audited financial statements will be expanded to all major agencies and departments and implementation of the CFO Act will be strengthened. We also believe that the time has come to arrange for audited governmentwide financial reports that will tell the American public where its government stands financially.

Through the CFO Act's pilot financial statement audits, IRS and Customs management have begun the process of improving their financial reporting and the quality of the underlying financial and program performance data. Also, they have gained a greater insight into the areas needing improvement and are now better able to focus on solutions to fundamental problems for which a number of corrective actions are already underway. Further, the Congress has a better idea of how these organizations are actually functioning. Among the results of these financial audits are the following.

- The Congress now has reliable estimates of IRS' receivables and the related collectible amount, which are tens of billions of dollars less than what had been reported by the agency in the past. Also, management efforts of the IRS to address the collection function can now be better focused.
- Revenue information at IRS and Customs, covering over 99 percent of the government's total revenues, has undergone an audit for

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<sup>1</sup>Financial Management: DOD Has Not Responded Effectively to Serious, Long-standing Problems (GAO/T-AIMD-93-1).

the first time, highlighting for management's attention a wide range of problems with the quality of the information and with fundamental internal controls over billions of dollars. For instance, IRS will need to overcome a problem whereby its systems cannot provide details as to amounts of specific excise taxes collected. As a result, general tax revenues inappropriately subsidized excise tax trust funds, perhaps by billions of dollars. This condition has important management implications and may have some effect on excise tax policy.

- IRS is presently focusing on fixes to problems involving unauthorized access to taxpayer information and serious weaknesses regarding the use of its appropriated operating funds that have led to (1) unreconciled differences between its records and Treasury's cash records, (2) unresolved discrepancies and transactions in suspense accounts, and (3) duplicate and other inappropriate payments to contractors.
- At Customs we noted many opportunities for seized drugs, weapons, and currency to be stolen or misappropriated without detection. The audit has provided additional impetus to address serious control weaknesses evident throughout the seized property process, from the time property is seized until disposed of, that could result in financial loss to the government or danger to the general public.
- Information has been provided to Customs management and the Congress about the great reliance Customs places on importers and brokers to voluntarily assess and honestly report the amount of duties, taxes, and fees owed on imported merchandise. Customs and the Congress can now better address the potential for additional revenue through an increase in the level of inspection and monitoring.

Other civilian agencies, including those participating in the CFO Act's pilot program, likewise have received important benefits from the audited financial statement process. For the Committee's benefit, I have attached to my testimony a summary of the results of financial statement audits of (1) the student loan program at the Department of Education and (2) the Social Security Administration (SSA). (See attachment I.) Some examples follow:

- Insights into the costs and operating problems of Education's guaranteed student loan program were disclosed by our recently completed financial audit and are being considered in pending legislation. The Department's use of overly optimistic projections of loan defaults has contributed to a nearly \$3 billion shortfall in Education's budgetary estimates of program costs for fiscal years 1992 and 1993. There is now additional emphasis to address misplaced incentives and conflicts of interest that are built into the present student loan program.

- Six years ago, SSA, much like IRS and Customs this year, began the challenge of preparing financial statements that could withstand audit scrutiny. Through a sustained effort, this year the audited financial statements were available in February 1993--in time to be useful for appropriation hearings and budget deliberations--and included extensive performance information tied to many of SSA's strategic goals and objectives.

In my July 1 testimony, I spoke to you about the need for leadership at the Secretary of Defense level to address long-standing financial management weaknesses. The problems we identified at IRS and Customs, coupled with our findings at Defense, demonstrate not only the need for agency leadership but also for strong leadership at the Presidential, Office of Management and Budget (OMB), and Treasury levels. Governmentwide implementation of the CFO Act must be greatly accelerated and made a top priority of the administration. While important progress has been made in the 2-1/2 years since the passage of the act to set a foundation for change and to better identify problems, a greater sense of urgency is needed to solve a range of problems that pervade government.

Decisive action is needed now to reform federal financial management by

- selecting an OMB Controller with proper credentials as a financial management leader and a team of highly qualified agency CFOs who can work together to solve difficult common problems;
- drastically overhauling existing processes, controls, and systems and, in the interim while new systems are being developed, increasing discipline over basic accounting functions such as transaction processing and reconciliations;
- attracting and retaining qualified financial management personnel;
- expeditiously developing generally accepted accounting, financial reporting, cost, and systems standards to guide the agencies' improvement efforts; and
- fostering a strong program of financial statement preparation and auditing.

Our financial audits at IRS and Customs represent the first such audits of these organizations, requiring a major effort by these agencies. Before discussing our specific audit findings, I would like to recognize both agencies for their cooperation and strong efforts to implement the CFO Act. In contrast to the concerns I raised to the Committee on July 1 regarding the Department of Defense's response to its serious financial management weaknesses,



both IRS and Customs management have been very responsive to our audit findings and have made progress toward developing reliable information and establishing financial control.

Nevertheless, we were unable to express an opinion on the reliability of IRS' and Customs' fiscal year 1992 financial statements because critical supporting information for billions of dollars was either not available or was unreliable. Preparation of financial statements presented a substantial challenge to IRS and Customs. This undertaking was made especially difficult because their existing systems were not designed to provide meaningful and reliable financial information needed to effectively manage and report on their operations. Compounding this problem, internal controls were not designed and implemented to effectively safeguard assets, provide a reasonable basis for determining material compliance with certain laws and regulations, and assure that there were no material misstatements in the financial statements.

IRS and Customs have begun the process of rebuilding their financial management processes and systems. Continued strong implementation of the CFO Act by these agencies can result in a tremendous payoff through an improved ability to safeguard assets, manage operations, and collect revenues. But the job will not be easy. Using audited financial statements as an important foundation to improve financial management, IRS and Customs will have to overcome the broad range of very serious problems that our financial audits have identified. This will require sustained, high priority management attention and congressional support.

I will now highlight the results of our IRS and Customs audits.

SERIOUS WEAKNESSES EXIST IN IRS' FINANCIAL MANAGEMENT OPERATIONS AND CONTROLS, AND MANAGEMENT IS ACTING TO ADDRESS THESE PROBLEMS

First, I would like to discuss some of the more severe problems we identified in our audit of IRS' financial statements.<sup>2</sup>

IRS Significantly Overstated Its Accounts Receivable

After performing a detailed analysis of IRS' receivables as of June 30, 1991, we estimated that only \$65 billion of about \$105 billion in gross reported receivables that we reviewed were valid and that only \$19 billion of the valid receivables were collectible. At the time, IRS had reported that \$66 billion of the \$105 billion was collectible.

Historically, IRS reports have significantly overstated its receivables primarily because IRS included duplicate and

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<sup>2</sup>Financial Audit: Examination of IRS' Fiscal Year 1992 Financial Statements (GAO/AIMD-93-2, June 30, 1993).

insufficiently supported assessments that it had recorded as part of efforts to identify and collect taxes due. While IRS may have a need to maintain such records for enforcement purposes, these and many erroneous assessments were not valid receivables for financial reporting purposes and should not have been included in the reported balances. In addition, IRS' estimates of the collectibility of its receivables have been unreliable because, in addition to including invalid receivables, IRS relied solely on collection experience and did not group assessments according to their collection risk or consider the taxpayer's current ability to pay. This unreliable information on IRS' accounts receivable has affected decisions about the (1) impact of increased collections on the deficit, (2) evaluation of enforcement and collection performance, (3) determination of staffing levels, and (4) allocation of resources.

Based upon the methods that we recommended in our May 1993 report,<sup>3</sup> IRS developed and reported an estimate of \$22 billion for collectible receivables as of September 30, 1992. Ultimately, though, systems must be developed to keep an accurate running record of IRS' receivables.

#### Important Revenue Information Is Unavailable or Unreliable

We were able to determine that IRS' total reported revenues of about \$1.1 trillion were actually collected and deposited into Treasury accounts.<sup>4</sup> Although we were able to audit total revenue collections, we were not able to audit the components of revenue because IRS' systems could not provide the detailed transactions supporting the revenue balance, which is a serious limitation. IRS' systems also did not maintain and, thus, could not report the amounts of specific excise and social security taxes collected.

As a result, IRS could not provide Treasury the information needed to distribute excise taxes among the general revenue fund and the various excise tax trust funds based on collections, as required by law. Instead, IRS reported to Treasury the amounts of excise taxes assessed, and Treasury distributed revenue based on these amounts. Since total assessments exceed total collections, this practice, in effect, results in subsidies to the excise tax trust funds from general tax revenues. Over the past several years, such subsidies may have totaled several billion dollars. Also, the reported

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<sup>3</sup>Financial Audit: IRS Significantly Overstated Its Accounts Receivable Balance (GAO/AFMD-93-42, May 6, 1993).

<sup>4</sup>Our financial audit for fiscal year 1992 was not designed to address IRS' information on (1) the impact of tax policies on revenue, often referred to as "tax expenditures," and the process used by IRS to determine this information or (2) potential tax revenues, often referred to as the "tax gap."

information gives the impression to decisionmakers that the excise taxes are generating more revenue than they actually do.

Similarly, IRS cannot determine the general revenue fund's subsidy to the social security trust fund. This subsidy occurs because, amounts distributed, which are by law to be based on wages earned, generally exceed social security taxes collected. However, IRS cannot precisely determine the subsidy amount because it does not account for the specific amounts of social security taxes collected. As a result, IRS cannot provide information on the subsidy to congressional committees and others who may be interested in monitoring the financial condition of the social security program.<sup>5</sup>

We identified additional fundamental deficiencies in IRS' analysis and summarization of its revenue-related records and in controls over the reliability of this information. Some examples follow.

- IRS' reports did not include transactions that were in process at the end of reporting periods because IRS did not analyze such transactions to determine which needed to be reported. As of September 30, 1992, in-process transactions, which could have affected IRS' reported accounts receivable, refunds payable, and other noncash accounts, exceeded \$150 billion.
- IRS' current paper-based Federal Tax Deposit System for collecting payment data from businesses allowed numerous errors, primarily because the payment data and the related tax data were collected separately. Resolving such errors was both time-consuming and costly to IRS and taxpayers.<sup>6</sup>

To address problems in revenue accounting, IRS is expanding the role of the CFO and is either studying, planning, or implementing various improvements to its systems and processes. Many of these improvement efforts, however, have not yet been defined or are not expected to be complete until well past the year 2000 because they are part of IRS' long-term Tax Systems Modernization effort.

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<sup>5</sup>In our report entitled Social Security: Reconciliation Improved SSA Earnings Records, But Efforts Were Incomplete (GAO/HRD-92-81, September 1, 1992), we suggested that the Congress consider amending the Social Security Act to require that revenues credited to the social security trust funds be based on social security taxes collected.

<sup>6</sup>Federal Tax Deposit System: IRS Can Improve the Federal Tax Deposit System (GAO/AFMD-93-40, April 28, 1993).

## Unreliable Records for Automated Data Processing Property

Inventory records for IRS' automated data processing (ADP) property were unreliable for managing and reporting on computer hardware and software. IRS had not instituted basic procedures to ensure that this information was current and accurate. Specifically, IRS (1) had not developed procedures to record acquisitions and disposals accurately and promptly, (2) did not effectively perform physical inventories, and (3) did not properly value computer resources. For example, a video display terminal costing \$752 was valued in the ADP inventory records at \$5.6 million, and telecommunications and electronic filing equipment, which IRS valued at a total of \$84.2 million, was omitted altogether.

As a result of unreliable and incomplete records, IRS did not readily have the information it needed to (1) make computer support staffing decisions, (2) support development of budget requests, procurement decisions, and performance measurement information related to the use of computer assets, or (3) effectively manage maintenance contracts. For example, we found that IRS paid \$36,000 for a maintenance contract for a minicomputer that had not been used for 3 years, because maintenance contract officers could not readily determine what equipment was still in use. Further, IRS did not maintain records of the costs of in-house software development which, when combined with ADP inventory information, would provide more complete accountability for ADP costs and assist in planning decisions.

For the last 3 fiscal years, IRS had budgeted acquisitions of property and equipment totaling \$453 million. Planned future expenditures for ADP assets, approaching \$9 billion under IRS' Tax Systems Modernization effort, increase the importance of accurate ADP asset records to IRS.

## Inadequate Controls Over Computerized Taxpayer Data

Though heavily dependent on automated systems to process and safeguard taxpayer data, IRS did not adequately control access authority given to computer support personnel or adequately monitor employee access to this information. Further, controls did not provide reasonable assurance that only approved versions of computer programs were implemented.

Such weaknesses increase the risk of unintentional errors and fraud and may compromise the confidentiality of taxpayer information. For example, IRS' internal reviews found that some employees had used their access to monitor their own fraudulent returns, to issue fraudulent refunds, and to inappropriately browse taxpayer accounts. IRS is in the process of implementing new systems to monitor employee activities relating to computerized taxpayer information.

## Inadequate Management of Operating Funds

For years, IRS' systems used to process and account for spending of operating funds could not provide accurate and timely information needed to manage these funds. We were unable to audit approximately \$4.3 billion, or 64 percent, of the reported spending of \$6.7 billion from IRS' operating appropriations because IRS could not reconcile the total of detailed spending information in its outdated systems with summary amounts reported in such systems. The remaining \$2.4 billion of reported spending in fiscal year 1992, which we audited, was processed by a new system installed in fiscal year 1992 in IRS' National Office and one region. This new system was implemented throughout IRS on October 1, 1992.

For the spending we were able to audit, IRS' systems and controls did not provide (1) a reasonable basis for determining compliance with laws governing the use of budget authority and (2) reasonable assurance that its disbursements were appropriate.

We found, for instance, that IRS had several billion dollars in unresolved cumulative gross differences between its records and Treasury's cash records at the end of the fiscal year. Also, as of September 30, 1992, IRS had not resolved \$53 million in unmatched expenditures which were in a suspense account. To clear the account, IRS arbitrarily charged the \$53 million to three of its appropriations (each appropriation was allocated one-third of the amount), causing IRS' reports to show that it had exceeded the budget authority for one of its appropriations. However, to eliminate the appearance that it exceeded such authority for this appropriation, IRS recorded an unsupported receivable from another appropriation.

Further, some disbursements were inappropriately processed because supporting documents were not adequately reviewed, related processing guidance was insufficient, and procurement and payment systems were not designed to automatically exchange information. In a random sample of 280 payments, for example, we found (1) 32 duplicate and overpayments totaling \$0.5 million, 4 of which were part of our sample and 28 that were discovered in related documentation and (2) 112 payments totaling \$17.2 million, for which complete supporting documentation could not be provided. As a result of these problems, IRS made improper payments, and reports used by its managers, Treasury, OMB, and the Congress to manage and oversee IRS' operations were unreliable.

IRS expects that its new system will provide up-to-date information that would enable it to better monitor available appropriations and determine whether funds are available before they are obligated--two problems identified during our financial audit. But even if the new system is successful, additional changes are needed to solve a number of the weaknesses we identified which were not intended to be addressed by the new system.

## IRS' FMFIA Reporting

IRS did not disclose the overall severity of its internal control and accounting system weaknesses in its fiscal year 1992 report to Treasury under the Federal Managers' Financial Integrity Act (FMFIA) of 1982. Without adequate disclosure, the Congress and other users of the FMFIA report will not be aware of the extent of IRS' weaknesses and the efforts needed to correct them. We identified material weaknesses that IRS either did not include or, in our view, did not adequately disclose. For example, the serious problems we noted in the revenue area were largely undisclosed as were the problems in the management of operating funds.

In addition, some previously identified material weaknesses that were reported as corrected still exist because IRS did not address the fundamental causes of those weaknesses or ensure that corrective actions were effective. IRS' FMFIA process for identifying, disclosing, and correcting material weaknesses must be improved if IRS is to produce reliable information that top management can use to control costs and improve operations.

## Actions by IRS to Improve Financial Management

Prior to fiscal year 1989, IRS had put neither substantial effort nor resources into rectifying the poor state of its financial management operations and no one at IRS was responsible for ensuring the integrity and efficiency of financial management and accounting systems agencywide. Responding to a recommendation in our 1988 report<sup>7</sup> on our general management review of IRS, which was a joint effort with the agency, and the mandate of the CFO Act, IRS established financial leadership through the appointment of a CFO and an Assistant Commissioner (Finance)/Controller. These individuals and the support of IRS' top management have been key to the progress to date.

Among the actions IRS has taken are to (1) significantly increase its CFO staff, (2) implement agencywide, in fiscal year 1993, a new integrated accounting and budget system, and (3) begin development of a cost management system to enable better performance measurement and reporting on operating performance. Also, IRS is studying, planning, or implementing various additional improvements to its systems and processes.

IRS will continue to face major challenges in developing meaningful and reliable financial management information and in providing effective internal control as envisioned by the CFO Act. It will take a significant and sustained commitment by IRS management,

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<sup>7</sup>Managing IRS: Actions Needed to Assure Quality Service in the Future (GAO/GGD-89-1, October 14, 1988).

particularly by the CFO and CFO staff, to successfully implement the improvement initiatives now under way.

We believe IRS is making progress because it has had a sustained commitment to improving the management of its operations. The past several IRS Commissioners adopted a consistent management improvement agenda that we helped IRS initially frame as part of our 1988 general management review. Management's response to the findings of the general management review, similar to IRS' work to address the findings of our financial audit, has been most encouraging and signifies an organization willing to recognize its problems and attempt to do something about them. My hope is that we will see this type of management involvement and commitment across government. In my view, only in this way will agencies achieve the level of improvement that is needed to successfully implement the CFO Act and to improve overall management of agency programs and operations.

SERIOUS WEAKNESSES EXIST IN CUSTOMS' FINANCIAL MANAGEMENT OPERATIONS AND CONTROLS, AND MANAGEMENT IS ACTING TO ADDRESS THESE PROBLEMS

I will now discuss some of the more serious problems we identified through our financial audit of the Customs Service.<sup>8</sup>

Weak Accountability for Seized Property and Special Operations Documents

Customs reported \$542 million in seizures during fiscal year 1992 and an ending balance of \$489 million in seized property in its financial statements. The policies and procedures the agency established to control seized property, though, were not consistently and effectively implemented. We identified weaknesses in internal controls throughout Customs' seizure process, from the time property was seized to the time of its disposal. Seized property was vulnerable to theft or loss, which could result in financial loss to the government or danger to the public.

The following are examples of control breakdowns.

- The transfer of seized property from seizing officers to seizure custodians for safeguarding was often delayed. Over 50 percent of the 118 items we tested were not transferred within Customs' prescribed 2-day maximum--the average was 35 days. In one instance, about one-half pound of heroin was held by a seizing officer from August 11, 1992, the date of the seizure, until March 16, 1993, when we visited the Customs' district involved. No one could explain the reason for the delay.

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<sup>8</sup>Financial Audit: Examination of Customs' Fiscal Year 1992 Financial Statements (GAO/AIMD-93-3, June 30, 1993).

- Seized drugs were not properly weighed and tested, creating an environment where drugs could be stolen without detection. For instance, although Customs had established procedures to weigh drug seizures, we found a case where a shortage of 1,850 pounds of seized marijuana could not be accounted for. Customs was unable to explain the discrepancy other than to state that the initial weight assigned to the marijuana was probably an estimate and that the seizure had not been weighed as required at the time of receipt.
- Storage facilities were not properly protected. At 14 of the 20 Customs' seized property storage facilities we visited, we observed that unaccompanied seizure custodians had access to vaults. None of the 20 Customs districts we visited had security cameras in their vaults, and 2 sites containing large bulk quantities of drugs had open physical access in full public view.

Further, Customs did not adequately control millions of dollars in funds advanced to its agents for special operations, such as undercover work and payments to informants, or the sensitive documents related to these advances. For advances, Customs' accounting records had to be adjusted from \$37 million to \$19 million to show the correct balance at year-end. More serious though, sensitive documents supporting special operations transactions were not adequately safeguarded. At Customs' National Finance Center, sensitive documents were routinely stored in an open filing cabinet in an unlocked room or were left unattended on a desk. Failure to adequately protect these documents could threaten the safety of informants and Customs' agents, compromise important relationships with informants, and undermine Customs' credibility.

#### Inadequate Accounting for and Controlling of Accounts Receivable

The \$828 million Customs reported as accounts receivable as of September 30, 1992, was inaccurate and incomplete. Customs' internal controls over accounts receivable were so poor that we could not gain assurance that all valid receivables were included in its reported amounts. Further, Customs' reported amount did not include certain valid receivables, included some receivables at a net amount instead of gross, and included some receivables which could not be supported. For example, the reported accounts receivable included only \$26 million for fines and penalties cases. In a relatively small sample, we found fines and penalties cases with an assessed value of \$78.7 million which should have been included but were not.

Also, Customs had not developed a reliable methodology for estimating the amount of its receivables that is likely to be collected. Customs' methodology was flawed because it considered primarily historical collection experience but did not consider the



debtor's current ability to pay. Our review of \$403 million of valid receivables as of June 30, 1992, showed that Customs' estimate of the uncollectible amount of these accounts receivable was understated by about \$41 million.

In addition, efforts to collect delinquent debt were hampered by missing documents. In our sample of 966 cases, Customs could not locate 144 key documents, involving 127 cases, needed to support its claims against the importer or surety. In addition, Customs did not effectively monitor bond coverage which gave rise to delinquent and, in some cases, uncollectible accounts receivable. In one instance, a petroleum importer, with 15 outstanding bills totaling about \$3.1 million, had a continuous surety bond of only \$400,000. Customs pursued collection from the surety and collected the bond amount. However, the remaining \$2.7 million was not covered by the bond and is most likely uncollectible as the importer is more than 4 years delinquent in paying this debt.

Finally, large differences existed between the amounts of fines and penalties assessed, mitigated, and collected. Overall, Customs collected pennies on a dollar of assessed fines and penalties. Violators, who are aware of these differences and Customs' practice of mitigating most assessments, may routinely petition for mitigation, requiring Customs to devote large amounts of resources to the mitigation process. While Customs does not routinely report data that correlate individual assessments to collections, we found that only a small fraction is being collected. As a measure of the potential difference, during the past 2 fiscal years, Customs assessed fines and penalties totaling approximately \$7.9 billion and collected only about \$87 million for various fines and penalties cases, including cases opened in earlier years.

According to Customs' officials, such differences result primarily from (1) the statutory requirements that Customs assess fines and penalties in large amounts and (2) Customs' practice of mitigating most accounts to nominal amounts. We found that some assessments are mitigated because Customs did not have sufficient documentation at the time of assessment and later mitigated the assessment to reflect documentation provided by the importer. For example, Customs assessed a penalty amount of about \$4.4 million to an importer for allegedly fraudulently undervaluing merchandise being imported. The importer filed a petition with Customs and provided additional information, and the penalty was reduced to \$150,000.

#### Weaknesses Over Import and Drawback Verification Create Opportunities for Lost Revenue and Fraud

Customs relies to a great extent on importers and brokers to voluntarily report and assess the amount of duties, taxes, and fees owed on imported merchandise. We found no significant internal controls to ensure that merchandise entering the United States was identified and the proper duty assessed. Based on certain audit

tests, we were able to conclude that Customs' reported revenues of \$20.2 billion for fiscal year 1992 approximate revenues collected from importers who voluntarily reported and paid amounts owed. However, because of the potential for goods to enter and not be identified, we cannot give any assurance that the \$20.2 billion represents all revenues which Customs should have collected for fiscal year 1992. Customs recognizes this problem and has established a project to improve importer compliance and target inspections for trade enforcement purposes. It will, though, take a significant effort to adequately address the broad scope of problems in this area.

Furthermore, our review of Customs' duty refund (drawback) policies and procedures showed that serious control weaknesses existed throughout the process. Customs makes refunds to claimants for 99 percent of duties paid when the related imported merchandise is subsequently exported or destroyed. Customs reported that it made almost half a billion dollars in drawback payments during fiscal year 1992. However, we found that procedures were inadequate to prevent excessive or duplicate payments or detect fraudulent claims. Specifically, Customs did not (1) adequately assess the validity of a drawback claim and track the amount of drawback paid against an import entry, (2) establish sufficient review procedures to ensure that a claim was accurate, (3) ensure that required bonds were adequate, and (4) ensure that only authorized claimants received accelerated<sup>9</sup> drawback payments.

In the absence of appropriate controls, Customs' extensive reliance on voluntary compliance of the trade community to accurately report duties owed and drawbacks claimed creates an environment where the federal government could lose substantial amounts of revenue.

#### Customs Lacked Adequate Accountability for Property

Customs lacked adequate accountability for property which it valued at \$710 million at September 30, 1992. About 85 percent of this amount consisted of equipment such as aircraft, vehicles, and vessels. For years, Customs was unable to reconcile its accounting records with the related detailed subsidiary property records. In fiscal year 1992, Customs made a substantive effort to reconcile these records, which resulted in net adjustments that totaled \$115 million. Some of these adjustments, though, were not supported by identifiable transactions and were made to force these records to agree. Customs did not know whether the adjustments

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<sup>9</sup>Accelerated drawback payments were made to authorized claimants prior to Customs reviewing and verifying the validity and accuracy of the claim. Nonaccelerated claims are paid after Customs reviews them. Therefore, accelerated payments represent a greater risk than nonaccelerated payments.

represented property that was simply incorrectly accounted for or, was lost, misappropriated, or stolen.

Also, Customs' fiscal year 1992 physical inventory of equipment was ineffective. We found, for example, \$6.2 million of computer equipment on hand which was not included in the property records. Further, Customs was unable to support the values assigned to over 50 percent of the 650 property items we sampled and tested. The value assigned to many items appeared to be estimates. In the cases where Customs was able to provide documentation, 12 percent of the property items were improperly valued, resulting in an estimated net understatement of at least \$4.7 million.

#### Customs' FMFIA Reporting

Similar to IRS, Customs did not report the overall severity of its internal control and accounting system weaknesses in its fiscal year 1992 FMFIA report. Its report did not include or did not adequately disclose the seriousness of the problems identified in our audit. Customs' FMFIA process for identifying, disclosing, and correcting material weaknesses must be improved if the agency is to produce reliable information that top management can use to control costs and improve operations.

#### Actions by Customs to Improve Financial Management

Customs has made strides in addressing long-standing financial management problems. For years, until the passage of the CFO Act, Customs, like IRS, lacked financial management leadership with sufficient expertise, responsibility, and authority to ensure that its financial systems, processes, and internal controls fully supported its financial information needs. Over the last 2 years, through the strong support of the Commissioner and Customs' top management, the agency has put in place a CFO structure and given the CFO the authority and responsibility necessary to begin to correct many of the problems identified in our audit. During 1992, for instance, the agency installed a new core general ledger system which became effective October 1, 1992.

Customs is either studying, planning, or implementing various improvements to its systems and processes. It is in the process of redesigning its Automated Commercial System, which was developed to automate information on Customs' program operations and is used to account for revenue collected, and it has begun development of a new cost accounting system. Customs has also begun to modify its methodology for estimating the collectibility of its accounts receivable and has made positive strides towards addressing its debt collection problems. Further, Customs has taken steps to resolve long-standing problems in its property records and is planning additional efforts.

The success of Customs' ongoing ADP modernization efforts and planned procedural improvements will be critical to improving its financial management systems and internal control structure. Many of these efforts, though, are not expected to be complete for several more years. As a result, it will take a significant and sustained commitment by Customs' management, particularly by the CFO and the CFO staff, to build on efforts now under way to develop new systems and put proper controls in place.

REACHING FOR FINANCIAL MANAGEMENT REFORM: SUCCESSFUL IMPLEMENTATION OF THE CFO ACT MUST BE A HIGH PRIORITY

This leads me to the broader issue of ensuring successful governmentwide implementation of the CFO Act. As discussed in our December 1992 transition series report on Financial Management Issues (GAO/OCG-93-4TR), widespread financial management weaknesses are crippling the ability of our leaders to effectively run the federal government. Reducing the federal deficit requires monumentally difficult decisions. If our government is to make these decisions in an informed manner, it must have better financial information. Also, our citizens should be provided meaningful information that allows them to judge the performance of their government and controls that help guarantee fundamental accountability. Because credible financial data are not available today, public confidence in the federal government as a financial steward has been severely undermined.

There is no magical formula to solve the federal government's financial management problems. The issues are very complex, deeply rooted, and involve the largest entities in the world, which have no counterparts in the private sector--the federal government is clearly different. Nevertheless, successful financial management reform can and must be achieved.

The CFO Act, enacted under the leadership of this Committee and the House Committee on Government Operations, provided the needed foundation. This landmark legislation is the most comprehensive financial management reform package in 40 years--but it must be fully and effectively implemented. The CFO Act is now 2-1/2 years old. Many important initiatives are under way and planned, and I am most pleased that the basic concepts are taking root. But a much greater sense of urgency is essential to successfully implement needed reforms and to ensure that the huge potential savings to the taxpayer from the resulting improvements in the efficiency and effectiveness of government are realized as promptly as possible. I would now like to highlight these critical actions.

Ensuring Sustained High-Level Priority Attention to Resolve Problems

Only through consistent and continuous attention from the highest levels of government and the Congress, including agency CFOs with

requisite skills and experience and the needed powers and authority to get the job done, will we see the results that are possible. Without decisive action by the new administration and strong oversight and support by the Congress, efforts to reform financial management will falter. There must be a sense of urgency. Changing a government culture that has not always seen financial management as important is difficult, especially if there is not a continuity of effort or if this change is not perceived as important.

Essential to success will be the President making financial management reform a high priority in the administration, and I am hopeful this will emerge as one of the top action items of the National Performance Review. The President must hold agency heads accountable for successfully implementing the CFO Act. There has to be an increased emphasis on professional management. In my view, the success of financial management reform is critical to any effort to reinvent government.

Agencies must give high-level attention to financial management improvements. For example, the recent announcement by the Department of Defense that it had established a senior management steering committee, chaired by the Deputy Secretary, to bring together financial, program, and information management, was encouraging. Agency leadership has to provide an appropriate framework for integrating accounting, program, and budget systems and data in order to develop more useful and relevant information for decision-making and to break down traditional barriers between program and financial management. Further, the central financial management agencies--OMB, Treasury, and GAO--must expedite sorely needed accounting, financial reporting, cost, and systems standards.

The CFO Act established a Controller in OMB to provide overall leadership and CFOs to direct and control financial management activities in major departments and agencies. A highly qualified Controller is needed to steer this effort, with the authority to lead the CFOs in the major departments and agencies and the resources to do the job. The administration must also appoint agency CFOs who are highly qualified financial management professionals, with the right mix of properly defined duties and full authority for traditional financial management functions, including budgeting. At most agencies, the CFO has not yet been appointed.

#### Expanding Audited Financial Statements to the Entire Federal Government

As I have stated on many occasions, I am firmly convinced of the value of audited financial statements. As I discussed earlier, the results of the pilot financial audits at Defense and the civilian agencies further reinforce this belief.

On June 25, 1993, OMB Bulletin 93-18 extended the pilot program for audited financial statements at 10 agencies for 3 years and established March 1 as the new due date for the issuance of all audited financial statements. In issuing this new bulletin, the Director of OMB stated:

"The preparation and audit of financial statements has provided significant financial and related information, identified and stimulated correction of deficiencies in the agencies' financial systems, and improved understanding of the agencies' financial condition and results. Accordingly, it is beneficial to continue and expand the audited financial reporting process."

I fully support the OMB Director's extension of the pilots and establishment of a March 1 reporting date to tie in with the budget cycle. OMB's continuing strong support of audited financial statements and the leadership of its Office of Federal Financial Management have been very important to the success of this program.

To further build on this success, it is now time to expand the requirements for agency level audited financial statements beyond the 10 pilots to cover all the agencies identified in the CFO Act. This could be phased in over the next 3 years and would ultimately enable preparation of financial statements for the government as a whole, which GAO would audit. For the first time, the American public would be given an accountability report from its government.

We believe it would be best for this requirement to be anchored in legislation. The legislative mandate in the CFO Act for audited financial statements has been a catalyst for the important results we have seen to date in moving agencies to a higher level of financial accountability. While administrative requirements to prepare financial reports date back to the 1950s, the legal force of the CFO Act, together with the interest and involvement of this Committee and the House Committee on Government Operations, is what finally moved this effort ahead.

Also, the preparation of audited financial statements, including required performance information on the results of operations, would support the implementation of the Government Performance and Results Act of 1993. In my view, implementation of this important new legislation can be greatly aided with good cost and operating performance information that audited financial statements under the CFO Act are intended to provide.

#### Making Wise Investments in Systems and Personnel to Rebuild Financial Management Infrastructures

Today, it is well acknowledged that current financial systems across government are in extremely poor condition, despite spending billions of dollars over the years on improvement efforts. IRS and

Customs, for example, struggled in preparing reliable financial statements primarily because of severely weak systems. This has to be overcome through wise investments in modern systems that enable streamlined operations and have a dollar pay-off in terms of better information and better efficiency. While investment in new systems is essential, billions of dollars are already being spent on systems every year--the money just has to be better invested in carefully developed systems that will meet government information needs.

The CFO Act calls for integrated systems, meaning financial and operating systems that are interconnected to support both agency business plans and management information needs. There must be increased emphasis on using information resource management to facilitate agency reengineering projects. Reform cannot be viewed merely as further automating existing processes. Rather, those processes must be simplified, redirected, and reengineered.

An equally important step is breaking down traditional barriers between program and financial management so that financial management supports programs, missions, and business lines. For example, the serious problems IRS faced in accounting for its receivables stemmed in large part from a system that was designed to capture information for enforcement and collection activities and was not properly tied to financial reporting. Further, efficiencies could be gained through more standard systems and more "cross servicing" in which one agency provides accounting services (such as payroll and disbursing) to another agency. The development and use of governmentwide systems development standards to better guide system design and implementation efforts would be a vital component in such efforts.

The federal government must address immediately the serious problem of attracting and retaining well-qualified financial management personnel. Agencies reported a significant need to upgrade their financial management staff capabilities. In our financial audits, we have found that bad systems are made even worse because people do not properly process transactions. We have identified tens of billions of dollars of accounting errors that could have been avoided if there had been more discipline in following existing policies and procedures. Financial managers must upgrade their training efforts to increase professional skills.

Implementation of new systems that eliminate the duplicative and manual processes that agency systems require today should enable agencies to decrease the size of their financial management staffs. But, they may need more skilled professionals such as financial analysts and cost and systems accountants. Further, to ensure a cadre of professional financial managers for a government that is the largest financial entity in the world, we support mandatory continuing professional education for all financial managers similar to the requirement now in place for auditors.

## Fostering Reforms Through Strong Congressional Oversight and Support

I have spoken many times about the importance I place on annual congressional oversight hearings of agency management. Managers must be held accountable for results. The annual agency CFO report, which includes the audited financial statements, together with the reporting required under FMFIA, can provide a baseline for such hearings.

In the case of FMFIA, these reports have to be meaningful and must be used or else they will not be taken seriously. As I testified on July 1, we had major problems with the Department of Defense's most recent FMFIA report, and earlier I cited the problems we identified with IRS' and Customs' FMFIA reporting. Greater accountability can be established through reporting that combines the agency CFO and FMFIA reports and focuses on outcomes and results which are scrutinized by annual congressional oversight hearings.

Finally, in difficult budget times, and where the pay-off may not be immediate, funding for financial management improvements will need to be viewed as investments. For the CFO Act to succeed, the Congress will have to provide the necessary funding support through investments in modern systems, personnel staffing and development, and expanded financial reporting and auditing.

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In closing, I want to emphasize that the CFO Act has had an important impact in changing perceptions about the need for good financial management, and agencies have made improvements and are working in response to the act to significantly strengthen their financial processes and systems. But it will take a great deal of commitment and hard work to achieve the full potential and objectives of the act and turn around long-standing neglect of financial management. Our financial audits at IRS and Customs, for example, have identified major problems that will need management's continuing top-level attention and their support of the CFO. Top management's recognition that they have serious problems and efforts to establish a viable CFO structure in their agencies are an important beginning to a difficult challenge.

Shifting now to a governmentwide perspective, an intensified sense of urgency will be needed. We are at a critical juncture in implementation of the CFO Act. Financial management reform must be a high priority of the President and the Congress. Changing a government culture that has not always seen financial management as important is difficult, especially if there is not a continuity of effort or if this change is not perceived as critical. We stand ready to work with the Committee in any way we can. Attached to my statement is a summary of the needed actions which were included in



our Financial Management Issues transition series report. (See attachment II.) I view implementation of the CFO Act as essential to establishing accountability in the federal government, which has been one of my fundamental goals as Comptroller General.

Mr. Chairman, this concludes my statement. I will be glad to answer any questions that you or the other Members of the Committee may have at this time.

FINANCIAL AUDITS AT OTHER CIVILIAN AGENCIES DEMONSTRATE  
THE BENEFITS OF PREPARING AGENCY FINANCIAL STATEMENTS

In addition to IRS and Customs, other civilian agencies, including those participating in the CFO Act pilots, have realized important results from audited financial statements. The following highlights two examples: (1) the Department of Education, where GAO has just issued its audit report on the student loan program and (2) the Social Security Administration (SSA), which has issued audited financial statements since 1988.

Education's Student Loan Program Has Serious Financial Management Problems

With a reported \$63 billion in outstanding loan guarantees at September 30, 1992, the Department of Education's Federal Family Education Loan Program (FFELP), referred to as the guaranteed student loan program, is the largest postsecondary education loan program of the federal government. Due to a history of program mismanagement and the significant increase in loan defaults since the program's inception--gross loan defaults were about \$3 billion in fiscal year 1992--the FFELP has been on our list of high-risk programs since we began this designation in 1990. We have been especially concerned with the program's structural flaws and the lack of adequate incentives that some participants have to prevent defaults and to operate more efficiently.

Education has put forth a substantial effort in implementing the CFO Act and in preparing the first comprehensive financial statement for the FFELP. As with IRS and Customs, this effort was hampered because Education's systems were not designed to provide the financial management information needed to effectively manage and report on the FFELP's operations.

Education fully cooperated with us and began significant efforts towards developing such information. However, because critical supporting information for almost \$14 billion of recorded liabilities for loan guarantees and related accounts was unreliable, we were unable to express an opinion on the reliability of the FFELP's fiscal year 1992 financial statements taken as a whole.<sup>10</sup> Compounding this problem, internal controls were not designed and implemented to effectively safeguard assets and assure

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<sup>10</sup>Financial Audit: Federal Family Education Loan Program's Financial Statements for Fiscal Year 1992 (GAO/AIMD-93-4, June 30, 1993).

that there were no material misstatements in the financial statements. For example,

- Education is not able to ensure that billions of dollars in program payments to lenders and guaranty agencies are accurate;
- FFELP participants, including banks and other financial middlemen, operate under misplaced incentives and conflicts of interest that result in waste and abuse;
- optimistic projections of loan defaults have contributed to a nearly \$3 billion shortfall in Education's budgetary estimates of program costs in fiscal years 1992 and 1993; and
- Education did not have adequate financial reporting processes and procedures.

Under the leadership of the CFO's office, Education has made progress in addressing some of these long-standing deficiencies. Efforts include intensifying its reviews of lenders and guaranty agencies and developing and reconciling subsidiary ledgers for the FFELP which, if successful, will increase program accountability. A strong CFO and a continuing firm commitment from top management is necessary if Education is to sustain this progress.

#### The Social Security Administration Has Made Improvements in Financial Management and Reporting

SSA has issued audited financial statements for the past 6 years. Over this period, SSA has improved the usefulness, timeliness, and accuracy of its financial management information. We believe that the progress to date at SSA is a result of the strong leadership and commitment from the SSA CFO.

For the past 3 years, SSA's financial statements have included performance information which shows actual performance for the last 4 years for many of the key goals and objectives outlined in the Social Security Strategic Plan. The Strategic Plan identifies SSA's strategic priorities and service delivery goals and objectives for the year 2005, including the consequences of not achieving these objectives. The performance section of the financial statements thus can serve as a "report card" on how SSA is progressing towards its strategic goals and objectives.

Another factor that has increased the usefulness of SSA's fiscal year 1992 statements is that SSA issued them in February 1993, in time for use in congressional appropriation hearings. The timely

release of these financial statements serves as a model for other large agencies.

Except for unresolved differences in wage certification and the accuracy of SSA's accounts receivable (benefit overpayments), the Department of Health and Human Services' Inspector General (IG) reported that the 1992 SSA financial statements were fairly stated. During fiscal year 1992, SSA made improvements that allowed the IG to remove prior years' opinion qualification on property management.

Although wage certification, accounts receivable, and other issues remain unresolved, significant progress has been made in SSA's financial management and reporting. We believe that through continued strong leadership from the CFO, SSA can effectively address these concerns in the future.

TAKING FURTHER ACTIONS TO EFFECTIVELY  
IMPLEMENT THE CFO ACT

The framework of the CFO Act offers great hope for achieving better government management. But while important progress has been made, the government is a long way from achieving the act's objectives. A sense of urgency is needed to solve the problems.

The following actions, which are discussed in GAO's transition series report on Financial Management Issues (GAO/OCG-93-4TR), are essential to successfully implementing needed reforms.

The President should

- make financial management reform a high priority in the administration;
- hold agency heads accountable for successfully implementing the CFO Act and for attaining good financial management, effective internal controls, and sound financial reporting that ties together financial and program information;
- sustain a high level of financial management leadership in OMB and provide adequate resources to the Office of Federal Financial Management; and
- appoint to agencies' CFO positions only highly qualified individuals who (1) have extensive practical experience and demonstrated ability in financial management, as mandated by the CFO Act, and (2) meet the qualification requirements established by OMB.

The Director of the Office of Management and Budget should

- closely monitor agencies' adherence to existing accounting policies and procedures in order to improve data accuracy and promptly take necessary remedial action when agencies are not doing the job;
- expand OMB's ability to oversee and, where needed, direct agencies' actions to correct long-standing internal control weaknesses and high-risk problems, especially in cases in which results have not been forthcoming;
- foster a strong program of financial statement auditing by supporting (1) needed funding for the Inspectors General and (2) audit requirements that meet the broad objectives of the CFO Act;

- promote and closely oversee agencies' efforts to build first-class financial management infrastructures--both personnel and systems;
- provide an appropriate framework for integrating accounting, program, and budget systems and data to (1) develop more useful and relevant information for decision-making and oversight and (2) break down traditional barriers between program and financial management;
- continue to work with GAO and the Department of the Treasury to develop accounting standards and concepts to meet the unique needs of the federal government;
- expand financial reporting to encompass the full range of accountability, which includes operating results, program performance measurement, and cost information; and
- establish minimum levels of continuing professional education requirements for financial management personnel and work with the CFO Council to develop and expand training programs.

The Congress should

- amend the CFO Act to require audited financial statements on an annual basis for all major agencies and for the government overall;
- focus closely on CFO appointments to ensure the qualifications of these individuals;
- conduct annual oversight hearings using the CFOs' annual reports and audited financial statements; and
- provide necessary funding support for financial reform efforts through investments in modern systems, personnel development, expanded financial reporting and auditing, and a strengthened Office of Federal Financial Management.

## *The Coming of the New Deal*

- A. If you can find a copy of this book by Mr. Schlesinger we recommend you buy it so you can read it for yourself. It covers a time period when much of what we are going through today was passed into law.
- B. If you go to page 301 of this section at the arrow you will find the name Paul A. Raushenbush who was chief Justice Brandeis son-in-law.
- C. Page 302 last paragraph we find who was actually behind the Social Insurance Scheme.
- D. You can read this entire section for yourself.
- E. Page 314 you will find the name Author Altmeyer, who was the first head of Social Security Administration.

THE AGE OF ROOSEVELT

The Coming *of*  
the New Deal

ARTHUR M. SCHLESINGER, JR.



HOUGHTON MIFFLIN COMPANY BOSTON

*The Riverside Press Cambridge*

1959



## 18. The Birth of Social Security

AT BEST, WORK relief was an emergency effort, designed only for those who could not find employment. It had little to offer to men and women who still had jobs but worried nonetheless about their homes, their futures, and their old age. It could be only a part of the New Deal's total attack on economic and social insecurity.

During the Hundred Days, Roosevelt had taken one notable step to assure a larger measure of general security. Few things were more demoralizing to the middle class in 1933 than the threatened loss of homes through mortgage foreclosure. In 1932, over 250,000 families lost their homes; in early 1933, foreclosures were taking place at a rate of more than a thousand a day. The mounting foreclosure rate weakened the position of savings banks and insurance companies. By mid-1933, homeowners were finding it increasingly difficult to negotiate new mortgages or even to renew old ones. The real estate market and the construction industry alike seemed to be headed toward collapse.

Hoover's Federal Home Loan Bank Act of 1932, designed to encourage banks to make loans to mortgagors, had little effect. In April 1933, Roosevelt consequently asked Congress for new legislation to protect small homeowners from foreclosure. The proposed legislation, modeled on the farm mortgage bill, called for government refinancing of mortgages for distressed small owners who had lost their homes as far back as 1930 or could not obtain present financing through normal channels. The Home Owners' Loan Corporation, which went into action in the summer of 1933, bought mortgages from holders who could carry them no longer,

financed the immediate payments for taxes and repairs, and rewrote the mortgages to provide for easy repayment over a long term and at relatively low interest rates. The ceiling for an HOLC loan was \$14,000.

According to careful estimates, the owners of about one-fifth of the nation's non-farm dwellings sought HOLC loans. Of these requests, more than a half were granted. In the end, one out of every five mortgaged urban homes in the country was an HOLC beneficiary; HOLC actually held about one-sixth the total urban home mortgage debt. Its lending operations involved HOLC in difficult problems of appraisal, loan criteria, loan servicing, and even, in time, foreclosures of its own. After an uncertain start, John H. Fahey, a newspaper publisher, took over the direction of HOLC; and it began to discharge its complex responsibilities with efficiency and economy.

In a short time, HOLC averted the threatened collapse of the real estate market and enabled financial institutions to begin to return to the mortgage-lending business. Its example simplified and liberalized methods of real estate financing everywhere in the nation. Most important of all, by enabling thousands of Americans to save their homes, it strengthened their stake both in the existing order and in the New Deal. Probably no single measure consolidated so much middle-class support for the administration.<sup>1</sup>

## II

HOLC, by restoring the morale of a vital section of the middle class, contributed to the attack on insecurity. Still, this represented only a marginal gain. The fight for a general security program had to be conducted on a broader front. And in this fight the central figure was the Secretary of Labor, Frances Perkins.

Miss Perkins was fifty years old when she came to Washington in 1933. She was born in Boston, reared in Worcester, and educated at Mount Holyoke. A lively young lady with opinions of her own, she found herself bored after college by the staid society of Worcester and abandoned it for the slums of Chicago. Here she lived with Jane Addams at Hull-House and was initiated into the inner circle of the powerful social work apparatus; then transferred

to Philadelphia, where she studied economics with Simon Patten ("one of the greatest men America has ever produced"); then, in 1910, became executive secretary of the Consumers' League in New York and active in its lobbying activities in Albany.

Two people beside Patten particularly influenced her. One was Florence Kelley, the Joan of Arc of the Consumers' League; the other was Big Tim Sullivan of Tammany. From the one, she caught a crusading passion; from the other, she learned that even professional politicians had hearts and could be enlisted in good causes. Operating in the area where social work and politics intersected, a friend not only of the "dedicated old maids" but of the Bob Wagners and Al Smiths, she became an enormously effective woman in New York in the next two decades — director of investigations of the State Factory Commission, chairman of the State Industrial Board, Franklin D. Roosevelt's Industrial Commissioner.

Brisk and articulate, with vivid dark eyes, a broad forehead and a pointed chin, usually wearing a felt tricorne hat, she remained a Brahmin reformer, proud of her New England background (phrases like "New England common sense" and "Yankee thrift" studded her conversation) and intent on beating sense into the heads of those foolish people who resisted progress. She had pungency of character, a dry wit, an inner gaiety, an instinct for practicality, a profound vein of religious feeling, and a compulsion to instruct — the last of which sometimes led her to lecture her colleagues in her patrician Boston accent at what they considered wearying and sometimes intolerable length. In 1913, she married Paul C. Wilson, a New York statistician who was then secretary to John Purroy Mitchel, the reform candidate for Mayor. She had one daughter; but she fiercely guarded her privacy and fought off press intrusions. "We New Englanders like to keep ourselves to ourselves."

### III

Frances Perkins had a keen sense of responsibility about being the first woman member of the cabinet. She had been incongruously given that most masculine of departments, the Department of Labor, redolent of big men with cigars in their mouths and feet on

the desk; but she took over with her usual quick competence. The Department seemed to her to have gone to pieces: the offices were dirty, files and papers were missing, there was no program of work, there was an internal spy system, and everyone tried to get into her good graces by telling tales about the others. When the retiring Secretary, William Nuckles Doak, introduced her to the bureau chiefs, seven of them, as she told the story later, said, "I am in charge of immigration"; and the one who didn't say it bore the title of Commissioner of Immigration. On her first day, she sent for a dustcloth and personally cleaned her desk and chair, removing all traces of her dubious predecessor. When Emil Ludwig visited the new Department of Labor some years later, he said he could tell instantly from the wooden wainscoting and green leather furniture that it was managed by a woman.

When subordinates asked her how she should be addressed, she replied, "Call me Madam Secretary." The press inquired how she felt as a woman in the cabinet. "I feel odd. That's a New England word, like Calvin Coolidge's 'choose.' Mr. Coolidge would have known what I mean by 'odd.'" Someone persisted: Was being a woman a handicap? "Only in climbing trees," she crisply replied. In cabinet, she won the respect of her colleagues, impressing conservatives like Hugh Johnson and Jesse Jones ("I liked her very much") rather more than she did liberals like Ickes and Morgenthau, who thought she was too officious and talked too much. From the beginning, she was treated as an equal. Once Secretary of the Navy Swanson wondered whether he should tell a story because there was a lady present. "Go on, Claude," said Roosevelt, "she's dying to hear it."

Before accepting appointment, she laid before Roosevelt an extensive agenda, including unemployment and old-age insurance, minimum wages and maximum hours; and he told her to go ahead. For Miss Perkins, this opportunity was the culmination of a lifetime's hope and labor. Her background as a social worker inclined her, on the whole, to be more interested in doing things for labor than enabling labor to do things for itself; and her emphasis as Secretary was rather on the improvement of standards of work and welfare than on the development of labor self-organization. But this was in part a result too of the long indifference of the labor

movement to improving its position through legislative action. The middle class had always had to fight labor's legislative battles for it. In any case, for Madam Secretary the overriding objective, once emergency problems of hunger and want had been met, was to construct a permanent system of personal security through social insurance.<sup>2</sup>

## IV

"We advocate," the Democratic platform of 1932 had remarked, "unemployment and old-age insurance under State laws." This declaration, with all its limitations, recognized the rising interest in both forms of public insurance — an interest visible for more than a generation in Europe and detectable for at least a decade in America. It recognized probably too the rising influence of Franklin Roosevelt, the single national political leader to identify himself with the social insurance cause.

Of these two forms of social insurance, unemployment compensation, though it had a shorter history in the United States, had become in 1933 the more urgent issue. From the onset of the depression it had been earnestly discussed among economists and social workers and within the American Association for Labor Legislation. The discussion largely turned on the merits of the only existing unemployment compensation plan in the United States — the one adopted by Wisconsin in 1932 under the prodding of Governor Philip F. La Follette. This scheme, originally worked out by Professor John R. Commons in 1921 and revised a decade later by Harold R. Groves and Paul A. Raushenbush, required each corporation to build up its own unemployment reserves in order to take care of its own employees. Involved in this was the notion of "experience rating" or "merit rating," under which the size of the employer's contribution was determined by his own success in maintaining employment; thus companies with the most unemployment had to pay the highest rates. This combination of employer-financed company reserve funds with experience rating, it was argued in Wisconsin, was the pattern most likely to encourage business to do its best to stabilize employment.

Its adherents billed the Wisconsin plan as the "American plan"

and took great care to distinguish it from the British system of compulsory unemployment insurance. But there was also sentiment in America for a scheme based more directly on the insurance principle. In 1932 the Ohio Commission on Unemployment Insurance came up with a proposal which differed from the Wisconsin plan in two important particulars. Instead of a system of separate reserves held by individual concerns, the Ohio plan proposed that contributions be pooled in a single fund; and it called for contributions from both employers and workers instead of from employers alone. The Ohio plan differed from the British plan, however, in not envisaging government contributions.

Some American experts felt that even the Ohio plan was inadequate. Of these the most influential was Abraham Epstein, who was executive secretary of the American Association for Old Age Security, and a fluent and powerful writer in the social security field. Epstein not only favored pooled funds as against individual employer accounts but also could see no escape from government participation on the British model. In this, he was joined by other experts, notably Professor Paul Douglas of the University of Chicago. For Epstein and Douglas, the Wisconsin plan was particularly defective in its assumption that an individual firm could sufficiently control economic conditions as to deserve reward or punishment for its employment record; it seemed evident by 1933 that mass unemployment was the result of conditions beyond the control of a single firm or a single industry.

Yet the Wisconsin plan, despite its critics, enjoyed the advantage of being in operation. Moreover, it had devoted and eloquent apostles, especially Paul A. Raushenbush and his wife Elizabeth, the daughter of Mr. Justice Brandeis. In the fall of 1933 the Raushenbushes met in Washington (the meeting was in the Brandeis apartment; the Justice was absent) with a group of liberal businessmen, like Henry Dennison and Edward A. Filene, and young New Dealers, among them Charles E. Wyzanski, Jr., and Thomas H. Eliot of the Labor Department, and Thomas G. Corcoran. The Raushenbush mission was to persuade the administration to induce other states to adopt unemployment compensation acts along the line of the Wisconsin law. To achieve this, Raushenbush submitted an ingenious plan invented by Brandeis — a payroll tax on employers with the

provision that in states where unemployment compensation laws had been passed employers' contributions for that purpose could be deducted from the federal tax. Under this approach, states could have unemployment insurance systems without new costs to handicap employers in interstate competition. The proposal set certain minimum standards but in the main left ample room for local experimentation in the Brandeis tradition. Frances Perkins showed a lively interest in the idea; and Eliot and Raushenbush soon drew up a bill which Senator Wagner and Representative David J. Lewis of Maryland introduced into Congress, in February 1934.<sup>3</sup>

## v

In the meantime, corresponding progress was being made toward provision for the aged. Here there was a longer tradition of national concern. The Progressive platform of 1912 had called for old-age pensions, and in the years following a number of states investigated the possibility of pension laws. In the twenties, eight states passed optional laws, and with the depression there was a great swing to mandatory legislation. In 1933 alone, ten states passed mandatory acts. Yet in all these laws payments were based on need; coverage varied tremendously; and nearly half the states had no laws at all. To Epstein and his Association for Old Age Security, as well as to many others, there seemed a pressing need for federal action.

Epstein's proposal was that the government offer states grants-in-aid equal to a third of the sum spent for pensions. Senator Clarence C. Dill of Washington and Representative William P. Connery, Jr., of Massachusetts introduced a bill to this effect in 1932; and by 1934 the House had passed the bill and the Senate Pensions Committee had given it a favorable report.

By the spring of 1934, then, both the Wagner-Lewis and the Dill-Connery bills had developed momentum. It was clear that if the administration did not take action soon its hand would be forced. Roosevelt, indeed, had endorsed the Wagner-Lewis bill in March. But, though committed to the principle of both bills, he was not yet convinced on details; and he was strongly pressed, especially by Tugwell, who disliked the Wagner-Lewis approach, to allow time for further study. Moreover, the President was beginning to believe that

the social security program should be striven for not piecemeal but as a single package. In this way, he evidently believed, the program would have its maximum political effect — enough both to overcome the opposition of the right to the whole idea of social insurance and to drown out the growing clamor on the left for larger benefits than the country presumably could bear.

On June 8, 1934, therefore, he sent a message to Congress, vigorously reaffirming his faith in social insurance (“among our objectives I place the security of the men, women and children of the Nation first”) but suggesting that legislation be deferred until the next winter. At the same time, he laid down what he regarded as the principles of a sound program: it should be a state-federal program, actuarially sound, and financed by contribution rather than by an increase in general taxation. Three weeks later he appointed a cabinet Committee on Economic Security, with Frances Perkins as chairman, charged with formulating a program to be submitted to the President before December.<sup>4</sup>

## VI

From Frances Perkins’s point of view, the Committee’s job was to consider the whole field of economic security. Unemployment compensation might be the most important issue; but the Committee, in addition, had to review problems of old-age assistance and insurance; health insurance; workmen’s compensation; and specialized types of public assistance for certain groups now on relief rolls, especially the aged, the blind, and dependent children. “As I see it,” she observed in 1934, “we shall have to establish in this country substantially all of the social-insurance measures which the western European countries have set up in the last generation.” (But, she warned, social insurance by itself could not “promise anything like complete economic security. More important than all social-insurance devices together is employment.”)

Though the Committee accepted the full mandate, it devoted more time to the problems of unemployment compensation than to anything else. The executive director of the Committee’s staff was Professor Edwin E. Witte of the University of Wisconsin, and the chairman of the Technical Board on Economic Security was Arthur



J. Altmeyer of Wisconsin. Both Witte and Altmeyer had been involved in the Wisconsin plan and had therefore a natural inclination toward its basic principles. This, of course, corresponded with Roosevelt's belief in state experimentation in this field. In a meeting late in August with Miss Perkins, Witte, and Altmeyer, the President made clear his preference for state administration of unemployment insurance.

On the other hand, many experts — and at the start a majority of both the Technical Board and the staff — favored a national system. Under such a system, the federal government would impose the tax, set up the administering agency, and distribute the benefits. A national system, its advocates contended, alone would insure uniformity of standards throughout the country with regard both to contributions and to benefits; it would meet the needs of a national economy, where workers, for example, often tended to move from state to state; and it would mean more efficient and economical administration than a miscellany of state systems. But the Wisconsin group was deeply opposed to the national system. Their essential argument against it was the Brandeis argument — the importance of encouraging local experimentation, especially when so many basic questions remained to be worked out. Experts, as Frances Perkins pointed out, were divided among themselves over such questions as pooling versus separate accounts and whether or not there should be employee contributions. “This bill,” she said, “allows these different problems to be solved by the different States according to their own particular genius and to be administered locally by those States in the best interests of all of the people.”

There were two variations of the state approach. One — the so-called “subsidy” plan — would have the government impose the tax and then provide subsidies equal to a stated percentage of the tax to states whose unemployment compensation laws met specified federal standards. The other employed the tax-offset method used in the original Wagner-Lewis bill, under which the states would collect their unemployment compensation funds directly. Of the two, therefore, the subsidy plan lent itself to the establishment of a greater degree of national control. The Wisconsin group consequently favored the Wagner-Lewis approach in the belief that this would best protect their own experiment. And they were able by invoking

the constitutional issue to rally to their side some who, on the merits, might have favored the national or subsidy plan. For, if the Supreme Court struck down the national plan, there would be nothing left, and, if it struck down the subsidy plan, state laws would remain, but these laws, lacking means of raising revenue, would be inoperative; whereas if it struck down the federal features of the Wagner-Lewis plan, operating state laws would survive.

The argument swayed back and forth through the summer and fall. An Advisory Council on Economic Security, headed by Dr. Frank Graham of North Carolina, voted 9 to 7 for the subsidy plan, though several members of this majority really favored a thoroughgoing national plan. The Technical Board, under the Wisconsin influence, came out for the Wagner-Lewis plan. A National Conference on Economic Security, convened in Washington in November 1934, contained much nationalist sentiment, though the President, when he addressed it, advocated a state system. Observers noted that the Committee staff seemed to be steering clear of unemployment insurance experts, like Epstein, Paul Douglas, I. M. Rubinow, and Eveline M. Burns, known for their advocacy of the national system.

Within the Committee itself, Wallace, spurred on by Tugwell, kept up the fight for a national approach. Still, the preference of the President for a state system, the anticipated resistance in Congress to a national approach, the presumed constitutional vulnerability of such an approach — these considerations influenced a group under strong pressure to achieve a unanimous recommendation. On November 9 the Committee decided to abandon thought of an exclusively federal system. Yet this did not settle matters; a few weeks later it about agreed to recommend such a system after all. Finally, in Christmas week, confronting a presidential deadline, it voted un-animously, but, said Miss Perkins, “reluctantly and with mental reservations,” in favor of the Wagner-Lewis approach.<sup>5</sup>

## VII

When the Committee on Economic Security came to the question of the aged, it adopted a national system of contributory old-age and survivors insurance without anxiety or fuss. In so doing, it took a venturesome step which contrasted strikingly with the caution shown

in the case of unemployment compensation — and in spite of the fact that much more thought had been given to a national system for the unemployed than for the aged. One reason why the Committee could be more audacious here was the absence of state old-age insurance projects; there was no Wisconsin plan to create vested intellectual interests. Another was the fierce outside agitation for old-age pensions; though the Committee on Economic Security had started work before Dr. Townsend's plan for \$200 a month for everyone over sixty had developed momentum, yet the mounting Townsendite clamor in late 1934 and early 1935 certainly improved the opportunity for inserting sweeping old-age insurance recommendations in the social security bill. Another — and perhaps decisive — reason was the conviction of the actuaries that old-age insurance on a state basis would be infeasible because of the great mobility of workers in the course of a lifetime.

In addition to the old-age insurance system, the Committee called for a program of assistance to the states for the needy aged. This recommendation was based on the provisions of the Dill-Connery bill of 1934. Parallel recommendations were made for federal aid to the states for the blind and for dependent children: and federal grants were proposed for maternal and child-health aid, and for child-welfare and public-health services. On health insurance, the Committee made no recommendations for immediate legislation. For a moment in 1934 there had been a flurry of optimism on this point: Harry Hopkins had declared himself convinced that "with one bold stroke we could carry the American people with us, not only for unemployment insurance but for sickness and health insurance." But the usual pressure from the American Medical Association succeeded in killing staff proposals in the medical field.<sup>6</sup>

#### VIII

There remained the problem of coordinating the long-term proposals with the emergency relief program. When it became apparent that unemployment compensation would be on a state basis, Hopkins and Tugwell lost interest in it and argued instead that the main emphasis should be on the provision of jobs through public works. Thus in the fall and winter of 1934, while Frances Perkins's Committee was work-

ing out the social security program, Hopkins and Ickes were developing their plans for work relief. For a time both Miss Perkins and Hopkins seemed to feel that these proposals were in competition; but Roosevelt saw them as complementary. If the federal government was to get out of the business of relief, then the works program would take care of the employables after their unemployment compensation had run out, while the social security program would help take care of the unemployables.

On January 15, 1935, the Committee on Economic Security transmitted its reports to the President. Roosevelt already had his own views on social security. "There is no reason why everybody in the United States should not be covered," he once said to Miss Perkins. "I see no reason why every child, from the day he is born, shouldn't be a member of the social security system. . . . I don't see why not," he continued as Miss Perkins, appalled by the administrative problems of universal coverage, shook her head. "I don't see why not. Cradle to the grave — from the cradle to the grave they ought to be in a social insurance system."

He had in addition specific views about the character of a social insurance program. Thus he believed that public insurance should be built upon the same principles as private insurance. "If I have anything to say about it," he once remarked, "it will always be contributed, and I prefer it to be contributed, both on the part of the employer and the employee, on a sound actuarial basis. It means no money out of the Treasury." This meant a self-supporting system, financed by contributions and special taxes rather than out of the general tax revenue. Frances Perkins, arguing against employee contributions, pointed out that the employer shifted the payroll tax to the consumer in any case, so that employees were already paying their share; Tugwell, arguing against the payroll tax, pointed out that this amounted to a form of sales tax and meant that the system would be financed by those who could least afford it; but none of this argument availed. "I guess you're right on the economics," Roosevelt explained to another complainant some years later, "but those taxes were never a problem of economics. They are politics all the way through. We put those payroll contributions there so as to give the contributors a legal, moral, and political right to collect their pensions and their unemployment benefits. With those taxes in

there, no damn politician can ever scrap my social security program.”<sup>7</sup>

## IX

On January 17, 1935, Roosevelt sent a message to Congress requesting social security legislation. On the same day Wagner introduced the draft bill in the Senate and Lewis, jointly with Congressman Robert L. Doughton of North Carolina, introduced it in the House. A few days later hearings began in both Senate and House. Early in February, the administration made an important change of front when Secretary Morgenthau, testifying before the House Ways and Means Committee, advocated a new financing plan for the old-age insurance system.

The Committee on Economic Security, confronting the problem of the aged, proposed a compulsory system of contributory payments by which workers could build up gradually their rights to annuities in their old age. This left the problem of persons on the verge of retirement who had had no past opportunity to contribute to their own old-age pensions. The best way in which these aging workers could be taken care of, the Committee concluded, was through the federal government's paying a share of the cost. By 1980, according to its estimate, the government would have to contribute to the old-age system around \$1.4 billion a year. The Committee conceded that the creation of this commitment would impose a burden on future generations. But the alternative would be to increase reserves at a far higher rate and thus impose a double burden on the present generation, which would have to contribute not only to its own annuities but to the unearned annuities of people middle-aged or over. “The plan we advocate,” said the Committee, “amounts to having each generation pay for the support of the people then living who are old.”

Morgenthau had accepted the Committee plan and signed the report. Yet as he meditated the financing scheme, he began to feel a certain immorality, as he told the Ways and Means Committee, in the notion of “borrowing from the future to pay the costs.” Roosevelt shared Morgenthau's disapproval. “It is almost dishonest,” he told Frances Perkins, “to build up an accumulated deficit for the

Congress of the United States to meet in 1980. We can't do that. We can't sell the United States short in 1980 any more than in 1935."

The Treasury alternative was to raise the rates of contribution and thereby build a much larger reserve fund, so that future needs could be met from the fund rather than by levies on current general revenue. This fund, Morgenthau suggested, could be applied to the reduction of the national debt. Roosevelt even supposed that it might eventually serve as the sole customer for federal bonds, thus freeing the government from reliance on private bankers. Under the original plan, the maximum size of the reserve fund would have been less than \$12 billion; under the Treasury plan, it would amount to \$50 billion by 1980. The Treasury plan had obvious disadvantages. It shifted the burden of providing for currently aging workers from the population as a whole to the younger wage-earners. "Our programs," said Abraham Epstein, "actually relieve the wealthy from their traditional obligation under the ancient poor laws." Moreover, the creation of so large a fund involved economic risks. As Alvin Hansen on the Technical Board and Marion Folsom of the Eastman Kodak Company on the Advisory Council pointed out, it would divert a large amount of money from consumer purchasing power; "that is bound," Folsom said, "to have a depressing effect on general conditions." And the problem of finding ways to invest \$50 billion seemed packed with difficulties.

The self-sustaining theory of social insurance meant in effect that the poor had to pay most of the cost of keeping the poor. Yet, whether because of this or in spite of this, the House Committee quickly adopted the reserve system; probably the idea that private insurance should serve as the model was too compelling. Moreover, there was the political advantage which so impressed Roosevelt. Under the original plan, the old-age insurance system would be at the mercy of each succeeding Congress; while, with a vast reserve fund built up out of contributions, the people were in a sense creating a clear and present equity in their own retirement benefits. The existence of the reserve thus undoubtedly strengthened the system politically. Yet the impact of the reserve on the business cycle — the withdrawal of large sums of money from the spending stream and the reliance on regressive taxation — doubtless added deflationary tendencies which later in the decade weakened the whole nation

economically. In time, it appeared that the administration and the Congress had made the wrong decision in 1935.<sup>8</sup>

## X

While the friends of social security were arguing out the details of the program, other Americans were regarding the whole idea with consternation, if not with horror. Organized business had long warned against such pernicious notions. "Unemployment insurance cannot be placed on a sound financial basis," said the National Industrial Conference Board; it will facilitate "ultimate socialistic control of life and industry," said the National Association of Manufacturers. "Industry," observed Alfred Sloan of General Motors, "has every reason to be alarmed at the social, economic and financial implications. . . . The dangers are manifest." It will undermine our national life "by destroying initiative, discouraging thrift, and stifling individual responsibility" (James L. Donnelly of the Illinois Manufacturers' Association); it begins a pattern which "sooner or later will bring about the inevitable abandonment of private capitalism" (Charles Denby, Jr., of the American Bar Association); "the downfall of Rome started with corn laws, and legislation of that type" (George P. Chandler of the Ohio Chamber of Commerce). With unemployment insurance no one would work; with old-age and survivors insurance no one would save; the result would be moral decay, financial bankruptcy and the collapse of the republic. One after another, business leaders appeared before House and Senate Committees to invest such dismal prophecies with what remained of their authority.

Republicans in the House faithfully reflected the business position. "Never in the history of the world," said Congressman John Taber of New York, "has any measure been brought in here so insidiously designed as to prevent business recovery, to enslave workers, and to prevent any possibility of the employers providing work for the people." "The lash of the dictator will be felt," cried Congressman Daniel Reed. "And twenty-five million free American citizens will for the first time submit themselves to a fingerprint test." Even a respectable Republican like James W. Wadsworth of New York could only see calamity ahead. "This bill opens the door and invites

the entrance into the political field," he darkly exclaimed, "of a power so vast, so powerful as to threaten the integrity of our institutions and to pull the pillars of the temple down upon the heads of our descendants." On a crucial test, all Republicans in the House save one voted to recommit the bill to committee. But, in the end, the opposition collapsed; and, fearing reprisal at the polls, most Republicans, after resisting every step along the way, permitted themselves to be recorded in favor of catastrophe. On April 19, the House passed a somewhat revised bill by a vote of 371 to 33.

In the Senate conservatives continued a desultory resistance. Most of the debate in both Houses was over the old-age rather than the unemployment compensation provisions. Hastings of Delaware, who predicted that the bill might "end the progress of a great country and bring its people to the level of the average European," offered a motion to strike out old-age insurance. Twelve of nineteen Republican senators supported this move. But again, on the final showdown, political prudence triumphed, and the bill passed on June 19, 1935, by a vote of 76 to 6. Difficulties still remained: the Senate had adopted an amendment to exempt employers with industrial pension plans from coverage under the government system. The administration opposed this both as bad in principle and impractical in operation; but argument over this issue delayed Senate-House agreement for seven more weeks until the Senate conferees yielded.

Perhaps out of dissatisfaction with the Labor Department's presentation of the bill, the House, in redrafting, had removed the Social Security Board from the Labor Department and set it up as a separate agency. The Senate restored the Board to Labor; but in conference it was decided to keep it independent. A Huey Long filibuster in August then prevented an appropriation bill for the new Board from coming up for passage. Roosevelt, after clearing with congressional leaders of both parties, decided to give the Social Security Board funds from NRA and WPA appropriations to tide it over till the next session of Congress.

For chairman, Roosevelt selected John Gilbert Winant, a former governor of New Hampshire. Winant, a tall, earnest, inarticulate man, whose high cheekbones, gaunt features, and unruly black hair gave him a Lincolnian appearance, was a Bull Mooser of 1912 who had kept the Progressive faith. As governor, he had fought for



minimum-wage regulation, old-age assistance, and emergency relief; and he had made a strong impression as a member of the Advisory Council of the Committee for Economic Security. Roosevelt, who had known Winant as a fellow governor, liked and trusted him. The other two members of the Board were Arthur Altmeyer and an Arkansas lawyer named Vincent Myles.<sup>9</sup>

## XI

The Social Security Act in its final form was far from a perfect piece of legislation. In important respects it was actually weaker than the Wagner-Lewis bill of the year before. It failed to set up a national system and even failed to provide for effective national standards. It left to the states virtually every important decision and thus committed the nation to a crazy-quilt unemployment compensation system, with widely varying benefits distributed under diverging standards by forty-eight separate state agencies.

This result was not wholly to be ascribed to the Wisconsin philosophy. Congress itself was even more deeply opposed to federal standards. For example, the original bill required states to select administering personnel on a merit basis. Congress rejected this proposal and, in addition, specifically prohibited the Social Security Board from requiring states to establish proper personnel practices in connection with any of the titles of the act. Similarly, under the leadership of Byrd of Virginia, the Senate cut from the bill attempts to set minimum standards in old-age assistance.

And, though the merit-rating idea derived from the Brandeisian desire to intensify individual employer responsibility for the operation of the economy (even if it appeared in some form in each of the three plans considered by the Committee on Economic Security), it was Congress which gave the idea full scope. The Committee, debating whether the states should have a pooled fund or an individual employer accounts system, adopted a compromise suggestion of Altmeyer's that all employers be required to contribute at least 1 per cent on their payrolls to a pooled fund. Had Congress accepted this, it would have greatly limited merit rating, since the average rate of employers' contributions had never been higher than 1.5 per cent. But Congress turned it down. For all its attraction (and

Roosevelt himself, who inserted a sentence into Altmeyer's draft of his social security message strengthening the case for merit rating, was among those attracted), the effect of merit rating was to modify the whole unemployment compensation system, not only reducing rates but promoting the very kind of interstate competition which the federal law was designed to eliminate. As a result of merit rating, states with low standards and low tax rates tended to enjoy a competitive advantage over states with higher standards. Moreover, merit rating increasingly placed the burden of unemployment compensation on the industries least able to bear it; costs which might better have been socially distributed were instead assessed in a way which further weakened the already weak. And merit rating, by leading to the possibility of tax reductions in times of full employment and tax increases in times of unemployment, could aggravate rather than moderate the swings of the business cycle.

It is hard to escape the impression that the Committee on Economic Security, correctly anticipating hostility in Congress and the courts and perhaps unduly influenced by the Wisconsin experience, felt obliged to adopt the least good of the plans of unemployment compensation before it. Indeed, after watching the federal Act in operation, Arthur Altmeyer, himself a veteran of the Wisconsin experiment, came to the conclusion not only that merit rating was a mistake but that the subsidy plan was better than the tax-offset plan and that a straight federal system would be best of all.<sup>10</sup>

## XII

In the next months the Social Security Board swung into action with quiet efficiency. Facing an administrative challenge of staggering complexity, it operated with steady intelligence and competence. No New Deal agency solved such bewildering problems with such self-effacing smoothness. The old-age insurance program went into quick effect; within two years all 48 states passed unemployment compensation laws in response to the federal tax-offset principle; and the programs of categorical assistance gave state governments new resources to deal with their needy citizens. No government bureau ever directly touched the lives of so many millions of Americans — the old, the jobless, the sick, the needy, the blind, the mothers, the

children — with so little confusion or complaint. And the overhead costs for this far-flung and extraordinary operation were considerably less than those of private insurance. For this prodigious achievement, founded on millions of records, clerks, and business machines, major credit went to Altmeyer.

For all the defects of the Act, it still meant a tremendous break with the inhibitions of the past. The federal government was at last charged with the obligation to provide its citizens a measure of protection from the hazards and vicissitudes of life. One hundred and ten years earlier, John Quincy Adams had declared that “the great object of the institution of civil government” was “the progressive improvement of the condition of the governed.” With the Social Security Act, the constitutional dedication of federal power to the general welfare began a new phase of national history.<sup>11</sup>

**Some Historical Documents**  
**concerning Social Security**

- A. Page 106 shows an original Social Security poster inducing people into the system.
- B. Page 107 is a copy of the original application for a member.
- C. Notice how many times the name Altmeyer is listed.
- D. Make sure you read the Letter of May 5, 1937, both pages, especially the last paragraph.

February 25, 1937

Frank V. Benton, Esq.,  
Messrs. Benton & Benton,  
Newport, Kentucky.

Re: Andrews Steel Co., et al. v. Glenn et al.

Dear Sir:

In view of the fact that you are seeking in the above-entitled action an injunction, inter alia, against the collection of taxes imposed by Title VIII of the Social Security Act, I beg leave to submit for the consideration of yourself and your clients a procedure which would probably result in a more expeditious determination of the substantive issues respecting that Title which you are seeking to litigate. Please understand that I am in no sense urging this course upon you, but merely inquiring whether you would feel it to be in the best interests of your clients. The Government is desirous of securing a reasonably prompt determination of the issues, and it may be that your clients take the same view.

It might be possible to secure such a determination by the Supreme Court of the United States within the next few months, if at least one of your clients were to withdraw from the pending injunction suit insofar as it relates to Title VIII of the Social Security Act and were to pay the tax under that Title which is due on March 1. If your client should thereupon file with the Commissioner of Internal Revenue a claim for refund on the ground of alleged invalidity of the tax, and assuming that the claim would be rejected by the Commissioner with reasonable dispatch, you would then be in a position to bring an immediate action for refund in the Court of Claims. The judgment of that Court would be subject to direct review by the Supreme Court of the United States.

I have no information at the present time whether, if this procedure were to be followed, other attorneys would desire to file similar actions in the Court of Claims.

A claim for refund of the excise tax payable under section 804 would, I think, squarely raise the question of the validity of that tax. With respect to the income tax imposed upon employees by section 801, I do not know whether the Government would concede the right of an employer to claim a refund on behalf of its employees.

I should also call to your attention the likelihood that, in the case of the tax under Title IX, the Commissioner would not act upon a claim for refund at least until the extended due date of that tax, April 1.

I should appreciate your advising me at your earliest convenience whether or not you are disposed to follow this procedure.

Very truly yours,

THOMAS H. ELIOT  
General Counsel

ocr

Mr. Frank Bane, Executive Director

April 17, 1937

Louis Resnick, Director  
Informational Service

The United Press ticker reports the following:

\*BOSTON—THE CLERK OF THE FIRST U. S. CIRCUIT COURT OF APPEALS TODAY ASKED HIS STAFF TO SPEED UP ITS WORK SO THAT BEFORE SUNDOWN HE COULD MAIL TO WASHINGTON THE RECORDS WHICH THE SUPREME COURT MUST STUDY BEFORE RULING ON THE VALIDITY OF THE SOCIAL SECURITY ACT.

\*PREPARATION OF THE RECORDS OF THE CASE, USUALLY A TWO-WEEK TASK, WAS BEING REDUCED TO A MATTER OF HOURS AT THE TELEPHONED REQUEST OF THE SOLICITOR-GENERAL AT WASHINGTON.

\*THE EXTRAORDINARY SPEED WAS ESSENTIAL, COURT ATTACHES SAID, IF THE SUPREME COURT WERE TO ACT AT THE CURRENT SESSION.

\*CLERK ARTHUR CHARRON HOPED TO PLACE THE CERTIFIED COPY OF THE RECORD IN THE MAILS SOON AFTER NOON.\*

cc to Mr. Altmeyer ✓  
Mr. Miles  
Mr. Eliot  
Mr. Wagenet  
Mr. Hodges  
Mr. Huse

JB:20:PS

Mr. Frank Bane  
Executive Director

April 16, 1937

Louis Resnick, Director, Informational Service

Ticker Report

The following add to United Press ticker reports concerning the U. S. Circuit Court's decision in Boston, has just come over the wires:

"Both men and women in the excepted classes on reaching the age of 65, are equally entitled to Old Age Benefits as those engaged in other lines of work, since need is not essential to entitle one to benefit."

"In the Title Nine case 'The issue is not what power Congress ought to have to meet conditions as viewed by the Executive and Legislative branches of the Government, but what powers are vested in Congress under the Constitution. The Supreme Court through a long series of opinions has defined those powers and the limitations upon them. If the Constitution as construed through the years, requires amendments to meet new conditions, the way is provided therein.

"While State Courts have in passing on State Unemployment Acts held them to be violative of the constitutional position of their respective States, as the Massachusetts Supreme Court has recently decided, it is significant that it did not sustain the taxation provision of the Massachusetts Unemployment Act as imposing Excise Taxes, but as an exercise of its police powers, and provided that the State law should not be valid in case the Federal Act was held to be beyond the constitutional powers of Congress--indicating, we think, that the State acted under coercion".

- CC: Mr. Aitmeyer ✓
- Mr. Miles
- Mr. Eliot
- Mr. Wagenet
- Mr. Hodges
- Miss Greenblatt
- Mr. Bush

jb

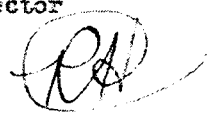
*See Serial 100*



INFORMATIONAL SERVICE  
Frank Kane, Executive Director

April 26, 1937

Robert Muse, Associate Director  
Informational Service



The following appeared on the United Press ticker this afternoon:

"THE SUPREME COURT TODAY AGREED TO PASS ON VALIDITY OF OLD AGE PENSION PROVISIONS OF THE SOCIAL SECURITY ACT UNDER WHICH 26,000,000 WORKERS AND 2,700,000 EMPLOYERS ARE PAYING TAXES

"THE TEST CASE WAS RUSHED TO THE SUPREME COURT WITH RECORD SPEED BY THE GOVERNMENT AFTER A DECLARATION 10 DAYS AGO BY THE U.S. CIRCUIT COURT OF APPEALS AT BOSTON THAT THE OLD AGE PENSIONS PROVISIONS OF THE LAW ARE UNCONSTITUTIONAL."

After receiving this bulletin from the ticker service we communicated with the clerk of the Supreme Court of the United States as to when arguments would be held. He informed us they would begin Monday or Tuesday of next week.

CC Mr. Altmeyer ✓  
Mr. Hodges  
Mr. Eliot  
*Mr. [unclear]*

*J. Service*

01-5

Mr. Bane

March 15, 1937

Louis Resnick ✓

Supreme Court refuses to review Norman case attacking validity of Social Security Act's old-age benefits program.

The United Press ticker said this afternoon:

"The Supreme Court refused to entertain the appeal of Norman C. Norman, one of the Gold Clause Case litigants, seeking to have the New Deal's old age pension law (old-age benefits provisions of the Act) declared unconstitutional.

"Norman brought his suit as a stockholder of Consolidated Edison Company of New York.

"It was filed in the Federal Court for the southern district of New York. He sought an injunction against the Company's officers to restrain them from complying with the old age pension provisions of the social security program.

"In bringing his appeal, Norman sought to carry the case to the high Court without a determination by the Second Circuit Court of Appeals where the suit is now pending.

"A previous attempt by other litigants to do the same thing in a Massachusetts case was rejected several weeks ago.

"Norman, in a brief filed by Emmanuel Redfield, his lawyer, charged that the law invaded the rights of the States and deprived the Edison Company of its property without due process of law.

"The Government, which intervened in the case when heard in the District Court, opposed the application for a review as did the Edison Company."

cc to Mr. Altmeyer ✓  
Mr. Miles  
Mr. Eliot  
Mr. Hodges  
Mr. Bush

*John L. ...*

Mr. Frank Bane,  
Executive Director,

May 5, 1937

Louis Resnick,  
Director, Bureau of Informational Service  
Ticker Report on Supreme Court Precedence

The following is the United Press' ticker report on the arguments supporting the old-age benefits provisions of the Social Security Act before the United States Supreme Court:

Assistant Attorney General Robert H. Jackson today defended the administration's old age pension legislation before the Supreme Court.

Jackson outlined the history of the litigation which is before the Court and which was rushed to the tribunal after the First Circuit Court of Appeals in Boston held the tax imposed under the pension act was unconstitutional.

Jackson described how George P. Davis, stockholder in the Edison Illuminating Co., of Boston, filed suit in Federal District Court in Massachusetts to restrain officers and directors of his company from paying the 1 per cent payroll tax imposed on employers and the 1 per cent tax on the wages of employes.

Jackson said Davis contended that payment of the tax by the company would impair his rights as a stockholder and that the tax was invalid as an invasion of the rights of the States.

The Electric Company, Jackson said, admitted the allegations of fact and the Government thereupon intervened.

The old age pensions case is the last to be argued at the present term of the Court.

Administration attorneys asked the Court to waive jurisdictional questions and rule directly on constitutionality of old age pensions. The request was prompted by two "liberal" members who questioned the authority of the Court to entertain the case.

Both Justices Harlan F. Stone and Benjamin Cardozo, two of the staunchest New Deal defenders on the Court, asked Jackson why the Government had not challenged the right in the lower courts of George P. Davis, a stockholder in the Edison Electric Illuminating Co., to bring suit to restrain the company from paying old age pension taxes. Noting that a taxpayer customarily must first pay the tax and then sue for its recovery, the liberal jurists asked why the Government had not raised that question.

MR 5 INC

Mr. Frank Bane - 5/5/37

"I hope the Court will waive that jurisdictional question," Jackson said.

"It was very important to the Government to have a direct ruling on the tax itself," Jackson said. "From a budgetary standpoint approximately \$253,300,000 will be collected for the fiscal year 1937 and \$621,800,000 in the year 1938.

Jackson said "From the administrative standpoint the decision may involve refunds to 28,500,000 taxpayers.

"We sought to reach a decision in order to avoid confusion and administrative difficulties.

"We hope the Court will not pass the question on procedural grounds."

Jackson asserted that the Federal Government had a right to pay pensions if it wished and that funds needed for these pensions might have been financed by "higher income taxes, as many people believe would be proper, by printing money or by borrowing.

"Congress sought a substantial tax so as to save strain on the budget."

The attorney asserted that the tax involved was the largest the Court has yet passed on.

Jackson criticized the First Circuit Court of Appeals ruling that the right to labor and employ labor was a "natural right" which could not be taxed.

"In these days," the lawyer said, "Employers may, by offering inducements, draw a large part of the population from the farms to the city. They may move them from one place of employment to another. They may redistribute the entire population.

"It is unthinkable that holders of this right should be exempted from taxation. If so there is a metaphysical limitation on the taxing power that has taken 150 years to discover."

pk

cc to Mr. Altmyer ✓

Mr. Miles

Mr. Elliot

Mr. Hedges

Mr. Carson

Mr. Bush

Mr. Bass

# Join the march to OLD AGE SECURITY



*Return*  
YOUR APPLICATION FOR A  
SOCIAL SECURITY  
ACCOUNT NUMBER  
*through the post office*  
**NOT LATER THAN**  
DEC 5 - 1936



**WHO IS ELIGIBLE** — EVERYONE WORKING FOR SALARY OR WAGES WITH ONE YEAR'S EXCEPTIONS, SUCH AS AGRICULTURE, DOMESTIC SERVICE, AND CONSUMER WORK. APPLICATIONS FOR SOCIAL SECURITY ACCOUNTS ARE AVAILABLE THROUGH EMPLOYERS. IF YOU DO NOT GET ONE FROM YOUR EMPLOYER ASK FOR ONE AT THE POST OFFICE.

**HOW TO RETURN APPLICATION:**



- 1. HAND IT BACK TO YOUR EMPLOYER
- 2. HAND IT TO ANY LABOR OFFICIAL
- 3. HAND IT TO YOUR LETTER CARRIER
- 4. DELIVER IT TO YOUR POST OFFICE
- 5. MAIL IT IN A SEALED ENVELOPE
- ADDRESS: POSTMASTER, LICENSE NO. 11700 — NO POSTAGE NEEDED

*Social Security Board*

Form 888-1  
TREASURY DEPARTMENT  
INTERNAL REVENUE SERVICE  
U. S. SOCIAL SECURITY ACT No. \_\_\_\_\_  
EMPLOYER'S APPLICATION FOR IDENTIFICATION NUMBER

1. City ..... County ..... State .....  
2. Business name of establishment .....  
3. Address .....  
4. Approximate number of persons now employed .....  
5. Describe fully the exact nature of your business .....

**VOID**

6. (a) If a manufacturing concern, state principal products .....  
(b) If a nonmanufacturing concern, state principal goods or services sold .....  
7. If this establishment is a branch or a subsidiary company, give name and address of headquarters .....

.....  
(Signed) .....  
Official position .....  
(Detach along this line) ..... 19-5563 5-54

## ***To Owner or His Official Representative at This Establishment***

Read carefully the instructions on pages 1 and 3 before starting to fill out form. If the instructions are not clear, consult your local postmaster.

The information called for on the attached form is required under Treasury regulations for use in establishing basic records under the Social Security Act.

It is to the mutual interest of employers and the Federal Government that this form be promptly completed. Under the Treasury regulations, **COMPLETED FORM MUST BE RETURNED TO YOUR LOCAL POSTMASTER NOT LATER THAN NOVEMBER 21, 1936.** It may be handed to your letter carrier, or it may be delivered to the local post office in person or by messenger, or it may be mailed in a sealed envelope, addressed as follows: Postmaster, Local. In no case is it necessary to prepay postage.

The prompt completion and return of the form is particularly important because it will be used in connection with the work of assigning account numbers to your employees, which will follow shortly.

You will be officially notified, in due course, of the identification number assigned to you.

12-5362

## INFORMATION OF GENERAL INTEREST

The Federal old-age benefits system provides for retirement payments from the Federal Government to qualified persons, beginning at the age of 65. It was established by the Social Security Act and goes into effect on January 1, 1937. Its purpose is to bring to those persons employed in the broad fields of commerce and industry increased assurance of an independent old age. The system is administered by the Social Security Board, Washington, D. C.

Benefits are based on the wage record of the individual and are of three types: (1) Monthly benefits at 65; (2) lump-sum payments, and (3) death benefits.

These benefits are based on total wages for work done in this country after December 31, 1936, and before a worker becomes 65 years of age. This includes every kind of work for an employer, with a few exceptions. Wages of not more than \$3,000 a year to an individual from any one employer will be added together to make up the total wages of that individual. Every time the word "wages" is used below it means wages as explained in this paragraph and not wages generally.

Monthly benefits will range from \$10 to \$85 a month and will begin to be paid on January 1, 1942. To qualify for this type of benefit an individual must be 65 years old, his total wages must be \$2,000 or more, and he must have earned wages for at least 1 day in each of 5 different calendar years.

Lump-sum payments will be made to individuals who reach the age of 65 but do not qualify for monthly benefits. The amount paid them will equal 3½ percent of their total wages.

Death benefits will be paid to the estates of individuals who die before drawing monthly or lump-sum benefits equal to 3½ percent of their total wages.

In order that old-age benefits can be paid by the United States Treasury, it is the responsibility of the Social Security Board to determine the total wages of those individuals who will be entitled to receive benefits. Accordingly the Board must keep an account of the individual's wages. Employers will be informed in due course to the wage reports which will be required for this purpose.



### INSTRUCTIONS FOR FILLING OUT FORM

In answering questions 1 through 6, it is important that the information entered apply to a specific establishment, that is, each place of employment. If handwritten, answers should be printed plainly in ink. Answers should be typewritten, if possible. Do not use pencil.

**ITEM 2. Business name of this establishment.**—Enter name by which this local establishment is known to the public and which is used by the concern in its correspondence and in issuing statements. If this establishment is owned or controlled by another bearing a different name, enter the name actually used by this local establishment.

**ITEM 5. Describe fully the exact nature of business.**—Indicate the primary type of activity, whether manufacturing, wholesale trade, retail trade, personal services, etc. Also, the products manufactured, the merchandise sold, or the services rendered. (Typical examples: Manufacturer—radios; manufacturer—refrigerators; wholesaler—meats; wholesaler—drugs; retailer—gasoline; retailer—men's wear; retailer—grocery store; service—shoe repairing; service—barber shop; mining—coal; professional—lawyer; professional—physician; etc.)

**ITEM 6. (a) If a manufacturing concern, state principal products.**—List in the order of their importance products manufactured.

**(b) If a nonmanufacturing concern, state principal products or services sold.**—List in the order of their importance goods sold or services rendered.

**ITEM 7. If this establishment is a branch or a subsidiary company, give name and address of headquarters.**—Regardless of whether this establishment is a branch plant, office, or store, or whether it is a unit of a chain or other multi-unit organization, the name and address of the headquarters should be indicated.

If space provided for the answers is inadequate, a separate sheet should be attached. The answers appearing on separate sheet should bear the corresponding numbers appearing on the form.

## *Arthur Altmeyer*

- A. First Head of Social Security from 1937-1953.
- B. Altmeyer was a dedicated socialist and played a major role in the transformation of America from a Republic to a Socialist Society by helping to institute the Marxest 10 Planks into the daily lives of Americans.
- C. We put a small sample of one of his books in this section for educational purposes so you may decide if you wish to order it for yourself.
- D. On page 21 of this section, at the arrow, we find the Chief Justice of the United States at the time, or in other words the Chief Marxest of the United States, Louis Brandeis, again inserting his input into this Socialist Scheme.

[Skip to content](#)

## Arthur J. Altmeyer



A young Arthur J. Altmeyer in the years before he joined Social Security. *SSA History Archives.*

Altmeyer's papers and records are in the archives of the [State Historical Society of Wisconsin](#) at Madison, Wisconsin. (Duplicates of many of Altmeyer's most important papers are also available in SSA's History Archives.)

*Arthur Altmeyer was one of the seminal figures of the Social Security program in America. He was part of the President's Committee on Economic Security that drafted the original legislative proposal in 1934. He was a member of the three-person Social Security Board created to run the new program, and he was either Chairman of the Board or Commissioner for Social Security from 1937-1953. Although he believed that public administration was a vitally important activity, he was also one of the principal conceptual and philosophical spokesmen for social insurance in America, and much of the policymaking during Social Security's founding decades was formulated by Altmeyer. Along with a mere handful of others, Arthur J. Altmeyer is responsible for the Social Security program as it exists in America today.*

*This collection of material consists of published articles and interviews and the text of speeches that Mr. Altmeyer delivered primarily during his tenure with the Social Security Administration. Some of the speeches have never been published and some of the articles have been out of print for 50 years.*

*These documents represent 30 years of Arthur Altmeyer's work. They are, in a limited sense, his legacy. But his true legacy lies elsewhere. The institution that is the Social Security Administration, and its proud 62-year history of service to generations of Americans, are Arthur Altmeyer's true legacy, for he, more than any other single person, shaped the institution that has administered Social Security over six decades. The character of SSA, its traditions of service and administration, reflect the values and aspirations that Arthur Altmeyer instilled into it from the earliest days of its existence. Although an important policy theorist--as is reflected in these documents--Altmeyer was first and foremost an administrator. He viewed efficient, fair and honest administration as a high calling. And it was to this calling that he gave the labor of his life. This is his true legacy.*

## I- About Altmeyer

Note: Some of these documents are in Adobe PDF format. To view them you

need the free Adobe Acrobat Reader. The Reader is available from [Adobe's Web site](#).

1. [OASIS magazine interview with Altmeyer -- 1966 \(PDF\)](#)
2. [Review of Altmeyer's memoir by William Mitchell -- 1966 \(PDF\)](#)
3. [Commissioner Ball's Bulletin re: Altmeyer's Death -- 1972](#)
4. [Ball's Eulogy at Altmeyer Memorial Service -- 1972](#)
5. [Congressman Kastenmeier's Remarks on House Floor -- 1972](#)
6. ["Arthur Altmeyer: Mr. Social Security," Remarks by Wilbur Cohen -- 1973](#)
7. [The SSA Headquarters Building is Renamed in Altmeyer's Honor -- 1973](#)
8. [Arthur Altmeyer Oral History Interviews 1965-67](#)
9. [A Brief Biography of Altmeyer -- 1997](#)
10. [Altmeyer Video Clip -- 1936](#)

## II- Altmeyer's Works

### 1930s

1. [Speech-- THE NEW SOCIAL SECURITY ACT -- 9/3/35](#)

One of the earliest official addresses by Altmeyer soon after becoming a member of the Social Security Board.

2. [Press Release -- THE FACTS ABOUT OLD-AGE BENEFITS -- 10/26/36](#)

These remarks by Altmeyer on the eve of the 1936 presidential elections were designed to counter some of the arguments against Social Security being advanced by the Republican presidential candidate, Alf Landon.

3. [Speech -- PROGRESS AND PROSPECTS UNDER THE SOCIAL SECURITY ACT -- 5/25/37](#)

This speech, delivered the day after the Supreme Court decision regarding constitutionality of the Act, not only provides a report of progress in implementing the Act, but also discusses several key issues facing the program. Of particular note is Altmeyer's discussion of the pay-as-you-go financing issue.

4. [Speech -- THE FARM FAMILY AND THE SOCIAL SECURITY ACT -- circa July 1937](#)

In these remarks Altmeyer attempts to assuage the resentments of farmers for not being covered by the new Social Security Act. He argues that they benefit anyway in many indirect ways.

5. [Article -- SOCIAL SECURITY AND THE SOCIAL SERVICES -- March 1938](#)

This essay by Social Security Board Chairman Arthur Altmeyer is an expression of the philosophy of social insurance as conceived by the founders of Social Security.

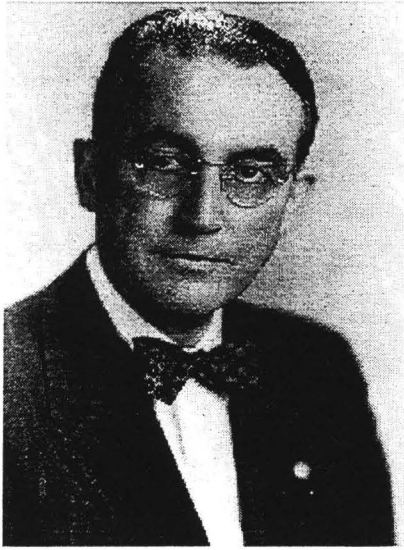
6. [Article -- THREE YEARS' PROGRESS TOWARD SOCIAL SECURITY -- August 1938](#)

This essay is a comprehensive overview of the successes of the Social Security Act in its first three years of operation.

### 1940s

## Arthur J. Altmeyer (1891-1972)

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Commissioner of Social Security:  
July 16, 1946 to April 10, 1953

Arthur Altmeyer was born in De Pere, Wisconsin, attending the University of Wisconsin where he received his bachelor's, master's, doctor of philosophy and honorary doctor of laws degrees. He was a high school teacher and principal before serving as an economist and statistician in Wisconsin. In 1934, he was named Chairman of the Technical Board appointed by President Franklin Roosevelt's Committee on Economic Security, which drafted the original Social Security legislation. Next, he became a

member and then Chairman of the Social Security Board, a position he held until 1946 when he became the Social Security Administration's first Commissioner.

In 1953 Dr. Altmeyer retired from Federal service and returned to Wisconsin to lecture, write, and serve as advisor to various labor groups and pension organizations.

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THE  
FORMATIVE  
YEARS  
OF SOCIAL SECURITY

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Arthur J. Altmeyer

THE UNIVERSITY OF WISCONSIN PRESS  
*Madison, Milwaukee, and London, 1968*

*To my wife*

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# Preface

This discussion of the Social Security Act and its administration will concentrate on the circumstances surrounding the preparation and passage of the Social Security Act in 1934-35 and the circumstances affecting its development throughout the years. No attempt will be made to describe in any comprehensive, schematic manner the provisions of the Social Security Act or its antecedents. Nor will there be an attempt to analyze the long-range economic, social, and political forces at work.

Rather, an effort will be made to shed some light on the considerations and personalities involved in the making of important policy decisions, concerning not only legislation but also administration. With this purpose in mind I shall discuss events of which I had personal knowledge, many of which are not matters of general public knowledge and are not usually given much attention.

When I speak of the Social Security Act of 1935, I have in mind chiefly those features which were entirely new in the field of federal social legislation and which came under the jurisdiction of the Social Security Board. Thus, less attention will be given to such features in the 1935 act as public health, maternal and child welfare, and vocational rehabilitation. However, it should be noted that the United States Public Health Service, which had been established in 1799, received considerable additional funds under the Social Security Act to carry on its work. So did the Children's Bureau, established in 1912, and so did the federal agency administering the Vocational Rehabilitation Act, passed in



1920. In each case the additional funds were for grants to the states. The United States Public Health Service had been making such grants to a limited extent for many years. The Children's Bureau had administered a Maternity and Infancy Act during the years 1922-29 which provided for federal-state cooperation in the promotion of welfare and hygiene during maternity and infancy. The Vocational Rehabilitation Act was also a federal-state cooperative program.

In order to understand why the Social Security Act took the form it did, it is, of course, necessary to know the general purpose President Roosevelt and his advisers had in mind. It is also necessary to know what considerations they deemed important in developing ways and means of achieving their purpose. But it is doubtful whether anyone today (including myself) can fully understand the relative importance of the various considerations which were involved in policy decisions that had to be made in 1934 under the conditions prevailing at that time. Nevertheless, an attempt will be made to present these considerations and the importance attached to them by those who were responsible for making the decisions and those who opposed these decisions.

Thus, it is hoped that this chronicle will clarify to some extent the reason why nine of the ten separate programs included in the Social Security Act are administered by the states; why chief reliance was placed on contributory social insurance; why we have a national system of old age, survivors', and disability insurance but a federal-state system of unemployment insurance; why Republican leaders opposed old age insurance; why permanent total disability insurance benefits were not provided until 1956; and why health insurance was not included in the 1935 Social Security Act.

I have considered it essential to discuss the administration of the Social Security Act as fully as the provisions of the act itself because, as John R. Commons, my teacher at the University of Wisconsin and the dean of labor economists for many years, used to say, "Administration is legislation in action." It is hoped that the importance of administration will be demonstrated in such matters as selecting and training qualified personnel; establishing proper organization and procedures; coping with the unique problems involved in the creation of the gigantic old age, sur-

vivors', and disability insurance system; strengthening our federal-state form of government; and, above all, exercising in an intelligent and responsible manner the power that lawyers call "administrative discretion."

Accordingly, this chronicle will illustrate how administrative decisions determined whether or not uniform old age pensions would become the dominant form of old age security; whether old age insurance records would be kept confidential and used only for administrative purposes; whether the United States Employment Service would be developed as the agency through which unemployment benefits were paid; whether public assistance payments would be made on an equitable and consistent basis throughout a state; and whether states would develop civil service systems.

Perhaps a brief biographical statement may help to explain my opinion concerning the inextricable relationship between a law and its administration, as well as other opinions I may later express. It will at least indicate, I think, that the origin in this country of what we now call social security will be found more largely in our labor legislation than in our poor-relief laws. This is in sharp contrast to Great Britain where the development of social security was influenced largely by dissatisfaction with the Poor Law. This difference in the relative influences of labor legislation and poor-relief legislation accounts for many of the basic differences to be found in the social security systems of these two countries.

My first interest in what is now called social security was aroused in 1911. At that time I was an office boy in my uncle's law office. One day the office received a pamphlet, issued by an insurance company, which described the new Wisconsin Workmen's Compensation Act, the first state law of this kind to go into effect in this country. When I entered the University of Wisconsin in the fall of that year, I naturally desired to learn more about workmen's compensation and other forms of labor legislation. I had already been told about the activities of John R. Commons. These included service as a member of the Wisconsin Industrial Commission which was charged with the administration of workmen's compensation. So I enrolled in Commons' classes. Later, in 1918, I became Professor Commons' research assistant. It may be

of some interest to note that, while I was serving in that capacity, Professor Commons asked me to co-author a report entitled "The Health Insurance Movement in the United States." This report had been requested (and later published) by two of the state commissions which had been set up for the purpose of studying the desirability of enacting health insurance laws—the Illinois Health Insurance Commission and the Ohio Health and Old Age Insurance Commission.

In 1920 I became Chief Statistician of the Wisconsin Industrial Commission. In that capacity I began a monthly publication called the *Wisconsin Labor Market*, which included among other data an index of employment throughout the state. This Wisconsin index and a similar one published by the New York Department of Labor were the first two indices of employment published in the United States.

In 1922 I became Secretary of the Wisconsin Industrial Commission. In July 1927 I took a leave of absence from that position for a period of six months to serve the United States Employees' Compensation Commission as Deputy Commissioner for the Great Lakes Region in putting into effect the Longshoremen's and Harbor Workers' Compensation Act.

Both as Chief Statistician and as Secretary of the Wisconsin Industrial Commission, I was involved in the deliberations concerning an unemployment compensation bill which was under consideration by successive sessions of the state legislature from 1921 to 1932. On January 1932, the Wisconsin Unemployment Reserves and Compensation Act became the first such act to be passed in the United States. Both workmen's compensation (for accidents) and unemployment compensation, it should be noted, were regarded as labor legislation—what the Germans called "workers insurance."

In addition to the administration of the various labor laws, the Wisconsin Industrial Commission was given the responsibility in 1931 of supervising the administration of unemployment relief throughout the state. As Secretary of the commission, I was given the responsibility of establishing the necessary relations with the federal government so that Wisconsin could qualify for federal financial assistance when that became available in 1932. In February of that year Senators LaFollette and Costigan had been

defeated in their efforts to secure passage of their bill to provide federal grants to the states for unemployment relief. However, in May of 1932 Congress did authorize the Reconstruction Finance Committee to make loans to the states.

On a number of occasions in the spring of 1933 I was requested by the Secretary of Labor, Frances Perkins, and officials in her department to go to Washington to assist in the development of effective working relationships with state labor departments. In November 1933 the Secretary of Labor asked me to accept the position of Director of the Labor Compliance Division of the National Industrial Recovery Administration. In that position I was responsible for enforcing the labor standards contained in the various industry codes.

Eighteen days after Franklin Roosevelt became President, he sent Congress a message, urging the passage of the Federal Emergency Relief Act, which authorized outright grants to the states to assist them in providing unemployment relief. In addition to securing some of this federal aid for Wisconsin, I was asked from time to time to assist officials of the Federal Emergency Relief Administration in the development of administrative procedures. I was also asked by them to assist in setting up the Civil Works Administration which provided work for over four million unemployed persons during the winter of 1933-34.

I had been granted a leave of absence from my post as Secretary of the Wisconsin Industrial Commission, but returned to that position in May of 1934. When I arrived back in Madison, I learned that the Secretary of Labor had been trying to reach me to offer me the position of Assistant Secretary. I accepted and was immediately assigned the task of assisting in the reorganization and expansion of the Department of Labor. However, within a month I was given the added responsibility of serving as Chairman of the technical board which was created by presidential order to assist the President's Cabinet Committee on Economic Security.

I was given the opportunity to participate in these various phases of the New Deal not simply because of my experience as a state official but more importantly because this experience had been acquired in a state noted for its progressive social legislation. Both the President and Miss Perkins were thoroughly famil-

iar with this legislation and the philosophy underlying it. The President acquired this familiarity when he was a state senator and Governor of New York; Miss Perkins, as Commissioner of Labor for New York State.\*

I am painfully aware of the tedious character of the year-by-year recital of legislative recommendations and legislative action. I can only hope that this detailed account will be of some value at least for reference purposes and that it will give some idea of how amendments to the Social Security Act occurred only after years of study, planning, and repeated recommendations.

Appendix I, "Significant Events of Social Security, 1935-65," may assist the reader who wishes to read selectively, while Appendix II, "Official Documents of Social Security, 1935-65," may be of some help to the reader who wishes more information on legislative history.

Arthur J. Altmeyer

*Washington, D. C.*

*August 1965*

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\* For a more complete account of these state activities and the similarity between the "Wisconsin Idea" and the New Deal, the reader is referred to the following publications by the writer: "The Industrial Commission of Wisconsin—A Case Study in Labor Law Administration," *University of Wisconsin Studies in the Social Sciences and History*, No. 17 (1932); "The Wisconsin Idea and Social Security," *Wisconsin Magazine of History*, XLII, No. 1 (1958).

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United States Employment Service  
12/18/41

Telegram - to the Governors of the States, <sup>Alaska</sup> the Governor of Hawaii, the Governor of

Now that this country is actually at war it is more than ever necessary that we utilize to the fullest possible extent all of the manpower and womanpower of this country to increase our production of war materials. This can only be accomplished by ~~one~~ <sup>using work into one</sup> central recruiting agency, ~~the United States Employment Service~~. At present, as you know, the United States Employment Service consists of fifty separate State and territorial employment services whose operations are loosely coordinated by the Federal Government. In order that there may be complete responsiveness to the demands of national defense and speedy, uniform, effective action to meet rapidly changing needs, it is essential that all of these separate employment services become <sup>uniformly and of necessity</sup> a nationally operated employment service. I have, therefore, given instructions to the proper Federal officials that the necessary steps be taken to accomplish this purpose at once. I ask that you likewise instruct the proper officials of your State to transfer to the United States Employment Service all of the present personnel, records, and facilities required for this operation. Inasmuch as the Federal Government is already paying practically one hundred percent of the cost of operation and the State personnel has been recruited on a merit basis, there will be no difficulty in transferring State employees <sup>into</sup> the Federal service. These employment offices will continue to serve the unemployment compensation agency so that there will be no need to set up duplicate offices. I shall appreciate your advising me at once of your full cooperation so that the conversion of the present employment service into a truly national service may be accomplished without delay.

Draft of President Roosevelt's telegram to the governors of the states, requesting the transfer of the state employment services to the federal government under the direction of the United States Employment Service (December 18, 1941)



*Taking the oath of office as Assistant Secretary of Labor (June 8, 1934). From left to right: Secretary of Labor Frances Perkins, Arthur J. Altmeyer, and Samuel Gompers, Chief Clerk (a son of the famous President of the American Federation of Labor)*





*The first meeting of the Social Security Board (August 23, 1935). From left to right: Arthur J. Altmeyer, John G. Winant, Chairman (former Governor of New Hampshire), and Vincent M. Miles (attorney from Little Rock, Arkansas, and Democratic National Committeeman)*



*Sir William Beveridge, author of the British "cradle to the grave" social security plan, and Arthur J. Altmeyer, Chairman of the Social Security Board, in New York (June 5, 1943)*

proceeds from this tax to finance the payment of benefits to agricultural producers who complied with federal requirements relative to the use of their land. The Supreme Court held that the tax levied was not a tax within the meaning of the Constitution but a mere incident in the scheme of regulation which invaded the reserved rights of the states.

The committee believed the tax-offset plan was more likely to be upheld by the Supreme Court than was the subsidy plan since the tax-offset plan followed the method used under the Federal Estate Tax Act, which had been held to be constitutional years before (*Florida v. Mellon*, 273 U.S. 12). Under that act a tax-offset is allowed for taxes paid under state inheritance tax laws. As a matter of fact, it was known that Supreme Court Justice Brandeis had suggested the incorporation of this method in the Wagner-Lewis Bill. And, indeed, the Supreme Court cited that earlier court decision as a precedent when it later upheld the unemployment insurance feature of the Social Security Act.

Moreover, the committee believed that even if the Supreme Court eventually held the federal law unconstitutional, more states would be likely to continue to keep their employment insurance laws in effect under the tax-offset plan than under the subsidy plan. The committee reached this conclusion because under the tax-offset plan the states would be obliged to pass their own laws levying a payroll tax, which would continue to make their insurance plans self-sustaining. This was not true of the subsidy plan.

But, aside from the question of constitutionality, the committee favored the tax-offset plan in preference to a straight federal plan or the subsidy type of federal-state plan because it placed the maximum responsibility on the states. The committee considered this was necessary because there was considerable polarization of opinion among the advocates of unemployment insurance concerning such major substantive questions as what the scale of benefits should be and whether unemployment benefits should provide protection against short-term or long-term unemployment.

These advocates disagreed on whether the benefits should be relatively high in amount and of limited duration or relatively low in amount and of longer duration. They disagreed on

## 2.

# Putting the Social Security Act into Operation, 1935-37

Even before the President signed the bill, I had prepared a budget estimate of the probable cost of administration during the fiscal year ending June 30, 1936. This was necessary since it was anticipated that Congress would adjourn before the end of August. In order to save time, the Chairman of the House Appropriations Committee, James P. ("Buck") Buchanan, held a one-man hearing instead of calling his committee together. His parents had moved to Texas when he was less than a year old, and he was of the same breed as Sam Rayburn, the late Speaker of the House.

This first budget amounted to one million dollars. Today the budget for the administration of the federal old age, survivors', and disability insurance system alone amounts to one-third of a billion dollars. I must confess that this first budget was based entirely upon conjecture. But strangely enough, it turned out to be remarkably accurate!

To my dismay, the Chairman of the committee leaned back in his chair at the end of the presentation, put his feet on his desk, and said, "I don't understand a damned thing that you're saying and I don't believe you do, either." Then, after a pause he added, "But I'll give you the money anyway."

The President proceeded promptly to send to the Senate the names of the three nominees for members of the Social Security Board, including mine as one of the three. These were all confirmed by the Senate on August 23. But to the dismay of every

one concerned, Senator Huey Long staged another filibuster on the closing day of the session while the last deficiency appropriation bill, which included the social security item, was still pending.

I well remember watching the hands of the Senate clock move toward midnight, when Congress would adjourn *sine die*, and hoping against hope that the Senator would end his filibuster which had no relation to social security. However, he was still talking when the presiding officer banged his gavel, signaling the end of the session.

The next morning the President called a conference to discuss what could be done to avoid calling a special session of Congress. Included in the conference were both leaders of Congress and members of the Administration. I was the only one of the newly appointed members of the Social Security Board who was present. The Comptroller General, John R. McCarl, furnished the solution. This was surprising, since he was a Republican, appointed for a 15-year term, and completely independent of the Administration, being solely responsible to the Congress. Furthermore, traditionally the Comptroller acts as the "watchdog of the Treasury," to make certain that federal funds are spent properly and only for the purposes authorized by Congress.

Mr. McCarl's solution was ingenious indeed and gratefully accepted by the President. Mr. McCarl pointed out that the work of the President's Committee on Economic Security had been financed as a research project by the Federal Emergency Relief Administration. He said that he, therefore, thought it entirely logical and proper to set up another research project to develop ways and means of putting the Social Security Act into operation!

So it came about that the much maligned Federal Emergency Relief Administration (which became the Works Progress Administration in 1935) again demonstrated its remarkable ability to cope with problems arising out of the Great Depression. Another resource was found in the National Industrial Recovery Administration. The National Recovery Act had been declared unconstitutional in May 1935. Therefore, it was liquidating as rapidly as possible and was only too glad to transfer office equipment and personnel to the Social Security Board. The personnel transferred were continued on the payroll of the National Industrial Re-

covery Administration until funds were made available by Congress.

But one minor complication arose in the use of the emergency funds which had been made available. It was discovered that they could not be used for the payment of the salary of any person whose salary had been specified in any act of Congress. This meant that all the personnel, except the members of the Social Security Board, could be paid currently. Partly because of this fact and partly to retain my close contact with the Department of Labor as Assistant Secretary of Labor, I was not sworn in as a member of the Social Security Board until October 16, 1935, although I actually functioned as a member from the very beginning.

The first Chairman of the Social Security Board was John G. Winant, former Republican Governor of New Hampshire. His plan to cope with the problem of unemployment in his state and the record he had made in promoting progressive legislation had attracted nationwide attention. The third member was Vincent M. Miles, a lawyer from Arkansas, who had been Democratic National Committeeman from that state. The law required that not more than two members of the Board could be members of the same political party. Likewise, the President believed it desirable to have some one from a southern state who was known to southern members of Congress.

From the standpoint of speed and flexibility in the development of an administrative organization facing unprecedented problems, it was desirable to establish an independent agency such as the Social Security Board. It possessed great prestige since it was responsible only to the President. It was not obliged to obtain advance approval of any of its activities from a hierarchy of officials between it and the President. It was not bound by any precedents as are long-established governmental agencies.

Moreover, the fact that it was a board of three members, instead of a single administrator, was a great advantage. While, of course, the Board could not, if it would, escape responsibility for its actions, nevertheless its responsibility was a shared responsibility which gave both the Board members and those affected by its decisions greater confidence in those decisions.

But it must also be acknowledged that the board form of

# Appendix I

## *Significant Events of Social Security, 1935-65*

### 1935

*January 17.*—Report of Committee on Economic Security transmitted to Congress with recommendations for federal old age insurance, federal-state public assistance and unemployment compensation programs, and extension of public health services, maternal and child health services, services for crippled children, child welfare services, and vocational rehabilitation services. Economic security bill introduced.

*August 14.*—Social Security Act became law.

*August 23.*—Members of Social Security Board named by President: John G. Winant (Chairman), Arthur J. Altmeyer, and Vincent M. Miles.

*August 29.*—Railroad Retirement Act of 1935 and Carriers Taxing Act of 1935 signed by President (to replace Railroad Retirement Act of 1934).

### 1936

*January 1.*—Federal unemployment tax of 1 per cent of payrolls first applicable to employers of 8 or more, with credit offset for contributions paid to state unemployment funds.

*February.*—Public assistance payments to recipients first made with federal participation under Social Security Act in old age assistance (17 states), aid to dependent children (10 states), and aid to the blind (9 states).

*March 5.*—First federal grant for administration of state unemployment insurance law (New Hampshire) certified.

*August 17.*—First state unemployment benefit paid in Wisconsin.

*November.*—All states, the District of Columbia, Alaska, and Hawaii

actively participating in program of maternal and child health services under Social Security Act.

## 1937

*January 1.*—Workers began to acquire credits toward old age insurance benefits. Employers and employees each subject to tax of 1 per cent of wages, up to \$3,000 a year. Lump sum payments first payable to eligible workers, their survivors, or their estates.

Federal unemployment tax payable by employers of 8 or more increased to 2 per cent of payrolls.

*May 24.*—Constitutionality of old age and unemployment insurance provisions of Social Security Act upheld by United States Supreme Court (301 U.S. 495, 548, 619).

*June 24.*—Railroad Retirement Act of 1937 became law, amending portions of Railroad Retirement Act of 1935.

*June 30.*—Unemployment insurance legislation became nationwide with approved laws in all states.

## 1938

*January 1.*—Federal unemployment tax, payable by employers of 8 or more, increased to 3 per cent of payrolls.

*June 25.*—Railroad Unemployment Insurance Act became law.

*September.*—All 51 jurisdictions making old age assistance payments under Social Security Act.

## 1939

*March 24.*—All states, the District of Columbia, Alaska, and Hawaii actively participating in program of crippled children's services under Social Security Act.

*July 1.*—Federal Security Agency, set up by President's Reorganization Plan No. 1 of 1939, integrated into one unit the Social Security Board (to which was transferred the United States Employment Service), U.S. Public Health Service, Civilian Conservation Corps, National Youth Administration, and U.S. Office of Education.

*August 10.*—Social Security Act amended to provide, under old age and survivors' insurance, benefits for dependents and survivors, to advance payment of monthly benefits to 1940, to revise the benefit formula, to modify certain coverage provisions, and to hold contribution rates for employers and employees at 1 per cent each through 1942; under unemployment insurance, to modify definition of covered employment and make tax applicable only to first \$3,000 in wages; to increase federal share of public assistance payments; to raise annual authorization for grants for maternal and child health, crippled



children's, and child welfare services and to extend these programs to Puerto Rico. For unemployment insurance and public assistance, state personnel merit system made requisite for Social Security Board approval of state plan; also made a condition for federal grants for maternal and child health and crippled children's services.

## 1940

*January.*—Monthly benefits first payable under old age and survivors' insurance.

*June.*—All states, the District of Columbia, Alaska, Hawaii, and Puerto Rico actively participating in program of child welfare services under Social Security Act.

## 1942

*February 9.*—Social Security Board given certain responsibilities in program for aid to enemy aliens.

*February 26.*—Social Security Board authorized to administer monthly benefits, assistance, and services to civilians affected by enemy action.

*April 29.*—Rhode Island enacted first cash sickness insurance law, providing temporary-disability benefits to those covered by state unemployment insurance law.

*August 28.*—Emergency grants to states authorized for programs for day care for children of working mothers under plans approved by Children's Bureau and Office of Education, administered by Work Projects Administration.

*October 21.*—Old age and survivors' insurance contribution rates frozen at 1 per cent through 1943. (Increase again postponed in 1943, 1944, 1945, 1946, and 1947, through 1949.)

## 1943

*March 18.*—Medical and hospital care for wives and infants of enlisted men in the four lowest grades of armed forces authorized to be administered by Children's Bureau, through grants to state health departments.

*March 24.*—Wartime coverage under old age and survivors' insurance provided for seamen employed by or through War Shipping Administration.

## 1944

*February 25.*—Social Security Act amended to authorize appropriation, to old age and survivors' insurance trust fund, of any additional amounts required to finance benefits.

## Appendix IV

*Correspondence with Congressman Curtis of Nebraska, Chairman of Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, 1953: Investigation of Social Security*

WASHINGTON, D.C., June 9, 1953

Mr. Arthur J. Altmeyer  
Fairfax Hotel  
2100 Massachusetts Avenue, N.W.  
Washington, D.C.

DEAR MR. ALTMAYER:

As you know, I have been appointed chairman of a Ways and Means Subcommittee to conduct a study of social security, with particular reference to the Federal programs dealing with income for the aged. I am determined that this shall be a thorough, objective, fact-finding investigation, which will enable the Ways and Means Committee to write legislation early in the next session.

In order to inform the members of the committee fully and accurately, I consider it indispensable to have presented a fair and complete statement of the principles underlying the present programs of Old Age and Survivors Insurance and Old Age Assistance. For such a statement, I know of no one better qualified than you, who have been associated with the Social Security Administration since its inception. Therefore, I should greatly appreciate it if you would prepare such a statement of principles for the subcommittee.

Responding to this request might, of course, be regarded by some as merely rendering a public service. However, since I regard you as the outstanding authority on the present system, I would expect to arrange for remuneration in a manner comparable with what we pay expert consultants.

I trust that I will hear from you at your earliest convenience. I am sure that we will have no difficulty in mutually agreeing on the scope and subject matter of this statement.

Sincerely yours,  
CARL T. CURTIS  
*Chairman, Subcommittee on Social Security*

MADISON, WISCONSIN, June 23, 1953

*Honorable Carl T. Curtis  
Chairman, Subcommittee on Social Security  
Committee on Ways and Means  
Washington, D.C.*

DEAR SIR:

I have your letter of June 9, requesting me to prepare for you a "statement of the principles underlying the present programs of Old Age and Survivors Insurance and Old Age Assistance." You state that you would expect to arrange for remuneration for this service.

I am sorry to say that not only do I believe that the preparation of such a statement is unnecessary but that I believe compliance with your request would greatly harm rather than help the cause of social security.

You will find a complete discussion of the principles underlying our social security system, a description of the way the Social Security Act is functioning, and specific recommendations for improving it in the reports I have submitted annually to the Congress and in the testimony I have given before the Committee on Ways and Means on many occasions.

I very much regret being obliged to say to you further that I do not believe that any restatement I might prepare at this time would be likely to change your personal opposition to social insurance which you expressed when the Committee on Ways and Means considered the 1950 and 1952 amendments to the Social Security Act. You not only opposed these amendments which greatly improved the Act but you voted for the Gearhart Amendment in 1948 which took away the protection of the Old Age and Survivors Insurance System from a half-million workers.

Even after you became Chairman of this subcommittee you have continued to express your personal opposition to social insurance. Moreover, you have appointed as staff director a person who also is on record as opposed to social insurance.

Under these circumstances I must say that I do not see how it is possible for you to carry out your avowed determination that "this shall be a thorough, objective, fact-finding investigation." Therefore, I am of the opinion that my participation in the manner you propose would only serve to confuse and mislead the friends of social security as regards what I am constrained to believe is bound to be a biased investigation by you and your staff director.

I know that you say that you are for social security and are only opposed to what you allege are inequitable and unsound provisions in the present system. However, you have consistently attacked the basic principles underlying contributory social insurance and have advocated the abandonment of these principles. Specifically, you have opposed the payment of benefits as a matter of right; you have op-

posed the payment of benefits related to wage loss; you have opposed any long-range financing plan to provide assurance that future benefits will be paid. By criticizing the fact that insured persons who are well-to-do as well as persons without resources receive the benefits provided by law, you seem to be in favor of some sort of means test, and, of course, you have always contended that the Old Age and Survivors Insurance System is not insurance, although it is so designated in the law itself.

I trust you will believe me when I say that I find it painful to use such blunt language and that I am impelled to do so only because of the grave danger to social security which I believe your present views represent.

I should like to make it clear that I am not charging that the subcommittee as a whole is opposed to social security. I am not familiar with the views of the other majority members but I do know that the minority members have always been staunch advocates of social security and have played a leading part in the development of the present social security system. I would also hope that you yourself will modify your views as the committee proceeds with its deliberations.

I should also like to make it clear that I shall be glad to present my views to the committee when it undertakes the consideration of specific proposals and the report and recommendations of your staff.

Sincerely,

ARTHUR J. ALTMAYER

MADISON, WISCONSIN, September 25, 1953

*Honorable Carl T. Curtis  
Chairman, Subcommittee on Social Security  
Committee on Ways and Means  
Washington, D.C.*

DEAR SIR:

I have just been served with a subpoena signed by you, directing me to appear before your subcommittee on social security on November 6. I have already made engagements which will take me away from Madison most of the month of October and the first week in November. Therefore, I would appreciate your permitting me to appear at least a week later. I would also appreciate your furnishing me with a list of the questions you wish to ask or at least the specific items you wish me to discuss. This will make it possible for me to assemble the necessary material so that my testimony may be helpful to the subcommittee.

As I indicated in my letter to you, dated June 23, you will find a complete discussion of what I consider to be the principles underlying

our social security system, a description of the way the Social Security Act is functioning, and specific recommendations for improving it in the reports I have submitted annually to the Congress and in the testimony I have given before the Ways and Means Committee on many occasions. If you have not had the time to examine this material, I would suggest that you have your staff do so on your behalf.

As I also indicated in my previous letter, because all of the foregoing material is readily available, I felt that I could be most helpful if I presented my views to the subcommittee when it undertakes the consideration of specific proposals and the report and recommendations of its staff. Since your committee has been at work for some time it may be that you now have before you specific proposals and a preliminary report from your staff. If so, I would appreciate receiving a copy to study prior to appearing before your subcommittee.

Very truly yours,  
A. J. ALTMAYER

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## *Analysis of the Social Security System*

- A. November 27, 1953 Hearings that were held as to why there was no funds left in the Social Security budget.
- B. Here we find Arthur Altmeyer testifying before Congress and as you read you will see that he had been part of several “reorganizations” in the past.
- C. His connections go back to the Socialist party which promoted the doctrine that “All power belongs in the hands of the state”, “the state can do no wrong,” and “the state does not have to be accountable to anyone.”
- D. You will not find any remarks about the Federal Reserve Bank. We also do not find any remarks about accountability.



# ANALYSIS OF THE SOCIAL SECURITY SYSTEM

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HEARINGS  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON WAYS AND MEANS  
HOUSE OF REPRESENTATIVES  
EIGHTY-THIRD CONGRESS  
FIRST SESSION  
ON  
THE LEGAL STATUS OF OASI  
BENEFITS

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NOVEMBER 27, 1953

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Printed for the use of the Committee on Ways and Means

Part 6



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# ANALYSIS OF THE SOCIAL SECURITY SYSTEM

FRIDAY, NOVEMBER 27, 1953

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SOCIAL SECURITY OF  
THE COMMITTEE ON WAYS AND MEANS,  
*Washington, D. C.*

The subcommittee met at 10 a. m., pursuant to recess, in the main hearing room of the Committee on Ways and Means, Hon. Carl T. Curtis, chairman of the subcommittee, presiding.

Present: Representatives Curtis (presiding), Goodwin, Dingell.

Also present: Representative Eberharter.

Subcommittee staff members present: Robert H. Winn, chief counsel; Karl T. Schlotterbeck, staff director; George R. Leighton, editor and consultant; Rita R. Campbell, economist; James E. Finke, Howard Friend, Government research analysts; Wallace M. Smith, attorney; Eileen R. Brown, clerk; present also, Russell E. Train, clerk, and Leo H. Irwin, minority adviser, Committee on Ways and Means.

Chairman CURTIS. The committee will come to order.

This morning we are continuing our factfinding study of social security and its operations. We have as our witness this morning Dr. Arthur J. Altmeyer, who was associated with the program from its inception.

Mr. Altmeyer is here and before counsel proceeds the chairman asks unanimous consent that the members of the committee withhold questioning until after the counsel has completed his examination.

Without objection, it is so ordered. You may proceed, Mr. Winn.

Mr. WINN. Doctor, your full name is Arthur J. Altmeyer?

## STATEMENT OF ARTHUR J. ALTMAYER, FORMER COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION

Mr. ALTMAYER. That is right.

Mr. WINN. And your occupation is what, sir?

Mr. ALTMAYER. Retired.

Mr. WINN. Could you tell us a little of your educational background?

Mr. ALTMAYER. I am a graduate of the University of Wisconsin. I have the degree of bachelor of arts, master of arts, doctor of philosophy, and doctor of laws from the University of Wisconsin.

Mr. WINN. I believe you taught school in Wisconsin before you first came to Washington?

Mr. ALTMAYER. I taught school for 4 years, 2 years in Minnesota, and 2 years in Wisconsin, and was a State official for 15 years before coming to Washington.

Mr. WINN. And you came to Washington about 1933 as I recall; is that correct?

Mr. ALTMAYER. Yes.

Mr. WINN. And you were with the National Recovery Administration for a while?

Mr. ALTMAYER. Yes.

Mr. WINN. Then you became associated, did you not, with the President's Committee on Economic Security?

Mr. ALTMAYER. I became Assistant Secretary of Labor and when the Cabinet Committee on Economic Security was established they created a technical board and I was chairman of that technical board.

Mr. WINN. And the President's Committee on Economic Security and the technical board which was created had something to do with the first law on social security which was passed in 1935; did it not?

Mr. ALTMAYER. Yes.

Mr. WINN. And you participated in the hearings before Congress in connection with the proposed bills which became the social-security law; did you not?

Mr. ALTMAYER. Yes.

Mr. WINN. And after the social-security statute was enacted you became a part of the organization which administered that statute; did you not?

Mr. ALTMAYER. Yes.

Mr. WINN. And what was your position at that time?

Mr. ALTMAYER. I became a member of the Social Security Board which was a bipartisan board. Governor Winant, later ambassador to Great Britain, was chairman of the board—as you know, he was a Republican—and I was a Democratic member, and another man by the name of Vincent Miles from Arkansas was the other Democratic member. It was a three-member board and it retained its bipartisan character until it was abolished in 1946, I believe, when I was made Commissioner for Social Security with civil-service status. Do you want me to give you a connected statement?

Mr. WINN. If you will.

Mr. ALTMAYER. Under the reorganization plan creating the Department of Health, Education, and Welfare, the position of Commissioner for Social Security was abolished and the position of Commissioner of Social Security was established. That reorganization plan became effective April 10 and the effect was, of course, that my position was abolished.

However, about a year or so before that I had indicated that I intended to retire on May 8 when I reached the minimum retirement age of 62. Since then, as I stated at the beginning, I am retired.

Mr. WINN. Mr. Altmeyer, I believe you have in front of you four tables (hypothetical amount of benefits under the (1) 1935 act, (2) 1939 act, (3) 1950 act, and (4) 1952 act which have previously been introduced into the record of these hearings.

Mr. ALTMAYER. I have nothing before me.

Mr. WINN. I believe you have now. They have been marked "Exhibits 122 through 125," respectively. I think you will find if you look at them that they show the hypothetical amount of benefits under, first, the 1935 act, exhibit 106, the hypothetical amount of benefits under the 1939 act, exhibit 107, the hypothetical amount of benefits under

the 1950 act, exhibit 108; and the hypothetical amount of benefits under the 1952 act, exhibit 109. (See pp. 832-835.)

These show different amounts of benefits paid to different persons under varying assumed circumstances by virtue of the provisions of this statute as it was changed from time to time.

You recall, do you not, that there was an amendment in 1939?

Mr. ALTMAYER. Yes.

Mr. WINN. And that changed the amounts of the benefits of the statute as it had been originally passed in 1935; did it not?

Mr. ALTMAYER. Yes.

Mr. WINN. It also added some new beneficiaries, as I recall?

Mr. ALTMAYER. I do not know whether the net result was to increase the coverage or not. I have forgotten.

Mr. WINN. It certainly provided for survivorship; did it not?

Mr. ALTMAYER. I thought you said coverage.

Mr. WINN. I said it provided for new types of beneficiaries.

Mr. ALTMAYER. Yes, indeed, of course.

Mr. WINN. And the 1950 amendment expanded the coverage considerably; did it not?

Mr. ALTMAYER. Yes.

Mr. WINN. And then there were other changes in the amounts of the benefits in the 1952 act; is that correct.

Mr. ALTMAYER. That is right.

Mr. WINN. So that at least three times since 1935 the act has been amended with the result that vital and quite large changes were made in the provisions of the statutes; is that not correct?

Mr. ALTMAYER. That is right.

Mr. WINN. One of the things which the committee is interested in going into. Mr. Altmeyer, is whether the arrangements provided in title II of the Social Security Act are, in fact, insurance. The decision of the Supreme Court of the United States in *Helvering v. Davis*, which is reported at Three Hundred and First United States Reports at page 619 is the decision which upheld the constitutionality of the system of Federal benefits provided under title II of the Social Security Act and that decision was handed down on the 24th of May 1937. Do you recall that date?

Mr. ALTMAYER. Yes; very well.

Mr. WINN. Did the social-security law as enacted on August 14, 1935, designate the title II arrangements as insurance, Mr. Altmeyer?

Mr. ALTMAYER. No, it did not.

Mr. WINN. Were the monthly payments to be made to qualified individuals under title II of the 1935 act designated in the law as old-age benefits?

Mr. ALTMAYER. Yes.

Mr. WINN. Mr. Altmeyer, in the brief filed by the Department of Justice with the Supreme Court in *Helvering* against *Davis* the following statement is made in the brief beginning at page 20 and referring to the Social Security Act.

The act cannot be said to constitute a plan for compulsory insurance within the accepted meaning of the term "insurance."

Do you recall that phrase in the brief?

Mr. ALTMAYER. I do not recall it. You certainly do not expect me to recall matters of that kind after 18 years; do you?

Mr. WINN. Not at all. We will show you the brief, Mr. Altmeyer.

Mr. ALTMAYER. If it is there, why do you ask me?

Mr. WINN. Mr. Altmeyer, I am asking the questions if you will please answer them.

Mr. ALTMAYER. I am answering them, but I am asking you why you are asking me to affirm things that are a matter of record?

Mr. WINN. Mr. Altmeyer, will you please refer to the brief and tell me whether that statement is in it?

Mr. ALTMAYER. Yes. I see it in this brief.

Mr. WINN. Will you turn to the signature page of that same brief and tell us the names and the titles of the Government officials whose names appear there?

Mr. ALTMAYER. Homer Cummings, Attorney General; Stanley Reed, Solicitor General; Robert H. Jackson, Assistant Attorney General; Charles E. Wyzanski, Jr., Sewall Key, A. H. Feller, Arnold Raum, special assistants to the Attorney General; Charles A. Horsky, attorney; Thomas H. Eliot, General Counsel—that means General Counsel of the Social Security Board—Alanson Willcox, Assistant General Counsel; and Robert P. Bingham, attorney for the Social Security Board.

This brief is dated May 1937, if you desire to have that confirmed, too.

Mr. WINN. Yes, I would; because as I recall it you were Chairman of the Social Security Board in May of 1937 when this brief was filed; were you not?

Mr. ALTMAYER. Yes:

Mr. WINN. Mr. Altmeyer, on May 24, 1937, you issued a press release immediately after the Court decision, and I would like you to read the marked portion of that press release if you will.

Mr. ALTMAYER (reading):

The decision in the Massachusetts case validated the Federal old-age insurance program contained in the Social Security Act.

Mr. WINN. On the next day, on May 25, 1937, in a prepared address before the National Conference of Social Work in Indianapolis, Ind., you made a statement which I would like you to read into the record, if you please, sir.

Mr. ALTMAYER (reading):

The decisions handed down yesterday by the United States Supreme Court completely validate the unemployment-compensation and Federal old-age insurance provisions of the Social Security Act.

Mr. WINN. In 1945 in an article entitled "The First——"

Mr. ALTMAYER. Just a second, sir. May I make a statement?

Chairman CURTIS. You may.

Mr. ALTMAYER. If you will read that Supreme Court decision, and I have not read it for 18 years. I think you will find that the decision made clear that titles II and IX——

Mr. WINN. You mean the taxing provision?

Mr. ALTMAYER. Yes.

Mr. WINN. Title VIII.

Mr. ALTMAYER. Titles II and VIII were inseparable and formed a single plan. It rejected in effect the arguments made by Government counsel and, to my mind, clearly established that in the opinion of the Court both the contributions and the benefit titles made a single whole

which, in my humble judgment, can be properly described as an insurance system.

Mr. WINN. Have you finished?

Mr. ALTMAYER. Yes.

Mr. WINN. In 1945, Mr. Altmeyer, in an article entitled "The First Decade in Social Security," you wrote a sentence which I would like you to read into the record.

Mr. ALTMAYER. Do you want me to read what you have marked?

Mr. WINN. Yes.

Mr. ALTMAYER. Nothing except what you have marked?

Mr. EBERHARTER. Mr. Chairman, I think this matter to be read could be read by a clerk. The witness is going to be tired if he is going to be subjected to cross examination continuously for 3 days as scheduled, and I think it would be just as well that a clerk read those things rather than having the witness do it. I think we ought to have a little consideration for him rather than have him read long statements that he made years ago. I object to it. If counsel wants to pursue it that way he will do so over my objection.

Chairman CURTIS. I do not believe the matter is long. Would you prefer not to read it, Mr. Altmeyer.

Mr. ALTMAYER. I prefer not to have isolated sentences and passages from speeches and documents of years ago when I do not have an opportunity to read the entire document to refresh my memory and to determine whether the excerpt properly presents the thought I had in mind at that time. As to this particular sentence that has been abstracted and marked by the counsel, I have no objection to reading that.

Chairman CURTIS. Will you please read it then.

Mr. ALTMAYER (reading):

In the spring of 1937 the Supreme Court dispelled any doubt as to the constitutionality of the insurance provisions of the act.

Chairman CURTIS. Did you have anything further you wanted to add there?

Mr. ALTMAYER. No, sir.

Chairman CURTIS. You may proceed.

Mr. WINN. Mr. Altmeyer, let me say at this moment that, in the interest of saving time and because this information is the information which seemed to be pertinent to the inquiry, it is true that these statements have been excerpted. However, the entire speech and the entire article and the entire radio broadcast, or whatever it is, has been read and I think you will find, if you examine your records, that the meaning of what was said has not been distorted as a result of it being excerpted. It is certainly not the intention to so distort it and I think the result has been that no distortion has occurred.

Mr. ALTMAYER. Of course, I am not in a position to judge. I have no idea of what you intend to ask me or why you intend to ask me. All I know is after having indicated to the chairman that I was prepared to testify when this committee reached the point when it was considering proposals, I received a subpoena without any indication as to the questions I am to be asked or the items that are to be discussed, although I asked the chairman for that information so that I could prepare the necessary material so I could be of maximum help to this committee.

I submit, Mr. Chairman, with all due deference to you and to the committee that if you wanted the facts, the full facts, and a careful statement and my best judgment, it would have been far better to have informed me as to what you desired me to discuss. I have brought along materials, sir, in the hope that I will be able to answer your questions in an intelligent fashion. I certainly want to cooperate with this committee to the fullest extent, because I believe so thoroughly in social security that I want the full picture of social security to be presented.

Chairman CURTIS. Very well. We will now proceed with the next question.

Mr. EBERHARTER. Mr. Chairman, I want to make a parliamentary inquiry.

Chairman CURTIS. All right.

Mr. EBERHARTER. Under the unanimous consent granted on the request of the chairman, the result is, if that is adhered to, no member of the subcommittee will be able to ask a question at any time during the next 3 days until the completion of all the questions asked by the counsel. Is that the implication? Is that the effect of it?

Chairman CURTIS. I am hoping we will get through before that. I am sure we will if we get along. We have a line of questions here.

Mr. EBERHARTER. Has the witness been supplied with a copy of the questions?

Chairman CURTIS. He has not.

Mr. EBERHARTER. He has no idea what subject he is going to be questioned on?

Chairman CURTIS. I do not know what he knows.

Mr. EBERHARTER. The staff furnished the other witnesses in advance with a list of questions that were to be asked them.

Mr. WINN. Mr. Altmeyer, on April 29, 1938, in a radio broadcast over a nationwide CBS hookup in the course of an interview by Miss Ruth Brine, you made a statement which I would like you to read into the record.

Mr. ALTMAYER. May I look to see what this is all about?  
[Reading:]

Because of the Social Security Act the present generation and generations of the future will have a happier old age. They will be spared much of the humiliation and be relieved of much of the suffering that has too often been the lot of the aged. This program by which young and middle-aged workers of today can build up an insurance for their old age means that when they have reached the end of their working lives they will never be completely without resources, completely dependent on someone else for a living. Never will they be destitute, a burden on their loved one, or worst still, forced to seek charity.

Mr. EBERHARTER. I ask unanimous consent that the entire article be put into the record.

Chairman CURTIS. Without objection, it is so ordered.

(The article referred to follows:)

#### OLD AGE FOR 38 MILLION PEOPLE

Full text of a radio interview with Arthur J. Altmeyer, Chairman, Social Security Board, by Miss Ruth Brine, a member of the educational staff of the Columbia Broadcasting System, broadcast over a nationwide CBS hookup, Friday, April 29, 1938

Miss BRINE. Social security account card numbers have been assigned to more than 38 million persons in the United States; and correspondingly, more than 38 million active old-age insurance accounts—your account among them—have

been set up in the Baltimore office of the Social Security Board where the world's largest bookkeeping job is being done.

Workers in both commerce and industry are building up credits toward old-age annuities. Trained Government employees are daily entering new names in the files, as well as checking and recording periodic reportings by employers of the amount of wages paid to every wage earner—and so the Federal Government moves to provide security, to protect the old age of today's workers. You may recall that the first application forms were distributed through post offices on November 24, 1936. Perhaps you were among the first to secure your social-security number. You may remember the form you filled out. That card you received, have you preserved it carefully as you were cautioned? or have you since cast it aside with the indifferent thought that at some vague time after you reach the age of 65 some sort of monthly refund would be made for the amount deducted from your paycheck each week and let it go at that?

Well, in any case, the point is this: If you possessed an insurance policy, on which you were paying regular premiums you would certainly want to know just what sort of policy it was, what sort of protection it provided. Now, going on the assumption that your social-security card is your old-age insurance policy; with full cognizance of the fact that you are paying a portion of your every paycheck, a portion matched equally by your employer, for financial protection in your old age—surely it must be gratifying to you, as it is to me, to know that your investment offers you more insurance than you can possibly get anywhere in the world for the same amount of money that you pay. Specifically every worker, regardless of wage or length of service is assured of a larger monthly retirement payment than he could buy from any private insurance company with an amount equal to what he has contributed to this plan. To answer the current and most pertinent questions as to what your social-security card means to you, and what you should know about it, we have here in the studio this evening Arthur J. Altmeyer, Chairman of the Social Security Board. Mr. Altmeyer, what does the social-security card which 38 million people in the United States possess, mean to the welfare of the present and the future generation?

Mr. ALTMAYER. Because of the Social Security Act, the present generation and generations of the future will have a happier old age. They will be spared much of the humiliation and be relieved of much of the suffering that has too often been the lot of the aged. This program by which young and middle-aged workers of today can build up an insurance for their old age means that when they have reached the end of their working lives they will never be completely without resources, completely dependent on someone else for a living. Never will they be destitute, a burden on their loved ones or, worse still, forced to seek charity.

Miss BRINE. Knowledge that he can never be totally dependent in his old age even in troubled unpredictable times should give the worker a deep-rooted confidence in himself.

Mr. ALTMAYER. I myself am confident, Miss Brine, that the assurance of a regular monthly income for life after age 65 will encourage the worker of today to make further plans for his independent old age; it will inspire him in many cases to make payments on a little home that will someday be his; it will be an incentive for him to save \* \* \* because he knows that he has a backlog which no one can take from him.

Miss BRINE. Why didn't Congress frame the social-security law to furnish complete security?

Mr. ALTMAYER. We could not legislate for complete security even if we wanted to. The present law represents a minimum, a foundation. Even when, as we hope, our social-security program is more complete than it is today, it will not furnish security ready made. Rather, its purpose is to give people a better chance to achieve security on their own terms.

Miss BRINE. Why is it that the Social Security Act appears so complicated to most people?

Mr. ALTMAYER. The act really isn't complicated. If it looks complex, it is only because it is relatively new and because it covers so many millions of people. It offers the vast majority of American wage earners insurance against poverty in old age and against want during temporary unemployment. It extends and strengthens provisions for the needy and for the protection of public health and child welfare. Its provisions have to be set forth in technical language. But in terms of what it really does it is simple and, what is more, it is workable—and it is working.



Miss BRINE. Mr. Altmeyer, does not this national plan of social security, administered as it is by the Federal Government, tend to destroy individualism and that quality of self-sufficiency of which the American people have always been so proud?

Mr. ALTMAYER. Only when we realize how relatively few of our people are self-sufficient—even during what we refer to as good times do we realize that it is foolish to pretend that against the uncertainties of modern life man can stand alone.

For, regardless of his individual courage, resourcefulness, and determination, a man's life and security now rests too much upon impersonal factors beyond the worker's control.

As to individuality, old-age insurance is based squarely upon individual earnings and employment. What a man gets in his old age under this system is his by right of his direct personal contribution and the contribution of his employer.

Miss BRINE. Regular monthly payments under the social-security program are scheduled to begin in 1942. Is that correct, Mr. Altmeyer?

Mr. ALTMAYER. Yes, Miss Brine, after 1942 practically every industrial and commercial wage earner in the United States will receive a monthly annuity for life when he reaches 65 and retires from regular employment. These monthly annuities will be based on wage accounts which as you mentioned previously are being kept at our office in Baltimore. As you doubtless know, the payments are to range between \$10 per month, which is the minimum, to \$85 a month which is the maximum. \* \* \*

When payment falls due—workers do not have to prove they are in need to be eligible for monthly checks—for benefits are paid regardless of need \* \* \*.

Miss BRINE. Since December 31, 1936, workers have been paying their social security tax—what then happens to a worker who becomes 65 prior to 1942 when the monthly payments begin?

Mr. ALTMAYER. Prior to 1942, the only benefits paid will be lump-sums \* \* \*. Upon reaching age 65 the wage earner will be entitled to a lump-sum payment equivalent to 3½ percent of the total wages he has been paid—up to \$3,000 a year—since the old-age provisions of the Social Security Act became effective on January 1, 1937 \* \* \*. It is not necessary for the worker to retire in order to get this lump-sum payment \* \* \*. To mention specific illustrations a checker in a New York dress house became 65 years old recently. He drew \$34 from our fund at that time \* \* \*. Payment was made promptly to him as it was to the president of a large public utility, who drew \$105 when he became 65 \* \* \*. In the event of the death of a worker, a lump-sum payment of 3½ percent of his total wages since December 31, 1936, is paid to his close relatives or to his estate \* \* \*. A few months ago a young salesman died—\$70 was then paid to his wife \* \* \*. So you see Uncle Sam has already begun paying off. Claims are being paid at the rate of 700 a day. The payments, of course, will increase as the workman accumulates his wage credits.

Miss BRINE. Mr. Altmeyer, what of the person who became 65 before this social security law went into effect?

Mr. ALTMAYER. Social insurance, like private insurance, has its limitations. It is obvious that you can't insure people who are already old against old-age dependency any more than you can insure your house after it has been burned to the ground. However, to take care of old people without resources the Social Security Act has another provision for assistance on the basis of need. \* \* \* With Federal grants to match State funds, the States are making cash allowances to nearly 2 million of the needy aged. \* \* \* However, eventually it is hoped the old-age insurance system will be extended to include practically all wage earners. \* \* \*

Miss BRINE. As I recall, Mr. Altmeyer, when the Social Security Board requested necessary personal information for its files, it promised at that time to keep those files confidential. \* \* \*

Mr. ALTMAYER. Those files have been kept confidential, Miss Brine. And no one but trusted workers on the Social Security Board ever see these records. The purpose of the Board is to protect the worker against any outside attempt to utilize its confidential information for any reason whatsoever. No employer and no other branch of the Government has access to these files. This record kept in Baltimore is a matter between the Social Security Board and the worker made for his protection. \* \* \*

Miss BRINE. I suppose the question of what a worker should do when he loses his card seems like a question of minor importance to you, Mr. Altmeyer?

Mr. ALTMAYER. On the contrary, I should like to emphasize the statement that if a worker loses his card he should write immediately to the Social Security Board for another, enclosing information which he has previously given, and another card with his same number will be sent back to him. He has one card for life—one number for life, no matter where he goes or what he does—to avoid any mixup which might cost him dearly in the future he should always check immediately with us, if he loses his card.

Miss BRINE. Mr. Altmeyer, as my concluding question I would like to know how I or any of the 38 million people who have social security account cards may be sure that the money will be paid as promised?

Mr. ALTMAYER. If you believe in the strength and integrity of the Government of the United States you may believe just as confidently in its promise to pay your old-age insurance annuity when it falls due. The Government never yet has defaulted in its obligations and never will.

Miss BRINE. Thank you, Mr. Altmeyer, for your frank and complete explanation of what our social security cards mean to us \* \* \* we who make up those 38 million numbers on your file. Security in old age is the dream of every man and woman in America. You have shown what a major advance the Social Security Act is in the attainment of economic security for the individual and his family.

Mr. EBERHARTER. I give notice that after this when the witness is asked by counsel to read excerpts from certain speeches or certain articles I want the entire material, speech, and so on, put into the record. That is my unanimous-consent request right now.

Chairman CURRIS. It is going to make a rather voluminous record and a very expensive record, but we have no objection to the full material going in. I do not believe the gentleman from Pennsylvania will want to insist on the reproduction of all these volumes that are a matter of record already.

You may proceed with the next question.

Mr. WINN. On September 19, 1938, in an address by you entitled "Old Age Security Today and Tomorrow," which was broadcast over the NBC network, you made some statements about insurance. I would like the clerk to hand that material to you and for you to read those statements into the record.

Mr. ALTMAYER (reading):

When the American people finally awakened to the plight of their old people they determined to forestall this kind of mass dependency for the future, and so they also included in the Social Security Act a provision for old-age insurance.

"Insurance" is italicized.

Mr. WINN. On page 5 of that same address there is another portion that is marked, Mr. Altmeyer.

Mr. ALTMAYER (reading):

The very fact that this is an insurance program means that benefits must bear some relation to contributions and that some contributions must have been made before the benefits are due, and that in turn means that it takes time to feel the full beneficial effects of this protection. To expect anything else is about as reasonable as it would be to expect to pick a crop of apples the day after the sapling had been set out in the orchard, so those who complain that our old-age insurance program is too slow should be careful lest they throw the insurance principle overboard in their efforts to speed it up because by and large Americans believe that each man ought, insofar as possible, to do his part for his own security. Insurance makes a strong appeal.

I certainly appreciate your calling my attention to these earlier statements. They mean exactly what I intended them to mean and they mean just what I mean today and believe in today.

Mr. WINN. And again in 1938, Mr. Altmeyer, in another publication entitled "Old-Age Insurance Safe as the U. S. A." which I believe

## *The Struggle for Social Security-1900-1935 By Roy Lubove*

- A. After reading this small introduction from his 280-page book you may wish to read the entire book for yourself. We have given you all the ordering information.
- B. Go to the index on page 195. Here we see that a very important topic is missing. We do not find any mention of the Federal Reserve Bank.
  - 1. How can you write a 280-page book about Social Security and not include a chapter about where the money goes?
- C. Roy Lubove writes about Non-government associations as they were back then. But, today you cannot have such an association. They have been converted into USC Title 26 501(3)(c) government controlled entities.
- D. He provides us with the connection between Germany's "Marxian Socialism" and our own Social Security scheme.
  - 1. In Germany the money collected went into the coffers to the Central Banks and so when Chief Justice Brandeis brought this plan from Europe to America it was made sure that all money went into these same coffers with no auditing of those funds (page 164).
- E. We do find Paul Raushenbush son-in-law of Brandeis promoting the Wisconsin Plan, but like the Ohio plan it failed because the money did not go into the Central Bank.
  - 1. It would also be easier to hold state officials accountable rather than Federal Officials.
- F. Abraham Epstein criticized the 1935 Act because it did not go far enough in the redistribution of wealth from the individual to the Federal, not the state government.
- G. On page 187 he comes to grips with some of the real issues when he calls the Social Security Scheme a benign fiction which is nothing more than a pay-as-you-go intergenerational transfer of funds from the worker to the non-worker which will require the infusion of a massive amount of money in the near future such as those that occurred in 1977 and 1983.

*The Struggle for Social Security*  
*1900–1935*     *by Roy Lubove*

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*University of Pittsburgh Press*

## **The Struggle for Social Security, 1900–1935**

Roy Lubove

For Americans in the 1980s, both young and old, social security is an integral part of economic life, and even political conservatives are loathe to tamper with it. Today, more than fifty years after the Social Security Act of 1935, it is easy to forget that such programs of assistance were launched in a hostile climate.

In the first third of the century, proposals for workmen's compensation, unemployment or health insurance, widows' or old age pensions met resistance on the grounds that such aid diminished the dignity of the individual. Opponents charged that charitable agencies performed their tasks well enough and that government participation in social welfare would only encourage pauperism.

In *The Struggle for Social Security* Roy Lubove describes the clash between the traditional American ethic of individualism and voluntarism and the new movement for a positive government role in welfare assistance. Lubove also considers the struggle within the social security movement. Some saw social security primarily as a means to relieve the burdens of unfortunate individuals in modern society. Others saw it in grander terms—an opportunity to change American society fundamentally by redistributing wealth. Lubove concludes his study with the actual legislative enactments of 1935 when, after the experience of the Great Depression, social insurance came into its own.

“Lubove has produced a timely and scholarly book that will . . . be of inestimable value to professionals in the field.”  
—Paul L. Simon, *The Historian*

Roy Lubove is Professor of Social Welfare and History at the University of Pittsburgh. For this paperback edition he has written a new concluding chapter.

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## *Foreword by Oscar Handlin*

Three decades after its appearance, the federal social security system has become an accepted feature of American life. It is difficult, in retrospect, to understand the acrimony of the debate that preceded the enactment of the New Deal legislation in this field. Long after the European countries, at comparable stages of industrial development, had developed such protection against dependency, the issue in the United States was still open.

There were complex reasons for the delay and for the bitterness of the struggle. Federalism complicated the whole issue in the United States. Yet Imperial Germany had also been a federal state and had nevertheless moved rapidly toward government provisions for security. There was an immense gulf between the potentially dependent proletariat and the rest of the population in the United States. But American employers were no more heartless or ruthless than their European counterparts.

Political and social factors contributed to the lag in the United States. But the ideological element was unique in the American situation. By the opening decade of the twentieth century, the concept of individualism had become so well entrenched that any social action seemed a threat to personal liberty. A rival pattern of voluntary effort was regarded as more appropriate and more in accord with national character. Social security proposals, therefore, were not considered simply in the light of the needs they served, but as an entering wedge in the process of extending state power that would ultimately curtail individual freedom.

x *Foreword*

Previous studies have shown the relation to liberty of both individualism and voluntarism. Yehoshua Arieli's *Individualism and Nationalism in American Ideology* (Cambridge, Mass.: Harvard University Press, 1964) traced one pattern to its roots in the American past. Morton Keller's *The Life Insurance Enterprise, 1885-1910* (Cambridge, Mass.: Harvard University Press, 1963) showed the importance of voluntarism in another context. Roy Lubove's present book analyzes the factors which influenced the development of welfare legislation in the United States.

In the end the issue was not as clear-cut as it seemed to those who fought over it. The social security system neither damaged the liberty of the citizen nor eliminated the voluntary aspects of community action. Instead, it provided a support that invigorated both. This book is a useful contribution to the understanding of the whole process.

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## *I The Constraints of Voluntarism*

The idealization of voluntary institutions is deeply rooted in the United States. As early as the 1830's Tocqueville was impressed by the number of "intellectual and moral associations" which flourished. He saw a close connection between the principle of equality and the proclivity for voluntary association. Compared to aristocratic societies citizens of a democracy were independent, but they were also feeble and powerless unless they combined to achieve their ends. The American association served as the counterpart of the "wealthy and powerful" citizen of an aristocracy with his disproportionate leverage and influence. Americans have often interpreted the character of their society in the rhetoric of "individualism," but Tocqueville recognized that voluntary association was the real key to social action and organization in the United States.

Along with equalitarianism, mobility and heterogeneity were prominent features of American society in the nineteenth century. These elements of the social system, combined with the absence of a well-defined class and institutional structure, produced anxieties and tensions. Individual role and status were ambiguous, behavioral and cultural norms confused. Voluntary associations performed the strategic function of mediation between Tocqueville's feeble individual, on the one hand, and the mass society and government, on the other.

Private charitable, philanthropic, and mutual-aid societies flourished in this context of voluntary association. They were often tied to sectarian and ethnic group aspiration. As mediators be-

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tween the immigrant and a strange, often hostile American environment they served as buffer and interpreter. In short, voluntary association for benevolent ends functioned as an instrument of acculturation and a source of individual or group identity.

In the broadest sense voluntary association provided an alternative to politics and governmental action. It enabled groups of all kinds to exert an influence and seek their distinctive goals without resort to the coercive powers of government. It led to the assumption by private groups of responsibilities for collective action delegated to government or elite groups in other countries. "What political power," Tocqueville asked, could carry on the "vast multitude of . . . undertakings which the American citizens perform every day, with the assistance of the principle of association?"<sup>1</sup>

Prior to the twentieth century voluntary association was a dynamic, progressive influence in American life. It not only played a mediating role between the individual and society, but made limited government possible by diffusing power and responding to collective needs. Yet, by the twentieth century the ideology of voluntarism and the vast network of institutional interests which it had nurtured had become retrogressive in many respects. Assumptions about the self-sufficiency and superiority of voluntary institutions obstructed adaptation to changing economic and social conditions. And nowhere did the rigidities of the voluntary creed prove more disastrous than in the area of social welfare legislation, as demonstrated by efforts to enact a comprehensive economic security program before the 1930's. In other areas as well — low-cost housing, medical care and urban planning — voluntarism became, as I. M. Rubinow put it, the great American substitute for social action and policy. What occurred was the creation of socio-economic no-man's-lands; voluntary institutions failed to respond to mass needs, but thwarted governmental efforts to do so.

The social insurance movement, launched in the early twentieth century, was a decisive episode in the history of American social welfare. In contrast to the middle-class reform tradition of the past, with its emphasis upon economic independence and mobility, the sponsors of compulsory social insurance addressed them-

selves to problems of security in a wage-centered, industrial economy. They maintained that neither public welfare nor private social work nor voluntary insurance sufficed to provide "indemnity against financial losses from . . . ordinary contingencies in the workingman's life."<sup>2</sup> Charitable assistance, moreover, subjected the individual to the indignities associated with pauper status.

Social insurance was proposed as an alternative to the existing, but inefficient, system of economic assistance. Operating independently of the poor laws, it would respond predictably and adequately in the event of an individual's exposure to the long- and short-term risks which interrupted income flow: accident, sickness and maternity, old age and invalidity, unemployment, or death resulting in impoverished dependency. The social insurance movement was a thrust toward rationalization of the American welfare system; it aspired to centralization, the transfer of functions from the private to the public sector, and a new definition of the role of government in American life.

Paralleling the social insurance movement was a self-conscious effort, identified mainly with the private sector, to establish social work as a profession. Professionalization was associated with the quest for a skill monopoly, the creation of an occupational subculture to formulate standards and channel career opportunities, and the establishment of an appropriate administrative setting. In these respects, professionalization altered traditional assumptions about the role of the volunteer.<sup>3</sup> The social insurance movement had a similar, though more profound, effect. Its commitment to rationalization posed an unprecedented challenge to treasured assumptions concerning the role of voluntary institutions in a democratic society.

Voluntarism\* was closely linked in American thought to a cluster of political, social, and economic principles. These included individual liberty, limited government, self-support, and

\* By "voluntarism" I mean organized action by nonstatutory institutions. Although the term has been widely used in this sense throughout the United States, until recently only the word "voluntaryism" has been so used in dictionaries.

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an economic incentive system which distributed rewards on the basis of merit in a competitive market. The inherited political and economic order made possible a "functional income distribution," or an allocation of payments to "employed factors of production" according to efficiency criteria. Charity or social insurance, representing systems of "secondary income distribution," were suspect.<sup>4</sup> They allocated goods or services on the basis of need rather than participation in the labor force. In providing a form of guaranteed income, they undermined incentive and work discipline.

This book focuses upon the clash between social insurance goals and the ideology and institutions of voluntarism. As a rule, historians have not appreciated the significance of the social insurance movement, which launched a national debate over fundamental issues of liberty, the role of the state, and the dimensions of security in a wage-centered, competitive economy. My secondary theme concerns the influence of voluntarism upon the social insurance movement. Social insurance was introduced into an incongruous, inhospitable environment. The voluntary framework determined the limits of achievement, and even shaped social insurance theory and programs. In workmen's compensation, for example, private insurance companies were authorized to serve as carriers (in competition with each other or state funds), and merit-rating systems were introduced as a stimulus to accident prevention. Thus, a collective public institution was partly administered through voluntary organizations and competitive pressures. By the 1920's one group of social insurance experts, influenced by the compensation model, proposed a generalized "American" approach which emphasized prevention rather than benefits as the main purpose of social insurance.

Social insurance has been described as a "social invention which was brought into being to perform a specific function in a specific economic and social environment." It emerged, in the context of the late nineteenth and early twentieth centuries, as an "ideal instrument for effecting a significant break in the deter-

rent treatment of insecure workers, because its apparent analogy with private insurance made the change acceptable to a society which was dominated by business ethics and which stressed individual economic responsibility.”<sup>5</sup> This interpretation, accepted by most authorities, is accurate but limited. The progress of social insurance in the United States would have been swifter if it simply had to demonstrate its compatibility with equity principles of private insurance. The sponsors of social insurance had to legitimize their innovation in terms of the broader idealization of voluntarism (which encompassed the conventional economic doctrine). Americans assumed that their country was unique in assigning to private, voluntary institutions a wide range of responsibilities which in other nations were relegated to government or elite groups. Voluntarism, the right of citizens to define and pursue their goals in free association, resulted in limited government and maximum liberty. Democracy and voluntarism were for all practical purposes synonymous. Compulsory insurance, however dignified by analogy with private insurance, seemed hostile to American traditions. Critics of social insurance interpreted the real issue as paternalism and statism versus personal liberty and voluntarism.

Each man in a democracy controlled his own destiny. If he entered into social relationships based upon voluntary cooperation he did not compromise his autonomy; he substituted a “social discipline” for a “democratic discipline.” Both differed from the “paternal discipline” embodied in compulsory social insurance.<sup>6</sup> Paternalism, in the form of income guarantees, undermined the other disciplines and thus the foundations of a free society. State insurance and pension programs diverted wealth from the industrious and efficient to the idle and incompetent members of society. If the American people countenanced any such “system of morals or law which justifies the individual in looking to the community rather than to himself for support,” men would no longer fear the consequences of dependency. This fear served as a “chief discipline in the interest of wholesome living.”<sup>7</sup>

Men were at all times as lazy as they dared to be. If they became accustomed to public support when earning capacity

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diminished, what inducement would they have to "make provision for the future"? How could society maintain the "necessary degree of production and of economy"? The working classes would provide for themselves and their families if an "unwise charity" did not "offer a bonus to incompetence."<sup>8</sup>

Voluntary income-maintenance institutions, in contrast to state insurance, nurtured the democratic and social disciplines. They served as a "persistent reminder of the necessity that lies on every man to provide for his own future needs." They taught the worker that "future gratification" was contingent upon "present denial."<sup>9</sup> Social "order and harmony" depended upon awareness of this truth—an incapacity to restrain desire for immediate physical gratification typified the drunkard, prostitute, criminal, glutton, and other degenerates. Because voluntary thrift institutions instilled "obedience to the accepted laws and canons of righteous living as prescribed by the best tone of the community," they provided a foundation for labor legislation. Of what value were improved living and working conditions if men were not educated to use their time and money wisely? The eight-hour day, for example, "might prove the ruin of a people unless there had been an adequate growth in moral restraint."<sup>10</sup>

The sponsors of social insurance found themselves embroiled in a violent cultural conflict. The issue from their viewpoint was predominantly economic, administrative, and actuarial. Yet critics of social insurance invariably shifted the plane of debate, stressing the unique educational and social functions of voluntary institutions, their compatibility with American traditions, and the subversive implications of compulsory insurance. What social insurance experts regarded as technical issues were converted into moral issues and a sweeping defence of the American way of life.

Social insurance was condemned as an alien importation, if not a foreign conspiracy. Commercial insurance representatives perfected this stratagem in their campaign against compulsory health insurance. Proposed health insurance legislation, which provided for government contributions to local funds, even outdistanced the "state socialism" of Germany and propelled the

nation toward "Marxian socialism." Such proposals were symptomatic of a "reckless advocacy of hopeless panaceas of social and political reforms." Democracy, "the perpetuity of our . . . fundamental conceptions of personal and political liberty," was at stake. Social insurance was perhaps the most dangerous form of radicalism. More subtle than anarchism or nihilism, it duped Americans, by means of a "cleverly disguised propaganda," into accepting a "needless enlargement of the sphere of the state." The path to "internationalism and racial decay," social insurance heralded the decline of private enterprise and private life, "lived in accordance with rational ideas and legitimate desires, free from undue restraint and interference."<sup>11</sup>

Some critics described social insurance as a German plot, hatched by Bismarck to counter the growth of socialism and insure the stability of the imperial throne. Otherwise, the ruling classes could not proceed in their designs for "world conquest and imperial aggrandizement." German autocratic militarism rested squarely on the "social control of the wage-earning element and the establishment of permanent class distinctions." Unfortunately, the military elite discovered a flaw in the design. German industry had been burdened with crushing costs which undermined its competitive strength. It was necessary, therefore, to "induce other countries . . . to adopt the same system, so as to equalize the cost of production."<sup>12</sup> In developing this second phase of the conspiracy, the German government published a mountain of documents lauding the achievements of the social insurance system. It prepared elaborate exhibits for the St. Louis Exposition of 1904, launched the International Association for Labor Legislation, and never lost an opportunity to sponsor international social insurance congresses.

The fact that a number of American economists, and other intellectuals, were trained in German universities or influenced by German social theory enabled social insurance to gain a foothold in the United States. Confronted with indifference and opposition, this small group of American propagandists had responded with a "clever manipulation of public opinion."<sup>13</sup> Frederick Hoffman

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and others who pursued this line of attack usually failed to cite the comprehensive English social insurance program, and its influence on American thought.

Controversy raged around the term "compulsory." Social insurance experts interpreted it in a technical, instrumental sense — as simply a device to maximize coverage and cost distribution, a means to protect those who most needed but could least afford insurance. Critics, however, invested the term with moral attributes. It was condemned as antithetical to the tradition of voluntary association, which had found its "chosen habitat" among the Anglo-Saxon race. Americans not only prized their liberties, but made a "fetish" of individualism.<sup>14</sup> Citizens discerned and responded to need on their own initiative. They formed organizations, if necessary, which competed for support in the benevolent marketplace. In lieu of income guarantees through compulsory insurance, Americans coped with social problems through a charitable free enterprise system.

This sharp distinction between "voluntary" and "compulsory" obscured the emergence of the modern organizational society — the structural similarities between public and private institutions which had developed.<sup>15</sup> Voluntary was equated with any form of "free," nongovernmental enterprise or association. Defined so broadly as to include virtually all private institutions, the term lost connection with reality. It encompassed private mutual-aid agencies ranging from the neighborhood burial group to the Metropolitan Life Insurance Company. Yet many institutions defended as expressions of American voluntarism were more comprehensible as large-scale bureaucratic systems with their characteristic features of great size, specialization, hierarchy, and routinization. The nature of private, voluntary institutions in an industrial-urban society had changed, giving rise to an essentially bureaucratic phenomenon. But the ideology of voluntarism lagged. It viewed public institutions as generically different from private; the latter, presumably, were neither bureaucratic nor coercive.

Private bureaucratic institutions in a wage economy did possess coercive power. They served as the individual's source of liveli-



hood, mobility, and status, and could impose the most extreme sanctions. The rhetoric of voluntarism confused the real issue in the social insurance controversy. This issue centered on the division of labor between two bureaucratic systems, public and private, and their respective capacity to deal with the specific problem of income maintenance.

The ideology of voluntarism, which equated private and voluntary with nonbureaucratic and noncoercive, was not the only obstacle to social insurance. A large number of private vested interests viewed it as a threat to their survival. Critics of social insurance cited industrial establishment funds, trade union benefit funds, and fraternal, mutual, and commercial insurance as evidence that voluntary action in America precluded the need for government intervention. If government had any significant role, it was to create a favorable legislative climate for the continued growth of these private institutions. The mere fact that voluntary insurance funds existed, irrespective of how efficiently they performed, created two nearly insuperable obstacles to social insurance. How was it possible to refute the claim that voluntary income-maintenance institutions would suffice? Who could prove that existing arrangements would not expand and gradually include the entire population in their protective sphere? Reference to European precedent only reinforced the conviction that social insurance was an alien concept inappropriate to American circumstances. There existed one definitive test of the validity of the argument, impossible to apply: time alone could demonstrate whether voluntarism was equal to the challenge.

Defenders of the status quo had a second advantage. The elaborate rationale for social insurance was based almost exclusively on objective economic need. Social insurance experts maintained that voluntary programs reached only a small fraction of the population, and usually did not include those who needed protection most. They cited European experience, where autonomous voluntary funds were superseded by state subsidies to voluntary carriers, and ultimately by compulsory insurance. European nations recognized that voluntary insurance lacked rationality with its attribute of predictability. A given worker might or

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might not be protected against one or more risks. His protection was not necessarily adequate to the need. In the event of temporary disability, for example, a worker might conceivably be eligible for benefits from an establishment fund or a labor union fund, a fraternal society or a commercial insurance company, or from some combination of these resources, or from none. It was necessary, therefore, to create a centralized public welfare machinery which could respond predictably and adequately in the event of income deprivation. Income maintenance could not be left to the vagaries of private initiative when access to goods and services was predominantly a function of wage continuity.

Critics of social insurance argued that voluntary institutions were adequate, but the ultimate justification for their primary role did not hinge on questions of economic efficiency. In discharging their economic function, voluntary institutions also served a number of indispensable educational, social, and moral ends. Public welfare bureaucracies, abstract and remote, could not duplicate their role. Social insurance had to be judged by noneconomic criteria.

Voluntary benefit funds first emerged on a significant scale toward the end of the nineteenth century. Available statistics provide a general picture of their evolution, but it is difficult to determine their precise scope. It is clear that little was accomplished before the 1890's, and that some provision for death (funeral) and temporary disability benefits was the major achievement of the voluntary system up to the 1920's.

Company establishment funds reflected a broader interest in the possibilities of welfare capitalism. Whether organized and maintained by employer or employee or through some cooperative arrangement, they expressed new ideals of "industrial statesmanship" and "service." The establishment fund substituted for the loss of personal relationship between employer and worker in an era of large-scale production units. "Beneath all other causes of trouble and conflict in the labor world, making them seem superficial only," was this "personal alienation of the employer from

his fellow-men whom he engages to work for him in large numbers." Welfare capitalism demonstrated that the employer had assumed responsibilities "commensurate with his real power."<sup>16</sup>

The worker's quest for security testified most poignantly to his sense of alienation. An "intelligent employer" had to recognize that fear of the consequences of disability or old age demoralized the average worker. Lack of security acted as an "incubus to his efforts and progress."<sup>17</sup> Permanent industrial peace depended upon the employer's understanding that it was "just as important to furnish security for the job as it is to furnish security for the investment." Enlightened capitalism surely was preferable to "governmental initiative," which Americans scorned.<sup>18</sup> Louis Brandeis, who described business as a potential profession based upon academic training and service ideals, pointed to the welfare work of Boston's Filene family as a model. The Filenes had demonstrated that the "introduction of industrial democracy and of social justice is at least consistent with marked financial success."<sup>19</sup>

In the first flush of enthusiasm welfare capitalism seemed to have many advantages. It enabled the employer to discharge at minimal cost any personal sense of moral or social responsibility for his workers, while demonstrating to the community at large that business had evolved beyond the predatory stage. A secure, contented labor force was, in the end, more loyal and efficient. It was also more disciplined and compliant. Welfare capitalism provided "strong inducements for good behavior." The employee realized that "unsatisfactory conduct" might result not only in dismissal, but in loss of an asset like an old-age pension.<sup>20</sup>

A report of the United States Commissioner of Labor, published in 1908, examined establishment benefit funds.<sup>21</sup> Only 26 of the 461 funds surveyed had been instituted prior to 1880; 335 were created after 1890. The funds affected 342,578 employees out of a total labor force of 750,000. They represented 126 industries, but 241 funds were concentrated in 14 industries,<sup>22</sup> most notably transportation, coal mining, and metals production. The 6 largest funds, all in the Pennsylvania mining, iron, and steel industries, included 83,634 persons or almost one-quarter of the total. Estab-

## 12 *The Struggle for Social Security*

lishment funds, on the eve of the social insurance movement, apparently enrolled only a percentage of the labor force in a limited range of industries. They were faulty also by the standard of risk coverage. Benefits applied mainly to temporary disability and death. Of the 461 funds, 429 provided a disability benefit, and 419 a death benefit. Both risks were covered in 390 funds, 54 made some provision for invalidity, and only 5 paid any form of superannuation benefit. The death benefit, usually fifty or one hundred dollars, amounted to little more than burial expenses. The temporary disability benefit was usually limited to five or six dollars a week for a period of thirteen weeks in a year.

If one ignored transportation, metals, and selected "model" employers, there would be little point in discussing establishment funds in the early twentieth century. The railroads were especially prominent in the evolution of this phase of welfare capitalism. Their benefit plans, which served as examples to other employers, "made . . . the most important contribution to the promotion of industrial insurance."<sup>23</sup> Railroad relief funds, as well as those in the iron and steel industry, were significant for another reason: they demonstrate that theories of welfare capitalism and the creation of relief funds were stimulated by the urgent, concrete problem of industrial injury. Establishment funds progressed furthest not only in large industries, but in dangerous ones, and were closely related to the origins of industrial medicine and prepaid medical care programs. This industrial accident problem also launched the social insurance movement, which centered originally on workmen's compensation.

Five large rail systems established relief departments as early as the 1880's: the Baltimore and Ohio; Pennsylvania; Pennsylvania West of Pittsburgh; Chicago, Burlington and Quincy; and Philadelphia and Reading.<sup>24</sup> These companies owned or operated one-eighth of the total mileage in the United States, and their labor force included one-sixth of all rail employees. These relief funds provided benefits mainly for death and temporary disability. The conditions of railroad work — its hazardous nature, mobility of the labor force, and extensive construction in isolated areas — led to pioneering efforts in the administration of medical services, as

a supplement to cash benefits. Beginning with the Southern Pacific in the 1860's, railroads established precedents for pre-paid and contract medical care. In some cases the railroad owned hospitals and related facilities, staffed by company doctors. Or the company might contract, particularly in the densely populated East, with private hospitals and physicians to care for injured employees. These arrangements were frequently combined with the maintenance of emergency company hospitals in charge of salaried surgeons.<sup>25</sup>

Railroad relief departments experienced a twofold expansion after 1890. Additional companies introduced relief plans (fifty departments administered by thirty-seven rail systems existed by 1908), and provision for superannuation became more common. Of the five original relief funds, only the Baltimore and Ohio had included an old-age benefit.<sup>26</sup> By 1908 at least fourteen railroads provided old-age pensions. Most industries or firms adopted the railroad pension formula. The beneficiary received 1 percent of his average monthly pay for the ten years preceding retirement, multiplied by the number of years of service.

The steel industry, following the establishment of the United States Steel Corporation (U.S.S.) in 1901, emerged as a second prototype for welfare capitalism. Industrial accident problems again provided the immediate stimulus, but the long-range goal was labor discipline. Steel officials viewed the welfare programs as a substitute for trade unionism, aiding in the stabilization of a heterogeneous labor force and securing the loyalty of the skilled worker.<sup>27</sup> According to board chairman Elbert H. Gary, unions might have been necessary in the past because "workmen were not always treated justly." Enlightened management policies now made unions superfluous; they benefited none except the "union labor leaders."<sup>28</sup>

Steel industry accident relief and prevention (Safety First) programs were widely publicized and acclaimed. A gift of four million dollars from Andrew Carnegie led to the establishment of the first accident relief (and old-age pension) plan in 1902.<sup>29</sup> It was reorganized in 1910 following a U.S.S. donation of eight million dollars to the original endowment.<sup>30</sup> Systematic accident

#### *IV Health Insurance: "Made in Germany"*

Workmen's compensation demonstrated the ability of voluntary interest groups to adapt a collective welfare program to private ends. The energetic but futile campaign for compulsory health insurance demonstrated their power to thwart completely a welfare measure from which they anticipated no material advantages. Health insurance was overwhelmed by an extraordinary mobilization of political resources by voluntary groups. The issues transcended the distribution of cost or tax burdens. Health insurance entailed innovations in the financing and organizing of medical services, changes in the status and social responsibility of the medical profession, and a substantial enlargement of the power and welfare role of government. Medical practice, an entrepreneurial endeavor tempered by charity, would be reorganized on a new semi-utility basis; it would be provided as a function of need rather than of ability to pay.

Opponents of health insurance objected that it would demoralize the medical profession and result in a deterioration in the quality of service. Beyond this generalized solicitude for the physician, the employers, fraternal, insurance companies, and other groups had concrete interests of their own to protect. The workmen's compensation experience intensified the determination of physicians and insurance companies to contest any further extension of social insurance. When the health insurance movement was launched around 1914, the insurance companies were still engaged in efforts to prevent the establishment of monopoly state funds, and the medical profession was bitter over alleged exploitation and growth of contract practice under the

auspices of workmen's compensation. Thus, powerful voluntary groups were already critical of the first social insurance program and were determined to prevent the establishment of a new one.

Between 1915 and 1920 compulsory health insurance was one of the most controversial, widely debated social issues in the United States. Identified primarily with the American Association for Labor Legislation, and its Committee on Social Insurance, it reached an advanced legislative stage in New York and California.<sup>1</sup> The AALL published tentative standards for health insurance in the summer of 1914, followed in November 1915 by the first draft of a bill.<sup>2</sup> Versions were introduced into the New York, Massachusetts, and New Jersey legislatures in 1916, and into those of fifteen other states in 1917. California and Massachusetts commissions delivered reports on health insurance in 1917, when additional investigating commissions were authorized in Connecticut, Illinois, Massachusetts, New Hampshire, Ohio, Pennsylvania, and Wisconsin.<sup>3</sup>

The AALL program favored the German more than the English model.<sup>4</sup> Instituted in 1883-84, German health insurance provided for local administration of medical and cash benefits through a variety of autonomous funds. The most important were the local sick-funds, which grouped workers in a locality on the basis of occupations or industries. These were supplemented by establishment funds, building trades funds, miners' funds, guild funds, aid funds (comparable to British friendly societies), and communal sick-insurance funds for those not belonging to any other.<sup>5</sup> Up to 1911, the law included industrial, transportation, and construction workers (covering about 20 percent of the population). The Insurance Code revisions of 1911 extended coverage to agricultural and domestic workers. Employees contributed two-thirds of the cost, employers one-third. Each fund had to provide a minimum range of benefits, which could be extended if financially feasible. The employee contribution in 40 percent of the funds was 2-3 percent of wages; it infrequently rose beyond 4½ percent.<sup>6</sup>

Local funds were required to provide benefits for a minimum

relax the safeguards, and thus expand the plan from a limited self-supporting insurance system to a general relief scheme supported by public funds and, in the end, paid for by taxation.”<sup>84</sup>

The British experience confirmed to Commons and Andrews the wisdom of stressing preventive goals and disassociating their proposals from Europe. The British program, Andrews asserted, “was always an exceedingly cumbersome affair and did not approach the matter in a businesslike way for the purpose of preventive work.” It suffered from the “suicidal imposition of Government ‘doles,’ which were promptly confused with genuine insurance by all enemies of progressive social insurance legislation.” Unemployment compensation as proposed in the United States stimulated the “great captains of industry . . . into something like intelligent action.”<sup>85</sup>

Before fully realizing that the purpose of social insurance was prevention rather than economic security, the AALL had prepared an unemployment insurance bill along English lines. Introduced unsuccessfully into the Massachusetts legislature in 1916, it provided for contributions by employer, employee, and state.<sup>86</sup> The break with the Old World occurred in 1921 when the Huber bill, devised by Commons, was introduced in Wisconsin; amended versions were presented at every legislative session there through 1929. Between 1921 and 1929 unemployment compensation bills were also introduced in legislatures in Massachusetts, New York, Pennsylvania, Minnesota, South Carolina, and Connecticut. The Huber bill served as a model and the AALL, in most cases, participated in drafting the legislation.<sup>87</sup> The limitation of contributions to employers was the distinctive feature of the Huber bill. The 1921 version required insurance to be carried through an employers’ mutual, but this was amended in 1923 to allow insurance through any authorized carrier. The underlying idea, Commons explained, was that the “modern businessman is the only person who is in the strategic position and has the managerial ability capable of preventing unemployment.”<sup>88</sup>

The AALL bill of December 1930 was based upon the Huber principle. Employers alone contributed a small, fixed percentage of payrolls. Administration was delegated to Employment Stabili-



zation boards in each industry, though employers who furnished proof of ability to pay were exempted from contributions as in workmen's compensation.<sup>89</sup>

A bill introduced in the 1931 Wisconsin legislature by Harold Groves, a former student of Commons and professor at the University of Wisconsin, marked the final stage in the evolution from insurance to prevention. Conceived and drafted by another Wisconsin economist, Paul Raushenbush, and his wife, Elizabeth Brandeis, it abandoned insurance altogether in favor of employer reserves. Acclaimed by Commons and Andrews, Groves's "much superior bill" segregated contributions into individual company funds.<sup>90</sup> Employers resisted its enactment and an Interim Committee was created to explore the unemployment issue and report to a special session of the legislature in the fall of 1931. The Committee reported favorably, and passage was urged by Governor La Follette. The Governor, anticipating continued employer resistance, recommended that the measure take effect only if employers had failed within a year-and-a-half to establish voluntary plans covering a stipulated number of workers. A Wisconsin Committee for Unemployment Reserves Legislation was organized to promote the bill, whose passage was virtually assured when farmer organizations endorsed it on the grounds that industry should support its unemployed and that compensation benefits would help maintain purchasing power.<sup>91</sup>

Signed by La Follette in January 1932, the Groves bill did not take effect in the summer of 1933 even though employers had failed to establish enough voluntary plans. The legislature authorized another year's delay, but eventually, in July 1934, the law took effect. The previous year the AALL had revised its model bill to conform to the Wisconsin individual reserve system (though Andrews had once complained to Paul Raushenbush that this arrangement failed to provide sufficient protection for workers).<sup>92</sup> The Groves bill established a state fund which segregated individual employer accounts. Contributions equaled 2 percent of payroll for the first two years, and continued until an employer's reserve averaged fifty-five dollars per employee; the contribution then dropped to 1 percent until the reserve averaged seventy-five

dollars per employee; at that point contributions terminated. The measure was limited to businesses with ten or more employees, and did not cover farm workers, loggers, or employees earning more than \$1500 a year. Benefits were awarded after a two-week waiting period, and equaled 50 percent of weekly wages (subject to a five dollar minimum and ten dollar maximum). There was a deduction of one dollar a week for each five dollars that the employer reserve fell below an average of fifty dollars per employee. Benefits were limited to ten weeks, and to those who satisfied the requirement of a two-year state residence and forty weeks of employment within that period.<sup>93</sup>

↙ The Wisconsin plan was virtually unchallenged in 1931-32 and was endorsed by the Governors' Interstate Commission in February 1932.<sup>94</sup> Widely publicized by the AALL, Commons, and Raushenbush, its conservative features were carefully stressed. Commons described it as "extraordinarily . . . individualistic and capitalistic." It should appeal to the "individualism of American capitalists who do not want to be burdened with the inefficiencies or misfortunes of other capitalists, and it fits the public policy of a capitalistic nation which uses the profit motive to prevent unemployment."<sup>95</sup> Like the AALL's American Plan, it was inspired by experience with workmen's compensation and the common business practice of setting aside dividend reserves "to pay stockholders during periods when their plants are idle."<sup>96</sup> An "unemployment reserve fund" was established so that "wage-earners may be tided over temporary periods of involuntary idleness."<sup>97</sup> In the final analysis the Wisconsin plan was the contribution of businessmen and was "fashioned avowedly" upon their own experiments.<sup>98</sup>

The "American approach" centered upon "possibilities of stabilization of employment and not merely a program of relief as in most European countries." It contrasted with European legislation in eschewing legislative appropriations to the reserve funds. It should be made clear, Andrews advised, that the employer's liability was "strictly limited" to his own employees and to the sum available in his individual reserve. He should "feel the very direct incentive to stabilize employment and that, of course, is

the very important consideration.”<sup>99</sup> Because of its incentives to prevention, appeal to the businessman’s competitive instinct, and compatibility with the profit motive in a free enterprise system, the Wisconsin plan had a political leverage in comparison to pooled insurance funds.<sup>100</sup> But, for all the effort to devise an American plan adapted to free enterprise principles it was not embraced enthusiastically by employers — either as an expression of their commitment to stabilization or in order to thwart alternative, more radical proposals.

Apart from stimulating public discussion of unemployment insurance in the early 1930’s, the most tangible result of the Wisconsin plan was the dramatization of the contrast between the Rubinow and AALL-Wisconsin traditions of social insurance. The November 1932 report of the Ohio Commission on Unemployment, reflecting Rubinow’s views, reasserted the classic European principles of social insurance, and terminated the dominance of the Wisconsin plan. As chief actuary and chairman of the Committee on Research, Rubinow converted Leiserson and the rest of the Commission from reserves to insurance.<sup>101</sup> The Commission’s report, or “Ohio Plan,” provided a base from which Epstein, Douglas, and others criticized the Wisconsin approach. The Commission asserted (as Rubinow always had) that “insurance is based on the assumption that the risk itself is inevitable, however much it may be reduced.” Insurance was “soundest and most economical when it covers the widest spread of people subject to the risk.”<sup>102</sup> Individual employer reserves failed to provide adequate economic security, and could not, as large insurance funds, maintain purchasing power in periods of depression. The Commission recommended unemployment insurance legislation requiring a contribution of 2 percent by employer and 1 percent by employee. Rubinow would have preferred 2-percent contributions by both groups to raise benefit levels, but labor always objected to any contribution. Rubinow noted that the 1932 convention of the A.F. of L. had endorsed unemployment insurance for the first time, but without “any real enthusiasm.”<sup>103</sup> Although both the Wisconsin and Ohio legislation limited benefits to 50 percent of weekly wages, the Ohio plan proposed a fifteen dollar

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American plan of social insurance used capitalist methods—competition and the profit motive—to achieve collective security. It implied dependence upon the same economic processes which had produced insecurity for much of the working population. The crucial consideration is that the AALL-Wisconsin approach to social insurance was an effort to provide economic security with a minimum of income redistribution. If income maintenance is subordinated to prevention and employer incentives, it follows that a social insurance will have little or no redistributive function.

The tradition embodied in Rubinow and Epstein differed sharply. The challenge to voluntarism was more prominent in light of the emphasis upon government leadership, benefit adequacy, and use of the social insurances to redistribute income. By the 1930's these objectives were supplemented by increasing interest in the role of the social insurances in maintaining consumer purchasing power. The Social Security Act of 1935 attempted to reconcile these two traditions. It expressed a greater commitment to the related goals of income maintenance and redistribution than the Wisconsin plan, but did not go as far as Rubinow and, especially, Epstein preferred.

The purpose of the Social Security Act was summed up in this way: "Only to a very minor degree does it modify the distribution of wealth and it does not alter at all the fundamentals of our capitalistic and individualistic economy. Nor does it relieve the individual of primary responsibility for his own support and that of his dependents. . . . Social security does not dampen initiative or render thrift outmoded."<sup>111</sup> Eligibility and benefits in the contributory old-age and unemployment insurance titles were closely work-related, government contributions were omitted, and fiscal conservatism prevailed in the emphasis upon reserves and the equity principles of private insurance.

Abraham Epstein became the most uncompromising critic of the Social Security Act which, he charged, expressed too limited a conception of economic and social function. It did not provide economic security because it did not entail any significant income

redistribution. Epstein's views were colored, in part, by personal disappointment. He was bitter over the failure of the Committee on Economic Security to consult him, Rubinow, or Douglas. "From the very inception," he complained, "the Administration has refused to listen to anyone who knew anything about the problem."<sup>112</sup> To a large degree he attributed this neglect, and the limitations of the Act itself, to Frances Perkins.<sup>113</sup> He became an intemperate critic of the old-age and unemployment titles, hoping the courts would nullify them and urging the states to refuse to participate in the tax-offset unemployment system established in 1935.<sup>114</sup>

Rubinow was disappointed with the Social Security Act, but even more disappointed with Epstein. His friend and disciple had been "treated shabbily by Miss Frances Perkins and all her lieutenants. His services to social insurance entitled him to a more influential position in the counsels of the Committee."<sup>115</sup> Yet, if Epstein had "waited so long as I have and seen one disappointment after another, he wouldn't be quite so ready to advocate this theory of either everything or nothing."<sup>116</sup> Rubinow was irked by Epstein's inordinate praise of the categorical assistance programs which, presumably, were genuine social security because they were financed out of general tax revenues and, hence, redistributive. Because of the "pretty name of pensions," he admonished Epstein, "you prefer a system of public relief to the system of public insurance, and you get away from this difficulty by calling the first social security." I have not, Rubinow added, "preached social insurance for thirty-five years in order now, at this late date, to abandon my ideal for the sake of a somewhat glorified system of public relief with half a dozen means tests."<sup>117</sup>

The substance of Rubinow's criticism of the Social Security Act was similar to Epstein's. Neither admired the tax-offset system of unemployment compensation, and both preferred a national or subsidy plan which was less cumbersome administratively, and would have provided a greater measure of federal control over standards. Both men objected to the equity obsession in the contributory titles and the large reserve requirement in old-age

insurance which they believed would worsen the depression by reducing purchasing power. Both criticized the omission of health insurance, and felt that government contributions were necessary to make economic security based upon income redistribution a reality. But Rubinow did not allow personal grievances or disgust over the limitations of the Social Security Act to warp his judgment. He did not lavish uncritical praise upon the categorical assistance titles, or urge that the states decline to participate in unemployment insurance. Most important, he recognized that the Social Security Act marked only a beginning, and that it could be amended to provide for government contributions, health insurance, and other improvements.<sup>118</sup>

Epstein's personal disappointments may have influenced the tone and manner of his criticism, but it should be evaluated in its own right. The Wisconsin plan was an attempt to attain economic security with a minimum of income redistribution. It posed no challenge to the primary or functional system of income distribution which hinged upon efficient labor force participation. This remained fully intact, as did the equity principles of private insurance in which eligibility and benefits were closely tied to individual contributions. For Epstein income redistribution was the fundamental consideration. He believed that traditional methods of wealth allocation should be modified by channeling more income through the social insurances, and that equity insurance principles should be subordinated to goals of social adequacy. Social insurance, Epstein argued, "differs basically from private insurance in that it adds to the private insurance principle of risk distribution the social principle of distributing the cost among all elements in the community." This cost distribution was necessary in order to lighten the economic burden imposed upon the poorest classes and increase their benefits. Social insurance, therefore, did not "seek individual protection according to ability to pay but rather a socially adequate arrangement which will protect all the workers as well as society from certain social hazards." Commitment to a large reserve in old-age insurance illustrated the extent to which the "framers of the Social Security Act confused governmental social insurance with private insurance."<sup>119</sup>

The distinguishing feature of social insurance, which made the subordination of equity to adequacy possible, was a government contribution. This led to a vertical redistribution of national wealth or profits through higher insurance benefits. Payroll taxes, Epstein insisted, burdened the worker and consumer. The Social Security Act, "actually decreases the purchasing power of the masses by depriving them of immediate purchases, by relieving the well-to-do from their share of the social burden, and by making the workers pay the expenses of a vast administration." Governmental contributions would "lighten the unbearable load" placed upon the worker and attack the "maldistribution of our national income." They would enable social security benefits to act as a supplement to wages and increase the purchasing power of the masses. The only justification for worker contributions was psychological—a means of "taking away whatever stigma is attached to governmental relief."<sup>120</sup>

The 1939 amendments to the Social Security Act testified to the validity of many of Epstein's criticisms. In old-age insurance a smaller reserve was substituted for the original one by holding contributions stationary and increasing expenditures. The benefit formula was changed by substituting average earnings for lifetime cumulative earnings, and weighting it somewhat in favor of lower-income groups. And, as Epstein had urged, provision was made for dependent and survivor allowances. Although these changes pleased Epstein, they did not suffice. Unemployment insurance remained "inadequate and unrealistic," because it suffered from the vestiges of the "same hopeless private-insurance principle which characterized our original old age annuity plan." Lacking any provision for extended or dependent benefits, it operated in a "social vacuum."<sup>121</sup> The American social security system still lacked any provision for health insurance and did not authorize government contributions.

Together with Rubinow, Epstein personified a social insurance tradition which stressed social adequacy as the ultimate test of an insurance or assistance program. They insisted that social adequacy and strict adherence to the equity principles of private insurance were incompatible, favored government contributions

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to enable the social insurances to insure adequacy, and cautioned against confusing the income maintenance function of social insurance with prevention or other extraneous goals. Far more than Andrews and Commons, both men favored the use of the social insurances to transfer functions from the voluntary to the public sector, and divert wealth into the secondary system of income distribution.



## VIII Conclusion

The Social Security Act of 1935 heralded a revolution in American social welfare. It resulted in a decisive transfer of responsibility for income maintenance to the public sector and the federal government. Post-1930's legislation has greatly extended coverage, raised benefits (indexed for inflation since 1972), incorporated disability insurance (1956) and Medicare (1965). The escalating costs of the program, however, have generated unprecedented controversy since the mid-1970s—controversy fueled by hefty tax increases in 1977 and 1983 designed to cope with funding crises. Referring to the Democratic party, the *Wall Street Journal* described social security as a “symbol of the party's proud past and a strain on the nation's future resources. It breeds demagoguery among those opposed to any change. It invites simplistic solutions from others who ignore the program's complexity and importance to the poor.”<sup>1</sup>

The controversy that has raged around social security in the last decade has raised fundamental issues about the substance of a social security system: whether the cost should be carried almost exclusively by a payroll tax; whether the employer's share is not, in fact, carried by the worker; the effects on the economy, particularly employment and savings, of the relentlessly escalating tax; the implications of the increasing proportion of aged in the population, resulting in a diminishing ratio of workers to beneficiaries; inequities in the program such as the treatment of married working couples. But the central issue, arguably, concerns the balance of equity and social adequacy elements. In the absence of a coherent policy to deal with this issue, it becomes difficult to devise anything more than ad hoc, opportunistic solutions to the other problems.

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Underlying the recurrent financing strains in the last decade has been the erosion of equity values in favor of redistributive or welfare values. Although the equity dimension of social security has always rested, in part, upon a benign fiction (that social security was an insurance program rather than a pay-as-you-go intergenerational transfer from worker to nonworker), the equity ideal has nonetheless been vital to the consensus which has sustained social security. In contrast to private insurance, equity principles have not been embodied in individual accounts, strict actuarial calculations of premium and benefit, or the establishment of fully funded reserves to cover all accrued liabilities; instead, the equity component in social insurance consists of the link to labor force participation and higher payments for higher earning levels. Although the system has always been weighted in favor of lower-paid workers, the "reforms" of 1977 and 1983 drastically increased the redistributionist and welfare component. The replacement ratio (monthly benefit as a percentage of average monthly earnings) was substantially reduced for higher paid contributors to the system; this outcome was the result of large tax increases, reduced benefit levels for future retirees, and the institution of a tax on social security benefits incorporated in the 1983 legislation. This tax can be viewed as a means test under another name.

Social security was established as an alternative to public welfare and its many negative associations over the centuries; its historic role was to operate as an income maintenance program which would be significantly work related and free of the means test (even if called a tax). To the extent that social security loses its equity basis and comes to resemble public assistance complete with means test, its public support is likely to erode. A brief historic review of the means test in Anglo-American welfare thought will clarify why the imposition of a tax (means test) in 1983 cannot be viewed merely as a funding expedient—it attacks the equity foundation of social security and moves it far along the spectrum toward an income-conditioned assistance program.

Still relevant in understanding the evolution of the American welfare system, and the role of the means test, is the *Report* of the Royal Poor Law Commission of 1834. If the Elizabethan Poor Laws

The preceding analysis of the means test and the less eligibility concept in public assistance should clarify the historical (if not revolutionary) accomplishment of social insurance; it was a social invention which permitted the creation of an income maintenance system liberated from the imperatives of the means test and more extreme manifestations of less eligibility. The critical component was the ingenious inclusion of equity values—an income redistribution program which was work related and which provided higher benefits for higher levels of contributions. It is ironic that the latter day redeemers of social security, having reduced the return for long-term labor force participation and higher earning levels, and having incorporated a means test under the guise of a tax, have greatly blurred the distinction between social insurance and the public assistance legacy it was designed to supersede.

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Social Security, a revolutionary part of Franklin D. Roosevelt's "New Deal" program to rescue America from the clutches of economic depression, assured workers a retirement free from the ravages of abject poverty. But in the sixty years since its inception this simple, well-developed program has become a major entitlement teetering on the edge of bankruptcy, and a political hot potato for any Congressperson who hopes to be re-elected. The reasons are all too obvious: increasing numbers of retirees have placed greater demands on the system; politically popular benefits have added dramatically to the costs; and the decision by lawmakers to use surplus Social Security funds as part of their smoke-and-mirrors tactic to mask the size of annual federal deficits has drained reserves that could have met future needs. In the next decade and a half, as nearly 80 million Baby Boomers

continued on back flap

face retirement, many are asking, "Will Social Security be there for me?" Without a total rethinking of the program, the answer could well be no. Unlike the early years when 16 workers paid Social Security FICA tax to provide for one retiree, today that figure has shrunk to barely 3 to 1. By the first decade of the 21st century, the ratio will be much lower.

Can the Social Security system be restructured without risking the benefits of current recipients while at the same time controlling for the political sleight-of-hand that has brought the program to the point of collapse? Author E. J. Myers shows just how easily it can be done once America's biggest retirement program is removed from political control and put into the hands of America's workers. His plan to privatize the retirement system in an income-generating investment structure would safeguard the benefits of current retirees and those about to retire while creating a bold new program for younger workers that could secure for them a retirement package beyond anything Social Security could ever promise—just by modifying a federal retirement plan already in place. And all this can be done without altering the current level of Social Security tax or benefits, without forcing the federal government to repay the hundreds of billions of dollars it has "borrowed" from the Social Security Trust Funds, and without forcing future generations to pay for the retirement of their elders while they are saving for their own.

You owe it to yourself and those you love to read *Let's Get Rid of Social Security*.

**E.J. MYERS** is a businessman and president of Environmental Guardian, Houston, Texas, a company specializing in bioremediation. He has been invited to appear before the U.S. House of Representatives Social Security Subcommittee to formally present his ideas to Congress.

Cover design by Ann Marie Pellegrino.



Let's follow the paper trail of these trust funds.

The simple fact of the matter is that there really isn't and never have been any Social Security Trust Funds, except possibly on paper. All the money the government takes in, in any form, be it income taxes, FICA taxes, fees, and the like goes directly to the U.S. Treasury where it is used to pay the general bills of the government. This includes all monthly Social Security payments to recipients, as well as all welfare payments. The bureaucratic talk about Social Security being "off budget" (set aside from the government's general revenue and earmarked for Social Security payouts) or "on budget" (actually included in annual government budgets as a form of revenue and expenditure) has no substance.

This fairy tale surplus started in 1983 as a result of Congress fixing a Social Security system that had gone broke. After a great deal of posturing lawmakers raised the FICA rates to the point where they would technically have a surplus in the Social Security Trust Funds for about twenty-six years. It was projected that for this time period more money would be coming into the funds than would be paid out. During this period they knew they could do just what they pleased with the surpluses, because the monies weren't separated from general revenue and because the day of reckoning seemed so many years away. They could worry about paying the money back later. Well, the day of reckoning has almost arrived.

Thomas Jefferson was so right when he said, "public debt is the greatest of the dangers to be feared from government." If the government had played it straight with the monies paid into Social Security and really made them trust funds, it could have taken the surplus funds and invested them in income-producing vehicles. The interest alone would now be in the billions. Some legislators feared that if such a plan were put in place, then the government would be in a position to own part of the private sector and this would pose a serious conflict of interest. But that concern was just smoke screen. These fears could have been allayed by putting the funds in the hands of independent money managers.

Had such an investment option been exercised, the dividends on the \$400 billion plus the Trust Funds would now exceed \$32 billion each year. With this type of real funding there would have been no need in recent years to increase FICA taxes in order to maintain the present retirement levels for all current recipients. In fact, Congress might have been able to *reduce* the tax rates. That's called planning for the future, which is what Congress should be all about, at least when it comes to Social Security.

There are still many columnists and newsletter writers who promote the idea that there will be no collapse of the Social Security system, and quite frankly they are right. However, the price to keep it afloat at current benefit levels will be a steep one, unless we choose to adjust benefits or the rates of increase for COLAs. In either case it will not be a pleasant choice for lawmakers.

Many still say that the Trust Funds are solvent and the surplus is still growing. They say this surplus is invested in Treasury bonds, which are as safe an investment as you can buy today. But as we have already seen, these bonds are not for sale to the public. Even if you wanted to buy them, you couldn't. They are simply IOUs from the Treasury to the Trust Funds. And even if the bonds were the types we know to be gold on the open market, they are debts the government owes to itself, payment of which can be deferred indefinitely. The only way to secure the funds would be to make them unavailable to the Congress by placing them under private management.

Surveys have shown over the past several years that the public likes the Social Security program, as the nation's basic retirement program; but the simple fact is that under the present structure we won't be able to sustain the program. Congress knows this but is unwilling to give up control of the system when it knows full well there are better, more efficient and cost-effective ways to run the system. Why are our lawmakers so stubborn? Because to recast Social Security means that Congress would also have to relinquish the power and influence it has derived from controlling the system.

federal, won't be able to pay the interest on our debt. That's a dumb fix to be in." Thomas Jefferson and Benjamin Franklin both worried about government borrowing. They said that some day it would become our worst nightmare, and it is fast becoming just that.

Harry J. Figgie, Jr., Chairman of Figgie International, a Fortune 500 company, has warned very emphatically about government borrowing from its trust funds. In his book, *Bankruptcy 1995*, Figgie says that Congress is borrowing not only from the Social Security Trust Funds, but from every other fund, such as the highway trust fund. All of these funds are stuffed with Treasury IOUs. \* The opposing argument, says Figgie, runs as follows: "Borrowing from the Social Security Trust Funds and other trust funds and pension funds to finance the deficit is okay, because it keeps interest rates low and limits our need to borrow from foreign countries."

According to Figgie, "It would be okay if there were any prospect that the U.S. government will be able to repay those loans when the Social Security and other trust funds, such as military, postal workers, and railroad retirement, need the money themselves to pay benefits and meet their own obligations. But where will the cash come from? Borrowing to meet today's expenses from moneys that were meant to be set aside for the future is a cruel trick." He ends by saying, "Entitlement programs may make good social policy, but they play havoc with fiscal policy."

Congress and the administration will have to learn, as we all have, to stop borrowing from all available sources. As a nation we can't keep consuming all our assets. We are long past the point of no return and it makes no sense to continue down this well-worn path to chaos and oblivion. Certainly setting up a successful Social Security program under a completely independent agency, free from any government interference, administered by professionals whose job it is to invest and manage money, would be a practical alterna-

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\*Harry J. Figgie, Jr., and Gerald J. Swanson, *Bankruptcy 1995: The Coming Collapse of America and How to Stop It* (New York: Little, Brown, and Company, 1992).

tive. And I will attempt to develop just such a program later in this volume. But first we should consider the arguments put forth over the years by those who opposed independence for Social Security.

Critics of an independent Social Security system have argued that Social Security can't be a separate entity, because it takes in too much revenue and spends too much money. In fact it does neither. In the name of Social Security the U.S. Treasury handles these functions even though Social Security has independent status. In its present form Social Security is by definition a federal social program, not a contractual pension system: it is subject to periodic Congressional evaluation along with other economic and social functions of the government.

It is further argued that in setting up Social Security as an independent agency the program would greatly weaken and fragment domestic policy making by the administration. But thus far no apparent deterioration of government policy making capabilities has occurred. Changes if any in the way Social Security is handled in the United States have been virtually nonexistent.

The fact is that Social Security is now more than a helping hand. It is a full-blown retirement system. Right or wrong, this is how millions of Americans think of it. Unfortunately, the program as currently administered lacks the financial muscle to do the job. Working people now feel that they have earned their retirement, since throughout the years FICA has been deducted from their paychecks and they have acquired vested rights that no one can take from them. But this is far from the truth. Congress can adjust benefits at any time, even after you have retired.

If Social Security were actually a welfare program such as SSI, then why all the subterfuge? Why use two taxes : FICA and the income tax? Why not one simple income tax to cover everything? All other programs are considered welfare pure and simple, and have nothing to do with retirement.

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## *Congressional Record-Senate June 19, 1935*

- A. We know that this is a hard section to read. But, it is very educational and worthwhile to read. We suggest you read this section four or five pages at a time.
- B. One of the points you will realize is that the Senators were worried that the Social Security program would be ruled unconstitutional.
- C. As we have noted in other sections, with the help of Chief Justice Brandeis working behind the scene the Act just barely passed muster.
- D. Chief Justice Brandeis and Justice Cordosa rigged all the early Supreme Court cases. Even though Cordosa gets the credit for authoring the opinions it was in fact Brandeis who actually wrote the opinions. It appears there was more than just a little conflict of interest between the legislative and Judicial Branches of government.

## SOCIAL SECURITY

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

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Missouri [Mr. CLARK].

Mr. BARKLEY. Mr. President, the amendment which has been offered by my friend the Senator from Missouri [Mr. CLARK] is to be voted on at 1 o'clock, and inasmuch as the Senator from Missouri desires to conclude the argument on his own amendment, I promised him not to occupy all the time; and I have no desire to do it independent of that in order that I may extend to him the courtesy to which he is entitled as the author of the amendment.

There are so many things involved in the amendment which is now before us that I could not hope to call attention to all of them in the space of time which I shall occupy. We have heard a good deal of discussion here on the pending bill and in connection with the amendment, in which the fear has been expressed that the bill itself is of doubtful constitutionality, and the intimation is that we ought to vote against it on that account.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Kentucky yield to the Senator from Idaho?

Mr. BARKLEY. I yield.

Mr. BORAH. The fear, as I understand, is with reference to title II; but does not the Senator think that title II might be held to be unconstitutional without affecting the other portions of the bill?

Mr. BARKLEY. Yes; I think the various titles of the bill are separable. The point that I have in mind at this particular juncture is that, if it be true that there is any part of this measure concerning the constitutionality of which there is doubt, that doubt ought not to be increased by adding an amendment such as that which is now before the Senate.

We have heard the Federal Government berated and denounced here on the floor as if it were a sort of monster; we have heard it talked about as if it were a sort of glacier, gigantic in proportions, crawling along the surface of the earth and crushing everything with which it comes in contact, and that, because it is a monster, because it is constantly reaching its hands out to crush somebody or to rob somebody of authority, we ought to vote against this measure and all similar measures which are brought forward for our consideration.

I do not entertain that conception of the Federal Government. The same people who pay taxes into the State treasuries pay taxes into the Federal Treasury; the same people

who are citizens of the States are citizens of the United States; and I look upon our National Government rather as a benevolent organization than as a ruthless organization seeking all those whom it may devour. Certainly in its effort to relieve economic insecurity by providing some universal and uniform way by which we may eliminate the hazards of old age, of unemployment, and of illness, our National Government takes on the qualities of a benevolent government and not of a despotic or ruthless government.

We have had our attention called to the decision of the Supreme Court in the famous case sometimes referred to as the "sick chicken" case, sometimes as the "chicken coop" case, and other derisive terms which have been applied to it. I think it is unfortunate that the decision as to the legality of N. R. A. had to arise on a case involving the plucking of chickens out of a coop, because it seems to be a trivial situation; but the Supreme Court went into it in detail and therefore I have no disposition to treat it in a trivial way.

I believe there is no question that the Congress has the power to levy the tax which is proposed to be levied under the pending bill. I am not concerned with fear as to the constitutionality of title II, which can only be doubted on the ground that we are invading a field which was reserved to the States or the people; but I do not see any difference in principle between appropriating billions of dollars to be given to unemployed men and women all over the United States in an emergency to keep them from starving and freezing and appropriating money out of the Treasury in an orderly way to provide against the existence of such an emergency in the future.

We need not grow fearful that the foundations of our Government are going to crumble because the Supreme Court on one day rendered three decisions, two of which nullified acts of the Federal Congress, one being the N. R. A. case, the other involving the Frazier-Lemke Act, which was passed by Congress and was not, strictly speaking, a part of the new deal, as it has been assumed that all these decisions were rendered against the new deal, and the third having to do with exercise of the power of dismissal on the part of the President.

It might be interesting for Senators to recall that from 1789 to 1859 the Supreme Court rendered only 2 decisions nullifying acts of Congress. From 1860 to 1869 it rendered 4 decisions nullifying acts of Congress; from 1870 to 1879 it rendered 9 decisions nullifying acts of Congress; from 1880 to 1889 there were 5 such decisions; from 1890 to 1899 there were 5 such decisions; from 1900 to 1909 there were 9 such decisions; from 1910 to 1919 there were 7 such decisions; from 1920 to 1929 there were 19 such decisions; from 1930 to 1932 there were 3 such decisions; and from 1933 to 1935, both inclusive, there were 7 such decisions, which involved only 6 acts of Congress. So that from 1920 to 1929, a period of 10 years, the Supreme Court nullified, in all 19 decisions, acts of Congress, but no one was then fearful that because of that fact Congress had ceased to function or that the Supreme Court had arrogated to itself the powers of government.

No one thought the foundations of our Government were about to crumble; yet because during the last 5 years the Supreme Court has rendered 10 decisions in which it nullified acts of Congress, 7 of which have been rendered within the last 3 years, we are cautioned not to vote for anything that even implies a position near the border line, lest we may do something that is unconstitutional.

Mr. President, my objection to the Clark amendment is that it sets up two competitive systems of old-age relief. I believe one of the wisest things the Nation has done has been to recognize the duty of the Government toward indigents. Whether the indigent condition be brought about by unemployment or old age or ill health, there is no way by which the public can escape the burden. It is always present in one form or another. Those who work must support those who do not work. It has always been so, and it will always be so. With respect to reduction of hours of labor, my theory has been that if we must decide whether all our people should be allowed to work three-fourths of the time or three-fourths

of them should be allowed to work all the time and the other one-fourth never work at all, I prefer the first alternative so as to divide whatever work is available among all the able-bodied men and women of the country who desire to work, so that they may share it in proportion to their ability, rather than that we shall have a permanent condition in this country in which three-fourths of the people shall be allowed to work all the time and one-fourth never to work at all, and therefore become burdens upon the three-fourths who shall be allowed to work. That is the reason why I favor reduction in hours of labor, insofar as we can do that, in order to spread the work which is available among all the people capable of working.

I feel the same way with respect to the provisions for old-age pensions and unemployment insurance. That is why I believe in this measure, worked out by a commission appointed a year ago by the President at the time he sent his message to Congress announcing that at this session he would propose a constructive plan of legislation to deal with this complicated and interrelated situation. After months of investigation and months of labor that commission brought out a tentative plan, which was submitted to the Houses of Congress, and both Houses, through their committees, held exhaustive hearings on the subject. The House of Representatives finally passed a bill, I believe, in much modified form. Our Committee on Finance gave weeks and months of study to this problem, and has brought here a bill proposing a uniform and universal plan to apply to our country.

Abraham Lincoln once said this country cannot endure half slave and half free. I do not believe any old-age pension system we may inaugurate can long endure half public and half private, because if we have private insurance or annuity plans set up in opposition to the plan of the Federal Government, it is not difficult to see that the high-pressure salesmanship of annuity companies and of insurance companies will always be on the doorsteps of the employers to convince them that they can insure their employees in a private system more cheaply than they can by the payment of taxes into the Federal Government and a consequent dispensation of the benefits in an orderly and scientific fashion.

Therefore I believe the effect of the Clark amendment—and I am sure, of course, the Senator from Missouri was not actuated by any such design or desire—will be to disorganize and disarrange the reserve fund set up in the Treasury under the Federal plan, and that it will gradually and effectually undermine the Federal system which we are trying to set up. We will then have our Government in competition with every annuity writer and every employer in the country who thinks he may be able to save a little money by insuring his employees or by adopting some private annuity plan which may be suggested to him by some private insurance company or annuity company which desires to obtain the business.

As the Senator from Wisconsin [Mr. LA FOLLETTE] said yesterday, the employers of the United States have not asked for this amendment. Only one employer of labor came before our committee and suggested it. He was a representative of the Eastman Kodak Co., of Rochester, N. Y., which for many years has had a very commendable system of private annuities for its employees. The only other man who came before the committee to suggest the amendment was a man who represents an annuity company which desires to write policies for employers throughout the United States.

The question which we are to settle when we vote on the Clark amendment at 1 o'clock is whether we are to have a Federal system uniform in its application all over the United States or whether we are to have a spotted system, part Federal and part private.

The argument has been advanced here that failure to adopt the amendment would rob the States of some rights to which they are entitled. The argument has even been made that the enactment of this bill into law will rob the States themselves of some right under the theory of State rights. I believe in State rights. I was schooled in the doctrine of State rights. I come from a section of the coun-

try and I belong to a political organization one of whose cardinal doctrines has always been the preservation of the rights of the States. But while I am in favor of State rights, I am also opposed to State wrongs.

We take nothing away from any State in this measure. There is nothing here which interferes with the right of any State to pass its own old-age-pension laws and its own old-age annuities or any other form of old-age relief which the State legislature, through the representatives of the people, may desire to enact. We not only take away from the States no right which they enjoy but we take away from no employer any right which he enjoys. He may continue his private plan if he desires; and if he is so generous as not to be satisfied with what the old people who work for him or his concern for the able-bodied years of their lives are to get out of this bill, he may supplement that by adding to it, or inaugurating a private system of his own which will give them more than they will be able to obtain under the bill as we have it here.

My contention is, however, that we cannot safely take away from this uniform, universal system which we are trying to establish here the universality and the uniformity of its application by holding out an invitation or an encouragement to private individuals to impinge upon the system set up by the Federal Government, and utterly to destroy its reserve fund, and thereby break down its application, because the Federal Government will be compelled to bear the burden of it on the seamy side, while private employers may so manipulate their employment as to age as to have a large majority of younger men who would not be an immediate burden upon them, while shifting to the Federal Government all of the older employees whom they do not desire to carry on their rolls because of the greater burden that might be attached to payment of annuities to them over a term of years.

Mr. COSTIGAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Colorado?

Mr. BARKLEY. I yield to the Senator from Colorado.

Mr. COSTIGAN. I am much impressed by the statement of the Senator from Kentucky. In connection with it, I ask his attention to the proviso on page 4 of the Clark amendment, to which, as I view the amendment, not enough attention has been directed.

Under that proviso, with which the Senator from Kentucky doubtless is familiar, if an employee leaves private employment prior to reaching 65 years of age, the duty falls upon the employer to pay to the Treasury of the United States an amount equal to the taxes which otherwise would have been payable by the employer, plus 3 percent per annum, compounded annually. Since we are dealing with insurance principles, is the Senator prepared to tell the Senate why the payment to be made at such a time is not based on actuarial standards, which would result in a large payment by the employer than the amount provided for in the Clark amendment?

Mr. BARKLEY. Of course, I am not able to answer the question of the Senator, because I do not know why it was not based upon actuarial facts and upon actuarial investigations.

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

Mr. BARKLEY. I yield.

Mr. CLARK. I do not desire to take the Senator's time and I shall be glad to have the Senator make up out of my time the amount of time consumed by this interruption.

The question is very simple to answer. The provision was included in that form to meet the objection which was made in the committee that the employee might be the loser any time by transferring from a private fund to the Government fund. The provision was put in the amendment in this form to insure that an employee who, either from his own wishes or from any other cause, transfers at any time from a private fund to the Government fund will certainly not be any worse off than if he had been in the Government fund all the time.



Mr. BARKLEY. That leads me to discuss another matter which I think is very serious and will be very difficult to administer.

The amendment of the Senator from Missouri provides, of course, that the board shall approve these plans. It must keep constantly in touch with each of them, not only as to the plan as a whole but as to every single employee of any concern, however large the number may be. In other words, if the employment of any man is terminated under the terms of this amendment, whether by his own voluntarily act or by the act of his employer, the board in Washington must investigate the relationship of that employer to that employee; and it is conceivable that it would take an army of inspectors and investigators running all over the United States to innumerable places to which they would be called every time a man terminated his employment, either on his own account or on account of his employer, to ascertain the relationship between the employer and the employee at the time of the termination, and at the same time investigate the employee's rights under the private plan and under the Federal plan, if he had any rights under the Federal plan.

Talk about bureaucratic government, and about snoopers going around all over the country to investigate everything! There would have to be an investigation, if there was any controversy over it, every time a man quit his work or was discharged, as to his rights under his agreement with his employer, or under the law under which he operated.

That brings me to the discussion of another matter which seems to me to add to the doubtful constitutionality of the bill if this amendment should be adopted.

In the child-labor case the Supreme Court practically held that an effort on the part of Congress to levy a tax on the products of a factory intended for interstate commerce, provided they employed children in the manufacture of the product, was the same as fixing a penalty upon any concern that employed child labor. They held that that was unconstitutional for that reason, as well as for other reasons which they assigned.

In the case of this amendment, if the same controversy should arise, and the Court should take the same view of it—that the tax imposed here would be in the nature of a penalty against every concern that did not have a private plan of annuity for the benefit of its employees—of course, the act might be held unconstitutional on that ground.

To me, however, there is even a more serious objection to the amendment on constitutional grounds. The Constitution provides that all duties, imposts, and excises shall be uniform throughout the United States. Of course, that does not mean that we have to levy a given tax on everybody in the country. We have always recognized the right of Congress to establish classifications for the purposes of taxation. We do it in all of our revenue laws. We set up classes which shall pay a certain amount of taxes, and other classes which according to the law will be taxed in a different way; but I do not recall any act of Congress or any decision of a court where it has been held that after fixing these classifications Congress can lift some persons out of the classifications and exempt them from taxes altogether. That is what this amendment would do. It says to every concern and every factory, it says to all those who are subject to it, "You will pay this tax unless you inaugurate a private annuity system of your own. If you do that, you are not required to pay the tax which everybody else in your class will be required to pay."

I seriously doubt whether Congress has any such power as that under the Constitution. Certainly, in my judgment, that would violate the rule of uniformity which the Constitution requires with respect to taxes levied upon all classes and different classes which Congress proposes by its laws to attempt to tax. Certainly there would be enough doubt about it to add to the doubtfulness of the constitutionality of the act as a whole, if there is any serious doubt as to its constitutionality, which I have not the time now to argue at length, because I have promised the Senator from Missouri to leave him 20 or 25 minutes in order that he may close this argument in behalf of his own amendment.

But, regardless of constitutionality, regardless of any question of technicality, regardless of all the legal technicians who may be brought forward in behalf of this proposal, my earnest belief is that it is unwise as a matter of policy to divide this great scheme which has been devised in our country—a belated scheme, I will say, compared to the legislation of other civilized nations, some of which was inaugurated half a century ago, most of which has been in operation for a quarter of a century. It has taken us a long time to march up the hill toward the consideration of our duty to those who have served society, and in many cases have rendered as valuable service to the world as the man who shoulders a musket or goes to war in support of his flag or his Constitution. It has taken us a long time to conceive of it as our duty as a government to do something to recognize, in an organized and regular and orderly way, the duty of society to its aged and to its unemployed and to its indigent, those who have served their day and have passed on beyond the power of service, beyond any capability so far as they are concerned to make their declining years happy and comfortable. I congratulate the Congress of the United States, I congratulate the American Government, I congratulate men of both political parties in this Chamber and in the other Chamber, that at last we have come to recognize the fact that society as a whole, in its organized form, owes an obligation to these men and women which cannot be discharged by mere lip service, but can be discharged in a practical way only by the enactment of workable, practicable plans to apply to all alike and to all sections of the country with equal force, as we have attempted to provide in the bill now before the Senate.

I think the Senate and the Congress will rue the day on which this amendment shall be agreed to, and thereby the strength of our enactments be weakened, and the power of the National Government be weakened in dealing with unemployment and old-age problems.

For these reasons, I sincerely hope the amendment will be defeated. However much I regret to oppose any amendment put forward by my lifelong friend the Senator from Missouri, however much respect I have for his views and for the sympathetic heart which I know he possesses, nevertheless, I believe he is wrong in principle and in policy in this case, and I believe it would be a serious mistake to adopt the amendment; and I, therefore, trust that it will be rejected.

Mr. CLARK. Mr. President, no careful and intelligent observer in these unhappy times can have failed to note that in the last 10 or 12 years there has been an essential change, if not in the form of our Government, at least in its substance, and can have failed to observe that this has ceased to be a government in which legislation is by congressional consideration and vote, but has become a government by experts.

There was quite a long period following the foundation of the Government down to a recent date when Senators and Representatives considered it their duty under the Constitution to formulate legislation on their own responsibility, under their oaths of office, to consider that legislation in the light of their own views, and to cast their votes on the enactment of the legislation in accordance with those views. That situation existed until a period not so long ago. During that time Senators and Representatives considered it to be their duty to take active part in the formulation of legislation. But under the system which has grown up in the last 10 or 12 years, a man who feels himself qualified to participate in the formulation of legislation, to have any voice in its formulation, should not offer himself for election to the Senate or the House of Representatives, but he should procure for himself a position as a member of some commission, or as an employee of some commission or as an employee or agent of some bureau of the Government.

Until very recently these experts were satisfied to go over legislation proposed to be enacted, in private, with the Senators who were to introduce it and sponsor it, and quietly to let it be known that it was legislation sponsored

by the commission or the bureau, as the case might be. In more recent practice the experts come to the committees, in executive sessions of the committees, and the experts come upon the floor of the United States Senate in droves.

In the consideration of the particular bill now before us, when the bill was finally reported out of the Finance Committee I think it is no exaggeration to say that there were three times as many experts in attendance in that supposed executive session of the committee as there were Senators present to vote on the bill, a measure which puts a larger charge upon the taxpayers of the United States than any bill ever heretofore introduced.

During the consideration of the bill on the floor of the Senate the Senator from Mississippi [Mr. HARRISON] has from the beginning been flanked by two experts, the Senator from Wisconsin [Mr. LA FOLLETTE] has had a private expert of his own, and the seats in the back of the Chamber have been occupied by experts of various kinds. So it is with some trepidation that a mere Senator of the United States rises to appeal to his colleagues in this body, and to differ from the opinions of this galaxy of experts.

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

Mr. CLARK. I yield.

Mr. BARKLEY. I do not recall when a single general tariff bill has been enacted during my membership in the two Houses of Congress when there were not clerks and various experts sitting by the chairmen of the committees in both Houses to furnish information with respect to the measure as it went along.

Mr. CLARK. I will state to the Senator from Kentucky that of course the rule of the Senate provides for clerks of committees being admitted to the floor, but I have searched in vain—although I am not complaining about this matter—for any authorization for representatives of various commissions and various bureaus to be on the floor of the Senate. I am making no point of that, however.

Mr. BARKLEY. I thought the Senator was.

Mr. CLARK. I am simply laying the foundation for some remarks which I now desire to make.

I do not desire to criticize these experts; they are honest men, for the most part, wedded to their own ideas, but it seems to me that when the time has come that the Senate of the United States cannot consider measures on its own responsibility without any more effective argument being made against a measure than that this corps of experts does not approve it, this country has come to a pretty pass.

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

Mr. CLARK. I will in just a moment. In other words, it seems to me that there may be very grave suspicion that the real objection of these experts to this amendment and to other suggestions for changes in the proposed act which have been advanced may bear a very close analogy to President Grant's remark about Senator Charles Sumner. It is related that on one occasion someone told President Grant that Sumner did not believe in the Bible, and Grant replied, "Yes, damn him; that is because he didn't write it." That is the attitude of many of these experts regarding many of the measures brought on the floor of the Senate.

I now yield to the Senator from Kentucky.

Mr. BARKLEY. I wish to ask the Senator a question. We are dealing always with a very practical situation. Back in the days when legislation was simple it was easy, of course, for the Senators and the Members of the House of Representatives to deal more at large with the details of legislation. I recall the act creating the Federal Trade Commission which I helped to write as a member of the Committee on Interstate and Foreign Commerce of the House of Representatives, and that was a very short act. But as the problems of the Government have multiplied and our society has become more complex, members of both branches of the National Legislature and of branches of all legislatures everywhere have found it more necessary to acquire accurate information in order to guide them in the matter of legislation.

We will adjourn in a few weeks and go home. We will be at home I hope the remainder of this year. We do not have our minds on legislation when we are at home, we are not writing bills. We are glad to get away from the humdrum and the burden of legislation.

When we come back in January, what harm will come if the President shall appoint some commission to look into a situation which may require legislation when we reassemble, and if such commission shall have gathered a volume of information for our assistance and guidance in the matter of legislation? What harm is there even if some gentlemen have suggested a tentative draft of a bill, which we have the right to change, as in this case we have changed the bill materially from what it was when it came to us?

Mr. CLARK. Evidently I have not been able to make myself clear to my distinguished friend from Kentucky.

Mr. BARKLEY. I am sure that is my fault.

Mr. CLARK. No one complains about the furnishing of information to any committee of the Senate or of the House of Representatives, or to either body itself. What I am complaining about is the assumption of infallibility by this body of experts.

Mark now, how a plain tale shall put my friend down. The first draft of the bill before us was produced after 6 months of work under direction of a stellar array of technical, medical, public-health, hospital, dental, and child-welfare officials.

The bill was prepared, and some 2 or 3 weeks later the experts of the Treasury Department advised a multitude of very radical changes in the bill, which were accepted almost without exception.

Since then experts advisory to the committees in the House and in the Senate have brought about many further modifications, and it is only now, at the last minute, after all this multitude of changes, that the opinion of these experts suddenly becomes infallible, and in the face of this they now maintain that the Federal plan as now contained in the bill has suddenly achieved such perfection as to justify the wiping out of benefits of all private plans in favor of a Government compulsory plan, which will probably again be changed by the experts.

Mr. President, I have only a few minutes remaining, but I desire as briefly as possible to state why I think my amendment should be agreed to.

Mr. LONG. Mr. President, before the Senator leaves the subject he has been discussing, I wish he would not overlook what the Senator from Kentucky has pointed out, that as these experts continue to compile our laws the Government becomes more complex and complicated, and needs more experts.

Mr. CLARK. That is unquestionably true.

Mr. BARKLEY. If the Senator will yield, of course, that is not what I said at all, and the Senator from Louisiana knows it is not what I said. He got the cart before the horse, as he always does.

Mr. CLARK. I do not desire to have the Senator from Kentucky and the Senator from Louisiana engage in a controversy in my time, because I have only 13 minutes left.

Mr. LONG. Mr. President, I beg the Senator's pardon—

Mr. CLARK. I must decline to yield, because I have some serious thoughts I desire to present to the Senate.

The statement was made by the Senator from Mississippi in the course of the debate—and I know in good faith, because it was based on the testimony of one of the experts, to which I myself listened—that there is no private pension plan more generous and more beneficial to the employee than the Government plan.

Mr. President, the expert who made that statement before the Finance Committee, the principal opponent before the committee of the amendment which is soon to be voted on, was M. W. Murray Latimer. He is the inventor, or the chief proponent, at least, of the contention which has been advanced here on the floor that the adoption of the pending amendment would lead to discrimination against the older

type of employees and the laying off of employees at a fixed or earlier age. Yet the same Dr. Latimer, before he became an expert testifying in the executive sessions of the Finance Committee, when he was speaking in public on the stage at Cleveland in January 1930 to the American Management Association, used this language:

Talk of general retiring age limit in any industry is sheer myth.

There has been quite a change in Dr. Latimer's position between the time he appeared independently on his own responsibility in public and when he appeared in a secret session of the Finance Committee as one of the experts of two of these committees.

Mr. President, it is said that there are no private plans which are more beneficial than the plans set up by the Government under this bill. I read to the Senate yesterday a brief description of the plan of one company which now contributes  $4\frac{1}{2}$  percent to a benefit fund as against 3 percent contributed by the employees, and which, in addition to certain other benefits, provides in the plan an insurance policy of the face value of 1 year's salary for each employee.

I now desire to place in the Record, Mr. President, some other advantages in other private plans. What I shall state is by no means comprehensive, but it is merely illustrative. Many companies under private plans provide that earlier retirement for women may be had, or that there may be special disability retirement.

Companies which normally retire women at age 60, as against the Government plan of retirement at age 65, are, among others, the American Insurance Co., the American Telephone & Telegraph Co., the Clark Thread Co., the Eastman Kodak Co., the General Foods Corporation, the Rochester Gas & Electric Corporation, and the Standard Oil Co. of Ohio.

Plans which retire disabled men before age 65, which is a feature strictly forbidden under this Government plan, among others, are the Boston Consolidated Gas Co., which permits retirement at any age after 15 years' service; the Electric Storage Battery Co., which permits retirement at any age after 15 years' service; the International Harvester Co.; the Standard Oil Co. of New Jersey; and the United States Steel Corporation.

Plans which retire men, not disabled, before age 65 after a specified length of service, among others, are Armour & Co., Commonwealth Edison Co., Spool Cotton Co., and the Standard Oil Co. of California.

Mr. President, the trouble with these experts is that they take their model from the ancient highwayman of old Attica, Procrustes, whose custom it was, so we are told in fable, to overpower wayfarers passing along a certain route and compel them to lie upon a bed which he had specially constructed. Those wayfarers who happened to be too short to fill up the bed had their legs stretched out to the length of the bed, and those unfortunates whose legs happened to be longer than the bed had their legs hacked off. That is the principle of the experts with reference to this bill in opposing such an amendment as that which I have proposed. Where the legs of any private plan are too short to fit the model which the Government has made, no one has any objection to having those legs stretched out; but it seems more than passing hard and passing unfair to require the legs of those companies which happen to have more generous plans, which happen to be too long for the bed, to be hacked off, more particularly when the length of leg hacked off would be for the benefit of the employees concerned.

Mr. President, it was stated by the Senator from Mississippi [Mr. HARRISON] yesterday and by the Senator from Kentucky [Mr. BARRELY] a while ago that no employers or employees were concerned about the passage of this amendment. I know that they both made that statement in good faith, but, for their information, I should like to say to them that I have on my desk here letters from more than 75 employers now having plans more beneficial to the employees than the Government plan, who protest against having their plans wiped out.

It was stated that the adoption of this amendment would ruin the structure of the bill. That certainly has not always been the opinion of these experts, because in the March-April 1935 number of the Manager's Magazine, Dr. E. E. Witte, who sits upon the floor of the Senate as the adviser of the Senator from Wisconsin [Mr. LA FOLLETTE], used this language:

At the present time, there is no exemption offered to the employer who has already embarked on a plan of private annuities, either with a life-insurance company or by some other means. If those insurance companies underwriting such cases were to offer a reasonable amendment to the pending bill urging an exemption for such employers, it might be accepted. There would probably be two points insisted upon, however, by our committee or by the Social Insurance Board set up under the bill, namely, (1) the ability of the insurer to guarantee security of the fund, and (2) the transferability of the amount vested in the employee in case he leaves his present employer.

Mr. President, both of those features are completely covered in the amendment which I have proposed, and I read that statement simply for the purpose of showing that the statement which has been repeated here on the floor by various Senators that the adoption of this amendment would ruin the whole structure of the bill is apparently entirely without foundation; at least it was not recognized by one of the chief experts of the committee, Dr. Witte.

In closing, I simply desire to emphasize the fact that Senator after Senator in opposition to this amendment has made the statement that the adoption of this amendment, providing for the retention of private pension plans, would redound to the disadvantage of the older employees; and yet, although the Senator from New York [Mr. WAGNER], the Senator from Mississippi [Mr. HARRISON], the Senator from Wisconsin [Mr. LA FOLLETTE], and others have been requested to point out wherein that was possible, not one of them has been able to lay his finger on the manner in which that would be possible and to justify the statement.

The fact is that this amendment, in its present form, containing the provision that the contribution to the fund by any employer shall not be less than the amount of the tax, makes it absolutely impossible for any employer to profit to the extent of one penny by having younger employees. The only effect of cheaper insurance by reason of younger employees would be to enable the employer to purchase larger annuities, which would redound to the benefit of the employee and not of the employer.

The provisions of this amendment make it absolutely certain that the employee can leave the private pension system at any time at his option and go into the Government system, taking with him not less than the amount which would have been to his credit in the Government fund if he had been under the Government fund from the very beginning.

Therefore I submit it is not to the interest either of the public or of the employers to penalize employees who now are under the more liberal pension systems than that proposed to be set up by the Government plan. It is not to the interest of the public to prohibit forward-looking employers who are anxious to be more generous to their employees than would be the system provided in this bill. I point out further that under the provision of the amendment the conditions of the private plan must be such as to meet the approval of the board to be set up under this bill for the administration of the whole bill, and that under this amendment the duty is imposed on that board in the future to follow up the operations of the various private pension plans, and to insure their conformance to the conditions set forth in the amendment.

I now suggest the absence of a quorum.

Mr. LA FOLLETTE. Mr. President, will not the Senator be generous enough to withhold his suggestion of the absence of a quorum in order that I may utilize the remaining time before 1 o'clock in order to read a letter into the Record?

Mr. CLARK. Mr. President, I shall be glad to yield the remainder of my time to the Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, yesterday I made the statement that I was authorized to declare that the Amer-

ican Federation of Labor was opposed to this amendment. I shall take the opportunity of using the remaining minutes to read a letter which I received from Mr. William Green, president of the American Federation of Labor, addressed to myself, dated June 19, 1935, as follows:

AMERICAN FEDERATION OF LABOR,  
Washington, D. C., June 19, 1935.

HON. ROBERT M. LA FOLLETTE, JR.,  
United States Senate, Washington, D. C.

DEAR SENATOR: The American Federation of Labor is unalterably opposed to the Clark amendment to H. R. 7260, the social-security bill. The amendment proposes to continue in operation private insurance schemes in effect in various industries. This would exempt these industries that have old-age-pension plans from paying the tax provided in the bill.

It is well known that the management of many industries discharge employees when they approach the retirement age. Information was given the Senate that in the packing industry, for instance, the private insurance plan has been a success. It must not be forgotten that a few years ago when the packing plants of Nelson Morris & Son were sold to Armour & Co. the insurance plan in effect in the former's plants was canceled. Although many employees had contributed for many years to the insurance plan, they never received a penny in return after the sale of the company to Armour & Co.

Another great objection to private pension plans is that it tends to discourage the employment of older men. Men more than 40 years of age are refused employment. There is no hope for them except through the enactment of the national-security bill.

There are many reasons why the Clark amendment should be defeated. It would prevent many thousands of persons over 65 years of age ever receiving old-age pensions. On the other hand, if the security bill is passed as written, those entitled to old-age pensions will receive them.

Private insurance plans were originated in industries which objected to the employees joining trade unions. It was an incentive to the organization of company unions which gave the industries complete control over their employees.

Therefore the American Federation of Labor can see nothing to the advantage of the workers in exempting private insurance plans in the proposed law.

Yours very truly,

WM. GREEN,  
President American Federation of Labor.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, under the unanimous-consent agreement entered into yesterday, the Senate will now vote on the amendment offered by the Senator from Missouri [Mr. CLARK].

Mr. LA FOLLETTE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

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

Adams	Connally	King	Radcliffe
Aahurst	Coolidge	La Follette	Reynolds
Austin	Copeland	Lewis	Robinson
Bachman	Costigan	Logan	Russell
Bailey	Dickinson	Loneragan	Schall
Bankhead	Dieterich	Long	Schwollenbach
Barbour	Donahay	McGill	Sheppard
Barkley	Duffy	McKellar	Shipstead
Bilbo	Fletcher	McNary	Smith
Black	Frazier	Maloney	Stelwer
Bone	George	Metcalf	Thomas, Okla.
Borah	Gerry	Minton	Townsend
Brown	Gibson	Moore	Trammell
Bulkeley	Gore	Murphy	Truman
Bulow	Guffey	Murray	Tydings
Burke	Hale	Neely	Vandenberg
Byrd	Harrison	Norris	Van Nuys
Byrnes	Hastings	Nye	Wagner
Capper	Hatch	O'Mahoney	Walsh
Caraway	Hayden	Overton	Wheeler
Chaves	Johnson	Pittman	White
Clark	Keyes	Pope	

The PRESIDENT pro tempore. Eighty-seven Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendments offered by the Senator from Missouri [Mr. CLARK].

The amendments offered by Mr. CLARK are as follows:

On page 15, after line 25, to insert the following:

"(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection."

On page 43, line 11, after "Sec. 702.", insert "(a)."

On page 43, lines 17 and 18, add the following new paragraphs:

"(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

"(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan: *Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

"(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

"(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee approved by the board.

"(4) Termination of employment shall constitute withdrawal from the plan.

"(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

"(c) The board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

"(d) The board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b)."

On page 52, after line 7, add the following new paragraph:

"(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually."

Mr. CLARK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BULKLEY (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CARY], who is necessarily absent from the city. I understand that a special pair has been arranged for him on this vote, which leaves me free to vote. I vote "yea."

Mr. LOGAN (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. DAVIS], who is absent. I am advised that if he were present he would vote "yea", and, as I intend to vote the same way, I feel at liberty to vote. I vote "yea."

The roll call was concluded.

Mr. NYE (after having voted in the negative). On this question I have a pair with the senior Senator from Virginia [Mr. GLASS]. If he were present, he would vote "yea." Under the circumstances I withdraw my vote.

Mr. AUSTIN. The Senator from Wyoming [Mr. CARY] is necessarily absent. He is paired on this question with the Senator from Utah [Mr. THOMAS]. If present, the Senator from Wyoming would vote "yea", and the Senator from Utah would vote "nay."

Mr. LEWIS. I announce that the Senator from Virginia [Mr. GLASS], the Senator from California [Mr. McADOO], and the Senator from Nevada [Mr. McCARRAN] are unavoidably absent, and that the Senator from Utah [Mr. THOMAS] is detained on important public business.

I desire to announce the following pair on this question: The Senator from California [Mr. McADOO] with the Senator from Nevada [Mr. McCARRAN]. I am not advised how either Senator would vote if present.

The result was announced—yeas 51, nays 35, as follows:

YEAS—51

Adams	Clark	Keyes	Pittman
Austin	Coolidge	King	Pope
Bachman	Copeland	Lewis	Russell
Bailey	Dickinson	Logan	Schall
Barbour	Dieterich	Loneragan	Smith
Borah	Duffy	Long	Steiwer
Bulkley	George	McGill	Townsend
Bulow	Gerry	McKellar	Truman
Burke	Gibson	McNary	Tydings
Byrd	Gore	Maloney	Vandenberg
Capper	Hale	Metcalf	Van Nuys
Caraway	Hastings	Moore	White
Chavez	Hatch	O'Mchoney	

NAYS—35

Ashurst	Costigan	Minton	Schwelienbach
Eankhead	Donahay	Murphy	Sheppard
Barkley	Fletcher	Murray	Shipstead
Frazier	Frazier	Neely	Thomas, Okla.
Black	Guffey	Norris	Trammell
Bone	Harrison	Overton	Wagner
Brown	Hayden	Radcliffe	Walsh
Byrnes	Johnson	Reynolds	Wheeler
Connally	La Follette	Robinson	

NOT VOTING—9

Carey	Glass	McCarran	Nye
Couzens	McAdoo	Norbeck	Thomas, Utah
Davis			

So Mr. CLARK's amendment was agreed to.

Mr. BORAH. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment of the Senator from Idaho will be stated.

The CHIEF CLERK. It is proposed, on page 4, line 21, after the comma, to insert "and (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter \$30."

On page 4, line 21, strike out "(2)" and insert "(3)."

On page 4, line 22, strike out "amount" and insert "amounts."

On page 5, lines 5 and 6, strike out "clause (1)" and insert "clauses (1) and (2)."

On page 5, line 10, after "clause" insert "(1)."

On page 5, line 24, strike out "clause (1)" and insert "clauses (1) and (2)."

Mr. BORAH. Mr. President, the principle of the amendment was discussed somewhat at length some days ago. The amendment would make it certain that all persons 65 years of age and over shall receive \$30 per month. The amendment is, on page 4, line 21, after the comma, to insert the following:

And (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter \$30.

In other words, if the State shall provide \$15, the National Government shall provide \$15. If the State shall provide \$10, the National Government shall provide \$20. The object and purpose of the amendment are to assure that not less than \$30 shall be provided for those 65 years of age or over.

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

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from New York?

Mr. BORAH. I yield.

Mr. WAGNER. If the State should appropriate nothing, would the Federal Government then contribute \$30 to the individual? Is that the Senator's idea?

Mr. BORAH. No. If the contribution of the State should be absolutely nothing, then the Federal Government would contribute absolutely nothing; but if the State should provide \$5 or \$10, the National Government would contribute an amount which would make the total \$30.

Mr. WAGNER. If the State should contribute only \$1, then the Federal Government would contribute \$29?

Mr. BORAH. That is quite correct. But I do not accept the theory that the States will not do all they are able to do. The people of the States are just as humane and just as willing to take care of their aged as is the Congress. It is unjust to argue this matter upon the theory that the people of the States are slackers; it is a question of ability.

Mr. STEIWER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. BORAH. I yield.

Mr. STEIWER. May I ask the Senator what determines the relative contributions of the several States and the United States under the proposal of the Senator, whether it shall be \$10 or \$15 or \$20?

Mr. BORAH. The State determines how much it will put up. My amendment provides that whatever additional amount is necessary to make it \$30, the National Government shall contribute that much.

Mr. STEIWER. In other words, the State would determine the amount of its contribution in each case, and the Federal Government would merely supplement it with the idea of making the total contribution \$30?

Mr. BORAH. Exactly.

Mr. HARRISON. Mr. President, the amendment is not in agreement with what the Senator said he intended to offer, as I read the amendment. It reads:

An amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter \$30.

Mr. BORAH. That is correct.

Mr. HARRISON. It would seem from the printed amendment which I have read that what the Senator is attempting to do is to exact from the Federal Government \$30 a month.

Mr. BORAH. Not at all. The wording of the bill remains as it is. In other words, a State plan for old-age assistance must provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them. Second, it provides for financial participation by the State. Third, such a State plan must "either provide for the establishment or designation of a single State agency to administer the plan", and so forth. All that language remains as it is, and I simply add that the State must put up something, the State must make its contribution, otherwise there is no provision whatever for payment to its old-age people. If the State puts up \$15, then the National Government contributes \$15.

Mr. HARRISON. Does the Senator have any doubt, if his amendment should be adopted, that the States would contribute the very minimum and the whole burden would then be upon the Federal Government?

Mr. BORAH. The State would have to contribute something before it could get anything.

Mr. ROBINSON. Mr. President, may I ask the Senator from Idaho how much the State would have to contribute?

Mr. BORAH. The State must determine first what it shall contribute. If the State should contribute \$1, the Federal Government would contribute \$29. I do not recognize the principle that the State would seek to get from under its burden or its obligation. There is just as much reason to assume that the people in a State will be anxious to take care of their people as that the National Government will desire to do so.

Mr. ROBINSON. But the difficulty about the Senator's amendment is that it provides that in case the States do not contribute substantially the Federal Government shall make contribution to the amount of \$30. The Senator need not be misled about the matter. The amendment invites the States to make a minimum contribution. In my judgment, if the amendment should be adopted it would mean that the Federal Government would bear practically the entire burden of this title.

Mr. BORAH. That is on the assumption that the States have no sense of responsibility and no idea of discharging their responsibility in regard to this matter. It proceeds upon the theory that the Congress has the power—

Mr. ROBINSON. Mr. President, will the Senator pardon me?

Mr. BORAH. I pardon the Senator.

Mr. ROBINSON. I do not think that conclusion is justified.

Mr. BORAH. And I think it is justified.

Mr. ROBINSON. I think the language of the amendment provides that the States must contribute something, but no matter how little they contribute the Federal Government will contribute the remainder up to the amount of \$30 per month. In the case of a State which is in straitened circumstances financially, under the amendment the natural result would be for the State to contribute just as little as is possible in order to secure for its citizens the benefits of the bill.

Mr. BORAH. I assume that the State will contribute whatever it can contribute. I assume that the State will be perfectly willing to discharge its responsibilities toward its old people. The States are just as likely to do it as is the Congress of the United States. If they cannot do so, if a State is unable to make its appropriation, then I say the old people should not be left without help; that they should not be left without sufficient means to take care of themselves; and \$30 a month is a very small amount, in my judgment, to take care of these people. To proceed upon the theory that a State will do nothing if it is able to do it is, in my judgment, a wrong theory.

Mr. ROBINSON. But the Senator's amendment does not require the States to do all they are able to do. It leaves it absolutely optional with the State to determine the amount which it shall contribute, and therein lies the vice of the amendment. I, no more than the Senator from Idaho, wish to cast any reflection upon a State, but I know there are some States whose financial condition is such that they would naturally resort to the policy of contributing just as little as would be necessary in order to obtain the Federal contribution.

Mr. BORAH. I have no doubt there are States which are financially in such condition that they would not be able to meet the full \$15 contribution. It is for that reason that I do not want the old people in those States to suffer simply because the State is unable to take care of the situation. I do not recognize the principle that the State will not do all it can do. The very fact that the National Government is willing to assist in the matter in case the State undertakes to do something will encourage the people of the State to undertake to do what they can do.

I have no doubt that they would do all they can do; and if they do all they can do, but are unable to put up the necessary amount, shall we leave the old people without any means whatever of being taken care of in this situation?

Mr. President, I ask for the yeas and nays upon this question.

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

Mr. BORAH. I yield.

Mr. LONG. There are some of us who would like to vote for this amendment, particularly the Senator from Georgia and myself, who represent States which are affected by a constitutional inhibition. I wonder if the Senator would not permit us to add just a couple of words at the end of the amendment to provide that this requirement shall apply for the year 1937. In other words, some States cannot submit constitutional amendments until the fall of 1936, close to 1937, and this amendment, as I understand, requires the State to make some contribution. That will give these States a chance to be prepared. Many States, even though they should adopt a constitutional amendment, would not be able to raise the necessary revenue within this length of time.

Mr. BORAH. Mr. President, I should like to take care of those States which are not in a position to do anything whatever, but I felt that if I undertook to do that it would undoubtedly result in the defeat of the amendment. What is it that the Senator wishes to insert?

Mr. LONG. I do not wish to have the Senator endanger his amendment at all. I desire to insert a provision that the requirement as to contribution from any State shall not be effective before the first, say, of 1937. This is the middle of 1935. The Senator is calling on a State to raise a great deal of revenue.

Mr. BORAH. The Senator would be no better off if that were done. He could not come in under the present bill.

Mr. LONG. We could, perhaps, but Georgia could not.

Mr. BORAH. My desire in this matter is to make certain that the old people shall receive at least \$30 a month. I believe that each sovereign State will discharge its duty and responsibility in accordance with its financial ability to do so. There is not any more reason to suppose that a State will refuse to discharge its obligation than there is to suppose that Congress will do so. The authorities of the State feel a deep interest in their people, the same as we do. They have a humanitarian feeling the same as we have. They will take care of the condition if they can, but if they cannot, shall we leave the old people uncared for?

Mr. HARRISON. Mr. President, I do not desire to delay action on this amendment. All Senators wish to do what they can for the needy aged; but if this amendment should be adopted it would change the whole structure of this measure. It would properly raise the question of which should have jurisdiction as between the State authorities and the Federal Government in determining who should be eligible for benefits if the Federal Government were to make twenty-nine thirtieths of the appropriations for these people, which could be done under the Senator's amendment. Certainly, if his amendment should be adopted the States could all point to financial burdens as a justification and appropriate \$1 each for their needy individuals, leaving the Federal Government burdened with \$29, that it would have to carry under the amendment. If some States were to give more than \$1, a hue and cry would go up as to inequality among the States with reference to that matter.

We have exercised our judgment as best we could in trying to inaugurate a policy of the Federal Government co-operating with the States, each giving one-half. Is not every State in the Union in a better position under such a plan than it has been heretofore? The Federal Government heretofore has appropriated nothing for this purpose, and the States have had to take entire care of their needy aged people, except, of course, under the relief measures. We are now proposing to give them \$15 per month out of the Federal Treasury. Of course it might be appealing to go back to our respective constituents and say, "I voted to give you gentlemen \$30 of Federal funds instead of \$15"; but we must look after some other things than merely winning votes from our constituents on this question.

We are doing more than any other Congress has attempted to do in providing \$15 out of the Federal Treasury if the States put up \$15. If the State puts up \$10, the Federal Treasury will put up \$10—an equal amount with the State. So let us not get into a controversy here and delay the passage of the bill over the question as to whether the Federal Government ought to put up four-fifths and the States one-fifth, or the Federal Government two-thirds and the States one-third, or the States \$1 and the Federal Government \$29. If we adopt this amendment, we shall have to undo the whole policy we have already adopted in providing for State determined and administered plans. If the funds are practically all Federal funds, we should naturally provide administration from Washington. The authorities here would direct the administration of this measure, and say who, among the people over 65 years of age, are needy and should receive these payments. In other words, the amendment would necessitate a change so that decisions would be made by a bureau here in Washington and not by the authorities in the local communities of the country. I prefer to leave the jurisdiction in the States and to let the State legislatures and the State authorities determine who is the needy individual who deserves and is entitled to this particular pension. Then if the State puts up \$15 or \$10, the Federal Government will match the \$15 or \$10.

So I hope the amendment will be voted down, because it would jeopardize the whole structure of the bill.

Mr. FLETCHER. Mr. President, I should like to ask the Senator a question. Is it necessarily required that the State as a State shall make the contribution, or may the State, through its county commissioners, make it?

Under the laws of Florida, the State as a State would not be permitted to make the contribution, but the county commissioners could arrange to raise the money.



Mr. HARRISON. I may say to the Senator that it is the aggregate of what the counties put up and what the State puts up that the Federal Government will match. It is not confined to the State itself, but is broadened so as to take in communities also.

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

Mr. HARRISON. I yield.

Mr. STEIWER. Does the Senator from Mississippi accept the construction which the Senator from Idaho places upon the amendment?

Mr. HARRISON. No; I do not accept that construction of it. I know what the Senator intended; but, although I have not had time to read the amendment carefully in connection with this provision, Mr. Beaman and others of the experts tell me they construe it differently; that under the amendment the Federal Government must put up \$30; and that is the way I read it. But, be that as it may, the Senator can change the provision if there is any doubt about it.

Mr. BORAH. There is not any doubt about it. There is not any occasion for changing the language. No man with a sane mind would contend that for a moment. Nothing goes to the State unless the State puts up something.

Mr. STEIWER. Mr. President, will the Senator yield further? I desire to make an observation about that matter.

Mr. HARRISON. I yield to the Senator.

Mr. STEIWER. It occurs to me that the pending proposal made by the Senator from Idaho leaves the subdivision, numbered 1, on page 4, just exactly as it is; and that the result of the amendment would be, if enacted in the way now proposed, that the Federal Government, under subdivision numbered 1, would match the money put up by the State to the extent of the aggregate amount of \$30 per month. That is to say, if the State put up \$15, the Government of the United States would put up \$15. If the State put up \$10, the United States would put up \$10. The pending amendment contains added language which provides that the United States shall provide an additional amount. I now read the amendment—

And (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter \$30.

Mr. President, what is it that amounts to \$30? Is it the total? Of course not. I agree with the Senator from Idaho that this language is perfectly clear. I think there is no ground for misunderstanding or misconstruction. The language provides that the contribution of the Federal Government for each such month shall be \$30.

Mr. HARRISON. How does the Senator get away from the plain language of the amendment, which says—  
Sufficient to make the Federal contribution with respect to each such individual for each month in the quarter \$30.

Mr. STEIWER. There is no way to get away from it.

Mr. HARRISON. That is the Federal contribution.

Mr. STEIWER. That is right. If the State put up \$15 under subdivision no. 1, the United States would put up \$15; and then, under the pending amendment, which is marked "Subdivision No. 2" the United States would put up another \$15 in order to make the Federal contribution \$30; and in that case the net result would be a payment to each person of \$45 per month, two-thirds of which payment would be provided by the United States.

I do not wish to vote for that proposition. I am sympathetically disposed toward the proposal made by the Senator from Idaho as he explained his proposal. It is easy for me to approve a guaranty of a minimum payment of \$30 per month. If we are to enact a law on this subject the payment ought to be sufficient in amount to mean something to the recipient of the payment. An aggregate payment substantially less in amount than \$30 per month is inadequate. It will not accomplish the purposes of the bill. I am wondering if, in order to have that proposition presented, some Senator would not care to revise the pending amendment in order that it may accomplish the purpose sought by the Senator from Idaho.

Mr. BORAH. What is the proposal which the Senator makes?

Mr. STEIWER. I have not attempted to phrase it. I merely asserted that I am sympathetic toward the idea of a minimum guaranty of \$30 a month. It would seem the way to secure such guaranty is to add to the present subdivision no. 1 merely a proviso that the Federal contribution shall in any case be in such amount that the total paid shall be \$30 per month.

Mr. BORAH. That is precisely what I thought I was doing, and what I believe I am doing.

Mr. FLETCHER. I suggest that the Senator change the word "Federal", in line 3, so as to make the "total contribution", instead of "Federal contribution", \$30 a month.

Mr. BORAH. I am willing to consider that.

Mr. WALSH. Will the Senator from Idaho explain whether or not that change will require the same amount to be contributed by the Federal Government as is contributed by the State government?

Mr. BORAH. As I understand, as the amendment would read with the change, if a State government should put up \$5 or \$10 or \$15, the Federal Government would match the amount the State contributed, and then an additional amount so as to make the total contribution \$30. If the State government should put up \$30, the Federal Government would not put up anything.

Mr. WALSH. By changing the word "Federal" to "total" it would mean that it would be possible for the Federal Government to have to contribute as much as \$29.

Mr. BORAH. If the State put up only \$1, that would be true. I am not so deeply interested in the division of sovereignty, as to who puts up the money, but I want the money contributed. If the State cannot do it—and I take it that the State will do it if it can—if the State is unable to do it, then I want the National Government to contribute, to have the old folk taken care of.

Mr. FRAZIER. Mr. President, I am very strongly in sympathy with the amendment of the Senator from Idaho. There are many States which, because of conditions due to drought and other circumstances, are not able to collect taxes from the taxpayers. I am satisfied that there are quite a number of States which could not meet the \$15 contribution provided for in the original bill. That would mean that the old people in those States above 65 years of age would have no pensions.

It seems to me the amendment would provide a means of giving practically all the States a chance to make a small appropriation so that the old people would get \$30. I have great confidence in the States putting up as much as they can, and when conditions improve, if they can put up contributions equal to those of the Federal Government, they will do so.

Furthermore, during the last few years there have been old-age pension organizations formed all over the Nation, which, as we know, have advocated much larger pensions than are suggested. True, the money is to be raised in a different way from that provided here, but that does not alter the fact that those organizations are out for larger pensions, and are advocating larger pensions, and I know they will not be satisfied with the provisions of this measure.

It seems to me that the amendment of the Senator from Idaho would help greatly in assuring at least \$30 for old people in States where the States can put up some money, and even if it is limited to only a few years, it would help very materially, in my opinion. I hope the amendment will be agreed to.

Mr. BORAH. Mr. President, in order to make the matter beyond question, I desire to limit the contribution to \$30. I do not want any loophole left. I therefore ask leave to insert, after the word "contribution" in line 3, the words "plus the State's contribution with respect to each such individual for each month, not less than \$30." That would not create any obligation on the part of the National Government to put up more than the difference between what the State would contribute and \$30.

Mr. HARRISON. If the State contributed a dollar the Federal Government would contribute \$29, but the whole contribution could not be more than \$30.

Mr. BORAH. That is quite correct.

Mr. WALSH. It simply makes more definite the point the Senator has raised.

Mr. BORAH. That is right. There need be no mistake about it, so far as I am concerned; that is what I desire.

The PRESIDING OFFICER (Mr. MINTON in the chair). The question is on agreeing to the amendment offered by the Senator from Idaho, as modified.

Mr. BORAH. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. LOGAN (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. DAVIS]. In his absence, not knowing how he would vote, I withhold my vote. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. LEWIS. I wish to announce that the Senator from Utah [Mr. THOMAS] is detained on important public business.

I also wish to announce that the Senator from Oregon [Mr. McNARY] has a pair on this question with the Senator from Georgia [Mr. RUSSELL]. The Senator from Oregon would vote "yea" and the Senator from Georgia would vote "nay" if present.

I desire also to announce that the Senator from Arizona [Mr. ASHURST], the Senator from North Carolina [Mr. BAILEY], the senior Senator from Georgia [Mr. GEORGE], the Senator from Virginia [Mr. GLASS], the Senator from California [Mr. McADOO], the Senator from Nevada [Mr. PITTMAN], the junior Senator from Georgia [Mr. RUSSELL], and the Senator from South Carolina [Mr. SMITH] are necessarily detained from the Senate.

Mr. NYE. Announcing my pair with the senior Senator from Virginia [Mr. GLASS] as previously, I beg to announce that were he present he would vote "nay"; and if I were permitted to vote I should vote "yea."

Mr. BULKLEY. I repeat the announcement of my general pair with the senior Senator from Wyoming [Mr. CARRY]. Not knowing how he would vote on this amendment, I transfer my pair to the junior Senator from Utah [Mr. THOMAS] and vote "nay."

The result was announced—yeas 18, nays 60, as follows:

YEAS—18

Bilbo	Frazier	Pope	Thomas, Okla.
Bone	Johnson	Schall	Trammell
Borah	Lewis	Schwellenbach	Wheeler
Capper	Long	Shipstead	
Copeland	McCarran	Stetwer	

NAYS—60

Adams	Clark	Hatch	Norris
Austin	Connally	Hayden	O'Mahoney
Bachman	Coolidge	Keyes	Overton
Bankhead	Costigan	King	Radcliffe
Barbour	Dickinson	La Follette	Reynolds
Barkley	Dieterich	Lonergan	Robinson
Black	Duffy	McGill	Sheppard
Brown	Fletcher	McKellar	Townsend
Bulkley	Gerry	Maloney	Truman
Bulow	Gibson	Metcalf	Tydings
Burke	Gore	Minton	Vandenberg
Byrd	Guffey	Moore	Vad Nuyts
Byrnes	Hale	Murphy	Wagner
Caraway	Harrison	Murray	Walsh
Chaves	Hastings	Neely	White

NOT VOTING—17

Ashurst	Donahay	McNary	Smith
Bailey	George	Norbeck	Thomas, Utah.
Carey	Glass	Nye	
Couzens	Logan	Pittman	
Davis	McAdoo	Russell	

So Mr. BORAH's amendment was rejected.

Mr. LONERGAN. Mr. President, I send to the desk an amendment which I ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 72, after line 6, it is proposed to strike out all of title XI, including all sections and paragraphs thereof on pages 72, 73, 74, 75, 76, 77, 78, 79, and to the end of the first paragraph on page 80.

Mr. LONERGAN. Mr. President, title XI relates to annuity bonds.

The proposal was submitted before the House Ways and Means Committee, and was rejected. It was not incorporated in the bill which came to the Finance Committee of the Senate. At a meeting of our committee, when this proposal was considered, 12 members out of 21 were present. Seven voted in favor of the proposal and five voted against it. Three of the four Senators who voted for the proposal, according to their statements in the committee, were under the belief that insurance companies do not sell annuity bonds, especially for small sums. I read from the record of our proceedings:

Senator BARKLEY. Let me ask you this: I have a number of life-insurance policies, not very large, but I have several policies, and these insurance companies with which I have policies write me letters every few months suggesting an annuity policy that they would like for me to take. They are all above my ability to reach them. I cannot comply with their terms and take one unless it be an insignificant amount, because the amount involved in an initial payment and then the annual payment thereafter is so large that the ordinary fellow who has not a considerable income cannot get it at all. What is going to happen about that? This is just an inquiry for information. These companies, it seems to me, do not get out in that little field where many people who might have a desire for an annuity can obtain it. What are we to do about that?

Then comes my answer:

Senator LONERGAN. All of the insurance companies with which I am familiar will write any kind of an annuity policy. Senator BARKLEY. I do not know any of that sort. Senator LONERGAN. I do not think there is any doubt about it. Senator BARKLEY. I have the New York Life, the Union Central, the Penn Mutual, the Equitable, and none of them do.

Senator LONERGAN. We have some of the outstanding insurance companies in Hartford, Conn., where I reside, and I know that they do it.

Senator GEORGE. They write small annuities?

Senator LONERGAN. Yes.

Following the action of the Finance Committee, I contacted officials of life insurance companies to ascertain whether or not the life insurance companies of my city issue annuities in small sums. I now quote from a letter dated May 21, 1935, from the Connecticut Mutual Life Insurance Co., Hartford, Conn.:

As of December 31, 1934, this company had in force 3,855 single premium life annuities, representing a total annual income to the annuitants of \$1,652,902.52. The average annual income to each annuitant was \$428.77, which would give an average monthly income of \$35.73.

This average monthly income of \$35.73 indicates the fact that the bulk of our annuity business consists of annuities of moderate size. As our annuity contracts are about the same as those of other companies, we believe these figures are fairly typical.

I now quote from a letter received from the Phoenix Mutual Life Insurance Co., of Hartford, Conn., dated May 29, 1935:

Under another group of contracts on the annuity plan we provide that at a definite time in the future there will be paid an average of \$455.93 in annuity income per annum, which is the equivalent of \$37.99 per month. These contracts are available in units of \$10 per month of annuity income, and the premium, depending upon the duration of the contract, may be as low as \$20 per annum.

I quote from a report submitted to me by the Connecticut General Life Insurance Co., of Hartford, Conn.:

Title XI, United States annuity bonds, which was eliminated by the House, has been reintroduced by the Senate. In the Senate Finance Committee report, one of the reasons given for this portion of the bill is that "insurance companies do not now sell any considerable number of commercial annuities to individuals in installments. People of small means are practically outside of the commercial-annuity field." This hardly justifies the issuance of annuity bonds to provide as high as \$100 per month old-age income. Many insurance companies will issue policies providing old-age income as low as \$10 per month, and some even lower. It seems to me that this portion of the bill should be eliminated, because the few who will purchase the annuity bonds will most likely be individuals who can be taken care of by the insurance companies.

Mr. President, not only have the life-insurance companies already written thousands of annuity policies, but they are preparing to take care of an immense potential market for



annuities in a much more comprehensive way than the plan provided by title XI of this bill.

Dr. S. S. Huebner, dean of the American College of Life Underwriters, in an article in the Life Insurance Courant, pointed out, as long ago as September 1932, that America is rapidly becoming annuity-minded. He said:

During the past decade premiums paid for annuities have increased relatively more than six times as fast as premiums paid for life insurance. Annuities are about the only important branch of the insurance business which has gained during the hectic years of 1930 and 1931. Retirement pensions are also being considered everywhere in industry, by educational institutions, governmental bodies, and the like. Moreover, insurance companies are more and more emphasizing "old-age income insurance", and wisely so, since the plan emphasizes the utilization of life insurance proceeds for annuity income purposes during old age. Instead of preaching death only, as formerly, emphasis is now placed upon a motive to benefit the policyholder while living. The annuity field will soon be ranged adequately along the insurance field. I believe the growth of the annuity concept among the American people will be the greatest single development in the life-insurance business during the next quarter of a century.

Mr. President, I think these reports point out conclusively that private insurance companies have developed and are developing a much more stable field of annuities than the Senate has perhaps heretofore realized. Here we have a bill including a section which would put the Government into that business in such a way that it would intrude upon private business enterprise, and no doubt discourage the widespread development of annuities which is being undertaken. As has been pointed out, the companies are taking policies with returns as low as \$10 per month to the holder. Title XI of this bill would provide for annuities of not less than \$60 nor more than \$1,200 per annum, which is clearly an intrusion on the private insurance business.

Besides demoralizing the wonderful progress of annuity insurance in private companies, this section would place an unfair burden upon the taxpayers. The Government would pay the overhead, such as rents, lights, and so forth, which private companies must figure into their costs. The taxpayers who would not be interested in the annuities would be required to carry the burdens of those who received the annuities. The benefits would go to a particular few at the expense of the many.

The Government already offers, through the Treasury and the Post Office Departments, numerous opportunities for investments of small savings in the tax-exempt field. An extension of this program to include annuity insurance bonds would definitely compete with an important business, and, moreover, would tend to invite individuals to lean upon the Government instead of private business and the various State and municipal governments which are expected to participate in this social security program.

The PRESIDING OFFICER. The time of the Senator from Connecticut on the amendment has expired. He has 15 minutes on the bill.

Mr. LONERGAN. I will use my time on the bill.

Above all other considerations, I think we should remember, Mr. President, that the insurance companies of this Nation have been our last wall of defense in our depressing times. When our banks crumbled and finance was chaotic our insurance companies stood like the rock of Gibraltar. Everyone knows that had they crashed this Nation would have been placed in a desperate condition. Property values would have vanished and millions more of our people would have been on the charity and relief lists at the expense of the Government. The insurance companies were the last to ask for any governmental assistance. Because of their good management and sound policies, they did not need it so much as did other business enterprises. Their position during the depression, in my opinion, was the strongest single contributing factor to maintenance of financial stability and public confidence. Had they crashed, all confidence would have crashed with them.

Now, Mr. President, is the Senate of the United States going to enact into law a provision in this bill which will injure these companies? Is the Senate going to place the Government into a definitely private business? Is the United States Senate going to discourage sound development of the annuity

insurance business along a much broader front than the Government could possibly undertake? Is the United States Senate going to reinsert in this measure a section which was stricken out by the House, and which never should have been there in the first place?

I ask the Senate these questions and believe that Senators will vote for my amendment, which will do no injury to this measure, and which will not harm in any way the theory or the practice of old-age pensions or unemployment insurance, for which I have worked for a great many years.

Mr. HARRISON. Mr. President, I merely desire to make a brief statement. The provision giving an opportunity to people to buy annuity bonds, with the limitation which is in the bill, that in no instance may they receive an annuity of more than \$100 a month. It was placed there to take care of a group that did not come within the other provisions of the measure. I think it is one of the minor features of the bill; in other words, I think the annuities provided in title II of the bill, and the old-age pensions and the unemployment features under other titles are much more important than is this; but, for the reasons I have just stated, we placed this provision in the bill on the recommendation of the President's committee which investigated the matter.

Mr. LONERGAN. Mr. President, may I ask the Senator from Mississippi a question?

Mr. HARRISON. I yield.

Mr. LONERGAN. At the time this proposal was before our committee there were 12 Senators present, were there not?

Mr. HARRISON. The Senator states the fact correctly with reference to that.

Mr. LONERGAN. There are 21 members of the committee, and the vote was 7 to 5.

Mr. COSTIGAN. Mr. President, may I ask the Chairman of the Finance Committee a question?

Mr. HARRISON. Certainly.

Mr. COSTIGAN. It is my understanding that the annuity bond feature of the bill is designed to offer many million people an opportunity to purchase cheap annuity insurance, free from premiums to agents, and that the persons who, under the committee amendment, are offered this security are employers or employees who do not come under other provisions of the bill.

Mr. HARRISON. The Senator has stated the facts correctly.

Mr. COSTIGAN. The aggregate number of those who would be enabled, under these provisions, to purchase reasonable annuity insurance would apparently be something like 22,000,000 people. Does the Senator know whether that is a correct estimate?

Mr. HARRISON. That statement was made by Representative LEWIS, I think, in a very able presentation of this matter before the Finance Committee.

Mr. COSTIGAN. Mr. President, may I say that it was on my motion that these provisions were included in the bill in the Finance Committee? The motion was made following what was, as the Chairman of the Finance Committee has just stated, a very able presentation of the reasons for the amendment by Representative DAVID J. LEWIS, of Maryland, who has been a lifelong student of this and allied questions. Representative LEWIS pointed out, as just indicated, that there are about 22,000,000 persons in the United States at this time who do not come under the protective clauses of the pending bill. Among those are the self-employed and the members of professions, who are estimated at this time to be about 11,125,000, and approximately 10,000,000 workers. The purpose of the provisions, of course, is to permit the purchase from the Government, on reasonable terms, of annuity bonds which will guarantee the purchasers incomes running from a minimum of \$60 a year to \$1,200 a year per person.

When Representative LEWIS presented this matter to the Senate Finance Committee he persuasively enumerated reasons which make these amendments particularly appealing to Members of the Senate, to professional men of all sorts,

and to employers who are unable, for one reason or another, to guard against the likelihood that old age will find them reduced to need. He made a statement which, with the permission of the Senate, I should like to have read at the desk, because it presents the reasons, as concisely as possible, for the adoption of these amendments.

Mr. LONERGAN. Mr. President, will the Senator from Colorado yield?

Mr. COSTIGAN. I yield, with pleasure.

Mr. LONERGAN. Does the Senator know whether or not the United States Government can issue insurance at a cheaper rate than can insurance companies of long experience?

Mr. COSTIGAN. It is my understanding that under these amendments the Government of the United States would sell annuity bonds to investors—

Mr. LONERGAN. That is correct.

Mr. COSTIGAN. And that there would be an absence of the premiums which ordinarily go to insurance representatives.

Mr. LONERGAN. If these bonds were authorized and issued they would be exempt from taxation, would they not?

Mr. COSTIGAN. There is a provision exempting the bonds from taxation, but if the Senator from Connecticut will consult the amendment he will find a provision which does not exempt the income of these bonds from taxation.

Mr. LONERGAN. The Senator from Colorado and the Senator from Connecticut have been working for some time to secure the adoption of a constitutional provision so that in the future such exemption will not be possible.

The next question I should like to ask the Senator from Colorado is—

Mr. COSTIGAN. Before the Senator from Connecticut proceeds, may I call his attention to the provision with respect to tax exemption?

Mr. LONERGAN. The Senator has stated that the proposed law provides that the income from the bonds shall be taxed.

Mr. COSTIGAN. I understand the Senator from Connecticut does not dispute the accuracy of the statement made? The part to which I refer is section 1105 of the amendment, which reads as follows:

SEC. 1105. The provisions of section 7 of the Second Liberty Bond Act, as amended (relating to the exemptions from taxation both as to principal and interest of bonds issued under authority of section 1 of that act, as amended), shall apply as well to United States annuity bonds, except that annuity and redemption payments upon United States annuity bonds shall be subject to taxation by the United States, any State, and any possession of the United States, and by any local taxing authority, but to no greater extent than such payments upon other annuity bonds or agreements are taxed.

Mr. LONERGAN. Is it the purpose of the Senator from Colorado to have incorporated in the Record the entire statement made by Representative Lewis?

Mr. COSTIGAN. It is my understanding that the statement made to the Finance Committee by Representative Lewis was confidential, because made in executive session.

Mr. LONERGAN. It is a matter of public record now.

Mr. COSTIGAN. Because of that fact, I asked Representative Lewis to prepare for use of the Senate a statement summarizing his arguments in support of the amendment now being considered. That is the statement before me at this time which I have requested to have read by the clerk at the desk.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The legislative clerk read as follows:

I know a married couple who are past 60. They have saved some \$15,000 in their life's efforts. If they knew just how long each of them would live they could provide their own annuity by investing the \$15,000 in safe Government bonds. They could take enough out of the principal each year, in addition to the interest, to provide themselves a hundred dollars per month. But they do not know how long either of them will live, and so they are afraid to touch the principal.

Now, the Government does know how long they are going to live as members of a class, and paying them the interest as it would on the bonds the Government can take enough out of the

principal each year to provide them annuity for which they fully pay.

Take again, a case of a husband who has a \$15,000 estate. He wishes to provide for his wife in the event of his death. In his will he can have the estate converted into a life annuity for her benefit instead of having the estate eaten up by the court costs, trustee's fee, and commissions. If he has children he can secure their futures in the same way instead of willing them lump sums to be wasted by inexperienced hands.

Let us see about the great human interest involved. In this bill we undertake to realize certain social security objectives. With regard to wageworkers and employees up to \$2,500 a year, we have covered the field approximately. But how about the immense number of people who are not employees? Take the physicians, the lawyers, the clergy; take the small business man. What may be his situation when he reaches 65 or 66? There are more than 20,000,000 involved in that situation who may be reasonably included in the social security principle of this bill.

Apparently, there is no objection to the annuity provision of this bill as far as the public is concerned or any part of the public. In fact, the insurance companies have spoken through one of their principal leaders, Mr. Thomas I. Parkinson, of the Equitable Life Assurance Society of the United States. He said that the social insurance provisions of the bill would, like the \$10,000-insurance provision of the war act for the soldiers, operate to increase greatly and intensify the thought of the public on the subject of individual protection through insurance.

I quote, in part, from a letter on the subject written by Mr. Parkinson:

"Just as the business of life insurance received tremendous impetus from the successful efforts of the Government to provide a sizable amount of insurance on the lives of all called to the Arms in the creation and the development of the War Risk Bureau, so do I believe that social insurance agitation will result in renewed appreciation and great stimulating of life-insurance activities, both individual and group.

"Insurance men are ready to lend their experience in the service of this social insurance class by assisting in the formation of social insurance measures along lines of sanity and workability. As an insurance man, I would say without hesitation that the efforts to provide through social insurance measures a more self-respecting form of relief, a better budgeted charity program, will do much to arouse public interest in the whole subject of security. In doing this, that overwhelming number of upstanding men and women who represent the insurance field will be inspired to look more deeply into their insurance needs and to more completely provide security for themselves. Thus, it is likely, in my judgment, that history will repeat itself and the impetus given to the cause of life insurance by the War Risk Bureau in putting a value of \$10,000 on the life of every enlisted man will be accentuated with the result that the present agitation for social-insurance measures will swell the volume of individual and group life insurance and annuities.

"In doing this, the insurance companies and their agents will not only be benefited by an enhanced business, but the business itself will be better able to muster to its support public appreciation of the tremendous national and community service rendered by life insurance supplied through premium-paying Americans, who, wanting no charity, take care of themselves and those dependent on them."

There is a field of potential traffic in the small annuity, as there was in the small parcel, which requires special inducement and conditions in order to develop it.

When we took up the parcel post 24 years ago we found that the express companies were moving three parcels per capita in the United States. In Switzerland they were moving nine per capita. They had a completely developed parcel-post system, with rates and conditions of service adapted to the needs of this small parcel. It could not pay the 24-cent minimum which the express company found it necessary to charge the parcel here. It could pay 7 or 8 or 10 cents.

With our parcel-post system, the 3 parcels per capita have reached about 9 in the United States, all of which shows that two-thirds of that traffic, potential for generations, had been defeated by the absence of rate systems and conditions of service permitting it to move.

In this small annuity field you are finding analogous phenomenon. For the big lump-sum payment you would take in \$15,000 at one stroke. An agent assuredly would call for that. The company will get about 4½ percent out of that. But for the small installment monthly payments that may begin as early as 30 or 35 to accumulate an annuity at 60 or 65, no agent can bother with that. The expenses of the work would utterly defeat the motive to do it, unless the great expense were added to the premiums, when the motive to buy the annuity would be defeated.

And so we find here, as with the small parcel, a neglected field the insurance company cannot serve with sufficient economy.

Then there is the very vital element in this whole situation. It is the question of faith. It is the controlling element in our conditions. Now, the Government supplies that element of faith. The private company has to face a wall of distrust and break through it. In the course of generations—and it has taken generations—it has succeeded with respect to the familiar life policies. But the annuity policy is new; that is, it is new to the masses. They need to be educated to its wisdom. The Govern-

ment has no wall of distrust to meet. It can educate the public. The companies will come in for their share in the resulting confidence in the annuity, and will have a monopoly of the business in annuities above \$100 a month.

Through the initial faith that the Government supplies, we can hope to provide a means which men and women who are not covered by these pension and employment provisions may, through their own savings and efforts in life, provide for themselves. Some, of course, will be satisfied with \$30 a month; others may desire in proportion to their capacity to acquire such annuities for themselves. Why deny them the surest security in doing so?

Estimate of number of individuals not covered under the provisions of title II and eligible for voluntary annuities under title XI

(Based on 1930 census)

Owners, self-employed and professionals.....	11,825,000
Farm operators.....	5,882,000
Retail and wholesale dealers.....	1,798,000
Self-employed trades.....	352,000
Professionals.....	2,223,000
Others.....	1,572,000
Workers excluded because of occupation.....	10,158,000
Farm laborers.....	4,378,000
Domestics in private homes.....	2,060,000
Teachers.....	1,082,000
Government, N. E. C. <sup>1</sup> .....	1,403,000
Casuals.....	490,000
Institutional.....	680,000
Others.....	65,000
Total.....	21,981,000

Source: Committee on economic security. An adjustment has been made for those individuals 65 years of age and over.

<sup>1</sup>The per capita income of employees in agriculture was \$648 in 1929 and \$352 in 1932.<sup>2</sup>

<sup>2</sup>The per capita income of employees in domestic service was \$961 in 1929 and \$670 in 1932.<sup>3</sup>

The number of annuities in force under the Canadian voluntary annuity system was 14,400 on March 31, 1933. The maximum annuity is \$1,200. The contracts pay 4-percent interest compounded annually, the interest and administrative cost being paid by the Government. The average annuity contract for the immediate annuity type was \$418 on March 31, 1933. Nearly 84 percent of all annuity contracts written in 1930 were for less than \$600.

In addition to Canada, Ecuador, France, Japan, and the Netherlands have voluntary annuity systems.

Mr. COSTIGAN. Mr. President, using the balance of my time on the bill, I wish first to express regret that the importance of this question is not being given attention by a larger present representation of the Senate. As disclosed in the thoughtful statement of Representative Lewrs, this proposal represents a moderate plan for handling annuity protection for the benefit of approximately 20,000,000 Americans in a field in which the private insurance companies have shown little active concern.

The subject was canvassed fairly and fully before the Finance Committee. It developed, as illustrated in the statement of Mr. Parkinson, read at the desk a moment ago, the interesting conclusion that the standard insurance companies of the country are today not disposed to criticize this type of Government activity; more than that, their officials incline to believe that if the Government will deal with annuity bonds as provided in this amendment, the ultimate effect will be to popularize other forms of life insurance in this country and increase the business and net earnings of life-insurance companies.

We are not without a precedent in thus anticipating the popularization of life insurance. In or about 1907, under the leadership of no less eminent a public official than Mr. Justice Brandeis, the State of Massachusetts authorized its mutual-savings banks to receive payments in small amounts on moderate-priced insurance policies primarily for the benefit of working men and women, and from that day to this the system inaugurated in Massachusetts has been a marked success. Indeed, it is doubtful if there is any single contribution to public affairs by Mr. Justice Brandeis of which he thinks so highly as this. That law worked as the

<sup>1</sup> Not elsewhere classified.

<sup>2</sup> National Income, 1929-32 (73d Cong., 2d sess., Sen. Doc. No. 124, p. 28).

<sup>3</sup> *Ibid.*, p. 142.

provisions in this bill may be expected to work. Instead of diminishing insurance sales by the standard companies of Massachusetts, it spread the use and advertisement of insurance to such an extent that by common consent today the standard companies are the substantial beneficiaries of the Massachusetts experiment.

I suggest, therefore, that this amendment should be seriously considered by the Senate. It should at least go to conference. In my judgment, there is no serious opposition to it on the part of the leading insurance companies of the country. The only objection comes from those who, like the Senator from Connecticut (Mr. LONERGAN), are reluctant to see any form of Government activity which may be regarded, even theoretically, as competitive with private business.

I trust that the amendment of the Senator from Connecticut will not prevail.

The PRESIDING OFFICER. The Chair will state the parliamentary situation. The motion of the Senator from Connecticut (Mr. LONERGAN) seeks to strike out an amendment of the committee not as yet acted upon.

Mr. ADAMS. Mr. President, I wish to ask the Senator from Connecticut, in my time, to answer a few questions about this amendment.

One question is as to the accuracy of the terminology. It seems to me it is incorrect to describe that which is really an insurance policy as a bond. I am wondering if I am correct in that feeling.

Mr. LONERGAN. Of course, it is a plan to sell bonds; but the bill provides for the sale of bonds. Bonds and policies in this sense are the same thing.

Mr. ADAMS. A bond, as a matter of legal terminology, is an instrument providing for the payment of a fixed sum of money at a fixed time.

Mr. LONERGAN. That is correct.

Mr. ADAMS. Here is an indefinite sum of money, depending upon the length of life of the annuitant.

Mr. LONERGAN. Yes, sir; and the amount paid.

Mr. ADAMS. Why did not the committee describe these instruments by a correct term, and call them annuity policies rather than bonds?

Mr. LONERGAN. The Senator from Connecticut opposed this proposal in the committee. He subsequently asked that the proposal be submitted to the full membership. Therefore, he is not in position to answer the Senator's question.

Mr. ADAMS. One other question, if I may submit it.

The amendment provides that the instruments which are to be paid to the annuitant—

Shall be such as to afford an investment yield . . . not in excess of 3 percent per annum.

An investment yield, if I understand the term, means the income upon a principal, without the consumption of the principal. The essence of an annuity contract is the consumption of both income and principal.

Mr. LONERGAN. That is correct.

Mr. ADAMS. So that under this bill the return to the annuitant is limited to not to exceed 3 percent. He may have a life prospect of 15 years, and yet be limited to a 3-percent income upon the amount he pays for the bond.

Mr. COSTIGAN rose.

Mr. LONERGAN. Will the Senator from Colorado answer the question of his colleague?

Mr. COSTIGAN. Mr. President, I congratulate the junior Senator from Colorado on the ingenuity of his suggestion.

Mr. ADAMS. It is a question, not a suggestion.

Mr. COSTIGAN. It has not been offered by insurance experts. In fact, it should be said to the Senate that this entire amendment has met the approval of experts. It has not encountered from any part of the Federal Government such objections as the Senator from Colorado has made.

Mr. ADAMS. May I suggest that I can see why the insurance company would not object, because the annuity policy pays so much less than the policy which the insurance company would offer. I should apprehend that the

insurance company would object if the Government were issuing a better policy than the company.

Mr. COSTIGAN. May I suggest to the able Senator from Colorado that the field with which we are now dealing is one in which the standard life-insurance companies have rarely issued policies or given the sort of assurances the Senator from Colorado is now indicating? May I also say that if there is merit in his argument, there is no reason for apprehension about these provisions, because the insurance companies can enter the field and provide those who desire old-age annuity security, under the theory of the Senator from Colorado, on much more reasonable terms than are provided in the bill. I think the Senator will find, on investigation, that what the Government would do under these provisions is to provide old-age annuity security in a field where today it cannot be purchased by citizens of this country with anything like the same assurances.

Mr. ADAMS. Mr. President, my distinguished colleague has misinterpreted my inquiry as an argument. I am trying to get some information about a provision of a bill which comes from the committee with very inadequate explanation, which puts into a bill designed for certain purposes, insurance features; and I am merely making inquiries.

I have asked why the terminology should be used to call a policy a bond, which tends to mislead those who invest. The title opens with the declaration that the Secretary of the Treasury is authorized to borrow on the credit of the United States to meet public expenditures and to retire outstanding obligations rather than an accurate statement of what is intended, if I read the section correctly; namely, to issue annuity policies to those who wish to buy them. That is, we start out in the bill with what seems to me to be really a misstatement or, rather, a failure accurately to state the purpose of the title.

Then I have inquired why the payments are limited to investment yields rather than to properly annuity yields, which consume principal as well as interest.

I am not arguing. I am merely inquiring in order that my own vote may be cast in accordance with the facts.

Mr. COSTIGAN. Mr. President, I have, of course, no desire to misinterpret any suggestion of the Senator from Colorado. If I am in error in assuming that the Senator has made an argument, I of course withdraw that assumption or suggestion. I may say that it impresses me as of very slight consequence what the particular phraseology of these amendments is so long as the essential end is clear. The purpose is to provide a Government promise in the form of an annuity bond, which may be described as an insurance policy, if the Senator prefers, constituting a guaranty of security for the later years of those who desire safely to invest their earnings or savings for that result.

Mr. McKELLAR. Mr. President, may I ask the senior Senator from Colorado a question?

Mr. COSTIGAN. Certainly.

Mr. McKELLAR. Does not this title put the Government into the insurance business?

Mr. COSTIGAN. It does in a minor way, in a very limited field, in which, according to the testimony we have had, insurance companies have not desired to go. It is a field which has not been cultivated by standard insurance companies. It has been neglected, and indeed, according to our information, many insurance men would be glad to see the Government undertake this responsibility because it would advertise the value of insurance as protection against the financial casualties of life.

Mr. McKELLAR. But it does put the Government into the insurance business. Will the Senator from Colorado permit me to make an observation?

Mr. ADAMS. I am very glad to yield the floor.

Mr. McKELLAR. During the war we went into the insurance business for our soldiers, but since the war we have found it to be very impracticable for the Government to continue that activity, and we are getting out of it as rapidly as possible. With that experience in mind, it seems to me to be most unwise for us now to go into the insurance

business even in a limited way, and my purpose is to vote in favor of the amendment.

Mr. ADAMS. Mr. President, will the Senator yield to me? Mr. McKELLAR. Certainly.

Mr. ADAMS. I wish to ask a question which is very unwelcome these days. In what clause of the Federal Constitution does the Senator find justification for the issuance of a Federal insurance policy?

Mr. McKELLAR. I know of no such clause in the Constitution. I know there has been an opinion by Judge Grubb, in Alabama, which is now on appeal, in which he held that the Government could not go into business. I do not know whether the opinion is correct or not; I have doubts about its correctness. However that may be, there is no clause of the Constitution under which this title can be defended. It is true that under the express war power that is given us in the Constitution we had a right to insure our soldiers, but as I look at it we have not a scintilla of right to put the Government into the insurance business as is proposed, and I stop long enough to ask what clause of the Constitution gives us the right?

Mr. COSTIGAN. May I ask the able Senator from Tennessee on what clause of the Constitution he predicates the ability of the Federal Government to create the Tennessee Valley Authority?

Mr. McKELLAR. It is upon that clause of the Constitution which deals with interstate commerce. It is that provision of the Constitution which gives the Government authority over navigable streams, an entirely different situation from the present one. Even supposing we had no right to create the T. V. A., that would be no reason why we should pass another unconstitutional measure, and I for one am not willing to vote for a bill which I feel is unconstitutional.

Mr. COSTIGAN. The able Senator from Tennessee finds no intrastate activities in the Tennessee Valley Authority?

Mr. McKELLAR. Of course there are intrastate activities, but there are interstate activities also; and it is operating on a navigable stream which runs into several States, a very different situation from the one we are now considering.

Mr. COSTIGAN. It is gratifying to realize that the Senator agrees with those of us who find no constitutional difficulty affecting the Tennessee Valley Authority and other large issues which are to come before the Supreme Court. I wish only to say that what is attempted—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BARKLEY. Mr. President, I desire recognition, and I will yield to the Senator to ask me a question.

Mr. COSTIGAN. I appreciate the courtesy of the able Senator from Kentucky. What I want to say further is this—and to state it as a question, I trust the able Senator from Kentucky will agree with me—that the amendment provides for the issuance of bonds in exchange for money. The Senator from Tennessee undoubtedly does not deny the authority of the United States to sell its bonds for money or to issue agreements in writing.

Mr. McKELLAR. Of course not.

Mr. COSTIGAN. There is sufficient authority for this proposal in that power.

Mr. McKELLAR. I do not think it has anything to do with the beginning and operation of an insurance company in competition with private companies.

Mr. BARKLEY. Mr. President, the Senator from Tennessee a while ago referred to the provisions made by the Government for insuring the soldiers. The Constitution gives the Congress the right to declare war, and that is all it says about that subject. We have used the war power, assuming it covered everything we wanted to do following a declaration of war; but I challenge the Senator from Tennessee or any other Senator to find anything in the Constitution which specifically authorizes the issuance of a life-insurance policy on a soldier. There is no such authority in the Constitution.

Mr. McKELLAR. I do not know whether or not the question of the insurance policies issued on the lives of our soldiers has been before the Supreme Court; I do not believe

it has; but under the broad power of self-defense, in what is generally spoken of by those who quote the Constitution as the "war power", there is some semblance of excuse for the issuance of policies on the lives of soldiers when we are exposing them to the hazards of war. But there is no possible way in which the Constitution could be construed to cover putting the United States Government into the life-insurance business.

Mr. BARKLEY. Of course, it is useless for any Senator to argue with another Senator upon the Constitution, because each Senator knows more about that than all the other 94 Senators.

Mr. MCKELLAR. I have no doubt as to the unconstitutionality of the pending proposal, and I expect to vote against it.

Mr. BARKLEY. We talk about war powers which we assume exist, and no doubt they do, but they exist largely because there is another provision in the Constitution giving Congress all power necessary to carry into effect the powers specifically conferred upon it, so that we do act on things which are not mentioned in the Constitution, and we have to do it. But in this particular situation we provide for the issue of a bond by the Secretary of the Treasury. If I have \$2,000 which I desire to invest I cannot go to an ordinary life-insurance company and get an annuity; they are not interested in small matters of that sort. They are not concerned about an annuity which involves so small an investment, because it is more trouble than it is worth.

Mr. MCKELLAR. Mr. President, I think the Senator is wholly mistaken in making that observation, because on hundreds of occasions I have been urged by representatives of insurance companies to buy an annuity policy.

Mr. BARKLEY. I have, too, but I never had any of them ask me to buy any policy of less than \$10,000.

Mr. ADAMS. That was a personal compliment.

Mr. LONERGAN. Mr. President, I read from a communication written by a standard life-insurance company which issues a strictly annuity policy for as low as \$10 a month. I quoted from our proceedings in the Senate Committee on Finance, and among other things I remember the query of the Senator along the same line. I think the Senator from Kentucky and a few other Senators joined the majority in voting for this proposal in the belief that the life-insurance companies do not issue small annuity policies. In that respect those who so voted were in error.

Mr. BARKLEY. It may be that I was in error, but so far as the committee had any information on the subject, we were not. However, I am not making any question about it.

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

Mr. BARKLEY. I yield.

Mr. ADAMS. I have made inquiry in reference to the Constitution, and I wanted to suggest to the Senator from Connecticut as to the foundation upon which the inquiry was made. I was relying upon a fair inference from the action of my learned colleague, a good lawyer, who offered an amendment to the Constitution, and I assume he would not have asked to have the Constitution amended if he had thought it was adequate to meet these conditions. That was the basis of my inquiry.

Mr. BARKLEY. I do not know what the suggestion of the Senator's colleague is.

Mr. ADAMS. A broad, sweeping amendment to the Constitution which would provide unquestionably the authority for the Government to take the proposed action.

Mr. BARKLEY. It did not have any reference to insurance, did it?

Mr. ADAMS. I think it would include insurance.

Mr. BARKLEY. That would depend on how broad it is. I do not know how broad it is. I do not think it was specifically intended to refer to a situation such as this. It may be that it is a sort of an omnium gatherum, which contemplates an amendment to the Constitution giving us power to do everything we have not power to do now under the Constitution; but that would be a different thing; and I do not understand that to be the amendment offered by

the Senator's colleague. Undoubtedly we have the power to issue bonds, and we have the power to use the credit of the United States. If I have \$2,000 to invest in such a bond, the terms of which are that I will be paid back in monthly or annual installments the money I put in, there is certainly nothing unconstitutional about that. It is merely a different way by which the United States would repay its debts or the money that it borrowed from the people, just as in the case of Liberty bonds. The Government could pay them back all at once, or, if it desired to do so, it could authorize repayment in installments. That is all this provision undertakes to do. When we come down to brass tacks, that is all it amounts to. I place a certain amount of money in a Government bond, and we provide for paying it back in annual installments, which is simply a method by which the Government repays its debt.

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

Mr. BARKLEY. I yield.

Mr. MCKELLAR. In answer to the Senator's previous question, I read from the Constitution, as follows:

Sec. 8. The Congress shall have power " \* \* \* to \* \* \* provide for the common defense and general welfare of the United States.

And again—

To raise and support armies.

And again—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers—

And so forth.

Mr. BARKLEY. Yes; all "the foregoing powers."

Mr. MCKELLAR. That is ample provision, in my judgment. I now ask the Senator to put his finger on any clause or phrase of the Constitution which allows the United States Government to enter the insurance business generally.

Mr. BARKLEY. I shall quote, not in exact language, but the substance of the constitutional provision, that Congress shall have the power to borrow money on the credit of the United States; and that is what this amounts to. It is borrowing from the people who desire to buy these bonds money which is to be returned to them in annual payments in the form of an annuity. The Senator can call it an "insurance policy" if he wishes to. If I have \$10,000 which I invest in a Liberty bond, that is an insurance policy to some extent. If I invest \$10,000 in a bond of the United States, that money will be paid back to me according to the terms of the bond, and that is an insurance that I will get my \$10,000 whenever the Government pays it. The pending measure provides that if I put in \$10,000 or any other amount provided in the bill instead of paying it all back to me at once, the Government shall pay it back in annual installments which we call an annuity. I do not see any difference, so far as the principle is concerned, between one and the other.

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. I understood the Chair to say that the question is on the amendment offered by the Senator from Connecticut [Mr. LONERGAN] to strike out the amendment of the Senate committee.

The PRESIDING OFFICER. The situation, as the Chair understands it, is this: The amendment offered by the Senator from Connecticut [Mr. LONERGAN] would strike out an amendment of the committee not as yet acted upon. Therefore, when the Chair puts the question he will put the question upon the committee amendment; and if a Senator wishes to accomplish the purpose of the Senator from Connecticut he will vote "nay." If he wishes to vote for the committee amendment, he will vote "yea."

Mr. BARKLEY. That is what I was coming to. I thought the Presiding Officer was about to put the question on a motion to strike out a committee amendment which had been acted on. The vote is on the committee amendment. Those who favor the committee amendment will vote "yea", and those who are opposed to the committee amendment will vote "nay."

The PRESIDING OFFICER. Those who wish to accomplish the purpose of the Senator from Connecticut will vote "nay."

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Coolidge	Le Follette	Reynolds
Ashurst	Copeland	Lewis	Robinson
Austin	Costigan	Logan	Russell
Bachman	Davis	Lonerган	Schall
Bailey	Dickinson	Long	Schwellenbach
Bankhead	Dieterich	McCarran	Sheppard
Barbour	Donahay	McGill	Shipstead
Barkley	Duffy	McKellar	Smith
Bilbo	Fletcher	McNary	Steiner
Black	Frazier	Maloney	Thomas, Okla.
Bone	George	Metcalf	Townsend
Borah	Gerry	Minton	Trammell
Brown	Gibson	Moore	Truman
Bulkley	Gore	Murphy	Tydings
Bulow	Guffey	Murray	Vandenberg
Burke	Hale	Neely	Van Nuys
Byrd	Harrison	Norris	Wagner
Byrnes	Hastings	Nye	Walsh
Capper	Hatch	O'Mahoney	Wheeler
Caraway	Hayden	Overton	White
Chavez	Johnson	Pittman	
Clark	Keyes	Pope	
Connally	King	Radclyffe	

The PRESIDING OFFICER (Mr. Duffry in the chair). Eighty-nine Senators have answered to their names. A quorum is present. The question is on the adoption of the committee amendment.

Mr. LONERGAN. The pending motion is to strike out title XI.

The PRESIDING OFFICER. The Chair will state that the question will be submitted as to the adoption of the committee amendment, beginning on page 72, line 7, being title XI. Those desiring to support the committee amendment will vote "yea." Those favoring the amendment of the Senator from Connecticut will vote "nay."

Mr. HARRISON. Those in favor of the amendment of the Senator from Connecticut will vote "nay."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, on page 72, beginning with line 7, being title XI.

The amendment of the committee was rejected.

Mr. RUSSELL. Mr. President, I offer an amendment, which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, line 24, before the period, it is proposed to insert a colon and the following:

*Provided*, That in order to assist the aged of the several States who have no State system of old-age pensions until an opportunity is afforded the several States to provide for a State plan, including financial participation by the States, and notwithstanding any other provision of this title, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, to be used exclusively as old-age assistance, in lieu of the amount payable under the provisions of clause (1) of this subsection, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board, to be entitled to receive the same: *Provided further*, That no person who is an inmate of a public institution shall receive such old-age assistance, nor shall any individual receive an amount in excess of \$15 per month.

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

Mr. RUSSELL. I yield.

Mr. HARRISON. I have talked to the Senator from Georgia about the subject matter of this amendment and have had numerous conferences in regard to it. What the Senator seeks to do by his amendment is to enable States which have no pension-system set-up, and which, therefore, would be unable to take advantage the first year, 1936, of the appropriations by Federal Government for assistance to States or States such as the Senator's State, Georgia, where the State constitution prohibits pension plans being created, making necessary an amendment to the State constitution, to avail themselves of the Federal assistance until such States may have time to adopt a State plan.

Mr. RUSSELL. For a period of only 2 years, until an opportunity can be afforded all the States to establish a State system.

Mr. HARRISON. And pending such time some agency is to be appointed by the Social Security Board which may reach the needy individuals who would come under the provisions of the bill.

Mr. RUSSELL. The Senator from Mississippi is correct. This problem in the States that have no old-age-pension system has been greatly accentuated within the past 3 or 4 weeks by the policy of the Relief Administration in inaugurating the work-relief program in turning back to the States and local communities that have no means whatever of providing for them, old people who are not capable of being employed on the work-relief program.

Mr. HARRISON. Mr. President, I may state that, so far as one member of the committee is concerned, I shall not interpose an objection to the amendment going to conference, because I believe that the States should have an opportunity of providing pension systems for themselves.

Mr. BORAH and Mr. KING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield; and if so, to whom?

Mr. RUSSELL. I yield first to the Senator from Idaho as he rose first. Then I will yield to the Senator from Utah.

Mr. BORAH. May I ask how many States are in the situation which the Senator describes?

Mr. RUSSELL. There are, as I understand, at the present time 15 States which have no old-age-pension systems and 33 that have such systems, the systems varying, of course; they are not uniform throughout the United States.

Mr. BORAH. Do I understand correctly that this amendment provides that for those 15 States the Federal Government will put up \$15 for people who have reached the age of 65 and over until such States shall have adopted pension systems?

Mr. RUSSELL. Not necessarily; only for a period of 2 years; the provision suggested will expire by operation of law at the end of a 2-year period.

I may say to the Senator from Idaho that the amendment does not compel the Social Security Board to pay these individuals \$15; it may pay them amounts not exceeding \$15. I assume that in some States the Social Security Board might not pay the entire amount of \$15; but it is limited to \$15, that being the maximum which will be paid from the Federal Treasury to individuals in States that today have no old-age-pension system.

Mr. BORAH. Then, I think I understand the amendment correctly. It provides that in such States as have no provision for old-age pensions for the next 2 years the Federal Government is to contribute \$15?

Mr. RUSSELL. Or such amount, not exceeding \$15, as the Social Security Board may fix in such States.

Mr. BORAH. It is pretty certain that it will be \$15.

Mr. RUSSELL. I hope and trust it is. I certainly hope that it will not be any less than that amount.

Mr. President, in view of the statement of the Senator from Mississippi [Mr. HARRISON], I will not make any extended remarks on this amendment. It occurs to me that the proposal is not only just and fair but that it would be unfair to aged and needy individuals in the States which today have no old-age-pension system to say that the Federal Government will not extend its hand to assist them in the slightest degree. Not only that, but they will not be permitted to share in this fund which will be paid by the taxpayers of every State at a time when they are being taken off the relief rolls and being turned back to the counties and municipalities which are already largely involved and are absolutely unable to assist such individuals.

We know the present desperate condition of many of these old people, who have seen their savings swept away either by the depreciation in securities or in other investments. They, perhaps, had farms which were under lien and have seen the lien foreclosed on account of the low price of farm commodities and the depreciation in the value of farms. As I see it,



it would be nothing less than wanton cruelty to an old person in a State that has no old-age-pension system to say, "Commencing with the passage of this bill, \$15 a month for such persons will be sent to a State that has an old-age-pension system, but you shall not be permitted a dime, and in addition, you, without any resources whatever, will be taken off the relief rolls."

I would not favor as a permanent policy the Federal Government paying \$15, whether the State matched it or not, but States which now have no old-age-pension systems should at least be afforded an opportunity to adopt within the 2-year period a system designed to take care of their aged and those in need. Efforts to establish such systems are now being made all over the Union. In two or three instances constitutional amendments will be submitted to the people of the States within the next several months, or in the general election of 1936, which will enable the adoption of old-age-pension systems. Some States, such as the one I have the honor in part to represent in this body, have constitutional provisions which make it impossible for them to contribute a single dime to an old-age pension system, and under the peculiar provisions of our constitution an amendment cannot be submitted to the people until the next general election, which will be in 1936. So, regardless of how strongly all the people of my State and of other States similarly situated might favor an old-age pension system, they would be powerless to do anything on earth to match the Federal contribution until after the general election in November 1936. I hope the amendment will be adopted.

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

Mr. RUSSELL. I yield to the Senator from Utah.

Mr. KING. Is there no law in the State of Georgia which permits the counties or other political subdivisions to make provision for the indigent?

Mr. RUSSELL. There is; there is a law that permits counties to have poor farms, but if the Senator from Utah were familiar with the conditions obtaining on some of the poor farms or pauper farms of this Nation, he would never by any act or word of his suggest for one moment that any aged person over 65 years should be sent to such a farm.

Mr. KING. I am not talking about that. What I am trying to ascertain is whether the Senator's State, Georgia, is powerless to give to its indigent an amount which would be equivalent to that which under the bill is to be provided by the Federal Government.

Mr. RUSSELL. The State of Georgia is absolutely powerless. The purposes for which taxes may be levied in the State of Georgia are set forth in detail in the constitution of that State. If the Senator from Utah desires, I will read him that provision of our constitution.

Mr. KING. I do not ask the Senator to do that.

Mr. RUSSELL. It is impossible for one cent in taxes to be levied and collected in the State of Georgia under our constitution as it stands today for the purpose contemplated by this bill. In order to do that an amendment to the State constitution is absolutely necessary.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Georgia.

The amendment was agreed to.

Mr. O'MAHONEY. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 49, line 22, after the word "deposited", it is proposed to insert the following:

Together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties herein imposed upon said Department, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection and payment of taxes provided under section 707 of this title, such sums as may be required for such additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by this act.

Mr. HARRISON. Mr. President.

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from Mississippi?

Mr. O'MAHONEY. I yield.

Mr. HARRISON. This is the amendment, is it not, which was suggested by the Post Office Department with reference to bearing the expenses which may be incurred by the Department under the terms of the pending bill?

Mr. O'MAHONEY. Mr. President, the amendment covers the suggestion made to the committee by the Post Office Department. The bill makes it the duty of the Department to collect the taxes for which provision is made, but does not provide any method of meeting the additional expense to which the Department will necessarily be put. In other words, it adds another nonpostal function to the Post Office Department. Last year such nonpostal functions cost the Department more than \$68,000,000.

The amendment provides that the Post Office Department shall report to the Treasury what services are required to perform the duties imposed by the bill and directs the Treasury to advance credit to the Department to meet the additional expenditures. Similar provisions are in the duck stamp law and in the baby bond law.

Mr. HARRISON. I shall not object to the amendment going to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Wyoming.

The amendment was agreed to.

Mr. BLACK. Mr. President, I desire to offer an amendment proposing an additional section to the bill. In my judgment, this amendment has been made necessary by the adoption of the so-called "Clark amendment." I shall send the amendment to the desk and request that it be read; and after it shall have been read, if there shall be any desire that it be explained or the necessity for the amendment made plain, I will be glad to explain it to the Senate.

The PRESIDING OFFICER. The amendment proposed by the Senator from Alabama will be stated.

The CHIEF CLERK. On page 52, after line 7, it is proposed to insert the following new section:

Sec. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization, or trustee any contract with respect to carrying out a private annuity plan approved by the Board under section 702 if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization, or trustee.

(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization, or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.

(c) Every insurance company, annuity organization, or trustee who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved by the Board under section 702 shall make, keep, and preserve for such periods such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization, or trustee as the Board may deem necessary to insure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.

(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$10,000 or imprisonment for not more than 1 year, or both.

Mr. BLACK. Mr. President, I think I can explain very briefly the object and purpose of this amendment and the necessity for its adoption.

The amendment which was offered by the Senator from Missouri [Mr. CLARK] and adopted by the Senate would authorize the making of contract of insurance or annuity with private insurance companies, annuity organizations, or trustees. One of the objections a great many of us had to the amendment of the Senator from Missouri was that we believed there would be a constant, continuous, and recurring incentive to companies buying such insurance to have on their list of employees the best risks it was pos-

sible to obtain. In other words, it is easy to see, if one company could obtain insurance on its employees all at the rate that would be accorded to young men from 20 to 30 while other companies retained in their employ employees from 20 to 60, that the company which had the employees from 20 to 60 would be compelled to pay a higher rate, and the result would be that such company would be at a distinct disadvantage in competing with the company which employed men of a lower age.

The Senator from Missouri believed and stated that he had avoided any danger on that score by reason of certain additions which he has made to his amendment since the time it was offered in the Finance Committee. I am perfectly willing to concede that the amendment offered on the floor by the Senator from Missouri was a distinct improvement in that regard over the amendment offered by him before the Finance Committee; but the amendment of the Senator from Missouri does not provide any method, so far as I can see, to protect in the respects in which my amendment provides.

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

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Missouri?

Mr. BLACK. I yield.

Mr. CLARK. I have had an opportunity now to examine the Senator's amendment and will state that, so far as I am concerned, I am heartily in sympathy with it.

Mr. BLACK. I was sure the Senator would be when he understood the amendment.

I can state in very few words what I have in mind. We have had a good deal of information about the way holding companies pipe profits out of operating companies. If an insurance company can be so associated with an industrial company that the insurance company can pipe the profits from the industrial company through the insurance company by this means, it would obtain exactly the same results, or certain individuals would, as though originally the company insuring the men had made the profits.

My amendment would make the books of the insurance company subject to inspection of the Government and would prevent any such unfair methods. One portion of the amendment would prevent rebates being made by an insurance company to an industrial company where the men work, and another provision would prevent interlocking directorates and interlocking stockholders. In that way it appears to me the amendment of the Senator from Missouri is greatly strengthened to accomplish the exact purpose for which he offered it on the floor of the Senate. Since he has no objection, and I have shown my amendment to the Senator from New York [Mr. Wagner] and it meets with his approval, unless there is some further question I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GEORGE. Mr. President, if there are no further amendments to be offered to title II and title VIII of the bill, I wish to offer at this time a substitute for title II and title VIII; that is, the Federal old-age benefit provisions.

The PRESIDING OFFICER. The Senator from Georgia offers an amendment in the nature of a substitute, which will be read.

The legislative clerk read the amendment in the nature of a substitute, as follows:

**TITLE I—INDUSTRIAL PROTECTION**

SECTION 1. (a) When used in this title, unless the context otherwise indicates—

(1) The term "person" means individual, association, partnership, or corporation.

(2) The term "employer" means any person in the United States who at any one time during the taxable year employs 50 or more employees, and any group of persons in the United States engaged in the same field of industry which group at any one time during the taxable year employs 50 or more employees and which is formed voluntarily for the purpose of being

considered an employer within the meaning of this act, but does not include the United States Government, or any State or political subdivision or municipality thereof, or any person subject to the Railroad Retirement Act.

(3) The term "employee" means any person in the service of an employer the major portion of whose duties are performed within the United States.

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

(5) The term "pay roll" means all wages paid by an employer to employees.

(6) The term "wages" means every form of remuneration for services received by an employee from his employer, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging, payments in kind, and similar advantages.

(b) For the purposes of this title the wages of any employee receiving wages of more than \$7,200 per annum shall be considered to be \$7,200 per annum.

SEC. 2. There shall be levied, assessed, and collected annually from each employer in the United States for each taxable year an excise tax equal to 5 percent of such employer's pay roll during that part of such taxable year in which he employs 50 or more employees and in which his employees were not covered by an industrial protection plan adopted with the approval of the Social Security Board as hereinafter provided, and announced to his employees.

SEC. 3. (a) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe and publish necessary rules and regulations for the collection of the tax imposed by this title.

(b) Every employer liable for tax under this title shall make a return under oath within 1 month after the close of the year with respect to which such tax is imposed to the collector of internal revenue for the district in which is located his principal place of business. Such return shall contain such information and be made in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector within 1 month after the close of the year with respect to which the tax is imposed. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 percent a month from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this act, be applicable in respect of the tax imposed by this act. The Commissioner may extend the time for filing the return of the tax imposed by this act, under such rules and regulations as he may, with the approval of the Secretary of the Treasury, prescribe, but no such extension shall be for more than 60 days.

(c) Returns required to be filed for the purpose of the tax imposed by this act shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law as returns made under title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer, the time for payment of any initial installment of the amount determined as the tax by the taxpayer may be extended, under regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury, for a period not to exceed 6 months from the date prescribed for the payment of such installment. In such case the amount in respect of which the extension is granted shall be paid (with interest at the rate of one-half of 1 percent per month) on or before the date of the expiration of the period of the extension.

SEC. 4. (a) There is hereby established a Social Security Board (hereinafter referred to as the "Board") to be composed of five members, one of whom shall be designated as chairman, to be appointed by the President, by and with the advice and consent of the Senate. Not more than three of such members shall be of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No member of the Board shall engage in any other business, vocation, or employment. The chairman shall receive a salary at the rate of \$10,000 per annum and each of the other members of the Board shall receive a salary at the rate of \$7,500 per annum. Each member shall hold office for a term of 5 years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office shall expire, as designated by the President at the time of nomination, one at the end of 1 year, one at the end of 2 years, one at the end of 3 years, one at the end of 4 years, and one at the end of 5 years from the date of enactment of this act. It shall be the duty of the Board to carry out the provisions of



this act and to make an annual report to the President concerning its activities.

(b) The Board is authorized to appoint, subject to the civil-service laws, such officers and employees as are necessary for the execution of its functions under this act and to fix their salaries in accordance with the Classification Act of 1923, as amended. The Board is further authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference and periodicals, and for printing and binding) as may be necessary for the execution of its functions.

Sec. 5. At the close of each taxable year for which a tax is imposed by this title, the Board shall certify to the Secretary of the Treasury, for the purpose of exemption from such tax, the name of each employer whose employees have been covered during such year by an industrial protection plan approved by the Board, together with the portion of such year that the employees were so covered.

Sec. 6. Subject to the limitations of this title, the Board shall adopt and make public standards for industrial protection plans and such rules and regulations as are necessary to carry out the provisions and purposes of this title. Any employer may submit to the Board an industrial protection plan, and the Board shall approve such plan if it complies with the standard fixed by the Board. If at any time the Board finds that a plan which it has approved does not in operation comply with the standards fixed for such plans, it may withdraw its approval and shall immediately notify the employer concerned of such action. It shall be the policy of the Board to allow each such employer as much freedom in determining his plan as is consistent with the purposes of this act and the adequate protection of the fund from which benefit payments are to be made.

Sec. 7. The standards adopted by the Board shall provide—

(a) That a plan to be approved shall provide (1) that the employer will pay annually into a reserve fund deposited with some trustee or other depository acceptable to the Board, to be used for the payment of benefits under such plan, an amount not less than the amount of earnings distributed by such employer as dividends or profits, or otherwise, during the same year until the reserve fund is on an actuarially sound basis, and (2) that thereafter the employer shall make such payments when necessary to maintain the fund on an actuarially sound basis.

(b) That the payment of benefits under an approved plan shall begin not more than a year after the beginning of its operation; that every employee who has been in the service of the employer for 1 year or more shall be eligible for benefit payments; and that the following minimum schedule of benefit payments shall be paid at the expense of the employer under the plan in full operation:

(1) In the event of the death of an employee, there shall be paid to his dependents or estate an amount equal to 6 months' wages at the rate he was receiving at the time of his death.

(2) In the event of the disability of an employee, compensation shall be paid in monthly installments to such employee while his disability lasts, or until he reaches the age of 65, at the rate of one-eighth the wages he was receiving at the time the disability was incurred.

(3) When an employee reaches the age of 65 he shall receive annually for life an annuity equal to 1 percent of his total wages during his period of employment, payable in monthly installments.

(4) In the event that an employee becomes unemployed and cannot find other employment by complying with regulations prescribed by the Board he shall be paid compensation for 1 year at the rate of one-fourth his average annual wage for the preceding 5 years, payable monthly.

(5) If the period necessary for establishing on an actuarially sound basis the fund from which benefits are to be paid has not elapsed, benefit payments may, subject to the approval of the Board, be proportionately reduced or continued for a proportionately shorter period.

(c) That an approved plan shall provide that employees may, at their election, make contributions to the fund from their wages (such contributions to be deducted from the employees' wages and paid into the fund by the employer, if the employee so requests); that the benefit payments will be increased proportionately by such employee contributions; that the employer will conduct an educational program designed to demonstrate to his employees the advantages of such contributions; and that the employees contributing shall have a right to participate in the management of the plan.

(d) That an approved plan shall provide that an employer must pay the schedule of benefits specified in this act as his part of the protection plan irrespective of any contribution which an employee may or may not make toward securing a similar schedule of benefits for himself.

(e) That an approved plan shall provide for the exchange or transfer of credits and funds upon the separation of an employee in the service of any employer, in a manner that will fully protect the interest of the employee.

(f) That employers may operate their own plans and manage their own funds on a trustee basis; that employers may have their plans wholly or partly underwritten by insurance companies; that employers may unite to pool their risks and pool their funds; and that participation in a plan under the laws of a State may be considered the operation of an approved plan, if the State plan complies with the requirements for an approved plan, including

payment of the minimum schedule of benefits, specified in this act.

Sec. 8. An employer who is financially unable to provide the reserve necessary to cover the pension liability arising out of the past years of service of active employees, previous to their retirement age, may make application to the Secretary of the Treasury for a loan up to the amount of such liability. The Secretary of the Treasury, under such rules and regulations as he may prescribe, is authorized and directed to make such loans in the form of negotiable bonds to be known as "social security bonds" and which shall bear interest at the rate of 4 percent per annum. Such loans shall bear interest at a rate not in excess of 4½ percent per annum, and shall be amortized over a period not in excess of 30 years from the date of the loan. The money accruing from the difference between the interest paid on such bonds and the interest received on such loans shall be held in the Treasury as a contingency reserve to protect the United States against loss through the failure to repay any such loan. At the end of each 5-year period after the date of enactment of this act, so much of the unused surplus in such contingency reserve as, in the opinion of the Board, can be distributed without endangering the solvency of such reserve shall be distributed to the persons making payment on such loans in the proportion which the payments of each bear to the total amount of such payments during such 5-year period.

Sec. 9. Deposits in the fund from which benefits are to be paid under an industrial protection plan approved by the Board may be deducted from the gross income of an employer for the purpose of computing income taxes to be paid by him to the United States.

Sec. 10. There is hereby authorized to be appropriated annually for the administration of this act the sum of \$1,250,000. From such appropriation the Board is authorized and directed to pay to each State maintaining a cooperative State office for the administration of this act, and furnishing an equal sum, the sum of \$12,500 to be used in the administration of such plan; and the Secretary of the Treasury is authorized and directed to pay to the Treasurer of such State the money so allotted.

Sec. 11. Sections 2 and 3 of this act shall become effective when the Congress by appropriate resolution shall so provide.

#### TITLE II—HOMESTEAD VILLAGES

SECTION 201. For the purpose of providing a means of livelihood for citizens who cannot secure employment in industry or agriculture at a living wage, the Social Security Board is authorized and directed to provide for the construction of self-supporting homestead villages in which such citizens may earn a livelihood or supplement their income from other sources.

Sec. 202. (a) The Board shall make loans for the construction of homestead villages by any agency it approves for such purpose, taking as security for such loans first mortgages on the property in respect of which the loans are made. Such loans may be made up to the full amount necessary to acquire and construct the property covered by such mortgages, shall bear interest at a rate not in excess of 5 percent per annum, and shall be amortized over a period not in excess of 30 years from the date of the loan.

(b) The Board may construct homestead villages under its own supervision and sell the homes or farms in such villages, and shall amortize the unpaid portion of the purchase price over a period not in excess of 30 years, charging interest on unpaid portions of the purchase price at a rate not in excess of 5 percent per annum.

Sec. 203. (a) The Division of Subsistence Homesteads in the Department of the Interior and all functions of the Federal Emergency Relief Administration and the Agricultural Adjustment Administration with respect to subsistence homestead projects are hereby transferred to the Social Security Board, together with all powers and duties relating to each.

(b) All official records and papers now on file in and pertaining exclusively to the business of, and all furniture, office equipment, and other property now in use in, said Division of Subsistence Homesteads or any part, division, or section of the Federal Emergency Relief Administration or of the Agricultural Adjustment Administration whose principal duties relate to subsistence homestead projects, are hereby transferred to said Board.

(c) All officers and employees engaged primarily in carrying out functions transferred to the Board under this act are transferred to the Board without change in classification or compensation; except that the Board may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

(d) All appropriations made or allocated for the purpose of carrying out any of the functions transferred under this act shall be available for the use of the Board in constructing or making loans for homestead villages or in the completion of projects transferred under this act.

(e) All property held in the exercise of functions transferred under this act shall be transferred to the Social Security Board.

Sec. 204. There is hereby created a revolving fund of \$1,000,000,000, which shall be used by the Board for the acquisition and construction of, or the making of loans on homestead villages under this act. The funds transferred under this act shall constitute a part of such fund; the President is authorized to allocate any unused funds at his disposal to such revolving fund; and there is hereby authorized to be appropriated for such revolving fund such sums as may be necessary to increase it to \$1,000,000,000.

Sec. 205. The Board is authorized to prescribe rules and regulations for carrying out the provisions of this title, including rules and regulations concerning the organization and management of homestead villages, not inconsistent with the purposes of this act.

Mr. GEORGE. Mr. President, I wish to make it clear that I am not opposed to the principles or the provisions of title I of the bill providing for grants to the States for old-age assistance or what we know as the general old-age pension provisions of the bill, nor to title III, grants to the States for unemployment compensation administration; nor to title IV, grants to the States for aid to dependent children; nor to title V, grants to States for maternal and child welfare; nor to title VI, public-health work; nor to title VII, Social Security Board, because we recognize there must be a board created to administer the several titles of the bill; nor to titles IX and X, providing grants to the States for aid to the blind. Title XII, which deals with annuity bonds, I believe, has already been rejected. Nor am I opposed to title XII, the general provisions of the bill.

In other words, with the exception of title II and the supporting tax title, title VIII, I am in full sympathy with the bill.

I am also in full sympathy with the purposes of general old-age benefits sought to be covered by the provisions of title II of the bill. I think it would have been much wiser if the bill had provided for grants in aid to the States to enable them to set up old-age benefits and benefits to cover hazards in industry just as was done under title I in making grants in aid to the States for the purpose of providing old-age assistance.

Also, Mr. President, I have believed from the first, and in the committee supported a motion to the effect that we should separate the bill into its legitimate and component parts. It is obviously unfair to ask one to vote for a bill when there is a particular title in the bill to which he does not agree at all, although having full sympathy with the general objective sought to be accomplished by those who drafted and sponsored the bill. On the contrary, it is obviously unfair to join with objectionable and essentially different legislative proposals other highly desirable proposals for which many Senators would certainly desire to vote. Every Senator no doubt would like to vote for the grant in aid to the States for old-age assistance, for aid to dependent children, for public health work, for aid to the States for the purpose of assisting and caring for the blind.

Mr. President, in this connection I desire to say that, as originally drawn, the substitute which I have offered carried certain provisions imposing a tax, but, on mature deliberation and after exhaustive study, I reached the conclusion that the taxing provisions as they now appear in the bill itself could not be sustained against attack, and therefore the substitute which I now offer as now modified provides for the imposition of a tax, but only when authorized by the Congress by an appropriate resolution.

My substitute as now presented is a substitute for title II and title VIII of the bill reported by the committee. My substitute provides against industrial hazards which are not covered in the bill before the Senate. My substitute grants greater and larger benefits. It does not undertake to cover all employees, but it does undertake to cover employees of a common employer numbering 50 or more, and also provides for separate groups in kindred industries when such groups taken together bring the total to 50 or more.

Since my substitute will appear in the Record in connection with my remarks, I do not propose to read its provisions or discuss them more in detail at this time.

Mr. McKELLAR. Mr. President—

Mr. GEORGE. I yield to the Senator from Tennessee.

Mr. McKELLAR. Is the Senator's amendment simply a substitute for titles II and VIII, leaving the remainder of the bill as the Senate has agreed to it?

Mr. GEORGE. Entirely as the Senate has agreed to it.

Mr. President, I wish to make a brief statement regarding the substitute.

The basic features of the substitute, which are offered in the hope, at least, that they are improvements to replace

corresponding parts of the pending bill, are, in brief, as follows:

It makes possible and necessary one standard schedule of benefits to be provided by industries throughout the Nation, thus insuring the desired result and putting all industries on a fair basis of competition, as is sought, it is claimed by the proponents of the Federal old-age benefits provision, or title II of the pending bill.

It preserves a real and needed degree of freedom to industries and to the States as cooperators in the administration of the act.

It permits individual industries or groups of industries to construct and operate their own plans, requiring only that they are actuarially sound and sufficient to yield the stipulated benefits.

It permits employers and employees to receive the benefit of any saving they can effect by a wise and efficient management of their own plans.

It requires each industry to pay only the exact cost of its protection program, no more and no less, instead of a flat pay-roll tax which does not represent the cost.

It eliminates the need for a large army of Federal officeholders required by the pending act to administer it and thus saves an excessively large and needless expense.

It does not put on industries immediately a large financial burden which in a time of business depression may be a serious obstacle to recovery, but relates the expense to the process of recovery.

It makes possible the payment of retirement annuities immediately instead of postponing them for a number of years and does so without putting an undue burden on industries and without increasing the public debt or the tax rate.

It makes possible the easy amendment of the act to enlarge its provisions for the scope of its application as experience may require.

It enlarges the protection program to include death and disability hazards, as well as old-age and unemployment hazards, as provided in title II of the bill as it now stands, all four of which are vitally related and constitute essential parts of one program of unemployment.

It requires all four programs to be put on a reserve basis actuarially calculated to be sufficient, so that automatically they are financially sound, instead of imposing on pay rolls a flat rate which is only guessed or estimated to be sufficient.

It provides for the transfer of pension credits from one employment to another, so that each employer bears the expense only for the number of years an employee spent in his services, and an employee does not lose his reward for years of faithful service by changing employment. The transfer of pension credits eliminates the temptation to escape the payment of retirement benefits by discharging older workers, and is thus one of the effective means of removing the "dead line" from industry.

It will both stimulate and compel an increase in the wage standard of American industry, because if the wage of a certain class of employees has not had sufficient margin to enable them to pay their share of the cost, the act will have to be amended by a requirement that employers pay the entire cost; but it will be a financial advantage to employers, and a moral advantage in preserving the self-respect of employees, if the way is opened for employees to pay half the cost of raising the wage to a cultural wage level as an earned right, rather than to have their share of the cost presented to them by employers as a charity.

Last, and most important of all, the substitute bill furnishes a self-supporting method by which a permanent livelihood may be secured by the large excess number of employees who have been displaced from industry, and cannot be reabsorbed in industry or agriculture, and whose number is so large that it is physically impossible to create a reserve fund sufficiently large to support them in idleness, even if it were desirable to supply wages without work. For these idle detached workers, who cannot be covered by any industrial protection plan that is sound and that will permit industry to function without undue and unnecessary retarding

influences and impediments, the only possible unemployment insurance is employment.

Mr. President, yesterday I had occasion to discuss the questionable validity of title II and title VIII of this bill. I am morally certain that in the course of time, if title II shall be enacted as it now stands, it will either break down of its own weight or it will come back under the condemnation of a decision of the Court. For that reason primarily, and especially since the adoption of the Clark amendment, I am offering this substitute and making this statement; and I now ask that I may insert in the Record a statement prepared by Mr. Henry E. Jackson, an expert in the field of social insurance, who appeared before the Finance Committee as a witness, and gave to the committee testimony when we were considering the bill now before the Senate.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The statement is as follows:

THE GEORGE SUBSTITUTE SOCIAL-SECURITY BILL

(A statement by Henry E. Jackson)

1. The large and important part of the Wagner social-security bill is concerned with organized industries, providing protection against the hazards of old age and unemployment. The George bill is proposed as a substitute for this part of the Wagner bill and it also covers two additional hazards not provided for in the Wagner bill.

2. The two bills are constructed on principles which are basically different; the Wagner bill provides that the Federal Government own and operate the protection plans of industry; the George bill provides that the Federal Government's function be limited to setting a standard schedule of benefits to be maintained, but permits industries a large degree of freedom in the management of their plans. The George bill is therefore in exact accord with the American principle of democracy, which aims to secure concerted action in the whole, while preserving freedom in the parts.

The Wagner bill meets the problem by the use of state socialism; the George bill uses the principle of democracy. I have no objection to state socialism applied to this problem, as we have applied it to other problems, if this is the best we can do. But I believe the democratic method is far more efficient in securing the desired results and far more helpful in the development of individual citizens.

3. The George bill provides a much larger schedule of benefits than does the Wagner bill, and yet this larger schedule of benefits is made to be financially feasible, because of the freedom of method granted industries to manage their plans, and because of the large needless operating expense eliminated by the George bill, and because of the financial assistance to industries provided in the George bill without additional expense to the Government.

4. The chief distinguishing characteristic of the George bill, here stressed, is that its method of securing the adoption of protection plans in American industries, is not compulsion, but voluntary cooperation. The specified tax in the bill may be made effective by a separate act of Congress, if, and when, it is found to be advisable.

5. The use of the voluntary method stipulated in the bill implies that the social-security board charged with the administration of the act, would use all available means for enlisting industries in the plan, giving advisory service, exhibiting the nature and advantages of the plan, and explaining how the plan can be operated on the most inexpensive basis.

The board could give a rating, like a Federal Dun & Bradstreet's on a public governmental basis, thus giving public recognition and honor to those industries, which adopted plans measuring up to or approximating the standards stipulated in the bill.

There would thus be exhibited the number of employers who do voluntarily adopt the plan, also the number who are not willing to adopt it, also those who would be willing to adopt it, if it were made universal, so that they could be on a fair basis of competition. This process would render an invaluable service in exhibiting the need there may be for compulsory legislation.

6. The education, involved in the process of volunteer enlistment of employers, would create a volume of enlightened public opinion, which would clear the way for the easy passage of compulsory legislation. The assumption is justified that a large proportion of employers will probably adopt the plan voluntarily, because all employers are facing this problem wholly apart from any proposed legislation and all intelligent employers recognize that protection of worn-out human machinery is not only just but also an economic advantage, and because an employer who does not have such a plan will find it harder to secure and retain the right type of employee than the employer who adopts such a plan, and because under this bill it will happen to employers as it does to soldiers that an element of distinction and honor attaches to a citizen who is a volunteer soldier rather than to one who is drafted and conscripted under compulsion. Whatever the number of employers who may or may not freely adopt the plan, the voluntary method will be an advantageous process as a preliminary to the use of compulsion, which will affect not those who have by that time adopted the plan, but only those who have not.

7. A bill constructed on the principle of the George bill is obviously the only type of bill which can be operated on the basis of voluntary cooperation. Please observe that freedom of action is not only the method used for securing acceptance of the plan, but after industries have adopted the plan, as stated in the bill, they are given freedom in the management and operation of their plans. The principle involved here is one of paramount importance. It is not only the democratic principle of social control but is the only principle suitable to the treatment and development of human nature. Detail rules and regulations are adapted to dogs and horses. They need them because they are dogs and horses. But what distinguishes a man from a dog or horse is his use of moral judgments. Therefore all social legislation ought not only to permit but stimulate the use of moral judgments. This is what the George bill definitely aims to do. But the Wagner bill will do conspicuous moral damage to citizens, because it is undemocratic, because it, like the original National Security Act, contains detail rules and regulations, handed down from Washington to employers permitting them no chance to use moral judgments. Men properly resent such rules or they would not be normal men. The Wagner bill if adopted will no doubt run the same course as the N. R. A. bill. It will break down of its own weight and then will be pronounced unconstitutional. Then the work will be stopped and be more than wasted, because the work of unscrambling the machinery will have to be done.

8. If a bill of the George type were enacted, for the basic reasons above stated, it will be observed that as a consequence the question of its constitutionality is wholly avoided. It is eliminated. It could not be raised. The bill imposes no penalties and does nothing more or less than establish a bureau or board, whose function is clearly specified and which offers advisory service and operates on the basis of voluntary cooperation. Therefore, as it stands the constitutional question is in no way involved. If later the Congress should pass a joint resolution making the bill's penalties effective and the Supreme Court should pronounce it unconstitutional, the only thing the Court's decision would affect would be the penalty clause and the board could continue to do the work it had already begun and there would be no wasted effect. It could continue to put the bill into operation under the sanction of public opinion instead of using two sanctions, public opinion and the tax penalty.

9. If the board should succeed in securing the voluntary enlistment of a large number of industries in a plan, which they found acceptable and beneficial both to employers and employees, it is highly probable that the Supreme Court would pronounce the taxing provision to be constitutional if Congress decided to use it. For many years we have imposed a tariff tax for an avowed purpose other than to raise revenue, namely, to protect manufacturers against the hazard of foreign competition. No question of its constitutionality has ever been raised. If then as a national policy we have imposed a tariff tax for the protection of employers, we have a conspicuous and convincing precedent for imposing a tax now under a social-security act for the purpose of protecting both employers and employees against industrial hazards, which have become a menace to the national welfare.

After a large number of industries had adopted the plan and demonstrated its usefulness, if Congress made the tax effective in order to compel the participation of the remaining industries and if then the Supreme Court should declare the tax provision to be unconstitutional, we would have established a convincing basis and ample justification for a constitutional amendment. This is a natural and customary procedure, and by the framers of the Constitution was designed and expected to be used whenever the public welfare required its use. The Constitution was made for man, not man for the Constitution. Thomas Jefferson stated in two short sentences all that needs to be said on the wisdom and necessity of amending the Constitution. He said: "Laws and institutions must go hand in hand with the progress of the human mind. We might as well require a man to wear the coat that fitted him as a boy as civilized society to remain ever under the regime of their ancestors."

It is probable, however, that no constitutional amendment will be required, because the question as to whether or not the George type of social-security bill is constitutional, does not involve a question of law, but an economic theory of the facts back of the law. The Nation has now become so completely an economic unity that we no longer have interstate commerce or intrastate commerce, we have just commerce. As soon as this economic fact is recognized as it is the constitutionality of the George bill becomes a foregone conclusion even to a layman. The method of voluntary cooperation, which the bill provides for getting itself into operation, is designed to make such a conspicuous exhibit of this economic fact that the bill's constitutionality will never be raised. Nothing is so convincing as a fact, as Chief Justice Hughes indicated in his dissenting opinion in the Railroad Retirement Act. He said, "Where the constitutional validity of a statute depends upon the existence of facts, courts must be cautious about reaching a conclusion respecting them contrary to that reached by the legislature; and if the question of what the facts establish be a fairly debatable one, it is not permissible for the judge to set up his opinion in respect of it against the opinion of the lawmakers."

10. I am informed that no bill of this character has ever been proposed or passed by the Federal Congress without effective penalties attached. This is probably true. That is the chief reason why it should be passed now as a new legislative procedure. It is likewise true that hitherto no social-security bill has been passed by the Federal Congress. It is a new kind of legislation applied to

a complex industrial problem, and therefore requires a new legislative procedure. New wine calls for new bottles.

Even if we knew that the tax penalty would be ultimately necessary, it would be wise and helpful to use the method of voluntary cooperation as a preliminary process on the way to our desired goal. The shortest distance between two points is the line of least resistance. As far as it is feasible, the more excellent way is to reward men if they do, rather than to punish them if they don't.

It is a curious circumstance that we still persist in believing that the only effective legislation possible must have attached to it a penalty like a fine or imprisonment, whereas it has been repeatedly demonstrated that such penalties have been futile in securing observance of a law if it is not supported by public opinion. The prohibition law as a dramatic case in point. The democratic method is the method of freedom and, despite its obvious defects, democracy is the most efficient form of government yet devised. An illuminating definition of freedom, the only real freedom which I think we possess, would be that it is voluntary obedience to self-recognized law.

While the method here proposed applies with special force to legislation dealing with industrial problems, such as the social-security bill does, yet it is a wise working formula for many other types of legislation, because it ought to be obvious that it is not physically possible to put any law into effective operation unless we first secure a large measure of voluntary obedience to it. The George bill is definitely designed to secure as large a measure of voluntary obedience as possible to a law recognized as wise and desirable. We will dispense with penalties if we can; we will use them if we must.

Mr. GEORGE. Mr. President, I have only this to say further upon the substitute: It does not carry immediate compulsion, or attempt to do so, for the reasons I have already stated; but it is the first attempt to offer an inducement through a Federal agency to industry to provide superior benefits to those specified in title II of the pending bill. Not only that, but it makes possible the doubling of those benefits by voluntary contributions by the employees themselves, though it does not relieve the employers from granting greater benefits than title II of the bill provides and covering two additional hazards to which I have already directed attention. It also holds out a strong inducement to employers to adopt this program by providing for loans from the Treasury in the form of security bonds, but to be retained in the Treasury as its protection, so as to enable industry which has not in the past made suitable provision of a reserve fund to support the plan set out in the bill, or its equivalent. That makes possible also the transfer of credits, which, of course, is an essential feature of any security plan, or of any system which undertakes to provide against industrial hazards.

Mr. President, I am not only convinced of the desirability of such a course, but I believe it will be to the real interest of the country to have an opportunity to consider more deliberately, and separated from other admittedly important proposals in a long and involved bill, the problem we are discussing, and with which I have dealt in the amendment. If and when titles II and VIII of the bill shall be again before the Congress we shall be able, I hope, to work out a program which will provide against the industrial hazards which ought to be provided against as a part of the cost of doing business.

Attached to the substitute is also provision for self-supporting villages, either of the subsistence homestead type or of any other type of homestead with which the Congress has dealt, in recognition of the fact that so large a percentage of our working people have been unable to find employment, and will through a relatively long period be unable to find employment until some way of providing employment shall be found. The benefits granted under title II of the bill when they are analyzed will be found to be exceedingly meager, and there are large groups of our population which will not participate at all in the benefits of title II. Indeed, out of some forty-five to fifty million people who ordinarily and normally are gainfully employed in the United States, approximately one-half only will be affected by title II.

Mr. President, I ask to have inserted as a part of my remarks an editorial which appeared in the New York Times of June 17, entitled "The Social Security Bill," as bearing upon what I have tried to emphasize—the necessity for more careful and more exhaustive study of the subject unembarrassed by other legislative proposals.

The VICE PRESIDENT. Without objection, it is so ordered.

The editorial is as follows:

[From the New York Times of June 17, 1935]

THE SOCIAL-SECURITY BILL

The Senate seems to be on the verge of debating only perfunctorily and passing quickly the full social-security bill already passed by the House. It seems almost too late to hope that a measure of so sweeping a nature will receive the close and careful study it deserves. The case for splitting it into its constituent parts is a strong one. It would obviously be desirable to break it into at least three separate measures—one providing for immediate old-age assistance and Federal contributions for maternal and child aid, a second providing for unemployment insurance, and the third providing for permanent old-age insurance. Only after such a division would each section be likely to receive sufficient consideration, and to be voted upon as its merits deserve.

The whole contributory old-age-pension scheme in particular ought to be postponed and turned over to an expert commission for study. As it stands, it imposes a gradually rising tax on both employers and employees, which at the end of 10 years, it has been estimated, will amount to \$1,700,000,000 a year. This in itself would mean an added tax burden equal to nearly half of the existing total Federal tax burden. Further, it would result, it has been calculated, in the accumulation of an eventual reserve fund of the immense total of \$32,000,000,000. The problem of managing such a reserve fund, and its possible social and economic effects, have not yet received anything like adequate study. Alternative types of old-age pensions ought to be considered.

Nothing has yet been done, again, about amending the major defects of the unemployment insurance plan as it stands. It still does not provide that the workers shall contribute toward their own insurance, in spite of the convincing arguments for this practice and the fact that it prevails in virtually every such system abroad. And it still, for no good reason that it would be possible to think of, levies a 3-percent tax on the total pay rolls of employers, instead of merely on that part which is paid to workers actually covered by the insurance benefits.

Mr. McCARRAN. Mr. President, in view of the fact that there may be no roll call on the substitute offered by the Senator from Georgia [Mr. GEORGE], and since there are some of us who are more interested in the subject matter of old-age security than in the letter of the pending bill, which in all probability will be passed by the Senate, and as there may be some of us who seriously doubt whether the bill, if enacted into law, can receive the sanction of the Court of last resort, without taking up the time of the Senate, but entertaining an entirely sympathetic idea toward provision for old-age security and social security through a constitutional measure, which I do not believe will be passed here today, I desire to be recorded in favor of the George amendment.

Mr. BORAH. Mr. President, I may say just a word, although it is not directed to the particular amendment now pending, but rather to the bill.

The question of the constitutionality of title II has been raised and discussed. I presume we all recognize that title II does present a serious question. I do not think it is free from doubt. But my vote on the bill will not be controlled by the constitutionality or unconstitutionality of title II. There are provisions in the bill the constitutionality of which cannot be doubted, and I favor those provisions.

The bill provides that in case of any portion of the measure being held unconstitutional, the holding shall not affect other portions. Even if that provision were not in the bill, I think the courts would apply such a rule. In view of the portions of the bill which seem to me wholly unquestioned and which I favor, I shall vote for the measure.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Georgia [Mr. GEORGE] in the nature of a substitute for title II and title VIII.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send an amendment to the desk and ask to have it read.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to strike out title II, beginning in line 15, on page 7, and ending in line 12, page 16.

Mr. HASTINGS. Mr. President, the purpose of the amendment is to strike out title II of the bill. As everyone knows, this title refers to the plan for annuities. I discussed the matter at length on Monday, and do not care now to take the time of the Senate, but I should like to ask

if there is to be no further discussion with respect to it, that we have a yea-and-nay vote on the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Delaware, on which he has asked for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRISON. Mr. President, let us have the amendment again stated.

The VICE PRESIDENT. The clerk will again state the amendment.

The CHIEF CLERK. It is proposed to strike out title II, beginning in line 15, page 7, and ending in line 12, page 16.

Mr. KING. Mr. President, it is not my purpose to detain the Senate but for a few moments. Yesterday I submitted some observations concerning the pending bill and directed particular attention to titles II and VIII. I stated in substance that the bill under consideration had a number of admirable features which commanded my support, but that in my opinion titles II and VIII contained provisions which would not be sustained when challenged in the courts. It is believed by many—and I am among that number—that in view of the other provisions of the bill there should be legislation of a supplemental character providing old-age benefits. I regret that steps have not been taken, and legislation proposed of a constitutional character, that will accomplish the desired results and afford suitable and adequate annuities or old-age benefits for the class of individuals comprised within the provisions of titles II and VIII of the pending measure. However, the provisions of these two titles do not reach all the persons above the age referred to, and, indeed, deal with perhaps not exceeding 50 percent of those over the age of 65 years.

The Senator from Georgia [Mr. GEORGE] has referred to this matter and pointed out in a clear and comprehensive manner the defects in the present bill and the necessity, if the objectives sought are to be attained, of adopting a different plan from that found in titles II and VIII. As stated, there are provisions in the bill the constitutionality of which cannot be questioned, and which possess merit and should be enacted into law. The bill before us contains separate provisions and separate titles. They are as disconnected or separated as though they were in separate bills.

The bill contains, as Senators know, various titles which are so complete in themselves that the elimination of one or more would not mar or destroy those remaining. Believing as I did that titles II and VIII were subject to challenge upon the ground of being unconstitutional, I took the position, when the Committee on Finance first began the consideration of the bill, that it should be divided into separate bills and each separate part be considered as an independent measure. I especially urged that the consideration of titles II and VIII be deferred until the other provisions of the bill had been acted upon. Moreover, it was my opinion that sufficient study had not been given to the question of old-age benefits, with the intricate and technical questions involved, and that in view of the fact that if the bill as presented were enacted into law titles II and VIII would not become effective for approximately 2 years, it would be the part of wisdom to defer action upon the question of old-age benefits until the next session of Congress.

There are some Senators and many other persons who have given attention to the provisions of the bill, and particularly to titles II and VIII, who have serious doubts as to the constitutionality of the same. I believe that a definite plan should be provided which would embrace a larger part of our population than is covered in the provisions of the titles referred to. The view is entertained by many that to provide old-age benefits for perhaps less than one-half of our population over 65 years of age does not meet the situation or deal with the problem in a satisfactory manner.

It is obvious that if the bill in its present form is enacted into law, hundreds of thousands, and indeed millions, of those reaching the age of 65 years, not finding any provisions for relief in the old-age benefit features of the bill, will be relegated to title I, thus increasing the contributions to be made by the States as well as the Federal Government. The

millions who will not receive old-age benefits under titles II and VIII, assuming that those provisions shall be held constitutional, will, if they obtain any relief, be compelled to avail themselves of old-age assistance or pensions, provisions for which appear in title I.

I wish a sound and satisfactory measure were before us to encompass the entire questions with which the measure before us attempts to deal. In view of the fact that the bill does have provisions of merit which I approve, and in view of the separability of the provisions, I may feel constrained to vote for the passage of the bill, though believing the titles referred to to be unsound from a constitutional standpoint.

Mr. President, as I understand, the American Association for Social Security, with headquarters at 22 East Seventeenth Street, New York City, has been active in attempting to secure pensions and social-security legislation. I am advised that Mr. Epstein is connected with this association and, as Senators know, he has for many years earnestly sought to secure State legislation providing for old-age pensions. I am in receipt of a memorandum distributed by this organization a short time ago, which contains an analysis of H. R. 7260, and which gives some attention to title II and title VIII of the pending bill. It states that the provisions in these titles place the largest burden of the future support of the aged upon the workers and industry. Reference is made to the enormous reserves which will be built up.

These reserves will be frozen for many years. The committee estimates that under this bill there will be a reserve fund of over 10 billion dollars by 1948 and the reserve will amount to over 32 billion dollars by 1970. Such enormous reserves are unprecedented.

The statement further continues:

The removal of so much purchasing power in the next few years may hamper recovery and cause great social harm. It is extremely questionable whether our economic system can stand the withdrawal of so much needed purchasing power.

The statement further continues:

In setting up such high contributions the bill places a back-breaking burden upon the present generation. The younger generation, as taxpayers, will not only have to pay the cost of the non-contributory pension system, as well as the largest part of the benefits under the contributory system for those now middle-aged, but will be forced to provide fully for its own old age.

It is further stated that—

The plan under this bill is to build up large reserves out of contributions by employers and employees in order to make the plan self-sustaining in as short a period as possible, so as to relieve the Government from much of its expenditures on non-contributory old-age pensions. We believe that self-sustaining annuities cannot be wisely built up in a short period, and that it is especially unwise to accumulate large reserves from contributions levied largely upon wage and salaried workers without any help from the Government out of funds derived from the higher income recipients in the Nation.

Without assenting to all of the statements above quoted, they furnish, it seems to me, sufficient reason for a further study of the important question of old-age annuities. The statement further continues:

In view of the technical complications of the subject it would probably be advisable to strike out completely titles II and VIII from this bill. A congressional committee should be created to study the subject further and report to the next session of Congress.

I have called attention to this statement because of the study which has been given to pensions, old-age insurance, old-age benefits, and so forth, by the organization from whose statement I have quoted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Delaware [Mr. HARRISON] to strike title II from the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KING (when his name was called). Upon this vote I have a pair with the junior Senator from California [Mr. McAdoo], and in his absence I withhold my vote.

Mr. LA FOLLETTE (when Mr. Nye's name was called). I desire to announce that the Senator from North Dakota



[Mr. NYK] is detained by illness. He has a pair with the senior Senator from Virginia [Mr. GLASS]. If the Senator from North Dakota were present, he would vote "nay."

The roll call was concluded.

Mr. ROBINSON. I desire to announce that the Senator from Illinois [Mr. LEWIS], the Senator from Montana [Mr. MURRAY], and the Senator from Oklahoma [Mr. THOMAS] are necessarily detained from the Senate on official business. I am advised that these Senators would vote "nay" if present.

I wish also to announce that the Senator from California [Mr. McADOO], the junior Senator from Virginia [Mr. BYRD], the Senator from Missouri [Mr. CLARK], the Senator from Nevada [Mr. McCARRAN], the Senator from Kentucky [Mr. LOGAN], and the senior Senator from Virginia [Mr. GLASS], are unavoidably detained.

Mr. BULKLEY. I repeat the announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. Not knowing how he would vote on this question, I transfer my pair to the junior Senator from Utah [Mr. THOMAS], who is detained on important public business, and vote "nay."

Mr. HAYDEN. My colleague, the senior Senator from Arizona [Mr. ASHURST], is necessarily detained from the Senate. If present, he would vote "nay."

The result was announced—yeas 15, nays 63, as follows:

YEAS—15

Austin	George	Keyes	Townsend
Barbour	Gore	Metcalf	Vandenberg
Capper	Hale	Smith	White
Dickinson	Hastings	Steiwer	

NAYS—63

Adams	Coolidge	La Follette	Radcliffe
Bachman	Copeland	Loneragan	Reynolds
Bailey	Coetigan	Long	Robinson
Bankhead	Davis	McGill	Russell
Barkley	Dieterich	McKellar	Schall
Bilbo	Donahay	McNary	Schwellenbach
Black	Duffy	Maloney	Sheppard
Bone	Fletcher	Minton	Shipstead
Brown	Frazier	Moore	Trammell
Bulkley	Gerry	Murphy	Truman
Bulow	Gibson	Neely	Tydings
Burke	Guffey	Norris	Van Nuys
Byrnes	Harrison	O'Mahoney	Wagner
Caraway	Hatch	Overton	Walsh
Chavez	Hayden	Pittman	Wheeler
Connally	Johnson	Pope	

NOT VOTING—17

Ashurst	Couzens	McAdoo	Thomas, Okla.
Borah	Glass	McCarran	Thomas, Utah
Byrd	King	Murray	
Carey	Lewis	Norbeck	
Clark	Logan	Nye	

So Mr. HASTINGS' amendment was rejected.

Mr. HARRISON. Mr. President, I offer a clarifying amendment, which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 3, line 13, after the word "plan", it is proposed to strike out "one-half"; and in line 14, after the word "collected", it is proposed to insert:

A part thereof in proportion to the part of the old-age assistance which represents the payments made by the United States.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Mississippi. The amendment was agreed to.

Mr. HASTINGS. Mr. President, I offer an amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 46, line 19, after "per centum", it is proposed to insert:

*Provided, however,* That the tax levied in this act to be paid by the employer shall not in any event exceed 1 percent of the gross receipts of the business of the employer.

And on page 52, line 24, after "per centum", it is proposed to insert:

*Provided, however,* That the tax levied in this act to be paid by the employer shall not in any event exceed 1 percent of the gross receipts of the business of the employer.

Mr. HASTINGS. Mr. President, I have spoken to the chairman of the committee with respect to this amend-

ment, and he has stated that he has no figures to show whether or not its adoption would greatly reduce the amount contemplated to be raised under the bill. I have asked that he accept the amendment and take it to conference, and find out in the meantime whether or not it would seriously interfere with the amount. He has not definitely promised, but I think he is about to do so.

Mr. HARRISON. Mr. President, of course the Senator from Delaware knows that personally I would do anything in the world for him; but this amendment is rather involved, it is uncertain in its terms and in its effect, and I fear it is really so important that I should rather have the Senate pass upon it.

Mr. HASTINGS. Mr. President, this amendment has been suggested by the service industries. The particular industries interested in the amendment are those which are conducting the beauty parlors. There are 57,000 recognized shops, employing 240,000 people, doing a gross annual business of \$400,000,000, with certain fixed obligations in connection with leases and equipment and taxes which cannot be passed on, and which, having the practical effect of a 25-percent reduction of the gross business done, must necessarily be absorbed in the nonfixed factors of the business.

The object of the bill is to assist employees where practically all the expense, or a large part of the expense, is in the pay roll. In this particular industry it is contended that it is not possible to pass on to the consumer the expense in question, as will be done in most cases, and that 1 percent on the gross receipts is a sufficient tax to place upon any industry at this or any other time.

I hope the chairman of the committee will consent to take the amendment to conference, and ascertain just what effect a tax of 1 percent on this industry will have upon the bill itself.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. GORE. Mr. President, the amendment I intend to offer tracks very closely the amendment offered by the Senator from Delaware [Mr. HASTINGS], except that his amendment would affect some large concerns, such as the large telephone companies and the large telegraph companies, and the like. The Senate has just rejected his amendment.

The pending bill imposes a tax of 3 percent on the pay rolls of all employers included within the terms of the measure as a contribution to the unemployment insurance fund. A tax of 3 percent on the pay rolls of individuals and partnerships engaged in rendering personal services, such as barber shops, cleaning and pressing establishments, beauty parlors, and the like, will in some instances amount to 26 percent of their net earnings. A tax of 25 percent on net earnings is, of course, disproportionate and excessive, and would in some cases be destructive of the business itself.

To meet this situation and remedy this injustice—to protect the little fish against the big ones—I am offering an amendment tracking the amendment just offered by the Senator from Delaware, but limiting the application of this 1-percent tax to firms and partnerships. In other words, my amendment provides that if 3 percent on the pay rolls of these small concerns exceeds 1 percent of their gross earnings, then 1 percent of their gross earnings shall constitute the limit of their payments rather than the 3 percent of their payrolls. This might prove a life preserver in many deserving cases.

Mr. President, what I have primarily in mind is this: The amendment I offer will limit the tax on such concerns as cleaning and pressing outfits, barber shops, beauty parlors and small concerns which are engaged in rendering personal service. I have here a computation which I shall ask unanimous consent to have printed in the RECORD. In some instances 3 percent of the pay rolls of these small concerns will amount to 25 percent of their net earnings. That is unfair. It will either put these concerns out of business, or seriously cripple them. It will oblige them in many cases either to reduce the pay or reduce the number

of their employees. Either of these results is undesirable. My amendment will limit it to individuals or to partnerships. It does not include corporations or stronger concerns which could pay the 3 percent tax on pay rolls and survive.

I hope the Senate will adopt this amendment and allow it to go to conference, because there is certainly justification or at least there is reason why we ought seriously to consider the matter before we impose upon these little concerns a tax which may put them out of business, and certainly will cripple them most seriously.

At this point I ask unanimous consent to have printed in the Record a statement showing how excessive this 3-percent tax is with respect to some of these small concerns.

The VICE PRESIDENT. Without objection, it is so ordered.

The statement referred to is as follows:

To the Finance Committee, Senate of the United States:

Memorandum suggesting the necessity and advisability of making certain exceptions or modifications to the pay-roll tax rates provided for by the economic-security bill so as to alleviate the unequally heavy incidence of the tax in those businesses where the proportion of pay-roll expenditures to total business turnover is unusually high.

We have been consulted in recent days by several business concerns engaged in what might be called personal-service activities concerning the contemplated pay-roll taxes in the economic-security bill. As a result of information submitted to us by them, as well as an independent investigation of our own into the statistical and operating aspects of various types of personal-service businesses, we feel that these clients are justified in their conviction that businesses of their class will suffer irreparable damage if the pay-roll taxes are applied categorically without regard to the unusual operating factors involved.

It is obvious that a tax of 3 percent on pay rolls (considering for the moment merely the tax for unemployment-insurance purposes) may have a relatively light incidence upon an industry in which the pay-roll expenditures constitute a small proportion of the gross income, say 5 percent to 15 percent. In some businesses, and this is especially true in organizations of a personal-service character, such as laundries, barber shops, beauty parlors, telephone and telegraph companies, etc., the pay-roll expenditures may, and usually do, constitute 50 percent or more of the total business turn-over. For example this figure is reported to be 60 percent for the telephone industry, and 75 percent for the motion-picture production industry.

Perhaps a concrete illustration will help to demonstrate the effect of the application of the contemplated tax on a business with an unusually high pay-roll factor. In the beauty-shop industry the pay-roll averages about 52 percent of the gross income. The net income in the industry is estimated at about 6 percent of the gross business. The tax of 3 percent on the pay rolls would be equal to 1½ percent of the gross income, or 25 percent of the net income. As consumer habits and standards will make it largely impossible to pass any substantial part of this tax on, it becomes tantamount to a tax of 25 percent on the net income, or a reduction of 25 percent in the gross business done.

This industry has 57,000 recognized shops, employing 240,000 people, and does a gross annual business of \$400,000,000. With certain fixed obligations in leases and equipment a tax which cannot be passed on, and which would have the practical effect of a 25-percent reduction of the gross business done, must necessarily be absorbed in the nonfixed factors of the business. It is bound, therefore, to have a depressing and damaging effect upon wages and salaries in the industry.

It would seem that there is a reasonable and practical solution of this difficulty consistent not only with the purposes of the economic security bill but also in harmony with the larger economic and social program of which it is a part. We believe that this could be accomplished by amending the pay-roll tax provisions and rates of the bill so that they would in effect provide that the pay-roll tax at the existing rates should not exceed 1 percent of the gross business of the employer. Such a modification would sufficiently alleviate the unduly heavy and unequal incidence of the pay-roll tax in such industries with a high pay-roll factor to enable the tax to be absorbed without the alternative consequences of either destructive absorption of the tax by the business, including its labor, or a loss of business and consequent unemployment from consumer resistance to increased prices.

Mr. GORE. I hope the chairman of the committee will not object to this amendment going to conference.

Mr. HARRISON. I am afraid that if I should agree to it the Senate would overrule me about it.

The VICE PRESIDENT. The Senator offers an amendment?

Mr. GORE. Yes; I offer the amendment.

The VICE PRESIDENT. The Senator has put it in his pocket, the Chair understands.

Mr. GORE. Yes; that is a sort of a pocket veto. [Laughter.] I send the amendment to the desk and ask to have it read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 46, line 19, after the words "per centum", it is proposed to insert the following:

*Provided, however,* That the tax levied in this act to be paid by the employer if an individual or partnership shall not in any event exceed one percent of the gross receipts of the business of the employer.

And after the words "per centum", in line 24 on page 52, it is proposed to insert:

*Provided, however,* That the tax levied in this act to be paid by the employer if an individual or partnership shall not in any event exceed one percent of the gross receipts of the business of the employer.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oklahoma. The amendment was rejected.

Mr. GORE. Mr. President, I send to the desk an amendment, which I ask to have read. The amendment speaks for itself. I have offered it before. I offer it once again.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to the bill a new section, as follows:

SEC. —. Notwithstanding any other provision of law, the President is empowered in his discretion to allocate funds appropriated by the Emergency Relief Appropriation Act of 1935 for the purpose of making payment or settlement, in whole or in part, in cash or on the installment plan (as may be agreed upon between the President and the beneficiary) of adjusted-service certificates issued to the veterans of the World War, less in any case the amount of any loan or indebtedness secured by such certificate: *Provided,* That the amount of said funds required to carry out the provisions of this section is hereby made available for such purpose.

Mr. GORE. Mr. President, I do not intend to discuss this amendment. I offered the amendment in the committee, and it was voted down. I have discussed it on the floor of the Senate. It simply authorizes the President, in his discretion, to make payment of the soldier's bonus in whole or in part, in cash or on the installment plan, or in such way as may be agreed upon between the President and the holder of the certificate. It is purely in the discretion of the President. There is nothing mandatory about it.

I have offered the amendment before, and in order to keep my record straight I offer it again. I think this is a judicious way in which to pay the bonus in whole or in part at the present time. It is the only way in which it could be done. This is perhaps the last bill to which such an amendment would be appropriate. It is appropriate, it is pertinent, to this social-security bill.

Mr. LONG. Mr. President, at this point I desire to place in the Record a statement in a few words as to my vote on this bill. I am going to vote for this amendment also. My vote will be recorded in favor of the bill, though not because I think the bill will do any good. I think the bill in the long run probably will do harm, averaged up one side and down the other, as I expect it to be administered. I do not see much chance of very much good being done by it.

However, the old-age pension and unemployment relief features of the bill I originally sponsored in the Senate in a resolution I submitted and in a bill I introduced, and I would not have the public think this administration has in any respect been obstructed in what it claims to be a gesture of public service.

The bill is apparently intended to do a great deal of good, but it provides for levying more taxes and probably imposing a great deal more of burden than any good it will do; and in its undertaking to make every man who draws a pension establish himself as a public pauper it creates an embarrassment before it allows anyone to receive any benefits, and then leaves it hazardous as to there being any benefits, because at the most only 1 out of 10 can be accommodated under the bill.

However, when there has been any reasonable ground for expecting good to be done I have recorded my vote for these measures of all kinds. There is some reasonable ground here

to expect that good may come from the bill. However, Mr. President, I wish to say that I have not a doubt about the bill being unconstitutional.

I am willing, however, to waive my own opinion on the question of constitutionality in favor of the opinion of those who claim to be better students of the Constitution. I have seen at least nine "brain trusters" on the floor of the Senate since the bill has been under consideration, all of whom evidently claim the bill to be constitutional. Since it is the order of the day to accept the opinion of the "brain trusters" on all constitutional questions which may arise, I am not so sure that before the case would reach the Supreme Court some of the judges of the Supreme Court might die and some of these "brain trusters" might be placed on the Supreme Court bench in time to consider the bill when it shall reach that Court for consideration. That being so, there is that chance of the bill being declared constitutional. I shall give them the benefit of any hazard of a doubt which might accidentally flow into consideration of the bill.

I would have it known by my record that there is no desire on my part to obstruct anything having a pretense of being for the public good, though in this case, as in others similar to it, I shall be very much surprised if a single member of the Court, if it shall remain constituted as it is today, should hesitate for an instant to declare the bill unconstitutional. I should be even more surprised if a single bit of good should come out of the bill, but I give the sponsors of the bill all the benefit of the doubt.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. GORE. Mr. President, I should like to have a yeas-and-nays vote. Other Senators may desire it or may not desire it. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. LA FOLLETTE. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BYRD (when his name was called). On this question I have a pair with the Senator from California [Mr. McADOO], who is unavoidably detained. If he were present, he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. LA FOLLETTE (when Mr. NYE's name was called). I was requested to announce that the junior Senator from North Dakota [Mr. NYE] is paired with the senior Senator from Virginia [Mr. GLASS], who is necessarily detained. The junior Senator from North Dakota [Mr. NYE] is absent on account of illness. If present, he would vote "yea." I am informed that the Senator from Virginia [Mr. GLASS], with whom he is paired, would vote "nay."

The roll call was concluded.

Mr. DAVIS (after having voted in the affirmative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN], who is unavoidably detained. I am informed that if present, he would vote as I have voted. Therefore I allow my vote to stand.

Mr. BULKLEY. I repeat my announcement of my general pair with the senior Senator from Wyoming [Mr. CARY]. I am advised that if he were present, he would vote as I intend to vote. I am therefore free to vote. I vote "yea."

Their names being called, Mr. TYDINGS and Mr. GORE answered "present."

Mr. LEWIS. I wish to announce that the Senator from South Carolina [Mr. SMITH] is necessarily detained in an important committee meeting.

The Senator from UTAH [Mr. THOMAS] is necessarily detained on important public business. If present, he would vote "yea."

The result was announced—yeas 77, nays 6, as follows:

## YEAS—77

Adams	Connally	Keyes	Pope
Ashurst	Coolidge	King	Radcliffe
Bachman	Copeland	La Follette	Reynolds
Bailey	Costigan	Lewis	Robinson
Bankhead	Davis	Loneragan	Russell
Barbour	Dickinson	Long	Schall
Barkeley	Dieterich	McCarran	Schwellenbach
Bibbo	Donahay	McGill	Sheppard
Black	Duffy	McKellar	Shipstead
Bone	Fletcher	McNary	Steiger
Borah	Frazier	Maloney	Thomas, Okla.
Brown	George	Minton	Trammell
Bulkley	Gerry	Murphy	Truman
Bulow	Gibson	Murray	Vandenberg
Burke	Guffey	Neely	Van Nuys
Byrnes	Harrison	Norris	Wagner
Capper	Hatch	O'Mahoney	Walsh
Caraway	Hayden	Overton	Wheeler
Chaves	Johnson	Pittman	White
Clark			

## NAYS—6

Austin	Hastings	Moore	Townsend
Hale	Metcalf		

## NOT VOTING—13

Byrd	Glass	McAdoo	Smith
Carey	Gore	Norbeck	Thomas, Utah
Couzens	Logan	Nye	Tydings

So the bill was passed.

The title was amended so as to read: "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

Mr. HARRISON. I move that the Senate insist upon its amendments, ask for a conference thereon with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to.

The VICE PRESIDENT. The Chair will appoint the Senate conferees later.

The VICE PRESIDENT subsequently appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate.



# Passage of the 1935 Social Security Act

## Movement Through Legislative Process

### Proposal Introduced in Congress

Shortly after the 74th Congress convened in January 1935, President Roosevelt sent his "Economic Security Bill" to Capitol Hill. The Administration proposal was transmitted to the Congress on January 17, 1935 and it was introduced that same day in the Senate by Senator Robert Wagner (D-NY) and in the House by Congressman Robert Doughton (D-NC) and David Lewis (D-MD). The bill was referred to Senate Finance Committee and the House Ways & Means Committee.

### Hearings

The House Ways & Means Committee held hearings on the bill from January 21, 1935 through February 12, 1935. The Senate Finance Committee held hearings from January 22, 1935 through February 20, 1935.

### Renamed the "Social Security Act"

During a Ways & Means meeting on March 1, 1935 Congressman Frank Buck (D-CA) made a motion to change the name of the bill to the "Social Security Act of 1935." The motion was carried by a voice vote of the Committee.

### Committee Reports & Initial Passage

The Ways & Means Committee Report on the Social Security Act was introduced in the House on April 4, 1935 and debate began on April 11th. After several days of debate, the bill was passed in the House on April 19, 1935 by a vote of 372 yeas, 33 nays, 2 present, and 25 not voting.

The bill was reported out by the Senate Finance Committee on May 13, 1935 and introduced in the Senate on June 12th. The debate lasted until June 19th, when the Social Security Act was passed by a vote of 77 yeas, 6 nays, and 12 not voting.

### Conference Report & Final Passage

Due to differences between the House and Senate versions, the legislation then went to a Conference Committee which met throughout the month of July. Final Congressional action on the bill took place when the Conference Report was passed by voice vote on August 8, 1935 in the House and on August 9th in the Senate.

### Signed Into Law

On August 14, 1935 President Roosevelt signed the bill into law at a ceremony in the White House Cabinet Room.



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