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The Movement Toward Unemployment Insurance in the United States

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THE MOVEMENT TOWARD UNEMPLOYMENT INSURANCE IN THE UNITED STATES

by

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PREFACE

The subject of unemployment insurance legislation is a timely and highly controversial one. In order to evaluate the movement it is desirable to understand the development of the theory and to investigate the early attempts to secure unemployment legislation in America and in Europe. It is necessary further to analyze the economic situation in the United States and to ascertain whether conditions here are such as to make the application of some form of unemployment compensation desirable and practicable. In the following paper I have endeavored to set forth a dispassionate review of the movement toward unemployment insurance in the United States.

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CHAPTER I

THE EXTENT, CAUSES AND EFFECTS OF UNEMPLOYMENT

Recent public opinion has been properly disturbed by the paralysis that has periodically attacked our economic society. One of the greatest problems brought about by this malady is that of unemployment. Unemployment may be defined as involuntary idleness on the part of those who have lost their latest jobs, are able to work, and are looking for work. This is the definition used by the United States Bureau of the Census in making its enumeration on April 1, 1930.[1] The definition is narrow and excludes all those unwilling to work or unable to get jobs because of physical, mental or moral limitations, as well as those who have jobs but who are temporarily laid off or are on part time. It, moreover, excludes a large number of wage earners, who, while retaining their standing or jobs in their trades

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1. Fifteenth Census of the United States, 1930, Unemployment, Vol. I, p. 6.

are nevertheless idle throughout certain periods of the year or days during the week, as is common in the case of workers in the building trades and clothing industries.

The United States Census in 1930 found the total population to be 122,775,046 persons. Of these 98,725,047 were ten years old and over and 48,832,589 were engaged in gainful occupations. Of those classified as gainfully employed, 2,429,062 were "out of work, able to work and looking for a job." This represented 2 per cent of the total population and 5 per cent of the "gainful workers". Of these totally jobless persons 85 per cent had been idle for more than two weeks; 70 per cent for more than four weeks; 55 per cent for more than eight weeks; 40 per cent for more than thirteen weeks; 14 per cent for more than twenty-six weeks; and 3.3 per cent for more than a year.[1]

It must be remembered that the 1930 census divided the unemployed into groups and that this figure of 2,429,062 included only those totally unemployed who were "out of work, able to work and looking for a job." These figures do not apply to those "having jobs but on lay off without pay including those sick or voluntarily idle" of which in 1930

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1. United States Bureau of Census. Summary of Unemployment, 1931, p. 2.

there were 758,585[1], neither do the figures apply to persons out of a job and unable to work; persons having jobs but idle on account of sickness; persons out of a job and not looking for work; persons having jobs and drawing pay but not at work.

A complete enumeration taken by this census showed a total of 3,267,000 persons unemployed and irregularly employed at that time.

A special census was taken in January, 1931, in twenty-one selected urban areas of which eighteen were entire cities and three were boroughs of New York City. The combined population of these cities and boroughs according to the fifteenth census was 20,638,981 amounting to 56.8 per cent of the total population in cities of 100,000 or more inhabitants.[2]

In order to make the returns comparable with those of the unemployment census of April, 1930, the same schedule form was used as in the census of the previous year. The same enumerators who canvassed these areas in 1930 were re-

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1. United States Bureau of Census, Summary of Unemployment, 1931, p. 2.
2. Fifteenth Census of United States, Unemployment, Vol.II, General Report, p. 366.

employed for this special census. In spite of every effort to make the returns comparable, however, there were certain unavoidable differences in the character of the two enumerations which should be considered in comparing the results. In the first place, the attention of the enumerators in April, 1930, was primarily directed to the enumeration of the population with the unemployment census as a secondary consideration, while in January, 1931, the enumeration of the unemployed was the one and only object of the census. In the second place, the two censuses were taken at different seasons of the year and the employment or lack of employment due to seasonal changes would not be the same in the two cases.

In the April, 1930, census the total population of the area canvassed was found to be 20,638,981. Of these, 17,350,561 were ten years old and over and 9,465,987 were persons reporting a gainful occupation. There was no enumeration of the population made in the special census but it was found that in the area canvassed there were 1,930,437 persons "out of work, able to work, and looking for a job" which was 9.4 per cent of the total population of 1930 and 20.4 per cent of those reporting a gainful

occupation at that time.[1]

In January, 1932, the figures published by the League of Nations[2] showed well over 13,000,000 of unemployed in the countries covered by the available records. This total, however, was far short of the true numbers, for in the first place, it entirely omitted data on the United States, and secondly, the information was based for most other countries on very incomplete records.

The difficulty in getting accurate data on unemployment is due to many causes. In the first place, population censuses in this country and in many European countries are only decennial and such items as amount of farm-city migration, and the number of women newcomers in industry during the years between the censuses must be estimated. Again, censuses are costly and by the time the results are tabulated they are usually out of date because conditions have changed. The census, however, in spite of its shortcomings, serves to give a factual base by which estimates gained by other means

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1. Fifteenth Census of United States, Unemployment, Volume II, General Report, p. 366.

2. League of Nations Bulletin of Statistics, December, 1934. Cf., International Labor Office, International Labor Census, December, 1934, p. 9.

may be judged.

The depression, beginning in the last few months of 1929 has been without precedent in the United States. At no previous time in the history of our country has so large a proportion of the working population been without jobs. Early in 1933 it was estimated that some 15,000,000 persons were out of work.[1] This represented nearly one-third of the labor supply of the country.[2] The spectacle of men and women starving in the midst of an industrial system, which, if properly organized, might yield them all plenty, is not one to be quietly accepted.

Everywhere in the post-war world unemployment has been an obvious and pervasive cause of industrial unrest. It is important, however, to realize that this disease arises naturally out of the disharmonies and maladjustments in the present economic system and the remedy for the disease must be sought by setting right what is wrong in the economic system itself. Great social and economic changes are needed,

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1. League of Nations Bulletin of Statistics, December, 1934. Cf., International Labor Office, International Labor Review, December, 1934, p. 11.

2. Cf., United States Bureau of Census, Summary of Unemployment, 1931, p. 2.

and time, which changes all things, may be expected in the coming decades to bring us improvements not only in the planning of industry, but in the economic structure of society itself. This would be consoling, were it not for the fact that a considerable span of years will probably be necessary before a complete solution to the problem can be found.

In the meantime unemployment causes an enormous amount of suffering to all classes of the population. Indeed the existence of unemployment is harmful to rich and poor, employer and employee, and to society itself. In 1921 the Committee of the President's Conference on Unemployment made the following vitally true statement:

> Nothing is more demoralizing for wage earners than the feeling of insecurity of employment. Unemployment and the fear of unemployment are powerful causes of discontent. Wage earning men and women must meet responsibilities for the support of themselves and their families from their earnings. Loss of employment not only eliminates income, but lessens the ability of wage-earning men and women and their families to make purchases, thus intensifying the period of depression.[1]

Therefore, to the business man or employer, unemployment

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1. United States Department of Commerce, Business Cycles and Unemployment, Elimination of Waste Series. Report and Recommendations of a committee of the President's Conference on Unemployment, Washington, D. C., 1923, pp. 20-21.

means curtailed operations and shrinking profits, for unemployed labor implies also unemployed capital. "The worker", says Robert P. Lamont, (Secretary of Commerce, 1928-1932), "is both producer and consumer, and when he finds himself without a job and without income, business has lost a buyer. Hence the employer who finds it necessary to contract his own operations and discharges his workers is helping to curtail the market for his own goods and those of other producers, and is thereby aggravating a situation of which he himself is a victim."[1] The result of this is further business decline, more unemployment and wage losses, curtailment of consumption, reduction in sales and often bankruptcy.[2]

To the employee unemployment produces heavy economic, physical, mental and moral burdens. Society too, must suffer and pay an enormous toll in the form of undernourished bodies, sick minds, disrupted families, vagabondage, begging, crime and lowered standards of working and living conditions.[3]

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1. United States Department of Commerce. Unemployment and Business Stability. Address before the 19th Annual Meeting of the Chamber of Commerce of the United States, Atlantic City, N.J., April 29, 1931.

2. Daugherty, C. R., Labor Problems in American Industry, p.79

3. Gilson, Mary B., Unemployment Insurance, p. 1.

Unemployment, then, is a problem of tremendous importance because it is not only an economic problem but a social one as well. Although present in some form in all periods of industrial and social development, the problem of unemployment has come to be emphasized in modern times because of its scope and because of the seriousness and far reaching character of its effects.

One of the popular fallacies concerning this social and economic plague is that it is present only in periods of depression, whereas the truth of the matter is that it is a permanent problem. In the most active days of our Era of Prosperity (1922-1929), there were over 2,000,000 able bodied persons who wanted work and could not find it.[1] All studies in unemployment emphasized the fluctuations in its amount. These variations are found when year is compared with year, season with season, and month with month. Each week, month, season and year is different from every other one in the amount of employment that is available and the specific amount and nature of the resulting unemployment.

The most logical and at the same time the most practical way to deal with the causes of unemployment is to consider labor as a commodity whose price, like any other

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1. Estimate of Leo Wolman, Recent Economic Changes, Volume II, p. 478.

commodity, is determined by the forces of demand and supply. These forces that cause fluctuations in the demand and supply of the commodity labor, reside in industry itself,[1] and must be analyzed before we can understand the true causes of unemployment.

Employers look upon labor as one of the factors necessary to production and they buy labor on a labor market where the price of the commodity, labor, fluctuates according to the same economic laws as the price of any other commodity. When labor is scarce, the price is high, and likewise when the supply of labor is plentiful the price decreases. There are, however, some important differences between the labor market and the market for commodities. When a workman is in fear of hunger his need for money is very great; and if at starting he gets the worst of the bargaining and is employed at low wages his need remains great and he is very apt to go on selling his labor at a very low rate. That is all the more probable because, while the advantage in bargaining is likely to be fairly well distributed between the two sides in a market for commodities, it is more often on the side of the buyers than on that of the sellers in the market for labor.[2]

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1. Daugherty, C.R., Labor Problems in American Industry, p. 84.
2. Marshall, Alfred. Principles of Economics, p. 335-336.

Again, labor is unlike ordinary commodities in the following way: When a producer of wheat (or any other commodity) sells his wheat he does not see it again and does not care who the purchaser is or what he does with the commodity purchased. But when a laborer sells his labor he must accompany it in his own person, and he is much affected by working conditions which are controlled by the employer. If the price of wheat rises the wheat growers can devote more of their farms to this crop and produce as much more as they wish, but when wages throughout the country rise the supply of labor cannot be increased so rapidly. When the price of wheat falls the producer can limit his out-put, but when wages decrease, the laborers must work for whatever wages are offered and instead of reducing the supply of labor we find at these particular times that the supply increases because often the wives and children of the laborer must also work in order to keep from starving. Thus the laws of supply and demand are somewhat modified when applied to labor.[1]

There must then be certain forces that disturb the equilibrium between the supply of and the demand for labor.

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1. Fairchild, Fred Rogers. Essentials of Economics, p. 484.

One of these disturbing elements is the very nature of the commodity itself. Ordinarily an increase in demand for an economic good results in a temporary increase in price. This price may be maintained, under ideal conditions, by keeping an equilibrium between supply and demand. With labor, however, a time element enters. People cannot easily and quickly adjust themselves to shifts in the demand for their services. An increase in demand can be met only by bringing about a net increase of births over deaths or by improving the general efficiency of the existing supply. Each of these is a slow process, and because the process is slow the result is that any great reduction in demand coming at the same time with an increasing supply must produce unemployment.

The number of workers is another factor that affects the supply of labor. There may be a great surplus of workers in one city or one industry and a scarcity in another place or trade. These changes are due not only to the natural growth of population but also to the disinclination of some workers to move to new industrial centers, or, on the other hand, to the rapidity with which groups of persons migrate from country to country or from rural to urban localities. Rapid shifts in the labor supply also come when new fields

of industry open or offer employment to some portion of the population not heretofore employed, as for example, when women or children are allowed to work in enterprises formerly employing only men. The supply may be decreased on the other hand, when legislative measures prohibit the employment of certain individuals or regulate the conditions under which they may work.

The fact that the ordinary worker is untrained or trained only in one field and, consequently, cannot adjust himself to a new field if he loses his position in his original one, is also an element that disturbs the equilibrium between the supply of and the demand for labor.

From the standpoint of demand for workers there are three kinds of unemployment: secular or long run, cyclical, and seasonal.[1]

The term secular has to do with the changes in business activity that develop gradually year by year over periods or decades and alter the nature of business organization and methods.

The term cyclical has to do with the fluctuations in business activity which are the result of the changes in the business cycle.

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1. Daugherty, C. R. Labor Problems in American Industry, p. 89.

The term seasonal has to do with the changes that occur in industry because of the seasons of the year.

One of the chief secular causes of unemployment is the mobility of industry. A certain amount of unemployment is due to the industrial changes which are taking place all the time. The linotype replacing hand composition is as good an example of this as any other and it is but one of a thousand. Substitution of silk for cotton, elimination of suspenders, disappearance of ostrich feathers from women's hats, abandonment of corsets and red flannel underwear, the decline in the passion for cut glass, the growth in the popularity of the victrola at the expense of the player-piano, and of the radio at the expense of the victrola, the bob which makes hair pins and hat pins unnecessary, the disappearance and recent re-appearance of the bicycle, are all further examples of the factors that bring about secular unemployment. Sometimes this phase of it is called technological unemployment since it is brought about by the adoption of new processes, or the use of new machinery or labor saving devices which throw groups of men out of work. Change also takes place because of the shifting of the market. Goods popular in one part of the country cease to be called for and become popular elsewhere. When the business or manufacturing plant is shifted from one place to another the wage earner

and his family are not so sure to be shifted with it. Some of the workers may follow the factory to its new location, but many cannot or will not, and again there is unemployment. This shifting of industry has been especially significant in our country during the last half century. The South, at one time an agricultural section, has gained supremacy over New England in cotton textiles; Pennsylvania has to share her soft coal mining importance with West Virginia; the boot and shoe industry has moved from New England in a westward march. All these changes working themselves out over a period of years have caused men to lose their jobs, thus adding to the existing unemployment for, at all times, there is a "constant reserve of labor," an army of casual workers and others whose services are not in continuous demand."[1]

Another cause of unemployment is overproduction. Our capacity to produce goods has far outstripped the capacity of foreign and domestic markets to consume them. There are too many factories, too many mines, too many farms, etc. Because of severe competition many firms are often unable to

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1. Daugherty, C.R. Labor Problems in American Industry, p. 89.

secure orders that justify their operation. As a result they are forced to reduce prices, often selling below costs, and if this is continued for any length of time the inevitable result is bankruptcy for the employer and unemployment for the workers.

Over production is the result of overdevelopment of industry. This is due mainly to two causes. During the World War there was an abnormal demand in this country for many products. Factories sprang up almost overnight to supply this demand. When peace came the demand ceased and many business establishments had to close down. The second cause of overdevelopment is due to the unequal distribution of wealth. The great mass of consumers do not have enough income to render their purchasing power adequate to keep factories going. The rich, on the other hand, do not spend all their income for consumers' goods but use a great part of it to buy stocks and bonds which represent new producing capacity, thus adding to the problem of over production.[1]

In order to understand the cyclical causes of unemployment it is necessary to say a few words about the business cycle itself. The business cycle is the series of

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1. Daugherty, C. R. Labor Problems in American Industry, p. 95.

fluctuations of business which come in fairly regular succession of good times and bad times, or prosperity and depression.[1] Starting at the lowest point in the cycle we find a period of dull business. Gradually things begin to improve. After a few months, or perhaps a year or two everybody is rejoicing in business prosperity. This condition lasts for a few years, frequently becoming more and more flourishing all the time. Then comes a change. Sometimes there is a gradual slowing down of business. More often there is a sudden sharp check which we call a panic or a crisis. Business thus declines, either gradually or suddenly and then follows a period, measured in months or even in years, of dull times or business depression. Then, after a time, the same movement will start again.

The exact causes of depression are still debated. Many persons believe that under our system of industrial ownership and development there must come times when production outruns purchasing power and when these times come they are inevitably followed by bankruptcies, liquidations and consequently unemployment. Other persons believe that the underlying cause of cyclical unemployment is to be found in

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1. Fairchild, Fred Rogers, Essentials of Economics, p. 3?

the faulty regulation of money and credit. During a period of prosperity many banks became exceedingly free in allowing credit which results in an over expansion of business enterprises. This cannot go on indefinitely however, and when the banks are eventually forced to cease expanding credit a period of liquidation sets in. Business men who have contracted debts and expanded their enterprises on credit, are now forced to sell below costs since they must repay their debts with dollars that have appreciated in value. Prices are lowered, wages are reduced, establishments operate on small scales if they operate at all, and a period of depression with its unemployment follows.

Still another factor that serves to bring about depression is the system of international tariff barriers that exist. Nations with large quantities of investment funds lend money to poorer countries and then set up extremely high tariff rates which really hinder the repayment of the loans. A period of hard times must follow for both lender and borrower.

So much for cyclical unemployment. Another kind of unemployment is seasonal. This comes about because of changes of the seasons and their effects on certain industries. The outstanding cause of seasonal fluctuation is the

weather which has a great influence on productive activity. The weather affects agriculture through climate, and agriculture provides more or less perishable products which are the raw materials to be used in certain industries. This is especially true in the canning industry and in that of meat packing and flour milling. Likewise is it true of the ice cutting industry, since natural ice can be cut only in cold weather.

The weather affects the consumption of the finished product. An example of this is seen in the fur-trimming industry which has its heaviest demands in the Fall of the year. Industries such as those dealing with millinery and women's clothing show pronounced seasonal fluctuations. Customs and tradition play their part in bringing about seasonal unemployment. Sporting goods are demanded at particular times, as are fire crackers, toys, Christmas seals and Christmas cards, etc.

In the construction industry the weather influences the actual operation of the business. A great deal of outside work cannot be done in extremely cold weather. The result of this is that the process of production is carried on feverishly when the weather does permit such work but in bad weather the workmen are laid off.

Many persons are employed irregularly for various other reasons. There is the odd job man, who works at what he can and when he can. There is the longshoreman and fisherman who works usually on a daily or weekly basis, often with numerous periods of idleness between the days and weeks.

There are, moreover, miscellaneous economic causes of unemployment which include inefficient production management of materials or machines, ineffective labor or personnel policies, high state or national taxes which discourage investment and expansion to such a degree that there is stagnation. It is moreover, well known that mergers and consolidations frequently cause the displacement of employees.[1] Such consolidations are accomplished for the sake of bringing about a more effective organization, and it is to be expected that many of the workers in the individual concern would have to be dropped when the union is formed. It must be remembered, however, that this is not universally true, since, in some cases, there is little or no disturbance of the existing personnel, as for example, when stores are bought up by chain organizations.

Finally, unemployment results from the difficulty of bringing together the man and the job. Under the very best

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1. Daugherty, C. R., Labor Problems in American Industry, p. 93.

of conditions it is difficult for a man in one locality to know of opportunities that may exist in another, and sometimes even in his own.

How, then is this huge mass of workers without work to get along? What protection do the unemployed have at present? The answer is simple. They must depend either on their savings which are usually inadequate; they must borrow, which at many times is impossible, and at all times is destructive to the feeling of independence; they must depend on private charity which is uncertain; or they must turn to relief, which, besides being uncertain, is at all times humiliating.

Even in good times little saving can be accomplished by the American worker. The unskilled and semi-skilled are seldom able to build up a reserve for more than a few weeks of unemployment, and even a somewhat prolonged period of seasonal unemployment is likely to find them in want. Installment buying, moreover, has almost ruined them financially. The results of this practice which has encouraged them to buy commodities such as radios, automobiles, etc., have tended to leave a very large percentage of them at the end of the year in debt rather than with a surplus. The skilled, on account of their higher wages, can make greater savings if bank failings and stock fluctuations do

not sweep them away, but even these cannot save enough to tide them over long periods of unemployment.

The result is that they either accept public or private charity or borrow. The amounts which have been distributed in public and private relief during the present depression may seem to be in absolute large sums but in comparison with the loss which the unemployed have experienced and the needs from which they have suffered, it has been shockingly inadequate.[1] In the first quarter of 1931 the total amount paid out in relief in the cities of over 30,000 amounted to approximately $56,700,000.[2] By March, 1933, the number of persons receiving relief was approximately 20,000,000. By March, 1935, nearly 5,500,000 families and single persons, representing 21,000,000 persons in all were receiving assistance. Latest available figures show that from 1933 to November, 1935, the expenditures of the government for relief including Federal, state and local funds were as follows:[3]

1933 - - - -	$ 792,910,342
1934 - - - -	1,476,372,752
1935 to November -	1,660,949,223

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1. Douglas, Paul H., Standards of Unemployment Insurance, p.5
2. United States Department of Commerce, Relief Expenditures by Government and Private Organizations, p. 6.
3. United States Federal Emergency Relief Administration Report, 1935, Table E 1, p. 37.

Relief is not only inadequate but is humiliating as well. Charity at best is both unwelcome and detested by self respecting workers. Many will starve rather than go on relief, and others will undergo great privations before they will ask for relief, although it is true that as hard times of the present depression go on, men and women become less reluctant to receive charity. This, in itself, is disastrous, for the period of relief-giving has weakened the independence of many workers.

Relief, moreover, is uncertain. Many agencies, as soon as their funds have diminished or become exhausted, have had to reduce their payments or shut down altogether. It has been found that public and private charity has met not more than 3 per cent. of the wage loss resulting from unemployment and part time work.[1] The remainder has been met by reduced standards of living on the part of the unemployed and their families which, in turn, has brought about (1) curtailment of essentials in diet; (2) custom of "doubling up" of families in living quarters; (3) limitations in the use of coal and wood; (4) the custom of borrowing on life insurance or dropping it entirely, and (5) great neglect in the necessary care of health.

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1. Douglas, Paul H., Standards of Unemployment Insurance. p. 18.

The problem confronting us then is appalling. For many years economists have analyzed it in an effort to cure or at least relieve it. Different governmental units, industries and labor unions, have tried to cope with it and have usually failed. It is granted by all that unemployment is an ever present risk facing the modern worker and is a by-product of modern industry. Everyone knows, moreover, that in modern business as well as in other aspects of modern life, the principle of insurance has been applied. Why not, then, apply the principle of unemployment insurance to relieve the sufferings of unemployment? Unemployment insurance would provide a more self-respecting type of protection to workers. It would give benefits that would be certain, which would be definite in amount and which by right would be the employees' very own, thus saving the self-respect of the recipient.

Unemployment insurance, moreover, can be made to serve a double purpose. It is not only an essential way of lessening the distress caused by unemployment, but it also furnishes a partial means of stabilizing industry, and can thus be used to lessen business depressions themselves. If adequate benefits are provided for any considerable period of time workers will be less afraid of unemployment at the outbreak of a depression, for even if they do feel the ax of

dismissal, their incomes will not wholly cease. They will not, therefore, cut down their expenditures so drastically as now, nor indulge in such frenzied saving which results in hoarding in the banks and in a decline in the total volume of purchasing power and also a decline in production. A better balance between spending and saving would be established and one cause for the cumulative breakdown of industry would be lessened.[1]

Another way in which unemployment insurance would be valuable in lessening business depressions is through the transfer of purchasing power. Of this Professor Paul H. Douglas says:

> There would be paid into the system in good times large sums of money as premiums. If any actuarial sense had been used in constructing the system, however, the amounts paid out in benefits during these good years would be very much less than the receipts. The surplus would then be invested in government bonds or the like and a reserve built up. When the depression came this reserve would be ready to pay out benefits. These benefits in turn would enable the unemployed to maintain a much higher rate of consumption than would otherwise be the case, and hence would help to steady the consumers' goods industries. By doing this, the producers' goods industries would also be partially protected from the consequences which the present decline in consumption brings.[2]

Besides these splendid arguments in favor of unem-

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1. Douglas, Paul H., Controlling Depressions, p. 251.
2. Ibid., p. 254.

ployment insurance there are numerous ones against it. It is argued that unemployment is not properly an insurable risk like that of death or accidental injury or sickness or property damage. It is true that unemployment insurance does try to diffuse the risk over a large number of individuals but it differs from true insurance in certain other respects. In the first place, there is no large body of statistical material available as to its incidence, frequency, and severity. Consequently, the average "mortality" is not predictable or calculable. For this reason it is impossible to establish premiums, the sum of which, when paid in, will with certainty be enough to cover all disbursements to those suffering the insured loss, provide for administrative and operating costs, and set up adequate reserves.

It is moreover, argued that attempts to insure against unemployment will inevitably depart from insurance principles and degenerate into mere relief or a "dole".

The other leading arguments against unemployment insurance are:

1. The costs are excessive and in times of depression may delay and hinder economic recovery.

2. Relief or "the American dole" brings about all

sorts of abuses, malingering, idleness, loss of morale, and general loss of character among its recipients.

3. Efficient and skilled workmen have to support the lazy and inefficient.

4. Unemployment insurance is socialistic, depriving employers and employees of their freedom of contract.[1]

5. Unemployment insurance is an added tax on industry which will ultimately result in higher prices to the public.

6. Unemployment insurance is but another invitation to political corruption.

The advocates of unemployment insurance on the other hand reply that:

1. The "Unamerican dole" (unemployment insurance) is much better than the "American dole" of mounting poor relief, apple buying, bread lines, soup kitchens and pauperizing charity.

2. Industry builds up huge money reserves to continue dividend payments to stockholders during depressions so why should not industry provide reserves for its employees instead of expecting the public to support them by charitable relief?

3. Unemployment even more than accidents is an

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1. California State Unemployment Commission, Report and Recommendations, p. 735.

industry risk over which the worker has no control. If unemployment can be made costly, as were accidents, to employers and insurance companies, then they will work harder for the prevention of unemployment just as they have worked for the prevention of accidents, and a strong incentive for the control of cyclical and seasonal fluctuations will exist.

4. Furthermore, in so far as insurance costs are made a part of overhead costs of production, the public pays for it, which is socially desirable, that is, it is only just for society to bear some of the costs of modern industry as well as to reap some of the benefits.[1]

No one denies that the solution of unemployment lies in providing work. But, as has been pointed out, providing work regularly and continuously is exactly the thing that our economic organization has up to the present failed to do. Until such time as it does, proposals for unemployment insurance deserve the most careful consideration.

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1. Daugherty, Carrol R., Labor Problems in American Industry, p. 83.

CHAPTER II

EARLY TRENDS IN EUROPE AND IN THE UNITED STATES

The giving of unemployment benefits is nothing new. The surprising idea, however, is that it has come so slowly to the United States, particularly in view of the extension of insurance to other industrial risks in the country. Applications of insurance to unemployment have been widespread among other nations for many years. It has existed in Europe in some form or other for over forty years and there are now only a few countries, none with any appreciable industrial development, which have stood outside this movement. The position of the United States with its relative industrial supremacy and almost total lack of compulsory unemployment insurance until very recently is, therefore, distinctly unique. Unemployment insurance, moreover, has survived the present depression in every country in which it existed in 1929 except Russia where the Soviet Union in 1930 terminated all unemployment insurance benefits on the

theory that the Five Year Plan had ended unemployment, and where, according to current reports, there is no unemployment.[1]

The evolution of unemployment insurance has been through many forms, the earliest of which was that of voluntary out of work benefits while the most comprehensive is that of national compulsory unemployment insurance. Between these two extremes is the so called Ghent system, taking its name from the city of Ghent in Belgium where it began in 1901. By it, trade unions in the city were publicly subsidized to aid their out-of-work members. Prior to this plan trade unions bore the financial burden of aiding their unemployed members, and gradually trade union systems of unemployment insurance arose.

By the opening years of the twentieth century these subsidized trade union plans had become widespread in England, Germany, Austria, Belgium, Norway, Sweden and Denmark. In Great Britain more than 1,000,000 workers were included by 1903.[2] In the majority of cases the benefits paid took

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1. Witte, Edwin E., "Social Insurance in Europe during the Depression," American Labor Legislation Review, December, 1935, Vol. XXV, No. 4, pp. 158-164.

2. Bossard, James H. S., Social Change and Social Problems, p. 264.

the form of travelling expenses to enable the worker to find another job. Sometimes, however, benefits would be paid in lieu of employment. In all cases the entire financial burden rested upon and was met by the members of the union. The Ghent plan, however, removed part of this burden from the members by providing subsidies out of public funds (chiefly municipal) to aid the trade unions in the payment of their unemployment benefits. Starting in Belgium the scheme spread rapidly throughout other countries of Europe and is now in vogue in eight other nations--Czechoslovakia, Denmark, Finland, France, Holland, Norway, Spain and Switzerland. The scheme is entirely voluntary and is limited to trade union members in good standing. The public grants range from one-third to a complete matching of the benefits paid by the union.

At present there are eighteen countries which have unemployment insurance and these are almost equally divided between the two types of insurance—voluntary and compulsory. The exact division is as follows:

Compulsory	Voluntary
Austria	Belgium
Bulgaria	Czechoslovakia
Germany	Denmark
Great Britain	Finland
Greenland	France
Irish Free State	Netherlands
Italy	Norway
Luxemburg	Spain

Mixed System

Switzerland

The first country to establish a national compulsory system was Great Britain in 1911. This plan was the outgrowth of dissatisfaction with existing means of relieving distress due to unemployment. The scheme provided for a tripartite contributory fund to which about two and one-half million workers, their employers, and the government made weekly contributions in a 5:5:3 ratio. There were, moreover, definite conditions that had to be met in order that the unemployed worker might receive aid.

Next to the British scheme in size and importance is the German, established in 1927. It comprises not only a scheme for ordinary unemployment insurance but also for emergency or extended unemployment benefits and for welfare support or what we term "relief." Benefits are graduated according to average earnings of eleven wage groups. The duration of standard benefits is twenty weeks, except in the case of insured persons with means who are entitled to benefits only during thirty-six days. The communal authorities have power to decide on the state of need. The criterion is based on the principle of family resources, and no relief is granted as long as the income of one of the persons living in the household is sufficient to provide a

minimum of subsistence for the individuals of which it is composed.

In the United States as in Europe all early efforts to meet the problem of unemployment through insurance were of a voluntary nature. The collective method of meeting the financial uncertainties of modern industry originated among the workers and was borne by them. Three types of voluntary plans have since developed: The Union Benefit Plan, the Employers' Plan, and the Joint Plan of Employers and Unions.

Strange to say, unemployment had little separate indentity in American thought until about the beginning of the present century.[1] Previously it had been looked upon as part of the general problem of poverty and poor relief, arising mainly out of the incapacities of the workers themselves. In the 1700's all classes of needy persons were sheltered in the almshouses maintained by the towns in New Eng and, and by the counties in other parts of the country, and these institutions remained the chief agencies for relieving the able-bodied poor for more than a century. With the development of specialized institutions for the sick, the insane, needy children and other handicapped classes in the later 1800's, these groups began to disappear from

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1. Stewart, Bryce M. Unemployment Benefits in the United, pl 79.

the workhouses which eventually were patronized by tramps, and unemployment was thought of almost synonomously with vagrancy.[1]

Privately supported charity organization societies modeled after the Charity Organization Society of London established in 1869 began to appear in the larger cities such as New York, Boston, Buffalo, Baltimore and Cincinnati about 1880. They accepted the current idea that unemployment was due to personal causes, and the relief measures adopted were such as would save the needy from utter destitution, but at the same time would guard against exploitation by the shiftless who were assumed to make up the bulk of the recipients of charity.

The first organizations to consider unemployment a distinct problem were the trade unions. As far back as 1831[2] we find efforts made by a few rather small trade unions to solve the problem. The members of these organizations were mostly immigrants from European countries where they had been familiar with the establishment and operations of funds for out-of-work benefits. That the unions should

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1. Warner, Amos G., American Charities, pp.195-225.
2. Local Union of Printers, New York, N. Y.

give out-of-work benefits to their members seems inherent in the objectives of these organizations. To maintain the standard rate and other conditions of employment desired, members must be helped in time of need to resist offers of employment under less desirable conditions, and if financial assistance for unemployed workers is provided, the organization thereby proves its value in a crisis and strengthens the loyalty of its membership. The earliest union plan on record surviving until recent times dates from 1860 and was abandoned in 1919. This was the Amalgamated Society of Engineers, an American branch of a British Union.[1]

Until the latter part of the century, however, the benefit plans adopted by unions played a minor part in the relief of the distress due to unemployment. In 1894, a depression year, surveys relating to unemployment were taken in various parts of the country. The Massachusetts Board to Investigate the Subject of the Unemployed noted in that year that out-of-work benefits had been adopted by but a few trades in Massachusetts and that the benefits derived from them were negligible.[2] At the same time the New York

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1. Stewart, Bryce M., Unemployment Benefits in the United States, p. 85.

2. Massachusetts Board to Investigate the Subject of the Unemployed Report, Part I: Relief Measures, pp. XXXII-XXXVIII, 1895.

State Bureau of Labor Statistics reported that $106,801 were paid that year in out-of-work benefits to members of labor organizations in the state.[1] In Michigan a survey of two hundred and thirty-seven labor unions revealed that twenty-one paid out-of-work benefits in 1895, one hundred and four paid none, and one hundred and twelve did not report.[2]

After the depression of 1894 which seems to have directed public attention to measures of relief of the unemployed, there began to appear in leading newspapers and magazines discussions of insurance against unemployment and the new century brought definite progress along this line. Trade union plans increased and individual companies began to take an interest in the idea of out-of-work benefits and devised company plans. Frequently, moreover, employers would unite with unions and promote schemes for unemployment benefits. The Industrial Relations Counsellors of New York found that in 1928 the three types of voluntary

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1. New York State Bureau of Labor Statistics, Report for year 1894. Albany, 1895, p. 229.

2. Michigan Bureau of Labor and Industrial Statistics, 13th Annual Report, Year Ending February 1, 1896, Lansing, Michigan, 1896, p. 269.

plans included the following numbers of workers:[1]

Trade Union Plans	34,700
Individual Company Plans	10,900
Joint Agreement Plans	63,500
Total	109,100

In the printing trades there were twenty-three locals which had a total membership of 29,000. In addition there were nine locals of bakery workers, four of lace workers, one brewery and one wood carvers. The most liberal plan was that sponsored by the locals of the Photo-engravers—a union of very skilled and highly paid workers. Benefits ranged from $30 per week in Chicago[2] to $12 per week in Cleveland and Cincinnati. The waiting period was two weeks and the period of benefit ranged from twenty-six weeks in Chicago to twelve weeks in Minneapolis and Cincinnati. The average annual cost per member was $16 in New York and (including sick benefits) $23.50 in Chicago. In smaller cities the per capita cost ranged from $2 to $7.50.[3]

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1. Stewart, Bryce M., Unemployment Benefits in the United States, Industrial Relations Counsellors, 1930, pp. 85-94.

2. United States Bureau of Labor Statistics, Bulletin No. 544, Photo Engravers Union No. 5, p. 142.

3. United States Bureau of Labor Statistics, Bulletin No. 544, Unemployment Benefit Plans in United States, p. 148.

The two largest local unions which paid unemployment benefits were the Typographical Union No. 6 of New York City and the Pressmen's Union No. 51 of the same city.[1] The former has had a long history of out-of-work benefits. It has changed several times from levying special assessments in periods of business depression to protect its members against prolonged unemployment to a regularized plan of fixed assessments. Since 1916 it has assessed its membership one-half of one per cent of their earnings for half the year. After $10,000 is deducted each year for the benefit of the School for Apprentices the rest goes into a fund. The benefits are graduated according to the length of membership in the local. Those who have been members for less than two years receive but $8 a week, while four-year members receive the full $14. After a waiting period of one week benefits can be paid during the summer slack season from June 15 to September 15 for a period not to exceed seven weeks.

The New York Printing Pressmen's Local has paid benefits of $12 a week since 1927. In 1928 five hundred and one members or approximately one-seventh of the total, drew

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1. United States Bureau of Labor Statistics, Bulletin No. 544, p. 148, Unemployment Benefit Plans in United States.

benefits for an average period of five weeks and an average amount of $49.

A number of locals in the Bakers' Union have paid unemployment benefits for long periods of time. The Buffalo local, for example, has had such a plan for over forty years, while St. Louis began to make payments in 1920. New York also followed that same year. The St. Louis plan is fairly typical. Those who have been members of the union for at least three years, after a waiting period of two weeks, receive benefits of $7 per week up to a maximum in any one year of $70. These are also confined to the slack period which in this case is from Christmas to the end of March.

The most striking impression gained from the Trade Union plans is that of inadequacy and meagerness in all the schemes. The following statement bears out this impression:

> The total membership of the three international unions and forty-five local unions having plans at present (April 1931) is slightly less than 45,000 or about 1½% of the total trade union membership in the country. The unions represented by these 48 plans were 14 in number, but the printing trades dominated, no less than 32 of the 48 plans being maintained by unions connected with some branch of the printing trade. As regards membership, the printing trades were

still more dominant.[1]

In some instances employers took the initiative and devised plans to aid their laid-off employees. In 1928 an investigation made by an independent organization of industrial counsellors revealed that there were eleven companies with funds set aside for the specific purpose of affording relief to the unemployed. This investigation showed that 8,830 employees were eligible to this aid. Since that time, however, other companies have adopted unemployment benefit schemes and by September, 1931, there were thirty-five companies in the United States having systems of unemployment insurance as a feature of their stabilization programs.[2]

In 1933 fourteen Rochester (New York) companies adopted what is known as the Rochester Unemployment Benefit Plan. Of the Rochester firms, the Eastman Kodak Company was the leader. According to the plan adopted by them separate accounts were to be maintained by each firm. The

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1. United States Bureau of Labor Statistics, Unemployment Benefit Plans in the United States, Bulletin No. 544, July, 1931, p. 19.

2. American Labor Legislation Review, September, 1931, p. 325. Cf. Ewing, John Bertwell, Job Insurance, p. 75.

employers were to pay the entire amount of contributions, (2 per cent), except in an emergency, when all workers, including salaried officials were to pay a small amount of their pay checks. Workers were to receive 60 per cent of their earnings for varying periods up to a maximum of thirteen weeks, depending on the length of service.[1] Five other companies followed the original fourteen, and the nineteen companies now in the plan normally employ about 28,000 persons.[2]

The third type of voluntary plan in the United States is the Joint Plan of Employers and Unions. The best known of these cases is the agreement negotiated by the Amalgamated Clothing Workers in the men's clothing markets of Chicago, New York and Rochester,[3] the Cleveland Guarantee Plan, and that of the Full Fashioned Hosiery Workers.

The Chicago Plan was put into effect in 1923 when a general increase of ten per cent in wages was being obtained in other markets. In order to get the system started the

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1. United States Bureau of Labor Statistics, Bulletin No.544, Unemployment Benefit Plans in United States, pp. 62-65.
2. Ewing, John Bertwell, Job Insurance, p. 85.
3. Ibid., pp. 72-77.

Union in Chicago agreed to accept an increase of only seven per cent, provided the employers would contribute one and one-half per cent of the payroll to an unemployment insurance fund which was to be matched by an equal contribution by the workers. In 1928 the employers' share was raised to three percent which was in reality the exact amount by which the 1923 increase fell below the general increase in other markets. The scheme stipulated that a waiting period equal to one week of unemployment (forty-four hours) was required before the worker was eligible for benefits. These benefits were to be forty per cent of the full time wages of the worker, but were not to exceed $20 a week and were not to run for more than five weeks during the year.[1]

After much contention between the unions and the employers as to whether the funds were to be set up on market or establishment bases, the manufacturers won out and separate establishment funds were created. In the case of sub-manufacturers who took work on contract from manufacturers, however, it was provided that contributions should be pooled in a market fund which would protect equally all

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1. Agreement between Clothing Manufacturers of Chicago and Amalgamated Clothing Workers of America establishing Unemployment Insurance Fund, 1923, pamphlet, 11 pages.

those who worked for sub-contractors. An employment office was established which was furnished copies of the payrolls of each firm. These were used to make the proper entries on the record cards for each worker on the amounts of time worked and pay received. No benefits were to be paid out until the fund had been in operation for a year.

The New York and Rochester plans are similar except that the New York fund is on a market basis while the Rochester fund is on an establishment basis. In the Amalgamated New York Plan the employers bear the entire cost of the system, contributing at the rate of one and one-half per cent of the direct labor payroll, plus one and two-tenths per cent of the amount they pay to contractors.[1] The original Rochester system stipulated an equal distribution of one and one-half per cent of the wages from both employers and employees, but the latter contribution has now been waived on account of the depression. In the Cloth, Hat, Cap, and Millinery Industry in New York and Philadelphia, the employers pay the entire contribution of three per cent of the pay-

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1. Epstein, Abraham, Insecurity—A Challenge to America, p. 156.

roll.[1] Similar provisions exist in the case of Locals No. 3 and No. 45 of the United Hatters Agreement in New York City.[2] The plan of the American Federation of Full Fashioned Hosiery Workers set the contributions at one per cent of the payroll from the employers and one-half of one per cent of the wages from union workers.[3] This has since been discontinued. The latest plan adopted in 1931 by the International Pocketbook Workers Union specified a deduction of two and one-half per cent of the weekly wage of employees, which sum is matched by the employers.

The Cleveland Guarantee Plan established in the unionized divisions of the Women's Clothing Industry of Cleveland was set up in 1921 when the Board of Referees, in putting into effect a fifteen per cent wage reduction and the establishment of productive standards in the factories, ruled that employers in return should guarantee to their employees forty weeks of work a year. Each firm agreed to pay one-half of the wages which regular workers might lose from failure on the part of the firm to offer the full forty weeks of employment, and as a guarantee, posts concurrently a bond

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1. United States Bureau of Labor Statistics, Employment Benefit Plans in United States, Bulletin No. 544, p. 82.
2. Ibid., pp. 86-89.
3. Ibid., pp. 91-92.

equal to ten per cent of the yearly wage bill.[1]

One of the well known companies using this plan is the Proctor and Gamble Company. The Guarantee Plan was adopted by them August 1, 1923.[2] In this firm all hourly paid employees whose annual salary does not exceed $2,000 are covered by the scheme. There are, however, some very specific provisions which must be met. (1) The employee must be a profit sharing employee who has had at least six months service with the company. (2) The company reserves the right to transfer the employee to work other than his regular job. If a temporary transfer, he receives the same wages as before; if a permanent transfer, he receives wages prevailing within his new department. The plan guarantees for all eligible employees full pay for forty-eight weeks each year. The four weeks not covered include the regular summer and winter shut-down periods when the plants are closed for cleaning, repairs and inventories. Five holidays are also excluded from the time guarantee. The entire cost is borne by the company and administered by it.

The employers' guarantee plan has its drawbacks. It

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1. United States Bureau of Labor Statistics, Employment Benefit Plans in the United States, Bulletin No. 544, pp. 77-79.

2. Ibid., pp. 49-50.

has definitely limited the ability of the manufacturer to train a sufficient number of workers for the peak periods. They have naturally been reluctant to take on permanently workers to whom they must guarantee at least forty weeks of work or more.

There are some definite and understandable reasons why concerns have not voluntarily established unemployment insurance plans and why they, in general, will not do so in the future. In the first place, the adoption of unemployment insurance by any one plant saddles it with an added money cost which its competitors do not experience. It is, therefore, placed at a disadvantage in competition. Moreover, the favorable attitude created toward the concern among the patrons and among the employees by the establishment of such a scheme generally will not offset the extra money cost. Then again, there is the uncertainty as to the ultimate cost of any such system, and the average manager, unsure of the future of his concern, is reluctant to burden it with such an obligation.

Voluntary plans have proved to be and will continue to be inadequate because, even if all companies wished to establish schemes, the very nature of the plan would necessarily leave many workers unprotected, since all plans would

have eligibility requirements. Benefits would apply only to regular workers and thus would not cover short time or seasonal employees. In these voluntary plans, moreover, workers have no security or guarantee that the benefits will be permanent. If, in the judgment of the management the continuance of the plan is financially inadvisable, the plan can be dropped at once, and the workers have no recourse. The plan of the Rockland Finishing Company, for example, was discontinued in 1923 when the original fund created for the purpose was exhausted. Likewise, the plan of the American Cast Iron Pipe Company was discontinued in 1926.[1]

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1. Douglas, Paul H., Standards of Unemployment Insurance, p. 38.

CHAPTER III

EARLY ATTEMPTS TO OBTAIN STATE UNEMPLOYMENT INSURANCE LEGISLATION

Unlike most European countries the United States has been slow in legislative action regarding unemployment insurance. This reluctance may be traced to several contributing factors. First of all is our spirit of "rugged individualism",—our unshakable belief in our ability to handle social and economic questions without government intervention. Then again, there has always existed strong opposition to insurance legislation among the rank and file of manufacturers; and last but not least, there has always been, until very recently (November, 1932), the opposition of the American Federation of Labor.

In spite of opposition on all sides, however, there have been from time to time various efforts on the part of different states to secure unemployment insurance legislation. The first state to propose an unemployment insurance

law was Massachusetts in 1916. This bill, a product of the Massachusetts Committee on Unemployment, and the American Association for Labor Legislation, was modeled upon the English system in that it called for contributions by all three parties, that is, employers, employees, and the state. Hearings were held on the bill but it was not reported from committee. The legislature, however, passed a resolution for the appointment of a joint legislative and executive commission to study general labor conditions.

The next important development came from Wisconsin and owed its impetus to Professor John R. Commons of the State University. Professor Commons was impressed by the pressure which workmen's compensation legislation had put upon employers to reduce accidents in order to reduce premium payments, and he believed that if employers were made to feel the burden of unemployment they would take all steps possible to eliminate it also. The theory behind the plan suggested by him was that employers are responsible for the unemployment in their plants and consequently, the entire cost should be borne by them. Nor did the theory appear radical to Wisconsin for that state had had experience in progressive legislation under La Follette (1901-1906) and under McGovern (1911-1915). In 1921, Blaine, another Progres-

sive, was governor and of his policies the Wisconsin Leader on March 26, 1921, said editorially:

> Wisconsin is again struggling to assume the role of pioneer in progressive legislation under the leadership of Governor Blaine. The bill creating a department of markets, surtax, and the income tax revision bills, the bill liberalizing the Mothers' pension aid, Senator Huber's resolution providing for the initiative, referendum and the recall all are measures that in importance may be compared to the Railroad Commission Law, the Direct Primary and the Workmen's Compensation Act.[1]

In accordance with this progressive trend the Unemployment Prevention Bill (Bill No. 122S) was framed with the assistance of Professor Commons and introduced in the legislature on February 4, 1921, by Senator Henry A. Huber.

The bill provided that for each unemployed working day for male or female over eighteen years of age $1.50 would be given as unemployment benefit; while 75 cents would be given to those between sixteen and eighteen years. Payment was to commence on the third day and was to be paid weekly. No more than thirteen weeks of unemployment compensation should be allowed in any one year.

The entire cost of the system including the cost of administration and the maintenance of employment offices was to be borne by the employers. All industries were to be

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1. Wisconsin Leader, March 26, 1921.

classified by a Compensation Rating Bureau and premium rates were to be established in accordance with the regularity of employment. There were three groups of persons to whom the law did not apply:

1. Farmers; workers in canneries; employees of the state and of cities, towns, villages, townships and school districts, and private employers of less than three persons.

2. Persons dependent on others for their livelihood.

3. Those receiving pensions of $500 or more annually.

Unless exempted by the Industrial Commission every employer was compelled to insure the liability for payments of unemployment compensation in a mutual insurance company that was under the control of the Compensation Insurance Board.

The administration of the system was to be carried on under the direction of the Industrial Commission aided by the Advisory Boards consisting of an equal number of employer and employee representatives.

No compensation was to be paid in case of strike or lockout; no compensation was to be paid in case an employee had not worked for one or more employers under the act for six months or more; nor was any compensation to be paid in case the worker was unwilling to work or incapable of work.

Professor Commons, speaking at a hearing on the Huber

unemployment bill in the Assembly chamber in February, 1921, stated:

> Hard times are not brought about by financial conspiracy. This period is brought on by over-expansion two or three years ago. Banks were still inflating credit two years after the war was over. This bill by making every employee a liability to the employer would make banks go slower in granting credit and would prevent periods of over-expansion....
>
> I attribute the whole Socialistic agitation to the fact that capitalism makes money from the laboring man in time of expansion and then drops him when business is slack. Business has made the investor safe but has overlooked making the job safe. In Milwaukee a few years ago, I found that employees of the street railway were making more money in a year at 22¢ an hour than carpenters, who were making 44¢ an hour at that time. This was because of the uncertainty of the length of jobs in the building trades.[1]

Nor was Professor Commons the only ardent advocate of the bill. On October 10, 1921, the New York Times said editorially:

> It is somewhat perilous no doubt, for one state to go it alone in such an experiment, but it is one of the advantages of our system of government, recognized by Lord Bryce, that the individual state may try things out for the good of the whole nation. Wisconsin has shown hardihood in many fields of social, industrial, and educational interest. Her university professors still have the daring and independence of the first settlers. If she can discover the formula against insecurity of employment she will have done much more good than in her pioneer measurement of butter-fats, for example, or the cultivation of a perfect ear of corn or breeding of a perfect cow....which Prof. Commons some years ago insisted was comparable in achievement with the modeling of the Venus de Milo.[2]

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1. Milwaukee Sentinel, February 16, 1921.
2. New York Times, October 10, 1921.

The State Federation of Labor likewise supported the measure introduced by Senator Huber and in 1922 the convention in its annual meeting passed a resolution giving indorsement to the bill[1]. The resolution was as follows:

> Whereas, The worker in industry has practically nothing to say whether he has a job or not, and whereas, The worker is involuntarily forced to leave his job and to bear the heavy burden of unemployment, while the employers of labor assume none of this burden, and whereas, It is now a recognized fact that much of the hard times and industrial depression are cased by the greed of the capitalists and to reckless speculation, expansion and inefficient management and
>
> Whereas, The proposed Huber Unemployment Prevention Insurance Law furnishing the needed incentive by requiring the employers to pay workmen a weekly compensation when involuntarily out of work in the same manner as the present Workmen's Accident Compensation Law required payment when out of work is due to accidents and
>
> Whereas, This Huber bill will tend to compel the financial and business interests to do their share to prevent unnecessary expansion, inflation and high prices which is always followed by pitiless depression and the sufferings it forces upon the unemployed worker,
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> Therefore, be it resolved that the Wisconsin State Federation of Labor here assembled in its 1922 Convention at Oshkosh heartily indorse the principles and urge the immediate passage of the Huber Unemployment Prevention Insurance Bill.[2]

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1. Introduced at proceedings by F. J. Janda, representing Cigarmakers' Local No. 168.

2. Wisconsin Federation of Labor, Proceedings of Convention, 1922, Resolution No. 40.

Further support of the Huber Bill was given by Herbert F. Johnson, President of the S.C. Johnson Manufacturing Company of Racine, Henry Dennison of the Dennison Manufacturing Company of Framingham, Massachusetts, Ernest G. Draper, Vice-President of the Hills' Brothers Company and others.[1]

The opponents of the measure, however, were also numerous and emphatic in their denunciations. They argued that it would hamper individual initiative and encourage idleness by removing the dread of unemployment; that a compulsory system would interfere with the economic laws of supply and demand; that the burden of such a form of insurance would handicap industries of Wisconsin in competition with those of other states, and that socialism and bureaucracy would definitely be encouraged. Among these opponents were F. H. Clausen of the Van Brunt Manufacturing Company of Horicon; Roger Sherman Hoar, lawyer and publicist of Milwaukee; and Frederick L. Hoffman, Statistician and Third Vice-President of the Prudential Life Insurance Company of New York.

The Bill, therefore, attracted a great deal of attention throughout the country, but when it came up in the Wisconsin Legislature it was voted down in the Senate by a

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1. American Labor Legislation Review, September, 1925, p. 87.

vote of 19-10. In 1923 it was re-introduced and the scope of it was changed to include unincorporated employers with six or more persons employed. It exempted canneries, and private employers with less than six employees and persons dependent on pensions. Eligibility was the same as the 1921 bill except that twenty-six weeks service had to be in the two preceding years. No employee, moreover, was to receive more than 65 per cent of his usual wage. The general administration and authority was changed to provide that all companies become members of an employment insurance rating bureau which would classify industries and establish charges, credits, refunds, etc., and investigate employment conditions. This bill like its predecessor failed by a vote of 17-16.

Again in 1925 the bill was returned under the new name of the Heck Bill and again it was indefinitely postponed by a vote of 20-12.

Two years later the employment bill again was presented to the legislature as the Coleman Bill. This time it was indefinitely postponed by the Assembly by a vote of 66-20. In the next session (1929) under the name of the Nixon Bill it suffered a like fate (vote of 44-36).

Then came the stock market crash (1929) with its subsequent period of falling prices and upward leap of unemployment and Wisconsin suffered as did her sister states.

In the 1930 meeting of the Wisconsin Federation of Labor this body went on record again as favoring unemployment insurance.[1] Professor Commons addressing the body presented the features of the Huber Bill and showed how Governor Kohler could take care of his unemployed workers for $8000 a week under the Huber Bill instead of $150,000 a week which he was paying out for unsalable inventory.[2]

In the following election Professor Harold Groves, a former student of Professor Commons and one of his disciples, was elected to the Assembly on the Progressive Republican ticket. Interested in the problem of unemployment and the unemployment reserves system that had just been formulated by the General Electric Company, he proposed a tentative scheme of unemployment reserves.

In the measure advocated by him some important departures were made from the Huber bill. Fixed contributions from the employer were to be paid according to the amount of the payroll, 1.5 per cent for the first six months, 2 per cent the second six months and 3.5 per cent thereafter until an average reserve for an employee of $80 was attained. The benefits were to be $10 a week for 13 weeks but were to be

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1. Wisconsin Federation of Labor, Convention Report of 1930.
2. Wisconsin State Journal, July 16, 1930.

curtailed or reduced if the employers' reserve account did not warrant payment. Separate accounts were to be kept for each plant and no funds were to be transferred from one account to another. Employers with the consent of the Industrial Commission could be exempted from the application of the act if they guaranteed employment for forty-five weeks out of the year.

In addition Mr. Groves brought in two new features not found in any previous bill in America. One was concerning the use of the benefits for payment on public enterprises, and the other was concerning the award of one additional dollar a week in benefits on condition that the worker attend a vocational school approved by the Industrial Commission.

Mr. Groves later amended his bill to provide that the employer should pay as contrituions 2 per cent of his payroll during the first two years and continue to pay the same thereafter if his account averaged less than $40 per employee. After two years, if the employer's account averaged more than $40 but less than $60 he would pay 1 per cent of his payroll, if more than $60 no contribution should be made to the unemployment reserve fund.

No action was taken by the Judiciary Committee on either the Groves Bill or the substitute amendment. In the meantime an Interim Committee was authorized by the legisla-

ture to study the subjects of unemployment insurance and immediate emergency relief for unemployment. The Interim Committee appointed by virtue of Joint Resolution No. 113 consisted of: Senators A. M. Miller and Peter J. Smith; Assemblymen Robert A. Nixon, Ira E. Burtis, Harold M. Groves (Sponsor of the Groves bill), Fred H. Clausen, former President of the Wisconsin Manufacturers' Association, and J. J. Handley, Secretary of the Wisconsin Federation of Labor. The committee met during the summer (1931), recommended the adoption of the Groves plan and a new Groves Bill (No. 8A) was introduced on November 30, 1931. On December 21 the Groves Unemployment Reserves Bill passed the Assembly 63-15. On January 8, 1932, it passed the Senate 19-9, and so the Wisconsin Legislature had the distinction of passing the first unemployment reserves bill in America. On January 15 the bill was forwarded to Governor La Follette who signed it on January 29, 1932.[1]

The major provisions of the bill were as follows:[2]

1. It covered industrial workers in firms having ten

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1. Wisconsin Laws of Special Session, 1931-1932, Chapter 20.
2. This bill has since been amended and the amendments will be discussed in a later chapter.

or more employees for four or more months during the preceding calendar year.

2. It excluded part-time workers, agricultural laborers, domestic servants, teachers, government employees, and all workers earning over $1500 a year.

3. There was a residence qualification of two years or forty weeks work in the state.

4. The waiting period was two weeks.

5. Employers were to contribute 2 per cent of their payrolls until the fund amounted to $55 for each employee. Thereafter, they were to contribute 1 per cent until the reserve fund was equal to $75 per employee.

6. Reserves were to be paid into a central state depository, the state acting as custodian, investor and disbursing agent.

7. Each employer's reserve was to be kept separately and could be used to pay benefits only to his own employees.

8. Benefits were to be paid after the reserve fund had accumulated for one year.

9. The weekly benefit for total unemployment was to be limited to 50 per cent of the employee's weekly wage with a $10 maximum and a $5 minimum.

10. An unemployed worker was to receive compensation in the ratio of one week of benefits to each four weeks of

his employment within the past twelve months up to a maximum in any one year of ten times his weekly benefit.

11. Each company's total benefit liability was limited to the amount of its own unemployment reserve fund.

12. The act was to be administered by the Wisconsin Industrial Commission which was to appoint appeal boards representing equally employers, employees and the public.

13. An employer had the right to set up and administer a private plan if such plan was approved by the Commission.

14. Workers were to be disqualified for misconduct, quitting "without cause", not applying for work at the "prevailing rates", or if they were unemployed because of wage disputes or "acts of God".

15. Payments were to be made for not more than ten weeks in any calendar year.

16. If the recipient of benefits attended a vocational school approved by the Commission extra benefits amounting to $1 a week could be obtained.

The Wisconsin law, even without its amendments, has many distinctive features. It differs from all European plans in that it places the cost of unemployment wholly and directly upon industry. There are no contributions by the state nor by the employees. There is no common fund but

each employer is responsible for his own employees.

The preamble of the Wisconsin plan shows that it aims chiefly at regularization and stabilization of employment. The plan definitely assumes that all corporations can and should stabilize their production so as either to abolish or considerably reduce their unemployment. It establishes the responsibility of each individual corporation for its own jobless by penalizing those companies which have the greatest unemployment and by rewarding those who stabilize their production and reduce their unemployment.

That this is the main purpose of the Wisconsin Act is pointed out by one of its leading proponents:

> The Wisconsin statute takes the position that much of the present irregularity of jobs should be preventable. It holds that this country should not passively accept and "insure" existing fluctuations in employment without first making strenuous and sustained efforts to reduce them to a minimum. The act provides machinery for encouraging employer co-operation within the state on every promising front; for steadying work can and should be focussed on each individual employer....by penalizing his failure and rewarding his success.[1]

In spite of its good features there are many objections to the Wisconsin plan. In the first place, it is contended that the Wisconsin plan and the unemployment reserves plans suggested by other state commissions[2]

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1. Raushenbush, Paul A. "Wisconsin Unemployment Compensation Act." American Labor Legislation Review, March 1932, pp. 11-18.
2. New York, New Jersey, Massachusetts, Pennsylvania, Connecticut.

merely places the burden of unemployment upon those industries which are already the heaviest sufferers. Professor Epstein maintains that:

> Instead of distributing the load upon all industries, the fortunate as well as the unfortunate, these plans will help to drive the hardest pressed manufacturers to the wall, while the lucky corporations such as public utility concerns will suffer no loss whatever. This is not only unwise and unjust but is altogether contrary to the very essence of the insurance principle . . . . the widest possible distribution of risks.[1]

Again it is argued that the reserve plan denies one of the most fundamental advantages of social insurance, Instead of depending on the stability and assurance of a common national or state wide fund the Wisconsin employee can rely only upon the reserve fund built up by his own employer, and, by the law, no employer's account is liable to pay benefits beyond the current resources that the account has, or would have if all contributions due had been paid.

Another weakness of the Wisconsin plan is that it places total responsibility for unemployment on the individual employers. This is not altogether fair since employers as individuals are not wholly responsible for unemployment which really comes about from numerous causes as has been

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1. Epstein, Abraham. Insecurity—a Challenge to America, p. 512.

explained in previous pages.

Another state that has for a long time shown interest in unemployment compensation legislation is New York. In 1921 under socialistic auspices a social insurance bill was introduced in the legislature at Albany. Contributions to the insurance fund were to be made by employers, employees and the state. This bill was never reported out of committee, a fate shared by three similar bills of Representative Cuvillier in 1926 and 1927. In 1931 an unemployment reserve law was proposed in a bill sponsored in the Assembly by Assemblyman Steingut and in the upper house by Senator Masteck. The plan provided a maximum benefit of $10 per week to workers over eighteen years of age or 60 per cent of wages "whichever is the lower" to become effective after a waiting period of two weeks and to continue for not more than thirteen weeks in one calender year, nor in a greater rate than one week of benefits to four weeks of employment . . . . during the two preceding calendar years. Contributions were to be made to the Reserve Fund by employers at the rate of 1½ per cent of payrolls. Employees might voluntarily contribute to increase the stated benefit. The state was to carry the cost of the administration and the coverage was

practically complete. The bill was twice read and referred to committee but there it died.[1]

The State of Ohio has also been in the foreground in making efforts in the direction of unemployment insurance. In November, 1932, the Ohio Commission on Unemployment Insurance made its report and recommended an unemployment insurance law. The Committee felt that charity had proved to be not only inadequate but "inappropriate and undesirable as a method of dealing with the distress of able and willing workers who are unemployed through no fault of their own." It was their belief that unemployment insurance, moreover, should be compulsory because "experience has demonstrated that when this is left to the voluntary choice of individual employers or employees, those lacking thrift and foresight to make the necessary provision are not the main sufferers. The community, the taxpayers, and the more foresighted employers and workers as well as the families of those who have failed to insure are compelled to bear the burdens."[2] On the problem of contributors to the fund they differed widely from the Wisconsin legislators. The Ohio Commission felt that in order that insurance may be maintained on a

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1. New York Legal Document (1932) No. 69. Preliminary Report of the New York State Joint Legislative Committee on Unemployment, Transmitted to Legislature Feb.5,1932, p.190.

2. Report of Ohio Commission on Unemployment Insurance, 1932, p. 54.

"democratic, self-respecting and self-supporting basis, and to get away as far as possible from the evils of pauperizing charity, employees as well as employers should pay the cost of unemployment insurance, but, "because industry and not the individual employer is mainly responsible for unemployment, the contributions should be in the proportion of two from the employers and one from the employees."[1]

The bill as drafted by the Ohio Commission on Unemployment Insurance provides that insurance shall be compulsory for all employers in concerns having three or more employees, and with certain exceptions, for those employed in such concerns. The exceptions embrace non-manual workers earning more than $2,000 a year, farm laborers, domestic servants, railroad employees engaged in interstate commerce, government employees, teachers, and short time or casual laborers, whose periods of work do not last longer than four weeks at a time.

The plan designed to take effect on January 1, 1934, required that for the first three years employers should contribute 2 per cent of their payrolls, the term "payroll" being restricted, contrary to the case under the Wisconsin law, to the enumeration of those employees who would be

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1. Report of Ohio Commission on Unemployment Insurance, 1932, p. 56.

eligible for benefits. After three years the contribution of the employers is to be determined according to rules established by the Unemployment Insurance Commission, subject to a lower limit of 1 per cent and an upper limit of 3½ per cent of the payroll. The rules established are to be such as will take into account the unemployment experience of each concern. In addition to contributions from his employer, the bill requires an employee to contribute 1 per cent of his earnings, which contribution is to be periodically deducted from his wages by the employer. Both employer and employee contributions are to be paid into an unemployment insurance fund under the custody of the State Treasurer, out of which all payments for benefits and administration costs, including the expense of maintaining the public employment bureaus necessary for the administration of the plan, are to be drawn.

The Unemployment Commission is empowered to invest any surplus of the fund in obligations of the United States, of the State of Ohio, or any of its political divisions not in default as regards principal or interest on any of its securities, or in bonds issued by any bank organized under the provisions of the Federal Farm Loan Act.

Eligibility for benefit is determined by the following conditions:

1. Payment of contributions for not less than twenty-

six weeks within the twelve months, or not less than forty weeks within the two years preceding the date of application.

2. Registration at a public employment office.

3. Capacity and availability for employment with inability to obtain work at the usual task or at any other kind of work for which the claimant is reasonably fitted, or should there be a reduction of wages by more than 40 per cent of average weekly earnings.

4. The waiting period is three weeks which is extended to six weeks in the case of employees discharged for just cause, or quitting work voluntarily without just cause. In the case of partial employment, benefits do not commence until a loss of earnings equal to three full weeks' wages has been incurred.[1]

5. Benefits for total unemployment are limited in duration to sixteen weeks in any consecutive twelve months while in case of partial unemployment the total amount received must not exceed sixteen weeks of total unemployment benefit. Benefits for total unemployment are to be paid at the rate of 50 per cent of the employee's average weekly earnings, with a maximum limit of $5 a week. Partial unemployment benefits payable only when the loss due to part time exceeds 40 per cent of normal earnings are granted at the following

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1. Ohio Bill, Section 4 c. I.

rates:[1]

Loss of Weekly Wages	Benefit as Percentage of Weekly Wage
40 - 55%	10
55 - 70%	20
70 - 85%	30
85% and over	40

Unlike the Wisconsin system of reserves, the plan proposed by the Ohio Commission on Unemployment Insurance does not purport to cure unemployment. The commission realistically recommends unemployment insurance:

> As a remedy not for unemployment but for the distress characterized by bread lines, soup kitchens, loss of homes, break up of families, overwhelming of private charity organizations, and distribution of doles to the unemployed from local, state and Federal treasuries.[2]

It states:

> Unemployment insurance will not abolish unemployment nor is it chiefly intended to reduce unemployment or to regularize work. Fire insurance is not aimed at abolishing fires; life insurance does not abolish death; accident insurance does not abolish accidents. Any properly designed and soundly managed insurance system will stimulate efforts toward reduction and elimination of the risks against which protection is sought. But insurance is based on the assumption that the risk itself is inevitable however much it may be reduced, and that protection against it may be secured most economically by the method of insurance rather than in any other way.[3]

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1. Ohio Bill, Section 4, d.
2. Report of the Ohio Commission on Unemployment Insurance, Part I, Nov. 1932, pp. 58-59.
3. Ibid., pp. 51-52.

The Ohio bill has the distinction of being based upon statistical data and actuarial computations since experience of the decade of 1921-31 was available. This plan, moreover, is different from the Wisconsin in that it provides for the organization of one universal government-managed insurance fund into which all industries pour their resources. The employers pay into the fund and the fund pays the benefit to the unemployed. The inability of the fund to meet its obligations is not contemplated. It is an insurance plan of the traditional type. The benefits are contractual obligations and must be met.[1]

Obviously, all unemployment will not be compensated under the Ohio plan. Even disregarding the three weeks' waiting period there is the sixteen weeks limitation. But at least for this period of sixteen weeks the benefits are guaranteed not by pledging the state finances for it, but by providing for accumulation of reserves from good times to bad ones, by reserving the power of increasing dues and by permitting credit operations with the power of the fund to collect contributions from industry as a sound collateral.[2]

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1. Rubinow, I. M., The Quest for Security, p. 443.
2. Epstein, Abraham, Insecurity, a Challenge to America, p. 315.

The Wisconsin and Ohio plans represent two contrasting methods of approach to the unemployment compensation problem in this country. The Wisconsin method is based on the theory that prevention of unemployment should be given foremost consideration and that the need for alleviation of its effects will be minimized in proportion as this is attained. The Ohio plan, on the other hand, makes alleviation the first objective, to be followed at some later stage by efforts at prevention.

During 1933, state commissions or committees to investigate unemployment insurance were set up in the following states: California, Connecticut, Illinois, Louisiana, Massachusetts, New York, Oregon and Pennsylvania. In addition, investigating bodies were authorized or appointed by the governor in Maine, New Hampshire, North Carolina and Virginia.[1]

In California the California State Unemployment Commission in its report in November, 1933, favored the enactment of a law providing for a system of compulsory unemployment reserves to be administered by the state and to be supported by contributions from employers and employees.

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1. National Industrial Conference Board, Present Status of Unemployment Insurance or Reserves Legislation--Memo No. 29.

With the exception of having contributions from employees, the recommendations[1] followed the Wisconsin plan. Two bills that followed the Commission's recommendations were introduced in the legislature in 1934 but neither became law.

The Connecticut Unemployment Commission in its Report "Measures to Alleviate Unemployment in Connecticut", accepted the principle that employers should provide for their stable employees, analyzed and rejected the Wisconsin law and other proposals of a similar nature, and offered a substitute program which avoided the terminology of unemployment insurance laws and treated the payments to unemployed workers as a form of dismissal wage. This dismissal wage totaling a maximum of $120 would be paid at the rate of not over $10 a week to employees dismissed after forty weeks of continuous employment. Reserves would be accumulated by requiring each employer to contribute 2 per cent of his payroll. In addition each employee would be required to contribute to "his own termination savings fund" in the same amount which savings would be available to the employee or his heirs upon termination of employ-

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1. California State Unemployment Commission, Report and Recommendations, November, 1932, p. 767.

ment for any reason.[1] Although three bills were introduced in the 1933 session none embodied this plan and none became law.

In Illinois and Louisiana the commissions did not have a report ready when the legislature met.

In Massachusetts the Commission on the Stabilization of Employment recommended a reserves system with contributions from employers only.[2] Accompanying the report was a bill (H. B. 1200) embodying its recommendations. Under this plan, every employer of ten or more employees would deposit 2 per cent of his payroll with the State Treasurer who would credit it to his individual unemployment reserve fund. These payments would continue until they totaled $50 per eligible employee when the employer's deposits would be reduced to 1 per cent of his payroll. Employers could substitute private plans which would have to get the approval of the Commissioner of Labor and Industries. The bill failed in the upper house.

On April 9, 1931, the New York Joint Legislative Committee on Unemployment under the chairmanship of William L. Marcy, adopted a resolution to investigate the cause of unem-

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1. Measures to Alleviate Unemployment in Connecticut. Report from Connecticut Unemployment Commission. Under Senate Bill No. 545 of the Acts of the General Assembly of 1931, p. 111.

2. Special Commission on Stabilization of Employment, Final Report, Chapter 64 of the Resolves of 1931, December, 1932.

ployment in its every respect to the end that a policy might be formulated and reported to the legislature. In its preliminary report of February 15, 1932, the Committee favored a statewide system of employment exchanges and reserves by employers, or employers and employees to cover in part the hazards of involuntary unemployment other than such unemployment as occurs through the misconduct of an employee or for which compensation is paid to the employee under the provisions of the Workmen's Compensation Laws or who are eligible to relief under the provisions of the Old Age Security Law.[1] Early in 1933 (February 20) the Committee made its final report which embodied the features of the preliminary report.[2]

In Oregon the committee was instructed to study and make a report upon old age pensions, old age insurance and unemployment insurance. In its report[3] it made no specific recommendations on unemployment legislation.

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1. New York Legal Document (1932) No. 69. Preliminary Report of the New York State Joint Legislative Committee on Unemployment, Transmitted to Legislature February 15, 1932, p. 5.

2. New York Legal Document (1933) No. 66, Report of the Joint Legislative Committee on Unemployment, Transmitted to Legislature February 20, 1933.

3. Unemployment in Oregon--Report of State Emergency Employment Commission, April 1, 1931 to Julius L. Meier, Governor.

The Pennsylvania State Committee on Unemployment Reserves appointed by Governor Gifford Pinchot in November, 1932, in its report[1] in May, 1933, stated that after extensive study the committee had arrived at varying conclusions and that no joint report was therefore possible.

Thus during these years we see a growing movement in this country toward progressive legislation to alleviate the sufferings caused by unemployment.

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1. Alleviating Unemployment, Report of Pennsylvania Commission on Unemployment to Gifford Pinchot, May, 1933.

CHAPTER IV

FEDERAL LEGISLATION FOR UNEMPLOYMENT INSURANCE

The states have not been alone in their efforts to relieve the distress caused by unemployment. The Federal government has also taken steps in that direction. In 1913 President Wilson appointed a United States Commission on Industrial Relations to study industrial conditions throughout the country. Early in 1914 the Committee made a report in which it recommended the study and preparation of plans for insurance against unemployment "in such trades and industries as may seem desirable."[1] The Committee went out of existence in 1915.

In February, 1916, Representative Meyer London (New York Socialist) introduced a resolution in Congress "for

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1. House Resolution 159--64th Congress, 1st Session, Senate Document 415.

the appointment of a commission to prepare and recommend a plan for the mitigation of the evil of unemployment".[1] This bill was referred to the House Committee on Labor which held hearings on April 6-11, 1916. The bill, however, was not reported.

Supporters of the London resolution always attributed its death in Committee to the opposition of the late Samuel Gompers, then President of the American Federation of Labor. In a speech before the Annual Convention of the American Federation of Labor in 1916 Mr. Gompers made the following statement regarding the London resolution and similar resolutions introduced during that year in several state legislatures:

> This resolution was introduced without consultation with the responsible representatives of the wage earners of the country. . . . During the past year persistent agitation in favor of compulsory social insurance has been carried on. The agitation originated with an organization that is neither responsible to wage earners nor representative of their desires. It is very significant of the attitude and policy of those who have legislation of this class in charge that the measures they have drawn up were formulated without consultation with the wage earners and introduced in legislatures with professional representatives of social welfare as their sponsors. The measures themselves and the people

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1. House Resolution 164—65th Congress, 1st Session.

> who present them represent that class of society that is very desirous of doing things for the workers and establishing institutions for them that will prevent them from doing things for themselves and maintaining their own institutions.[1]

In 1920 President Wilson called the second Industrial Conference into being to study the unemployment problem. There was no definite outcome, and in 1921 President Harding appointed Herbert Hoover, then Secretary of Commerce, to act as chairman of a conference on unemployment. The President in outlining the task and scope of the conference emphasized the view that public insurance was not to be considered as a necessary or practical measure for meeting the unemployment problem in this country and that the attention of the conference should be concentrated rather upon the causes and extent of unemployment and the possibilities of a remedy available through the work of individual employers and private organizations.[2]

The conference was called primarily to consider relief for 4,000,000 to 5,000,000 unemployed, resulting from the business slump of 1921. During the formulation of emergency measures which subsequently proved successful in greatly

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1. Compers, Samuel—Speech before the Annual Convention of the American Federation of Labor, 1916.

2. United States Department of Commerce, Report of Committee of the President's Conference on Unemployment, 1921, pp. 25-28.

alleviating the situation, the responsible business men, labor leaders, and economists of the conference advanced the proposal that an exhaustive investigation be made of the whole problem of unemployment and of methods of stabilizing business and industry.

The conference resulted in the appointment of a committee by Mr. Hoover, headed by Owen D. Young, to make an exhaustive investigation of the possibilities of lessening unemployment by controlling the business cycle. Besides Mr. Young the other members of the committee were:

Joseph H. Defrees, former President of United States Chamber of Commerce.

Mary Van Kleeck, Russell Sage Foundation

Matthew Woll, Vice-President of American Federation of Labor.

Clarence M. Woolley, President of the American Radiator Company

Edward Eyre Hunt, Secretary of the President's Conference on Unemployment.

In its recommendations the Committee stated that:

> The idea of employer, employee or both contributing during periods of employment to a reserve fund under separate or joint control to help sustain the worker when unemployed in periods of depression and to equalize and stabilize his purchasing capacity merits consideration.[1]

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1. United States Department of Commerce, Report of Committee of the President's Conference on Unemployment, 1921, pp. 20-21.

As a result of the unemployment crisis of 1927-1928, the Senate passed a resolution on May 3, 1928, asking the Committee on Education and Labor to undertake an investigation of the problem.[1] The study was conducted by a subcommittee of the Committee on Education and Labor, composed of Senator James M. Couzens, (Michigan, Republican) Chairman, and Senators Phipps (Colorado, Republican), Tydings (Maryland, Democrat), Walsh (Massachusetts, Democrat) assisted by Dr. Isidor Lubin of the Institute of Economics of the Brookings Foundation. Exhaustive hearings were held during December, 1928, and January and February, 1929, and the report approved by the full committee and with a comprehensive summary by Dr. Lubin was filed on March 1, 1929.[2]

> We think it is generally agreed by the witnesses that at the present time the following conclusions would be drawn from the evidence:
>
> 1. Government interference in the establishment and direction of unemployment insurance is not necessary and not advisable at this time.
>
> 2. Neither the time nor the condition has arrived in this country where the systems of unemployment insurance now in vogue under foreign governments should be adopted in this country.
>
> 3. Private employers should adopt a system of unemployment insurance and should be permitted and encouraged to adopt the system which is best

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1. Senate Record 219, 70th Congress, 2nd Session.
2. Senate Report 2072, 70th Congress, 2nd Session.

suited to the particular industry.[1]

As a result of the opposition of various bodies and especially that of the American Federation of Labor all concerted efforts to obtain Federal unemployment insurance legislation were dropped for a time. It is true that occasional bills were introduced from time to time, but even the authors made no great efforts to press them and no consideration was given them by the committees to which they were referred.[2]

The fundamental differences between the groups favoring unemployment insurance and those opposed to it at this time arose over the wisdom of governmental action. Such groups as the National Association of Manufacturers and the Chamber of Commerce of the United States were opposed and are still opposed to political action. They hold that whatever action is taken should be by individual business concerns or perhaps by individual industries through some such mechanism as trade associations.

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1. Senate Report 2072, 70th Congress, 2nd Session.

2. S5350 Introduced by Senator Wagner, December 15, 1930.
HR15257 Introduced by Representative D. J. O'Connell, December 16, 1930 (Same as Senator Wagner's S5350).
S5634 Introduced by Senator Wagner, January 19, 1931.
HR15269 Introduced by Representative La Guardia, February, 1931.
HR16741 Introduced by Representative Frank Crowther, March, 1931.

It may well be stated here that until very recently the American Federation of Labor sided with these business groups, but naturally enough emphasized the desirability from its point of view of the evolution of employment stabilization programs by joint action of employers and one of its constituent unions along lines of the "union management co-operation" scheme inaugurated on the Baltimore and Ohio Railroad in 1923, or of the arrangements between clothing manufacturers and the Amalgamated Clothing Workers.

It was not until 1932 that the American Federation of Labor changed its position. On the last day of the summer session of the Executive Council of the American Federation of Labor in July, 1932, the body instructed President Green to draw up a bill providing for a Federal system of insurance.[1] In announcing this fact Mr. Green stated that in its report to the 1931 convention the Executive Council had pointed to the failure of owners and managers of industry to provide jobs as an important factor in creating public opinion favorable to compulsory unemployment insurance legislation. Continued unemployment, the reluctantly accepted conclusion that labor can no longer wait for action by employers individually or in groups, and pressure from constit-

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1. California State Unemployment Commission. Report and Recommendations, p. 747.

uent members of the American Federation of Labor apparently were the chief influences causing the change in position.[1]

It is interesting to note that the Executive Council included in its instructions to Mr. Green the stipulation that the bill to be prepared must protect trade union members in their right to retain their membership and insurance benefits even though they refused to accept work in non-union establishments.[1]

On February 28, 1931, the Senate passed a resolution[2] introduced by Senator Wagner of New York, providing for the appointment of a select committee of three senators to study unemployment insurance. Pursuant to this resolution the Vice-President appointed as members of the committee Senators Felix Hebert (Rhode Island, Republican), Olis F. Glenn (Illinois, Republican) and Robert F. Wagner (New York, Democrat). Senator Hebert was made chairman.

The committee met, organized, and decided to hold hearings beginning in September. Senators Hebert and Glenn both visited Europe during the summer and doubtless paid attention to European systems and conditions. Upon his

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1. California State Unemployment Commission. Report and Recommendations, p. 747.

2. Senate Resolution 483, 71st Congress, 3rd Session.

return to Washington Senator Hebert announced on August 10 that the exact date of the hearings would be fixed as soon as he had communicated with Senator Wagner and Senator Glenn and that he anticipated that the committee would be able to make its report with recommendations on December 7, 1931, when Congress would convene.

Senator Hebert said in a press statement:

> I still have an open mind and hope to hear exhaustive testimony upon this vital subject. It may be that we can evolve some plan radically different from any heretofore tried.
>
> However, I have about reached the conclusion from interviews I have had abroad, that any Federal system of unemployment insurance will lead us to the dole.[1]

President Hoover was of the same opinion, and on several occasions declared himself in favor of a system of unemployment insurance independently set up by private industry with participation by employers and employees, but as opposed to government participation on the ground that it would inevitably lead to the dole.

In an address at the dinner of the Indiana Republican Editorial Association at Indianapolis on June 15, 1931, President Hoover said:

> We have one proposal after another which amount to a dole from the Federal treasury. The

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1. New York Times, August 10, 1931.

> largest is that of unemployment insurance. I have long advocated such insurance as an additional measure of safety against rainy days but only through private enterprise or through co-operation of industry and labor itself. The moment the government enters this field it inveriably degenerates into the dole.[1]

In the present administration, however, the problem of unemployment insurance has again come to the foreground and attracts nation-wide attention.

On February 5, 1934, Senator Wagner in the Senate and Representative Lewis (Maryland, Democrat) in the House introduced the Wagner-Lewis Unemployment Insurance Bill--H. R. 7659 entitled "A bill to raise revenue by levying an excise tax upon employers and for other purposes." This bill provided for the levying of a 5 per cent tax on payrolls of industry against which a credit was to be allowed for contributions to unemployment insurance funds under state laws.

The Wagner-Lewis Bill was thrashed out and disputed pro and con in the various committee hearings. The sub-committee of the House Committee on Ways and Means met on March 21-30, 1934, and at it William Green, President of the American Federation of Labor, made an important statement.

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1. Indianapolis News, June 16, 1931.

He said:

> For three-fourths of our people of the United States unemployment is a constant anxiety. Nearly all the industries in which they work are so seasonal in character that even in our most prosperous years millions must expect anywhere from one to six months' unemployment, or even more....
>
> To provide an income for these workers until they are able to find employment the American Federation of Labor believes that wage reserves should be built up under government supervision. Business has established the practicability and the wisdom of creating reserves to take care of obligations which are an uneven charge on the industry, such as depreciation, dividends on capital investments, redemption on securities, purchase of new machinery.
>
> The same reasoning applies equally to returns on the investments which wage earners have in industry....
>
> We believe the Wagner-Lewis bill is a measure that would help materially....by creating a financial incentive for the enactment of State legislation.
>
> There is a widespread interest in unemployment insurance and legislation is pending in a number of States. This proposed measure might well be the impetus to favorable action in some of these measures.[1]

Other persons appearing and talking in favor of the pending legislation were Dr. Edwin E. Witte of the Universi-

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1. Hearings of the Sub-Committee of the House Committee on Ways and Means, March 21-30, 1934, 73rd Congress, 2nd Session, p. 254.

ty of Wisconsin and later Executive Director of the President's Committee on Economic Security; Dr. Paul H. Douglas, member of the Consumers' Advisory Board of the National Recovery Administration; and Miss Frances Perkins, United States Secretary of Labor.

Professor Douglas in his testimony stated that in his opinion the system proposed by the bill would not only provide a more adequate and self-respecting relief than that which had previously been given, but it would lessen the amount of unemployment itself. He explained that if the system were properly administered, a large part of the premiums collected during the years of prosperity would not be spent then but would, instead, be accumulated and paid out during the years of depression.

With regard to the excise tax of 5 per cent levied upon the payrolls of concerns employing ten or more workers and which would be returned to these concerns if they contributed to unemployment funds under State laws he said:

> This to my mind is a truly brilliant method. If this measure is passed there will be little or no reason why any of the States should not pass some kind of unemployment insurance law, for the State law would not heap any added burdens upon the employers in these States since any contribution which they would make to the State systems would mean that they would merely pay that much less to the Federal Government, and keep those contributions at home.[1]

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1. Hearings of the Sub-committee of the House Committee on Ways and Means, March 21, 1934, 73rd Congress, 2nd Session, p. 49.

Miss Perkins said:

> The present bill would help to create unemployment insurance systems in the various states, and it would mean that we could have them locally administered, and locally adapted to the local needs, and methods of meeting unemployment in the future. It would not meet the problem entirely but it would be a great stride toward security for the wage earner, and for the adjustment of ruinous burdens in modern economic life....
>
> It is a fair tax, imposed fairly, which would equalize the competitive burdens between employers, not bearing heavily upon anyone or any group, and it would be a proper means of reimbursing the Federal Government for the enormous expenditures which must be made for relief if no such funds are available in the states.[1]

The bill, however, had its opponents. James L. Donnelly, Vice-President of the Illinois Manufacturers Association appeared before the Committee and argued vigorously against the measure. He maintained that the bill, designed to relieve unemployment would, in actual operation, tend eventually to aggravate unemployment. He said:

> The best means to accomplish a reduction in unemployment is to adopt a program which contemplates a minimum amount of regulation and legislation and which is calculated to inspire confidence,

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1. Hearings before the Sub-committee of the House Committee on Ways and Means, March 21, 1934, 73rd Congress, 2nd Session, p. 17.

to stimulate private initiative, and to encourage private enterprise.[1]

Merwin K. Hart, President of the New York State Economic Council stated that the bill would lay an additional burden on employers at a time when a great majority of them were struggling to bear their present burdens and to keep going.[2]

Frank H. Willard, President of Graton and Knight Manufacturing Company of Worcester, Massachusetts, said:

> It increases the cost of production, absorbs much needed working capital which has been badly depleted or perhaps entirely obliterated during the past four years, and it is likely to be the last straw that will put many of the marginal companies out of business, especially where labor is the major part of the cost of production.[3]

On March 23, 1934, President Roosevelt wrote to Chairman Doughton of the Ways and Means Committee expressing the hope that the Wagner-Lewis bill would be passed at that session. No further pressure was exercised by the President, however, and on June 8 he sent a message to Congress in which he announced that during the following session he would present a comprehensive plan for economic security.

On June 29, by executive order, he created a Committee on Economic Security to study and report to him on methods

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1. Hearings before the Sub-Committee of the House Committee on Ways and Means. March 30, 1934, 73rd Congress, 2nd Session, p. 406.
2. Ibid., p. 293.
3. Ibid., p. 294

to carry out the Administration's plans for the "security of the men, women, and children of the nation." The members named were:

Miss Frances Perkins, Secretary of Labor, Chairman

Henry Morganthau, Secretary of the Treasury

Homer S. Cummings, Attorney General

Henry A. Wallace, Secretary of Agriculture

Harry L. Hopkins, Federal Emergency Relief Administrator

Dr. Edwin E. Witte, Secretary and Executive Director of the Committee

Thomas H. Elliot, Associate Solicitor of the Department of Labor, Counsel.

On November 14, in response to a call from the Committee, a National Conference on Economic Security met in Washington. Addressing the delegates, the President stated that unemployment insurance should be developed along a Federal-State plan.

On January 5, 1935, in his annual message to Congress the President announced that he would shortly lay before Congress a complete program for economic security. On January 17 he forwarded to Congress the full report of the Committee on Economic Security accompanied by a message recommending the enactment of legislation for (1) unemployment insurance, (2) old age pensions, (3) Federal aid to

dependent children, (4) additional Federal aid to state and local public health agencies. The President said:

> With respect to unemployment compensation I have concluded that the most practical proposal is the levy of a uniform Federal payroll tax, 90% of which should be allowed as an offset to employers contributing under a compulsory State unemployment compensation act. The purpose of this is to afford a requirement of a reasonably uniform character for all states co-operating with the Federal Government and to promote and encourage the passage of unemployment compensation laws in the States. The 10% thus offset should be used to cover the costs of Federal and State administration of this broad system. Thus States will largely administer unemployment compensation assisted and guided by the Federal Government.[1]

The President in his message asked for speed in enacting a bill to this effect reminding Congress that forty-four state legislatures were then meeting or would meet soon.

On the day of the President's message Senator Wagner and Representative Lewis introduced bills in the Senate and the House, respectively, to carry out the President's program. The Wagner-Lewis bill (S1130) provided that beginning January 1, 1936, every employer with four or more employees should pay into the Treasury an annual tax of 3 per cent upon his payroll, but that between January 1, 1936, and January 1, 1938, this tax should be reduced to 1 per cent until the Federal Reserve

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1. Message of President Roosevelt, January 17, 1935.

Board index of total industrial production reached over 84 per cent of the 1923-1925 level, and reduced to 2 per cent until it reached 95 per cent of such level. Commencing with January 1, 1938, the tax should be 3 per cent in any event.

To encourage the enactment of the State unemployment insurance laws every employer was to receive as a credit against the above tax up to 90 per cent of whatever he contributed to an unemployment insurance fund under state laws. In order for employers to receive such credit, however, certain Federal standards had to be met by the insurance law of his State.

For the administration of the system a Social Insurance Board was to be set up in the Department of Labor. It was to consist of three members appointed by the President for six-year terms at an annual salary of $10,000 each. The duties of the Board were:

1. To study and recommend social security practices and laws.
2. To make recommendations to the Secretary of Labor regarding the credits of employers under the unemployment insurance laws.
3. To supervise and direct the payment of annuities under the compulsory old age plan.
4. To issue old age annuities under the voluntary pension system.
5. To assist the states in the administration of unemployment insurance laws.

An unemployment trust fund was to be set up and all funds collected under the State unemployment insurance laws were to be deposited in this fund, which was to be managed by the Secretary of the Treasury.

Federal aid appropriations were to be made, $5,000,000 for the fiscal year ending June 30, 1936, and $50,000,000 for each succeeding year. These sums were to be used to encourage the administration of State unemployment insurance laws, and 98 per cent of this money was to be apportioned among the several states based upon the needs of each as determined by the Social Insurance Board. The balance was to defray expenses of Federal administration.

Concerning his bill, Senator Wagner made the following statement:

> The Economic Security Bill presents the most substantial evidence to date that our twin objectives of recovery and reform are fused in an inseparable unity of purpose and action....
>
> The bill recognizes that, because of divergent business problems in different sections of the country, each state should be free to enact its own unemployment insurance law. But no state should be at liberty to neglect this problem, or to put a more progressive Commohwealth at a competitive disadvantage. For this reason the bill proposes a 3% Federal tax upon payrolls to be remitted to employers in so far as they contribute to unemployment insurance funds under State law. As an added incentive a Federal subsidy aggregating $5,000,000 for the fiscal year ending June 30,1936,

and $50,000,000 for each succeeding year is provided for allocation among the States to aid in administering such unemployment insurance laws.[1]

In response to the President's request for speed Chairman Harrison (Senate Finance Committee) announced on January 18 that the Committee would begin hearings on the Wagner bill on January 22. In the committee a great many suggestions were made. Senator Black (Alabama) suggested that provision be made in the bill for State taxation of excess profits, bonuses, etc., as a method of financing the unemployment compensation plan, holding that in this way increased buying power of the masses would be assured. Miss Perkins voiced her objection to any plan for taxation of employees stating that the employer can easily pass on his part of the tax to the consumer but that the worker cannot pass his on to anyone but must bear it himself.[2] Senator Couzens (Michigan) agreed with the Secretary.

In the Ways and Means Committee of the House the bill was likewise hotly argued and freely amended. The final report on the Social Security Bill, in part, is as follows:

> Unemployment is due to many causes and there is no one safeguard that is all suffic-

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1. New York Times, January 18, 1935.
2. Hearings of the Senate Finance Committee on S. 1130 January 26, 1935, 74th Congress, 1st Session, p. 89

> ient. It can be dealt with in a reasonably adequate fashion only through a two-fold approach. Provisions must be made for the relief of those now unemployed, and there should also be devised a method for dealing with the unemployment problem in a less costly and more intelligent way in future years. It should be clearly understood that State unemployment compensation plans made possible by this bill cannot take care of the present problems of unemployment. They will be designed rather to afford security against the large bulk of unemployment in the future[1]....

The failure of the States to enact unemployment insurance laws has been due in a considerable degree to the fact that to do so would handicap their industries in competition with the industries of other states. The states have been unwilling to place this extra financial burden upon their industries. A uniform, nationwide tax upon industry, thus removing an important obstacle in the way of unemployment insurance, was necessary before the States could go ahead. Such a tax would make it possible for the States to enact this socially desirable legislation.

On August 10, 1935, the bill was presented to the Senate for the final vote. At that time the Clark amendment was still being disputed. This amendment, introduced by Senator Clark (Missouri, Democrat), provided for a contin-

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1. Report on Social Security Bill, H. R. Report 615, 74th Congress, 1st Session, April 5, 1935. pp. 6-7.

uance under government sanction and supervision of private pension systems in American industry. Under the conference agreement, however, this amendment was struck out with the understanding that the whole subject of private pensions would be investigated with a view to fitting them in with the Federal Social Security program.

In spite of all opposition, the bill, in an amended form, finally passed both houses on August 14, 1935, and was signed by President Roosevelt as the National Security Act (H. R. 7260).

The President made the following statement upon signing the bill:

> Today a hope of many years' standing is in a large part fulfilled. The civilization of the past hundred years, with its startling industrial changes, has tended more and more to make life insecure. Young people have come to wonder what would be their lot when they came to old age. The man with the job has wondered how long his job would last.
>
> The Social Security measure gives at least some protection to 30,000,000 of our citizens who will reap direct benefits through unemployment compensation, through old age pensions and through increased services for the protection of children and the prevention of ill health.
>
> We can never insure 100% of the population against 100% of the hazards and vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and to his family against the loss of a job and against poverty-ridden old

age.

> This law, too, represents a cornerstone in a structure which is being built but is by no means complete, a structure intended to lessen the force of possible future depressions, to act as a protection to future administrations of government against the necessity of going deeply into debt to furnish relief to the needy, a law to flatten out the peaks and valleys of deflation and of inflation,— in other words, a law that will take care of human needs and at the same time provide for the United States an economic structure of vastly greater soundness.[1]

Many of the features of the original Wagner bill were retained. The measure now provided that on and after January 1, 1936, every employer of eight or more persons should 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 payable by him during each calendar year:

Between January 1, 1936--January 1, 1937 --1%
Between January 1, 1937--January 1, 1938 --2%
After January 1, 1938 - - - - - - - - - - - -3%

The offset of 90 per cent remained the same as in the President's recommendation to Congress and Senator Wagner's original bill, and to further the stabilization of employment the law allows employers whose State contributions have been reduced because of stabilizing employment, to credit

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1. The New York Times, August 14, 1935, Press Statement of President Franklin D. Roosevelt.

against their Federal tax both their State contributions and their State allowances.

A Social Security Board consisting of three members appointed by the President with the advice and consent of the Senate has been set up. Members of the Board are to serve terms of six years with the provision that one member be appointed for two years, one for four years and the other for the full term of six years. The compensation is to be $10,000 yearly and it is definitely stipulated that no more than two members of the Board shall belong to the same political party. The duties of this Board are to study and recommend the most effective methods of providing economic security through social insurance and to give recommendations as to legislation and matters of administrative policy concerning old age pensions, unemployment compensation, accident compensation and related subjects. The Board is required to make a full report to Congress at the beginning of each regular session on the administration of the functions with which it is charged.[1]

The Social Security Board has the power to approve any state law submitted to it within thirty days of such submission if the State law meets with the Federal require-

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1. Social Security Act, Section 701, No. 271, 74th Congress, H. R. 7260.

ments. These are: (1) That all compensation must be paid through public employment offices in the State or such other agencies as the Board may approve. (2) All money received for unemployment compensation shall be deposited in the Unemployment Trust Fund, and all money withdrawn from this fund by the State agency shall be used solely in the payment of compensation exclusive of expenses of administration. (3) No worker shall be disqualified from receiving benefits because he participates in a strike or because he refuses to take work at standards below those prevailing in the locality, or because he joins a company union or insists upon joining a labor union of his own choosing.[1]

The Board is required to notify the Governor of the State concerning its approval or disapproval of the State law.

On December 31 of each taxable year the Board is to certify to the Secretary of the Treasury each state whose law it has previously approved.[2] If at any time, however, the Board has reason to believe that a State whose law it has previously certified, has changed its law so that it no longer conforms with the stipulated requirements, it shall promptly so notify the Governor of that State.[3]

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1. Social Security Act, Section 903A. No. 271, 74th Congress, H.R. 7260.
2. Ibid., Section 903B.
3. Ibid., Section 901, Sub-section c.

An Unemployment Trust Fund is established in the Treasury of the United States which is to be administered by the Secretary of the Treasury, who is directed to receive and hold in the Fund all moneys deposited therein by the State agency from State unemployment funds. Funds not necessary to meet current withdrawals are to be managed and invested by the Secretary of the Treasury. The Fund is to be invested as a single fund but the Secretary of the Treasury is to maintain separate book accounts for each state, and the earnings of each state are to be credited thereon quarterly.[1]

For the purpose of assisting the States in the administration of their unemployment compensation laws an appropriation of $4,000,000 is made for the fiscal year ending June 30, 1936, and $49,000,000 for each succeeding fiscal year.[2] The amounts granted to the individual states are to be determined with reference to (1) population of the State; (2) 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.

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1. Social Security Act, Section 904.
2. Ibid., Title III, Section 301.

The law further provides that the tax (on employers) is to be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. If the tax is not paid when due there is to be added as a penalty interest at the rate of one-half of 1 per cent per month from the date the tax became due until paid.[1]

There are certain types of work to which the law does not apply:

1. Agricultural labor.
2. Domestic service in private homes.
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 parents, children or spouse.
5. Service in the employ of the United States government.
6. Service in the employ of the State.
7. Service 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.

The passage of the Social Security Act was freely discussed. The London Times commenting editorially on

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1. Social Security Act, Section 904.

August 16, 1935, said that it was probable that if its provisions had been in force when the depression first swept the United States, the economic collapse would have been neither so swift nor so complete.

"The Act makes an advance in American social legislation which would have been inconceivable three or four years ago." The Times goes on, "Most American observers despite the contempt which at one time was expressed for the British system of unemployment insurance as an enervating 'dole' are becoming convinced of its value in overcoming the depression."[1]

Miss Frances Perkins in evaluating the benefits of the measure said:

> The Social Security measure does not establish a Federal system of unemployment compensation, but makes it possible for the states to enact unemployment compensation laws, since by levying a tax upon all employers in the country against which a credit is allowed for contributions to State unemployment compensation funds, it equalizes the cost between States with insurance laws and those without. This Federal tax is levied exclusively upon the employers, but the States are free to add other contributions.[2]

On September 23, 1935, President Roosevelt announced the appointment of the Social Security Board. The members

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1. London Times, August 16, 1935.
2. New York Times, August 18, 1935.

are--John G. Winant, former governor of New Hampshire, and recently appointed Assistant Director of the International Labor Office at Geneva; Dr. Arthur J. Altmeyer, former Assistant Secretary of Labor; Vincent M. Miles, Arkansas attorney.

In spite of all the admirable points in the Social Security Act, there are, however, some outstanding weaknesses. In the first place, the Act necessarily excludes those who are unemployed at the time the system went into effect and who were not able to accumulate the weeks of prior employment which will be required to qualify for benefits. Since the State laws passed as a result of the Federal law will not begin to pay benefits at the earliest, before 1938, and in many cases at a still later date, the exclusive protection of the needy unemployed during the intermediate period will have to come from relief. Moreover, at that time, there will be many, who, not having had enough work to qualify under the state acts, will also have to be cared for from relief.

Professor Paul H. Douglas, in an article appearing in the Economic Journal in March, 1936, admirably points out other weaknesses in the scheme. Says Mr. Douglas in part:

> Another weakness is the great inequality of benefits which must necessarily result from dividing the country into at least forty-eight separate insurance units. Unless the states with relatively high percentages of unemployment, there-

> fore, levy extra taxes or contributions to support their unemployed, the equality of assessment under the offset system will result in great inequalities of benefits as between states. The unemployed in those states where unemployment is heavy will therefore be unjustly penalized for the mere accident of their location. Trouble will also arise from the fact that many workers will be disqualified for benefit because they will not have worked long enough in a particular State but whose employment record in the country as a whole will be adequate.1

Looking at the Social Security Act with an impartial eye, however, it must be conceded that it is a measure of great historic importance since it provides for the first time in our history for nationwide old age pensions and unemployment insurance. Thus it seeks in one great stride to bring us abreast with the social security legislation that a few European countries have tested for a generation or more. The objective at which the Act aims are not cure-alls, but mitigations of some of the chief economic contingencies of life—the fear of want and starvation from the sudden loss of a job, the fear of poverty and homelessness in old age.

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1. Douglas, Paul H., "The United States Social Security Act." Economic Journal, March, 1936, Vol. XLVI, pp. 1-19.

CHAPTER V

RESPONSE OF THE STATES TO FEDERAL ACTION

At the beginning of 1935 only Wisconsin had an unemployment compensation law. Now (July, 1936), however, there are thirteen states and the District of Columbia with such legislation--Alabama, California, District of Columbia, Indiana, Massachusetts, Mississippi, New Hampshire, New York, Oregon, South Carolina, Rhode Island, Utah, Washington, and Wisconsin.

In Alabama, Senate Bill 395 of the Regular Session, 1935[1], was approved and made effective on September 14. It provides a single pool fund to which employers of eight or more persons must contribute .9 per cent of payrolls in 1936, then 1.8 per cent in 1937 and 2.7 per cent in 1938, and so on. Beginning in 1941 employer contributions will be fixed within limits by a system of merit rating, varying from 1⅓ per cent to 4 per cent according to the stability of employment offered by the employer. Employees

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1. Alabama General Laws, No. 447, Regular Session, 1935.

are required to contribute 1 per cent of wages in 1936 and thereafter. Starting in 1938 benefits are payable after a three week waiting period at the rate of 50 per cent of wages but not over $15 weekly for a period of sixteen weeks. Additional weeks of benefit are provided for employees with long records of steady employment. The act is to be administered by an Unemployment Compensation Commission of three members.[1]

The California law[2] is unique. It was approved on June 25, 1935, and was adopted explicitly as a "part of a national plan of unemployment reserves and social security"[3] and is to be effective only so long as all or part of the contributions required by the Act may be credited against a Federal tax. It covers all employers subject to the Federal payroll tax, and provides for a single state pool, but exempts from the pooled fund employers who establish acceptable guaranteed employment or reserve plans for their own employees. Employer contributions

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1. American Labor Legislation Review--Sept. 1935, Vol. 25, No. 3, p. 105.
2. California Statutes of 1935, Chapter 352.
3. American Labor Legislation Review, Vol. 25, No. 2, June, 1935, p. 53.

beginning January 1, 1936, are .9 per cent of payroll. This is increased to 1.8 per cent in 1937 and 2.7 per cent in 1938, 1939, and 1940, and merit rating thereafter. Employees are required to contribute .45 per cent in 1936 and .90 per cent in 1937 and 1 per cent thereafter, but in no case more than one-half of the employer's general rate of contribution. After a waiting period of four weeks (three weeks beginning in 1939), benefits are payable, commencing in 1938, at the rate of 50 per cent of wages but not over $15 nor under $7 weekly, for a possible maximum of twenty weeks within 12 months. The Act is administered by an Unemployment Reserves Commission through a State Department of Employment.

In the District of Columbia a law was enacted by Congress and approved by the President on August 28, 1935[1]. It provides for a single pooled fund. Employers of one or more persons must contribute 1 per cent of payroll in 1936, 2 per cent in 1937 and 3 per cent in 1938 and thereafter with a system of merit rating to begin in 1941. The District will contribute $100,000 in 1936, then $125,00 in 1937 and $175,000 in 1938. Benefits beginning in 1938 and payable after a waiting period of three weeks,

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1. Public Law No. 386, 74th Congress, 1935-36.

amount to 40 per cent of wages plus 10 per cent for a dependent spouse plus 5 per cent for each dependent relative, but not over 65 per cent maximum of wages or $15 weekly for sixteen weeks. Additional weeks of benefit are provided for employees with long employment records. Administration is by an Unemployment Compensation Board including the District Commissioner, one employee representative and one employer representative, through an executive officer appointed by the Board.

The Indiana unemployment compensation law was approved and put in force March 18, 1936.[1] It provides that any employer of one or more individuals shall pay a tax of 1.2 per cent for the nine months beginning April 1, 1936; 1.8 per cent for 1937; and 2.7 per cent for 1938 and the first quarter of the calendar year 1939. Each employee shall contribute to his reserve account an amount equal to 50 per cent of the amount which his employer is required to pay provided that no employee's rate of contribution shall at any time exceed 1 per cent. There is to be no employee contribution during the first year in which the employer is subject to tax.

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1. Indiana Unemployment Compensation Act, Chapter 4, Acts Special Session of 1936.

Unlike the compensation laws of other states Indiana establishes two distinct employer's accounts in the Unemployment Conpensation Fund, a "Reserve Account" and a "Pooled Account." The Reserve Account is a separate account in the Fund maintained with respect to the employees of each employer. The Pooled Account is the account maintained as part of the Fund in which all monies are mingled and undivided and from which benefits are paid to all eligible employees but only after the Reserve Account is exhausted.

It is interesting to note that Indiana and a few other states have set their tax rate at 1.2 per cent for the remaining months of 1936. This is done so that these states will receive credit as of January 1, 1936, instead of the date on which the law became effective.

After 1939 the percentage of the Employer's contribution is to be determined on the basis of the balance in his reserve account on January first of each year. If his reserve account is not normal his rate shall be 2.7 per cent. If his reserve account is normal then his rate shall be 2 per cent, if the balance in his reserve account is 10.3 per cent but less than 13.7 per cent of the total payroll payable by the employer in the immediately preceding calendar year; his contribution is 1 per cent if the balance

is 13,7 per cent but less than 17.1 per cent of the total payroll; and his contribution ceases if his reserve account is 17.1 per cent or more of the total payroll payable by the employer on the immediately preceding calendar year.

Provision is also made for a guaranteed employment account, and for joint accounts by two or more employers.

The Pooled Account is composed of one-sixth of all contributions required under the Act and any balance remaining to the credit of an employer two years after the employer has ceased to be subject to the provisions of this act.

The maximum weekly benefit is $15, the minimum, $5; the waiting period is two weeks.

The Massachusetts Act[1] was approved on August 12, 1935. It created a single pooled fund with separate employer accounts for bookkeeping purposes only. It provides that employers of eight or more persons must contribute 1 per cent of payroll in 1936, 2 per cent in 1937 and 3 per cent in 1938, but not more than the amount of the Federal tax credit. Employees must contribute 1 per cent of wages in 1937 and thereafter one-half as much as the

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1. Massachusetts Laws of 1935, Chapter 479.

employer. A system of merit rating of employer contributions begins in 1941. Benefits starting in 1938 are payable after a waiting period of four successive weeks within 52 weeks at the rate of 50 per cent of wages but not over $15 nor less than $5 weekly for sixteen weeks. Additional benefits are provided for employees with long records of steady employment. Employers with suitable private unemployment benefit plans which were in effect on June 1, 1935, may be exempted from the law. Administration is through an Unemployment Compensation Commission of three members within the Department of Labor and Industries.

In Mississippi[1] House Bill 310 of the Regular Session, 1935, was approved and made effective on March 23, 1936. It provides for a pooled fund with separate employer accounts for bookkeeping purposes only. All employers of eight or more persons are subject to the law and must contribute 1.2 per cent of payroll from April 1, 1936, through December 31, 1936, but must equal .9 per cent for the entire year of 1936; 1.8 per cent for 1937; and 2.7 per cent thereafter.[2] There are no employee contributions and no regulations for merit rating. Benefits are not to begin until April, 1938, when the rate will be 50 per cent of

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1. Mississippi Acts, Regular Session, 1936.
2. Provisions are similar to those of Indiana.

wages with an established maximum of $15 per week. There is no minimum specification. In order to receive benefits a worker must be employed for thirteen weeks within fifty-two. The waiting period is two weeks. The law operates under an Unemployment Compensation Commission.

The New Hampshire law[1] was drafted by a legislative committee appointed in 1934 by Governor John G. Winant and introduced as an administrative measure early in 1935. It was approved on May 29, 1935, and became effective as to contributions by the Governor's proclamation following the passage of the Social Security Act. It covers employers of four or more employees, and provides for a single pooled fund to which employers will contribute at the rate of 1 per cent of payroll in 1936, 2 per cent in 1937 and 3 per cent in 1938, 1939, 1940, with merit rating thereafter, while employees will contribute one-half of 1 per cent of wages in 1936 and 1 per cent thereafter, not to exceed 50 per cent of general employer rate. After a waiting period of three weeks, benefits are payable two years after contributions begin at the rate of 50 per cent of wages but not over $15 nor less than $5 a week for sixteen weeks in a year. Additional weeks of

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1. New Hampshire Laws of 1935, Chapter 99.

benefit are payable to employees with long records of steady employment. The law is administered by the Commissioner of Labor.

Under the leadership and approval of Governor Herbert H. Lehman, the Byrne-Killgrew bill became a law in New York on April 25, 1935.[1] This bill was drafted with the assistance of Prof. Herman A. Gray of New York University representing the American Association for Social Security. The bill provides for the establishment of an exclusive state-wide pool of all unemployment insurance funds, thus obeying the first law of insurance that coverage and risk must be of maximum spread to afford maximum protection.[2] The contribution or tax is placed solely on the employer. All employers who have four or more employees are covered by the law. The amount of the tax in 1936 is 1 per cent of the covered payroll, that is, all wages or remunerations paid to non-manual workers receiving not more than $50 per week or $2500 per year. In 1937, this tax becomes 2 per cent and in 1938 and thereafter 3 per cent of the covered payroll. Employment as a farm

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1. New York Laws, 1935, Chapter 468.

2. Andrews, Elmer F., New York Leads in Unemployment Insurance, Speech before the 8th National Conference on Social Security, New York City, April 27, 1935.

laborer is excluded as is also employment of the employer's spouse or minor child, and service performed in governmental agencies and in non-profit enterprises operated exclusively for religious, charitable, scientific, literary and educational purposes. The tax became payable on January 1, 1936, but according to the law it was not to be paid until March 1, 1936. The Industrial Commissioner who has charge of the administration of the law, however, extended this date to April 1, 1936. Benefits to unemployed workers are not payable before January, 1938. The maximum benefit will be $15 a week, the minimum $5; duration of benefits is equivalent to one week of benefits for each fifteen days of employment within 52 weeks for a maximum of sixteen weeks. The actual amount of benefits is equivalent to 50 per cent of full time weekly earnings. No worker is eligible for benefits who has not had within the previous year ninety days of employment, or within the previous two years, one hundred thirty (130) days of employment. The waiting period is three weeks.

The New York law, as previously stated, is administered by the Industrial Commissioner. There is also an Advisory Council of nine members, representing the employers, workers, and the public. This council is appointed by the

Governor.[1]

The Oregon Act was adopted on November 15, 1935.[2] It provides for a pooled fund, but also includes provisions for separate employer accounts and guaranteed employment plans for merit rating only. Employers of four or more persons must contribute .9 per cent of payroll in 1936, 1.8 per cent in 1937, and 2.7 per cent with merit rating thereafter. There are no forced worker contributions. Benefits begin in 1938 and amount to 50 per cent of wages, but not more than $15 nor less than $7 weekly. Benefits are payable after a three weeks' waiting period, for a period not exceeding fifteen weeks in any year. Administration is by an Unemployment Compensation Commission composed of the members of the State Industrial Accident Commission.

On June 6, 1936, the law of South Carolina[3] was

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1. Bowers, Glenn A., "Setting up State Administration for Unemployment Insurance", Journal of American Statistical Association, Vol. 31, No. 193, March, 1936, p.138.

2. Oregon Laws of Special Session 1935, Chapter 70.

3. South Carolina Laws of 1936, Chapter 768.

approved. It provides for a pooled fund with separate employer reserve accounts for merit rating only. Employers contribute 1.8 per cent from July 1, 1936, through December 31, 1936; 1.8 per cent in 1937 and 2.7 per cent in 1938. There are no employee contributions. After July 1, 1941, the Unemployment Compensation Commission is to determine employers' merit rating based on the contribution and benefit experience of each for the preceding thirty-six months. The minimum rate is to be .9 per cent and the maximum 5.6 per cent. Benefits are to begin July 1, 1938, and will amount to 50 per cent of the workers' wages with a maximum of $15 per week and a minimum of $5 or three-fourths of weekly wages. The waiting period is two weeks and the maximum duration of benefits is twelve weeks within any fifty-two weeks. The law is administered by the South Carolina Unemployment Compensation Commission.

The Rhode Island law[1] was approved on May 5, 1936. It provides for a pooled fund with separate employer accounts for bookkeeping purposes only and applies to all employers of four or more persons. Employers must con-

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1. Rhode Island Laws, Regular Session, 1936, Chapter 2333.

tribute .9 per cent in 1936 which shall not be less than 90 per cent of the Federal tax; 1.8 per cent in 1937 and 2.7 per cent thereafter. Employees contribute 1 per cent after January 4, 1937. Benefits are to begin January 1, 1938, and will amount to 50 per cent of the wages of the worker with a maximum of $15 per week and a minimum of $7.50 per week. Benefits will be paid after a waiting period of three weeks and may continue for a maximum of twenty weeks within fifty-two weeks. The law is administered by an Unemployment Compensation Board in the State Department of Labor.

In Utah the law is based upon the draft of a bill prepared by the American Association for Labor Legislation. This law[1], approved on March 25, 1935, became effective by proclamation of the Governor after the passage of the Social Security Act. It covers employers of four or more employees and provides for separate employer reserve accounts in a State fund, but with limited compulsory pooling by industry or locality. Only employers will contribute beginning at the rate of 3 per cent of payroll but with reductions for employers who are able by providing steady employment to build up specified reserves. Two years after the contributions begin benefits

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1. Utah Laws , 1935, Chapter 38.

are to become payable, following a two weeks' waiting period, at the rate of 50 per cent of wages, but not over $18 nor less than $6 weekly and for not more than sixteen weeks. The Act will be administered by the State Industrial Commission.

The Washington Unemployment Compensation Act[1] was approved on March 21, 1935. It is based on one of the drafts of a state bill prepared by the President's Committee on Economic Security. It covers employers of four or more persons and creates a single pooled fund. Employer contributions will normally be 3 per cent of payroll but in 1936 and 1937 they will be 1 per cent and 2 per cent depending upon the level of industrial production. Provision is made for merit rating of employer contributions beginning in 1941. Employees will contribute 1 per cent of wages. Benefits are payable two years after contributions begin at the rate of 50 per cent of wages but not more than $15 weekly for a maximum of fifteen weeks. Provision is made for additional weeks of benefit to workers with long records of steady employment. An Unemployment Compensation Commission is created to administer the Act.

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1. The State of Washington Statutes, S. B. 350 Regular Session, 1935.

In Wisconsin, as explained in Chapter IV, the first compulsory unemployment compensation law was passed on January 29, 1932.[1] Upon the recommendation of Governor Albert G. Schmedeman, however, the legislature of 1933 voted to postpone the Unemployment Compensation Act of 1932 until July 1, 1934, when it was hoped that business recovery would be well under way. The same legislature amended several provisions of the bill. The clause relating to the benefit liability of an employer's account was changed so that an employer's account is now liable to pay benefits to an employee in the ratio of one week of total unemployment benefit to each four weeks of employment of such employee by such employer.[2] It is, moreover, provided that no employer's account shall at any time be liable to pay benefits beyond the current resources his account has, or would have if all contributions due had been paid. The law also provides that the liability of any employer's account to pay benefits for weeks of partial or total unemployment occuring within or mainly within any calendar month, may be reduced,

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1. Wisconsin Laws of Special Session, 1931-32, Chapter 20.
2. Wisconsin Laws of 1933, Chapter 186, Section 108.06.

depending on the adequacy of such account at the beginning of such month. Such adequacy shall be determined at the beginning of each month on the basis of the net "reserve per employe"* which the employer's account then has or would have if all contributions due for payment had been paid.[1]

The following schedule for determining the "reserve per employe" is observed:

a. When the reserve at the beginning of the month amounts to $50 or more per employee the account shall be liable for and shall pay in full all valid benefit claims for unemployment during the month.

b. When such reserve amounts to over $45 but less than $50 all such valid benefit claims shall be paid except that no eligible claimant shall receive for total unemployment a benefit of more than $9 per week.

c. When such reserve amounts to over $40 but less than $45 no claimant shall receive a benefit of more than $8 per week.

d. For each further periodic drop of $5 in the

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* Form used in Wisconsin Law.

1. Wisconsin Laws of 1933, Chapter 186, Section 108.06.

reserve per employee there shall be a corresponding further drop of $1 in the maximum benefit per week payable to any claimant for total unemployment.[1]

Under the amended law a worker is disqualified if he has received in wages $1500 or more during the twelve-month period preceding the date on which he became totally unemployed. He is disqualified for total unemployment benefits, moreover, if during the previous year he attended school, college or university and had been employed only during the customary summer vacation.

The bill previously provided that each employer reserve was to be kept separately and could be used to pay benefits only to his own employees. This was amended in 1933 as follows: Whenever two or more employers in the same industry or locality desire to pool their several accounts with the "Unemployment Reserve Fund" with a view of regularizing their employment by co-operative activity, they may file with the commission a written application to merge their several accounts in a new joint account with the fund. If, in its judgment the plan has merit, the commission shall establish such a joint account.[2]

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1. Wisconsin Laws of 1933, Chapter 186, Section 108.06.
2. Ibid. Section 108.06.

Federal legislation (The Social Security Act) requires state laws to provide a two year accumulation of reserves before benefits are paid; under the Wisconsin law benefits were to have commenced only one year after contributions began.

In order to provide opportunity for possible amendment to bring the act into full conformity with the national program, the Wisconsin legislature voted (Laws of 1935, Chapter 192 approved June 25, 1935), to delay payments until January 1, 1936. Employer contributions meanwhile were to continue without interruption. Several other amendments were made at this session. These include: (1) an increase of the maximum weekly benefit from $10 to $15; (2) removal of the ten weeks' limitation on benefit payments and substitution of benefit periods determined by length of employment in the preceding year; (3) provisions that contributions above the standard rate must be made by employers having high rates of unemployment, thus giving greater assurance of full benefit payments. It will readily be seen that this amendment besides increasing the security of benefits, represents an added emphasis upon the incentive to stabilization which is one of the chief objectives of the Wisconsin system.[1]

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1. American Labor Legislation Review, Vol. 25, No. 2, Publication 108, June 1935, p. 56.

North Carolina voiced her approval of compulsory unemployment compensation by an Act[1] one paragraph in length passed on May 11, 1935. It provided that in the event of the enactment by Congress of "Unemployment Insurance laws" the governor and council are authorized to create or designate a state agency to administer an unemployment compensation fund, such agency to have power to receive contributions from the Federal government, employers or from other sources and to provide rules regulating administration benefits, coverage and eligibility. When presented to the Social Security Board, however, this law was rejected.

While the Social Security Act sets the tax of 1 per cent, 2 per cent and 3 per cent on employers' payrolls, many of the states in interest of their employers have set their tax rate at .9 per cent, 1.8 per cent and 2.7 per cent. These last named per cents are 90 per cent of 1, 2 and 3 per cent, respectively, the amount of Federal credit each employer is entitled to if his state has an approved unemployment insurance law. That is, if the employer's total taxable payroll for the calendar year 1936 is $100,000, and if the contribution to the

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1. North Carolina H. B. 1507, Regular Session 1935.

State unemployment compensation fund is .9 per cent of that payroll, he will pay $900 to the State unemployment compensation fund and $100 to the Federal Government.

CHAPTER VI

PROBLEMS TO BE MET

Without a doubt four great questions are certain to arise as a result of the social legislation passed in this country; (1) the propriety of Federal purchase of State compliance with Federal policies and standards as is provided in the Social Security Act, (2) the proper method of financing the program, (3) the struggle for the state-wide pool plan as against the employer reserve plan, and (4) the question of the constitutionality of such legislation, both State and Federal.

In the last decade the policy of Federal aid has gathered great momentum. The state legislatures have had to face a demand for a constantly higher standard of governmental service, for better schools, better roads, better protection, etc. At the same time they have been met with an equally insistent demand for no further increase in the burden of taxation. The problem of getting more money without raising taxes has become acute. State legislatures have sought diligently for new sources of revenue and one of the best sources they have discovered

has been the Federal treasury. The Federal government has not been unwilling to aid the states financially but such aid is given only on its own terms. Since the States have usually accepted these terms without any serious objections, the Federal government has found this system of grants-in-aid a weapon with which it can establish national policies and national standards in fields of activity over which the constitution has denied it any measure of control.[1]

This system of Federal aid, moreover, is constantly growing in importance. The sums of money offered to the states are growing larger year by year, and the system of matching dollar for dollar in awarding the grants is used.

This subsidy system performs an especially useful function in the American plan of government for it reconciles the liberty of local autonomy with the efficiency of centralized administration.[2] It harmonizes the conflicting interests of nationalism and states' rights. When we consider the administration of public services it can readily be seen that it is not easy to determine

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1. MacDonald, Austin F., Federal Subsidies to the States, 1923, p. 15.

2. Ibid. p. 15

the proper unit for this function. Purely local control of national affairs is sure to result in confusion since it is entirely possible that under such a plan there would result as many different types of legislation as there are localities. On the other hand too highly centralized control may destroy local initiative and local responsibility.

The people of America have always clung tenaciously to the principal of autonomy of the individual states. This does not necessarily mean states' rights at the expense of the national government but rather that the states should take care of their own social and economic problems. But the time has now come that the states are unable to cope with these vast problems, requiring more and more money without outside aid and the only solution that they find is to transfer an increasing amount of their power to the Federal government in return for which they will receive financial aid. Before 1875, the states were left free to do as they pleased with the funds received from the national treasury. Since that time, however, the Federal government has supervised the expenditure of these funds. By vesting Federal authorities with the right to withhold allotments until Federal requirements are met, the central government is able to establish

and maintain definite standards of efficiency. No attempts are made, however, to compel states to adopt uniform plans. Each is allowed to solve its own problems in its own way with due regard to local conditions and local needs. At the same time each is given the opportunity of benefiting by the experience of sister states.

The first subsidy granted by Congress was not in money but in land in 1785, while the government was still under the Articles of Confederation. This grant related to land set aside for educational purposes in the Northwest Territory. The precedent for granting land to the states for educational purposes was definitely established in 1802 when land was set aside in the State of Ohio for public education. Since then it has become the policy of the Federal government to grant land to newly admitted states for the purpose of establishing a university or other educational institutions. In 1837 Congress began granting money to states. In return for these vast grants of money and land the Federal government received practically nothing--not even the satisfaction of knowing that the funds were wisely expended. In 1875, in order to provide safeguards against the misuse of funds, appropriated by Congress, the Federal government began to make specific regulations as to how the money granted in aid

to the states was to be used. Today we find that money is granted for various purposes--for education, for highway construction, for forest fire prevention, for the prevention of certain diseases, and for the promotion of welfare and hygiene of maternity and infancy.

There are many objections to the Federal subsidy system. In the first place, it is alleged that the Federal government by means of grants-in-aid will so extend its power that ultimately the states and the people will be shorn of their power. All the old arguments for states rights have come to life again.

The constitutional right of the Federal government to grant subsidies to the states has, moreover, been questioned. It is argued that in the case of the Sheppard-Towner Act for the promotion of the welfare and hygiene of maternity and infancy, the national government dealt with matters reserved exclusively to the states and that in so doing it over-stepped its constitutional bounds.[1] It has never been proved, however, that the Federal government in any of its subsidy laws has attempted to coerce the states. It has left the states entirely free to accept the subsidy or to reject it. By accepting,

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1. Philadelphia Public Ledger, May 5, 1922.

however, they are rewarded for meeting Federal standards.

The granting of Federal subsidies is closely tied to our present social legislation. Under our particular form of government a reasonably adequate and nation-wide coverage of unemployment insurance cannot be obtained without action by the Federal government. An individual state refrains from imposing burdens on its employers in excess of the burdens placed upon employers of other states for fear that the unequal costs will render it difficult or impossible for its employers to compete on a nation-wide market.[1]

The necessity for Federal action does not, however, mean that a system of unemployment insurance must be established, wholly financed, and administered by the Federal government. In view of the fact that there are wide variations in conditions throughout the country, it seems preferable that there be a system in which the Federal government simply furnished the necessary stimulus and protection to the states, but allows them to enact the type of legislation that seems best adapted to their particular needs. This indeed is the purpose of

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1. Altmeyer, Arthur J., Toward Economic Security, Review of President Roosevelt's Economic Security Program, published by President's Committee on Economic Security, Washington, 1935.

the Social Security Act which lays down only four basic conditions that a state unemployment compensation law must incorporate:

1. Payment of all compensation must be made through public employment offices so that applicants may be advised of available jobs, and their willingness to work tested.

2. Benefits may not be denied by any State to otherwise eligible employees for refusal to accept jobs under any of the following conditions:

a. If the position offered is vacant due directly to a strike, a lockout or other labor dispute.

b. If the wages, hours, or other conditions of the work offered are substantially less favorable to the employee than those prevailing for similar work in the locality.

c. If the acceptance of a job would either require the employee to join a company union or would interfere with his joining or retaining membership in any bona-fide labor organization.

3. All moneys collected must be deposited with the Secretary of the Treasury of the United States for safe keeping and investment.

4. All moneys requisitioned from the Secretary of the Treasury must be used only for the payment of unemployment

compensation.

A state may obtain a grant-in-aid from the Federal government covering all expenses of administration of its unemployment compensation Act provided that its administration conforms to the following standards:

1. Persons employed in the administration of the Act are appointed on a merit basis.

2. Administrative regulations and practices are reasonably calculated to insure full payment of unemployment compensation when due.

3. Unemployment compensation is paid as a matter of right, and all persons whose claims are denied are given opportunity for a fair hearing before an impartial tribunal.

The first state to receive a "Security" grant was New York. On March 10, 1936, the United States granted to New York the sum of $181,949.41 for administration of the state's Unemployment Insurance law. The check was to cover the government's share of the cost from February 12, 1936, until March 31, 1936.

It is interesting here to note the sums of money granted by the Federal government to the various states for the two fiscal quarters of 1936:[1]

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1. Figures obtained by personal interview at Social Security Board in Washington, D. C. These are the latest available figures.

State	Certification for 3rd Fiscal Quarter 1936	
	Date	Amount
Alabama	March 21	$ 7,814.10
California	March 12	39,943.74
District of Columbia	March 12	12,239.25
Massachusetts	March 21	33,348.27
New Hampshire	March 5	44,188.32
New York	March 10	181,949.41
Wisconsin	March 12	17,769.91
Oregon	April 8	13,260.84
Indiana	June 5	836.03
Total		$351,349.87

State	Certification for 4th Fiscal Quarter 1936	
	Date	Amount
Alabama	April 14	$ 23,022.75
California	April 14	82,355.40
District of Columbia	April 28	30,273.42
Massachusetts	June 2	62,680.01
New Hampshire	May 5	34,150.95
New York	May 9	184,734.67
Wisconsin	May 4	79,369.85
Oregon	June 5	26,384.43
Indiana	June 5	47,605.69
Total		$ 570,576.57

In comparison with the grants it may be interesting to note the coverage of the acts of the states.[1]

State	No. of Employers	No. of Employees
Alabama	3,400	256,000
California	20,205	1,587,400
District of Columbia	15,000	75,000
Massachusetts	15,000	936,563
New Hampshire	2,296	106,964
New York	137,502	3,000,000
Wisconsin	4,287	400,000
Oregon	15,000	200,000
Indiana	10,000	750,000
Total	222,688	7,311,927

1. Op. Cit.

The Social Security Act is the first large scale attempt to raise funds for providing for economic security in an orderly and controllable manner. The problem of financing such a comprehensive program, however, is enormous and presents many difficulties. Foremost among the questions raised by this problem is just what part shall be played in the total financial system by payroll and wage taxes as compared with other methods of raising money.

It is strange but true that after having for many years more or less derided European social insurance schemes we have suddenly committed ourselves to a security program in which the major emphasis is officially on contributions from employers and workers. From the narrowly fiscal point of view such taxes represent to us a new source of income not heretofore tapped, and one which in view of the confused thinking and uncertainty concerning the incidence of the employers' contribution may receive popular approval and can therefore be defended on the grounds of ease of collection.[1] Taxes on the payroll of employers, however, can have bad economic consequences.

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1. Burns, E. M. "The Financial Aspects of the Social Security Act," American Economic Review, Vol. XXXI, No. 1, March, 1936, p. 19.

Unfortunately they can be evaded by reductions in the payroll. Thus these taxes may encourage the working of overtime, the discharge of marginal workers, and the replacement of labor by machines.

The special economic justification for utilizing this type of tax rather than any other presumably lies in the possibility of encouraging employers to stabilize employment by the use of differential rates of taxation or merit-rating, but on the other hand, if the objective of the tax is designed to stimulate employers to certain action in increasing employment it would seem more logical to base the tax on some other element of cost rather than on the size of the wage bill.[1]

The burden of unemployment relief varies greatly from year to year and its total is extremely difficult to forecast. The fact that it is heavier in some years than in others suggests the undesirability of financing unemployment benefits year by year on a pay-as-you-go principle. Some provision must be made for the future and the plan adopted is that of accumulating reserves that will be drawn upon in hard times. This provision is shown in the Security Act by the regulation that no

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1. Burns, E. M., Op. Cit. p. 19.

benefits are to be paid during the first two years of existence of any scheme.

Professor Epstein, however, points out[1] that regardless of the merits or demerits of the building of huge reserves in the future practical wisdom dictates the pay-as-you-go plan as the only practicable system open to us at present. We cannot afford to deprive the masses of wage earners of purchasing power today for the sake of storing up reserves for the future. The social insurance scheme must not only avoid too great discrimination in premiums and benefits among the insured, he says, but must guard against the slightest aggravation of the problem it seeks to remedy.

It is no criticism of the American movement for unemployment insurance to admit that the stimulus has largely come from European experience and that naturally all American suggestions have been strongly influenced by the existing European legislation. State-wide pools may readily be found in the experience of all the European countries. It is, therefore, not surprising that in the United States eleven of the state laws already adopted

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1. Epstein, A., Insecurity: A Challenge to America, 3rd Edition 1936, p.760

give preference to the state pool plan while only three adhere to what is known as the Wisconsin principle or employer reserve scheme.

It may be well at this point to investigate the basic features of the two plans. The essential elements of the employer reserve system are three. First, employers alone contribute to the fund--there are no contributions from employees or from the state. Second, the contributions of each employer, though mingled with those of others for safekeeping and investment purposes, are kept distinct like an account in a bank, and can be used only to pay benefits to his own laid-off employees. Third, the rate of contribution of each employer varies directly and automatically with the size of his reserve account. His reserve balance at any time depends, of course, on the amounts which he has paid out in benefits to workers whom he has laid off. If he can succeed in keeping his workers steadily employed there is no drain on his reserve and it accumulates. When his reserve shows an adequate balance (over and above his current benefit costs) he is permitted to decrease or even suspend his contributions. If, on the other hand, unemployment at his plant makes heavy calls on his reserve and reduces it below a given safety point, he will be required to contribute at a higher rate.

In contrast to the employer reserve plan is the state pool plan. The chief features of this plan are: (1) contributions may come from employers, employees and from the state; (2) all contributions are mingled in one fund from which benefits are paid to all laid-off employees regardless of their previous employer; (3) contribution rates of employers may vary according to some kind of merit rating.[1]

The most important advantage claimed for the employers' reserve plan is that such a plan provides a definite incentive to employers to regularize and stabilize employment so that his contributions to the fund will either cease or be reduced. Moreover, by this plan industry itself is made to bear the cost of unemployment. Moreover, by this device no employer carries any of the cost of another employer since his reserves apply only to the employees in his concern.

The pool, however, also has admirable points. We are dealing with the proposal for insurance of a large number of individuals against the possible hazard of unemployment. Obviously in any insurance scheme the larger

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1. Brandeis, Elizabeth, "The Employer Reserve Type of Unemployment Compensation Law", Law and Contemporary Problems, January, 1936, Vol. 3, No. 1, p. 55.

the exposure the nearer may one come to an appraisal of the average risk, if any appraisal be possible.[1] If the work can be done by one fund why have two or more? The object of pooling is to spread the risk. The economy of the state pool plan is self-evident and it is this feature that probably brings about the result that so many of the states have adopted the state pool plan rather than the employer reserve plan.

The state pool plan is closely tied up with the scheme of merit rating. This principle, embodied in the Federal Security Act, has for its object the stabilization of employment and offers distinct advantages to employers who succeed in reducing unemployment in their plants. These advantages are in the form of reduced premium rates.

The constitutionality of compulsory social insurance cannot, of course, be definitely determined until the United States Supreme Court has ruled upon the question. Professor Epstein in his book "Insecurity, a Challenge to America" states that since the sole aim of this legislation is the promotion of the "general welfare" it is unlikely that it will meet with constitutional objections,[2] yet in

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1. Rubinow, I. M., "State Pool Plans and Merit Rating", Law and Contemporary Problems, January, 1936, Vol. 3, No. 1, p. 67.

2. Epstein, A., Insecurity, A Challenge to America, p. 36.

view of the fact that the NRA, the AAA, the Guffy coal control act, and other New Deal legislation has been declared null and void, it is entirely possible that objections will be raised. Any unemployment insurance act, state or national may be attacked by employers as unconstitutional on the ground that it violates the provisions of either the Fifth or the Fourteenth Amendments (depending upon whether it is a Federal or a State act) that property shall not be taken without "due process of law." It will be argued that by assessing employers for unemployment insurance, property is taken from them for losses which they have not caused, and which they are largely powerless to prevent. This objection will be heightened in the cases where central funds are established instead of separate company reserves (as in Wisconsin) for it will then be argued that the contributions of each employer will be merged in a unified fund and used in part to pay benefits to workers employed in other concerns. The contribution of the workers will be attacked on the ground that they too will lose their identity and be used to pay for general unemployment and not merely for the unemployment of the particular contributor. In fact, all these arguments have already been used in the case of the New York law. Shortly after the passage of the New York Unemployment Compensation Act of 1935 a court attack was

launched upon its constitutionality by the Associated Industries of that State. Two separate actions were brought, one by the Associated Industries itself in a court in Albany County and the other by a Syracuse employer in a court in Onondaga County. A principal ground upon which the law was challenged was its statewide pooling of all employer contributions. The charge was made that this feature of the law, by taking the money of one employer who furnished steady employment to pay compensation to employees of other employers who do not, violates the "due process of law" clause of both the Federal and the State constitution.[1] It will be recalled that the pooling of employer contributions in the Railroad Retirement Act of 1934 was held invalid by the Supreme Court in Railroad Retirement Board v. Alton Railroad Company (55 Sup. Ct. 758) decided in May, 1935. The New York employers also cited as a basis for their attack on the law the case of Ives v. South Buffalo Railroad Company (201 N. Y. 271) decided in 1911, when the original Workmen's Compensation Law in that state was held invalid. It must be remembered, however, that a few years later (1917) the United States Supreme Court in New York

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1. Important Labor Law Decisions Pending in New York Courts, Unsigned article in American Labor Legislation Review, March, 1936, Vol. XXVI, No. 1, p. 29.

Central Railroad Company v. White[1] upheld the principle of compulsory compensation.

On April 15, 1936, the New York State Court of Appeals held the unemployment insurance law of the state[2] to be constitutional. The decision of the United States Supreme Court in the Railroad Retirement case was pressed upon the Court by the plaintiffs as a controlling precedent. The Court of Appeals here, however, rejected the argument since the statutes, facts, purposes, and methods were so wholly dissimilar.[3] Chief Judge Crane who wrote the opinion held that the aim of the law was a proper one in aid of the public welfare and he sustained the statute as a valid exercise of the sovereign "police power" of the state. An appeal from his decision, however, will undoubtedly be presented to the Supreme Court of the United States.

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1. 243 U. S. 188 (1917).

2. New York State Unemployment Insurance Law, Chapter 468, Laws of 1935.

3. American Labor Legislation Review, Vol. 26, No. 2, June, 1936, p. 81.

It is impossible to foretell just what fate awaits the Federal law. The "due process of law" objections seem to have been rejected by the decision of the Supreme Court in the case of the Oklahoma Guarantee of bank deposits.[1] Justice Holmes in handing down the opinion of the court ruled:

> It may be said in a general way that the police power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare. Among matters of that sort probably few would doubt that both public usage and preponderant opinion give their sanction to enforcing the primary conditions of successful commerce. One of these conditions at the present time is the possibility of payment by checks drawn against bank deposits to such an extent that checks replace currency in daily business. If then the legislature of the state thinks that the public welfare requires the measure under consideration, analogy and principle are in favor of the power to enact it. Even the primary object of the required assessment is not a private benefit . . . . but it is to make the currency of checks secure and by the same stroke to make safe the almost compulsory resort of depositors to bank as the only available means of keeping money on hand.

It would seem that such an assessment for the guarantee of bank deposits is more open to attack than contributions for unemployment compensation. At least

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1. Noble State Bank v. Haskell, 219 U. S. 104, (1911).

some of the unemployment compensation contributions of a relatively stable firm will go to pay benefits to its own employees, while all of the contributions of banks which remain solvent will go to the depositors of banks which become insolvent. If such a law as that, therefore, could be held constitutional there would seem to be no real ground for denying constitutionality on this score to unemployment compensation.[1] It is very important to note, however, that the majority of the United States Supreme Courts are not at present following Holmes' doctrines, but take exactly the opposite position.

Other opponents of unemployment compensation legislation will urge that contributions should be voluntary and not compulsory, and that when a state or the nation makes it mandatory, such action is a seizure of private property which is unconstitutional. On the other hand, in accordance with the recent action of the New York court many persons still believe that the "due process of law" clause is not a sufficient reason for outlawing legislation which is desirable for the protection of the public health, safety, welfare, and morals. In other

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1. Douglas, Paul H., Standards of Unemployment Insurance, p. 196.

words, a state under its "police power" may impose certain limits upon the so-called rights of property. It must be proved, however, that there is a legitimate connection between the acts of the legislature and its tacit or explicit purpose. In the past, the Supreme Court has generally held that this connection must be demonstrated to the satisfaction of at least a majority of the court, although a majority led by Justice Holmes has maintained that it is not necessary for the court itself to believe that such would be the consequences, but merely to determine whether the legislature at the time of the passage of the law believed that such a condition existed.

This principle was brought out in a leading decision on a compulsory workmen's compensation law of Washington.[1] Justice Pitney declared:

> . . . . We are clearly of the opinion that a state, in the exercise of its power to pass such legislation as reasonable is deemed to be necessary to promote the health, safety, and general welfare of its people, may regulate the carrying on of industrial occupations that frequently and inevitably produce personal injuries and disability, with subsequent loss of earning power, among the men and women employed and occasionally, loss of life of those who have wives and children or other relatives dependent upon them for support, and may require that these human losses shall be charged against

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1. Mountain Timber Company v. Washington, 243 U. S. 219 (1917)

> industry, either directly . . . . or by publicly administering the compensation, and distributing the cost among the industries affected by means of a reasonable system of occupation taxes.

Again in the case of New York Central Railroad Company v. White[1] the court ruled:

> The provision for compulsory compensation in the act under consideration cannot be deemed to be an arbitrary and unreasonable application of the principle so as to amount to a deprivation of the employer's property without due process of law.

As we have seen the Social Security Act levies a Federal tax upon the payrolls of industries with the provision that if a state passes an unemployment compensation law, that is approved by the Federal authorities, the amount which the employers pay into the state fund will be credited as an offset against the Federal tax. The purpose is, of course, to remove any added cost because of state action. It thus provides that if a state passes an unemployment compensation law employers in that state shall pay money into the state fund which will be used for the relief of local unemployment, and thereby presumably lower local taxes. If on the other hand, a state does not pass an unemployment compensation law, it does not thereby obtain an advantage for its employers over the employers of

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1. 243 U. S. 188 (1917).

other states. The employers in the state in question will still have to make their payments, only these payments will go into the Federal fund in Washington and not to the states for the relief of local unemployment. In other words, the purpose of the act is to remove the possibility of one set of states getting an unfair advantage over another set of states and to eliminate competition from the field of social legislation.

Undoubtedly the precedent which the Administration used in adopting this offset plan is the Federal Estates Tax law. By the middle of the twenties most of the states had passed inheritance tax laws. Florida, however, tried to attract the aged and wealthy residents of other states to the sunshine of that common-wealth and to the profits of its merchants, real estate owners, and dealers, by amending its constitution so as to prohibit inheritance taxes. A number of wealthy people took advantage of this and went to Florida. Other states threatened to take the same course. To meet this situation the Federal Government passed an inheritance tax law under which 80 per cent of the Federal levy would be rebated to those states which had similar laws. Since states without such laws received no share at all from the Federal government, Florida found that the estates of its deceased citizens were still being

taxed but that she was not participating in the proceeds. She therefore, attacked the law as unconstitutional on grounds that the government was using its taxing powers to dictate to the sovereign states. The case went to the Supreme Court which declared that the Federal government was within its rights in the exercise of taxing powers and by a unanimous vote declared the law to be constitutional.[1]

It is entirely probable that this offset plan will again be attacked in spite of this decision because of the ruling of the court in the second child labor case[2] which declared the use of the taxing power for exclusively regulatory purposes to be unconstitutional. It is highly probable that the recent Guffey Coal decision will also be cited. In this case the majority opinion written by Mr. Justice Sutherland held that the tax was not a real (or revenue) tax but a penalty, and hence illegal.[3] On the other hand, since one-tenth of the Federal tax will not be offset it can be claimed that the Act is in part a genuine revenue measure for the Federal government, and

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1. Florida v. Mellon, 273 U. S. 12 (1927).
2. Bailey v. Drexel Furniture Co., 259 U. S. 20 (1922).
3. Carter v. Carter Coal Co., et al., 56 Sup. Ct. Rep. p. 855.

that this should be enough to establish its constitutionality.

The feature of the Social Security Act which stands in the greatest danger of being declared unconstitutional is that establishing the national system of old age pensions.[1] Though no such powers are explicitly granted to the Federal government, it will be argued by the Government that the revenue features are a legitimate exercise of the taxing powers of the Federal Government as are the benefit features of the spending powers.[2] It is to be hoped, however, that this legislation will be permitted to stand and form the basis upon which proper amendments can be made.

The extent and complexity of the problem of unemployment in the United States are thus seen to be tremendous, but the methods of handling unemployment have, until recent years, centered largely around the granting of relief to unemployed persons and their families. This method has proved to be inadequate, and in itself has not led to serious efforts to remove the causes of unemployment. Progress in this direction, however, has been certain. Massachusetts made the first gesture in

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1. Douglas, Paul H., The United States Social Security Act, Economic Journal, March, 1936, Vol. XLVI, p. 19.

2. Ibid., p. 19.

1916, but it was left to the state of Wisconsin to open the way to definite legislation when, in 1932, a group of students of the subject of unemployment, led by Professor John R. Commons, came to the conclusion that the employers could prevent unemployment if the cost of supporting their unemployed workers fell upon them. Great research on the subject was made in Ohio where a plan was devised which differed radically from that of Wisconsin. The Ohio Unemployment Commission openly admitted that the aim of their plan was not to prevent unemployment or even to reduce it, but simply to relieve the suffering brought about as a result of this condition. It was not until 1935, however, that the Federal government, after numerous previous attempts toward unemployment insurance legislation, enacted the Social Security Act. This Act is based neither upon the Wisconsin principle nor upon that of Ohio, but is so constructed as to allow the states the privilege of adopting either of these or of devising any other plan which meets the Federal requirements. The Social Security Act itself is based on the principle of Federal-State cooperation. This law can be said to represent an auspicious beginning, but many problems remain to be solved before we can hope for a reasonable degree of economic security for the wage earner. Federal legislation is only a beginning. There must be cooperating state legislation and satisfactory state administration. Moreover, there are

several important questions still unsolved. As stated before, these are; (1) the propriety of Federal aid to the states, (2) the proper method of financing the Federal program, (3) the struggle between the plan of having state-wide pools or employer reserve funds, and (4) the question of constitutionality, both State and Federal, of such legislation. Other problems include interstate transfer cooperation among the states, that is, the problem of dealing with workers moving from one state to another; the development of public employment offices; and the rating of employers or industries according to unemployment risks.

There is strong basis for the prediction that an adverse ruling by the Supreme Court will not put an end for all time to the movement to relieve labor of at least part of the hazards of unemployment. If the system envisaged by the present legislation fails, the store of experience which is being amassed under it will be drawn upon in the future. Social security is more than a statute,--it is a great national necessity; and the Constitution is more than an aggregate of legal commands engrossed on parchment; it is a living instrument of national government. The question is whether a great objective of national policy--the security of a people against the major hazards of modern industrial life--has, by the Constitutional Fathers, been put beyond the reach of government.

By increasing the security of the American people not only as to maintenance during periods of unemployment but also with respect to old age dependency, security for children, aid to the blind, the extension of public health services, and vocational rehabilitation, we shall relieve our people of some of their most pressing problems. An eminent English jurist once said that, "Necessitous people are never free". A great American statesman declared that, "this nation cannot exist half slave and half free". We know that it cannot exist 10 per cent secure and 90 per cent insecure. Social contentment and economic security are required in the interest of stability of American institutions.

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