

[CONFIDENTIAL]

SOCIAL SECURITY ACT

S. HRG. VOL. 4081-03

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 7260

AN ACT TO PROVIDE FOR THE GENERAL WELFARE BY ESTABLISHING A SYSTEM OF FEDERAL OLD-AGE BENEFITS, AND BY ENABLING THE SEVERAL STATES TO MAKE MORE ADEQUATE PROVISION FOR AGED PERSONS, DEPENDENT AND CRIPPLED CHILDREN, MATERNAL AND CHILD WELFARE, PUBLIC HEALTH, AND THE ADMINISTRATION OF THEIR UNEMPLOYMENT COMPENSATION LAWS; TO ESTABLISH A SOCIAL SECURITY BOARD; TO RAISE REVENUE, AND FOR OTHER PURPOSES

MAY 7, 8, 9, 13, 14, 15, 16 and 17, 1935

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[CONFIDENTIAL]

SOCIAL SECURITY ACT

TUESDAY, MAY 7, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met pursuant to call, at 10 a. m., in the Finance Committee room, Senate Office Building, Senator Pat Harrison (chairman) presiding.

Present: Senators Harrison (chairman), King, George, Connally, Gore, Costigan, Bailey, Byrd, Lonergan, Black, Gerry, Couzens, Keyes, La Follette, Hastings, and Capper.

Also present: Mr. Middleton Beaman, Legislative Counsel, House of Representatives; Mr. L. H. Parker, chief of staff, Joint Committee on Internal Revenue Taxation; Mr. Thomas H. Eliot, assistant solicitor, Department of Labor.

The CHAIRMAN. Mr. Reagh, you may proceed and make your statement and analyze for us, please, the Townsend plan.

STATEMENT OF RUSSELL R. REAGH, PRINCIPAL STATISTICIAN IN CHARGE OF ACTUARIAL WORK, TREASURY DEPARTMENT

Mr. REAGH. In terms of national income, the year 1929 was the most prosperous that this country has ever enjoyed. The report on the National Income, 1929-32, prepared by the Department of Commerce in response to a Senate resolution, gave the following estimates of the total national income produced, including business savings that were not paid out:

	<i>Billions</i>
1929.....	\$83. 0
1930.....	70. 3
1931.....	54. 6
1932.....	39. 4

It has been estimated by various students that the national income in 1934 recovered to a little more than one-half of its 1929 peak.

Without any intention to imply that the peak 1929 national income can justifiably be used as a reasonable measure of the probable national income during any of the next few years, I have nevertheless prepared estimates based on the 1929 figures in order that the costs of the Townsend plan may be considered in the most favorable light. In fact, I have gone further. In the estimates of the costs of the Townsend plan, stated as percentages of the national income, that I shall present here, I have assumed that the total national income will actually increase from year to year beyond the 1929 level, for I

have assumed that we shall be able immediately not only to regain the total national income of 1929, but to maintain the peak per capita income of that year. Since our population is still increasing, my assumption in these estimates that the per capita income of 1929 will be maintained means that I am assuming a fairly substantial year to year increase over our peak total 1929 national income.

I should like to repeat that in making these very liberal assumptions as respects national income, I am by no means predicting. I make these assumptions, as I have said, only in order that the costs of the Townsend plan may be measured in the most favorable light.

If, then, we assume that the per capita national income in 1936 will equal the peak per capita income that we enjoyed in 1929—\$681—we assume a total national income in 1936 of \$87.6 billions, or approximately \$4.6 billions more than we produced in the year 1929. To pay the costs of the Townsend plan would require 26 percent of this total assumed 1936 national income. This will be true despite the fact that less than 8½ percent of our population will then consist of persons aged 60 or more. Using the estimate of the trends in the age composition of our population, as employed by the committee on economic security, 16 percent of our population will be eligible for pension payments by 1980. If our national income by 1980 has risen to 102.2 billions, and therefore maintains the peak per capita income of 1929, we would nevertheless require 45 percent of the total national income to pay the pensions in 1980.

If, instead of making liberal assumptions of the national income based upon the year 1929, we were to use the 1934 estimated national income as a basis, the payment of the Townsend plan pensions could be expected to consume approximately 50 percent of the national income in 1936; and this proportion would thereafter rise from year to year, by reason of the increasing proportion of the aged in our population, and by 1980 the Townsend pensions would absorb about 88 percent of the total national income.

My basic statistics, in respect to population, are those used by the economic security committee in making estimates for the social security bill. Table I shows the population estimated from 1930 to 1980, and thereafter. This table was used by the technical staff of the President's committee on economic security and I believe was prepared by Thompson & Welpton, who made a very complete study of population trend. Then I have a column on the same table showing the number aged 60 and over, beginning with 1930 and going on to 1980 and thereafter. I also show the number at age 65 and over for those same years, and the number at age 70 and over.

Table II shows the estimated pension disbursements assuming 80 percent of those above retirement age would be eligible. The 80-percent figure was used by Mr. Townsend's own actuary. In my opinion this percentage is too low. However, I have tried to base all of my estimates upon assumptions as favorable as possible from the standpoint of advocates of the Townsend plan. Then I have estimated the total disbursements in terms of billions of dollars that would be spent annually to provide \$200 a month, assuming that the retirement age was 60. There is another column for 65 and a third column for 70. The pension disbursements in 1936 would be about 23.2 billions of dollars. In 1940 it would be 25.4 billions and by

1980 and each year thereafter it would be more than 46 billions of dollars annually.

The CHAIRMAN. That is what it would cost on the Townsend plan?

Mr. REAGH. That is right. The Townsend plan provided for a retirement age of 60. However, I have made estimates on the assumption that this age might be changed to 65 or 70. The disbursements with the retirement age at 65, would run from 1936 to 1980, respectively, 14.6 billions to 32.6 billions.

The CHAIRMAN. But the first figure you gave was on 60?

Mr. REAGH. Based on the age of 60, which is the Townsend plan.

The CHAIRMAN. Yes.

Mr. REAGH. I have also shown figures for retirement age of 70, which runs from 8.8 billions to 19.8 billions per year in 1980.

The CHAIRMAN. We will have those tables follow your testimony. They will be put in as a whole in the record following your testimony. You may go ahead and discuss them.

Mr. REAGH. Yes. I have a third table which is estimated volume of taxable transactions required to provide for pensions of \$200 per month, assuming a tax rate of 2 percent. Again I have shown it for retirement ages 60, 65 and 70.

The CHAIRMAN. Give it to us on the retirement age of 60.

Mr. REAGH. On age 60, in 1936 it would require taxable transactions of one trillion, one hundred and sixty billion dollars, and in 1980 going up to two trillion, three hundred and five billion. Those are the taxable transactions required to provide for pensions of \$200 per month. I have made no estimates of the taxable transactions which would actually be realized.

The CHAIRMAN. Have you an estimate there of how much we could raise in the United States on the 2-percent basis turn-over tax?

Mr. REAGH. I could get no reliable basis for making estimates of future taxable transactions. The figures that have been given in the hearings I believe were obtained by Dr. Townsend's actuary from Mr. Goldenweiser.

Senator CONNALLY. You got these big figures from Mr. Goldenweiser?

Mr. REAGH. These figures which I have just given you are the taxable transactions which would be required to provide the pensions. I do not know what the volume of taxable transactions would be.

The CHAIRMAN. You haven't any idea then what the transactions are now in the United States and what they have been over a period of years?

Mr. REAGH. I have such figures with me, except those which have already been presented to the committee. I may have those.

Senator COUZENS. Who presented them to the committee? Was it Dr. Townsend?

Mr. REAGH. Dr. Townsend's actuary gave such figures to the House Ways and Means Committee.

The CHAIRMAN. Have you got the figures that have heretofore been put in the record on the transactions in France and Germany, and one other country, as to the sums that could be raised on a 2 percent turn-over tax? I think it was in Germany less than 32 million dollars a year.

Mr. REAGH. I do not have those figures with me.

Senator COUZENS. When you put those figures in, did you consider the turn-over on pay rolls?

Mr. REAGH. The figures which I just gave you are of the transactions year by year required under a 2-percent tax to pay the pensions. Now whether or not we would obtain that volume of transactions I do not know, but these are the figures required.

The CHAIRMAN. Well, I do not think it is very informative unless we get some idea as to the amount of transactions and turn-overs there are in the United States.

Senator COUZENS. Have you any definition of what is meant by a turn-over tax?

Mr. REAGH. The estimates which I have prepared are in terms of national income. I have avoided estimates of the transactions tax because I found I could not get reliable figures and because I believe that the cost of the Townsend plan is best measured as a percentage of national income regardless of the method used to raise the necessary funds. If the committee wishes to get those figures to supplement the figures which I have given, there are persons in the Government service who are better qualified than I to give those figures. It gets into a field of economics that is not my particular line.

Senator COUZENS. What is your interpretation of the turn-over tax? There seems to be some difference of opinion as to what is comprehended in a turn-over tax.

Mr. REAGH. I haven't given that careful consideration.

Senator COUZENS. You would not know how to define that kind of a tax?

Mr. REAGH. I would not attempt to define it; no, sir.

Senator HASTINGS. That book which has just been handed to you, would that give you some reference to what some witness has testified to?

Mr. REAGH. Yes; there is a table here showing the annual volume of transactions in 1934, a total of \$481,000,000,000. In 1936, it is estimated at \$935,000,000,000. This is a statistical statement submitted by Dr. Doane.

The CHAIRMAN. Well, 2 percent on those figures would amount to what?

Mr. REAGH. For 1936 I estimated the required transactions to be 1 trillion, 160 billion, whereas the figure here for 1936, is 935 billion dollars.

Senator HASTINGS. And 2 percent on 935 billion dollars is how much?

Mr. REAGH. That would be about 20 billion dollars.

Senator COUZENS. What publication is that that you have been reading from?

Mr. REAGH. Hearing before the Committee on Finance, United States Senate.

The CHAIRMAN. Germany has about 60 million people, has it not? I may be wrong in my estimate of the number of people, but it is just about half the population of the United States.

Mr. REAGH. Yes, sir.

The CHAIRMAN. They could not, on a 2-percent turn-over, raise as much as 300 million dollars. I cannot understand how you can possibly raise the figures that you have there in the United States.

Senator COUZENS. There is a different definition of a turn-over.

Mr. REAGH. I could not say for certain but the figures may include loans made by banks, on which obviously it would be impossible to impose a 2-percent tax.

The CHAIRMAN. That is included in that.

Mr. REAGH. I presume it is included, I do not know.

Senator HASTINGS. Every transaction is included.

The CHAIRMAN. Is there anything else now Mr. Reagh?

Mr. REAGH. The last table I gave you indicated the required volume of taxable transactions to support the Townsend plan. On the fourth table, I show the percentage of national income which would be required to support the Townsend plan, assuming the per capita income of the year 1929, increased year by year in proportion to the actual population. I have used national income figures of 87.6 billion in 1936, increased in 1980 to 102.2 billions of dollars. I have let my national income figures go up in proportion to the population, and used in my first figure the 1929 level, which was practically double the level for 1934.

Senator COUZENS. To get at the turn-over tax which was referred to by the Chairman, do you not have to analyze the set-up of all of these corporations and these different businesses to determine, in each case, how many times a product might turn over?

Mr. REAGH. That is true if I expressed my figures in terms of taxable transactions, however, I have expressed my figures in this table in terms of the percentage of the total national income, because the national income figures are much easier to get accurately than taxable transactions, therefore I have expressed my figures in terms of national income.

Senator BYRD. What is the total national income?

Mr. REAGH. The total national income which I used for the first year, 1936, was 87.6 billions of dollars. That figure was the 1929 level, however.

Senator BYRD. What is the national income now?

Mr. REAGH. Well, the national income last year, I believe, was about half of that.

Senator BYRD. Why do you think it is going to double in 1936?

Mr. REAGH. I have deliberately chosen a basis as favorable as possible from the standpoint of the advocates of the Townsend plan. The Townsend plan would require an impossibly excessive proportion of our national income even if we could again reach and maintain the per capita income of 1929.

Senator BYRD. You have used figures that cannot possibly be correct.

Mr. REAGH. The 1929 level might presumably be reached again.

Senator BYRD. It isn't going to be reached in 1936; is it?

Mr. REAGH. It is not likely to be reached in 1936.

Senator BYRD. You certainly are not going to double the national income in 1 year, because the national income now, as I understand, is about 45 billions.

Senator COUZENS. You did not assume it was going to be doubled in 1 year; did you?

Mr. REAGH. No; I did not assume it was going to be doubled. I did not assume these figures as being the actual national income; I have used them merely as a base which could not possibly be considered as unfair by advocates of the Townsend plan.

Senator HASTINGS. And assuming, for the purpose of these figures, that there would be a gradual increase?

Mr. REAGH. That is right.

Senator BYRD. I do not think we should assume something that could not possibly be secured.

Mr. REAGH. It would make my figures in terms of percentages very low. In other words, I was on the conservative side, very decidedly on the conservative side.

Senator GORE. Could you break it down into what the figures actually might be?

Mr. REAGH. If I start with the actual national income during the last year, these percentages I have here would be approximately doubled. For example, it would take about 50 percent of the total national income in 1936 to provide pensions of \$200 a month beginning at age 60.

Senator BYRD. What I want to make clear in my mind is, are you going to give out an official statement that in the year 1936, the income is going to be 86 billion dollars?

Mr. REAGH. No, sir. What I want to say is, if, in some magical way, you can bring the income to 86 billion dollars, the equivalent of the per capita income of 1929, even then it would require 26 percent of the total national income to provide \$200 a month pensions beginning at age 60.

Senator BYRD. You are going to make it clear that you do not expect that to happen?

Mr. REAGH. Yes, sir.

Senator LA FOLLETTE. He is assuming, for the purpose of argument as I understand it, that if we had the 1929 income back, that these are the percentages.

Senator BYRD. I say that could be made very clear.

Mr. REAGH. I would like to give you the figures for the last year. Those percentages increase gradually until about 1979 or 1980, when it would require about 45 percent of the total national income to provide for the pensions under the Townsend plan.

Senator COUZENS. May I also ask if a turn-over tax would not tend to the great concentration of business in big corporations?

Mr. REAGH. I do not feel qualified to answer that question.

Senator COUZENS. It seems to me whether you are an economist or not, that that is quite apparent.

Mr. REAGH. I am perfectly willing to state my own opinion.

Senator CONNALLY. I do not think he ought to be pressed on that. He is an expert in certain lines.

Mr. REAGH. I am an actuary.

Senator GORE. Are you against the Townsend plan as an actuary or as an economist, either one?

Mr. REAGH. I am neither for nor against the plan. I should say the Townsend plan is impossible. I think it would be very fine if it were sound.

Senator GORE. Do you think the fact it is impossible ought to make Congress hesitate about passing it?

Mr. REAGH. I certainly do.

The CHAIRMAN. All right, Mr. Reagh. Thank you very much.

(The tables referred to by Mr. Reagh are as follows:)

TABLE I.—Population statistics

Year	Total United States population ¹	Number age 60 and over ²	Number age 65 and over ³	Number age 70 and over ³
	Millions	Millions	Millions	Millions
1930.....	122.8	10.4	6.6	3.9
1936.....	128.6	12.1	7.6	4.6
1937.....	129.5	12.4	7.8	4.7
1938.....	130.5	12.7	8.0	4.8
1939.....	131.4	13.0	8.2	5.0
1940.....	132.3	13.2	8.4	5.1
1945.....	136.8	14.7	9.5	5.8
1950.....	140.7	16.2	10.9	6.5
1955.....	143.8	17.7	12.4	7.2
1960.....	146.6	19.1	13.5	7.8
1965.....	148.4	20.5	14.4	8.5
1970.....	149.7	21.7	15.0	9.1
1975.....	150.0	23.0	15.9	9.7
1980 and thereafter.....	150.0	24.0	17.0	10.3

¹ Estimated by committee on economic security.

² 1930 Census.

³ Based on life tables prepared by the Bureau of the Census. The percentage of persons above age 60 is increasing because the rate of increase in the population is decreasing.

TABLE II.—Estimated pension disbursements of \$200 per month, assuming 80 percent of those above retirement age would be eligible

Year	Age of eligibility			Year	Age of eligibility		
	60	65	70		60	65	70
	Billions	Billions	Billions		Billions	Billions	Billions
1936.....	23.2	14.6	8.8	1955.....	34.1	23.8	13.8
1937.....	23.8	15.0	9.0	1960.....	36.7	25.9	15.0
1938.....	24.4	15.4	9.2	1965.....	39.4	27.6	16.3
1939.....	25.0	15.7	9.6	1970.....	41.8	28.8	17.5
1940.....	25.4	16.1	9.8	1975.....	44.2	30.5	18.6
1945.....	28.3	18.2	11.1	1980 and thereafter.....	46.1	32.6	19.8
1950.....	31.2	20.9	12.5				

TABLE III.—Estimated volume of taxable transactions required to provide for pensions of \$200 per month¹

[Tax rate 2 percent]

Year	Age of eligibility			Year	Age of eligibility		
	60	65	70		60	65	70
	Billions	Billions	Billions		Billions	Billions	Billions
1936.....	1,160	730	440	1955.....	1,705	1,190	690
1937.....	1,190	750	450	1960.....	1,835	1,295	750
1938.....	1,220	770	460	1965.....	1,970	1,380	815
1939.....	1,250	785	480	1970.....	2,090	1,440	875
1940.....	1,270	805	490	1975.....	2,210	1,525	930
1945.....	1,415	910	555	1980 and thereafter.....	2,305	1,630	990
1950.....	1,560	1,045	625				

¹ Assuming that 80 percent of all persons above age of eligibility would receive pensions.

TABLE IV.—Estimated percent of total national income ¹ required to provide pensions of \$1,200 per month, assuming the per capita income of the year 1929

Year	National income ¹	Percent of national income ¹ required to provide pensions of \$200 per month			Year	National income ¹	Percent of national income ¹ required to provide pensions of \$200 per month		
		Age of eligibility					Age of eligibility		
		60	65	70			60	65	70
	<i>Billions</i>				<i>Billions</i>				
1936.....	87.6	26	17	10	1955.....	98.0	35	24	14
1937.....	88.2	27	17	10	1960.....	99.9	37	26	15
1938.....	88.9	27	17	10	1965.....	101.1	39	27	16
1939.....	89.5	28	18	11	1970.....	102.0	41	28	17
1940.....	90.2	28	18	11	1975.....	102.2	43	30	18
1945.....	93.2	30	20	12	1980 and there- after.....	102.2	45	32	19
1950.....	95.9	33	22	13					

¹ The national income in 1929 according to the report of the Department of Commerce entitled "National income, 1929-32", was \$3 billion dollars. The per capita income in 1929 was \$681, i. e., \$83,000,000,000 divided by 121,800,000 (estimated population 1929). The national income assumed for the purposes of this study was projected on the basis of the population figures given in table I and a per capita income of \$681. It is extremely improbable that the per capita income will be as high as \$681 in the very near future. This figure is assumed arbitrarily as unquestionably fair from the standpoint of advocates of the Townsend plan.

TABLE V.—Estimated income tax percentage required to provide pensions of \$200 per month if first \$1,000 of each individual income is exempted

Year	Taxable income ¹	Percent of taxable income required			Year	Taxable income ¹	Percent of taxable income required		
		Age of eligibility					Age of eligibility		
		60	65	70			60	65	70
	<i>Billions</i>				<i>Billions</i>				
1936.....	45.5	51	32	19	1955.....	50.9	67	47	27
1937.....	45.8	52	33	20	1960.....	51.9	71	50	29
1938.....	46.2	53	33	20	1965.....	52.5	75	53	31
1939.....	46.5	54	34	21	1970.....	53.0	79	54	33
1940.....	46.8	54	34	21	1975.....	53.1	83	57	35
1945.....	48.4	58	38	23	1980 and there- after.....	53.1	87	61	37
1950.....	49.8	63	42	25					

¹ "Taxable income" in 1929 is defined as total national income (\$3 billions) minus all income of person receiving less than \$1,000 (10.4 billions) minus \$1,000 times number of persons receiving \$1,000 or more (29.5 billions). Figures for following years are in direct proportion to the population figures given in table I. The assumptions stated in table IV apply also to this table.

Source of income distribution figures: "America's capacity to consume"—Brookings Institution, page 206.

The CHAIRMAN. Miss Perkins, the committee thought perhaps, since the House has passed the bill, that you might have some suggestions to make. We would be very glad to have you make them now.

STATEMENT OF HON. FRANCES PERKINS, SECRETARY OF LABOR

Secretary PERKINS. Mr. Chairman, I am gratified that you are already beginning to work on the details of the bill. I would like to say those who have been working on the substance of this measure for the past 9 months have been very much gratified that the House passed it on the whole in very good form. I would like to say, however, that it seems to those of us who have studied the administra-

tion of the bill with the change which was made in taking the Social Security Board out of the Department of Labor and setting it up as an independent agency, was perhaps something which ought to be studied by the Senate and recanvassed as to the practicability and suitability of that form of organization. It has been my observation, and I think that of many who have attempted to take part in the administrative part of the Federal Government in recent years that there are too many independent agencies already and that there is very great difficulty on the part of any President, no matter how wise or interested he might be, in supervising and becoming thoroughly familiar with the activities and the work of these various independent agencies.

This social insurance legislation and the administration thereof is a matter which, in its final results, will affect primarily the working people of the United States of America. They will be the customers, so to speak, with whom the Government will deal on the receiving end of the whole plan. The Department of Labor has, as you probably realize, every day, every month a great many letters, a great many calls, thousands of them from people who would ordinarily hesitate to approach any other more august branch of the Government with a complaint or suggestion, petition or request. We have quite natural dealing with them, and through our contact there turn up the inadequacies, the injustices, and inequalities of the application of a particular law.

The CHAIRMAN. Now, in order that we may get the issues clearly before us, in the bill which was recommended and which was before us, which we considered, it set up this agency in the Department of Labor.

Secretary PERKINS. Yes, sir.

The CHAIRMAN. The House of Representatives have taken it out of the Department of Labor and set it up as a separate board consisting of three persons.

Secretary PERKINS. As an independent agency.

The CHAIRMAN. That is the difference.

Secretary PERKINS. That is the difference.

The CHAIRMAN. It is your opinion it ought to be kept as it was?

Secretary PERKINS. It is my opinion it ought to be in the Department of Labor, although I think the appointments ought to be made by the President and not by the Secretary of Labor. They ought to be appointments of persons who would be distinguished by the Presidential appointment and would have that sense of continuing responsibility that comes from that kind of designation, but it ought to be integrated with the Department of Labor.

Senator KING. Have you got a division in the Department of Labor that naturally would assume jurisdiction of this particular of the bill, one to which it would be allocated?

Secretary PERKINS. Not in its entirety, sir, but a great many divisions in the Department of Labor would have to be utilized for the carrying out of this bill, even though it were set up as an independent agency, unless the Congress saw fit to set up duplicating activities in another department.

Senator GORE. Do you know who drafted the original bill?

Secretary PERKINS. It was drafted as the joint efforts of a great many people, but primarily the committee which the President appointed under the name of the Economic Security Committee,

consisting of a number of members of his Cabinet together with the Emergency Relief Administrator.

Senator GORE. The actual drafting of the bill was not assigned to any one person?

Secretary PERKINS. No, sir; it was in the hands of a number of people acting as a committee. I think the draft, in many ways, has been clarified and simplified.

The CHAIRMAN. Do you think it ought to be a board or under the administration of the Secretary of Labor?

Secretary PERKINS. I think it ought to be a board, sir; particularly in the initial years of any such agency, because the matters that will be important for decision before any such authority will be matters of policy and I believe that in the working out of the matters of policy, we will come nearer to reflecting the will of the people if we have a board with a public record of its acts. I realize, for the purposes of actual routine administration, that an individual is often more effective than a board; however, the important thing that will have to be done by this agency when it is set up is to make up the rulings which interpret the law. There are all kinds of questions which neither you nor I at this minute can envisage, that will arise when a claim arises under this law.

The CHAIRMAN. Miss Perkins, as Secretary of Labor, what part would you play in this?

Secretary PERKINS. The Secretary of Labor would feed into the services of this board all of the activities of the Department of Labor which are already set up and which bear upon it, such as the Bureau of Labor Statistics, which is the agency which has been set aside to study on the economic side all the problems which affect wages. It will also feed into this agency all activities of the Division of Labor Standards, which is a division of the Department of Labor, which offers assistance to the States in the method of planning labor and social legislation, and the amendments thereof which they ask for. It is an established agency which is very useful and is much used by the States.

The CHAIRMAN. Suppose this board is placed under the Department of Labor, would you have a veto power?

Secretary PERKINS. My own conception of the way in which the thing would work out would be something like this: That you would have this board of three primarily charged with the carrying out of the law which Congress had passed. They would, from time to time, take advice from the Secretary of Labor, and through the advice of the Secretary, cooperate smoothly with the particular specialized agencies, the Children's Bureau, the Employment Service, the Bureau of Labor Statistics, and the Division of Labor Standards. The Secretary of Labor would not have a very important part to play in the formation of policy, but could give information and advice which led up to the formation of policy.

The CHAIRMAN. In other words, it would be a good deal like the Children's Bureau now. That, as I understand it, is under the Department of Labor.

Secretary PERKINS. Yes, sir.

The CHAIRMAN. It would work a good deal like the Children's Bureau?

Secretary PERKINS. It would be independent and yet within the family, so to speak, drawing upon the resources of the Department.

Senator CONNALLY. How would it go about it? Would the Secretary of Labor be ex-officio chairman of this board? Do not you think that would tend to increase the dignity of the position and also make more acute the sense of responsibility?

Secretary PERKINS. I think not. If you make a Cabinet officer the ex-officio chairman, you pretty near remove the Cabinet officer from any realistic participation in the other activities of the Department of Labor, because certainly for the first 10 years of the life of this board it is going to take all the time, energy, and thought of the people working on it. If you make the Secretary of Labor the chairman of this board, you would put upon the chairman the executive responsibility of this board, and since it is such an important piece of work, you would divert the Secretary's attention from other phases of the work of the Department. On the other hand, I do think that for the comfort and peace of mind of the President, it is essential that the Secretary be in contact with the Board.

The CHAIRMAN. In other words, you prefer it under the Department of Labor?

Secretary PERKINS. I think it is quite essential that it be in the Department of Labor. The Secretary of Labor would have intimate knowledge of all of the activities of the Department. For instance, take the employment service. The employment service, whether, the new Board is an independent agency or in the Department of Labor, is bound to be utilized as one of the agencies which is very important in the exercise of the unemployment insurance section of this bill. The employment offices will be the test agency through which applicants pass to determine whether or not they are truly unemployed. The employment agencies of the State and Federal Government will be bound to be utilized in that way, to pass upon whether a man is unemployed or not.

Senator KING. A separate board, dissociated entirely from the Department of Labor, would be compelled to do a great deal of work that your organization already does in the ascertainment of those who are eligible to this money?

Secretary PERKINS. Yes, sir, Senator. It would have to duplicate that service in some way or other.

The CHAIRMAN. In your opinion it would be more economical to put it in the Department of Labor?

Secretary PERKINS. I think it would be vastly more economical and much more satisfactory. I have tried to think ahead 20 years. If the Board is in the Department, the President, with many constantly increasing obligations and problems in the United States of America, will hear regularly in the Cabinet from his Secretary of Labor with regard to the status of affairs in the administration of the social security legislation, and he will, therefore, be aware, from time to time, of the gravity of the problems, of the need for modifications or changes of the law, and of the suitability of the arrangements for administration. If he hears criticisms of administration he will have one who is personally responsible to him to give him the information, either a person whom he can dispense with or continue as he sees fit. That makes a very realistic relationship for administrative responsibility, I think, centralizing administrative responsibility. I think

it does truly make for more direct control of the matter by Congress, for a Cabinet officer is always under a double obligation, both to the President and to the Congress, to provide a complete and full statement of all the affairs under his administration.

Senator HASTINGS. Do you know why the House made the change?

Secretary PERKINS. I do not, sir; except that they thought it better.

Senator KING. Do you think, Miss Perkins, that if the Secretary of Labor is made an ex officio member of the board, and the board should make decisions, as they might make, which would somewhat restrict the power of the Department of Labor or might lead to considerable criticism, the criticism which might be leveled at the board might in any way weaken the influence or diminish the influence of the Secretary of Labor, or impair her authority or her usefulness or her power—and I use the word "power" in the proper sense—in the administration of the duties of her important position?

Secretary PERKINS. The Department of Labor is a department that specializes on the problems of the wage earners. It reports regularly to the President and to the Congress with regard to all of the problems that face wage earners in the United States of America.

Senator COSTIGAN. Miss Perkins, putting Senator King's question in another way, what would be the effect if the Secretary of Labor were on the board and were overruled by the vote of the members of the board in some important decision?

Secretary PERKINS. I cannot say that it would have any effect.

Senator COSTIGAN. You would have no objection to being placed in that position?

Secretary PERKINS. Not personally, but I think it is much more important that the function be located in the Department of Labor.

Senator HASTINGS. Did anybody from the administration appear in the House and urge that this change be made?

Secretary PERKINS. The public hearings before the House committee were attended by all of the members of the Cabinet who had been members of the committee which the President asked to consider this matter and to draft the outlines of the legislation. I appeared, and at the time I appeared I mentioned the desirability of the relationship of the Department of Labor, but it was not argued particularly.

Senator HASTINGS. Did any witness urge before the House that the change be made?

Secretary PERKINS. I am not certain, but I suppose the record will show; perhaps Mr. Eliot, who was there all of the time, perhaps can say as to that.

Mr. ELIOT. I think perhaps 1 or 2 witnesses, out of the many who testified, suggested the board be independent.

Secretary PERKINS. Who did that?

Mr. ELIOT. Mr. Epstein and, I think, Mr. Elbert.

Senator BLACK. Miss Perkins, may I ask about the test feature? If this is not an independent board but, on the contrary, a board subordinated to the Secretary of Labor, with the right of appeal on every question that might arise, not only appeal to the Secretary of Labor but to the President, would not that impose an impossible burden on the Secretary?

Secretary PERKINS. I do not think there should be such relationship. I do not think there should be any appeal from the board to the Secretary. The decisions of this board ought to be final, except as they are reviewed by the court.

Senator BLACK. Your idea is then that it would be, to that extent, an independent board?

Secretary PERKINS. It would be a board exercising its independent judgment in formulating policy, but for administrative purposes located in the Department of Labor. The Secretary of Labor should have no power to overrule the Board. I think that would be most unfortunate. All of the decisions of the Board ought to be final.

I will point out to you, sir, the organization of administrative and judicial authority which is embodied in the statute of the State of New York in the industrial board, which is located in the department of labor but which has absolute and final authority on all matters of claims for workmen's compensation, and which is presided over by the industrial commissioner. The industrial commissioner appoints all the employees, does all the administrative work for that board, but the industrial commissioner has no vote on the compensation claims of that board, he cannot overrule the board, he cannot influence the board except as the commissioner may influence the board by the presentation of facts. The commissioner does all the administrative work and the board is a judicial board, appointed by the Governor in the department of labor, and drawing all of its sustenance, so to speak, in the way of finances and assistance, from the department of labor, all of its statistical and research agencies from the department of labor, and it has worked out very well.

Senator BLACK. As I understand it, you are perfectly willing to have the board appointed by the President?

Secretary PERKINS. I think it should be.

Senator BLACK. And confirmed by the Senate?

Secretary PERKINS. I think it should be.

Senator BLACK. To have complete and final power of all actions by them?

Secretary PERKINS. Absolutely.

Senator BLACK. You simply want what I would then call an independent board within the Department of Labor.

Secretary PERKINS. Yes, Senator.

Senator BLACK. Then the issue is very narrow. There is very little difference between you.

Senator KING. For administrative purposes, for the utilization of the agencies which have been set up and which are now functioning in the Department of Labor.

Secretary PERKINS. May I point out, sir, that if the Board is in the Department, when there is a conflict of jurisdiction between the Board and other agencies of the Department, it will be settled by the Secretary of Labor. It would mean it would be settled by an administrative arbitrator of the Government who was responsible to the President for the purpose of comity between the various agencies of the Department of Labor. Thus, energy and time which, were the Board independent, might be wasted in disputes between bureaus, would be saved.

The CHAIRMAN. Now, Miss Perkins, what other suggestions have you?

Senator KING. May I ask another question?

Secretary PERKINS. Surely, sir.

Senator KING. In the Cabinet discussions preparatory to the bill being formulated was there any suggestion there that this agency should be set up wholly within the Department of Labor and function under the complete jurisdiction of the Secretary of Labor?

Secretary PERKINS. There was discussion as to whether or not the Secretary of Labor should have the right to review the decisions. That was raised by some persons in the committee. There was unanimous opinion, after discussion, that the Board should be independent with regard to its decisions and not subject to review by the Secretary, but that it should be located in the Department of Labor and that the administrative work should be the activity of the Department of Labor. That is, it is one of the ministerial functions of the Department of Labor to attend to this particular problem which affects wage earners, but that a board should be set up which, for the purpose of deciding the problem, should be independent of any overruling by the Secretary of Labor. I myself concurred in that. That was discussed quite thoroughly in the committee and there was unanimous opinion with regard to that.

The CHAIRMAN. Now with reference to pensions, would this board have anything to do with that?

Secretary PERKINS. With regard to old-age pensions?

The CHAIRMAN. Yes.

Secretary PERKINS. Yes, it would. The construction that underlay the recommendation of the Committee was that this one board should administer most of the items in the social security bill, including old-age pensions, old-age insurance, aid to dependent children, and the unemployment insurance. The reason for that being that for the most part, and almost universally, the persons who are eligible for old-age pensions or old-age insurance benefits will be wage earners. That is, persons who have been wage earners in their working years and who, in their old age find themselves under the necessity of asking for either pension under present conditions, or who, because they had contributed, under the new system, to an insurance fund are eligible, have a right to claim benefits in their old age. It has been thought that that is a matter in which the Department of Labor, with its constantly expanding knowledge of the conditions and problems of wage earners, and with its close contact with wage earners, would be the appropriate agency from which the information could filter to the board which is making, from time to time, purely judicial decisions, and yet judicial decisions which might be formed partly by their knowledge of how people live, how they get on and how they work, what their real relations to their families and their jobs are. So it was conceived also for the purpose of economy and administration that all of these functions should be in one board.

Senator COUZENS. Do you think the Interstate Commerce Commission should be in the Department of Commerce?

Secretary PERKINS. I have never given that any thought, sir.

Senator COUZENS. They seem to be as closely analogous to each other as these two are.

Senator HASTINGS. Miss Perkins, on the hasty examination of what the House did as compared with what is contained in the bill for dependents it seems that in the Senate bill there is this distinction: The Board is authorized, subject to the approval of the Secre-

tary of Labor, to appoint and fix the compensation of such officers, and so on. That seems to be left out of the House bill entirely.

Secretary PERKINS. Yes, sir.

Senator HASTINGS. And examining, making recommendations to the Secretary of Labor as to the allowance of credit under title 6 of the act.

Secretary PERKINS. Yes, sir.

Senator HASTINGS. I do not find any difference except in one it says, "There is hereby established in the Department of Labor a Social Security Board." It seems to be entirely separate from it, except the Secretary of Labor has the right to approve the appointments, and the Secretary of Labor must make these allowances of credits.

Secretary PERKINS. In the original bill, you see, the Board was established in the Department of Labor, the bill that was before you originally, the one that you held hearings on, the Board was appointed in the Department of Labor.

Senator HASTINGS. No, it says, "There is hereby established a board composed of three members to be appointed by the President."

Secretary PERKINS. Yes, but the final appointments, not the appointment of members of the board, but the appointments of the minor officials, is what I am referring to. The members of the board ought to be appointed by the President, and it was so provided in the original bill, but it was provided that the minor appointments, that is, the clerks, the accountants, cashiers, and actuaries, should be selected by the board but subject to the approval of the Secretary of Labor.

Senator HASTINGS. Do you think that is necessary?

Secretary PERKINS. I think it is rather necessary, sir, for the purpose of bringing the general structure of the organization and the salary range into conformity with other divisions of Government, other departments of Government, with due regard to the economy of Government administration in the selection and appointment of the persons who will serve. Also it relieves a board of this sort from getting up an enormous and very complicated personnel agency when there is already one in the Department of Labor.

Senator HASTINGS. Why was it provided these appointments should be made without regard to the provisions of the civil-service laws?

Secretary PERKINS. Only, I think, in the selection of attorneys and experts who are generally exempted. It is provided that all other appointments should be made under the civil-service classification. That was the original provision. I agree to that. Attorneys and experts, I think, are rather generally regarded as being in the exempt class, are they not? If they are not I shall be very glad to accept the correction on that and have them all in the classified civil service.

The CHAIRMAN. There ought to be an exception.

Secretary PERKINS. We have only followed what has been in the practice of the United States Government in that matter.

The CHAIRMAN. What other suggestions have you, Miss Perkins?

Secretary PERKINS. I suggest that in the administration of the Federal grants-in-aid for State dependent children and State old-age assistance laws, which has been transferred from the Federal Emergency Relief to the Social Security Board, I think the grants-in-aid to the States for aid to dependent children should be administered by the Children's Bureau in the Department of Labor.

Senator GORE. That is a matter of trifling importance. The bill that has passed the House does not require the State to match dollars on this children's work?

Secretary PERKINS. No, sir; not on the aid to dependent children.

Senator GORE. The Federal Government takes all that over?

Secretary PERKINS. It matches 2 to 1 in the State.

Senator GORE. Do you not think that communities 30 miles from a railroad might know more about it than somebody here in Washington?

Secretary PERKINS. I think they do, sir, and it is for that reason that we have provided in the administration of the dependent children's allotments that there shall be State administration at every point.

Senator GORE. And that the State shall determine it?

Secretary PERKINS. Certainly, it is left to the State.

Senator GORE. They can find out about these children that actually need help I think quite as well as anybody in Washington can. You will have to act through somebody in the locality.

Secretary PERKINS. I agree with you, sir. This bill provides the States themselves shall make the selection of the cases. There is assistance given to the States in making the financial allotments.

The CHAIRMAN. They changed the original bill to that extent.

Secretary PERKINS. Yes, sir.

Senator GORE. As I understand it the original bill provided the State would match this or make some compensatory provision.

Secretary PERKINS. The State must make money available or it does not get anything from the Federal Government.

Senator GORE. Under the bill passed by the House?

Secretary PERKINS. Yes.

The CHAIRMAN. As to the children's relief?

Secretary PERKINS. Yes, sir.

Senator GERRY. Madam Secretary, you referred to the fact that the industry had increased to the extent that it would make the 2 and 3 percent possible. Do you think that is true in the textile industry?

Secretary PERKINS. I have forgotten the figures on production, but they are not far off from that. The textile industry production is very much better than it was. I think its production is up to 85 percent, but I am not quite positive about that.

Senator GERRY. Of course the condition is very serious.

Secretary PERKINS. The condition is very serious, that is true. The original bill provided that the taxation should depend upon the degree of production.

Senator GERRY. Of course the question is whether they have the ability to pay.

Secretary PERKINS. That is quite true.

Senator GERRY. That is fundamental.

Senator GORE. You mean whether the factory had the ability to pay?

Senator GERRY. Certainly.

Senator GORE. Don't you think we might arrange for the Government to advance the factory some money?

The CHAIRMAN. Do you have any other suggestions, Miss Perkins?

Secretary PERKINS. You ask me for another suggestion. I would like to recommend that you examine carefully the change in the old-age pension provision that was made in the House, which was made in accordance with the Treasury's recommendations and the President's wishes. However, in making that change, they cut out the requirement that retirement from gainful employment is to be required as a condition for receiving an insurance allowance. That, I think, is an inadvertence. It should be corrected in the Senate. A man should stop work before he gets his old-age allowance.

The CHAIRMAN. The House bill does not provide that?

Secretary PERKINS. They cut it out. I think it should be restored. I think a man should be required to retire from active employment before he receives his old-age pension.

Senator HASTINGS. Going back to Senator Gore's question, is it your understanding that the Child Welfare Service, the amount appropriated for it, is not matched by any payment by the State?

Secretary PERKINS. The Child Welfare is not matched, no, but that is the smallest one we have got.

Senator HASTINGS. The original one did provide that?

Secretary PERKINS. Yes.

Senator HASTINGS. Which do you agree with?

Secretary PERKINS. I think it should not be matched.

Senator HASTINGS. You do not agree with what the House has done on that?

Secretary PERKINS. It is for them to say.

I think that in defining "dependent children", it should be made clearer that we mean children who are not merely members of families on relief, but who are permanent cases—whose fathers are dead, or, for physical reasons, can never work again, or who are absent from home and neglecting their wives and children.

The CHAIRMAN. Have you any other suggestions?

Secretary PERKINS. I think those are the more important suggestions that I have to make, sir.

Senator BLACK. I want to ask you a question about old-age pensions. Assuming that the bill as eventually passed will require contribution by the States, there is one problem in the southern States that has not been considered in connection with the bill, as I understand it. All of the southern States pay a pension to the old Confederate soldiers and their dependents.

Secretary PERKINS. You mean out of State funds?

Senator BLACK. Yes. Under the bill as written they would receive no credit for that. Under the bill the payments must be uniform. We pay the old Confederates and their dependents more than would be paid under this pension bill. Do you think it would be fair to give the States credit for the payment to their old Confederate soldiers, because the Federal Government itself pays a pension to the Union soldiers and their dependents?

Secretary PERKINS. That has never been mentioned before, sir; and I certainly think it ought to be given consideration.

Senator BLACK. It is a very important question.

Secretary PERKINS. That group would be eligible for pensions under this act if the State wished to include them in its old-age assistance plan.

Senator BLACK. Of course the law could be changed, but it seems to me that probably the best way to meet it would be to provide that

a State that pays a pension to soldiers should have credit for that on its payment into the fund in some way.

Secretary PERKINS. As a matter of fact, sir, you could include the Confederate pensions in your State plan, and the Federal Government would match the money up to a total of \$30.

Senator BLACK. Not under the bill as drawn, because it provides the payments be uniform.

Secretary PERKINS. No; it does not. You see if you pay one class of people in your community for a particular reason, as it would be in this case, an additional pension up to \$15 a month, you could collect from the Federal Government for that allowance if the case was aged. You pay without regard to whether they are aged and indigent, do you not?

Senator BLACK. Yes; in the main it is just a pension.

The CHAIRMAN. Miss Perkins, will you give some consideration to that situation?

Secretary PERKINS. I will be glad to.

The CHAIRMAN. I do not know, but is there any other ex-service pension?

Secretary PERKINS. Probably not, but the numbers must be rather small by this time.

The CHAIRMAN. The numbers are small.

Secretary PERKINS. So it could easily work into the system. It ought not to be an obstacle. We will be glad to give you a little memorandum on that.

Senator HASTINGS. I wonder when you make that memorandum, if the figures are available, whether you would include in it the number of soldiers that are being paid in the various States and the amount that is being paid.

(Subsequently the following letter and memorandum was received from Mr. Witte, of the Committee on Economic Security.)

COMMITTEE ON ECONOMIC SECURITY,
WALKER-JOHNSON BUILDING,
1734 New York Avenue NW., Washington, May 14, 1935.

HON. PAT HARRISON,
*Chairman Senate Finance Committee,
United States Senate, Washington, D. C.*

DEAR SENATOR HARRISON: When the Secretary of Labor appeared before the Finance Committee last week, questions were raised regarding the application of title I of the Social Security Act to Confederate pensions. Since then we have made a study of this subject, and are enclosing a memorandum which gives information analyzing the laws of Southern States on this subject, and showing the amounts they have expended for Confederate pensions in recent years.

You will note that it is our view that title I is broad enough to include expenditures for Confederate pensions, where the pensioners are 65 years of age and "needy." Perhaps there may even be recovery where the pensioners are not "needy" but 65 years of age.

All Southern States make provisions for Confederate pensions. The total expended for this purpose is between \$10,000,000 and \$12,000,000 per year. All of this expenditure cannot be counted in determining the amount of Federal aid the Southern States can get under title I, but probably by far the largest part of the expenditures for Confederate pensions can be so counted.

If our memorandum does not give all of the information that you would like to have on this subject, will you kindly advise us of any further data we should compile.

Very truly yours,

COMMITTEE ON ECONOMIC SECURITY,
EDWIN E. WITTE (sw),
Executive Director.

STATEMENT CONCERNING CONFEDERATE PENSIONS AND WHETHER FEDERAL AID UNDER TITLE I OF THE SOCIAL SECURITY ACT MAY BE APPLIED TO THEM

GENERAL STATEMENT

I. *Extent of Confederate pensions.*—Pensions are paid to ex-Confederate soldiers and their widows in all of the Southern States, varying in amount from \$250,000 annually in Kentucky to \$3,500,000 annually in Texas. In general, the persons who are eligible for Confederate pensions are as follows:

(1) Persons who served in the Confederate army or navy, or in the army or navy of a particular State during the war between the States and who were honorably discharged.

(2) Widows of Confederate veterans, as above, who were married before a specified date, and who are unmarried.

(3) Persons who have served in the State militia or home guard during the Civil War. (This provision is confined to a few States.)

(4) Pensions to servants who served with their masters as cooks or bodyguards during the war (about half of the Southern States).

In a number of States, pensions are payable only to needy individuals, but several States do not impose an indigency requirement. North Carolina, for example, requires the pensioner to be disabled. Several States provide that pensions may not be paid to persons who own more than a stipulated amount of property.

The residence requirements for Confederate pensions vary from that of being merely a bona fide resident of the State, to a residence requirement of 8 years in Florida. The amount of the pension varies from \$100 annually in Arkansas to \$600 annually in Alabama and Texas. Data is not available upon the actual amounts paid.

II. *Will it be possible for the States to receive Federal aid in the payment of Confederate pensions?*—This would appear to be entirely possible under the terms of the Social Security Act, title I, as it now stands, provided the persons pensioned are over 65 years of age and "needy."

It may even be questioned whether Federal aid may be paid only for Confederate pensions who are "needy." Section 1 of the title states: "For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged and needy individuals * * *." This section merely states the purpose for which the appropriation is made, and in section 2, setting forth the specific provisions to which State plans must conform, there is no requirement that the pension be limited to "needy" persons. Whether, despite the clause referred to in section 1, Federal aid might be allowed in cases where Confederate pensions are granted to veterans and their widows who are not "needy" is not entirely clear, but certainly the Southern States can, under this bill, get reimbursement for one-half of their expenditures for Confederate pensions to persons who are "needy."

Several of the Southern States have special pension commissions administering Confederate pensions. The question may be raised as to whether the requirement of a single State agency to administer or to supervise the plan (page 2, line 18) would occasion any difficulty, such as forcing the State to alter its administrative organization for the payment of Confederate pensions. It is suggested that this would not be the case. The State agency in charge of Confederate pensions could be required to submit financial reports, etc., to the State old age assistance authority, which would deal with the Federal Government.

The pensions paid to Confederate veterans will probably be higher in most of the Southern States than the pension paid to other needy persons under old age pension acts. There is no requirement in the Social Security bill, however, calling for a uniformity of payments.

SUMMARY

From \$10,000,000 to \$12,000,000 annually is being expended at the present time in the Southern States for Confederate pensions. The expenditures are declining annually. The rapid decline in the last few years in States for which data is available would seem to indicate that they are having difficulty in carrying these pensions, although, doubtless the number of pensioners is rapidly declining.

STATE PROVISIONS FOR CONFEDERATE PENSIONS

NOTE.—The statutes of all States require the veteran to have been honorably discharged or paroled from the Confederate army or navy; not to have deserted. The residence requirements noted below apply also to widows and to servants, except where otherwise stated. No attempt is made in this brief review to go into administrative provisions. Usually there is a State commission, as well as local county boards which frequently are composed of ex-Confederate soldiers. The pension paid in most States is a flat amount, only one or two States varying the pension according to the circumstances of the individual.

ALABAMA

Source: 1928 Code, chapter 55.

Persons eligible.—Confederate veterans who have resided in the State 5 years prior to application; widows of veterans who have not remarried, and who have less than \$5,000 property and not over \$1,200 annual income, and who have resided in the State 3 years.

Amount of pensions.—Veterans \$600 annually; widows \$120 to \$300 annually.

Expenditures

1927-----	\$1, 400, 655	1930-----	\$1, 723, 402
1928-----	2, 288, 966	1931-----	1, 514, 060
1929-----	1, 980, 835		

Source: Institute for Government research financial administration of the State Government of Alabama, 1932, page 139.

ARKANSAS

Source: Castle. Supplement to Crawford and Moses, Digest of the Statutes of chapter 140.

Persons eligible.—Veterans who are indigent or incapacitated and who have resided in the State 12 months. Widows of veterans who are indigent. Indigency is defined as not having more than \$500 property or income of \$250 annually. Homestead exempted.

Amount of pension.—One hundred dollars annually.

Expenditures

	Total	Pensions	Notes and interest
1930-31-----	\$3, 580, 475	\$3, 197, 446	\$383, 029
1931-32-----	847, 094	411, 914	435, 180

FLORIDA

Source: Compiled General Laws, 1927, volume I, title VIII, chapter III.

Persons eligible.—Veterans who served for at least 1 year and who have resided in the State 8 years; widows who have not remarried.

Amount of pensions.—\$480 annually.

Expenditures.—Data not available.

GEORGIA

Source: 1933 Code, title 78.

Persons eligible.—Veterans who are bona fide residents; widows who are unmarried and who were married to veterans prior to 1881.

Amount of pension.—\$360 annually.

Expenditures

1931-----	\$1, 684, 728
1932-----	1, 593, 914
1933-----	1, 099, 002

Source: State comptroller general, Annual Reports.

KENTUCKY

Source: Carroll Statutes, 1930, chapter 22b.

Persons eligible.—Veterans who have resided in State since 1907 and widows who were married prior to 1900 and are unmarried. Pensioners must not be able to

support selves through manual labor or possess property valued at \$2,500 or income of \$300 annually, or live with wife who possesses such property or income.

Amount of pension.—\$30 a month.

Expenditures, 1932, \$214,857.

Source: Biennial report, State auditor.

LOUISIANA

Source: General Statutes, annotated, 1932, title LX, chapter I.

Persons eligible.—Confederate veterans and widows. (No residence requirement except as provided by pension board which has rule-making authority.)

Amount of pension.—Maximum—if income less than \$1,000 annually—\$30 per month. If income more than \$1,000 annually, \$20 per month.

Expenditures

1931-----	\$972, 293
1932-----	969, 541

Source: Biennial report, State auditor.

MISSISSIPPI

Source: Code, 1930, chapter 146.

Persons eligible.—Veterans who are residents of the State, and widows who married prior to 1900, and who are residents of the State and unmarried. Also servants of soldiers and sailors who are disabled and who cannot support themselves, and who served faithfully through the war.

Amount of pension.—Veterans \$1 per day. Widows who were married to veterans between January 1, 1866, and January 1, 1875, \$175 annually. Widows who were married between January 1, 1875, and January 1, 1900, \$100 annually. Servants \$40 annually.

Expenditures

1932-----	\$1, 041, 436
1933-----	698, 214

Source: Biennial report, State auditor.

NORTH CAROLINA

Source: Code of 1931, chapter 92.

Persons eligible.—Veterans who are incapacitated for manual labor; widows who are unmarried who were married to veterans before 1899, and colored servants who went to war with their masters. Residence requirement, 12 months.

Amount of pension.—If blind or totally disabled; veteran or widow \$300; veterans \$365; widows \$100; servants \$200. Persons owning \$2,000 taxable property disqualified.

Expenditures

1931-----	\$997, 562
1932-----	997, 300
1933-----	941, 032

Source: Annual reports, State auditor.

SOUTH CAROLINA

Source: Code 1932, chapter 119.

Persons eligible.—Veterans who have resided in the State 2 years; widows who were living with husband at time of death; servants who served in the army.

Amount of pensions.—Veterans \$240 annually; widows \$125 to \$160 annually; servants \$25 annually.

Expenditures

1927-----	\$756, 095	1933-----	\$774, 444
1928-----	756, 100	1934-----	536, 937
1929-----	756, 100		

Source: State budgets.

TENNESSEE

Source: Code of 1932, sections 4934-76.

Persons eligible.—Disabled Federal and Confederate soldiers who have resided in the State 3 years, or Confederate soldiers over 75 years of age and who served

6 months, and who do not own property assessed at more than \$10,000; widows who were married before 1900 and have not remarried; servants and cooks.

Amount of pension.—Veterans \$40 per month; widows \$20 per month; servants and cooks \$10 per month.

Expenditures.—Data not available.

TEXAS

Source: Statutes, 1928, 1931 Supplement, title 109.

Persons eligible.—Veterans who came to the State not later than 1928. (Certain classes require 10 years' residence.) Unmarried widows who were married 10 years prior to death of soldier husband. Indigency required in 1928 law, but apparently repealed in later session laws.

Amount of pension.—Fifty dollars to veterans living with wives; \$25 if single, and \$25 to widows.

Expenditures.—1932, \$3,562,641.

Source: Comptroller's Annual Report.

VIRGINIA

Source: Code of 1930, title 23, chapter 105.

Persons eligible.—Disabled, infirm, and indigent veterans and widows (very detailed statutory provisions).

Amount of pension.—Uncertain. Also permits county pensions.

Expenditures (State)

1929-----	\$943, 547	1932-----	1, 034, 626
1930-----	962, 606	1933-----	756, 033
1931-----	1, 148, 171	1934-----	705, 522

Source: Annual Reports of Comptroller.

Secretary PERKINS. We have thought of those special pensions as being outside of this system and as being sufficient in most cases to keep that particular claimant out of a claim for old-age pension. There are many people of course who are receiving a pension from their former employers which is sufficient for them to live on.

Senator BLACK. That is very important, particularly because there are certain States where it is very heavy.

The CHAIRMAN. Senator King says that his State, and perhaps in some other Western States, pensions are paid to veterans of Indian wars, or their dependents. I would be glad to have you investigate that.

Senator BAILEY. In considering the payment of pensions to Confederate soldiers and veterans of the Indian wars, do not you think we ought to take into consideration the money that is paid by the States to widows and their dependents? Your principle is pretty nearly the same.

Secretary PERKINS. That is taken care of in this plan.

The CHAIRMAN. I think the House has greatly improved your bill, Miss Perkins.

Secretary PERKINS. I think they have, sir.

The CHAIRMAN. Thank you, Miss Perkins. I have received a communication from the Secretary of the Interior with reference to including Puerto Rico and the Virgin Islands under the social-security bill, and the communication will be included in the record.

(Following is the communication referred to:)

APRIL 24, 1935.

HON. PAT HARRISON,

Chairman Committee on Finance, United States Senate.

MY DEAR SENATOR HARRISON: Enclosed is a draft of a proposed amendment to H. R. 7260, the social-security bill.

The amendment relates to titles I, IV, and VI, dealing with grants for old-age assistance, aid to dependent children, maternal and child welfare, and public-

health work. The bill in its present form provides for grants for these purposes to the States, the District of Columbia, Alaska, and Hawaii, but not to the insular possessions. The proposed amendment would extend the definition of the term "State", where used in these titles, to include Puerto Rico and the Virgin Islands.

The need for aid of this sort in those possession is at least as great as in the States and Territories. It is demonstrable by figures that in the case of Puerto Rico the actual need per capita is very much greater than in any State of the Union. Puerto Rico has suffered particularly from legislation designed to benefit the American people as a whole, to the cost of which Puerto Rico has contributed but the benefits of which were not applicable to its citizens. There seems to be no just reason for discriminating against these possessions. Indeed, because of their lack of representation in Congress, it seems to me that we should be particularly solicitous that they do not suffer economically through their lesser political status.

In the original economic security bill, H. R. 4120, Puerto Rico was included among the "States" entitled to grants under the titles corresponding to titles I, IV, and V. In the present bill, H. R. 7260, Puerto Rico has been excluded and the amounts authorized to be appropriated have been somewhat reduced. The proposed amendment would restore the amounts authorized to be appropriated in those titles in the original bill in order to make some provision for the needs of the island possessions.

I am advised by Mr. A. J. Altmeyer, Second Assistant Secretary of Labor, on behalf of Miss Perkins, the Chairman of the President's Committee on Economic Security, that "The committee on economic security has never given specific consideration to the question of whether the security legislation should cover the territories and possessions of the United States" and that he believes, therefore, that I am free to make such recommendations on this subject as I deem proper.

In view of the urgent need for aid of this sort, so essential to social security in these possessions, I strongly recommend that this amendment be given favorable consideration.

Since these omissions were not discovered sufficiently early to present this amendment to the House of Representatives, I am bringing the matter to your attention in order that action may be taken by the Senate. Furthermore, because of Senator Tydings' interest in the Territories and possessions, as Chairman of the Committee on Territories and Insular Affairs, I am sending a similar letter to him in order that he may be apprised of the situation. For your convenience I am enclosing copy of my letter to Senator Tydings.

Sincerely yours,

(Signed) HAROLD L. ICKES,
Secretary of the Interior.

(Proposed amendment to H. R. 7260, the social security bill:)

On page 2, line 5, strike out "\$49,750,000" and insert in lieu thereof "\$50,000,000". On page 19, line 25, strike out "\$24,750,000" and insert in lieu thereof "\$25,000,000". In page 25, line 6, strike out "\$3,800,000" and insert in lieu thereof "\$4,000,000". On page 30, line 13, strike out "\$2,850,000" and insert in lieu thereof "\$3,000,000". On page 59, line 13, after "Columbia" insert a semicolon and the following: "and when used in titles I, IV, V (except section 531) and VI, the term 'State' includes, in addition, Puerto Rico and the Virgin Islands."

The CHAIRMAN. Governor Winship, the committee would be very glad to hear you briefly with reference to this matter.

STATEMENT OF GOVERNOR BLANTON WINSHIP GOVERNOR OF PUERTO RICO

Mr. WINSHIP. Gentlemen, the question was raised some time ago by Senator Costigan as to whether Puerto Rico desired to participate in the old-age pensions and we made reply to that at that time, and I think it might be well to read that to you, the telegram received from Senator Costigan and our reply at that time, which will lay the basis for the other statements I may have to make.

Senator Costigan on January 22, 1935, sent the following telegram to me:

Hearings are about to begin before United States Senate Finance Committee on national administration's proposed social-security legislation. It will be helpful if you will by wire if practicable advise me as member of Finance Committee as follows: First, estimated number of persons over 65 years of age in Puerto Rico. Second, approximately number of unemployables of all kinds in Puerto Rico, excluding unemployables 65 or more years of age; also whether and to what extent if at all Puerto Rico as a whole and with aid of subdivisions will not be prepared and if not why not to give adequate assistance to unemployed in Puerto Rico satisfactorily as compared with previous combined territorial assistance and Federal grants-in-aid if and when Federal aid to unemployables is withdrawn leaving Puerto Rico responsible for care of such employables. Third, how far and how soon by legislative enactment or otherwise Puerto Rico will be prepared to join Federal program for pensions for persons now 65 or more years of age under which Federal Government would contribute not exceeding half of pension allowances of not more than \$30 per month. Identical requests are being wired chief executives of all States and outlying territories. Answers when received will be compiled for congressional use.

My answer to that was the following, and this was to Senator Costigan:

Please transmit following message to Senator Edward P. Costigan: "Replying your message re old-age pensions and social program. Based on figures supplied by rehabilitation administrator and treasurer, 40,000 persons 65 years old and over. Unemployables over 65, 28,000. Unemployable below 65, 100,000. Subdivisions unable now carry any portion social program which must rest wholly on insular government. Severe reduction sugar crop and other causes will materially affect Government revenues therefore unable at present assume additional responsibility for relief of unemployed or unemployables. If work program as passed by House of Representatives is applied Puerto Rico pro rata basis, insular government will be able to participate materially within 1 year from launching of program locally. Old-age pensions could not begin before enacting necessary legislation effective July 1 next. Any participation will require additional taxation which is now urgently needed to meet current expenditures in view losses from other sources but such participation social program in future is largely dependent upon success of relief program above mentioned."

Now that, you see, was in answer to the old-age pensions. We saw after that that we had been left out in the new bill from certain other benefits and the following telegram I think will be fully explanatory of that. This is a telegram sent on March 6:

Senate bill no. 1130, introduced by Senator Wagner, provides aid for dependent children, public-health work, crippled children, and for maternity and child welfare to the different States. Information available does not indicate that provision is made to extend this aid to Puerto Rico. Senator Costigan in his radiogram of January 30 inquired only as to care of unemployed and pensions to persons over 65 years of age. Our Government with its present appropriation is able to meet the requirement for local participation for dependent children, maternity and child welfare, care of crippled children and public-health work. Suggest that action be taken immediately to have Puerto Rico included in the benefit of this bill. Please consult Representative Iglesias, Dr. Martha Elliott, Director of Children's Bureau, Department of Labor, and Dr. C. E. Waller, United States Public Health Service, who are interested in our health problems.

There is one more telegram here that I will read which came from Horton, Acting Governor. That is dated April 23, 1935:

Please transmit following message to Gov. Blaton Winship: "Wagner social-security bill already passed the House pending action of Senate. Puerto Rico not included in benefits of bill. Health department has insular funds to match appropriations for maternity and public-health work. Urgent that bill be amended in Senate to include Puerto Rico. United States Public Health Service now contributes \$25,000 toward support of public-health units in 12 municipalities. If Puerto Rico is not included in this bill, this money will not be available after June 30, 1935."

Gentlemen, I just want to make clear to you the position of Puerto Rico with reference to this bill. Puerto Rico is very anxious to contribute all that she possibly can in the way of this legislation, in matching funds that might be given by the Federal Government. We have had our difficulties there, of which you have heard a great deal, of course, but with all of that Puerto Rico does try to meet its bills. It has done very well in balancing its budget and in meeting the fixed charges that are against it at the present time on account of the bonds that were issued by both the general government and the municipal government.

Senator BAILEY. Do you think Puerto Rico wants this sort of legislation?

Mr. WINSHIP. Yes, sir; I think we do.

The CHAIRMAN. I might say in this connection that Secretary Ickes has written advocating the incorporation of Puerto Rico and the Virgin Islands in this proposed legislation. Governor, is there anything else?

Mr. WINSHIP. I think that is all, sir. I just wanted to let you know that if this was a benefit to the balance of the country it would be a benefit to Puerto Rico. We are willing to match funds as far as we can in connection with it. We are doing everything possible to take care of a population down there of one million seven hundred thousand people, on a little island 100 miles long and 40 miles wide. We have a great many difficulties in that connection.

Senator KING. Governor, the cost of living down there is reasonably favorable, isn't it? By reason of favorable climatic conditions, at least favorable to the persons living there, and by reason of other factors, and the cost of living is less there than it is in other places in the United States?

Mr. WINSHIP. It is less in one way and in other ways we have to pay more, of course. You take the imports there in rice alone. We import over six million dollars worth of rice a year, and in pork products and beef products, and things of that sort which have not been raised there.

Senator GORE. Do you have any sort of maternity aid legislation there now?

Mr. WINSHIP. No, there is nothing of that sort now.

Senator KING. When I was there I went all over the island and it seemed to me that the standard of living—and I am not complaining, I am not criticizing—was quite different from that in the United States, and the cost of rents, buildings and so on was very much less than in the United States.

Mr. WINSHIP. You have to take into consideration the heating and everything of that sort. Of course that is very much less. Then there is the fact that they can raise fruits and things of that sort, and that of course lessens it more, but you begin to get into the bigger figures when you begin to get into the imports that have to be made there.

Senator GORE. What are your total expenses and total receipts?

Mr. WINSHIP. In the regular budget it runs about eleven million dollars, and then there are other things connected with the university, and things of that sort.

Senator COUZENS. You say the regular budget. Have you an extraordinary budget?

Mr. WINSHIP. Yes; we have an extraordinary budget.

Senator COUZENS. What is the extraordinary budget?

Mr. WINSHIP. That covers, for instance, irrigation problems. We have done a splendid work in irrigation, in the creation of power. Puerto Rico, you see, is the seventh biggest customer of the United States. It is bigger than anything in South and Central America, or in North America, and even in Canada. It is seventh in all the world, so it is a greater trader. They demand a great many products from the States.

Senator COUZENS. What is the population?

Mr. WINSHIP. About one million seven hundred thousand. It is one of the thickly populated places, like Japan and Belgium.

Senator CONNALLY. You answered Senator Gore a moment ago that you had not maternity aid now under the present set up.

Mr. WINSHIP. We have a number of hospitals there that give aid, of course. There are public hospitals that give aid in that way. In the regular sense of maternity aid, that there are special appropriations for that, we haven't got that.

Senator CONNALLY. You haven't any legislation like this pending before us now?

Mr. WINSHIP. No.

Senator CONNALLY. You say Puerto Rico wants to pay its part, and so forth. How much do you estimate Puerto Rico would have to raise?

Mr. WINSHIP. I do not know. The bill does not indicate that, as far as I can see. It depends altogether on how much money it would take because of the condition of Puerto Rico at the present time in the way of housing, and things of that sort, which of course would give us more money.

Senator HASTINGS. I think you said there were 28,000 people over 65 years of age unable to work?

Mr. WINSHIP. Yes.

Senator HASTINGS. At \$15 a month that would make \$5,040,000 a year.

Mr. WINSHIP. We could not match that of course.

Senator KING. Governor, the average wages down there in the field is considerably less than \$30 a month, isn't it?

Mr. WINSHIP. It depends. The laborers in the cane fields down there make anything from 90 cents up, depending upon what they do. Other laborers down there would get less than that. Of course artisans would get more, but the labor payments there are not as great as they are in the United States.

Senator KING. The cost of living is not as great?

Mr. WINSHIP. The cost of living is not as great on the whole.

Senator KING. And the cost of buildings is less. They are fragile but they are satisfactory for that tropical climate.

Mr. WINSHIP. Of course you have hurricanes to contend with down there. You want stronger structures than you have at the present time. That is one of the housing plans at the present time, to give them structures down there that will bear against the hurricane.

Senator KING. What proportion of the population is colored?

Mr. WINSHIP. I should say 25 percent or 30 percent.

Senator KING. Does that include the mulattoes?

Mr. WINSHIP. Yes; I think 30 percent would cover them. In the central part of the island, in the mountains, it is almost purely white. Down on the Coastal Plains you will find the greater colored population.

The CHAIRMAN. I thank you very much. Mr. Beaman, will you go ahead and make an explanation of this proposition?

Mr. BEAMAN. The House bill deals with, you might say generally, three different subjects. The first is the subject of old age, the second unemployment insurance, and the third grants-in-aid to States for various purposes, which of course should be subdivided into several groups.

Senator CONNALLY. Mr. Beaman, have you studied the opinion of the Supreme Court yesterday in regard to railroad pensions?

Mr. BEAMAN. No, sir; I have not seen that. I have simply seen newspaper accounts.

The CHAIRMAN. In that connection, I was going to make a suggestion. I think we ought to have the Attorney General, or someone in the Department of Justice who studied that decision, study this law and get their opinion here in executive session on this proposition.

Mr. BEAMAN. As I said, the House bill contains three general classes or divisions. One, grants-in-aid to the States for various projects; secondly, payment out of the Federal Treasury in old-age benefits; and, third, the subject of unemployment insurance, and it establishes the Social Security Board and levies taxes.

Taking up first the grants-in-aid to the States for the payment of old-age pensions, that is title I of the bill. Secondly, the care of dependent children; the third is to enable the States to pay the administrative costs of their unemployment compensation systems; the next is grants-in-aid to the States for maternal and child welfare, care of crippled children, vocational rehabilitation, and so forth, and grants-in-aid to the States for developing their public-health services. The subject of unemployment compensation (beside what I have already mentioned) is covered in the House bill solely by means of the levying of a tax on employers. That tax starts out the first year at 1 percent, it goes up the second year to 2 percent, and thereafter 3 percent, and is based on wages payable by employers who employ for 20 weeks in the year, 10 or more employees. That has a number of exemptions which I will briefly state now.

There is exempted from that tax, agricultural labor, domestic service, work for the Federal and State Governments, certain relatives, husband and wife and children, officers and members of the crew of vessels on the navigable waters of the United States, and persons working for churches, hospitals, schools, educational and literary institutions not conducted for profit; in other words, about the same class of concerns that are exempted from income tax.

The CHAIRMAN. Mr. Beaman, to get it clear in my mind, in the original bill what was the exemption as to the number of employees?

Mr. BEAMAN. In the original bill four employees in 13 weeks.

The CHAIRMAN. And in this bill now it is 10 employees in 20 weeks?

Mr. BEAMAN. Ten employees in 20 weeks.

Senator HASTINGS. You say that was the 10-cent tax?

Mr. BEAMAN. That was the unemployment tax. Now in this unemployment tax, the employer is given a credit against his Federal tax of the amount which he is required by the State law to pay into an

unemployment fund, with the limitation that the amount of his credit shall not exceed 90 percent of the Federal tax. That means, for instance, if the Federal tax on the employer is \$100 he is given a credit of not to exceed \$90 in any event, and whether it is zero, or five dollars, or twenty dollars, or eighty dollars, or eighty-nine dollars or ninety dollars, it depends on what he is required to pay into the State fund.

Senator COUZENS. Say he is required to pay five dollars, he is given credit for 90 percent of that?

Mr. BEAMAN. No; he is given credit for every penny he pays in, but not more than 90 dollars, taking a hundred dollars Federal tax. If he pays 50 dollars into the State fund, he gets credit for 50 dollars. If he pays five dollars into the State fund he gets credit for \$5. If he pays 90 dollars into the State fund, he gets credit for 90 dollars, but if he pays 95 dollars into the State fund, he gets credit for 90 dollars and not 95 dollars.

Senator BAILEY. Suppose he pays a thousand dollars?

Mr. BEAMAN. He gets credit for only 90 dollars if the Federal tax is \$100.

The CHAIRMAN. What about it if he has paid it into some other fund not direct to the State?

Mr. BEAMAN. It has to be in a State fund under a State law.

Senator CONNALLY. If he is in a State that does not have a State law, does he still pay the Federal tax?

Mr. BEAMAN. Yes, sir.

Senator CONNALLY. In other words, if he lived in a State that did not tax him at all, he would still have to pay the one hundred dollars to the Federal Government, even though the State had no assistance at all?

Mr. BEAMAN. That is right, Senator. It is clearer if you approach it from the other point of view. In any event he has to pay a hundred dollars to the Federal Treasury, diminishing that by the amount that he has paid into the State fund under the State law. Even then he cannot get more than 90 dollars credit.

The CHAIRMAN. Some of these corporations have organized their own pension fund.

Mr. BEAMAN. That has nothing to do with the State fund.

The CHAIRMAN. Unless the money goes into the State fund?

Mr. BEAMAN. That is right.

Senator GERRY. If he pays a thousand dollars, how much exemption does he get?

Mr. BEAMAN. Whatever he pays into the State fund, so long as that amount does not exceed 90 percent of the Federal tax.

Senator COUZENS. Has Mr. Parker made any estimate of the revenue that comes out of the Treasury as the result of these pensions?

Mr. PARKER. We just made a total estimate of what the cost was year by year of total taxes. Of course the Treasury makes money if the States do not enact these plans.

Senator COUZENS. What estimates did you make with respect to the loss to the Treasury by these municipal deductions?

Mr. PARKER. There is no loss to the Treasury in the final analysis it is merely a question whether the employer pays the tax to the Federal Government as to the State.

Senator COUZENS. I am talking about the exemptions that Mr. Beaman was just talking about. If they are deducted from the income tax it must have an influence on the receipt of Federal taxes.

Mr. BEAMAN. Senator Couzens, I want to be sure we understand each other. It is perfectly true under the general law, not this bill, whatever amount of tax the employer pays under this unemployment tax he can use as a deduction from his gross income in his income tax.

Senator COUZENS. I thought you said 90 percent.

Mr. BEAMAN. Senator, I am sorry I did not make myself plain. The employer gets credit, not against the income tax but against the 3-percent tax, of the amount which he is required to pay into a State unemployment fund.

The CHAIRMAN. Up to 90 percent.

Mr. BEAMAN. Up to 90 percent of the Federal tax. That has nothing to do with the deduction with respect to his income tax at all.

Senator GORE. I am confused about this 90 percent. It seems to me, at one time you said \$90 and now you say 90 percent.

Mr. BEAMAN. I was giving an example. I said, suppose the Federal tax of 3 percent on the employer amounted to \$100, he could credit against that \$100 whatever he paid into a State fund up to \$90. If he paid into the State fund, say \$5, then he got credit against the \$100 to the amount of \$5. If he paid to the State fund \$60 he would get credit against his Federal tax of \$60, but if he paid \$95 to the State fund, he would only get credit for \$90.

Senator HASTINGS. If a corporation, for instance, had been taxed by the State a million dollars, and the corporation had paid that tax, and the Government came along and taxed the same corporation the same amount, and when he went to pay the tax to the Federal Government he would be entitled to \$900,000 credit and he would pay a million dollars to the State and then pay a hundred thousand dollars to the Federal Government, isn't that correct?

The CHAIRMAN. That is if it was unemployment insurance.

Senator HASTINGS. That is what I am talking about. The unemployment feature of the bill is what he is talking about.

Senator GERRY. Mr. Beaman, the tax runs up to 3 percent when? In 1938?

Mr. BEAMAN. In 1938.

Senator GERRY. What was the original provision?

Mr. BEAMAN. The original provision was more complicated, Senator. It put in a basic tax of 3 percent and then said that for the first year, if the Federal Reserve Board index of production averages was not more than 84 percent of the average for the years 1923 to 1925, the tax went down to 1 percent. If that index average is more than 84 percent but less than 95 percent of the earlier average, then the tax was 2 percent, and it had a similar provision for the following year. If it were 2 percent the first year then it would have to be at least 2 percent the second year, even though the index figure had changed, and thereafter it was 3 percent. That provision was eliminated by the House bill and it provides merely starting off the first year with 1 percent, 2 percent the second year, and so on.

The CHAIRMAN. In the Wisconsin plan they adopted 1 percent. Under this House bill they could not continue their plan of unemployment insurance?

Mr. BEAMAN. In that case they could not get credit for what they paid into their tax fund.

The CHAIRMAN. That does not seem to me to be right.

Senator KING. The bill reported to the House is coercive in the sense it would deny to Wisconsin or any other State that followed that plan, the realization of their plan. It would prevent them from carrying out their plan.

Mr. BEAMAN. Of course that is entirely a matter of policy, Senator. You can change it.

Senator KING. We are talking about the bill as it came from the House.

Mr. BEAMAN. Yes.

The CHAIRMAN. Was there much discussion in the House Ways and Means Committee with reference to permitting the States themselves to adopt the plan that they thought was the wisest? Namely, if Wisconsin wanted to continue their plan, to let them do so, or if Ohio wanted to continue their plan, to let them do so?

Mr. BEAMAN. The matter was discussed, Senator, yes, but the great majority of the committee seemed to be in favor of the bill in the shape in which it was passed.

Senator GORE. But they really discussed the question of letting the States do as they pleased?

Mr. BEAMAN. I should think so.

The CHAIRMAN. Would not it be just as workable, Mr. Eliot, the other way?

Mr. ELIOT. Yes, sir. It would require the amendment of striking out maybe a line and a half in the definition of unemployment fund. It says in the definitions State unemployment fund must be pooled and the interests mingled and undivided, and those words could be stricken out.

Senator GORE. And it would require the States to turn the funds over to the Federal Government?

Mr. ELIOT. That says it should be invested in a trust fund.

The CHAIRMAN. We will recess until 10 o'clock tomorrow morning. (Whereupon, at 11:45 a. m. a recess was taken until 10 a. m. of the following day, Wednesday, May 8, 1935.)

[CONFIDENTIAL]

SOCIAL SECURITY ACT

WEDNESDAY, MAY 8, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., in the Finance Committee Room, Senate Office Building, Senator Pat Harrison (chairman) presiding.

Present: Senators Harrison (chairman), King, George, Gore, Bailey, Clark, Black, Gerry, Keyes, La Follette, Hastings, and Capper.

Also present: Middleton Beaman, legislative counsel, House of Representatives.

The CHAIRMAN. I want to read to the committee, before we start, so it will appear in the record, a letter received from the Postmaster General. It follows:

MAY 1, 1935.

HON. PAT HARRISON,

Chairman Committee on Finance, United States Senate.

MY DEAR SENATOR HARRISON: With respect to H. R. 7260, a bill to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a social security board; to raise revenue; and for other purposes, it is believed that your attention should be invited to the fact that assuming that a very large portion of the money to be procured through the operation of this measure will accrue through the distribution and sale of stamps, coupons, books, and other devices through post offices, it will necessarily entail much additional work and expense to the Postal Service, including the Department in Washington.

Accordingly, it is suggested that the bill be appropriately amended to provide for advance allotments annually to the Postmaster General of such sums as may be required to be expended by the Post Office Department to administer the provisions of section 809 of title VIII of the bill.

Very truly yours,

JAMES A. FARLEY, *Postmaster General.*

The CHAIRMAN. General, the committee thought, in view of the decision the other day of the Supreme Court, and we are considering the Social Security Act, we would like to get the interpretation of the Department of Justice as to what effect that decision may have on this legislation. We will be very glad to hear you.

STATEMENT OF ANGUS D. MacLEAN, ASSISTANT SOLICITOR GENERAL

Mr. MacLEAN. Mr. Chairman and Senators, I think it must be reasonably clear by this time that there are two distinct schools of thought on the Supreme Court. They are evenly divided, 4 to

4, with the one member not committed to any particular school of thought. That situation, if it is correct, imposes a considerable degree of caution on expressing an opinion about legislation of this kind. I may say at once that the Department of Justice—and I am not referring alone to my own view but to that of the Attorney General as well as to that of Judge Stephens—feel that the opinion in the *Railroad Retirement Act case* is not decisive certainly of this security legislation and not directly authoritative. It deals with entirely different constitutional questions. It deals, as you know, with the commerce clause, also with the due process clause, and in substance holds that the Railroad Retirement Act is too remote to come within the purview of the commerce clause, and also that certain features of it offend against the due process clause. Neither of those conditions, I believe, apply to the bill you have before you.

That bill embodies two main features. First, appropriations used for making grants to the States for old-age assistance, grants to the State for unemployment compensation, grants to the States for aid to dependent children, grants to the States for maternal and child welfare, and grants to the States and various subdivisions for public-health work. I assume if there were no more involved than these various grants, there would be no constitutional question here at all. Is that probably true?

Senator GEORGE. I think that may be said to be true, General.

Mr. MACLEAN. Yes.

Senator BAILEY. Before you leave that, you say there would be no question on those points.

Senator GEORGE. I think there would be no serious constitutional question. One phase of the maternity legislation has been in the Supreme Court. I think it has been pretty well generally established that so far as grants by the Congress to the States in aid is concerned, no very serious constitutional question can be raised successfully against it.

Senator BAILEY. I do not think we ought to have a system here in which the constitutional rights cannot be tested. It is conceded the Bankers Act is unconstitutional, but it is so arranged that the question cannot be presented to the courts until next spring. Somebody is deprived of his constitutional right for fully 2 years.

Senator GEORGE. Personally I do not think grants-in-aid could be successfully attacked on the ground of unconstitutionality.

Senator BAILEY. I think, since our attention has been called to the fact that neither the State nor an individual can attack that sort of use of public money, it is due to the Congress to give the taxpayer an opportunity, at any rate, to test his constitutional rights.

Mr. MACLEAN. I might suggest that the statement just made by Senator George, I believe, goes a little further than a lack of means of contesting it. There is a good deal of strength to the view that there is no limitation on the power to appropriate money, a power that has been exercised by the Congress ever since the Government was formed, I believe, and so far as I am aware, without professing to be an authority on the subject, no limitation up to now has been imposed.

Senator GEORGE. I think that is true. I did not mean to say that was not true. Of course you recall the old controversy. In the early days, something could have been said on the other side, very strongly said, and was said. I agree myself with the point that power to

appropriate stands virtually unrestricted and uncontrolled, so far as the courts are concerned.

Mr. MACLEAN. Shall I go ahead?

The CHAIRMAN. You may proceed.

Mr. MACLEAN. The other phase of appropriations is that for Federal old-age benefits. I believe they are commonly called "pensions." That, unquestionably, is a new field, but, as Judge Roberts says, the fact that the compulsory scheme is novel is of course no evidence of unconstitutionality. This provision for Federal old-age benefits is an appropriation in itself. It does not differ in degree or in kind, speaking generally, from the grants to the States for the various purposes, and they, as has been said, certainly are not grossly different from various other forms of aid that the Congress has seen fit to grant at different times.

Now, I believe it is a fairly safe statement to make that not only is no machinery provided for questioning an appropriation by the Congress but no authority has ever been established for the proposition that it ought to be done.

Senator KING. Other than perhaps by the bureau which predetermines what the expenditure should be.

Mr. MACLEAN. Now, whether the Congress feels that machinery should be provided and the opportunity be granted is something I do not think I am at liberty to express any opinion about one way or the other. So far as these appropriations are concerned, I think the Congress certainly is not obliged to assume that there is any restriction on its right to appropriate money.

Senator HASTINGS. Which particular feature are you talking about now, Mr. MacLean?

Mr. MACLEAN. I was last speaking about the Federal old-age benefits or pensions. Before that time I had referred to the various grants.

Senator HASTINGS. You are now talking about the appropriation of \$125,000,000, the direct payment by the Federal Government?

Mr. MACLEAN. I am not sure what the total appropriation in the bill is, sir.

Senator HASTINGS. All right. I just wanted to know. You are referring to the direct aid, are you not?

Mr. MACLEAN. Yes, substantially that. There may be a distinction that I do not lose sight of, but I do not think it is such a distinction as would go to the root of the provision itself. There may be a distinction, I agree, between grants-in-aid to the States and a Federal old-age pension system as to which it might be said that States rights were involved. I say there may be some distinction there, although I do not suggest at all that it is a controlling distinction.

Senator HASTINGS. A phase of this bill is a grant-in-aid to the States. It does not do more than that.

Mr. MACLEAN. I was endeavoring to point out that there is some difference as between the grants-in-aid to the States and the Federal old-age benefits or pensions which go direct to individuals.

Senator HASTINGS. I say this bill does not involve that as it is written.

Senator KING. Does it not involve that in its ultimate implication? The grant to the States for old-age pensions presupposes that it goes to individuals and not to the States per se.

Mr. MACLEAN. If you have copies of the bill before you I think I ought to call your attention to title II, Federal old-age benefits.

Senator HASTINGS. Is that the House bill or the Senate bill?

Senator BAILEY. The House bill.

Mr. MACLEAN. This is the bill I understand pending before you.

The CHAIRMAN. It is the House resolution.

Mr. MACLEAN. Page 7, Senator. The appropriation authorized there is of an amount sufficient, as an annual premium, to provide for the payments required under this title, and so on. As I have already said, I think it presents some distinctions from the appropriations for grants-in-aid for various other purposes.

Senator HASTINGS. That is section 201?

Mr. MACLEAN. Yes, sir.

Senator HASTINGS. What I was talking about was section 2, State old-age assistance plan, on page 2. Now section 201, title II, is an entirely different proposition.

Mr. MACLEAN. I think it is a different proposition, yes, sir.

Senator HASTINGS. What I was trying to get at was whether you were talking about section 2 or section 201.

Mr. MACLEAN. I was last talking about section 201.

Senator HASTINGS. Now do you see any difference in section 2 as to the constitutionality of that than all of these other aids, like maternity aid and so on?

Mr. MACLEAN. Well, I see no distinction so far as constitutionality is concerned.

Senator HASTINGS. That is what I mean.

Mr. MACLEAN. In grants for State aid to any of these purposes enumerated here.

Senator HASTINGS. That is what I mean.

Senator BLACK. Mr. MacLean, may I ask you a question there?

Mr. MACLEAN. Yes, sir.

Senator BLACK. If this bill should be written in such a way, with reference to all of those features, that it rested wholly upon the idea of a Federal aid grant to the States, in your judgment would that make it more likely that the Supreme Court would sustain its constitutionality?

Mr. MACLEAN. Well, sir, if I must answer the question in a word, I would say yes, but I expect there is a good deal more to be said than that.

Senator BLACK. I understand there is, but in view of the last opinion that has been rendered, would you not say "yes" with more emphasis than you would even before that opinion had been handed down?

Mr. MACLEAN. Senator, I ventured to say before you came in that I do not think that opinion is decisive of the question at all.

Senator BLACK. I understand that; I agree with you fully. The point I was getting at was that we have established in this country a method of assistance to the States by Federal aid from the Public Treasury. One of the objections that has been raised to this bill is, it is coercive in reference to certain features, as to the methods by which the tax is raised, and refunding that particular tax back to the people. What I am getting at is, would it be your opinion, if we simply provided a Federal grant from the Public Treasury, leaving the question of collecting the taxes as it is, free from any contact or

association with this bill, would we not come nearer, in your judgment, to sustaining the constitutionality of the measure?

Mr. MACLEAN. Well, I still say if that question must be answered in a word, my answer would be "yes", but I think there are other questions to be considered, or other phases to be considered in connection with it. You of course, by doing it that way, would get away from any idea of taxation at all. I say you get away from any idea of taxation at all, and you would simply then have the question of the constitutionality of grants to the States for certain purposes.

Senator BAILEY. And then there would be no way of raising that question.

Mr. MACLEAN. I know of no way to raise the question.

Senator BAILEY. That itself would be an interpretation by the Congress of the general welfare clause, and since there is no way to raise it, that would be a final determination. Is not that the difficulty?

Mr. MACLEAN. Well, I think primarily the Congress is entitled to interpret the general welfare clause, Senator.

Senator BAILEY. We can interpret it either on a limitation or enlargement, and we are doing that, aren't we?

Mr. MACLEAN. Well, I think the interpretation probably now is toward enlargement, but that is for you rather than for me.

Senator BAILEY. That imposes upon the Congress a very grave responsibility. We are doing that well knowing our interpretation cannot be tested in the Supreme Court. I agree with Senator Black that we can throw all of this money into one general fund and then appropriate and there is no way to test it, but I would like to see the test.

Senator KING. For defending the ethics, or the morality, or the constitutionality of it in a strict sense.

Senator BAILEY. I am not saying it should be that way, but I am saying under the doctrine in *Massachusetts v. Mellon* that is quite clear, and I think there should be some corrective legislation.

Senator BLACK. I would like to state that it is my idea we can evade, if we desire to evade, as the Senator says, any question of constitutionality. We could do it absolutely, because the question could not be raised. In addition to that, it is my belief that it does come within our rights to grant aid to the States for these purposes within the Constitution. I believe for both reasons it could be done that way. I favor now, as I have from the beginning, following a method that we are sure we are standing on the constitutionality of it.

The CHAIRMAN. General, may I ask you, so we can get to it, as to section 2, the State old-age assistance plan, and as to section 201, the old age benefits payment, have you any doubt, or has the Department of Justice any doubt as to its constitutionality?

Mr. MACLEAN. Now, Senator, the question, if you will allow me to say so, is most too direct. To say that we have no doubt would assume that we haven't taken into account what I said at the outset, the very close decisions that are being rendered on questions of similar import. The most we undertake to say is we think it is probably constitutional.

Senator BAILEY. Now, Mr. MacLean, assuming that this decision is a decision of the court, notwithstanding the division, I would like to test certain language with you, but I do not want to interrupt you if you have a prepared statement.

Mr. MACLEAN. No; I have no prepared statement, Senator, but I do repeat with great deference that I do not think the opinion in the Railroad Retirement Act is decisive of the question that the chairman has just asked me.

Senator KING. Would it not be decisive if it is to be interpreted as the Chief Justice Hughes interpreted it? When I say "would it not be decisive", would it not lend a great deal of weight to the proposition that that decision is decisive against some features of this bill?

Mr. MACLEAN. Well, you mean to say if the Chief Justice's opinion has been the opinion of the Court?

Senator KING. No, no; his interpretation of the majority opinion. Does not his interpretation of the majority opinion raise very serious doubts as to the validity of some features of this legislation?

Senator HASTINGS. I might refresh your recollection, if you permit me, by reading it to you:

But after discussing these matters, the majority finally raised a barrier against all legislative action of this nature by declaring that the subject matter itself lies beyond the reach of the congressional authority to regulate interstate commerce.

Mr. MACLEAN. I think that is the point right there.

Senator HASTINGS. Just let us follow it [reading]:

In that view, no matter how suitably limited a pension act for railroad employes might be with respect to the persons to be benefited, or how appropriate the measure of retirement allowances, or how sound actuarially the plan, or how well adjusted the burden, still under this decision Congress would not be at liberty to enact such a measure.

Mr. MACLEAN. I think it must be assumed, Senator, that he was referring there to the power of Congress to impose such an act, so to speak, on the railroads under the interstate commerce clause rather than the power of Congress to deal with benefits in an entirely different way.

Senator GEORGE. Now you are coming right down to it. When you come to title II, I confess I look at this whole thing as grants-in-aid to the States for these various purposes, and simply as supporting, aiding, and assisting the States, and encouraging the State to develop old-age pensions, and everything else. Where does title II rest? On what power does it rest in the Federal Constitution? Here is a direct setting up by the Federal Government of Federal old-age pensions, direct payments to individual citizens.

Senator HASTINGS. By the Federal Government?

Senator GEORGE. By the Federal Government. Where does it rest if it does not rest on the interstate commerce or some other power of the constitution? Now if it rests on the interstate commerce clause, then you are in collision, are you not, with the recent decision of the Supreme Court? Of course it is not made to rest affirmatively upon anything. That is simply creating a system of Federal benefits payable directly to individual citizens who reach certain ages and meet certain requirements. Then of course there is a subsequent title of the bill that provides for the raising of the revenue to carry out this particular purpose. It is not the question of appropriations here now that is raised. The question comes fundamentally to this: What is the constitutional basis of title II of this act?

Senator HASTINGS: Can we tax for that purpose?

Senator GEORGE. Can the Federal Government levy a tax for an independent system, not in aid to the States at all? That title stands separately, it has no reference to State cooperation, as I understand it. I may be misinterpreting it.

The CHAIRMAN. Mr. Beaman, can you enlighten us on that proposition?

Mr. BEAMAN. Which one, Senator?

Senator GEORGE. In title II it sets up an independent Federal activity. It is not in aid to the States at all; it is not to support the States, not to invite cooperation of the States.

Mr. BEAMAN. Absolutely.

Senator GEORGE. I raise the question now, Is that predicated necessarily upon the interstate commerce clause or does it rest on some other provision?

Mr. BEAMAN. Not in the least, Senator. Nobody connected with the bill in the committee, those assisting in the preparation of the bill, or so far as I know the President's Cabinet Security Committee, ever had any such thought. As I understand the theory back of this bill, the power in title II is exactly the same power of the Congress as is involved in grants-in-aid to the States. In other words, the question is the same question as you have in the grants-in-aid. There is probably no means at the present time by which the constitutionality can be tested. I do not want to interrupt the witness here. I can talk to you at some length on my view as to the constitutionality of this measure. The way this bill is set up, the proceeds of the tax are put into the general Treasury.

The old-age benefits payable under title II are paid out of the Treasury in pursuance to appropriations authorized in this bill. Supposing Congress passed this bill leaving out, as Senator Black suggested, or part of his suggestion at least, leaving out the tax in this bill and take title II as it stands, I take it that the question as to the right to test power of Congress to pay the old men out of the Federal Treasury is a question that has been passed on in Massachusetts against Mellon. Assuming, as an academic question, that the court should test it, there is no difference in our view, at all, between title I and title II. In either case the question before the court is, What is the power of Congress to do those things that it deems necessary for the public welfare, and which it has, under the Constitution, power to raise money by general taxation to defray? Now if they have the power to take care of old men, dependent children, crippled children, and public health generally, I cannot see that there is much distinction between whether they do it by paying half of it or all of it. That is legislative discretion which they can exercise as they see fit.

Senator BLACK. Mr. Beaman, there is a vast distinction between the Federal Government doing it as a Federal Government and aiding a State in carrying on a plan of its own, is there not?

Mr. BEAMAN. There is of course that factual difference, but I cannot see, from the standpoint of constitutional power of Congress, that it makes much difference.

Senator GEORGE. If we can do these things directly for certain citizens that fall in certain classes, what power is there to restrain the Federal Government from controlling the activities of these particular citizens scattered all over the country? It seems to me a very serious constitutional question is involved in this title II.

Senator BAILEY. Mr. Beaman, let me read you the language of Mr. Justice Roberts in the Railroad Retirement Board versus Alton Railroad. It says:

Provision for free medical attendance and nursing, for clothing, for food, for housing, for the education of children, and a hundred other matters, might with equal propriety be proposed as tending to relieve the employee of mental strain and worry. Can it fairly be said that the power of Congress to regulate interstate commerce extends to the prescription of any or all of these things? Is it not apparent that they are really and essentially related solely to the social welfare of the worker, and therefore remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie outside the orbit of Congressional power.

That word "orbit" there took in the whole business. It did not relate to interstate commerce. I agree it is not necessary, but it is there. All of that lies outside of the orbit of Congress. There it says that the whole procedure is unconstitutional, regardless of interstate commerce. What would you say to that?

Mr. BEAMAN. Senator, if you listened carefully to what I said, I think you would observe that I did not give any opinion or discuss the question as to whether all these things were within the power of Congress. I think there is grave doubt about that question. What I was emphasizing was that as far as we fellows working on the bill can see, there is no difference in the power whatever. Whether Congress has it or does not have it, the question is the same. Whether they do it by grants-in-aid to the States, whether they do it one-third, or all, as in certain parts of this bill, or whether they appropriate money, as they have done in years past, directly out of the Federal Treasury for all kinds of projects, including the enormous sums for relief, all the questions seem to be the same. In answer to the question of whether Congress has that power, that is an entirely different matter.

Senator HASTINGS. There is a distinction between doing it directly and doing it indirectly.

Mr. BEAMAN. We cannot see any difference. In other words, if Congress has the power at all, it is because of the national evil and the troubles we are in. Congress has the power to remedy those things by expending money to relieve many conditions. Either they have or they have not. If they have it, it seems to me the particular mode of exercising it, unless clearly unreasonable, must be within the legislative discretion.

Senator HASTINGS. I always thought it was primarily the duty of the States to take care of social conditions. Under certain conditions Congress was justified in making contributions from the Federal Treasury to assist the States in that primary duty, but it never occurred to me that the Federal Government could do that job itself without destroying these State rights.

Mr. BEAMAN. They are doing it on relief.

Senator HASTINGS. They are doing it through the cooperation of the States.

Mr. BEAMAN. That is simply the machinery.

Senator HASTINGS. And that machinery is of some importance.

Senator BLACK. That is what we had the fight over, that is why the relief was delayed, because a lot of us did believe there was a great difference between making a direct contribution in aid to the States and having the Federal Government set up machinery for itself.

Senator HASTINGS. There is another thing to bear in mind. The relief, we hope, is a temporary thing. This is permanent legislation. This section 201 is setting up a policy that is supposed to last forever.

Mr. MACLEAN. May I come back to Senator George's question for one minute?

The CHAIRMAN. Yes, Mr. MacLean.

Mr. MACLEAN. He asked if there was any express power of Congress to support section 201. Was not that your question, Senator?

Senator GEORGE. Section 201. Is that title II?

Mr. MACLEAN. Yes, sir.

Senator GEORGE. Upon what constitutional basis shall it rest?

Mr. MACLEAN. Well, I think, first, it rests upon the power of Congress to appropriate money. Now that power of appropriation, as I understand it, is not derived from an express grant, but the courts have said, and it is necessarily true, that it is derived from the power to levy taxes. There is no limitation that I am aware of on the power to appropriate money. You can appropriate it, and you do, for education, for maternity aid, for various purposes, humanitarian and otherwise, not essentially different from those purposes set up in this bill.

Senator GEORGE. Mr. MacLean, I grant you that we can appropriate money to relieve the earthquake sufferers in Tokyo, or any place in the world that we want to. That is a pure gratuity. That is an outright appropriation of Federal funds over which Congress has jurisdiction, I grant you that, but this title II is much broader than that, it is much more than that. It sets up and vests rights in individual beneficiaries. The courts may say it is nothing but a gratuity after all.

Mr. MACLEAN. That is true of the bonus bill.

Senator GEORGE. That is a different proposition, of course.

Mr. MACLEAN. Well, it is a different proposition, but who can question your power to appropriate for that purpose?

Senator GEORGE. I do not think anybody could.

Mr. MACLEAN. As you just said, if you saw fit to appropriate right now a million dollars to aid those people out in Formosa, who can question your power to do that?

Senator GEORGE. We might do it. I do not think anyone could question our power. But it seems to me that title II is much more than that, much more than a mere appropriation of money.

Mr. MACLEAN. Or if you appropriate money, as you have done, to aid worthy young people going to college, and there is a direct grant to them for that purpose, who can contest your power?

Senator GEORGE. I do not know that we have done that.

Mr. MACLEAN. Well you have.

Senator GEORGE. Mr. Hopkins has done that.

Mr. MACLEAN. Well, you authorized him to do it.

Senator GEORGE. We gave him a lot of money and he is doing as he pleases with it. That is the truth about that.

Mr. MACLEAN. Suppose that be true, Senator, suppose you gave him billions of dollars to do with as he pleases, that is a tremendous exercise of power, much greater than it is with Congress itself here, where you direct specifically how the money shall be used. I think that is the widest exercise of power that is possible.

Senator GEORGE. That is an extreme illustration of the power of Congress to appropriate money, that is true; but it seems to me, from a hasty reading of it, that title II does much more than that. It sets up a system under which the individuals affected acquire vested rights, and it seems to me that it must necessarily rest upon some broader, some more specific power than the mere appropriation.

Mr. MACLEAN. That is a big question.

Senator GEORGE. I had looked upon this whole bill as providing for grants-in-aid for certain specific purposes, and I have no doubt that we can do that; I have no doubt that the power is with us there, because certainly it is within the function of the State to do the things that we are trying to do here to encourage the States to do, but I do not want to argue or press the point. I just raised it because it came to my mind.

Mr. MACLEAN. I think it is a big question. I say that without hesitation. I will say this, Senator, and I think it is not out of place to say it, that the Constitution and the powers of Congress under the Constitution are to be interpreted as of today.

Senator KING. What is the good of having a written constitution?

Mr. MACLEAN. So you can interpret it as of today.

Senator KING. Are there no landmarks? Is there no anchor? May the interpretation depend entirely upon the mercurial attitude of a people at a given time, so that a written constitution means today one thing and tomorrow another thing?

Mr. MACLEAN. Well, I do not think that, Senator. I do think it is not out of place to say that probably a constitution ought to be interpreted in the light of the preponderant opinion of the times. I do not mean what a mob may say, or some whirligig opinion, one thing today and one thing tomorrow.

Senator KING. Suppose a given State, or a majority of States, shall say, "The time has come for us to compound the States into one big protoplasmic mass with all authority to come from the Congress of the United States, or the Federal Government, and the States, and individuals of the States, are to move only when pricked by the Federal authority or bureaucratic institutions", do you think the preponderant opinion then would justify such a conclusion?

Mr. MACLEAN. I think this, I think that that preponderant opinion, using it in a correct sense as interpreted by the Senate and by the House and enacted into a piece of legislation such as this, affords adequate ground for the principle consistently enunciated by the Supreme Court that every presumption is in favor of the constitutionality of the act.

Senator KING. Presumptions are rebuttable.

Mr. MACLEAN. That is true.

Senator KING. Certainly you would not contend that a presumption would justify infraction of the positive terms, the clear terms of the Constitution of the United States?

Mr. MACLEAN. I certainly would not and I make no such contention as that.

If I may go just a step further now on Senator George's question, the power to appropriate money, as I said, derives essentially from the power to levy taxes. That is where it comes from. It does not come from any express grant to appropriate money, as far as I understand it. You have a constitutional provision that the Congress

shall have the power to lay and collect taxes, to provide for the general welfare of the United States. Now, I ask you to observe that, Senator.

Senator KING. Well, I have observed it and I do not agree with the conclusion, or the form in which you propound the question.

Mr. MACLEAN. Well I say "shall have the power to lay and collect taxes, to provide for the general welfare." Now what I was about to say was this: If the Congress has the power to lay and collect taxes to provide for the general welfare, it certainly, prima facie at least, has the right to determine what is for the general welfare.

Senator KING. Well, I do not agree that that "may levy taxes for the general welfare" is to be interpreted without any limitation or restriction whatever. That would be grant of authority, the words "general welfare."

Mr. MACLEAN. I quite agree that that is not a power to legislate directly concerning the general welfare. I am advertent to the distinction that the courts have made about that. But I do think, if Congress has the right to levy and collect taxes for the general welfare, which is an express grant, it has the power to say what it deems to be for the general welfare.

Senator KING. Well, I do not concede that there is an express authorization to levy taxes for the general welfare. There is a difference between us.

Mr. MACLEAN. I was just trying to get a little closer to Senator George's question: Where is there any constitutional right to levy taxes in aid of old-age pensions? If Congress determines that old-age pensions are for the general welfare, if that sort of legislation comes within the term "general welfare", then I think there is some basis for saying that the power is to be found there in that provision.

Senator HASTINGS. Mr. MacLean, would you say that the Congress had the power to levy a tax and appropriate money to take the place of this fund that has been accumulated by the railroads by this act that has been declared unconstitutional?

Mr. MACLEAN. May I ask you to repeat that, Senator Hastings?

Senator HASTINGS. I say, would you say Congress has the power to levy a tax and appropriate money to take care of railroad employees to take the place of the fund which had been accumulated and would continue to accumulate in the railroad case that has just been decided?

Mr. MACLEAN. I am not sure that I am answering exactly what you have in mind, but I believe railroad employees could be brought within this pending bill.

Senator HASTINGS. That is not exactly the point. I was just wondering about it, in view of this decision that has just been rendered, instead of having the railroads pay that, and the employees pay it, could the Federal Government appropriate enough money to take the place of that fund so that everybody would share in it, just as it was intended they should share when the act was passed?

Mr. MACLEAN. If your question only applies to railroad employees and taxes were to be laid only on railroads, and on railroads for that particular purpose, I think that would be questionable procedure.

Senator HASTINGS. Suppose it was paid out of the general fund?

Mr. MACLEAN. Now, if the Congress were to determine that railroad employees were entitled to special consideration and were to make appropriations for that purpose, that would probably fall within the power of classification.

Senator BLACK. Mr. MacLean, referring to the subject that Senator George and I mentioned, which, in my judgment, is vital to any real consideration of what we can do, you, of course, are familiar with the principle that a long-continued interpretation of any constitutional provision or any action over long periods of years by administrators and legislators has sometimes great weight and even a compelling weight in determining the constitutionality of an act, does it not?

Mr. MACLEAN. That is quite true, Senator.

Senator KING. The Supreme Court held that with respect to certain regulations dealing with the public domain, blanketing certain territory, in violation, I contended, of the authority of the Constitution that the Congress shall have authority to regulate the public domain, public lands, and so on, and many of the ablest lawyers in the United States criticized, and still criticize that position which was taken in that case.

Senator BLACK. But it is a well-recognized provision. I happened to brief that on a case and won my case, on that constitutional question.

Senator KING. I think that is a poor defense of an unconstitutional act, though.

Senator BLACK. I do not think it makes it unconstitutional. Since before the time that the Federal Government distributed tariff and tax-raised money to the States, this Government has been contributing money to the States to aid the States for various purposes, has it not?

Mr. MACLEAN. That is undoubtedly so.

Senator BLACK. And certainly if the Government has the right within the Constitution to raise money to aid the States to do a thing which is within their province, in the province of the States, that is an entirely separate and distinct thing from the Federal Government raising Federal money to do that thing through the Federal Government which only the State has the constitutional right to do. There is a distinction there, is there not?

Mr. MACLEAN. There is, Senator, a distinction to be observed; yes.

Senator BLACK. And we all recognize that the States have the right to pass old-age pension laws.

Senator KING. If they have no constitutional inhibition against it.

Senator BLACK. Yes; if there is no constitutional inhibition against it.

Senator GERRY. Senator Black, if I may interrupt you, your argument there is that where the Federal Government starts to dictate how the States shall do this and how they shall legislate, then there is another question involved.

Senator BLACK. My question is this: Where the Federal Government, instead of aiding the States to exercise a proper function of that State, where the Federal Government passes a law not to aid the State to do it, but to tax the individuals all over the Nation to do it, putting a tax on their wages, exercising the power through the Federal Government to do that which only the State can do, that it thereby encroaches upon the function of the State, but that it does have the right, under the principle which I believe is within the Constitution, the right to aid the State to perform a duty and function of the State, and that therefore we can write this measure so as

to come within the Constitution of the United States by changing title II and the other title, and simply providing the State aid for States' control, to wit, old-age pensions, or unemployment fund.

I just started to ask this one remaining question: If it is true that the State does have the right to pass an old-age-pension law, would you state that it would be the safer thing for this Congress to so write this law as to aid the State to carry out its function, instead of trying, through the Federal Government, to exercise the questionable function of providing Federal old-age pensions? Which would you say would be advisable for this Congress to do?

Mr. MACLEAN. Well, Senator, I see the force of that question. It is assuming a good deal to venture any opinion on it one way or the other. I think, in candor, I ought to say it would be safer, as you have put it, in the strictly legal sense, to make a grant-in-aid to the States for that purpose.

Senator BLACK. I have been insisting on that since the bill first came up.

Mr. MACLEAN. Senator, I wish you would let me go just a step further.

Senator BLACK. Yes, sir.

Mr. MACLEAN. I think in doing that, however—well, I will put it this way: I think you probably would not want to do that unless you feel you are obliged to do so, because the result would be that the uniformity of the benefits of this bill would be destroyed.

Senator BLACK. Not necessarily.

Mr. MACLEAN. Because of different conditions and different laws in different States. Some States would derive relatively very much more benefit from an arrangement of that kind than they would under this bill, which, while it may be construed in the nature of a grant-in-aid to the States, undertakes to see that the individuals get that benefit under the same conditions in every State.

Senator GERRY. Mr. MacLean, following out Senator Black's theory, following it out to its logical conclusion, would not it be safer to see that the Federal Government should not put any regulations in; that the less regulations they put in, or the less authority they have over the grants, why, of course, the safer it makes it on the constitutionality of it?

Mr. MACLEAN. That may be true, Senator, unless you go so far as to violate the rule that you have delegated your power almost exclusively to someone else, so far as the use of the funds is concerned.

Senator BLACK. Of course I do not agree with that conclusion at all. The Federal Government, if it makes a gift or grant or gratuity to the States to perform a constitutional function of the State, has a perfect right to make that grant, that gratuity, as any individual would, upon such terms and conditions as it sees fit, does it not?

Mr. MACLEAN. That is true.

Senator BLACK. So it would not affect the constitutionality at all.

Senator GERRY. It depends on how far you go.

Mr. MACLEAN. I would like permission to invite your attention to the latest case on this general subject that we have been able to find, the case of *Magnano v. Hamilton*, in the 292 U. S., beginning at page 40, the opinion being by Mr. Justice Sutherland, who, I may say, wrote several of these opinions on the power of taxation, which the Department has relied upon in reaching its conclusion about this bill.

He has in this *Magnano case*, and in the others, stated that many of the questions which are being asked are beyond the scope of judicial inquiry. The responsibility being on the Congress rather than on the court. He goes so far as to say [reading]:

nor may the tax within the lawful power of a State be judicially stricken down under the due process clause simply because its enforcement may or will result in restricting or even destroying particular occupations or businesses.

Citing several cases in support of the proposition that the due process clause does not apply to levy and collection of taxes unless in an extraordinary situation.

Senator KING. Would that not be emphasizing the authority of the States to deal with questions which purely come within the cognizance of State authority and State control? That was a challenge, as I assume from the little he read, to the validity of the statute enacted by the States, and it was contended that in the enforcement of that statute under the guise of it being a tax for revenue which infringed the Constitution, that in regard to the due process he gave the State greater validity than some of the wise men in these days are willing to give?

Mr. MACLEAN. I think you should read that opinion, because it comes closer to answering some of the questions that have been asked than I have been able to do. He said:

except in rare and special instances the due process of law clause contained in the fifth amendment is not a limitation upon the taxing power conferred upon the Congress by the Constitution.

He cites there the *Brushaber case* in the 240 U. S., which is a very learned discussion on that whole subject.

Senator BLACK. Was that a decision upon the question as to the object and purpose of the tax, or as to the amount of the tax?

Mr. MACLEAN. Senator, in this case there was a tax on oleomargarine which was intended really to destroy that business, and the decision held that you could not go behind the taxing act.

Senator BLACK. As to the amount?

Mr. MACLEAN. To find out whether Congress or the State, which it happened to be here, had some collateral or ulterior purpose in mind.

Senator BLACK. That was because of the amount involved. They insisted, did they not, on account of the amount of tax involved they could go behind it and find it was for an improper purpose?

Mr. MACLEAN. Yes, they did; that the tax was, in amount, destructive of the business.

Senator BLACK. There was no other point raised as to the constitutional objective of the tax?

Mr. MACLEAN. Well, it dealt with due process. You will find the opinion very helpful, not only in what it says but in the citations it makes of all of the leading authorities on that subject.

Senator BAILEY. Mr. MacLean, this case with which we are dealing with, the railroad pension case, does that affect your mind at all with respect to the plan in this pending bill of pooling the taxes that we collect from the pay rolls?

Mr. MACLEAN. There is no pooling of taxes in the pending bill, Senator.

Senator BAILEY. Creating a trust fund.

Mr. MACLEAN. You simply collect the taxes and gather them into the Treasury. Now there is a provision in respect to one of the taxing features that a trust fund is to be set up.

Senator BAILEY. It says, "authorized and directed to receive and hold in the fund all moneys deposited." That is rather analogous to the railway plan. I am not saying it is absolutely, but I am asking you to review the pending legislation in the light of the railway pension case, because the case is perfectly clear on that point. Whatever else may be said about the railway pension case, it held you could not pool the funds.

Mr. MACLEAN. Of course in that regard it held not that you could not pool the funds, I reckon, but that you could not make one railroad pay the tax for another, so to speak. That question, of course, does not arise here, I take it.

Senator BAILEY. Why would not it arise?

Mr. MACLEAN. Congress makes the appropriation and there might be a total failure to collect the tax, and I take it for granted that the benefits would not fail for that reason.

Senator BAILEY. You think you would still get the money out of the Federal Treasury independent of the pay-roll tax?

Mr. MACLEAN. I think so, Senator. I think that would be the result.

Senator BAILEY. Well, assume that we did not do that and did get the fund from the various institutions, based on the percentage of the pay roll, and the percentage in one case is entirely different as in another case, isn't that a general inequality in the bill on that basis?

Mr. MACLEAN. No, sir; I do not think there is a general inequality, if I understand what you mean by the word "inequality". There are differences, of course.

Senator BAILEY. Let us get at it this way: One pay roll, say, in North Carolina is in a certain relationship to the value of the manufactured output, and another is in a different relationship, one is 30 percent and the other is 40 percent, when you go to pay these people the pensions you pay them equally, do you not?

Mr. MACLEAN. Yes; I think so.

Senator BAILEY. But we are deriving the fund unequally from these industries and in that sense we are making one industry pay the pensions of an employee of another industry.

Mr. MACLEAN. That may be true, Senator.

Senator BAILEY. Is that not taking property?

Mr. MACLEAN. That is essentially different, I reckon, from collecting different rates of taxes from income or excises, depending on many different conditions.

Senator BAILEY. I get your idea. You go back to the bill, that we levy a tax, we have the power to do it, and when we appropriate it we may appropriate it to suit ourselves.

Mr. MACLEAN. Yes.

Senator BLACK. Of course there is one difference in connection with the consideration of that case and this bill, because this is nationwide in its effect. It affects all industries, all classes of people. That is one distinction which might be borne in mind in consideration of the entire case, is it not?

Mr. MACLEAN. I think that is so, Senator. As I understand Senator Bailey, he is suggesting that the tax would bear harder on some business or industries than on others. That is true, but that is true of every tax. It depends on many combinations of conditions as to the proportion of its net earnings or of its gross earnings that it may take.

Senator BAILEY. This is an allocation of the tax in one instance and a segregation in another, segregated for the purpose of the trust fund, and we allocate a fund for several institutions. I do not think we have anything quite like it in the United States. It is a great, big insurance company, based on pay rolls. That is what the Government is doing.

Mr. MACLEAN. Senator, I think you will find this bill undertakes, and successfully so, to separate its appropriation provisions from its taxing provisions.

Senator BAILEY. I can see your point of view, but back of it is the fact that we are creating an insurance company under the auspices of the Federal Government. Instead of having voluntary premiums we are imposing premiums by act of law. That is the sum of the bill. Is that not a fair statement?

Mr. MACLEAN. No, Senator, I would not say that this bill is setting up the Government as an insurance company.

Senator BAILEY. Well, it insures the employees, insures old-age pensions.

Mr. MACLEAN. It contains a good many beneficial features that have been in the past attempted to be taken care of in one way or another for private profit.

Senator BAILEY. The title declares, "by establishing a system of Federal old-age benefits and administration of unemployment compensation laws, and to establish a social-security board", then puts in finally, "to raise revenue."

Now what would you say about this, before you get through? Should we also have a bill with respect to doctors, lawyers, teachers, grocery stores, candlestick makers, and so on? Why should we not go the whole way?

Mr. MACLEAN. That is a matter for your own good judgment.

Senator BAILEY. Well, you would say we could do that, wouldn't you? If we can do this we can do the other?

Mr. MACLEAN. Yes; I think so, probably.

The CHAIRMAN. General, have you any other suggestions?

Mr. MACLEAN. The practical side of it, in the phases you have indicated, I have not attempted to express any opinion about it one way or the other. The Attorney General is anxious that we be of as much assistance to the committee as we can, and if it will be helpful to you we will prepare a memorandum pointing out the supports for this bill, and also pointing out, if we can, that the recent decision does not control the bill. We will be very glad to do that.

The CHAIRMAN. We shall be glad to have you do it.

Senator BAILEY. Now you mentioned the control. Does it raise any question that would put us on our guard with respect to this bill?

Mr. MACLEAN. Senator, I think I answered that as best I could at the outset. I think that opinion in connection with some others indicates clearly that there are two schools of thought on the Supreme Court, and that they are almost evenly divided.

Senator BAILEY. That would depend on which school prevailed.

Mr. MACLEAN. If you apply the strictest constitutional interpretation that the opinions admit of, you might reach one result. If you apply a more liberal interpretation, a broader interpretation, I think you will reach the result that the bill is within the constitutional power of Congress. Now which side of that line the majority will be on I cannot, of course, say.

Senator BAILEY. If the old school of thought prevailed, call it the old school, I mean the majority under this Railroad Pension Act, if that should prevail you would have some question as to whether this pending legislation would be held valid, wouldn't you?

Mr. MACLEAN. I think, Senator, notwithstanding what I have just said, there are essentially valid distinctions between the Railroad Retirement Act and the bill you now have under consideration.

Senator BAILEY. Undoubtedly. The Railroad Retirement Act is based on the interstate commerce clause and this is not.

Mr. MACLEAN. Yes. I do not mean to suggest to you those opinions of the court, the majority and minority opinions, do not present different views as to the light in which the Constitution is to be interpreted.

Now, Senator, I haven't been of much assistance, but if I can answer anything else, I shall be glad to do so.

The CHAIRMAN. Thank you very much. If you furnish this memorandum, if there are any suggestions as to strengthening the constitutionality of the proposition, we would like to get it. Thank you very much.

(The following memorandum was subsequently submitted by Mr. MacLean.)

MEMORANDUM OF THE CONSTITUTIONALITY OF THE SOCIAL SECURITY BILL

The purpose of this memorandum is to discuss the constitutional aspects of the Social Security bill now pending before the Congress; to explore the legislative powers under which its enactment is proposed; and to weigh the objections to its validity, which I understand have been informally advanced in the discussions of this measure. Before entering on a detailed analysis of the bill and a minute consideration of the constitutional questions which it involves, it seems desirable to advert to some basic fundamental principles of constitutional construction, which are sometimes overlooked, but which must always serve as a guide in determining questions of constitutional law.

The formula laid down by Chief Justice Marshall in *McCulloch v. Maryland* (4 Wheat. 316, 407), must always be borne in mind in testing the constitutionality of an act of Congress. His famous words have been often repeated, but may well be reiterated. They are as follows:

"A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects, be deduced from the nature of the objects themselves. That this idea was entertained by the framers of the American constitution, it not only to be inferred from the nature of the instrument, but from the language. Why else were some of the limitations, found in the 9th section of the 1st article, introduced? It is also, in some degree, warranted, by their having omitted to use any restrictive term which might prevent its receiving a fair and just interpretation. In considering this question, then, we must never forget that it is a constitution we are expounding."

Three years previously Mr. Justice Story had enunciated the same principle in somewhat different language. *Martin v. Hunter's Lessee* (1 Wheat. 304, 326):

"The Constitution unavoidably deals in general language. It did not suit the purposes of the people, in framing this great charter of our liberties, to provide

for minute specifications of its powers, or to declare the means by which those powers should be carried into execution. It was foreseen, that this would be perilous and difficult, if not an impracticable, task. The instrument was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence. It could not be foreseen, what new changes and modifications of power might be indispensable to effectuate the general objects of the charter; and restrictions and specifications, which, at the present, might seem salutary, might, in the end, prove the overthrow of the system itself. Hence, its powers are expressed in general terms, leaving to the legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mold and model the exercise of its powers, as its own wisdom, and the public interests, should require."

In entering upon a discussion of the particular measure here under consideration, it is desirable first to analyze its provisions. The Social Security bill consists of a number of distinct titles. Title VIII proposes to impose an income tax on the wages of certain classes of employees, and an excise tax on certain classes of employers, measured by specified percentages of the wages paid by the employers to whom the tax is applicable. Title IX imposes another excise tax on employers employing ten or more persons, the tax again being measured by specified percentages of the wages paid by the employer.

Title I of the bill provides for grants to the States for old-age assistance. In order to qualify for such grants, a State is required to adopt an old-age assistance plan, meeting certain standards laid down in the bill, and to appropriate funds to match the Federal contribution. Title II seeks to appropriate money for the payment of old-age benefits to certain groups of employees upon their attaining the age of 65. Title III proposes to make grants to States for the administration of unemployment compensation, provided the State adopts an unemployment compensation law complying with certain standard laid down in the bill. Title IV provides for Federal grants to the States for aid to dependent children, while title V makes similar grants for maternal and child welfare. Title VI makes certain appropriations for the purpose of extending and improving public health services.

There will first be considered the validity of the tax features of the bill contained in title VIII and title IX.

The first tax sought to be imposed by the bill is that found in title VIII, sections 801-803. It is an income tax on the wages of certain classes of employees. The power of the Congress to levy an income tax is undisputed. Suffice it to advert to the sixteenth amendment, which reads as follows:

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."

In levying an income tax, the Congress may exempt certain classes of persons or certain types of income, as well as levy varying rates of tax on incomes of differing sizes. *Brushaber v. Union Pacific Railroad Co.* (240 U. S. 1). The validity of the tax imposed by these provisions of the bill, standing alone, is undoubtedly not subject to question.

Title VIII, sections 801-811, and title IX provide for excise taxes on wages paid by certain classes of employers as defined in the bill.

The grant of power to the Congress to levy excise taxes is found in article I, section 8, clause 1 of the Constitution, which reads as follows:

"The Congress shall have Power to Lay and Collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States."

More comprehensive and sweeping language can hardly be imagined. The Supreme Court in *Brushaber v. Union Pacific Railroad Co.* (240 U. S. 1, 12), stated that the authority conferred upon the Congress by this provision "is exhaustive and embraces every conceivable power of taxation."

The only limitation on this power is that contained in the constitutional provision, namely, that "all duties, impost and excises shall be uniform throughout the United States." The uniformity required by the Constitution has been invariably held to be merely a geographical uniformity. Thus, it was said in *Billings v. United States* (232 U. S. 261, 282):

"It has been conclusively determined that the requirement of uniformity which the Constitution imposes upon Congress in the levy of excise taxes is not an intrinsic uniformity, but merely a geographical one. *Flint v. Stone-Tracy*

Company, 220 U. S. 107; *McCray v. United States*, 195 U. S. 27; *Knowlton v. Moore*, 178 U. S. 41. It is also settled beyond dispute that the Constitution is not self-destructive. In other words, that the powers which it confers on the one hand it does not immediately take away on the other; that is to say that the authority to tax which is given in express terms is not limited or restricted by the subsequent provisions of the Constitution or the amendments thereto, especially by the due process clause of the fifth amendment."

The same doctrine was enunciated in *United States v. Doremus* (249 U. S. 86, 93):

"The only limitation upon the power of Congress to levy excise taxes of the character now under consideration is geographical uniformity throughout the United States. This court has often declared it cannot add others. Subject to such limitation Congress may select the subjects of taxation, and may exercise the power conferred at its discretion. *License Tax Cases* (5 Wall. 462, 471). Of course, Congress may not in the exercise of Federal power exert authority wholly reserved to the States. Many decisions of this court have so declared."

It is understood that there has been no attempt to challenge the constitutionality of the foregoing provisions of the bill standing alone. It is not understood that it is disputed that the Congress is clothed with the power to impose the taxes provided by the pending bill. However, it has been said that the real purpose of these tax measures is not to raise revenue but to establish a Nation-wide scheme for unemployment insurance and old-age benefits; that the tax provisions are part of the warp and woof of this scheme; and that consequently, since there is no express provisions in the Constitution granting to the Congress the power to legislate on the subject of old-age benefits and unemployment insurance, these tax provisions must be deemed invalid.

This reasoning completely overlooks the principle frequently enunciated and as frequently applied by the Supreme Court, to the effect that in passing upon the validity of a statute, which on its face, purports to be a tax measure, the courts will not consider the question whether the motive of the legislative body was some other than that to raise revenue. This rule has been formulated on a number of occasions and led to upholding the validity of statutes, which, while ostensibly revenue measures, were obviously intended to accomplish an entirely different purpose. Thus, in 1866, the Congress passed an act levying a 10-percent tax on bank notes issued by State banks. The real purpose of the authors of this measure was not to raise revenue, but to eliminate State bank notes from circulation. So effectively was its real purpose accomplished, that little, if any, revenue was ever collected under this act. The validity of the statute was challenged on the ground, among others, that it was not a true revenue measure. Its constitutionality was, however, upheld in *Veazie Bank v. Fenno* (8 Wallace 533). Another striking case is that involving the oleomargarine tax. An act adopted in 1902 levying a tax on oleomargarine imposed a low tax on white oleomargarine and a much higher tax on yellow oleomargarine with the obvious purpose of driving yellow oleomargarine out of the market, in view of the fact that it was frequently sold to the public as butter. The validity of the measure was questioned, and its character as a tax measure was assailed, but without success. *McCray v. United States* (195 U. S. 27, 59). Holding that the act was a valid exercise of the taxing power, Mr. Justice White stated:

"Undoubtedly, in determining whether a particular act is within a granted power, its scope and effect are to be considered. Applying this rule to the acts assailed, it is self-evident that on their face they levy an excise tax. That being their necessary scope and operation, it follows that the acts are within the grant of power."

He swept to one side the argument that the real motive of the Congress was not to raise revenue, but to drive yellow oleomargarine from the market by imposing a prohibitive tax upon the sales of that commodity.

Perhaps the outstanding case sanctioning the use by the Congress of the taxing power for purposes other than to raise revenue is *United States v. Doremus* (249 U. S. 86), which upheld the constitutionality of the Harrison Narcotic Drug Act. Under the guise of a revenue measure, the Congress placed all dealings in narcotics under severe and stringent restrictions. It was urged again that the statute was not a true tax measure, and, consequently, beyond the constitutional power of the Congress to enact, and again this contention was overruled. The court stated that an "act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue. If the legislation is within the taxing authority of Congress—that is sufficient to sustain it" (p. 94).

The latest expression of the Supreme Court upon this point is found in the case of *Magnano Co. v. Hamilton* (292 U. S. 40, 47), decided on April 2, 1934, in which Mr. Justice Sutherland made the following significant statement:

"From the beginning of our government, the courts have sustained taxes although imposed with the collateral intent of effecting ulterior ends which, considered apart, were beyond the constitutional power of the lawmakers to realize by legislation directly addressed to their accomplishment."

The conclusion is inescapable that the motive of the Congress in enacting a law, which, on its face, purports to be a revenue measure, is immaterial and will not be considered by the courts in passing upon its validity. If a statute is ostensibly a valid exercise of the taxing power, the fact that such authority is invoked to accomplish an object other than to raise revenue, has no effect upon the constitutionality of the act. It necessarily follows that the fact that the taxes sought to be imposed by the social security bill may constitute an inherent part of a legislative scheme for old age benefits and unemployment insurance, in no way detracts from their validity.

Those who advance a contrary view rely on the decisions of the Supreme Court in the *Child Labor Tax Case* (259 U. S. 20), and *Hill v. Wallace* (259 U. S. 44). Upon close analysis, however, they will find but little solace in these decisions. It is only by giving them implications far beyond their actual holdings and by construing them as overruling the line of cases which have been just discussed that any support can be found in them for the suggestion that the social security bill may possibly be invalid.

In the *Child Labor Tax Case*, the Supreme Court held unconstitutional an act of Congress, which imposed a tax equal to 10 percent of the net profits realized by any employer, who employed child labor, knowing the children to be below a certain age. The Supreme Court held that this law did not impose a tax, but exacted a penalty. It emphasized the fact that the provision, which imposed the so-called "tax" only on a person who knowingly departed from a prescribed course of conduct, made the impost a penalty rather than a tax. Chief Justice Taft remarked that "scienter is associated with penalties not with taxes." He expressly adverted to the line of cases to which reference has been made in this memorandum and reiterated their holdings as sound law.

Likewise in *Hill v. Wallace*, the court declined to uphold a measure seeking to impose a so-called tax on dealings in grain futures, except as to contracts executed through a member of a board of trade designated by the Secretary of Agriculture and complying with prescribed requirements. The court ruled that the so-called "tax" was a penalty exacted for failure to comply with the requirements of the law (p. 66).

It is manifest that these two cases are not germane to the present discussion. Surely no one will contend that the taxes sought to be imposed by the pending measure are in fact penalties.

It is also not without significance that in the *Magnano case*, supra, decided less than a year ago, the cases heretofore discussed by me were cited with approval by the Supreme Court and the *Child Labor Tax Case* explained as being based upon the proposition that the law which it held invalid, imposed, in fact, not a tax but a penalty.

Thus far there has been discussed the validity of the tax features of the bill in general. There is one specific provision that deserves additional consideration. Title IX, which imposes a tax on wages paid by employers, also provides in section 1002, that the taxpayer may credit as against the tax, any contributions paid by him into an unemployment fund established under a State law, provided that the total credit shall not exceed 90 percent of the tax. This device was approved by the Supreme Court in *Florida v. Mellon* (273 U. S. 12), in connection with the estate tax imposed by the Revenue Act of 1926, which contained a provision that the tax should be credited with the amount of any estate taxes paid to any state, such credit not to exceed 80 percent of the tax. It was asserted that the tax was unconstitutional, in that its purpose was to act as an incentive to the States to enact inheritance tax legislation, and that it especially discriminated against the State of Florida, which levied no such tax. These objections received but scant consideration at the hands of the Supreme Court, which declined to hold the law invalid. Thus, the credit provisions of title IX constitute an expedient sanctioned by the Supreme Court.

The consideration heretofore discussed lead to the conclusion that the tax features of the bill are valid and constitutional. It is now desirable to pass to a consideration of those sections of the bill which seek to appropriate money for the payment of old age benefits, for the making of grants to the States for old

age assistance, the administration of unemployment compensation laws, aid to dependent children and maternal and child welfare, and for the purpose of extending and improving public health services. The suggestion that the power of the Congress to appropriate money is in any way restricted or circumscribed is indeed a novelty. As we turn back the pages of our history, we find that it has never been successfully contended that the authority of the legislative branch of the Government to appropriate money is limited to the specific purposes enumerated in article I, section 8 of the Constitution. The Congress has invariably by its own actions, placed a different construction upon this power. It has always been customary for the Congress to appropriate money for purposes not enumerated in the Constitution. To select but a few such instances at random, we may refer to grants for maternity care exemplified by the Sheppard-Towner Act; appropriations for the extermination of pests, such as the boll-weevil and the Mediterranean fruit fly; appropriations for scientific research, and many other examples that could be multiplied without number. A construction consistently placed upon the Constitution by the legislative branch of the Government in a series of acts over many years ought not to be lightly disregarded, as was remarked by Chief Justice Marshall in *McCulloch v. Maryland*, *supra*, at page 401.

In this connection attention should also be called to the fact that there appears to be no distinction, insofar as their validity is concerned, between grants made by the Federal Government to the States for distribution among private individuals, and grants or expenditures directly to or in behalf of private individuals or concerns. On this point we are again supported by history. While there are numerous examples of grants made by the Federal Government to the States, payments to or on behalf of individuals and institutions are equally common. Grants to agricultural colleges; subventions to transcontinental railroads; payments for the direct relief of the victims of the San Francisco earthquake; and payments for the direct relief of the sufferers from the Mississippi floods, are among the numerous instances that may be cited. The validity of these payments does not appear even to have been questioned.

The Supreme Court has recently held that a taxpayer has no standing in the courts to question or attack the validity or the constitutionality of an appropriation made by the Congress. *Massachusetts v. Mellon* (262 U. S. 447, 486).

It follows hence that those titles of the bill which seek to appropriate Federal funds for specific purposes may not be successfully assailed as to their validity.

The fact that by the pending bill it is sought to exercise the powers of the Congress in manner that may be in part unaccustomed, does not affect the validity of the measure. Powers heretofore dormant may be called into action and invoked to meet new contingencies arising in the progress of the life of the nation. The political, the economic and the social history of the United States is marked from time to time by new departures in Government, all of which were attacked at the time as unconstitutional, but whose validity was eventually upheld as coming within the purview of the powers conferred upon the Federal Government by the Constitution. Thus, the power of the Congress to charter a bank was seriously challenged at one time, and yet today, we have in this country a network of national banks. Many statesmen questioned the power of the Federal Government to acquire territory when President Jefferson purchased the vast areas known as Louisiana. Had their views been followed, this country would still consist of 13 States bordering on the Atlantic coast, instead of being one of the great powers of the world. The power of the Congress to provide paper money and make it legal tender was seriously assailed. Today paper money is part and parcel of our economic life (compare the *Legal Tender Cases*, *supra*, and the recent *Gold Clause Cases*.) There may also be taken into consideration the strong presumption which exists in favor of the constitutionality of an act of the Congress, in the light of which and of the foregoing discussion, it is reasonably safe to assert that the Social Security bill, if enacted into law, is probably constitutional.

The recent decision of the court in the case of *Railroad Retirement Board v. The Alton Railroad Co. et al.*, holding unconstitutional the Railroad Retirement Act setting up a compulsory retirement and pension system applicable to interstate railroads, in no way affects the foregoing conclusions concerning the constitutionality of the social security bill. There were two grounds upon which the Retirement Act was held unconstitutional; first, that it violated the due process clause of the fifth amendment; and, second, that it was not in purpose or effect a regulation of interstate commerce within the meaning of the Constitution.

The rulings of the Court under the due process clause in the retirement case constitute no basis for concluding that the social security bill is unconstitutional,

because the provisions of the Retirement Act are entirely different from those of the social security bill. The former created a pooled trust fund composed of contributions that railroads were compelled to make. The contributions were to be earmarked for the special fund, and pensions were to be paid out of it. The social security bill, on the other hand, seeks to enact a system of taxes, the proceeds of which are to be covered into the Treasury, in the same manner as the proceeds of all other taxes. The payments are authorized in other and distinct titles of the measure, and are to be made out of the general fund of the Treasury.

Nor do the rulings of the court under the commerce clause in the retirement case constitute any threat to the constitutionality of the social security bill, because the latter measure is based not on the commerce power, but on the taxing and spending power of the Congress.

The decision as to the purpose and effect of the Railroad Retirement Act did not purport to apply any new general principles to judicial review of the constitutionality of congressional legislation. The decision represents merely the judgment of the majority of the Court as to the scope and effect of the particular statute before it. Neither the actual decision nor its implications have any tendency to show that a statute, such as the social security bill, which both in form and substance levies an actual tax, will be treated by the court as other than what it actually is, namely, an exercise of the taxing power, and a separate exercise of the power to appropriate money.

Mr. Yates represents Mr. McCarl, the Comptroller General of the United States. He wants to make some suggestions and we would be very glad to hear him.

STATEMENT OF FRANK L. YATES, GENERAL ACCOUNTING OFFICE

Mr. YATES. Mr. McCarl is regretful he could not come this morning, but prior to receiving your notice he had arrangements made with the Appropriations Committee to appear there.

What I have to suggest to the committee, Mr. Chairman, has to do entirely with the payment provisions of the bill as related to a check or audit upon the record that is advanced to support the payments. May I refer to the provisions of title I, section 3?

The CHAIRMAN. What page is that?

Mr. YATES. That is pages 4, 5, and 6. I refer to those provisions as typical of the payment provisions. That section provides, among other things, that the Social Security Board shall find upon certain facts or data reported by the States an estimate of the amount to be paid to the States, that the Board shall then certify to the Secretary of the Treasury the amount so estimated; and the last paragraph, page 6, top of page 6 in that section, really carries the payment provision, and it provides the Secretary of the Treasury shall pay, through the division of disbursement of that Department, and prior to audit or settlement by the General Accounting Office, the amounts estimated by the Board as certified.

That means just this, Mr. Chairman. At no stage along the line will any office examine into or check the action of the Social Security Board to determine, in an independent manner, as to whether the facts advanced by the States really support the amount estimated by the Board, or to determine even whether the Board actually made the finding that facts did exist to support the amount estimated and certified for payment. The Treasury Department would get only the certificate of the Board. The division of disbursements would get only that certificate. When the payment was made the chief disbursing officer would have for forwarding to the Accounting Office only the certificate and voucher evidencing the payment of the

amount carried by the certificate. Nowhere along the line would there be a check, which the Congress no doubt would wish to see, whether this administrative board had found facts to support the amounts to be paid.

The CHAIRMAN. What is your suggestion?

Mr. YATES. I cite that title as typical of the various titles.

Mr. BEAMAN. May I ask Mr. Yates a question?

The CHAIRMAN. Yes.

Mr. BEAMAN. You do not mean to indicate, Mr. Yates, do you, that there would not be a post audit?

Mr. YATES. There would be a post audit, but the post audit would amount to little. There might be presented with the accounts only the voucher and the certificate but no facts, no evidence upon which the Board had acted.

The CHAIRMAN. Has it been the practice in other instances that might be somewhat similar to this, that the General Accounting Office could find or hear facts before the allocations were made, or the disbursements were made?

Mr. YATES. The uniform practice has been in all of the various types of payments to States, such as cooperative road building, vocational education, and the like, for the Treasury Department to transmit the settlements to the General Accounting Office prior to making the payments, and the payments have been made on settlements of the General Accounting Office. In the payments under this bill, the House has wished to expedite them and has provided expressly, at the top of page 6, that the payments shall be made prior to audit or settlement by the General Accounting Office. That is all right, possibly that is necessary, and we have no objection to that, provided the bill can be amended so the facts will come to the General Accounting Office in such form as is required for a real post audit, for audit after payment.

The CHAIRMAN. What is the amendment you suggest?

Mr. YATES. I would suggest a general provision under title X, page 60, section 1002, the section entitled "Rules and Regulations"; I would suggest a proviso at the end of that section as follows:

Provided, That the General Accounting Office shall be furnished such vouchers, reports, or other data, to support the fiscal transactions under this Act, at such times and in such form as the Comptroller General of the United States shall prescribe for a proper audit and settlement of the accounts, and subsequent payments shall be accordingly.

"Subsequent payments shall be accordingly" merely means this: If the Comptroller General shall find a State has been overpaid on some quarterly payment, he would report that to the proper officer, so a deduction sufficient to take care of that would have to be made from a subsequent payment. That is general in nature and would apply to all of the titles of which title I is typical, so far as the payment provisions are concerned.

The CHAIRMAN. What other suggestions do you have?

Mr. YATES. There is just one further suggestion, Mr. Chairman, and that comes under title II, Federal old-age benefits on page 13. The provision for payment under that title differs materially from the provisions under the other titles. That is necessarily so, because the payments are of a different character. They are essentially pension payments. The General Accounting Office feels that in section 207,

there should be a provision not merely that the Board shall certify from time to time to the Secretary of the Treasury the amount to be paid, but that the Board should take an official action and award, an action similar to the action taken in the Veterans' Administration when an award of compensation or other benefits is made to a veteran. There should be an official action of the Board making the award, or a finding, which would be in the record and would reflect the facts on which that finding is made.

So we have to suggest under section 207, line 5, page 13, there be inserted after the word "shall" the words "determine and award and", so that it would read, "The Board shall determine and award and from time to time certify to the Secretary of the Treasury."

And we suggest that following the end of that section there be added a proviso that the General Accounting Office shall be furnished by the Board, at such times and in such form as the Comptroller General of the United States shall prescribe, the Board's award on the basis of which the initial pension, or any change therein, was authorized in each case.

In other words, that there might be in the accounting office for checking purposes the award of the Board, so it can be ascertained that the amount paid was in consequence of that award.

The CHAIRMAN. Was this matter presented to the House Ways and Means Committee?

Mr. YATES. Not exactly what I am presenting to your committee today, Mr. Chairman. We did make suggestions to the House Ways and Means Committee that a provision be inserted to follow the prior uniform practice of transmitting such settlements to the General Accounting Office for payment upon the settlement of that office rather than prior to coming to the General Accounting Office. The House committee, however, wished to expedite the payments and inserted a provision that the payments should be made prior to audit and settlement of the General Accounting Office. It was our thought at that time that the House committee would, however, insert provisions that would insure bringing to the General Accounting Office the facts, or the evidence, so that there might be a real post audit. The committee expressed itself as favoring a post audit, but failed to insert such provisions. That is the reason I am suggesting these provisions.

Senator BLACK. May I ask you a question? Does section 207 apply to each individual payment of pensions?

Mr. YATES. It would; yes, sir.

Senator BLACK. So after it had been passed upon by a board, after the facts had been passed upon by a board, the General Accounting Office again have to pass on the facts in the millions of pensions; isn't that true?

Mr. YATES. The thought is that the award would be made by the Board, Senator, in such a way as to reflect the Board had found certain facts to exist to support the payment. That would come to the General Accounting Office. That would have to come but once, until there was a change.

Senator BLACK. How many additional employees would you have to employ to check that? I am just wondering how much of a task it would be.

Mr. YATES. It would be a considerable task, but it could be reduced to form so it would be almost a routine action.

Senator BLACK. If they made a thorough investigation, it would take thousands of employees, wouldn't it?

Mr. YATES. Possibly not. The Board would make an award and show that certain facts exist. We would only look at the award unless there was suggestion of error.

The CHAIRMAN. Thank you very much, Mr. Yates. The committee will begin at 10 o'clock in the morning and I want the clerk to notify each member that we are going to take up the bill for reading, section by section, and try to dispose of this matter this week.

(The following suggested amendments were submitted:)

H. R. 7260, SEVENTY-FOURTH CONGRESS

(Print as passed the House Apr. 19, 1935, and before Senate Committee on Finance.)

TITLE II, SECTION 207, PAGE 13

Line 5. After the word "shall" insert the following: determine and award and.
Line 13. Strike out the word "certification" and insert the word "award"; change the period to a colon and insert the following:

Provided, That the General Accounting Office shall be furnished by the Board, at such times and in such form as the Comptroller General of the United States shall prescribe, the Board's award on the basis of which the initial pension, or any change therein, was authorized in each case.

TITLE X, SECTION 1002, PAGE 60

Line 25. Change the period to a colon and insert the following:

Provided, That the General Accounting Office shall be furnished such vouchers, reports, or other data, to support the fiscal transactions under this Act, at such times and in such form as the Comptroller General of the United States shall prescribe for a proper audit and settlement of the accounts, and subsequent payments shall be accordingly.

(Whereupon, at the hour of 11:45 a. m., the committee recessed until 10 a. m. of the following day, Thursday, May 9, 1935.)

[CONFIDENTIAL]

SOCIAL SECURITY ACT

THURSDAY, MAY 9, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., in the Finance Committee Room, Senate Office Building, Senator Pat Harrison presiding.

Present: Senators Harrison (chairman), King, George, Connally, Gore, Costigan, Clark, Byrd, Black, Gerry, Guffey, Keyes, La Follette, and Capper.

Also present: Middleton Beaman, Legislative Counsel, House of Representatives; Thomas H. Eliot, Assistant Solicitor, Department of Labor, Edwin E. Witte, executive director, committee on economic security, L. H. Parker, chief of staff, joint committee on internal revenue taxation, and Joseph P. Harris, assistant director, committee on economic security.

The CHAIRMAN. We will take up this proposition now and have it read. Mr. Beaman, you read it for us.

Mr. BEAMAN. I would prefer to have some one else read it. Let Mr. Eliot read it.

The CHAIRMAN. All right, Mr. Eliot.

Senator KING. I would like, at the proper time, to move to divide this bill, to take up the old-age pension provision of it separately, to treat it separately. By that I do not mean that I am opposed to the other features of the bill.

The CHAIRMAN. Suppose you make a motion at the end.

Senator KING. It seems to me, if my motion should prevail we ought to treat the old-age pensions provision of the bill separately, as an independent bill.

Mr. BEAMAN. May I make one statement here, Senator? I think it is going to save you gentlemen a lot of trouble if you have a sort of unanimous consent that whenever any Senator or one of us fellows, or anybody else, says, "old-age pensions" that he use some term that will let the people he is talking to understand what he means. In this bill there are two kinds of provisions for old age.

The CHAIRMAN. They are in separate titles.

Mr. BEAMAN. They are in separate titles. Suppose someone says "old-age pensions." Unless the other fellow knows which one he is talking about, there will be no meeting of minds.

Senator KING. That is a good suggestion. How would you differentiate between the two?

Mr. BEAMAN. You can do it in several ways. You can call one "state pensions" and the other "Federal pensions", or you can call it "old-age assistance" for title I.

The CHAIRMAN. Why do not you call this "contributory annuities" in title II?

Mr. BEAMAN. That is a long phrase. "State old-age pensions" and "Federal old-age pensions" I think would cover it.

Senator KING. I had in mind the one providing for Federal grants-in-aid to States.

The CHAIRMAN. That is old-age pensions.

Senator KING. Yes. That is for persons 65 years of age or over. That is title I.

Mr. BEAMAN. Title I is old-age pensions.

Senator KING. That is the one I had reference to.

Mr. BEAMAN. What are you going to call title II?

The CHAIRMAN. Contributory annuities. That is what it is. All right, Mr. Eliot.

Mr. ELIOT (reading):

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

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

TITLE I—GRANTS TO STATES FOR OLD AGE ASSISTANCE—APPROPRIATION

SECTION 1. For the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to aged individuals without such subsistence, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$49,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board established by title VII (hereinafter referred to as the "Board"), State plans for old age assistance.

Senator KING. May I interrupt? Is there any distinction between "payments" and "grants"? They use the words "grants-in-aid to States" so frequently that it seems to have impressed upon the word "grants" a meaning different from what it means.

Senator GORE. They use the word "loans" and "grants."

Mr. ELIOT. They haven't used the word "loans" in this, sir.

Senator GORE. I know they haven't used that word in this bill, but I suppose they are interchangeable.

Mr. ELIOT. I do not think "loans" and "grants" are necessarily interchangeable; no, sir.

Senator KING. "Payments" seems to imply an obligation. I pay you because I owe you. A grant seems to imply a gratuity. This is a gift rather than a payment.

The CHAIRMAN. Mr. Beaman, what do you think about this suggestion?

Mr. BEAMAN. We haven't used the word "grants" except in the title.

Senator KING. I just stated that the word "payments" seems to imply the discharge of an obligation and the word "grants" implies gratuity or gift. I was wondering if you could use the two interchangeably.

Senator GORE. The word "pension" implies some service.

Mr. BEAMAN. You are actually making a payment. For instance, if you get over into the section where it states that the Secretary of the Treasury shall pay it, you cannot say he shall "grant" it, you have to say "pay" it.

Mr. PARKER. May I offer the amendments as we go along?

The CHAIRMAN. This is an amendment offered by Mr. Tydings. He wants to make it \$50,000,000 instead of \$49,000,000. It seems to me that that is an immaterial proposition.

Mr. PARKER. That is in order to bring in Puerto Rico. I do not know whether you want to do it now or not.

The CHAIRMAN. We can come back to that.

Senator GORE. What was the suggestion?

The CHAIRMAN. Mr. Tydings made a suggestion to increase the amount in order to take care of Puerto Rico and the Virgin Islands. We better wait until we get down to Puerto Rico before we get to that. Proceed on section 2.

Mr. BEAMAN. Before you leave that section, Senator, I want to call you attention to one important matter, namely, to the statement in section 1, that the appropriation is for the purpose of enabling each State to furnish assistance so far as it is "a reasonable subsistence compatible with decency and health." It is simply put in to justify, I suppose, the title. It is a constitutional justification of the title. But the important point I want to make is that the old bill, you remember, had in it provisions which limited the payment of compensation to persons who were in need, and so forth. Those restrictions have absolutely disappeared. The matter is left entirely to the State to pay whatever pension they want to.

Senator GORE. You say the original act limited the benefits to those who were needy and the present act does not?

Mr. BEAMAN. That is right. It leaves it entirely to the States to pay if, as, and to whom they please.

Senator BYRD. We set up a standard here. It says "reasonable subsistence compatible with decency and health."

Mr. BEAMAN. That is the point I tried to make. That has no legal effect whatsoever.

Senator BYRD. It may not have a legal effect, but it will be used in a way to assist the States in determining who is to receive the pension. You set up a standard here.

Mr. BEAMAN. No, sir.

Senator BYRD. You set up a standard here which the Federal Government may compel you to carry out in future years.

Mr. BEAMAN. No, sir.

Senator BYRD. If the Federal Government sees that certain States are not giving subsistence compatible with decency and health, the Federal Government can compel them to give that sort of subsistence. I make a motion, Mr. Chairman, to strike that out. If it is to be left to the States, it should be left to them.

The CHAIRMAN. That is what I want to see left to the States.

Mr. BEAMAN. It is, Senator.

Senator BYRD. You are setting up a standard here, and then at the next session of Congress, somebody can say that the States are not giving subsistence compatible with decency and health and that the Federal Government shall compel them to do it before making any appropriation. That is what will happen. If it does not mean anything, let us strike it out.

The CHAIRMAN. Does it mean anything in your opinion, Mr. Eliot?

Mr. ELIOT. It indicates the underlying purpose of the appropriation and why the appropriation is for the general welfare. Without that in, there might be some doubt as to whether this was really an intention to promote the general welfare or not.

Senator BYRD. You think the use of that word is helpful?

Mr. ELIOT. I think it might help. I do not think Senator Byrd that it has any legal effect or binding effect on the States whatsoever.

Senator BYRD. Why not put in the word "needy" and then let the States determine what the needy are? Why not use the words "needy and destitute"?

Mr. ELIOT. That is all right.

The CHAIRMAN. Without objection then it will read "and health to aged, needy individuals."

Mr. BEAMAN. It says "without such subsistence."

Senator GORE. The subsistence that is compatible with decency and health.

The CHAIRMAN. Why not strike out "without such subsistence" and say "to aged, needy individuals"? What do you think about that, Dr. Witte?

Mr. WITTE. I see no objection to it.

The CHAIRMAN. Without objection then it will read "decency and health to aged, needy individuals" and strike out "without such subsistence."

Senator BYRD. "Aged and needy."

The CHAIRMAN. Mr. Beaman, would "aged and needy" be better?

Mr. BEAMAN. No, sir.

The CHAIRMAN. They have got to be aged and they have got to be needy; "aged, needy individuals." All right; go to section 2.

Mr. ELIOT (reading):

State old-age assistance plans.

Senator GORE. You struck out "without such subsistence"?

The CHAIRMAN. That is stricken. It reads now:

a reasonable subsistence compatible with decency and health to aged, needy individuals, there is hereby authorized to be appropriated.

Mr. ELIOT (reading):

STATE OLD-AGE ASSISTANCE PLANS

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

Senator GORE. This act that we are passing does not have any requirement that the estate of the recipient shall be liable?

Mr. ELIOT. That is left to the State; but if the State does make the estate of the recipient liable the Federal Government should get back one-half.

Senator GORE. We are dictating to the States what they shall do. Do not you think it would be a good idea to provide that the States must levy on the estate and therefore the States must reimburse the Government?

Mr. ELIOT. That was in the original bill. The House struck it out.

Senator GORE. That is another advance that we are making before we even pass the law.

Mr. ELIOT (reading):

Any payment so made shall be deposited in the Treasury to the credit of the appropriation for the purposes of this title.

Senator KING. Mr. Chairman, perhaps this is a technical suggestion, but line 17, page 2, "provided for financial participation by the State"; that seems to convey the idea that we are the paramount agency in this matter, and the State is merely a participant.

Mr. BEAMAN. No, Senator; what that means is that the State shall participate as distinguished from the counties and other political subdivisions.

Senator KING. It says "provide for financial participation by the State."

Mr. BEAMAN. As well as the county. In other words, the State cannot turn it over entirely to the county, the State must participate to some extent.

Senator BYRD. That leaves it to some administrator in Washington to say how much should be paid. It says "provide for financial participation by the State." Do you think \$1 would be considered as financial participation?

Mr. BEAMAN. No; \$1 would not be considered as financial participation.

Senator GORE. Is this matching dollar for dollar or is this something different?

Mr. BEAMAN. This is different. This is not speaking about how much a State shall put up as opposed to the Federal Government; this is simply saying the State cannot raise all the moneys through the counties and put up none of the money itself. It must put up something.

Senator GEORGE. It must be a State scheme. Although they may have some political subdivision administer it, the State must pay something to make it responsible.

Senator KING. Perhaps I haven't made myself clear. Perhaps my suggestion is hypertechical. When you say "provide for financial participation by the State" that implies that the Federal Government is the main factor, the Federal Government is doing this. It says, "We want you to participate." We want them to initiate it and then we will aid them.

Mr. BEAMAN. Senator, it seems to me the rest of the title makes it perfectly obvious what that situation is, because the rest of the title provides exactly how much the United States Government shall pay, which is one-half.

Senator KING. I do not want to convey the idea that this is a Federal scheme. This is a State scheme and we are making grants-in-aid to the States. I want the State to be the paramount organization and the Federal Government merely participates in it.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

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

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

The CHAIRMAN. Now, what does the committee think about putting that 70-year proposition in or striking it out, leaving it at 65 years?

Senator GORE. I take it, Senator, that gives the States the right to make it a 70-year limit. Some of them have that limit.

Senator KING. I do not think we ought to impose on the States any restriction in regard to age.

Senator GORE. That is what I say. Let them keep the age at 70 years if they want to.

Senator KING. The State may want to fix it at 50 years. If the State sets up a pension system and we are going to aid it I want the State to determine the pensioned age rather than the Federal Government.

Senator GORE. Let us not reduce the age limit now.

Senator BYRD. The very moment the Government makes it 65 years the political pressure will be exerted on the States to make it 65 years.

Senator GORE. When this bill passes, their effort will be devoted to two things raising the amount of the pension and reducing the age limit.

The CHAIRMAN. Go ahead, Mr. Eliot.

Mr. ELIOT (reading):

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

The CHAIRMAN. That is different from the bill that we considered before in that if he had lived in a State 5 years in the aggregate during any time of the 9 years he would be eligible for pension.

Mr. ELIOT. In the original bill it was 5 years at any time in the preceding 10 years. Of course, it made it possible for the man who lived 5 years during the 10 years in one State and 5 in another to be eligible for the pension in both states.

The CHAIRMAN. Under this bill he must live there for 1 year continuously immediately preceding.

Mr. BEAMAN. No; no; that is up to the State.

Mr. ELIOT. The State can impose that condition.

Mr. BEAMAN. The State can impose that condition if it wants to. It does not have to.

Senator BYRD. It excludes any resident of the State who has resided therein 5 years?

Mr. BEAMAN. The State can pay a pension to a man who lived there a day and a half if it wants to. All this says is that it cannot

cut him out on the ground that he hasn't lived there long enough if he has lived there 5 years in the last 9 years and 1 year preceding the application.

Senator GORE. We had a movement in our State trying to get a law through making the limit 3 months—permitting a person who lived in the State 3 months to get the pension. I mention that just to show what the tendency is that goes on in this business.

Senator KING. Do not you think that this is rather too elastic, as to the residential qualifications? Do not you think a man ought to live continuously for at least 3 years or 4 years or 5 years in a State?

Mr. ELIOT. I think the House felt that there would be an unduly large number of elderly people in need who would not have fulfilled the residence requirements in the various States enabling them to get any pension at all unless some limit was put on the States such as this; and this was the limit that the House adopted, the residence of 5 years during the 9 years immediately preceding the application, and a residence continuously of 1 year immediately preceding the application.

Senator KING. That the State might enact what?

Mr. ELIOT. The State might enact a law saying, "No one can get a pension in our State unless he has lived here at least 1 year continuously before he applies, and during 9 years he has lived here at least 5 years."

Senator KING. Could they not say, "unless he has lived here 5 years before the application for pension"?

Mr. ELIOT. Continuously?

Senator KING. Yes.

Mr. ELIOT. No; that plan would not be approved, if they were as strict as that.

Senator KING. Why?

Mr. ELIOT. Because they do not fulfill the conditions of this section, because they go further than 1 year.

Senator GORE. That keeps somebody off that probably ought to be on.

Mr. ELIOT. That keeps somebody off the rolls who has lived there 1 year continuously.

Senator KING. I want to keep them off unless they live there 5 years continuously.

Senator GORE. This would prevent the States from doing that. The most the States can do is simply say there must be a continuous residence within the State for 1 year and for 5 years out of the preceding 9 years. That is the most they could do.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

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

Senator KING. What does that mean?

Mr. ELIOT. Many of the States say they will not pay pensions to people unless the recipient has been a citizen of the United States for 20 years, or for a considerable period of time—that he must have a considerable period of time of citizenship as well as residence—and the feeling was that no discrimination should be made as to the length of citizenship if the man was actually a citizen.

Senator GORE. Do not you think this would have a tendency to make a lot of aliens want to become naturalized who would not otherwise do it?

Mr. ELIOT. It might very well do so.

Senator GORE. Do you not think that would be a mistake, to purchase their citizenship?

Senator KING. I do not think it would be a good idea to expel people from the States because they want to take on the citizenship.

Senator GORE. If they are desirous of taking on citizenship they may go ahead and take it, but I would not want to hold out any pecuniary inducement to an alien to become naturalized.

The CHAIRMAN. I think it is a good provision. Go ahead, Mr. Eliot.

Mr. ELIOT (reading):

PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor—

Senator KING. I do not like the word "payment." I would say "grants." Go ahead.

Mr. ELIOT (continues reading):

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

Senator KING. I do not understand that.

Senator GORE. That was not in the old one, was it, the 5 percent?

Mr. ELIOT. I think it was. They were giving 5 percent for administration.

Senator KING. Does that mean a limit of \$30? That seems to me, with all due respect to these men who drafted that, a very ambiguous expression. It should have been made clearer. Does it mean the amount which is to be fixed does not exceed \$30?

Mr. ELIOT. It means we leave to the States to say how much an individual should get. If he gets \$30 we will pay the State, as this says, one-half of the \$30, namely, \$15. Anything that exceeds \$30 will be disregarded in our matching. Our matching will be only \$15.

Senator GORE. Does that mean the States have got to raise the whole \$30 and pay it to John Doe?

Mr. ELIOT. No, because the following sections, which I will read in a moment, mean that we make a prepayment to the States.

Senator BYRD. If the State pays beyond \$30 the State pays the difference?

Mr. ELIOT. Yes, it pays the difference.

The CHAIRMAN. Go ahead, Mr. Eliot.

Mr. ELIOT (reading):

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

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accord-

ance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Board may find necessary.

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

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

Senator KING. Is that mandatory, the 5 percent?

Mr. ELIOT. Yes.

Senator KING. Suppose it does not cost that much?

Mr. ELIOT. The earlier clause indicates that if it does not cost that much, the difference would be used in paying the pensions themselves.

Senator GORE. We will match them dollar for dollar?

Mr. ELIOT. We match dollar for dollar the amount they pay as pensions to the old people, and then we give them an additional 5 percent. Unless they have a very expensive administration in the State, they will not use more than 5 percent for administrative expenses.

The CHAIRMAN. You think the 5 percent is required?

Mr. ELIOT. That is just about the right amount for administrative expenses, according to experience.

The CHAIRMAN. Why did you figure it at 5 percent?

Mr. ELIOT. I will have to yield to Mr. Witte or Mr. Harris.

Mr. BEAMAN. Senator, before he calls on Mr. Witte, let me point out that this 5 percent means the Federal share of the cost of administration will be 2½ percent, because they are going to put up a dollar for every Federal dollar. If we are giving 5 percent, it really means the cost of administration 2½ percent. So the question is: Is 2½ percent reasonable, is that a reasonable allowance for the cost of administration?

Senator KING. I thought we had to pay 5 percent, willy-nilly.

Mr. BEAMAN. Senator, suppose the State estimates that it is going to spend during the quarter \$100 as assistance to the aged people, under this law they pay them \$50 plus 5 percent of the \$50. That seems to be very definitely stated.

The CHAIRMAN. That is \$2.50.

Senator GORE. Does that mean if \$2.50 is not required for administrative purposes, it can be applied on pensions over and above \$15?

Mr. BEAMAN. No, Senator. Let us suppose you give them 5 percent for the quarter for the administrative expenses which amounts to \$1,000. Of course they are expending what the Federal Government gives them plus one-half of their own. Let us say the administrative costs for that quarter are only \$800 instead of \$1,000. The State now has \$200 which it can use in that quarter, or the next quarter, for paying pensions, and which the Federal Government will match. It does not in any way deal with the question of raising the \$15 limit in the slightest.

Senator BYRD. Suppose the administrative expenses exceed 2½ percent?

Mr. BEAMAN. The State will have to pay it.

Mr. WITTE. On this question of the adequacy of this 5 percent, let me say that at the outset certainly the costs will be 5 percent, or greater, because at the outset is the time when you have the applications, when the applications have to be reviewed, the States are starting out. Two States this year have enacted new laws, Missouri and Arkansas. They will certainly have at least a 5-percent expenditure. After the system is in operation and the number of applications fall off and it is merely a question of a continued operation, it may be that the expenditures will be less than this amount, although in States like New York and Massachusetts that have had the law for some years, the expenditure is just about 5 percent.

The CHAIRMAN. Why would not it be a good idea to put this at 5 percent for the first 5 years and 3 percent after that?

Mr. ELIOT. Would not it be better to change it later?

Mr. BEAMAN. That is entirely a matter of policy. If you want to do so, Senator, you can do that.

Senator LA FOLLETTE. If the bill is to be passed and a system is to be set up, if the experience shows after initial expenses the administration, due to a large number of applications, has become reduced, it will be very easy for Congress to reduce this amount of administrative expense.

Mr. PARKER. The most we will contribute under the bill will be 75 cents per pension a month. That is not a very large sum.

Senator GORE. On the point of reducing it hereafter, you might make it 3 percent now instead of 5 percent, and then we might raise it hereafter.

Mr. HARRIS. I would like to point out the fact that the administrative expense in New Jersey is over 10 percent, which really means that 2½ percent by the Federal Government is quite inadequate. The State would have to put up considerably more. If there is a change, there will have to be an increase in the amount.

The CHAIRMAN. We better get away from this discussion then. Go ahead, Mr. Eliot.

Senator GORE. They will use the same administrative machinery and the overhead will not be increased much.

Mr. ELIOT (reading):

OPERATION OF STATE PLANS

Sec. 4—

Senator KING. Mr. Witte, was this coercive provision found in the original bill?

Mr. WITTE. The substance was the same. If anything, it was possibly stronger. The content of what the State law has to meet has been greatly reduced, but the provision is still here that if the State law does not meet the standards you lay down, then you can stop payments.

Senator KING. What do you mean by stating the contents of the requirements of the State has been diminished?

Mr. WITTE. That clause was objected to in the hearings. This clause that the State shall pay the pension in an amount which will provide a reasonable subsistence compatible with decency and health, that is no longer in the picture at all. That is stricken out entirely.

Senator KING. I thought it was here.

Mr. WITTE. It is simply in the declaratory parts, Senator.

Senator KING. Oh, yes.

Mr. WITTE. May I call your attention to this. This says that this shall be a substantial number of cases. The other clause was possibly of the construction that it meant in any violation, if there was any violation the Federal administration could stop it. This says:

If the Board after notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

That there are a substantial number of violations.

The CHAIRMAN. All right, Mr. Eliot.

Senator BYRD. Mr. Chairman, it seems to me you ought to give notice to the States.

Mr. ELIOT. On line 12, Senator, it says, "after notice and opportunity for hearing."

Senator BYRD. In other words, if you decide to suspend the payments it seems to me they ought to have 30 or 60 days, so as to make up their plans. Suppose the legislature is not in session?

Mr. ELIOT. They have to the end of the quarter, because the next payment is not until the next quarter.

Senator KING. It seems to me if the States have a substantial number of violations and their attention is challenged, they ought to promptly respond to the challenge and cease the violations, and if persisted in, there is a proper penalty, that they should be deprived of their grants.

The CHAIRMAN. How would "reasonable notice" be, Senator?

Senator BYRD. I think it would be all right. It seems to me a pretty drastic thing to arbitrarily say that for some failure to administer the law, possibly when the legislature was not in session and could not make provisions to correct it, they should be shut off.

The CHAIRMAN. Without objection we will insert after the word "after" on line 12, before the word "notice" the word "reasonable", so it will read:

If the Board, after reasonable notice and opportunity.

Senator KING. What page is that?

The CHAIRMAN. Page 6, line 12, reading "after reasonable notice and opportunity."

Senator BLACK. Before you leave section 4, I promised to call the attention of the committee to a letter I received from a lady who said she was born in Alabama; lived there for some years—I have forgotten the number—then she married and her husband moved to another State, and he died, and she moved back to Alabama. A greater portion of her life had been spent in Alabama, but the greater portion of the 9 years last preceding she did not, so she asked if I would present to the committee the statement that she did not think it was right to coerce or force them by law to limit it, that a person would have to move to another State in order to get a pension. Under this bill they have to live the majority part of the 9 years within the State.

Mr. BEAMAN. Not unless the States so require.

Senator BLACK. It gives the States the right to require that?

The CHAIRMAN. Yes.

Mr. ELIOT. The answer there would be a special provision in the Alabama plan for people who have left the State.

The CHAIRMAN. Go ahead, Mr. Eliot.

Mr. ELIOT (reading):

ADMINISTRATION

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

Senator KING. Why is it so much? Because of the extravagance of the Federal officials?

Mr. ELIOT. I yield again to the people who are more connected with matters of administration than I am.

Senator KING. Of course, when you find over a thousand people getting \$10,000 and over, and 10,000 people getting from \$5,000 to \$10,000, and the expense of the Federal Government to its employees running to \$1,300,000,000 whereas we ran the whole Government in Mr. Wilson's time for \$900,000,000—

Senator GORE. Gentlemen, I make a point of order. This is only a quarter of a million.

Senator BYRD. I would like to ask an appropriation of \$49,000,000 instead of \$50,000,000, if that is considered adequate.

The CHAIRMAN. That was the amount that they thought was adequate, as I understand it.

Senator BYRD. That assumes then that the entire pension systems for old age over 65 years is only going to cost \$100,000,000.

Mr. ELIOT. For the first year.

Senator KING. They are not all needy who are over 65 years of age.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

DEFINITION

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

The CHAIRMAN. Now the next title, "Federal old-age benefits", why cannot we skip that and go right to these grants, and then come back to the old-age benefits?

Mr. ELIOT. All right. Title IV, page 19, Senator.

Senator KING. Excuse me. Mr. Chairman, have there been any material changes in title IV from those found in title IV of the original bill that have been explained by Dr. Witte?

Mr. ELIOT. There have been some changes. The whole title has been brought in line very closely with title I, which we have just read.

The CHAIRMAN. You have taken away from the Federal Government the power included in the first and left it entirely to the State.

Mr. ELIOT. Yes, sir; and the House committee put in a limitation on the amount for aid to dependent children which should be granted, the amount of \$18 for the first child in the household and \$12 for each other child, which was not in the original bill but was put in by the Ways and Means Committee.

Senator BYRD. Should not the same requirement be put in the old-age provision?

Mr. ELIOT. Exactly the same language is used, with relation to limiting the pensions.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

Title IV. Grants to States for Aid to Dependent Children.

Senator GERRY. Mr. Chairman, I would like to take up an amendment which I have taken up with the experts here.

The CHAIRMAN. Does it come in title I, Senator?

Mr. PARKER. We haven't read it.

Senator GERRY. All right. They said they haven't read it.

The CHAIRMAN. Go ahead, Mr. Eliot.

Mr. ELIOT (reading):

APPROPRIATION

SEC. 401. For the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence.

The CHAIRMAN. In line 20 change that to "needy dependent children." Then you strike out, "without such subsistence" in line 21.

Mr. ELIOT. Yes.

The CHAIRMAN. All right, you may proceed.

Mr. ELIOT (reading):

There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$24,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Board, State plans for aid to dependent children.

The CHAIRMAN. That should be "needy dependent children."

Mr. ELIOT. You do not need the "needy" there, Senator.

The CHAIRMAN. All right.

Senator GORE. In the other section were not the words in regard to the "reasonable expenditures" stricken out; and they are stricken out here, too?

Mr. ELIOT. Yes.

The CHAIRMAN. Let us get that. You say that goes out here?

Mr. ELIOT. "Without such subsistence" is stricken out.

The CHAIRMAN. "Without such subsistence" is stricken out and we put in "needy" dependent children.

Mr. BEAMAN. I think Senator Gore's question was in regard to the provision in title I which we discussed. In the old bill it said the State must provide a reasonable subsistence compatible with decency and health to those who were in need. Senator Gore's question was whether there was a similar provision in this title, and, if so, whether it is stricken out.

Senator BYRD. I understand, Mr. Chairman, you have stricken out "reasonable subsistence compatible with decency and health."

Mr. ELIOT. No.

Senator BYRD. It went out in the other place.

Senator GEORGE. No, there is another declaratory statement.

Senator BYRD. You are changing it?

The CHAIRMAN. We struck out "without such subsistence" and put in "to aged needy individuals".

Senator GORE. I understood from some remark that was made that this went out.

Senator BYRD. You have got a conflict there now. You have got "a reasonable subsistence compatible with decency and health to aged, needy individuals."

The CHAIRMAN. Yes.

Senator GORE. I thought you struck that out.

The CHAIRMAN. Does that destroy the effect of anything, Doctor Witte, to strike out "a reasonable subsistence compatible with decency and health" and just say "in such State to aged, needy individuals"? I am talking about page 2 now.

Mr. WITTE. I think not.

Mr. BEAMAN. It is simply a question of constitutional law and nothing else. It has no legal effect on the States at all. It is simply a question whether Congress, in appropriating this money, should put forward some excuse for doing it.

Senator BYRD. If they are needy.

The CHAIRMAN. "Aged, needy individuals." Would not that be just as strong?

Mr. BEAMAN. Unless you want to say the policy of Congress is that it should be, so far as compatible with the conditions in the States, a reasonable subsistence, that is the motive of Congress. Having done that, then the States can do exactly as they please.

Senator GORE. You have no standard. That is not a standard?

Mr. BEAMAN. That is not the standard, Senator. There is no compulsion on the States. The States can do exactly as they want to do.

Senator BYRD. A person might feel aggrieved if he does not get enough for a reasonable subsistence.

Senator KING. It does not make it the power of Congress to make an appropriation for the standard of health.

Senator BLACK. I cannot see the slightest effect it will have. On page 20 it leaves the question of approval up to the Board anyhow.

The CHAIRMAN. On page 2, lines 1 and 2, without objection we will strike out "a reasonable subsistence compatible with decency and health" and just have it read "under the conditions in such States, to aged, needy individuals."

Mr. ELIOT. It does not make sense with the rest of the sentence, there, if you do that. Look at the bottom of the first page. You will see it says, "to furnish financial assistance assuring, as far as practicable under the conditions in such State."

The CHAIRMAN. "For the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State." That is right.

Mr. ELIOT. You would have to cut out the words "assuring as far as practicable under the conditions in such State."

Mr. BEAMAN. Strike out "assuring" and not the rest of it.

Mr. ELIOT. So it will read, Senator, "for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged, needy individuals."

The CHAIRMAN. That is all right. Without objection that amendment will be adopted.

Senator BYRD. That same amendment then appears on page 19?

The CHAIRMAN. Yes.

Mr. ELIOT. Yes, page 19.

The CHAIRMAN. You strike out then the word "assuring".

Mr. BEAMAN. That is right.

The CHAIRMAN. Do you leave in "as far as practicable"?

Mr. BEAMAN. It will read, Senator, "for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children there is hereby authorized."

The CHAIRMAN. All right.

Mr. ELIOT. On page 20 [reading]:

Sec. 402. (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim with respect to aid to a dependent child is denied an opportunity for a fair hearing before such State agency.

Senator BYRD. Is this the same language that you have in title I?

Mr. ELIOT. This is the same language we have in title I.

(5) Provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan.

Senator KING. That is where? In the States?

Mr. ELIOT. In the State plan, yes. It is the State plan.

and (6) provide that the State agency will make such reports, in such form and containing such information as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports.

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

The CHAIRMAN. You do not want "needy" there, do you?

Mr. ELIOT. You do not need that there, Senator; no, sir.

a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for 1 year immediately preceding the application for such aid, or (2) who was born within the State within 1 year immediately preceding the application.

Senator KING. Dr. Witte, do you think that that is sufficient to protect the State, counties, and municipalities?

Mr. WITTE. A great majority of the States only have a 1-year residence requirement. There are some which have higher requirements. Most of them have 1 year.

Senator KING. You approve of this provision, do you?

Mr. ELIOT. Senator, there is one change. During Dr. Witte's absence the Children's Bureau has brought to my attention (2), saying that the State must give aid to a child which was born within the State within the year, and that might cause the State of New York, to give aid to children who really were residents of Connecticut and New Jersey and their mothers got them born in the hospitals of New York, and that thing might require some slight amendment.

The CHAIRMAN. How would you change that? What is the change you would suggest?

Mr. ELIOT. The feeling is that the mother should have been a resident of the State for a year in that case. I do not think it would require much of an amendment to fix that up.

The CHAIRMAN. The idea is to have the mother who bore the child a resident of the State for at least a year.

Mr. ELIOT. That is right.

The CHAIRMAN. Prepare your amendment that way.

Mr. ELIOT (reading):

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

Senator BYRD. What is the age limit?

Mr. ELIOT. The "dependent child" later is defined as children under 16 years of age.

Senator BYRD. Would it be possible for two aged, needy persons to get pensions in the same family, and their children to get them too?

Mr. ELIOT. If the State wanted to be as generous as that, I think it would be possible.

Senator BYRD. It would be possible to get 8 or 10 pensions in one family?

The CHAIRMAN. That would be up to the State.

Mr. ELIOT. That would be up to the State to decide, whether it wanted to expend the money.

Senator BYRD. This is something you are adopting for the next 100 years to come.

Mr. ELIOT. The payment is only one-third.

Senator BYRD. We are laying the foundation for it.

The CHAIRMAN. I do not exactly understand the \$18. Now the Federal Government puts up one-third of whatever the State puts up. Is the total to be \$18?

Mr. ELIOT. Yes. The Federal Government there would pay \$6.

The CHAIRMAN. Up to that amount?

Mr. ELIOT. Yes.

The CHAIRMAN. Suppose the State put up only \$9?

Mr. ELIOT. We would put up \$4.50.

Senator BYRD. We all recognize, Mr. Chairman, as a matter of political conditions, that all of these requirements will be changed as the years go on.

Mr. ELIOT. On the matter of the \$18 limitation, Senator, the people connected with the 45 State mothers' pension laws have indicated very strongly to the Children's Bureau that they regret having that \$18 limitation. As a matter of fact, it does not limit the Federal grants to any great extent, because almost no States are now paying anything like \$18 themselves, so it will not be saving us any money by putting in that limitation. But they do see the administrative difficulties of leaving that in. The administrative difficulties would be considerable. If it is left in, they feel the \$18 limitation should also be applied to the mother, in case there is a group of children living with a widowed mother. If she were left out the result would be out of line with the mothers' pension plans in the respective States. They prefer to see the whole \$18 or \$12 clause stricken out.

Senator KING. There must be some limitation.

Mr. ELIOT. The amounts being expended in the States at the present time are extremely small. Do you know what they are Mr. Witte?

Mr. WITTE. Yes; \$18. That is a little less than the average expended now.

Mr. ELIOT. Taking into account the mother, though. That is the difference.

Mr. WITTE. The \$18 limitation here is very much stronger than the \$30 for old-age pensions. That \$30 is for one individual. Your grant is to the mother and the first child, because the grant for the first child covers the mother who takes care of the child, and that is \$18 for two people. The grant for the second and additional children is \$12. For the first two you pay \$18 or \$9 apiece, and for additional ones \$12. The average for all is less than \$18 that the States are paying. It is very low. But where there is just a mother and one child the \$18 limitation is very severe and will, in many instances, mean the Federal Government will pay less than one-third of the cost, because the mother and child cannot live on that. These are young children, young mothers mostly.

Senator GORE. The standard is what the State fixes, I understand, not what we think it ought to fix.

Senator KING. We pay one-third of what the State fixes?

Mr. ELIOT. Up to \$6.

Mr. WITTE. We pay much less than one-third of the cost in those cases.

Senator GORE. I have seen the statement that the birthrate had increased among the families on relief. Do you know whether that is true or not?

Mr. WITTE. I have seen those statements. I do not know whether it is true, Senator, but that does not enter into the picture here. These are fatherless families.

On this matter of the old-age pensions conflicting with the grants, there are relatively few old people, old mothers who would have a child under 16 years of age.

Senator BYRD. It says any child living with its father, mother, grandfather, grandmother, brothers, and sister, and so forth.

Mr. ELIOT. That will need to be more strictly defined.

Mr. WITTE. That will need to be more strictly defined. The way the definition now reads, it is too broad, Senator.

Senator BYRD. It says each and every needy child.

Senator LA FOLLETTE. I will say, considering this situation, gentlemen, so far as the limitation on this is concerned, that you have got to take into account a very deterrent situation so far as any extravagance on the part of the State is concerned, or on the part of the counties is concerned, because the Federal Government is only putting up one-third of this particular grant. It seems to me we would be perfectly safe in eliminating this clause, because I do not think that you need to worry about the States being extravagant simply because the Federal Government is putting up only one-third of what the State puts up. The State has got to raise, by its own tax mechanism, two-thirds of whatever grants are made for this purpose.

Senator BYRD. Do you anticipate that will continue all through the years?

Senator BLACK. I would like to change it now.

Senator GORE. There will be an effort in the Senate all the time to rescue the States.

Senator LA FOLLETTE. I do not share your apprehension. My point is, if that is true, putting the \$18 or \$12 limitation on it is not going to be any deterrent on the States in the future.

Senator GORE. No, they will not accept it.

Senator LA FOLLETTE. It seems to me, as Dr. Witte points out, there is an inconsistency between setting a limitation of only \$18 for two persons, a mother and a dependent child, and then granting \$12 for an additional dependent. It seems to me the simplest way out of this whole situation would be to strike that out, because I do not think there is any inducement to extravagant benefits being granted by the States under a situation where the Federal Government is going to put up only one-third of the grants.

Senator KING. Well, we ought not to lose sight of the fact however, Senator, that the care of the children, their education, health, and so on, rests upon the fathers and mothers, and the States. It was never conceived by our fathers who drafted this form of Government that the Federal Government would be educating the children and caring for the fathers and mothers. There is supposed to be some responsibility resting upon the States.

Senator BYRD. I believe a boy, for example, of 14 years of age who once receives a pension from the Federal Government, his character is going to be done a great injury in the future.

Senator LA FOLLETTE. I do not think the experience of the States under this plan of mother's aid is any justification for the statement or the assumption made by Senator Byrd that it has any detrimental effect upon the character of the individuals that are receiving it. What it does, it gives them a chance to grow up in a home environment instead of having the family scattered and the children either taken care of in the institutions or fending for themselves on the streets.

Senator BYRD. That is where you and I differ very radically. I started to work when I was 14 years old. I believe when a boy 14 years of age draws money from the Federal Government for 2 years, he is going to expect to draw it or try to draw it all his life.

Senator LA FOLLETTE. That has not been the experience in the States. Forty-five States have got plans now like this, and they have been in operation for some time. They have been in my State, I know.

Senator GORE. That leads to a natural revolution in philanthropy due to the depression. We forced prohibition on States that did not want it and they rebelled everywhere. The States know all the conditions, all the resources they have, so why should we do this?

Senator BLACK. That seems a good argument as to why we should not tell the States that it has got to be limited to \$18.

Senator GORE. I do not want to now say that we will match one-third of whatever the State puts up. I want to say we will limit it to \$6, no matter what they put up.

Mr. BEAMAN. That is what the bill provides now, Senator.

The CHAIRMAN. I think you better leave this like the House has it. Is there any suggestion?

Senator LA FOLLETTE. I move to strike it out, Mr. Chairman.

The CHAIRMAN. All in favor say "aye". Opposed "no". The "noes" have it. Go ahead, Mr. Eliot.

Mr. ELIOT (reading):

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

Mr. BEAMAN. These next two pages are absolutely word for word the same as title I.

Senator BYRD. Do you not want to put in "reasonable notice"?

Mr. BEAMAN. Of course you insert that.

The CHAIRMAN. That is where?

Mr. BEAMAN. Page 23, line 1.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT. Page 24.

ADMINISTRATION

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

DEFINITIONS

SEC. 406. When used in this title—

(a) The term "dependent child" means a child under the age of 16 who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a residence maintained by one or more of such relatives as his or their own home.

The CHAIRMAN. Did we put "needy dependent child" in there?

Mr. ELIOT. We do not need that here, sir.

Senator GERRY. I have got an amendment that I would like to suggest to that which is in conformity with what the Secretary said the other day, and that is [reading]:

SEC. 406. When used in this title (a) the term "dependent child" means a child under the age of sixteen who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a residence maintained by one or more of such relatives as his or their own home—

and then my amendment comes in—

and in which home there is no adult person other than one needed to take care of the child or children who is able to work and provide the family with a reasonable subsistence compatible with decency and health.

What that does is, that prevents the question of baby farming and matters of that sort.

The CHAIRMAN. What is that?

Senator GERRY. There was a very serious thing in the early child legislation, and there still is, of where children were allowed to be farmed out to certain people who made money out of their farming out and who took very bad care of the children. That was known as "baby farming." In the early records of the Society for the Prevention of Cruelty to Children are an enormous number of cases. Apparently by a slip in the House, this language was not put in. The Secretary called it up when it came before the committee and put this language in.

Senator BYRD. That was in the original bill?

Senator GERRY. That was in the original bill. I think it ought to go back. There isn't any question about it.

Senator BYRD. You ought to change that "reasonable subsistence" though.

The CHAIRMAN. We have stricken that out in title II.

Senator GORE. Miss Perkins recommended the language?

Senator GERRY. She did. It is really a safeguard. Otherwise this leaves it very wide open.

Senator BYRD. Read it over again.

Senator GERRY (reading):

The term "dependent child" means a child under the age of sixteen who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a residence maintained by one or more of such relatives as his or their own home, and in which home there is no adult person other than one needed to take care of the child or children, who is able to work and provide the family with a reasonable subsistence compatible with decency and health.

The CHAIRMAN. Mr. Eliot, Miss Lenroot had a suggestion on that?

Mr. ELIOT. The suggestion of Miss Lenroot from the Children's Bureau was one which got away from that difficult clause concerning reasonable subsistence. The original bill meant that the means test might be determined from Washington, something which the Ways and Means Committee themselves were practically unanimously opposed to, and I think you gentlemen are, too.

The CHAIRMAN. I think we are.

Mr. ELIOT. The real purpose behind both Senator Gerry's amendment, I judge, and Miss Lenroot's feeling on the subject is that these grants-in-aid to the existing mothers' pension laws are not to be dissipated by being handed to families which are on relief but which have in the family a man perfectly able to work. I would like to talk it over with Mr. Beaman if I could before being explicit as to language, but the point she would make would be that these dependent children are defined as dependent children eligible for aid under the State mothers' aid laws, because they are lacking in normal parental support. If the one person with whom they live had to go to work, there would be no way to take care of the children at home.

The CHAIRMAN. Let me suggest, Mr. Eliot, that you, Mr. Beaman, and Senator Gerry work it out and submit it to the committee.

Senator GERRY. Frankly, I think this is very important.

The CHAIRMAN. We will pass it over.

Senator BLACK. Mr. Chairman, before we leave it, I do not quite understand why a dependent child should be limited to one who is in a house of these particular people. It might be more dependent being in somebody else's house besides the father, grandfather, stepfather, or those who are named here. This limits the dependent children wholly and exclusively to those living in these particular houses.

Mr. ELIOT. This is primarily, in most States, under the mothers' aid, limited to children living with their mothers. We are trying to broaden it out to cover children living in something that they call their own family, even though the older relatives might be something more distant, such as an aunt, for instance.

Senator BLACK. It may not be necessary; frequently the most dependent child is one who has no such relative to live with.

Mr. ELIOT. The taking care of children in homes not with their own families comes under other laws than the laws we have here.

Senator GERRY. I want to say to Senator Black that this amendment that I am suggesting I think covers the point that he raises.

Senator BLACK. That limits it to these described here. It may be wise to have it this way, but frequently you see some little child

who has no relative of this type, who is living in some person's home in a community that isn't hardly able to take care of it. It might be the most dependent child in the community, a child that has no relatives. We are limiting this to those who have relatives. It does not seem right to me.

Senator GERRY. I think what you are afraid of is if you do not put some limitation on it you may get into the baby-farm situation, where a child is farmed out, and they will get aid for farming the children out. That was a very serious thing in the early child-welfare work.

Senator BLACK. I wanted to simply call your attention to it for your consideration in connection with this matter.

The CHAIRMAN. You gentlemen try to work something out on this proposition. Proceed, Mr. Eliot.

Mr. ELIOT (reading):

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

The next is title V, Grants to States for Maternal and Child Welfare.

Senator GORE. Let me ask you, each time you say "needs money" has that got any contact with doles, grocery bills, commodities, and so forth, which they will still get?

Mr. ELIOT. If they do, the Federal Government has nothing to do with it and does not assist them in getting commodity payments.

Senator GORE. They are doing that now. It is a commodity organization, the purpose of which is to give stuff away.

The CHAIRMAN. Do you think the word "money" ought to be in there?

Mr. ELIOT. Yes, sir.

Part 1.—Maternal and Child Health Services. Appropriation.

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

ALLOTMENTS TO STATES

Section 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State \$20,000, and such part of \$1,800,000 as he finds that the number of live births in such State bears to the total number of live births in the United States.

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

Senator GORE. Would not you double it by that?

Mr. ELIOT. Presumably the Federal Government would not be giving a dole to a family which was getting a money pension to keep body and soul together.

Senator GORE. I do not think there would be any objection to making that the law.

Mr. ELIOT. Some States may give very small pensions, Senator, where the child would starve if it did not get other assistance.

Senator GORE. In my State the administrator, who is not in office now, compelled the people to work to get these commodities. They wrote him from the office here not to make the people pay for these things or work for them. These social workers are career people; they make that is their calling in life, their supreme duty is to give things away. That is why I think they put this money in there, so other things would not conflict with it. I think it should be made so that they should not get this money and the other things, too.

Senator CONNALLY. We cannot supervise the other agencies of relief.

Senator GORE. This provides they can do both. We pay them the money under this, and here comes Hopkins and gives them the stuff, too.

Senator CONNALLY. We cannot control Mr. Hopkins in this bill.

Senator GORE. But you can withhold the money.

The CHAIRMAN. Would it satisfy you, Senator Gore, if we said "payments" instead of "money payments"?

Mr. BEAMAN. Senator, I think that would be administratively impossible.

Senator GORE. What the Security Board would like to see is not to give benefits to people who are taken care of under the Relief Administration.

Senator GORE. This goes out of the way to see that they shall get the money, that nothing else shall count but money.

The CHAIRMAN. By the time you pass this bill there will not be any Relief Administration.

Senator GORE. I do not want to give them both. When you give them money there should be some provision that this money should not be given to people like bankrupt Adolph Weiss who are on relief and buying fur coats and automobiles or anything like that.

The CHAIRMAN. Senator, Mr. Hopkins has announced that from the 1st of August there will be no more relief money given out. That was published in the Associated Press yesterday. So we will not have that proposition here.

Senator GORE. Maybe he is honest in that belief.

The CHAIRMAN. Proceed.

Senator CONNALLY. Is that irrespective of the contribution to the State?

Senator GORE. This is out of the appropriation of \$3,800,000 a year. There may be some other provision.

Mr. ELIOT. I think this is to be matched.

Mr. BEAMAN. No; that second one, (b) does not have to be matched (a) has to be matched.

Senator CONNALLY. You are inserting there a factor as to the ability of the State. In other words, a State that does not assess taxes, does not collect, will get relatively more than the State that does.

Senator LA FOLLETTE. That is really to create a fund to take care of States that are in financial difficulties and cannot provide any of this service.

Senator CONNALLY. You are just encouraging the matching process when you introduce that element.

Senator GORE. I may not have understood it, but does not this plan cover the children whether they are born in a hovel or born in a palace?

Mr. ELIOT. It is a grant to the States, Senator. State services ordinarily do not waste their money for children born in palaces, but spend it for the children born of the poor.

Senator CONNALLY. I want to add to that; your State and mine would get more under that.

The CHAIRMAN. I do not understand line 21. You say, "as determined by him" Who are you talking about?

Mr. ELIOT. The Secretary of Labor.

The CHAIRMAN. You had better say, "as determined by her" had not you?

Mr. ELIOT. No, "he" includes "her"

Senator BLACK. You take lines 14 and 15, "as he finds that the number of live births in such State bears to the total number of live births in the United States." Over what period of time? Is it a year, or what is it?

Mr. ELIOT. I believe the United States birth registration area includes figures for the whole country, and they are set up on an annual basis.

Senator BLACK. It should show that.

Mr. ELIOT. Perhaps it should show that.

Senator GORE. I think some States have included that.

Senator BLACK. I think that is wholly indefinite and uncertain. Nobody can determine what it is.

The CHAIRMAN. Why should not it be "for the last 12 months"?

Senator BLACK. I think you will have to insert something or you certainly will have no standard.

Mr. ELIOT. Why not say, "according to the latest available statistics"?

Senator CONNALLY. Say for a year. You would not get the statistics immediately.

The CHAIRMAN. Suppose you confer with Miss Lenroot on that, because we will have to have an amendment to give us a yardstick on that, and then make a suggestion so we will be able to pass on it.

Mr. ELIOT. All right, Senator. [Reading:]

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 503. (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Chief of the Children's Bureau to be necessary for the efficient operation of the plan.

Senator CONNALLY. Right there it seems to me it is turning it over to the Children's Bureau.

Mr. ELIOT. It is the same provision, Senator, that has been in the other titles, grants-in-aid read this morning specifically limiting the Federal control over administration to matters other than those relating to personnel.

Senator CONNALLY. My objection is to putting that one individual in here and letting her just sit up here and boss all the States in the Union. If the law does not suit her she just issues an edict and they do not get the money. I do not think anybody created is wise enough or smart enough to do that sort of thing.

The CHAIRMAN. It seems to me this is different language.

Mr. ELIOT. That is the identical language.

Senator GERRY. It gives her extremely wide powers, I think.

Senator CONNALLY. You are always going to have some one in the Children's Bureau who is a sort of a god, with certain theories.

Senator GERRY. Yes, and with no knowledge at law. You will have that situation, too.

Senator CLARK. It certainly gives the Federal official a power in the State to do what she sees fit. It certainly is the very widest discretion, to allow a Federal official to force a State to enact laws under the penalty of withholding money.

The CHAIRMAN. Mr. Eliot, why could not we, in paragraph 3, say:

Provide such methods of administration as are found to be necessary for the efficient operation of the plan—

And then in (b) on page 27, you have got this following these various things:

The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a)—

And so on.

Mr. ELIOT. That could be done.

The CHAIRMAN. Why would that not clarify the condition?

Mr. ELIOT. I do not think it makes any difference. I think it leaves the effect the same. The suggestion is to strike out "as are found by the Chief of the Children's Bureau" here in section (6), under the theory that subparagraph (b) on page 27 reaches the same result.

Mr. BEAMAN. It does not.

The CHAIRMAN (reading):

The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a)—

is one of the provisions.

Mr. ELIOT. The difference that would make would be if the Chief, as on page 27, refused to approve the plan on the ground that the methods of administration were not such as were necessary to carry out the plan, the State might be able to raise the question, by mandamus, or other court proceedings, and the final decision as to what were the proper methods of administration would rest in not the Children's Bureau but the courts. That is the effect.

Senator GERRY. That is an excellent amendment.

The CHAIRMAN. Without objection then on line 14, page 26, we will strike out "by the Chief of the Children's Bureau", so that it will read:

as are found to be necessary for the efficient operation of the plan.

Mr. BEAMAN. Found by what?

Mr. ELIOT (reading):

As are necessary.

Mr. BEAMAN. I think you ought to strike out "found by" also.

The CHAIRMAN. It would read how?

Senator CLARK (reading):

As are necessary for the efficient operation of the plan.

It would make it a question of fact.

The CHAIRMAN. Then further down, in paragraph (b) of course—

(b) The Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a)—

And so on.

Mr. BEAMAN. If the Chief of the Children's Bureau does not think that the methods of administration are such as are efficient for the operation of the plan, the plan would be disapproved and the State would then come in and mandamus the Children's Bureau to put the plan in operation.

Senator CLARK. That is left entirely to the discretion of the Chief of the Children's Bureau.

The CHAIRMAN. Yes; I think it strengthens it, putting it in that way.

Mr. BEAMAN. Do you want to do the same thing in title I?

The CHAIRMAN. We have passed over that. Go ahead.

Mr. ELIOT (reading):

(4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child health services administered by local child health units.

Senator GORE. Read that again please.

Mr. ELIOT (reading):

(5) provide for the extension and improvement of local maternal and child health services administered by local child health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations.

Senator CONNALLY. What does that mean?

Mr. ELIOT. I yield again to Mr. Witte.

Mr. WITTE. This is an infancy and maternal welfare, what was done in the Sheppard-Towner Act, and what is now being done in many States which are continuing this work.

Senator GORE. How many States?

Mr. WITTE. Under the Sheppard-Towner Act all but three States in the Union were in the picture. Since then the appropriations have been reduced so much in 10 or a dozen States that the work is very small. It is still being continued in all, I think, but 6 or 7 States in the Union in some fashion.

About half of the States are doing very substantial work in this field. It is usually a traveling clinic, taking in the rural areas from county seat to county seat. In our State it is a traveling automobile with a nurse to which pregnant mothers come for advice and examination, and all that kind of thing.

Senator BLACK. Mr. Chairman, in order to carry out your idea completely, I think it would be necessary to put the word "efficient" on line 9, page 26, after the word "the" and before the word "administration." In other words, that limits it to administration only and does not give a right to do anything else.

The CHAIRMAN (reading):

Provide for the efficient administration?

Senator BLACK (reading):

Provide for the efficient administration.

Mr. BEAMAN. Is that not covered by no. 3?

Senator BLACK. I do not think so.

Mr. BEAMAN (reading):

Provide such method of administration as are necessary for the efficient operation of the plan.

Senator BLACK. That is right, but I want the word "efficient" in the other, so it would be clear that when the power is exercised on page 27, each local community would have the right to determine for itself whether it was efficient. I want to get an efficient administration rather than leave it open. I want it to refer to the administration only.

Senator CONNALLY. This is the State plan that you are talking about?

Senator BLACK. Yes; you will find on page 27:

The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a)—

and so on, and therefore so far as the Children's Bureau is concerned, I think it should be limited to "efficient." Really what you mean is the clerical administration in order to carry out the purposes.

Mr. BEAMAN. Pardon me, Senator. What about line 10? Do you want it in front of "supervision" or in front of "administration"?

The CHAIRMAN. For the efficient administration of the plan.

Senator BLACK. That simply provides for the supervision by the State health agency that they provide.

The CHAIRMAN. It provides an efficient administration of the plan.

Mr. ELIOT. I think you will get into difficulties.

Mr. BEAMAN. If you put it in line 9 you have got to put it in line 10 somewhere.

Senator BLACK. I do not think so. Those are entirely different. It might provide for the administration of the plan or it might provide for the supervision of the administration of the plan by the State health agency. That is all right.

Mr. BEAMAN. It is intended to have the words "by the State health agency" after the first word "plan" in line 10.

Senator BLACK. I do not think it is there.

Mr. BEAMAN. It ought to be there. That is what was intended.

Senator BLACK. It clearly does not limit it now to the State health agency, in my judgment. If it did, then I would want "assistance" in both places.

Mr. BEAMAN. The purpose certainly was that it should read, in the first of line 10, "by the State health agency."

Mr. ELIOT. The purpose of that clause (2) was not to provide that the plan should be administered simply to indicate that the plan, but should be administered by the State health agency.

Senator BLACK. That is all right.

Mr. ELIOT. Your suggestion that it does not clearly carry that out is quite correct, sir.

Senator BLACK. If all they are doing there is to provide for the administration by the State health agency, then it is quite a different situation.

Mr. BEAMAN. Senator, we would like to get you to insert in line 10, after the word "plan", "by the State health agency."

The CHAIRMAN. That is line 10?

Mr. BEAMAN. Yes; after the first word in the line.

The CHAIRMAN. How would it read then?

Mr. BEAMAN (reading):

Provide for the administration of the plan by the State health agency or the supervision of the administration the plan by the State health agency.

The CHAIRMAN. Without objection that will be inserted. All right, eliminate "efficiency" And put it that way.

Mr. ELIOT. (reading):

Payment to States. Sec. 504. (a).

This being the same, I will read it if you ask me to.

The CHAIRMAN. We cannot go any further. The committee will meet subject to call and we will proceed with the rest of the bill at the next meeting.

(Whereupon at the hour of 12 noon the committee recessed, subject to call from the chairman.)

[CONFIDENTIAL]
SOCIAL SECURITY ACT

MONDAY, MAY 13, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., in the Finance Committee Room, Senate Office Building, Senator Pat Harrison (chairman) presiding.

Present: Senators Harrison (chairman), George, Walsh, Barkley, Connally, Costigan, Clark, Lonergan, Black, Gerry, Couzens, Keyes, La Follette, Metcalf, Hastings, Capper.

Also present: Middleton Beaman, Legislative Counsel, House of Representatives; Thomas H. Eliot, Assistant Solicitor, Department of Labor, Edwin E. Witte, executive director, committee on economic security.

The CHAIRMAN. All right, Mr. Eliot. Let us proceed on this bill. Where we closed the other day was on page 27, I think; wasn't it?

Mr. ELIOT. Yes. I think the next payment sections, Senator, are the same as the earlier ones, except for the top of page 29, where there was an additional subsection. In this part, unlike the earlier two titles that we have read, there was a free fund that did not need matching.

The CHAIRMAN. Did you finish section 504?

Mr. ELIOT. I will read it if you want, sir.

The CHAIRMAN. It is not necessary. Just explain it.

Mr. ELIOT. It is exactly the same as the method of payment for matching under title I for old-age assistance, and under title IV for the aid of dependent children. It is simply the mechanics of making the payments through the Treasurer. But on top of page 29, subparagraph (c) [reading]:

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

The CHAIRMAN. You say that is a change from the other?

Mr. ELIOT. That is an additional paragraph which does not appear in the other two sections, because there is an additional paragraph here that a sum of money, I think \$980,000, is allotted to the States without matching by the States.

Senator GEORGE. That is a free fund, an equalization fund or a free fund, whatever you call it?

Mr. ELIOT. Yes, sir. [Reading:]

OPERATION OF STATE PLANS

SEC. 505. In the case of any State plan for maternal and child health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after notice and opportunity for hearing to the State agency—

The CHAIRMAN. That should be "after reasonable notice", should it not?

Mr. ELIOT. That was amended in the other part.

The CHAIRMAN. Suppose we put "after reasonable notice" there too?

Mr. ELIOT. Yes. [Continuing reading:]

administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

PART 2. SERVICES FOR CRIPPLED CHILDREN

APPROPRIATION

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

ALLOTMENTS TO STATES

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

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

APPROVAL OF STATE PLANS

SEC. 513. (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan or the supervision of the Administration of the plan by a State agency.

That was changed in accordance with Senator Black's realizing that was ambiguous in the earlier section, to provide for the administration of a plan by a State agency, or for the supervision of the administration of the plan by a State agency.

The CHAIRMAN. In other words, that ought to be changed accordingly by putting in "by a State agency", and it will now read:

provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency.

Mr. ELIOT. Yes. [Reading:]

(3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as found by the Chief of the Children's Bureau to be necessary for the efficient operation of the plan.

In part 1 of this title, it has been amended to read:

as are necessary for the efficient operation of the plan.

Senator GEORGE. Yes; I think that change ought to be made in order to make it uniform.

Mr. BEAMAN. On line 18, strike out "found by the Chief of the Children's Bureau to be."

The CHAIRMAN. How would it read?

Mr. BEAMAN (reading):

As are found necessary.

Senator GEORGE. "As are necessary" or "as are found to be necessary"?

The CHAIRMAN (reading):

For the efficient operation of the plan.

Mr. BEAMAN (reading):

For the efficient operation of the plan.

Mr. ELIOT (reading):

(4) Provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

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

Section 514 I think is exactly the same as the "payments" section.

Senator GEORGE. Before you go away from the "approval of State plans", the first provision is "provide for financial participation by the States" That does not mean equal matching, does it?

Mr. ELIOT. Under section 514, there is matching. It appears in the "payments" section that the payment is made, the Federal Government paying one-half of the money expended in the State. It is the same as title I in that respect.

Senator GEORGE. That is service for crippled children?

Mr. ELIOT. Payment to States on page 32, lines 17 and 18, an amount equal to one-half of the total amount expended in the State.

The CHAIRMAN. Let me ask in that connection: The Chief of the Children's Bureau is nominated by the President and confirmed by the Senate; isn't that right, Dr. Witte?

Dr. WITTE. Yes, it is. Miss Lenroot is one.

The CHAIRMAN. She was confirmed by the Senate?

Senator GEORGE. Yes.

Senator BLACK. Let me ask one question before you leave that. Would it not give to the Federal Government the right to say what kind of hospitals the children should be taken to, under the section providing methods of administration, and how they should be taken care of in those hospitals? It is really hard to tell.

Mr. ELIOT. Yes; it is hard to tell how far that administration clause goes. I am not familiar with the details of the administration of the plan for crippled children.

Senator BLACK. In other words, would it not go further than simply giving the Federal Government the right to require that all types and classes of people should receive equal treatment; would it not also give them the right to determine exactly how that treatment would be given?

Mr. ELIOT. I think it would give them the right to determine that certain types of treatment were not those necessary to carry the plan out efficiently.

Senator BLACK. I am referring now to where it says provide for a certain method of administration as are found by the Chief of the Children's Bureau.

Mr. ELIOT. That has been amended to read—
as are necessary for the efficient operation of the plan.

Mr. BEAMAN. They have got to find out what is necessary.

Senator LA FOLLETTE. We have the same amendment here as in the other section.

Senator BLACK. So it relates to the administration only?

Mr. ELIOT. That is right.

Senator LA FOLLETTE. This has been made to conform with the other amendments that you offered.

Senator COUZENS. Have you passed upon the question whether the administration of this is to be under the Department of Labor?

The CHAIRMAN. Not yet.

Senator COUZENS. I want to leave my vote with the chairman, if I am not here, to have a special commission to handle it rather than have it in the Department of Labor.

The CHAIRMAN. You are for the House provision?

Senator COUZENS. I am.

The CHAIRMAN. All right, proceed.

Mr. ELIOT. Section 514 is the same, the "payment to States", as the section for the payment to States in title I. The same with respect to section 515, where the provision for withholding payment is made if there is a substantial failure to comply with the plan.

PART 3. CHILD WELFARE SERVICES

Sec. 521. For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public welfare agencies in establishing, extending, and strengthening, in rural areas, public welfare services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$1,500,000. Such amount shall be allotted for use by cooperating State public welfare agencies, to each State, \$10,000, and such part of the balance as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the costs of county and local child welfare services in rural areas. The amount of any allotment to a State under this section for any fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

Senator COUZENS. May I ask if there is a definite interpretation of the words "rural areas"? I am not quite settled in my mind as to what that means.

The CHAIRMAN. What does that mean? Does that mean towns of less than 2,500?

Mr. ELIOT. That would be the ordinary interpretation. You have it in the census and administrative regulations.

Senator GEORGE. The census-provision interpretation includes towns of less than 2,500 population.

The CHAIRMAN. Let me ask you, Mr. Eliot, at the top of page 35, "Such amount shall be allotted for use by cooperating State public-welfare agencies to each State, \$10,000"—I get that, but the State has got to put that up, too?

Mr. ELIOT. There is no provision here for matching. I think Mr. Beaman and Mr. Boots will agree with me that this section is most inadequately spelled out. Nothing in the section indicates who is to do the allotting or how the payments should be made. In several technical respects the section is inadequate. It does not carry out its own purposes.

The CHAIRMAN. The State does not have to match funds?

Mr. ELIOT. There is no matching here.

Senator COUZENS. In what respect is it not clear?

Mr. ELIOT. Mr. Beaman, perhaps, can explain it better than I can.

The CHAIRMAN. What suggestion have you, Mr. Beaman?

Mr. BEAMAN. I haven't got any suggestion. It says [reading]:

establishing, extending, and strengthening, in rural areas, public-welfare services for the protection and care of homeless, dependent, and neglected children.

I do not know what you mean by that. Do you mean feed them? Obviously you do not mean that, because a million and a half does not go very far. What is intended by this language is as broad as heaven. If you have any policy as to what you would like to have done with it, we will write it out for you.

Senator GERRY. Mr. Senator, I would like to introduce Senator Lonergan's amendment on the section. He is on the committee. This amendment has been gone over by the experts here. I think it will probably clarify it. At the last meeting, Mr. Chairman, you asked me to take up with the experts certain amendments of the committee, and this is the one that Senator Lonergan was interested in, and that I was interested in myself. What page is that on?

The CHAIRMAN. Page 34.

Senator GEORGE. Page 34, section 521.

The CHAIRMAN. Do you think that covers the point Mr. Beaman has brought out, Senator Gerry?

Senator GERRY. I think it covers it; yes. I think this amendment clarifies the thing very much and gets it into a shape where you can really state the purposes of it. I think it clarifies it. Mr. Beaman or Mr. Eliot, you are very familiar with this amendment. It clarifies the point, does it not?

Mr. ELIOT. I think it clarifies everything except the meaning Mr. Beaman was worrying about. "For the protection and care", I understand, is language generally used in the State statutes creating child-welfare services; therefore, it has a well-understood administrative meaning by the people to whom this money is to go. I do not think the confusion resulting from these few words is as great as Mr.

Beaman would point out. I think the amendment does clarify and improve the rest of the section considerably. It provides the necessary mechanics to make the payments.

The CHAIRMAN. Let us have the amendments.

Senator GERRY. Shall I read it, Mr. Chairman?

The CHAIRMAN. Yes.

Senator GERRY (reading):

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

I think that really covers it about as well as can be done, and it gives a chance for cooperating with the State agencies, as I understand it, Mr. Eliot, instead of being mandatory.

Mr. ELIOT. Yes, Senator; but the draft that I have seen had two paragraphs, (a) and (b). I do not know whether yours has a "(b)" appended to it.

Senator GERRY. Your are right; it has.

(b) From the sums appropriated therefor and the allotment available under section 531 (a) the Secretary of Labor shall, from time to time, certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursements of the Treasury Department, and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotment at the time or times specified by the Secretary of Labor.

That is what you refer to?

Mr. ELIOT. Yes.

Senator COUZENS. I like that amendment better, because I think it ought to be "predominantly rural." There are many agencies which dovetail in with both rural and city business, and it is simply silly to confine it strictly to rural without making a designation for the rural-metropolitan area.

Senator HASTINGS. I should like to inquire whether there is anything in title IV to prevent me using that \$20,750,000 to take care of the children in rural districts.

Mr. ELIOT. Nothing to prevent your taking care of children in rural districts. The money in that title is limited to aid to children living in their own homes with a close relative, usually the mother, under the State-aid-to-dependent-children plan.

Senator GERRY. Have we come to that other amendment?

The CHAIRMAN. Mr. Beaman, what is your reaction to this amendment?

Mr. BEAMAN. One part of it is obviously an improvement. The second paragraph, as to how the money shall be spent, how it shall be allotted and paid—that section is entirely sound. The other part of it—it is impossible to tell from hearing it read. As far as I can see, the only change in the first part of it is striking out the words “in danger of becoming delinquent.” It still reads: “public-welfare services for the protection and care of homeless, dependent, and neglected children.” Now, as I say, you have got a whole title providing for money aid to dependent children.

Mr. ELIOT. Not homeless children. Title IV cannot go to homeless children.

Mr. BEAMAN. I take it this does not mean a child has to be homeless, dependent, and neglected, but could be either a homeless child, or a neglected child, or a dependent child.

Senator COUZENS. If it is a dependent child, must it be homeless?

Mr. BEAMAN. I do not know, Senator.

Senator COUZENS. I did not get the necessity of putting that language in.

Senator LA FOLLETTE. Did the original bill have that in?

Mr. ELIOT. It was quite a different set-up, but I think these particular words were in the original bill as they are here.

The CHAIRMAN. Why not say, “care of homeless or neglected children”, and strike out “dependent”?

Senator HASTINGS. I should like to inquire whether it is intended here that there shall be a distinction made between the children living in the city and the children living in the country?

Senator COUZENS. That is the intention of the bill, the way it is drawn. Senator Gerry has made it “predominantly rural.” I agree with that.

Senator HASTINGS. Why do you make a distinction between the children living in one place and children living in another place?

Senator COUZENS. Because the facilities are worse in the rural area.

Senator LA FOLLETTE. The cities have more welfare agencies for looking after this thing than the rural areas.

Senator COUZENS. For instance, there are 700 crippled children in Michigan that cannot go to school. Every crippled child in Detroit and the big industrial areas is taken care of, is taken back and forth from school. There is a condition in the rural area that ought to be met by some agency.

Senator GERRY. The urban areas really look after their own. The different institutions in the urban areas look after those types of cases pretty well. What they were trying to do was—in the rural areas, where there wasn't good organization to help children, they would try to do something. Also, in the wording of this section, we have got one thing there, in case of an epidemic of infantile paralysis, and so on.

Senator HASTINGS. Is there any reason for having the State participate in one and not in the other?

Senator GERRY. The only idea was if you spread it over all these urban areas in the first place it increases the expense tremendously and unnecessarily, and the need is only in these rural areas.

The CHAIRMAN. Dr. Witte, what is your reaction to this suggestion?

Mr. WITTE. I think there is no objection to that. Let me explain, if I may, how this differs from title II. Title II is aid to dependent children in their homes.

Mr. ELIOT. You mean title IV.

Mr. WITTE. Title IV, aid to dependent children in their homes, paid to the mother under a grant usually, in some places a court, in some places an administrative agency. This relates to public services, not payments to the neglected children, dependent and neglected children. In most urban communities there are agencies that, in many States, are called "boards of child welfare", that are local agencies, that assist, for instance, in finding homes for children, orphaned children, that assist in the care of neglected children, bringing them to the attention of the courts that assist in cases of illegitimacy. It is a different class of children, and it is a service, not payments. This does not contemplate payments to private parties; this contemplates aid to public agencies.

Now there are no such public agencies, to speak of, in rural communities. They are in existence in most of the urban centers of the country. Now the House committee dropped the matching because in certain communities, particularly New York City, Philadelphia, Pittsburgh, Chicago, there were arrangements in existence between the public authorities and private institutions under which payments are made for the care of some of these children in private institutions.

Senator COUZENS. What do you mean by private institutions?

Mr. WITTE. Operated by religious organizations, in this particular by religious organizations. There was a feeling, at least in the State of New York and the State of Illinois, that the State contribution forbids State participation in that case, and the feeling was that if State participation were required this would involve interference with the arrangements that exist in these large cities, and that of course was not the intention. The intention was to give service, to help in the building up of service in areas where there now is no service. There is service in these large cities and we did not intend to interfere with them. So the committee struck out the entire requirement for matching.

The CHAIRMAN. All right. Without objection then the amendment suggested by Senator Gerry will be substituted for section 521.

Senator COUZENS. That is after Mr. Beaman and the others go over it again to see if the language is all right.

Senator GERRY. I will say I am introducing this for Senator Lonergan.

The CHAIRMAN. All right.

Senator GERRY. I would like to return to page 24, line 11, to a draft worked out by the committee. Now I added a word here, and I want to have the drafting people to listen to it and see if they have any objection to it. [Reading:]

(a) The term "dependent child" means a child under the age of 16 who has been deprived of parental support or care by reason of the death or continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home.

I added a word. I would like to call attention to the adding of "continued absence." I think it makes it a little better.

Mr. ELIOT. That is an improvement.

Mr. BEAMAN. Do you put in the word "or", Senator?

Senator GERRY. No, I do not think you need "or" in there, Mr. Beaman. I think it does mean "continued absence" because otherwise absence might be too short a time.

Then your suggestion of "in a place of residence", Mr. Beaman, I put that in. Have you got that in your draft?

Senator COUZENS. I do not get that now. Of course a dependent child might be in the home of a very wealthy stepfather or stepmother. Does that mean we have got to step in and take care of it then?

Senator GERRY. That we tried to avoid, Senator Couzens, because it means one parent.

Mr. ELIOT. That really is up to the State, Senator. The State plans now are operating in 45 States under the mothers' aid, mothers' pension laws.

Senator COUZENS. I understand that perfectly, but this definition does not define what a dependent child is.

Mr. ELIOT. We are merely limiting the dependent child to children in their own homes who are deprived of normal parental support; in other words, one of their parents is incapacitated. If you went further, as the original bill did, and tried to define "dependency", it would mean the definition of "dependent" would be dictated from Washington, and the House committee objected to that and struck that out, feeling each State should decide for itself as to the means test in each case.

Senator GERRY. As I understand it, Mr. Eliot, that meant one parent.

Mr. ELIOT. It could be both, if they were living with their grandparents.

Senator GERRY. I did not understand it that way, because I had in mind what Senator Couzens had in mind.

Senator COUZENS. I do not object to the States applying the means test, but there is nothing to indicate that the means test is to be applied.

Senator GERRY. If it applies to one parent, then I think that answers your question.

Senator LA FOLLETTE. But the State is putting up money under this section, and it seems to me rather strange, gentlemen, to think that a State would not define this in order to prevent it from going to somebody who did not need it, inasmuch as they are putting up part of their own money.

Mr. ELIOT. The title for old-age assistance does not define necessarily the standard of poverty which the old man must be in before he can get old-age assistance, but the common sense of the State will limit that in almost every case.

Senator GERRY. Why does not that apply to one parent? If you have a case where there is just one parent, then the child cannot very well, if he is living with his father and mother, get the money.

Mr. ELIOT. I think the idea there is if the child has been left an orphan by the death of his father, and they are poor people, and the mother either has to work and neglect the child or stay at home and not get any money for the child, this definition covers what the State is now looking after under its laws. Under this definition,

if both the father and mother were dead and the child were living with its aunt, and the aunt also was a poor person, if she had to go out and work and neglect the child, or if she did go out and work she could not hire a nurse to take care of the child, then the aunt no doubt would likewise be an object of the State's assistance.

A near relative, a relative within the second degree, would be assisted, if the State wanted to be as liberal as that. The State does not necessarily have to be so liberal.

Senator BLACK. May I read you a paragraph from a letter had this morning that seems to have the idea that Senator Couzens had. This is from the executive director of the Birmingham Community Chest, and he says:

First. The definition of children eligible to such aid, section 406 of title IV, fails to describe accurately the children whom similar State (mothers' aid or assistance) laws intend to be the beneficiaries. To avoid indefiniteness in administration from too great inclusiveness, the definition should be brought into general agreement with the established principles of such laws as they exist in 45 States, that is, a support measure replacing income from an absent breadwinner in families where long-time security is required for the sake of growing children. The money appropriated is sufficient for this use, but not sufficient for the section as rewritten by the House committee.

I had a letter also from the State welfare agent saying in the same way under this definition the States that have not yet passed these laws would probably be excluded from its operation. Unfortunately our State is one of those.

Mr. ELIOT. The State would have to have some kind of a plan before it could get the money, that is true.

Senator BLACK. They seem to believe that this definition is so all-inclusive and takes in so many things as it is written that the appropriation is wholly inadequate and it would be difficult to administer it with fairness to the different sections.

Mr. ELIOT. I think, Senator, that the definition is inclusive and broad in the sense it is permissive. If the State produces a plan which merely gives aid to widows with orphaned children, that plan, if it conforms with section 402 in its various minor details, would be approved and the State would get the money.

Likewise if a State was more liberal, if it happened to have more money for this purpose and decided to extend its aid not only to widows and orphans, but to poverty-stricken aunts living with orphaned children, living with nieces, and so forth, we would not deny aid to those States with respect to such families. There is no compulsion. The State could get this money by operating under its present law, insofar as it is limited to aid to orphaned children living with the mother.

Senator BLACK. When you make an actual definition in this law and a State attempts to restrict this definition, my opinion is it would be beyond its authority.

Senator GERRY. I think the Senator is right.

Mr. ELIOT. The term "aid to a dependent child" includes that.

Mr. BEAMAN. No, no. Pardon me. That suggestion does not go as far as the other thing. A "dependent child" might mean a child in an institutional home.

Mr. ELIOT. That is true.

Senator BLACK. Mr. Beaman, if you make this definition in the law, it is a prerequisite, and the State recognizes that definition.

Mr. BEAMAN. The State submits the plan, and if it includes in that plan people that are within the definition, it is a good plan. The fact it does not include every single individual out of the million children that might possibly be dependent children, does not make it an unsatisfactory plan.

Senator BLACK. Suppose the State of Rhode Island were acting under this and were creating an agency and said that the dependent child to be taken care of will be a child living with his father, leaving out the mother, would not that be in direct contravention of this law?

Mr. BEAMAN. I take it, it is perfectly right for a State to say they will not pay a pension to an old man who has been convicted of a felony. Under the definition there is nothing in the Federal law about old people not including people convicted of a felony. Therefore, by the same argument that you now make, it would seem to indicate the State would have to pay all the convicts.

Senator BLACK. Not at all, because you have certain requirements that they must obey and leave the other open.

Mr. ELIOT. The point is that the State does not have to give aid to all the people that are defined here as dependent children, any more than a State, under the old-age pension law, must give aid to everybody over 65 years of age. The situation is exactly parallel. The State can choose from the people who are 65 years of age, and choose from the people who are dependent children the ones it wishes to aid.

Mr. BEAMAN. I look at it this way, Senator: The State submits a plan and spends some money. It seems to me the only function of the Federal agency is to look and see that the person they give the money to, or the person they give the aid to, whatever it is, is within the definition.

Senator BLACK. Suppose you said the State shall use this money and you are defining it to apply to children between the ages of 10 and 18 and the State makes a law to have it apply to children between the ages of 10 and 12, or the ages of 10 and 13, what do you say to that?

Mr. BEAMAN. That would be good.

Senator BLACK. And even if the Federal law made it between the ages of 10 and 18?

Mr. BEAMAN. All the Federal law says is that the dependent children are these children. It is to enable the State, so far as it wishes, to give aid to these people, but not to enable them to give aid to the people not within the definition. To a child in an institution? No. To a child over 16 years of age? No. But to any child under 16 years of age coming within the definition the State can give aid and get Federal funds up to one-third of the amount.

Senator BLACK. Probably it might not be of any importance in connection with the final administration, but I am confident myself that if you define who goes into it, the State could limit it.

The CHAIRMAN. Mr. Beaman, have you any suggestion about this? Senator Gerry's amendment is about right, as I understand it.

Mr. BEAMAN. It is about just what you want.

The CHAIRMAN. Do you think Senator Gerry's amendment is an improvement?

Mr. BEAMAN. The improvement is in carrying out, as I understand it, what you wish.

§ The CHAIRMAN. All right, read the amendment again.

Mr. BEAMAN. If you take page 24, it is exactly the same as the present bill, except in line 12, after the word "sixteen" is inserted—who has been deprived of parental support or care by reason of the death or continued absence from the home for physical or mental incapacity of a parent, and who is living—

And so forth. In line 14, in front of the word "residence" is inserted the words "place of."

The CHAIRMAN. Well, without objection then the amendment will be accepted and the substitution made. All right, proceed, Mr. Eliot.

Mr. ELIOT. We are now over to section 531 on page 35.

PART 4. VOCATIONAL REHABILITATION

SEC. 531. (a) In order to enable the United States to cooperate with the States and Hawaii in extending and strengthening their programs of vocational rehabilitation of the physically disabled, and to continue to carry out the provisions and purposes of the Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment", approved June 2, 1920, as amended (U. S. C., title 29, ch. 4; U. S. C., Supp. VII, title 29, secs. 31, 32, 34, 35, 37, 39, and 40), there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of \$841,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of \$1,938,000.

The CHAIRMAN. What is the present existing authorization?

Mr. BEAMAN. \$1,097,000 for aid and \$80,000 for administration.

The CHAIRMAN. All right.

Mr. ELIOT (reading).

Of the sums appropriated pursuant to such authorization for each fiscal year, \$5,000 shall be apportioned to the Territory of Hawaii and the remainder shall be apportioned among the several States in the manner provided in such Act of June 2, 1920, as amended.

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

The CHAIRMAN. Was this provision in the original bill?

Mr. ELIOT. No, sir; it was put in by amendment by the House Ways and Means Committee.

Senator LA FOLLETTE. Those who are interested in vocational rehabilitation are fearful this language is ambiguous, so far as the administrative agencies are concerned; that is, they are very desirous that there should be nothing in this language which, by implication or otherwise, changes the existing agency for the administration of vocational education, and they are apprehensive that this language may, by implication or otherwise, indicate the Children's Bureau.

Mr. ELIOT. Was not that worry caused by the last line on page 36, or the last paragraph, which says:

The Children's Bureau shall make such studies and investigations as will promote the efficient administration of this title?

Senator LA FOLLETTE. Why would not it be possible to put into paragraph (b) "the existing agency"? I think that would settle it.

Mr. ELIOT. How did they happen to use the other language?

Mr. BEAMAN. This language in line 12 is their own language. They suggested this, and the amendment was offered in the Ways and Means Committee. I was talking with Mr. Boots the other day

about it. Personally I think it is a pretty good scheme. What happened was the original act entrusted the administration of the act to a vocational rehabilitation board, or some such name, and the President, acting under authority delegated to him by Congress, by Executive order transferred the administration into the Office of Education, Department of the Interior.

The CHAIRMAN. Why should not it be under the Bureau of Education, if it is now in the Bureau of Education?

Mr. BEAMAN. It should be, if it is going to stay there.

Mr. ELIOT. The point the Senator has raised I think could be solved completely by putting after each paragraph in section 541 the words "except section 531", making it perfectly clear the Children's Bureau and the Secretary of Labor have nothing to do with the administration.

Senator CONNALLY. Why do not you say, "under the authority now administering the same", or something like that?

Mr. BEAMAN. That is what we have got. That is what is there now.

Senator BLACK. It says by the Federal agency authorized to administer.

Senator CONNALLY. If you say "now authorized" you would get it.

Senator BLACK. Which one is that?

Senator LA FOLLETTE. That is the Bureau of Education.

Senator BLACK. Would not that get it, if that is where you want it?

The CHAIRMAN. It would seem to me that you would correct it in paragraph (b) if you said "Bureau of Education" instead of "Children's Bureau."

Mr. BEAMAN. No, sir; because most of this title relates to the Children's Bureau, all except this one section.

Senator BLACK. Why could not you clear it up by putting in, on line 13, or line 12, "by the Federal Bureau of Education" if that is the one that is going to do it? I think that would clear it up.

The CHAIRMAN. Why would not that do it, Mr. Beaman?

Mr. BEAMAN. It would do it.

The CHAIRMAN. Without objection, where it says, "by the Federal agency authorized to administer it" we will say, "by the Bureau of Education."

Mr. BEAMAN. I think it is "Office of Education." We will find the correct name for it.

The CHAIRMAN. All right.

Mr. ELIOT (reading):

PART 5. ADMINISTRATION

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

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

Senator BLACK. Wait a minute. You say "title"?

Mr. ELIOT. It might well say "except section 531" at the end of each of those paragraphs, as it does in paragraph (c).

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

Senator LA FOLLETTE. At the end of every paragraph?

Mr. ELIOT. Yes.

The CHAIRMAN. You provide nothing for the administration of section 531?

Mr. ELIOT. Yes, sir; (b) is entirely administration.

The CHAIRMAN. That is the Children's Bureau?

Mr. ELIOT. No, sir; on page 36, line 11.

The CHAIRMAN. I see. Should you have also the expenses of the Children's Bureau and the Department of Education?

Mr. ELIOT. No, sir, because that is provided in paragraph (b), page 36, line 11.

Mr. BEAMAN. They get \$102,000 a year there.

The CHAIRMAN. You made your notation there that "except section 531" be added at the end of the paragraph?

Mr. ELIOT. All right, sir, in (a) and (b).

The CHAIRMAN. All right.

Mr. ELIOT (reading):

Title VI. Public Health Work Appropriation.

The CHAIRMAN. The House made no change in this provision from what it was originally in the bill?

Mr. ELIOT. It is an entirely new title.

The CHAIRMAN. All right.

Mr. ELIOT (reading):

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

The CHAIRMAN. How much was in the original bill?

Mr. ELIOT. The same amount. It was \$10,000,000, and before the title is through we will have \$10,000,000 too.

The CHAIRMAN. All right.

Mr. ELIOT (reading):

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

Senator CONNALLY. Wait right there. Do you mean by that, that the Surgeon General can arbitrarily fix these amounts, taking into consideration the population, the special health problems and the financial needs?

Mr. ELIOT. Yes, sir.

Senator CONNALLY. The amounts of those particular factors is up to him? In other words, he can consider special health problems 50 percent, population 25 percent, and financial needs 25 percent, or he can revert it the other way?

Senator HASTINGS. He has to have the approval of the Secretary of the Treasury.

Senator CONNALLY. It seems to me like that is a lot of authority to put in the Bureau, for him to determine how much each State shall get.

Senator BLACK. It is practically the same thing as leaving no standard at all.

Mr. ELIOT. It leaves him very wide discretion to determine how much each State shall get.

Senator BLACK. He can decide a State shall get a 100 percent for financial assistance the first year and the next year it shall get 90 percent.

Senator CONNALLY. It leaves him to say what special health problems are. It might be the 7 years' itch or tuberculosis.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

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

Senator HASTINGS. I do not see that that amounts to anything.

Mr. ELIOT. It merely means the allotment is available for 2 years instead of being over and done with if it isn't paid in the year in which it is to be paid.

Mr. BEAMAN. It is an allotment to all of the States.

Senator HASTINGS. What is that?

Mr. BEAMAN. If an allotment is made to the States and it is not spent, it is not available to that same State the next year, it is simply thrown in the next year's pot out of which allotments are made to all of them.

Senator CONNALLY. I thought the preceding section provided it shall get its annual allotment and also any amounts that lapsed in prior years.

Mr. BEAMAN. It did, Senator, in another place, on a different subject matter which had an entirely different policy.

Senator CONNALLY. That is all under section 602.

The CHAIRMAN. Is there any conflict there, Mr. Beaman?

Mr. BEAMAN. There is no conflict, except in one place you have one policy and in another place you have another policy. There is no conflict in this title, Senator, at all.

Senator CONNALLY. Does not it provide in the first part there that it gets the present, current allotment, and also any unexpended balance in prior years?

Mr. BEAMAN. No. On page 37, line 17, it says,

shall allot to the States the total of (1) the amount appropriated for such year pursuant to section 601; and (2) the amounts of the allotment under this section for the preceding fiscal year remaining unpaid to the States at the end of such fiscal year.

This says the same thing.

Senator GERRY. Mr. Chairman, just to change this to conformity, there is one word in the Lonergan amendment, and Mr. Eliot thinks it is all right to change it too, that is in the words "protection and care of the homeless child". "Care of the homeless and neglected child" is sufficient to cover it.

The CHAIRMAN. Without objection then the amendment will be drawn accordingly. You may go ahead, Mr. Eliot.

Mr. ELIOT [reading]:

(c) Prior to the beginning of each quarter of the fiscal year, the Surgeon General of the Public Health Service shall, with the approval of the Secretary of the Treasury, determine in accordance with rules and regulations prescribed by such

Surgeon General after consultation with a conference of the State and Territorial health authorities, the amount to be paid to each State for such quarter from the allotment to such State, and shall certify the amount so determined to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office pay in accordance with such certification.

Senator CONNALLY. Does that mean that every quarter you have got to call all the State health officers in here and have a big pow-wow as to how much they are to get?

Mr. ELIOT. I do not read it that way. I read it that he cannot prescribe rules and regulations except when he has had a conference with the State health authorities. Whenever he wants to change his rules and regulations then apparently he would have to have a consultation or conference.

The CHAIRMAN. All right.

Mr. ELIOT [reading]:

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

INVESTIGATIONS

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

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

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

Senator BLACK. Mr. Chairman, before we leave that, with reference to Senator Connally's suggestion, I believe one word would clear up what he had in mind on line 12, page 38. I think his idea is correct. As it is now written it might be construed that they had to have a meeting every quarter. If you simply put the word "previously" after the word "regulation" on line 11 and before the word "prescribed" on lines 11 and 12, then I think it would be clear that they could do that.

The CHAIRMAN. Then it would read "with rules and regulations previously prescribed"

Senator BLACK. Yes. In other words, otherwise it looks to me like they might have to meet every quarter, and some of them would want to meet every quarter.

The CHAIRMAN. Without objection then "previously" will be inserted between "regulations" and "prescribed" on line 11, page 38. Go ahead, Mr. Eliot

Mr. ELIOT (reading):

TITLE VII. SOCIAL SECURITY BOARD ESTABLISHMENT

SEC. 701. There is hereby established a Social Security Board (in this act referred to as the "Board") to be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. Each member shall receive a salary at the rate of \$10,000 a year and shall hold office for a term of 6 years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this act shall expire, as designated by the President at the time of appointment, one at the end of 2 years, one at the end of 4 years, and one at the end of 6 years, after the date of the enactment of this act. The President shall designate one of the members as the chairman of the Board.

(Discussion off the record.)

Senator HASTINGS. Now, Mr. Chairman, I want to modestly suggest to make it a nonpartisan board, instead of leaving it as it is.

The CHAIRMAN. You want an amendment that not more than two members of the board shall be members of one political party?

Senator HASTINGS. Yes.

The CHAIRMAN. Without objection that suggestion will be written into the bill.

Senator HASTINGS. Not more than two members.

The CHAIRMAN. Not more than two members should be members of one political party. We have got to write a provision in there that the appointments should be made by the Board.

Mr. ELIOT. That will be left as it is on that point.

Mr. BEAMAN. Senator, you gentlemen vote that it shall be in the Department of Labor. I do not know what that means. I can take this bill and say, on page 40, line 3, "there is hereby established in the Department of Labor". If that satisfies the committee's thought, all right. I do not know what it means, what effect it will have. I do not know what the policy of the committee is.

Senator WALSH. Does the Board report to the Department of Labor?

Mr. BEAMAN. The Board reports to Congress.

Senator GEORGE. It means you are creating a division in the Department of Labor.

Mr. BEAMAN. As far as I can see it, Senator, my best opinion is if you write on page 40, line 3, "there is hereby established in the Department of Labor", I do not know that it is doing much of anything, and in my opinion it leads to endless trouble. It seems to me the committee should decide exactly what it wants and we could write it in there.

Senator GEORGE. It has either got to be an independent Board or one of the divisions of the Department of Labor. That is the reason I voted for a separate Board.

The CHAIRMAN. What I understand the committee means is that in the Department of Labor shall be constituted this Board. The Board shall be appointed by the President.

Senator GEORGE. That means the Secretary of Labor will recommend every member of the Board.

Senator BARKLEY. What is the situation of the Children's Bureau? That is in the Department of Labor.

Mr. ELIOT. Of course.

Senator WALSH. The same thing holds true with the Immigration Bureau.

Mr. BEAMAN. The Immigration Bureau is a different proposition. All of the power in the Immigration Bureau that is worth anything is in the Secretary of Labor.

Senator WALSH. The President makes the appointment of the commission.

Mr. BEAMAN. All the powers of the Immigration Bureau are vested in the Secretary of Labor.

(Discussion off the record.)

The CHAIRMAN. Let us go ahead.

Senator COSTIGAN. Should there not be the customary clause as to the salaries?

The CHAIRMAN. I think the compensation is fixed in here, isn't it?

Senator COSTIGAN. The usual clause, that the members of the Board shall not engage in other activities.

The CHAIRMAN. How about that, Mr. Beaman? Is that in here?

Mr. BEAMAN. It is not, Senator. It was in the original bill. The clause led to so much controversy in the Ways and Means Committee, as to what it meant, that it was stricken out.

The CHAIRMAN. Without objection that amendment will be put back in the bill.

Senator WALSH. Are these employees subject to the Classification Act?

Mr. ELIOT. The employees of the board are.

Senator CONNALLY. I want to call your attention to one thing there. Under this bill lawyers would be under civil service.

Mr. ELIOT. That is right.

Senator CONNALLY. I make a motion they be exempted.

Senator BARKLEY. I would also add there the expert. There is no civil-service examination in the world that can disclose who is the best expert.

The CHAIRMAN. Yes; experts and lawyers ought to be stricken from the civil-service proposition. All in favor of striking the experts and lawyers from this civil-service proposition will say "aye" and those opposed "no." The "ayes" have it and an amendment will be drafted accordingly. Proceed, Mr. Eliot.

Mr. ELIOT (reading):

DUTIES OF SOCIAL SECURITY BOARD

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

EXPENSES OF THE BOARD

SEC. 703. The Board is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out its functions under this Act.

Senator CONNALLY. Right there, in section 703, does that mean to fix the compensation according to the Classification Act?

Mr. BEAMAN. Yes, it does.

Mr. ELIOT (reading):

REPORTS

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

The CHAIRMAN. Should that be changed to make it read, "make a full report to the Secretary of Labor?"

Senator HASTINGS. I think it ought to go direct to Congress.

The CHAIRMAN. As it is written?

Senator HASTINGS. Yes.

Senator BARKLEY. I suggest that you make it so that the Board, through the Secretary of Labor, shall make a full report to Congress.

The CHAIRMAN. Why would not that be all right—"the Board, through the Secretary of Labor, shall make a full report to Congress?" Without objection it will be written that way.

Now we get down to taxes with respect to employment.

Mr. ELIOT. That takes us back to title II.

The CHAIRMAN. Why do not we get through with the old-age contributory situation first?

Mr. ELIOT. That is title II and title VIII.

Senator HASTINGS. Mr. Chairman, I would like to know whether in title I there is any change made from the original bill with respect to health and decency?

The CHAIRMAN. Yes, there were changes made in that, Senator.

Mr. BEAMAN. Do you mean, Senator, whether there was any change made in the House bill by this committee?

Senator HASTINGS. The original bill is what I had in mind, that came here.

Mr. BEAMAN. The original bill has been very, very much modified by the House bill.

Senator BARKLEY. You did not make the change on page 2, line 2, in reference to reasonable subsistence?

Mr. BEAMAN. That is stricken out. That language now reads—

for the purpose of enabling each State to furnish financial assistance as far as practicable under the conditions in such States, to aged, needy individuals without such subsistence, there is hereby authorized—

and so forth.

Senator LA FOLLETTE. May I bring up a comparatively small matter, in this connection, on page 2. The United States Conference of Mayors brought to the attention of the committee, and they have also brought it to my attention, that they are very desirous of having an amendment inserted on line 18, page 2, after the word "State" the word "government", so it will read, "provide for financial participation by the State government."

Now their point is that the language of the relief act is just as it is here and that some States have qualified under that language by shifting the entire burden to the local units of government and the State does not put up any money at all, and they are very desirous that the plan should provide for some financial contribution by the State itself.

Senator BARKLEY. If you put that in that would eliminate counties and cities from any participation.

Senator LA FOLLETTE. This doesn't, as I see it. I have conferred with Mr. Beaman about that. This would simply provide that as one of the conditions. It is not exclusive. It is not intended that they should put the entire burden upon the State government.

Senator HASTINGS. Doesn't this do just that?

Senator BARKLEY. This deals with the relationship between the Federal Government and the State government.

Mr. BEAMAN. No, Senator. You notice no. 1 says that the plan shall be in effect in all political subdivisions and if administered by them, be mandatory upon them. Now no. 2 simply provides for financial participation by the State as opposed to the counties. How much financial participation is left up in the air. I do not think the amendment suggested through Senator La Follette is at all necessary. I do not know what it means. If you change the "State" to "State government" you are only saying that State money is not Government money. There is no money belonging to the State government as a government, as distinguished from the State.

Senator CONNALLY. It would not add anything to it.

Senator HASTINGS. Doesn't the act do exactly what Senator La Follette wants done, namely, it shall be contributed by the States?

Mr. BEAMAN. Yes.

Senator BARKLEY. The State can only participate through its government.

Senator LA FOLLETTE. The language is exactly the same in the relief act.

Mr. BEAMAN. The relief act did not have no. 1 in it. With 2 following right after 1, the implication is very clear. While it must in effect, in all political subdivisions, be mandatory upon them, nevertheless the whole burden cannot be unloaded upon them. The State has got to do something.

Senator LA FOLLETTE. What is your judgment about it, Mr. Eliot?

Mr. ELIOT. If there is any ambiguity it might well be cleared up by what Senator Costigan said, by putting in specifically, "as distinguished from political subdivisions thereof." That clears up the ambiguity completely.

Mr. BEAMAN. "By the State as well as political subdivisions."

Senator HASTINGS. Mr. Chairman, I am wondering if it is asking too much to have the amendments that are adopted from day to day furnished to all the members of the committee, so if they do not happen to be here, they will know what took place the day before.

The CHAIRMAN. I wish you would do that, have a confidential print for the committee made each night, but we have not made a great many changes.

Mr. BEAMAN. Senator, I feel one objection to that is that as to some of these amendments, you agree on the substance of them and leave to us the working out of them. If we get out a print each night, which contains only the things that are short, simple, and easy, then the Senator, looking at it the next morning, does not get the most important thing at all, that happened the day before, because it was not worked out.

Senator HASTINGS. You can state the substance of it and let it go to the clerk for the purpose of furnishing the information to the Senate.

The CHAIRMAN. All right, Mr. Eliot.

Senator CONNALLY. There is no amendment then?

The CHAIRMAN. We get action after this is over.

Mr. BEAMAN. Senator, before you start reading title II, let me give you a little picture of title II and title VIII as a basis for your consideration, from the constitutional point of view.

The original bill levied a tax on employers and employees, provided that that money should be paid into the General Treasury, provided that there should be an annual appropriation for the payment of the

old-age benefits out of the Federal Treasury, authorizing an appropriation equal to the amount which came in from the taxes, and provided that the benefits that were payable out of the Federal Treasury to the old men depended upon the number of weeks of work with respect to which the employee had paid the tax. This was actuarially worked out, to give the amount of benefit that the estimated amount of taxes would enable to pay.

It is important to remember that the annuities were based on the number of weeks of work with respect to which the employee paid the tax. Whether he paid for that week 1 cent tax or \$50 tax didn't make any difference. He had to count each week of work with respect to which he paid a tax.

In view of the constitutional objection of the tax not being a tax, but simply a compulsory old-age annuity system which the Congress has no power to enact, the Ways and Means Committee thought it best to put it into two titles, separating on the face of the bill the two propositions. Therefore, this is constructed on this principle: Title II authorizes the payment of old-age annuities to people over 65. That annuity is based on a percentage of the wages that have been earned. There isn't a word said about taxes, the weeks of work for which taxes are paid, but the benefits are simply a percentage of the total wages they earned until they reached 65.

Over in title VIII a tax is imposed upon the employer and employee, and there isn't a word said about any pension, or any connection with any pension, or anything about it. The money is paid into the General Treasury, like any other tax. The money to pay for title II is raised by the House bill out of an old-age reserve account established in the Treasury which is fed by appropriations authorized by this bill, and which appropriations, computed on an actuarial basis, at 3 percent interest, will bring enough money to pay the pensions. Not a word said about taxes.

Now, of course, it is perfectly obvious, and the estimates given in the House report make it very clear, that the amount of appropriations that will be needed will be, by and large, about the same as the money coming in from the taxes under title VIII.

Senator COSTIGAN. In other words, it is an indirect way.

Mr. BEAMAN. It is an indirect way. The only connection between the two is that by a curious coincidence the amount of wages which is used as the basis of determining the pension is defined in exactly the same way as the wages on which the employee pays the tax in title VIII, and the wages used for computing the annuity are wages after January 1, 1937, which, by another curious coincidence, is the first day on which the tax becomes due.

Senator HASTINGS. Is what?

Mr. BEAMAN. Is the first day with respect to which the tax becomes due.

The tax does not apply to certain employment, such as agricultural labor, domestic service, casual labor, work for charitable, non-profitable institutions, and so forth. By another curious coincidence the wages which are used as a basis for computing the annuities are wages for exactly the same kind of employment that pays the taxes. Nevertheless, under the bill, it is theoretically possible for a man to pay taxes for a number of years and get no annuity. It is equally possible for him not to get any annuity even though he has paid taxes.

Now, as I say, that is the broad outline of the set-up of the bill. I was not going into any constitutional argument. I am simply giving you a little sketch, a picture of the thing, so when Mr. Eliot reads it to you, takes it up section by section, you will see what it means.

Senator CONNALLY. Along that line, the Court might say this is supposed to be a tax, but it is not.

Mr. BEAMAN. Senator, I have no desire to hide my own opinion. I have got a perfectly definite opinion about it.

Senator CONNALLY. I am agreeing with you. I am going along with you. You can draw a picture of a cow and say, "This is a horse."

Mr. BEAMAN. All that I can say is that this bill is constructed down to the most minute detail, just so far as it is humanly possible to separate the thing, and still retain the policy. In fact it goes a little bit beyond that, so as the result of it, the policies may not be such as you would have reached if you wish unlimited power to establish contributory annuity system.

Senator HASTINGS. You said that all the employees who pay in do not get it back under certain conditions?

Mr. BEAMAN. Theoretically it is possible, Senator. I will give you an example, if you like.

Senator HASTINGS. I would like to have it.

Mr. BEAMAN. The act says you shall be paid an annuity based on a certain percentage of your wages, and it defines wages as employment wages, wages received for employment other than agricultural labor, for example. If you work in agricultural labor the money you earn does not go toward building up your annuity. Similarly the tax provision says the wages you receive for agricultural labor is exempt from tax.

Let us assume I start out the day after the act passes working for you. You and I, and maybe the Bureau of Internal Revenue, think that this is agricultural labor. Hence, I do not pay any tax, you do not pay any tax. It goes along for a number of years, and then the Supreme Court hands down a decision that this work I was engaged in was not, as a matter of law, agricultural labor. Therefore of course I should have paid the taxes all the time, but I did not. Now when I reach the age of 65 I come to the board and say, "Where is my pension?" The board says, "You haven't paid any taxes." I say, "No; what of it? My work was not agricultural labor. The act says all my wages are reckoned. Give me my pension." The board says, "You did not pay the tax. Give me the tax." I say, "I will not. The statute of limitations has run. You cannot collect the tax." It says, "Then, I cannot pay the pension, but it is wrong, it will have to pay me."

Now, suppose the Supreme Court rules the opposite, I pay my tax, and the statute of limitations has run, the board cannot pay me the pension? Those things, I say, theoretically are not so likely to happen.

Senator HASTINGS. The original act that came before the Senate distinctly provided whatever was paid in by the man, whatever was paid in for him, should be returned to him some time, or to his estate. Now, that is not here.

Mr. BEAMAN. Yes, Senator, that is here in another form. That is a detail I did not want to go into. The original bill provided that the employee always got back his tax, not his employer's tax.

Senator HASTINGS. I may be wrong about that.

Mr. BEAMAN. I am quite sure. It provided he got back his money with interest. This bill, of course, observes this distinction, it does provide that but it puts down an arbitrary rule. He always gets back, if he does not get it in pensions, he always gets back an amount equal to 3½ percent of his wages, which, by and large, is about the same. We will call attention to it when we come to it.

Senator HASTINGS. Mr. Chairman, you would not like to have this bill divided, would you?

The CHAIRMAN. I think it would throw it into a state of confusion. I do not see how we can get along with it if it is divided.

Senator HASTINGS. What Mr. Beaman is talking about now is so different from what we have been talking about, it is such a different principle that I think it would be well to divide it.

The CHAIRMAN. It is in one title.

Mr. BEAMAN. No, Senator; it is not.

Title II is an appropriation, authorizes an appropriation out of the Federal Treasury to pay pensions to old people, supported by the spending power of Congress plus the fact there is no way you can test it. Title VIII is set up in the bill as a pure exercise of taxing power. There is no connection between the two whatsoever on the face of the bill. The money goes into the Federal Treasury. If you repeal title II the taxes still go into the Treasury. If you repeal title VIII you still are under the duty of appropriating money to pay the pensions.

Senator CONNALLY. Out of the general fund?

Mr. BEAMAN. Out of the general fund. I think everybody agrees, whatever their views are as to whether the tax is constitutional or not, whatever they may think about that, I think everybody agrees that this bill presents the thing in the most favorable light possible for the Supreme Court to pass upon it and sustain the point.

Senator CONNALLY. I think so too.

Mr. BEAMAN. There is no question about that. What the views are as to what the result will be, presented in that way, is another question.

Senator BLACK. Mr. Beaman, I do not agree that it presents it in the most favorable light for us. I think it presents the plan in the least favorable light, to those who believe in the law, if we continue the idea of Federal aid to the States.

Mr. BEAMAN. Senator, I will qualify my statement. I mean assuming the policy of the original bill, assuming the policy of the Ways and Means Committee in the House that you are going to make the payments out of the Federal Treasury, and you are practically going to raise the money by a tax, that this presents the thing in the most favorable way of supporting the policy.

Senator BLACK. It dresses the child up in a two-piece suit instead of a union suit.

Mr. BEAMAN. That is right.

Senator HASTINGS. Mr. Chairman, if you will present here the one problem of State aid for old-age pensions and these other things, I do not think we would have any constitutional question arise. It would be a new thing for the Congress to do, but it has been a thing that Congress has been urged to do for many years by various groups of people, and I think we have the question presented to us of whether

the Congress wanted to go that far toward the social security plan or whether it did not. That would be a comparatively simple bill to work out. While it would be discussed, perhaps on the Senate floor, I do not think you would have very great difficulty with that bill. But when you go into the Title II, which I think is worse than the unemployment insurance title, I think you have gotten into very great difficulties. While I have no desire to impress my views upon it, it did seem to me if you could cut out this title II, and the unemployment insurance from this bill, you would get something out on its way.

Senator BARKLEY. All that is in the bill. If you cut title II out you haven't got anything left.

Senator HASTINGS. You have got \$125,000,000 appropriated for old-age pensions.

Senator BARKLEY. You want to take out title II?

Senator HASTINGS. Is that in title II?

Mr. BEAMAN. No.

Senator HASTINGS. I did not mean to do that. I meant to provide for the State aid, for old-age pensions, for crippled children, for health and so on, through this bill, which I think is a comparatively simple proposition. It is following a practice that we adopted in the form of State aid for other things.

Senator WALSH. May I ask you a question, Mr. Beaman?

Mr. BEAMAN. Yes.

Senator WALSH. Under this bill, the first part of it, as I understand it, the amount of appropriation to be distributed in the nature of pensions, can be changed from time to time by Congress, without regard to the amount of money, by statute; and, also, the tax rate fixed upon the employer and employee can be changed from time to time by Congress without regard to the appropriation?

Mr. BEAMAN. Of course.

Senator WALSH. So it is only a fiction, so to speak, it is only a temporary arrangement of trying to make them balance.

Mr. BEAMAN. I cannot answer that question. That is a matter of policy.

Senator WALSH. Congress can wipe out the tax if it sees fit. It can make it a general burden from the Treasury.

Mr. BEAMAN. Certainly.

Senator BARKLEY. There is no question about the power of Congress to provide a pension system out of general revenue.

Mr. BEAMAN. I would not go so far as to say that, Senator.

Senator BARKLEY. I thought that was what you were talking about a minute ago.

Mr. BEAMAN. I said that was the constitutional basis for this.

Senator BARKLEY. We will assume that Congress can appropriate money for this purpose.

Mr. BEAMAN. Yes.

Senator BARKLEY. Just as it can appropriate money for flood relief, the Children's Bureau, or for public health or for any other thing. It does it. Now it also could levy a general tax, if it can appropriate the money to pay the pension, it can levy a tax to raise the money. The difficulty, it seems to me, if there is any difficulty, is levying a special tax on certain groups of people, not on all of them, to raise a fund out of which to pay.

Mr. BEAMAN. Senator, whatever you may think of the constitutionality, that I do not think is the correct statemet. This is not a special tax to raise the money.

Senator BARKLEY. That is a subterfuge, and to try to separate them on the theory that if it is hooked up together it may involve a serious constitutional question, and you very clearly separate them, so you can declare one null and void without affecting the other, but if the tax is to be levied, and not to be a general tax, the only place to collect it is from the parties in interest, the employer and employee. You might levy a tax on all the employers for general purposes without involving the constitutionality, although the question of uniform taxation might enter into it.

Senator CONNALLY. Your point is it an earmarking of the tax?

Mr. BEAMAN. They do not earmark it, Senator. Please do not misunderstand me.

The CHAIRMAN. Let me urge upon every member to be here promptly at 10 o'clock tomorrow morning.

(Whereupon, at 11:50 a. m., a recess was taken until 10 a. m. of the following day.)

[CONFIDENTIAL]

SOCIAL SECURITY ACT

TUESDAY, MAY 14, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., in the Finance Committee room, Senate Office Building, Senator Pat Harrison (chairman), presiding.

Present: Senators Harrison (chairman), George, Walsh, Barkley, Costigan, Clark, Byrd, Black, Gerry, Keyes, La Follette, and Hastings.

Also present: Middleton Beaman, legislative counsel, House of Representatives; Thomas H. Eliot, assistant solicitor, Department of Labor; Edwin E. Witte, executive director, committee on economic security; L. H. Parker, chief of staff, Joint Committee on Internal Revenue Taxation.

The CHAIRMAN. All right, we will proceed where we left off yesterday.

Mr. ELIOT. Mr. Beaman was discussing titles II and VIII. We had not started to read anything.

The CHAIRMAN. What pages are those on?

Mr. ELIOT. Title VIII contains the old-age insurance title, and title II begins on page 7.

The CHAIRMAN. Senator Hastings suggested something about making a motion to eliminate these titles. We will start with section 201. Read it, Mr. Eliot.

Mr. ELIOT (reading):

TITLE II. FEDERAL OLD-AGE BENEFITS

OLD-AGE RESERVE ACCOUNT

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

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding

obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at part of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

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

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

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

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

OLD-AGE BENEFIT PAYMENTS

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

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

The CHAIRMAN. The limitation is \$3,000?

Mr. ELIOT. If the total wages after December 31, 1936, before he attained the age of 65, were not more than \$3,000, the old-age benefit would be at a monthly rate of one-half of 1 percent of such total wages, whatever the sum is. [Reading:]

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

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

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

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

The CHAIRMAN. Why did you adopt that formula?

Mr. ELIOT. That means somebody who is poverty stricken, who either was in the system for some time and earned very small wages, only \$3,000 or less, total wages throughout those years, and also the man who at the present time is of middle age, of a late middle age, and so could not have been earning wages very long before he reaches the age of 65 would get very small benefits if all wages were treated exactly alike. So if the man has very small wages, if his total earnings are very small, he gets this percentage of his total per year, that is one-half of 1 percent. If he is a middle-class man who has either been in the system so long, or has been earning such good wages for a short time that his total is above \$3,000 but less than \$45,000, the middle-class man, he gets only one-half of 1 percent for the first \$3,000, but at a somewhat smaller rate, an additional amount for the next \$42,000. If he has been in the system for a long time and is earning more than \$45,000, for the amount he has made over \$45,000 he gets a very small additional benefit.

The CHAIRMAN. Who did that?

Mr. ELIOT. The actuaries of the Economic Security Committee.

The CHAIRMAN. Was this in the original bill?

Mr. ELIOT. No, sir; that was put in by the House Ways and Means Committee after the proposals and studies had been developed by the actuaries. The original bill was much more complicated than this.

The CHAIRMAN. All right.

Mr. ELIOT (reading):

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

I might say the highest monthly rate actuarially possible is only about \$87.50. This is approximately what the maximum could be.

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

PAYMENTS UPON DEATH

SEC. 203. (a) If any individual dies before attaining the age of sixty-five, there shall be paid to his estate an amount equal to $3\frac{1}{2}$ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936.

(b) If the Board finds that the correct amount of the old-age benefit payable to a qualified individual during his life under section 202 was less than $3\frac{1}{2}$ per centum of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which such $3\frac{1}{2}$ per centum exceeds the amount (whether more or less than the correct amount) paid to him during his life as old-age benefit.

(c) If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was less than the correct amount to which he was entitled under section 202, and that the correct amount of such old-age benefit was $3\frac{1}{2}$ per centum or more of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which the correct amount of the old-age benefit exceeds the amount which was so paid to him during his life.

The CHAIRMAN. Was that changed from the original bill?

Mr. ELIOT. This whole title has been changed in conformity with the new actuarial calculations by the actuaries. The last subsection is simply to adjust any incorrect payments made before the man dies, if they are not adjusted during his life.

Senator HASTINGS. Mr. Chairman, I have always thought that the original bill provided that the man was entitled not only to what he paid in, but what had been paid in for him, his estate was entitled to that. If we are going into this sort of business at all, I do not see why a man who has a certain sum of money accumulated to take care of him when he gets old should not have that same amount of money paid to his estate in case he dies. It is there for some purpose. It has been accumulated to take care of that particular person.

The CHAIRMAN. Was that the theory of the first bill?

Mr. ELIOT. No, sir.

The CHAIRMAN. It never did do that?

Mr. ELIOT. No, sir.

The CHAIRMAN. What is the theory of the first bill?

Mr. ELIOT. Mr. Beaman has it right there. He can read it to you.

Mr. BEAMAN. I think this is what probably caused Senator Hastings to get the impression he did. This says:

If any person on whose behalf taxes had been paid under section 301, dies before receiving any benefits in an amount equal to the total amount of such taxes paid in his behalf, with interest accretions—

And so forth.

there shall be paid to his dependent an amount equal to the difference between such amounts of taxes, together with such interest accretions—

I do not know who wrote that language. I know from the very beginning when the bill was being considered in the Ways and Means Committee, it was explained to the Committee, and explained to me, and I think the language bears it out, that it simply means the taxes he paid, because, strictly speaking, the taxes paid by the employer are not paid on behalf of the employees, even in the original bill. The tax withheld from the employee and paid by the employer to the Government might be said to be a tax paid by the employer, and I assume that is why the language is used, to distinguish that from the taxes paid on the employer. I do not think anybody ever contemplated that included the taxes paid by the employer as such directly to the Government as a taxpayer.

Senator HASTINGS. What construction do you place on the language just read?

Mr. BEAMAN. The construction I give to it, Senator, means the taxes imposed upon the employee, deducted from the employees' wages, paid over to the Government by the employer as the agent in collecting the tax from the taxpayer.

Senator HASTINGS. Will you please read it again. I talked with two people from the administration who are interested in this bill and one interpreted it one way and one the other.

Mr. BEAMAN. That may be, Senator. I am not defending this language, and I had nothing to do with it. I do not know who wrote it. All I can say is that the intention of the proponents of the bill, as expressed in the Ways and Means Committee and explained to me at the very beginning, was that there was no intention to do anything other than what I have stated, namely, to give back to the man the tax he himself paid.

If any person on whose behalf taxes had been paid under section 301 dies before receiving any benefit in an amount equal to the total amount of such taxes paid in his behalf, with interest accretions—

And so forth—

there shall be paid to his dependents an amount equal to the difference between such amounts of taxes, together with such interest accretions—

And so forth.

Senator HASTINGS. Is not that very clear that all the amounts that have been paid in for him goes to his estate?

Mr. BEAMAN. Mr. Eliot just called my attention to the fact, and I think it is undoubtedly true, that it says "in whose behalf taxes had been paid under section 301."

Section 301 is a tax on the employee. The tax placed on the employer is not in section 301, it is in another section. That would seem to clear up any possible ambiguity.

Senator HASTINGS. Regardless of whether it is in the original bill or whether it is not, I do not see why a man's estate should not get the benefit of what has been paid in by him and for him.

Mr. BEAMAN. Senator, that is a matter of policy. I have nothing to do with that.

Senator HASTINGS. I am not arguing with you about that.

Mr. PARKER. Of course, it is an insurance proposition, after all, just the same as an ordinary insurance. If a man dies the first year after he takes out insurance, he wins, if he lives a long while he loses. In this thing you do gain from the people that die off. Some of the people that you pay a pension to after they reach the age of 65, you may pay a pension to for 35 years, some 3 years, some 6 years, and if you give them back both halves it is going to cost you a lot of money, if you give them back every cent that is paid in by themselves and their employers, plus interest, and you are not going to have enough money under the bill.

Senator HASTINGS. If I were an employee and paying this tax, I should feel very much easier if I knew that not only what I was paying in but what my employer was paying in for me was ultimately coming back to me in some form, or to my estate.

The CHAIRMAN. Under this bill now he gets back what he pays, plus interest.

Mr. ELIOT. Very roughly.

Mr. BEAMAN. Roughly, Senator. As a matter of fact, in some cases he gets back a whole lot more.

The CHAIRMAN. And, of course, what the employer pays in, that is the reserve, that is the thing that makes the insurance strong, and so on. That is right, isn't it? That is the theory?

Mr. BEAMAN. Well, that is the practical effect, Senator, not the theory. Of course, the theory is there is no connection between the tax and the payment.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

PAYMENTS TO AGED INDIVIDUALS NOT QUALIFIED FOR BENEFITS

SEC. 204. (a) There shall be paid in a lump sum to any individual who, upon attaining the age of sixty-five, is not a qualified individual, an amount equal to $3\frac{1}{2}$ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five.

The CHAIRMAN. Now, let me ask you in that connection. Of course, we have got these direct allotments to these individuals. The theory of this is when this gets to working that that will absorb the other proposition. The other will cease and this will go on, is that right?

Mr. ELIOT. Not entirely, sir, no, sir; but the expense of it will be greatly less than it would be otherwise.

The CHAIRMAN. Well, one would eventually, on theory, take over the other?

Mr. ELIOT. No, sir; I do not think there is any thought of that, because this system, you see, excludes very large portions of the population, many of whom will be destitute. It excludes self-employers, farmers, domestics, casual laborers, and others.

The CHAIRMAN. If he gets to the age of 65, if he had been paying in, and he would get back \$15 a month, that would be credited over the other amount he might receive under the allotment plan?

Mr. ELIOT. For the 20,000,000 or so who are covered by this particular title, it would be, to a very large extent, almost wholly a substitution of this for the State old-age pensions, yes, sir; but there would still be many millions that would have to be covered by the other.

Senator HASTINGS. What do you mean by the language on line 24, page 11, "is not a qualified individual"?

Mr. ELIOT. The qualified individual is defined on page 15 as a person who is not only over 65 years of age but who has been employed during 5 years after December 31, 1936, and before his sixty-fifth birthday. In other words, he has been in the system, as it were, earning wages for at least 5 years.

This section that I have just read takes care of the people who are now 62 years of age, or 61 years of age, and will not have become qualified under this, because 5 years will not have elapsed before their sixty-fifth birthday.

Senator HASTINGS. Is there no method here of taking care of them?

Mr. ELIOT. In the very section that I have just read, sir. That is the one that takes care of them by handing back to them 3½ percent of the wages which they have earned after the bill goes into effect.

Senator HASTINGS. That is all he gets?

Mr. ELIOT. That is all he gets; yes.

Senator HASTINGS. He goes to the public after that?

Mr. ELIOT. He goes to the public, just as people do who are now over 65 years of age and retired. In other words, it was thought necessary if the fund was ever going to be self-sustaining to have some period elapse when regular pensions were not payable. There would have to be some few years when the fund would be built up, without being drawn upon by everybody becoming old.

Senator HASTINGS. If he works 5 years is he a qualified individual?

Mr. ELIOT. If he works 5 years and earns the total in that time of not less than \$2,000, in other words, \$400 a year, or, perhaps, \$2,000 the first year, and a few pennies the next 4 years.

Senator HASTINGS. Then he gets back \$65?

Mr. ELIOT. If he has earned less than \$2,000 or worked less than 5 years, he gets 3½ percent of \$2,000. Is that \$65?

Senator HASTINGS. Yes; that is right, \$65. He gets \$65 paid to him immediately?

Mr. ELIOT. As a lump sum at the age of 65.

Senator HASTINGS. Then he has to hustle for himself, get himself on the pension roll?

Mr. ELIOT. Yes; or live the way he has been living between 60 and 65.

The CHAIRMAN. He would come under the old-age benefits?

Mr. ELIOT. If he needed it, if he was poverty stricken.

Senator GEORGE. Well, the old-age benefits is strictly a State act, dependent entirely on the action taken by the State.

Mr. ELIOT. Old-age assistance, title I.

Senator GEORGE. This is strictly for that purpose, made by this bill?

Mr. ELIOT. Yes.

Senator GEORGE. And old age includes everybody?

Mr. ELIOT. This Federal benefit includes everybody who is over 65, with certain exceptions

Senator GEORGE. And if he did not fall into any one of the excepted classes.

Mr. ELIOT. If he had been working for 5 years prior to his sixty-fifth birthday, and after December 31, 1936, and earned as much as \$2,000 in the 5 years, then he is covered.

Senator HASTINGS. Regardless of whether he may have inherited a fortune after he is 65 years of age or not.

Mr. ELIOT. Yes, sir.

Senator GEORGE. So the employees who fall within the 10 or more, in any particular line, except the excepted classes, are covered.

Mr. ELIOT. No; the 10 or more exemption in not in title VIII. The old-age insurance applies to employees even if they are the only employee of the employer. If they are farmers or domestics, or casuals, or Government workers, in the Government service, then they are exempted, but if they are in a small business, a small store, they are not exempted.

Senator GEORGE. In other words, the farmer, the domestic, the Government employee, the man who is a self-employer is dependent on what his State and city insurance does.

Mr. ELIOT. That is right.

Senator GEORGE. But the man that is regularly employed in industry is dependent wholly upon the provision made by the Federal Government.

Mr. ELIOT. Not wholly. If the provision of the Federal Government was small, if the man was ill and had not been able to earn much money and if, as the result of it, his benefit here was so small that he was really in need, the State might still, in particularly hard cases, come to his aid, depending on whether the State wanted to do it or not.

Mr. BEAMAN. And you can go further than that. Theoretically, if he is receiving a pension of \$75 a month under title II, if the State wants to give him money, it can do it. That is entirely up to the State.

Senator GEORGE. That is not the point I had in mind at all. The State can make its own system, but the Federal contribution, of course, is limited by what the State does under title I.

Mr. ELIOT. Yes, sir.

Senator GEORGE. But here the obligation is direct from the Federal Government to pay these different classes of employees, wholly independent of any State action. Whether it does not act at all does not make any difference, but the State could include those whose benefits come under title II.

Mr. ELIOT. If it wants to.

Senator GEORGE. It can add to it or supplement it.

Mr. ELIOT. Yes, sir.

Senator GEORGE. I understand.

The CHAIRMAN. Go ahead.

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

AMOUNTS OF \$500 OR LESS PAYABLE TO ESTATES

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

Senator GEORGE. That is to get rid of the expense.

Mr. ELIOT. That is the same provision, virtually, as in the Veterans' Administration.

Senator GEORGE. Yes.

Mr. ELIOT (reading):

OVERPAYMENTS DURING LIFE

SEC. 206. If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was more than the correct amount to which he was entitled under section 202, and was $3\frac{1}{2}$ per centum or more of the total wages by which such old-age benefit was measurable, then upon his death there shall be repaid to the United States by his estate the amount, if any, by which such total amount paid to him during his life exceeds whichever of the following is the greater: (1) Such $3\frac{1}{2}$ per centum, or (2) the correct amount to which he was entitled under section 202.

Senator HASTINGS. I would not do that. I would not put the responsibility on the estate of being responsible for some mistake that some board has made in a matter of this kind. They have got no business paying him more than his due, and if they do not get it back from him while he lives, they ought not to be permitted to follow it up and take the few dollars that may be found in his estate at the time of his death. That is my opinion about that. Go ahead.

Mr. ELIOT (reading):

METHOD OF MAKING PAYMENTS

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

ASSIGNMENT

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

PENALTIES

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

DEFINITIONS

SEC. 210. When used in this title—

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

Senator HASTINGS. Does anybody understand that?

Senator GEORGE. Is that bonuses?

Mr. ELIOT. That includes bonuses; yes, sir.

Senator GEORGE. Is that what you are trying to exclude?

Mr. ELIOT. Trying to include rather than exclude.

Senator BLACK. Suppose the employers agreed to pay at the end of each year, or at the end of each month, voluntarily part of the profits, that would not be included?

Mr. ELIOT. That is up to the Board, whether a division of the profits would be substituted for normal wages or not.

Senator BLACK. I think under that definition they could very easily evade the wages.

Senator HASTINGS. Is the purpose to limit this act to people earning \$3,000?

Mr. ELIOT. No, sir; the purpose is to limit the size of the benefit, and later on, in title VIII, the size of the tax to a percentage of \$3,000.

Senator HASTINGS. That is what I say.

Mr. ELIOT. If a man is making \$70,000 he will still be a taxpayer, but he will only be a taxpayer on the first \$3,000 that he makes from an employer.

Senator HASTINGS. That is what I mean. He cannot get any benefits based on more than \$3,000 for any one year?

Mr. ELIOT. He cannot get any benefits on more than \$3,000 for 1 year from one employer; yes, sir.

Senator HASTINGS. So the purpose then is to limit the wages to \$3,000.

Mr. ELIOT. For the purpose of measuring the benefits or measuring the tax later on. [Reading:]

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

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

Senator GERRY. Mr. Chairman, on that point I would like to suggest an amendment here. The way that is drafted leaves out societies for the prevention of cruelty to children or animals. I have the amendment here. It was drafted by the experts.

The CHAIRMAN. Leave out the "animal" proposition.

Senator GERRY. "Animal" comes into it too.

Senator HASTINGS. Why, Mr. Chairman?

Senator GERRY. For example, the American Humane Association, they would come right in under this. They are a charitable institution too.

The CHAIRMAN. Well, the thought just struck me, are these organizations for animals?

Senator GERRY. No, no, they are organizations for the prevention of cruelty. Under the court decisions most of those things come not under "charitable", they are enforcement agencies under the law. For example, take some of your children's societies, societies for the prevention of cruelty to children. In the New York society, for example, they could not very well have established a very large pension fund for the employees. Under this definition they are not exempt, and they should be, simply because they are not a charitable institution technically.

The CHAIRMAN. We have had some letters on the other side of this picture from the employees of these people who think they ought to come under the provisions. Personally, I think they ought to be excluded.

Senator GERRY. As the ordinary charity worker, but this comes right in line with this sort of thing, organizations organized and operated exclusively for religious, charitable, and scientific purposes.

The CHAIRMAN. What is your amendment?

Senator GERRY. Here is a pension fund that has already been created for its employees.

Senator HASTINGS. Of course there are a lot of people in that class.

Senator GERRY. They come right in on line 10. After the word "purposes" insert "or for the prevention of cruelty to children or animals."

Senator GEORGE. Let me make this inquiry. Why are bona fide laborers who may be employed by services of this kind excluded by the act? What is the philosophy of it?

Mr. ELIOT. I do not think there is any philosophy here of it, except the employers comprising this particular class are not taxed.

Senator GEORGE. That may be true. Now, let me ask you here about the services performed as an officer or member of the crew of a vessel. Is that because they are otherwise provided for under the Seamen's Act, or anything of that kind?

Mr. ELIOT. No, sir. I was not present when the Ways and Means Subcommittee discussed that. Mr. Beaman probably was.

Mr. BEAMAN. It was done purely as a matter of impossibility of administration, Senator.

Senator BLACK. Why?

Mr. BEAMAN. You see these two, the tax and this thing, practically speaking are bound up together. It is contemplated, although the bill does not require it, it is contemplated that this tax on the employee, which is withheld by the employer, will be administered by a system of stamps, stamp books. The employee will have a stamp book. The employer deducts the wages and puts the stamp in the book. Whatever you may think of that as applied to people around here in the country, it is perfectly obvious if you are going to make a bill whereby the master of an American vessel up in the Yangtze Kiang River pays the wages of the American seamen, there would be extreme difficulties in keeping track of it.

Senator GEORGE. Is the theory here that the employer who is not taxed cannot bring any of his own servants or his laborers under this provision? Is that generally the theory?

Mr. ELIOT. That is uniformly true.

Senator GEORGE. That is uniformly true?

Mr. ELIOT. Yes.

Senator GEORGE. With respect to this particular class, for instance, the agricultural laborer, there is no tax placed upon the agricultural employer?

Mr. ELIOT. Not with respect to his agricultural employees.

Senator GEORGE. I see.

Senator WALSH. I think the result of it would be that the institutions, the religious and charitable institutions, would find it very difficult to get employees at times.

Mr. ELIOT. Some of them of course have pension systems. In some of the churches where they have pension funds, those pension funds do not apply to the lower-paid employees, and yet those lower-paid employees are automatically eliminated.

Senator GEORGE. They have a regular employment list like everyone else, and they do not come in under any pension system that I know of. Under the broad theory that you are not going to tax that particular employer and of course anyone working for him is not entitled to benefits, I cannot see the justice of it, the fairness of it.

Senator LA FOLLETTE. As I understand it, there are many people in this group who would like to come in.

Mr. ELIOT. It would be possible, Senator, to include in the employee's tax the employees of these organizations while still maintaining the usual practice of exempting the employers of this particular type from taxation. That would unbalance the reserve account slightly, because you would be paying pensions to those employees, whereas you would not be getting any taxes from the employers.

Senator LA FOLLETTE. What I wanted to convey was that, as I understand it, there are some of the organizations that are excluded by this language that would like to have their whole organization brought in.

Mr. ELIOT. Yes, sir.

Senator LA FOLLETTE. It seems rather unjust, just because some of them want to be excluded, to exclude those that would like to be included.

Senator HASTINGS. Senator, I do not quite understand that, because there is nothing in this act that is done for any employee, or any employer, I will say, that could not be done voluntarily by the employer. He could deduct 1 percent tax from his employee; he could add 2 percent, or whatever it is, under this act today, and put it in a fund for his own employees, or their own employees, to take care of them just as well as this. Maybe that is not quite true.

Senator GERRY. I want to say, Senator La Follette, in that case, the thing I am referring to now, this children's society did exactly that thing. It looked after all the employees, went into a long actuarial plan, went right to the actuaries and studied it thoroughly, put up a great deal of money out of its reserve fund, and created the pension fund for all of the employees on a scientific system. Now, it is fair that it should come within the provisions of this act.

Senator LA FOLLETTE. I am not arguing against your amendment, but I think we are reliably informed that there are organizations that have been excluded by this language in the House bill which, if they had employees, would prefer to come in on this Federal system rather than to maintain the system which they now have.

Senator WALSH. They would come in and pay the tax, too?

Senator LA FOLLETTE. Yes; they would come in and pay the tax, too.

The CHAIRMAN. Well, without objection, we will put this amendment offered by Senator Gerry in at the proper place.

Senator BLACK. Mr. Chairman, I can see no reason why it would not be possible to include seamen the same as anybody else.

Senator HASTINGS. I do not, either.

Senator BLACK. I think if there is any class of United States employers that have been pampered and aided by the Government, it

has been the shipping interests. There is one company that I know of here that has two or three boats that run out of the river down to South America, but they get the money from the Government to run them up the river. Wherever they employ Americans I can see no reason on earth why the Americans working on the ship should not be included the same as anybody else.

Senator HASTINGS. I was wondering in reply to Mr. Beaman's criticism, whether we might not put in some provision making it applicable to American citizens.

Mr. BEAMAN. The objection that the Ways and Means Committee found to limiting it to American citizens was they thought that would be detrimental to the shipping interests.

Senator BLACK. Would not it make them employ more American citizens?

Mr. BEAMAN. No; their interest would be to employ no Americans, because to employ American citizens they would have to pay the taxes.

The CHAIRMAN. This says—

for employment performed in the United States.

Mr. BEAMAN. It does. The original bill says—
in the United States, or on a vessel of the United States.

The CHAIRMAN. If you confine it to services performed within the United States, why should not they be included in this proposition?

Mr. BEAMAN. It is purely a question of administrative difficulty, Senator, that is all, dealing with this shifting class of population, the seamen employees.

Senator BLACK. I think the law that is passed is going to require them to employ American citizens.

The CHAIRMAN. You make a motion to strike out the paragraph?

Senator BLACK. I do.

The CHAIRMAN. All in favor will say "aye"; opposed "no." So it is stricken out. All right.

Mr. ELIOT [reading]:

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

(1) He is at least 65 years of age; and

(2) The total amount of wages paid to him, with respect to employment after December 31, 1936, and before he attained the age of 65, was not less than \$2,000; and

(3) Wages were paid to him, with respect to employment on some 5 days after December 31, 1936, and before he attained the age of 65, each day being in a different calendar year.

Senator BLACK. Now, may I call attention to a thing that might be important and it might not. Under the term "employment" there is a limitation. Under the employees' liability act in Alabama, and in various other States, they held, for instance, that a man was not an employee of a mine if he was working on a contract at so much per ton, thereby they escaped liability under the employees' liability act. This definitely says:

The term "employment" means any service of whatever nature, performed within the United States by an employee for his employer.

Senator HASTINGS. Where are you reading from?

Senator BLACK. Page 14, line 15. There are many contracts for services where they are in reality employees so far as services are

concerned, who would be excluded, in my judgment, under this definition.

Mr. BEAMAN. Senator, there isn't any question about it. There is no doubt that this bill, when passed, is going to result in the development of the law of independent contractors, to an extent never dreamed of before.

Senator BLACK. That is right.

Mr. BEAMAN. This whole proposition, particularly the tax part of it, bristles with innumerable difficulties of administration and interpretation of the law.

Senator BLACK. They defeated thousands of employees in my State in getting claims.

The CHAIRMAN. Why should not they be included?

Mr. BEAMAN. There is no way known of, unless you take 6 months and get all the law professors in the country down to write a definition. The Bureau has got to interpret it and fight it out in court.

The CHAIRMAN. This says "service." The definition is pretty broad.

Senator BLACK. Yes; but it says, "by an employee for his employer." There is a rule that is well recognized of independent contractors. In reality they were employees, so far as their relationship was concerned, but it was a scheme devised by employers to prevent their being under the employee's liability act.

Senator HASTINGS. Does not the independent contractor immediately become an employer?

Senator BLACK. Yes.

Senator HASTINGS. However, you cannot keep on constantly by getting your work done by contract. There must be an employee sometime, and that fellow is the fellow that has got to pay, isn't he?

Senator BLACK. That is possible. I simply want to call attention to it, because it will be found, as I stated, that independent contractors are going to grow, and they will be independent all the way down to the last man that drives a mule into the mine. He will be an independent contractor driving a mule.

Mr. Chairman, with reference to the amendment we just passed, in reference to the shipping, if it is effective we will have to eliminate the words "within the United States" on page 14, line 16. If not, no man who is working on a boat which constantly runs from here across to Europe, or China, or anywhere else, would be included in this.

The CHAIRMAN. Well, if you eliminate "within the United States" you are going to catch them in the Philippines and everywhere else, in Hawaii and everywhere else.

Mr. PARKER. There is one other point, I think, that you ought to discuss, too, if you do that. If you want to get the taxes from people working on ships, you are going to tax Chinamen and everyone else who are hired on our ships. The people working in the rivers of China, you will have to tax them.

Mr. BEAMAN. Not only tax them, but when the Chinaman dies you have got to pay his estate. That, it seems to me, is absolutely impossible of administration.

Senator BLACK. The law provides now that the seamen shall be two-thirds American, and when they get through with the shipping law, it will require a hundred percent.

The CHAIRMAN. I think it is very dangerous to strike out "within the United States."

Mr. BEAMAN. Senator, of course, I do not want to interfere with your policy; but do not think it is just a question of seamen. If you do that, you tax everybody in the world.

The CHAIRMAN. That is what I am talking about.

Mr. BEAMAN. You will tax everybody, whether they are employed by United States people or not. That language would tax everybody in the world.

Senator HASTINGS. If you cut that out?

Mr. BEAMAN. Yes; if you cut that out.

The CHAIRMAN. I say it ought not to be stricken.

Senator BLACK. There ought to be some way worked out so the seamen who become regular employees come within this. I believe that could be done. I do not admit the fact that it cannot be done.

Mr. BEAMAN. You can do that by going back to the original bill. It included—

within the United States, or as an officer or member of the crew of a vessel documented under the laws of the United States.

The CHAIRMAN. Let us get that suggestion in. What was that?

Mr. BEAMAN. If you insert in line 16, after "United States", "or as an officer or member of the crew of a vessel documented under the laws of the United States", I think that would do it. That will take care of the men that work constantly.

Senator HASTINGS. Instead of striking it out, you add the words that you have suggested?

Mr. BEAMAN. Yes.

The CHAIRMAN. Read it as it would be.

Mr. BEAMAN (reading):

The term "employment" means any service, of whatever nature, performed within the United States, or as an officer or member of the crew of a vessel documented under the laws of the United States, by an employee for his employer, except—

(1), (2), (3), and so forth.

The CHAIRMAN. Without objection then, we will agree to that.

Now we have just finished this title. There is a class of industries in this country that have been carrying on this old-age pension business and they have built up a fund, and people have an equity in that fund. We haven't taken care of that in the consideration of this bill.

Mr. ELIOT. No, sir.

Senator BYRD. What about the churches?

The CHAIRMAN. We struck out the church proposition. That was one of the exceptions.

Mr. Eliot, what is the reaction to that? It would seem to me that these people who built up these funds over there years, if the matter is working all right, they should be entitled to be either given credit for it or they should be exempted if they come up to this standard. You may have some constitutional proposition involved there, but I am talking about the equity of the thing.

Mr. ELIOT. The proposition was put up very strongly at the special session called for that purpose by the Subcommittee of the Ways and Means Committee which studied this very problem, and the chief proponents of exempting such industrial plants talked most of the

morning. After they got through, Mr. Murray Latimer, head of the late lamented Railroad Retirement Board, who is an expert on industrial pensions, spoke against that proposition, and the subcommittee felt unanimously that the industrial pension schemes now existing, not only for constitutional reasons but because in actual fact they pay old-age pensions to a surprisingly minute percentage of the people they are supposed to cover, could not be exempted.

Senator BLACK. If the private schemes that have been in effect for a good many years actually pay to the beneficiaries more than is set up in this thing, who is done an injustice? What constitutional grounds were argued against allowing these people to do what they are required to do under the law?

Mr. ELIOT. If they are actually insuring their employees, giving them as adequate insurance as this bill does, then that argument which the Ways and Means Committee made would fall to the ground.

Senator BLACK. I am assuming if the law were amended it would require them not only to meet the minimum standards set up in this law, but it would have to be approved by the proper governmental authority as needing those standards. If that is true, I do not see why the ones who are already under the system should be deprived of any additional benefits that the Government sets up for them.

Mr. ELIOT. That brings up two questions. One is an administrative question and the other is a question purely of draftsmanship.

The CHAIRMAN. Mr. Beaman said we would have too many problems and difficulties involved.

Mr. ELIOT. Mr. Latimer is the best-qualified man to speak of that, I know. I do not know whether Mr. Witte or Mr. Harris are prepared to speak about it or not. We might figure out exactly whether putting in an industrial pension system in the law would really give the same assurance to the employee as the Federal system, but beyond that we come to the constitutional difficulty. If you exempt these people from the tax, I haven't seen anyone who would not agree that title VIII, the constitutionality of which is in some doubt, would clearly be rendered unconstitutional, and even if, in title II, a specific grant were made to these particular companies with industrial pension plans. Such a grant in title II would show up far more clearly than at present the tie-up between title VIII and title II as an insurance proposition. In the case of exempting them from tax, I do not think there is any question about it being unconstitutional. In the case of giving them a grant equivalent to the tax they pay, it is not as bad as the first proposition, but it is very harmful from the legal standpoint. I think I am speaking with the agreement of almost all the attorneys with whom I worked who have studied the bill.

The CHAIRMAN. Is there any difficulty in those companies who have built up the fund through this pensioning process from liquidating it and giving back to these people their equitable part of the fund?

Mr. ELIOT. There is a very wide difference of opinion on that. Mr. Forster and others who are advocating keeping the industrial pension plans separate from the Federal plan say it would be almost impossible to work out the equities. It would be very expensive. Mr. Latimer, however, flatly disagrees.

The CHAIRMAN. In other words, in this bill we are leaving it up to them to adjust and we are not bringing it in at all.

Senator BARKLEY. Of course if they get the benefit of this bill and if the companies return it to those who have an equity in it, they are just a little more fortunate than those who have not built up any fund at all. They get all this, whatever it amounts to, and then they get what they contributed to that fund.

Mr. ELIOT. That is just as if this bill would not be passed. They are in a more fortunate position than those who were not insured in any plan at all.

The CHAIRMAN. All right.

Mr. ELIOT. You spoke to me the other day of the possibility of making the requirement that before a man receives a benefit under title II, the Board should have found that he had retired from regular employment.

Senator CLARK. Mr. Chairman, before we pass this other matter, I have an amendment prepared which I propose to offer tomorrow carrying out the idea that you expressed just a moment ago.

Mr. ELIOT. The point you had mentioned to me, sir, was that before a man could get a benefit under title II, the Board should have found that he had retired from regular employment.

The CHAIRMAN. I think that should be in here.

Senator LA FOLLETTE. Certainly.

Senator HASTINGS. Just state that again.

Mr. ELIOT. I do not know the exact wording. The idea the Senator had in mind was that if the Board found that anybody qualified under this title was regularly employed during any month, 1 month's Federal benefit for each such month should be withheld from him. That would not prohibit casual or intermittent employment, but if the man had a regular job he would not get, for the time he had the regular job, a Federal old-age pension.

Senator CLARK. He could not work a month and draw a benefit for that month, too?

Mr. ELIOT. That is right.

Senator LA FOLLETTE. The original bill, as I understand it, required retirement.

Mr. ELIOT. The original bill was very strict in the sense that if the man worked at all, he lost his benefit. The Ways and Means Committee, having that before it, struck it out altogether. The result is the bill comes to you without mentioning any retirement at all.

The CHAIRMAN. What was their reason for that?

Mr. ELIOT. They felt it was too much to penalize an old man by cutting off a whole month's benefit from him if, in order to pick up a couple of dollars, he went out and mended somebody else's chicken coop in the morning.

Senator LA FOLLETTE. You do not gain one of the objectives that I understand this bill is trying to achieve, namely, you are trying to induce older people to retire. If you permit them to get the benefits and go on with whatever jobs they have got you haven't achieved the objectives that I understood this bill was trying to achieve. It seems to me that is a very important thing.

Senator HASTINGS. I do not know what this bill provides. I did know what the original bill provided; I made some study of that. I would like to inquire, Mr. Eliot, about what happens to the fellow when he gets to be 65 years of age under this. Is he compelled to retire?

Mr. ELIOT. He is not compelled to retire under this at all.

Senator HASTINGS. Can he draw his benefits unless he does retire?

Mr. ELIOT. Under this bill he can draw his benefit whether he is ret red or not.

Senator LA FOLLETTE. In other words, he can go on with the regular job he has got and draw this benefit, too.

Senator HASTINGS. Tell me again what your suggestion was.

Mr. ELIOT. The suggestion I had, off-hand, was he should not get a month's benefit for each month in which the Board found he was regularly employed.

The CHAIRMAN. In other words, he can be a casual worker, he can do casual work.

Mr. ELIOT. He can do casual work or intermittent labor.

The CHAIRMAN. Because that is exempt, but he could not go on with his regular employment and get the benefits.

Senator HASTINGS. Is not the first thing to decide whether or not you are going to keep the bill as it is at the present time, namely, that he can keep on working and draw his benefits too?

Mr. ELIOT. The first question is whether you are going to leave it that way.

Senator HASTINGS. That is the first thing to decide.

Mr. ELIOT. Then after that comes the wording of the particular amendment.

The CHAIRMAN. Let me ask what is the pleasure of the committee with reference to sitting a while longer?

Senator HASTINGS. Mr. Chairman, this is a very important matter here.

Senator GEORGE. It seems to me it changes one whole theory over into another theory. This bill is not built on the theory of nonemployment after reaching the age of 65, is it?

Mr. ELIOT. The original bill was.

Senator GEORGE. I am talking about this bill.

Mr. ELIOT. They struck out that provision.

Senator GEORGE. This is not based on unemployment, it is simply a benefit paid after 65, if you fall within the class that it covers.

Mr. ELIOT. That is all.

Senator HASTINGS. And you would only get about \$15 a month under it?

Mr. ELIOT. You could get as much as \$85 a month.

Senator HASTINGS. I mean to start with.

Mr. ELIOT. At the very start you would probably not get much more than \$25.

Senator HASTINGS. Mr. Chairman, I do not think that this section that we are now discussing, or that pertaining to unemployment insurance, are either constitutional or practical. Now I want, at some time, to make some inquiry of the committee about the advisability of separating this bill into three parts. One part, the one which we covered heretofore, the grants to States, I think that might all be put in one bill and I do not think there is any question about the constitutionality of it. The second is the one that you are now discussing, and the third is the unemployment insurance.

My purpose is not to prevent the consideration of any or all of them, but I think this is entirely different from the pension system. It is a good deal more difficult to get them through your mind when you mix them up.

Now, one of those, in my judgment, could be put through quite promptly, but there is going to be a good deal of a fight about these two things, and I do not think either of them is constitutional. I do not think this tax that we are levying for the purpose of taking care of the unemployment insurance is anything more than an effect to compel the States to do something that the Congress wants done, which is entirely against the Constitution. And I think this scheme here of levying this tax for the purpose of taking care of people in their old age is wholly without the Constitution. Now, I do not want to delay the Senate, but I would like the members to consider that.

The CHAIRMAN. Senator Hastings, we understood from the beginning that you would make that motion at some time. Let us proceed to get these matters all perfected, and then we can take a vote on your proposition before this matter is voted out.

Senator HASTINGS. All right.

Senator WALSH. Why not have an amendment prepared limiting the operations of this bill to retirement at 65?

Mr. ELIOT. The difficulty there, Senator, is we do not quite know what is meant by "retirement." We took that perhaps too literally in preparing the bill for the consideration of the House Ways and Means Committee, making it so strict, making it possible to put a man in jail for perjury, for instance, if he claimed he had retired when actually he worked a couple of days in a month that the Ways and Means Committee did not like that proposition at all, simply on account of its strictness, and therefore struck it out altogether. The suggestion I made earlier, that the Board could find if the man was regularly employed during the month before they would cut off his pension for that month is much more lenient.

Senator HASTINGS. Why do we say "during the month"? Why do not we settle the question of whether or not you are going to compel him to give up the \$3,000 a year job in order to get his pension at the age of 65, or whether you are not? That is the important thing. I think you are in a great difficulty with either of the problems. If he is getting \$3,000 a year and you compel him to retire at 65 on \$85 a month, that is a great deal of a hardship. On the other hand, he has been paying in here maybe a long time, he has paid from the time when he was 20 years old to the time he reached 65, or 45 years, and now he says, "I cannot get any of the money I have accumulated up until I am 65 merely because some board says I have got a job and I do not need it." I think you have got difficulties on both sides, and it is a very difficult question to decide as to policy.

Mr. ELIOT. I agree with the Senator. The first question is the fundamental one of policy, whether you desire to have retirement in the broadest sense. We will find out later whether we mean it in a very strict or a very lenient sense, but first we must know whether you want to leave the bill as it is now.

Senator WALSH. If you do leave the bill as it is now, it is an invitation to every man that reaches 65, or every woman who reaches 65, to receive the bonus?

Mr. ELIOT. Yes.

Senator HASTINGS. We are not up to that, are we?

The CHAIRMAN. Yes, we are up to that now.

Senator WALSH. Let us think it over and take it up tomorrow morning.

Senator GERRY. Mr. Chairman, before you adjourn, in order to carry out my amendments logically, they should be added in two or three places in the bill.

The CHAIRMAN. The draftsmen can fix that up. Let us take up the unemployment insurance.

Mr. ELIOT. The next title is title VIII, which is part and parcel of the same thing that we just read. It is the taxes relating to this old-age insurance, title VIII on page 43.

TITLE VIII. TAXES WITH RESPECT TO EMPLOYMENT

INCOME TAX ON EMPLOYEES

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

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

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be $1\frac{1}{2}$ per centum.

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

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be $2\frac{1}{2}$ per centum.

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

The CHAIRMAN. What was the original bill? Does it change the figures?

Mr. ELIOT. That is higher than the original bill and goes up faster. The original bill started at one-half of 1 percent and it went up to $2\frac{1}{2}$ percent at the top, with 5-year jumps. These jumps are made every 3 years. The original started lower and went up slower.

Mr. BEAMAN. It did not get to the maximum until 1957.

The CHAIRMAN. What was the suggestion of Miss Perkins with reference to this?

Mr. ELIOT. She made no suggestion as to this, sir.

The CHAIRMAN. I like this personally much better than the other. Are there any remarks on that?

Senator HASTINGS. How does the other go?

Mr. ELIOT. $\frac{1}{2}$, 1, $1\frac{1}{2}$, 2, $2\frac{1}{2}$, over a 5-year period.

The CHAIRMAN. This would build up the fund quicker?

Mr. ELIOT. This would build up the fund a good deal quicker.

Senator BYRD. This is paid by the employer, of course?

Mr. ELIOT. This particular tax refers to the employee and the employer is the Government's agent to collect it by deducting it from the wages.

Senator HASTINGS. This particular section is?

Mr. ELIOT. Yes. Normally the employer will act as the Government's agent to collect the tax by withholding it from the wage of his employee.

Senator BYRD. How much of a tax does the employer pay?

Mr. ELIOT. The employer, as the next two sections show, pays a similar amount.

The CHAIRMAN. Proceed, Mr. Eliot.

Mr. ELIOT (reading):

DEDUCTION OF TAX FROM WAGES

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

(b) If more or less than the correct amount of tax imposed by section 801 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made in connection with subsequent wage payments to the same individual by the same employer.

Mr. BEAMAN. Mr. Chairman, in relation to an amendment we have to section 802 (b) I cannot say the Treasury Department recommends it. I do not think the Secretary and high officials have acted upon it. The men who have been working on this particular tax suggest in line 19, after the word "made", should be inserted "without interest."

In other words, the theory of this section is that if, as will undoubtedly happen, particularly at the start, there comes the pay day and the employer deducts the wrong amount through a mistake or misinterpretation of the law, or what not, deducts too much or too little, the theory of this paragraph is that the adjustment will be made at the next pay day. We want to insert after the word "made" the words "without interest." In other words, the idea is that, as to these small amounts, you do not have to bother about interest.

The CHAIRMAN. Without objection that amendment will be agreed to.

Mr. ELIOT (reading):

DEDUCTIBILITY FROM INCOME TAX

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

EXCISE TAX ON EMPLOYERS

SEC. 804. In addition to other taxes, every employer shall pay an excise tax with respect to having individuals in his employ—

Senator HASTINGS. Pardon me just a minute. Does section 803 apply to the employee only?

Mr. BEAMAN. That is right.

Mr. ELIOT. Section 803 applies to the employee.

Senator HASTINGS. So if a man is getting \$10,000 a year and he pays a tax on \$3,000, as I understand this bill he cannot take that tax off his income tax?

Mr. ELIOT. That is right.

Senator BARKLEY. What do you think of the advisability of binding the future Congress as you do in that language?

Mr. ELIOT. Which language?

Senator BARKLEY (reading):

For the purpose of the income tax imposed by title I of the Revenue Act of 1934 or by any act of Congress in substitution therefor.

Mr. ELIOT. I do not think that was any attempt to bind the future Congresses.

Mr. BEAMAN. It was not any attempt to bind the future Congresses; it was just simply to save them the trouble every time they write an income tax. Of course, any time they want to change the policy, they can do it.

Mr. ELIOT (reading):

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

The CHAIRMAN. They are the same.

Mr. ELIOT. The rest are the same down through the rest of this section. [Reading:]

ADJUSTMENT OF EMPLOYERS' TAX

SEC. 805. If more or less than the correct amount of tax imposed by section 804 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments with respect to the tax shall be made in connection with subsequent wage payments to the same individual by the same employer.

Mr. BEAMAN. Mr. Chairman, the same amendment applies there, inserting "without interest."

The CHAIRMAN. Without objection that amendment will be included. Is that the same as the section with reference to employees' taxes?

Mr. ELIOT. This is not the same.

The CHAIRMAN. Have you one that applies to the same thing?

Mr. ELIOT. No, sir. You see the difference is that the employees' tax is paid as a tax in lieu of wages which he normally would be receiving. I think that was probably the policy that dictated that section.

Mr. BEAMAN. The theory of it is this: The tax on the employer is like any other excise tax, which is always permitted to be deducted. The tax paid by the employee, while theoretically an income tax, could not be deducted under the present law. It was deemed by the Ways and Means Committee, as a matter of policy, it should not be deducted for the reason that in essence it is an insurance premium. In other words, if I go to a private insurance company and buy an annuity, I cannot deduct the payment of any premiums that I pay from my income. Here Mr. Eliot is employed by an employer, he pays his tax, so why should he deduct his tax? That was the theory.

Senator HASTINGS. In addition to that, it goes a step further and shows that this is not a tax proposition at all. It is an insurance proposition, notwithstanding the fact that the House has undertaken to separate the two.

The CHAIRMAN. All right, Mr. Eliot.

Mr. Eliot (reading):

REFUNDS AND DEFICIENCIES

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

the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

COLLECTION AND PAYMENT OF TAXES

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections.

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

Senator HASTINGS. Doesn't this bill say when the tax shall become due and payable?

Mr. ELIOT. No, sir; it does not, except in this section where it says it is due and payable at times prescribed by the rules and regulations, the assumption being it would ordinarily be paid at the time of the wage payments.

Senator HASTINGS. I think Congress ought to say when this tax should be paid.

Mr. BEAMAN. So far as the tax on the employee is concerned, and so far as the employee is concerned, he pays the tax by having it deducted on pay day. As to when it should be turned over by the employer to the Government, this is a matter so complicated and the best way of doing it is so much in the air that it did not seem desirable at this time to try to nail them down too tight. It was thought advisable to leave them to work out the best practical method. This tax does not begin for a year, and I have no doubt the Treasury will come down here next winter with a series of amendments on these taxing propositions as the result of a study of this matter.

Senator BARKLEY. I suppose the employer could turn over the collection every Saturday night or Monday morning, or it might be practical to do it every month, or once in a quarter. There should be a payment of all the money that has been deducted for the previous quarter. It is very difficult to work out.

Mr. BEAMAN. Yes.

Senator HASTINGS. I do not see why he should not pay it every 30 days.

Mr. BEAMAN. If they determine to finally do what they are now talking about doing, this money is going to be paid in advance by the purchase of internal revenue stamps. So then, as a matter of fact, the thing is paid at the time he buys the stamps. The thing is hard to nail down. If the committee, in its wisdom, knows exactly how it wants the tax collected, of course that is another matter.

Senator HASTINGS. I have had some experience with this processing tax in which I ascertained that the Treasury Department had settled a \$500,000 claim for \$150,000, which other people paying the tax learned about. I made inquiry about it and I found they were in bankruptcy. The truth was they had not collected the taxes as they ought to collect them. The company went into bankruptcy and they could not collect the taxes. We ought to avoid that here, because if the fellow can meet his pay roll he must be able to meet his tax or he is going under.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

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

Mr. BEAMAN. Mr. Chairman, one of the provisions there referred to provides for the collection of interest and the payment of interest at the rate of 12 percent, 1 percent a month. It was suggested by the men in the Treasury that have been working on it, in the Internal Revenue Department, that it should be reduced to 6 percent.

The CHAIRMAN. Without objection, that amendment will be agreed to.

Mr. ELIOT (reading):

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

RULES AND REGULATIONS

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

SALE OF STAMPS BY POSTMASTERS

SEC. 809. The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner.

Senator HASTINGS. That (d) I think we ought to strike out. That is absurd.

Mr. BEAMAN. That is a provision that is in all the laws.

Senator HASTINGS. Is it?

Mr. BEAMAN. Yes.

Senator HASTINGS. All right.

Mr. CHAIRMAN. When you get down to the sale of stamps by the postmasters, I have a letter from the Postmaster General with reference to this matter making a suggested change. I suppose he has had it up with you gentlemen.

Mr. BEAMAN. He has had it up with the Ways and Means Committee, the Subcommittee. He went into that with them very fully, with the Director of the Budget.

The CHAIRMAN. They did not comply with that request?

Mr. BEAMAN. No; they did not see any reason for it.

The CHAIRMAN. I want one of these gentlemen to come before the committee. I want Mr. Burke to come before the committee. The letter says:

(The letter referred to appears in the record at the beginning of the proceedings on May 8, 1935).

Mr. BEAMAN. As I understand the proposition, all they are worrying about is if the Budget does not take care of them this will come in as part of the expenditures and will increase the deficit. Of course they will get the money from some appropriation. The Director of the Budget told the Ways and Means Subcommittee that that could be handled all right. It simply means the Bureau of the Budget, in transmitting the estimate, transmits an estimate for a separate appropriation to the Post Office Department to do this work, so it will not appear as a part of the postal deficit. They do not need a

penny until a year from next fall. That does not come in this year's Budget. It is a matter to be taken care of a year from now.

Senator LA FOLLETTE. It ought to go through the Budget anyhow, it seems to me. This is a lump-sum appropriation and is intended to take care of whatever they estimate the amount to be.

Mr. BEAMAN. They do not need a penny until a year next fall.

The CHAIRMAN. I think it is a matter of some importance to them. They know how to run the Post Office Department and they recommend it very seriously, so I wish you would ask Mr. Burke to come here in the morning on this proposition.

Senator LA FOLLETTE. You better have Mr. Bell here, too, then.

The CHAIRMAN. All right, let us have both of them.

Mr. ELIOT. Shall I read the section that still remains?

The CHAIRMAN. I would just leave that off for the present.

Senator WALSH. How are the stamps to be canceled?

Mr. ELIOT. That has been left up to the future development of administrative procedure. I do not know what the Internal Revenue Department has in mind definitely, but I suppose they want to sell the stamps and have them pasted in books, then have the books deposited in some Government depository and canceled thereby.

Senator WALSH. So the Government official can compare the pay rolls with the stamps.

Mr. ELIOT. That would be possible; yes.

Senator WALSH. The employer is supposed to have the exact amount of stamps that his pay roll represents.

Mr. ELIOT. Yes.

Mr. BEAMAN. I do not know what their conclusions are. The last time I talked with them they were looking with favor upon the proposition of having the employer have a book as well as the employee, in which to put the stamps.

Senator WALSH. That is all left to regulation?

Mr. BEAMAN. That is all left to regulation.

The CHAIRMAN. All right.

Mr. ELIOT. Penalties. Section 810 (a).

Senator HASTINGS. I do not think, Mr. Chairman, it is necessary to read the penalty provision.

Mr. BEAMAN. There is no question, Senator, but what the administration of this tax will be the most colossal job the Treasury ever had.

Mr. PARKER. It is possible that the stamps be printed in duplicate and really when you tear them apart that will be a cancelation. When you tear them apart one will go in the employeec's book and one in the employer's book.

The CHAIRMAN. All right, Mr. Eliot.

Senator HASTINGS. Do you think it is necessary to read section 810?

The CHAIRMAN. I think not. That is the usual penalty proposition.

Mr. BEAMAN. Section 811, Senator, is word for word identical with the definition in title II. I suppose you make the same changes in there.

The CHAIRMAN. Yes.

Mr. BEAMAN. With the exception of page 50, no. 4 of this exempts from the tax "service performed by an individual who has attained the age of 65", which, of course, is more or less tuned up with the proposition you passed over, as to giving a pension to a man when he is retired.

Senator HASTINGS. Mr. Beaman, do you think it is unnecessary to put in here that the employer may deduct his tax from his income?

Mr. BEAMAN. Absolutely unnecessary, Senator. He can clearly do it under the general law.

Senator COSTIGAN. Why does it include subdivision (4) here and not on page 14?

Mr. BEAMAN. There is no need of it in title II.

The CHAIRMAN. Then we get down to "Tax on employers of 10 or more." This is unemployment insurance?

Mr. ELIOT. This is connected with that.

Senator HASTINGS. Let us not take that up this morning.

The CHAIRMAN. Very well.

Senator HASTINGS. The unemployment insurance is the only thing left, isn't it?

Mr. ELIOT. Yes, sir.

The CHAIRMAN. On the unemployment insurance proposition it seems to me there is one proposition there that has a great deal of importance. The House, in its bill that fixes the standard and so forth, eliminates from certain States the policy they have adopted with reference to unemployment insurance. It seems to me it ought to be broadened to give to these States the right to impose all the unemployment insurance they desire. For instance, here is the State of Wisconsin that has worked out its plan, and under this bill they cannot continue the plan. If we are going to give the States anything, we ought to give it to them and let there be some elasticity with reference to it.

Senator LA FOLLETTE. Mr. Chairman, I have asked them to prepare some amendments which would make it possible to recognize the unemployment reserve plan and the principles which are behind it, and at the proper time I want to bring them to the attention of the committee, in the hope that they will be favorably considered.

The CHAIRMAN. We will recess until 10 o'clock tomorrow morning.

(Whereupon, at the hour of 11:30 a. m., a recess was taken until 10 a. m., of the following day, Wednesday, May 15, 1935.)

[CONFIDENTIAL]

SOCIAL SECURITY ACT

WEDNESDAY, MAY 15, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., in the Finance Committee room, Senate Office Building, Senator Pat Harrison, chairman, presiding.

Present: Senators Harrison (chairman), George, Barkley, Gore, Costigan, Clark, Byrd, Lonergan, Black, Gerry, Couzens, La Follette, Metcalf, Hastings, Capper.

Also present: Middleton Beaman, legislative counsel, House of Representatives; Thomas H. Eliot, Assistant Solicitor, Department of Labor; Edwin E. Witte, executive director, committee on economic security; Vincent C. Burke, representing the Post Office Department; Murray Latimer, chairman, Railroad Retirement Board, and Irving E. Erb, Treasury Department.

The CHAIRMAN. The committee will be in order. Mr. Burke, with reference to this letter that I received from the Postmaster General making certain suggestions regarding the pending bill, I would like to have you make any statement that you wish to the committee. It is with reference to the letter I mentioned yesterday. This provides for the use of stamps. The Post Office Department wants a provision written in here that will permit them advance allotments, and so on. Have you talked to the Director of the Budget?

Mr. BURKE. Yes; we have just been discussing it, Senator.

The CHAIRMAN. You all agree on this proposition?

Mr. BURKE. Yes; we are in full agreement on it.

The CHAIRMAN. There isn't any need of taking up the time of the committee on it?

Mr. BURKE. I do not think so. I think Mr. Bell fully understands our situation. I may take a moment to explain to you fully what our position is in the matter.

The CHAIRMAN. Yes.

Mr. BURKE. The Post Office Department of course wants to cooperate, and is eager to cooperate in all of these activities. What we are trying to avoid in the suggestion we made is that the expense of handling whatever form of collection it is deemed necessary should not be charged to the postal revenues and then, as a matter of accounting, for the Post Office Department to be compelled to set up another nonpostal item. We feel we have enough nonpostal items. Our suggestion was that the money come to us direct by a transfer of appropriations and that we use only the money for the additional expense that we are required to put up. Unless Mr. North has some-

thing from the departmental standpoint, it seems to me Mr. Bell can take care of the situation generally.

The CHAIRMAN. It is your opinion then there is no need of writing the provision in that you suggested, in view of your understanding with the Director of the Budget?

Mr. BURKE. That is correct, as far as our field service is concerned.

Mr. NORTH. That is right.

The CHAIRMAN. That will eliminate the controversy then.

Mr. BURKE. That is right.

The CHAIRMAN. I am very glad you have agreed on that. We will proceed from where we left off yesterday.

Senator GEORGE. Where did you leave off yesterday?

The CHAIRMAN. We left off yesterday at the end of the unemployment insurance provision.

Mr. BEAMAN. Before you start on that, we have a suggestion to make on page 50.

Senator GEORGE. What did you do with title II?

The CHAIRMAN. We haven't done anything. We finished reading it.

Mr. BEAMAN. We finished reading it and left undisposed of any question that you are going to think about this morning.

The CHAIRMAN. On page 50, what section?

Mr. BEAMAN. Page 50, number 4, which is an exemption from the tax of service performed by an individual who has attained the age of 65. In order to make possible a better administration of it, we want to suggest an amendment. As the thing stands now, exemption is given as a matter of law to anybody who has attained the age of 65. Now let us suppose on the first pay day after this tax becomes due, I walk up to my employer and he says, "I will have to hold some of your wages." I say, "No, I am 65." Then there is a row as to whether I am 65 or not. It is going to be a very difficult job to do it. I talked it over with the men at the Treasury that have been working on the thing, and we would like to offer this suggestion. In lieu of paragraph (4) insert the following:

(4) Service performed by an individual if prior to the time of the payment of the wages therefor it has been established to the satisfaction of the Commissioner of Internal Revenue, under regulations made under this title, that at the time such service was performed such individual had attained the age of sixty-five.

I take it under that the Commissioner can set up a method throughout the country whereby the people might be able to prove their age. Having that record, it is perfectly apparent that in later years it will prove they are that many years old.

The CHAIRMAN. Without objection that amendment will be agreed to.

Now Senator Hastings wanted to strike out both of these titles and I thought we ought to wait and perfect these propositions and then vote on this motion, after we had considered them and perfected them.

Senator COSTIGAN. Which title, Mr. Chairman?

The CHAIRMAN. The unemployment insurance and this contributory benefits, old-age pensions.

Senator COUZENS. May I ask the committee whether they have given any consideration to the witnesses that appeared before this committee in behalf of the blind?

The CHAIRMAN. I was going to bring that to the attention of the committee, Senator Couzens, because, as one member of this committee, that group of people made a tremendous impression on me.

Senator COUZENS. It did, and I notice there was a section drawn which appears in this social securities bill. I do not know where it has come from. I would like to bring it up for consideration at this time.

The CHAIRMAN. Let me ask the gentlemen that attended the House meeting whether there was very much consideration given to that idea?

Mr. ELIOT. In the executive session, Senator?

The CHAIRMAN. Yes.

Mr. ELIOT. It was brought up and it was rejected after some consideration on the ground that so much other legislation was for the welfare of the blind that it should not be inserted here. I think that was the consideration. I do not think I am violating any confidence. That is my recollection of it. Two of the Congressmen said that, and then the whole matter was dropped.

Mr. BEAMAN. Just elaborating a little bit on Mr. Eliot's statement, I think the feeling of the committee was that, by and large, the blind people were the people best taken care of at the present time in the various States. Their feeling was this bill had so much in it they just had to stop sometime. The amendment was offered on the floor of the House and it was defeated by a decisive vote. I do not think anybody in the Ways and Means Committee had any particular objection to taking care of the blind. They simply felt that was the thing that was most adequately taken care of by the States at the present time, and therefore it was not desirable to put it in this bill.

Senator COUZENS. I am not particular about the amount. The amount is stated here on page 53 of this print that we have here. I do not care what amount you put in there. I think you can establish the principle some way that we should cooperate with the States. There is a great deal of confusion in the States with respect to the responsibility. I recognize a great deal has been done for the blind through Braille and other functions to aid them, and I would rather see these activities consolidated under some such section as appears in this bill. There is another bill now pending, I think, that everybody is being propagandized about to put in some sound proposal for the blind. It is being spread all over hell's half acre and not getting any consolidated thought.

The CHAIRMAN. Why could not we put in another provision in this bill such as the provision for crippled children, for instance, to make a reasonable provision to help these blind?

Senator COSTIGAN. I second that suggestion.

[Discussion off the record.]

The CHAIRMAN. We will ask the draftsmen to draft an amendment carrying out the idea that we will take care of the needy blind that are not in an institution up to \$15.

There is a question in reference to this old-age annuity contributory proposition that we discussed yesterday. Mr. Latimer is here. We came to no definite conclusion on this. There are certain institutions that have built up funds with reference to old-age pensions and those systems have been carried on for some years. We would like to know whether or not we could not, in this plan, give some credit to them, or work out something that would help us out on this proposition. What is your reaction to that?

Mr. LATIMER. Mr. Chairman, I shall not deal with the constitutional questions involved in that. Irrespective of that, it seems to me it would be unwise, as a matter of policy, to attempt to make any differentiation between industries or firms on the basis of whether they carry a voluntary old-age-pension system or not.

There are several reasons, it seems to me, that lead to that conclusion. In the first place, to attempt to allow industries to contract out—that is what it would amount to—would result, generally speaking in those firms which could make a profit by so doing, endeavoring to build a scheme by which they could get out from under the social insurance scheme, putting titles II and VIII together, which would have to be done in order to carry out such a scheme directly or indirectly, to have that effect.

The ultimate cost to any individual firm under the Social Security Act for old-age insurance would be 3 percent, with the 3-percent contribution by employees. That means, that generally speaking, any firm which, for one reason or another, maintained a low age distribution to its employees, that is to say, an average age lower than the general average, to 35 or 40—cost would depend on certain other factors, but age is the fundamental factor—would make a profit by contracting out.

Now, that has two results, both of which are undesirable in my judgment. First, it puts on the companies which remain in the social insurance system a burden higher than they would otherwise have to carry. In the second place it gives a firm an incentive to maintain a high turnover rate, to do nothing about its rate of mortality, which is a big factor in cost. That is, the higher the rate of mortality, the lower they could get by on the cost. They would put down the hiring age limits which are now 40 or 45. By putting down the hiring age limit to 30, they could save. I think every one would agree that that is highly undesirable. In other words, one of the chief social advantages of this bill is that it takes away a certain part of the incentive to firms to maintain low hiring age limits.

The CHAIRMAN. What would these firms do? Would they liquidate it?

Mr. LATIMER. There is no point in doing that. Most of them can be stopped for the future. Let us mention a few concrete cases. The Standard Oil Co. of New Jersey has on its books a fund of \$70,000,000 that they have guaranteed to their employees, and there is, I think, a legal binding guarantee that no action which the company may take in the future will result in any employee who remains in service losing any credit which he may have in respect of the service prior to the date of the action. It assures every employee who retires from service at the age of 65 that he will receive an annuity equal to 2 percent of his average pay during his final 5 years of service, multiplied by the number of years of service, to a maximum of 75 percent of that average age. In other words, if a man comes into the service at the age of 30 and during the last 5 years of service he receives \$2,000 a year, he would receive 70 percent of \$2,000 or \$1,400 a year. Let us suppose that that man is now at the age of 45 or 50 and he has had 20 years of service. The Standard Oil Co. of New Jersey says to its employee, "We may stop this plan for the future, but you have already been in the service for 20 years, you have earned the credit of 40 percent, and we will pay you that at 65 if you remain in the service of the

company until that age." Irrespective of what they might do in the future, this social security plan in no way disturbs the relationship, as far as past insurance is concerned between the Standard Oil Co. of New Jersey and its employees.

The CHAIRMAN. Do you think they will continue the old plan?

Mr. LATIMER. They will not continue to pay the whole 2 percent. There is no reason why they should in the future.

The CHAIRMAN. The amount that they invested in this proposition, in this fund, will be put out at interest?

Mr. LATIMER. They will lose absolutely nothing. I happen to know what the Standard Oil of New Jersey is thinking of doing. They will give the men credit for the prior service which they earned up to the date this plan becomes effective.

The CHAIRMAN. You have no doubt they will continue the plan after this becomes effective?

Mr. LATIMER. They will keep it in force supplementing the government annuities and bringing the total annuities up to a certain level. It will be more easy to do that.

Senator GEORGE. Are you sure of that?

Mr. LATIMER. Yes, sir. I will not make that as a broad statement. I know, for example, the Standard Oil of New Jersey will save money.

Senator GEORGE. I will just take the case of ordinary employers. Just let me read you one statement referring to H. R. 7260. This is from the Savannah Sugar Refinery.

I have gone over this very carefully. I do not know whether we will be allowed to keep up with our old-age pensions plan without subscribing to the Federal pension plan. We have, as I have already written you, a very much better plan. We had retired all our employees at approximately 50 percent of their salaries after the age of 60 for women and 65 for men. I should not like to disrupt this plan. We would be forced to do so, of course, if we are compelled to contribute to the Federal plan.

Here is another similar letter in which it is stated that the amount that they annually deposit with a certain well-known trust company and banking institution is \$21,000 a year, and that their plan is substantially 50 percent retirement at the age of 55 for women and 60 for men, and they say they would be obliged to abandon the plan.

Mr. LATIMER. Not knowing the individual circumstances around the particular plan, I am not, of course, prepared to pass judgment on it. I think I have had probably as much contact with the industrial pension plan as any man in this country. I feel reasonably certain that I know about the level of costs which occur under those plans. I will say this, as a general statement, as respects a company which now maintains a pension plan, that if it goes into the social insurance plan, and pays the taxes which are there required, if it maintains a supplementary plan which will bring the level of benefits up to the plan which they now have, the cost will be less with the combination than it would be under a plan separately maintained. I have gone so far as to have our actuaries make some calculation on that point, and I have taken age distributions which are substantially lower than the average. In fact, I took an age distribution of women which are 5 or 10 years lower than men, and I find in the next generation the saving of cost by maintaining a supplemental plan as compared with the separate plan will be from 25 to 30 percent.

On the railroads we know almost exactly what the saving will be. The railroads can go into the social insurance plan and the saving with respect to the present employees, for providing the benefits of the social insurance plan as compared with providing the same benefits on their own account will be \$400,000,000. That is an understatement rather than an overstatement.

Senator BYRD. Mr. Latimer, if the company had a plan which was superior in payment to the plan provided by the Government, what would be the objection to letting that company continue that plan?

Mr. LATIMER. My point is that there is no objection, and it will be continued in most cases at a saving.

Senator BYRD. What would be the objection to exempting the company if they can show to the proper authorities that their plan plays in excess of the Government plan?

Mr. LATIMER. It is not quite proper to say any company plan in this country is as liberal as the Government plan. But that is not what will happen; companies which now have pension plans will not, for the most part ask for exemption. The companies which now maintain pension plans are the larger, better managed, more progressive corporations. A pension plan is only one element of their personnel policy. They have a savings plan, they have group life insurance, they have a higher wage, on the average, and in many cases they have regular promotion training courses, and so on. They are trying to stabilize employment, and they have stabilized employment. When they train a man, they want to keep him in their service. The result is their men are, on the average, 5 to 10 years older than the average of the country at large, gainfully occupied persons. They are not the ones that want to get out of the Government plan, when they have studied it. They are going to combine their plan with the Government plan and make saving.

Senator BYRD. Suppose they have a plan which is more liberal and want to continue that plan, is there any objection to it?

Mr. LATIMER. I may say not only is there no objection to it, but they will continue it in most cases, and they will do it cheaper than they are doing it now.

Senator BYRD. Is there any objection to exempting them?

Mr. LATIMER. If you exempt those and not others, I agree there may be a saving to the Government. What you do is to stimulate employers who do not now have a pension plan to get a pension plan and get out from under the social-security plan, and that would put a higher burden on the other group of employers.

Senator GEORGE. Suppose you have a certain definite standard that must receive the approval of the board?

Senator BYRD. Suppose, further, that you confine them to existing pension systems, suppose you say there is a contractual obligation?

Mr. LATIMER. Let us deal with the existing pension plans for a moment. I am more familiar with the railroads than any other industry. The railroads have had pension plans possibly twice as long as any other industry. There have been 5,000,000 persons covered under the railroad pension plan since they started. They have pensioned 120,000 persons, roughly a little over 2 percent. The chances of an employee who comes into the service of the railroad ultimately getting an annuity is about 3 out of 100. Railroads nominally retire men at 70. When I speak of railroads, this is the typical industrial

pension plan. There is no such thing as a contractual pension plan in this Nation of the nature that it is now submitted by the social-security plan.

Senator BYRD. You say there is no such thing as a social-security plan whereby, during a term of years, the employee contributes so much, the company contributes so much, and at the end of a certain period of time the employee receives certain benefits, where he has made payments on the supposition that he will receive the benefits?

Mr. LATIMER. Suppose he leaves the service the day before he is 65, suppose he has been in the service since he was 40, he has nothing more than his own contributions. He has no control over whether he leaves the service or not.

Senator LA FOLLETTE. That is the point.

Senator BYRD. Do you know whether or not these companies deliberately discharge people with that idea in mind?

Mr. LATIMER. I have known of thousands of such cases.

Senator GEORGE. Suppose you write into the statute that he should have a credit, and fix your requirements for the plan that the company should set up, would there then be any objection to allowing them to have a credit against the tax for the actual contribution they make?

Mr. LATIMER. Yes, sir; I certainly think there would be, because the companies which now maintain pension plans would have to revise the plan.

Senator GEORGE. That would be their business.

Mr. LATIMER. As I say, most of them would not contract out, but there would remain this fundamental element that those companies which had something to gain by the contracting out would do so and would make a saving. They would have stimuli to lower their age limit, to pursue socially undesirable policies, and by getting out, they would put on those remaining under the social security plan a burden of cost which is higher than the taxes which are now scheduled for that support.

The CHAIRMAN. Why could not you put that under the regulation of this social security board? Why could not the board make regulations that would be on a par with the Government plan?

Mr. LATIMER. It would be possible to put them under the social security board if you say they might provide benefits equal to the Government plan, there would still be this incentive to contract out to save cost. Let us say a man has a company and he has employees on the average around 20 or 29 years of age—and there are a great many of such companies—he can provide the same benefits, let us say, that are under the social security plan for a cost that is approximately half of what a railroad can provide it for, half of what the Standard Oil can provide it for.

Senator HASTINGS. Mr. Chairman, I have here a proposed amendment. It is two pages long, but I should like this witness to criticize this amendment, because this undertakes to do what the chairman and some other members of the committee would like to do. It is proposed by Towers, Perrin, Forster & Crosby, Inc., of Philadelphia.

The CHAIRMAN. Have you analyzed that?

Mr. LATIMER. I have not seen the latest amendment. I have talked with Mr. Forster a good many times on this.

The CHAIRMAN. Suppose you give that to Mr. Latimer, let him read it over, and we can request him to give us some light on it later.

I have two ideas in mind with reference to this matter. I do not think we ought to penalize those institutions that have been forward-looking and humanitarian by promoting some pension plan. I think they should be commended, and I do not think we should wipe them out if we can help it.

In the second place, I have a very grave doubt about the constitutionality of exempting anybody from this plan. I am just afraid it might affect the construction of the bill. Those are the two thoughts that run through my mind.

Mr. LATIMER. I am not in a position to advise you on the constitutionality, but let me say that the best service you can give to the companies is to keep them in this bill and not let anybody else contract out. I talked to a group of representatives of large employers that are maintaining industrial plans, large industrial companies, about last March. I think there were represented there some 25 of the larger concerns, like the U. S. Steel, General Electric, Standard Oil of New Jersey, and others in a similar category. I made this statement to them, that not only is it not to their interest to not contract out, but to keep anybody else from contracting out. A vote was taken on that proposition after I finished talking. The vote was 10 to 5 in favor of the lines which I had been advocating. They were the people who dealt directly with the pension plans themselves, and the five who voted against it were apparently against the whole idea. They were against the administration.

Senator GERRY. Is the point then that if you exempt these corporations it would decrease the amount that you will receive from the revenues?

Mr. LATIMER. You will decrease the amount of revenue and you will not proportionately decrease the payment out, because these companies have men who are older and their liabilities will mature more quickly.

Senator HASTINGS. Mr. Chairman, may I read two or three paragraphs of this suggestion? [Reading:]

Various methods as shown below have been suggested for incorporating into the proposed legislation permission for the operation of private annuity plans.

(a) That employers having private plans which meet the requirements of the Social Security Board and such of their employees as elect to come under the private plan, be exempted from tax for old age benefits under the Federal plan just as educational institutions, agricultural organizations and others are now exempted from other taxes in order to encourage their development and as agricultural, domestic and other classes of workers are now excluded in the present bill for other and adequate reasons.

I understand that is one proposal.

(b) That such employers and employees be subject to the taxes levied for old-age benefits let a credit to the extent that contributions are made to a private plan.

(c) That such employers and employees pay the taxes levied for old-age benefits and that the Social Security Board thereupon pay the amount of the taxes to the agency handling an approved private plan.

Of these, the most simple and clean-cut method, if acceptable from a legal point of view, would seem to be the first method.

Then he goes on and makes a proposed amendment following out that first suggestion. I do not know whether it is legal or not.

The CHAIRMAN. It is your opinion that it is better not to write in this bill the right for them to get credit and put them under the supervision of this Board?

Mr. LATIMER. Yes, sir; I would say, irrespective of any question of legality, that would be better. I would like to make just one final statement. The social-security bill, taking the gainfully occupied group in insurable occupations as a whole, gives benefit to persons. Taking that as 100 percent, it gives benefit to 96 of those people who never got anything before. About 4 percent of them will get something under these present voluntary pension plans, 4 out of the 100. Of that four two-thirds will get a higher benefit under the social-security bill than they get from voluntary plans, and about one and one-third would get, under the social-security plan, lower benefits than they would get under private plans. Practically all of that 1½ percent are people who get large salaries, larger than \$3,000, and in my judgment a larger proportion, if they are not allowed to contract out, will get larger supplementary benefits than would otherwise be the case. I think I can say I have gone into the cost features of this somewhat more fully than some of the other proponents of this thing, because I happened to have data on the matter which had not been generally available.

The CHAIRMAN. The committee recognized that you are an authority on the proposition, and that is why the committee wanted you here today.

Senator HASTINGS. Are you in favor of this plan of taxing the employer and the employee for this purpose?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. Thank you.

Senator BYRD. I just want to call your attention to the objection Mr. Latimer raised that they might dismiss a man just before he was eligible for pension. As a matter of fact, the Standard Oil plan has a cash surrender value of five-sixths of what has been paid in, both by the employer and the employee.

Mr. LATIMER. That is the Standard Oil Co. of New York. That is only five-sixths of the amount the employee, not the company, pays in, without interest. An employee may pay in for 30 years and get no interest on his refund if he withdraws.

Senator BLACK. Did the railroad people appear before the House Committee?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. Senator Hastings, have you got some amendment that you want to suggest as to this title? If not, we will go to the unemployment insurance section.

Senator LA FOLLETTE. Did we settle the matter, Mr. Beaman, that you raised before we got into this other matter?

Mr. BEAMAN. Yes.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT. Title IX, on page 51 of the bill, of the latest committee print.

TITLE IX—TAX ON EMPLOYERS OF TEN OR MORE

IMPOSITION OF TAX

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

with respect to employment (as defined in section 907) during such calendar year:

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

The CHAIRMAN. Now what were the rates in the original bill?

Mr. ELIOT. They had a maximum of 3 percent, and whether that might be lower than 3 percent, depended upon the index of industrial production.

The CHAIRMAN. When did it begin?

Mr. ELIOT. It began the same as here.

Senator HASTINGS. Now, Mr. Chairman, it will be remembered that at the time the President sent the message to Congress with respect to this subject he called attention to the fact that nearly every State legislature was in session and he hoped to get this bill passed in time for the legislatures to pass the necessary legislation to take advantage of this legislation by the Congress. In view of the fact that this money that is paid in after January 1, 1936, goes, as I recollect it, unless it has been changed, to the general fund in the Treasury of the United States, therefore cannot be used for the purpose for which it is intended until the States have an opportunity to pass the necessary legislation to get the benefits for the respective States, I am wondering whether that date ought not to be advanced at least 1 year.

Senator LA FOLLETTE. Mr. Chairman, in answer to the suggestion of Senator Hastings, I would like to point out that last year was an off-year for most of the legislatures, because they usually meet in the odd years, there were 37, if I remember correctly, State legislatures that had extra sessions, so that it seems to me that in view of that experience, we can count on a large number of these legislatures being in session, and in the position to act if and when this bill is passed, at least during the balance of the calendar year.

Senator HASTINGS. You mean that they will call a special session for this purpose?

Senator LA FOLLETTE. They might do that. According to the experience of a year ago, 35 or 36 of them had special sessions for other purposes.

The CHAIRMAN. What is your suggestion? As I understand it, Senator Hastings' suggestion is to change the date from 1936 to 1937.

Senator HASTINGS. Let us put it off 1 year, and then put all the years up 1 year.

The CHAIRMAN. Just let us hold that matter up until we get through with this proposition.

Senator HASTINGS. All right.

Mr. ELIOT (reading):

CREDIT AGAINST TAX

Sec. 902. The taxpayer may credit against the tax imposed by section 901 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contri-

butions made under the laws of States certified for the taxable year as provided in section 903.

Senator HASTINGS. Now, I do not see why that should not be 95 percent. My understanding is it is made 90 percent because 10 percent was taken off to meet the expenses of administering this law. It seems to me that 10 percent is more than is necessary and I do not see why they should not get 95 percent.

The CHAIRMAN. Isn't 5 percent given to the States?

Mr. ELIOT. No exact percentage is given to the State, but under title III an amount which is somewhat less, probably than 10 percent is allotted to the States. I think it will turn out that 8 to 10 percent is allotted for payment to the States under a different title. It is not an exact 10 percent, but I think it is probably more than 5 percent.

Senator HASTINGS. Is that paid over to the States?

Mr. ELIOT. Yes.

Senator HASTINGS. For what purpose?

Mr. ELIOT. For the administrative costs, not for the grants to the unemployed.

Senator GERRY. How much is it estimated that 10 percent will bring in?

Mr. ELIOT. It is very doubtful, because it depends a good deal on business recovery. It will be different each 3 years, but when the tax is collected, 10 percent of the full tax might still be \$60,000,000. The appropriation under title III is, I think, for \$49,000,000. That is something less than 10 percent.

Senator HASTINGS. Mr. Chairman, would it disturb you much to turn to title III to see what that does?

Mr. ELIOT. That is page 16. The appropriation is in section 301.

The CHAIRMAN. \$49,000,000 a year.

Senator HASTINGS. Is there any provision here about how that should be distributed?

Mr. ELIOT. That is to be distributed as I think section 302 indicates, as the Board determines to be necessary for the proper administration of such law during the year for which the appropriation is made.

The CHAIRMAN. Dr. Witte, do you think this 90 percent could be raised? You have studied it from every angle.

Mr. WITTE. Administration costs is 10 percent or better. This is not the expense of the Social Insurance Board; this is the cost of actually administering the law in the States. You will require 10 percent. Our Wisconsin law contemplates 10 percent. The New York bill has 10 percent. The Washington and Utah bills, I think, have 10 percent.

Senator HASTINGS. And the theory is that the tax upon the employer shall be more than 3 percent; it shall be enough more to pay the expense of administration of the law.

Mr. WITTE. No, not more than 3 percent, Senator. It is offset. A State which levies a tax of 2.7 percent may have that offset, provided it has exactly the same coverage as the Federal law. The employer gets credit for 90 percent of 3 percent. If the employer pays to the State 2.7 percent, he gets the full credit to which this bill entitles him. It will not be more than 3 percent, 10 percent of which is for administration.

Senator HASTINGS. Take for example, a concern with a million-dollar pay roll a year, paying to the Federal Government \$30,000. Now if the State government taxes that concern 3 percent of that million dollars, it will pay to the State \$30,000 and get a credit of \$27,000, so that it actually is paying \$3,000 in the form of a tax. That is correct, isn't it?

Mr. ELIOT. That is right.

Mr. WITTE. Yes, but the State does not have to charge him 3 percent if it wants to. The State may provide to charge him only 2.7 percent. We have now four laws that have been enacted this year on unemployment insurance, New York, Utah, and Washington, and the State of New Hampshire unanimously passed an unemployment insurance act, the House of Representatives passed the act unanimously this past week, and the Senate is expected to pass it this week, and the State of California is expected to pass an unemployment insurance law. It is favorably reported in that State at this time. All of those contemplated the 3-percent rate. The effect is that which you said, but the State could get by with a 2.7-percent rate if it wanted to.

Senator HASTINGS. Why not let the State bear its own burden and give the corporation or the employer who pays the tax a credit of a hundred percent? I do not see why the Federal Government wants to get mixed up in the question of what it costs the State to administer that particular law, and putting some social security board in the position where it can allow one State 7 percent and some other State 5 percent, and some other State 3 percent, and what not? I do not see the point of it. I do not see the point in not allowing a 100 percent and let the State bear its own expenses. Can you clear that up for us?

Mr. WITTE. Of course, one reason, very frankly, is for constitutional reasons we do want to collect some tax.

Senator HASTINGS. All right.

Mr. WITTE. That is very necessary, sir.

Senator HASTINGS. I see the point now, Mr. Chairman. All right.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT [reading]:

CERTIFICATION OF STATE LAWS

SEC. 903. (a) The Social Security Board shall approve any State law submitted to it, within 30 days of such submission, which it finds provides that—

(1) All compensation is to be paid through public employment offices in the State;

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

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

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

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

Senator HASTINGS. Now, unless the State law makes all these provisions then the Federal Government keeps the tax it has collected.

Mr. ELIOT. That is right [reading]:

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

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

Senator BLACK. What is the object of (1), section 903? Why does all that have to be paid through public employment offices?

(Discussion off the record.)

The CHAIRMAN. All right, Mr. Eliot, you may proceed.

Mr. ELIOT [reading]:

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

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

UNEMPLOYMENT TRUST FUND

SEC. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment trust fund", hereinafter in this title called the "fund." The Secretary of the Treasury is authorized and directed to receive and hold in the fund all moneys deposited therein by a State agency from a State unemployment fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal Reserve bank or member bank of the Federal Reserve system designated by him for such purpose.

Senator HASTINGS. Mr. Eliot, before you go any further, do I understand that the money collected by the State from the employer shall be paid into this fund?

Mr. ELIOT. It is turned over into the fund simply as a trust fund upon which the State can draw at any time.

Senator HASTINGS. It is paid into the fund?

Mr. ELIOT. Yes.

Senator HASTINGS. It is collected by the State; the State levies a tax upon the employer and pays that money over to the Federal Treasury and it goes into this fund?

Mr. ELIOT. Yes; into this trust fund upon which the State can draw at any time.

Senator GORE. And that is the only thing that can be done?

Mr. ELIOT. That is right.

Senator GORE. I want to offer an amendment that the banks in the State where it is paid shall have the preference right to take that money when they put up Government bonds to secure it.

The CHAIRMAN. What would be the objection to that?

Mr. ELIOT. The objection to that, sir, would be the very fundamental one which the House Ways and Means Committee agreed with, that unless the money is controlled by the Government you would have this situation: At a time when unemployment is increasing and things are on a downgrade towards depression, that is the time when more money will be needed to pay unemployment benefits, and if each State merely invests its money as it sees fit, at the very time

when you are trying to keep values up, the securities which the State has invested its money in will be dumped on the market, having exactly the wrong effect from that which is desirable.

Senator GORE. That will not apply if you require the bank to put up Government bonds. I think the money ought to be kept in the State for State usage. If the money is not required in the State, then the plan in this bill goes forward automatically. If there is a local demand for it, it ought not to be kept here in Washington for somebody to do something with it here.

Mr. ELIOT. Mr. Beaman has asked me whether you mean that the money should be loaned to the banks in the State by the Treasury, or the money should be handled simply by the State as it sees fit.

Senator GORE. There should be an obligation on whoever handles the fund here to give the bank the preference right to take it whenever they put up a Government bond.

Mr. ELIOT. The banks in each State?

Senator GORE. Yes.

Mr. ELIOT. Up to the amount deposited by that State?

Senator GORE. Yes, sir.

Mr. ERB. If I may make a statement, it seems to me that the proposition amounts to requiring the Secretary of the Treasury to buy these bonds from the banks in the particular State.

Senator GORE. Not at all. It simply insures that the money will remain in the State if there is a local demand for it in the State. There is a lot of complaint about the banks not loaning money. If this goes in as it is, it diminishes the resources available for them. There could not be any objection to that, I think.

The CHAIRMAN. You want the money, instead of staying here in the vaults, to be deposited in the banks of the particular State in which it is raised, provided there is a Government credit for it?

Senator GORE. Yes. Let the banks of the state have the preference right to take the money if they put up Government bonds to insure it.

Mr. BEAMAN. You mean borrow the money from the fund?

Senator GORE. It amounts to that.

The CHAIRMAN. The Treasury gets an interest on their deposits in the various banks, but that would not go to the State bank, it would be put up in certain depositories that are set up.

Senator LA FOLLETTE. I do not quite understand, Senator Gore. What do you have in mind? Do you have in mind that this tax is to be paid into the Treasury?

Senator GORE. Yes.

Senator LA FOLLETTE. Say Oklahoma paid in X amount of money; then do I understand that you want that money put on deposit in the Oklahoma banks?

Senator GORE. If they want it and if they will put up Government bonds.

Senator LA FOLLETTE. You mean that they would buy Government bonds with that money?

Senator GORE. No, Senator. Here is what I had in mind: These banks now are all loaded to the guards with Government bonds. This is about the only market there is. If there is a shortage of money in Wisconsin, or in Oklahoma, for local purposes, or if the banks stand in need of more than they have got, let them at least have the option

or the preference of borrowing this money by putting up the very securities that this bill requires the money should be invested in.

Senator HASTINGS. They do not borrow it?

Senator GORE. It is deposited.

Senator HASTINGS. They deposit it in the name of the Federal Government?

Senator GORE. Yes.

Senator HASTINGS. And in order to guarantee that the Federal Government can get it when they draw on it, they place with the Federal Government the Government bonds.

Mr. ERB. May I ask in that connection, what rate of interest would the banks be required to pay to the Federal Government?

Senator GORE. Whatever is current and prevailing in the States for public deposits.

Mr. ERB. The point I wish to make is this: If the fund is invested as provided in the bill, the State will obtain the average rate of interest payable on United States bonds. The procedure suggested by the Senator will result in the State losing the difference between the interest paid on the bonds and the interest on deposits. For example, the bonds pay 3 percent which will go to the banks and the bank in turn pays only 1 percent for the use of the money on deposit, so the difference between the 1 percent and the 3 percent would be a loss to the State.

The CHAIRMAN. Would it satisfy you, Senator Gore, if this money, as it is turned into the unemployment fund and before it is invested, can be deposited back in the State until the investment is made with the fund? I know you may probably make an investment, but there may be a time when this money will just be in the vaults and during that time it can be in the States, providing the States put up securities.

Mr. ERB. Under this law, the money must be invested, must yield the average rate of interest. If the Treasury cannot go out in the market and purchase bonds, it must then issue special bonds, so the moment the money is handed to the Secretary of the Treasury it must earn such interest.

Senator GORE. Your point is that the State banks would have to pay as much interest on the deposits as the fund would have drawn if invested in the Government bonds here?

Mr. ERB. Yes.

Senator GORE. I do not object to that.

Mr. ERB. My only point is, then there would be no benefit to the banks, because they would be earning the same amount on the bonds. It would be just as beneficial to the banks to sell the bonds.

Senator GORE. Of course they can sell the bonds. They could now. If these banks dump the bonds on the market, where would the price go?

Mr. ERB. I was talking particularly of the sale to the Secretary of the Treasury under this act.

Senator GORE. I see your point. There could not be any objection.

The CHAIRMAN. You have a talk with Mr. Bell on that point and let us get a report on this in the morning.

Senator METCALF. Mr. Chairman, will you turn back to page 53, line 12, where it says, "less favorable to the individual than those prevailing for similar work in the locality." With our cotton mills shut down in all our little villages, and they will probably never start

those cotton mills again, you want to give them something. They will never get work in that locality. Is that a fair criticism?

Mr. ELIOT. I do not quite understand the criticism, sir. If the man is a skilled mechanic of one sort or another and has no training, no aptitude for any other work, and there is no other work available if it is a one-industry town, and he is out of work, he presumably would be entitled to his unemployment compensation benefits as long as he holds himself ready to take the job in that industry when it revives.

Senator METCALF. It says "similar work in that locality."

Mr. ELIOT. That means if there is similar work in that locality, but at wages half as great as the normal wages in that locality, he does not have to accept that work; he can stay on the unemployment compensation rather than take a job which is unfavorable to him in comparison to the other workers in the same locality.

Senator METCALF. Then as long as he stays in that locality and does not go out and try to take a job somewhere else he is going to have a dole?

Mr. BEAMAN. It is not a similarity between the job he turns down and his old job. All this paragraph (5) says is that the State cannot deny me unemployment compensation if, for instance, I am a carpenter and lose my job as a carpenter and I am now offered a poor job as a bricklayer. I can decline to accept the job as a bricklayer and still get my compensation if the wages that are offered me for bricklaying are less than the wages similar in the locality for bricklaying.

Senator LAFOLLETTE. Substantially less.

Mr. BEAMAN. Yes.

Senator BARKLEY. They cannot take advantage of him because he has been thrown out of some other work and give him less than he ought to be entitled to in a new job.

Mr. BEAMAN. That is right.

Senator METCALF. Would not that encourage him not to get another job? Would not the "locality" keep him in the same place?

Mr. ELIOT. The "locality" refers to similar work. If he lives in Providence and he is offered a job in another State, take a larger State, for instance, suppose he is in Buffalo and he is offered a job in Albany, the "locality" which is referred to is the place in which he is offered the job, and if the job he is offered in Albany pays only half as much as similar jobs in Albany, he can refuse the job. Whether the State can compel him to leave the locality and seek work in some other part of the State, would depend on the State law.

Senator GORE. As long as he is out of work.

Mr. ELIOT. As long as he is genuinely out of work.

Senator GORE. Is not that limited to some period of weeks?

Mr. ELIOT. That would be so, because the State funds would not grow big enough to pay him for a long period. The four State laws that have been enacted average about 15 weeks of unemployment.

Senator GORE. This has no limitation at all.

Mr. ELIOT. That is up to the State, Senator.

Senator GORE. The State puts them on the roll indefinitely throughout the remainder of eternity?

Mr. ELIOT. No, sir. If the State did that, the State fund would run out very rapidly. The United States Government would not come to the rescue of the State fund under this bill. The State benefits and the length of time which they should be paid would have to be keyed by the State itself to the amount which it raised.

Senator HASTINGS. I propose at some time to offer a substitute for title VIII, the unemployment insurance. The effect of it is this, that the Federal Government will appropriate for unemployment insurance out of the general fund, \$1 for each inhabitant in each State of the Union on condition that the States will add to it \$2 for the purpose of unemployment.

Senator BARKLEY. You mean an annual amount?

Senator HASTINGS. An annual amount. The Federal Government then may make such conditions as it pleases. It may write in there, if it wants to, all these conditions. It would be very much more reasonable to write it in then, because the Federal Government is itself contributing some money. It will be in a position to demand that the State do it in a certain way. Now, I think that is within the Constitution. It maintains the States' rights, it encourages the States to adopt this kind of a law, instead of forcing them to do it as we are undertaking here.

The CHAIRMAN. We can take that up tomorrow, and I hope we can vote on all these provisions and report this bill.

The committee will recess until 10 o'clock in the morning.

(Whereupon, at the hour of 12 noon, the committee recessed until 10 a. m., of the following day, Thursday, May 16, 1935.)

[CONFIDENTIAL]

SOCIAL SECURITY ACT

THURSDAY, MAY 16, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10 a. m., in the Finance Committee room, Senate Office Building, Senator Pat Harrison presiding.

Present: Senators Harrison (chairman), King, George, Walsh, Barkley, Gore, Costigan, Bailey, Clark, Byrd, Lonergan, Black, Gerry, Keyes, La Follette, Metcalf, Hastings, Capper.

Also present: Middleton Beaman, Legislative Counsel, House of Representatives; Thomas H. Eliot, Assistant Solicitor, Department of Labor; Edwin E. Witte, executive director, Committee on Economic Security; D. W. Bell, Treasury Department; Joseph P. Harris, assistant director, Committee on Economic Security; L. H. Parker, chief of staff, Joint Committee on Internal Revenue Taxation.

The CHAIRMAN. Where did we leave off?

Mr. ELIOT. We left off half way through section 904.

The CHAIRMAN. All right, continue to read.

Mr. ELIOT. I will start with (b) on page 55. It was during the reading of that section that Senator Gore suggested the amendment. [Reading:]

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

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

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

(e) The fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit.

quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the fund for the quarter ending on such date.

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

ADMINISTRATION, REFUNDS, AND PENALTIES

SEC. 905. (a) The tax imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections.

(b) Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under this title for such taxable year. Each such return shall be made under oath, shall be filed with the collector of internal revenue for the district in which is located the principal place of business of the employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Md., and shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title. The Commissioner may extend the time for filing the return of the tax imposed by this title, under such rules and regulations as he may prescribe with the approval of the Secretary of the Treasury, but no such extension shall be for more than 60 days.

Mr. BEAMAN. Mr. Chairman, under this bill, the way it stands, in the case of any deficiencies, interest will be charged at the rate of 12 percent a month. I think in connection with title VIII it was agreed to make it 6 percent instead of 12 percent, and I think that should be done here.

The CHAIRMAN. You want to do that here?

Mr. BEAMAN. I think so.

The CHAIRMAN. Without objection, the same amendment will be made in this case as in the other case.

Mr. ELIOT (reading):

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

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

(e) At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed 6 months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

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

INTERSTATE COMMERCE

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

The CHAIRMAN. Why was that put in there?

Mr. ELIOT. Because, sir, the powers of the States to regulate matters which pertain to interstate commerce is one which can be delegated to the States by the Federal Government.

Senator GEORGE. To regulate interstate commerce?

Mr. ELIOT. If the States wish to cover industries which are operating in interstate commerce they cannot do so unless the Federal Government expressly authorizes such coverage by the States, and the feeling was that unless this provision was in here, many industries in all the States would be entirely exempt from State regulation of the type proposed here.

The CHAIRMAN. Has that provision been placed in the other legislation?

Mr. ELIOT. The court opinion in the railroad rate case indicates that is the result of the Federal Government divesting itself of such power. [Reading:]

DEFINITIONS

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was 10 or more.

Mr. BEAMAN. Mr. Chairman, this provision has given us a great deal of trouble in trying to work out some scheme by which evasions of the tax can be prevented. You will note that the tax only applies to people who employ 10 people for 20 weeks. Now, obviously a man can get himself out of the tax.

The CHAIRMAN. Twenty weeks? Twenty days, you mean.

Mr. ELIOT. In different weeks.

Mr. BEAMAN. In different weeks. Obviously he can get out of the tax by failing to work for 20 weeks or for employing less than 10 people. He can do that by a system of subcontracting. If, for instance, he has 12 employees he can split them up under three subcontractors possibly. He can get out of the 20 weeks' provision by possibly taking in a new partner, have a new entity every 20 weeks, and can possibly evade the 10 employees by organizing a subsidiary corporation. For instance, if I own stock in a shoe factory employing 15 people, I can organize a sales subsidiary and have 9 men in my factory and 6 men selling, to get out of the tax.

The CHAIRMAN. How would you cure it?

Mr. BEAMAN. We worked over it, worked over it, and worked over it, and to no conclusion, and our recommendation to you gentlemen is, that the effort to try to stop it up would cost the Treasury more than the tax it gets out of it. If the State follows this up and its unemployment insurance law covers employers of the same number, it of course, is much more vitally concerned with the matter than the Federal Treasury is, and I think it can be counted on to prevent evasion in the way it sees fit.

Of course the easy way would be to cut down the number of employees from 10 to such a lower number that there would be no inducement or possibility of evasion. That, of course, is the easiest way to do it. If you fix it so that it is only three employees, probably there would not be any possibility of any evasion. Of course, if you made it

20 instead of 10, it is just that much worse. The higher the number of employees the more the opportunity for evasion.

Senator WALSH. You recommend that it be lowered?

Mr. BEAMAN. Senator, of course the policy as to whether you should have it four, or ten, or twenty, or a hundred, that is none of our concern. It is simply and purely as an administrative problem that we most highly do recommend it.

Senator WALSH. What is your view, Mr. Eliot?

Mr. ELIOT. I do not want to be any more in the position of suggesting policy than Mr. Beaman is. I am, of course, heartily in agreement with him. If loop holes are to be covered up, the more you cut down the number from 10 the better.

The CHAIRMAN. What was the provision in the original bill?

Mr. ELIOT. Four.

Mr. BEAMAN. Four for 13 weeks.

Mr. PARKER. There is not much danger if you go as low as four. If you make it four, there will be no substantial tax evasion.

The CHAIRMAN. Would there be any objection to making it four for 13 weeks?

Mr. BEAMAN. Of course the question of the number I suppose is merely as to what class of employees you want to cover. The question of the 13 weeks as against the 20 weeks, is of course, a question of policy, but it has an added question of policy in it. The reason for making it 20 weeks, was, by and large, to exempt the canners.

The CHAIRMAN. Without objection that will be made 13 weeks and 4 employees. You think that is the best way to handle it?

Mr. BEAMAN. Yes.

Senator GEORGE. That takes in the canners, you say?

Mr. BEAMAN. Twenty weeks probably would exempt the canners. The lesser number of weeks probably would include them.

The CHAIRMAN. Why should canners be exempted any more than anybody else? I have got a lot of them in my State too.

Mr. PARKER. The people that do not work steadily, I do not know how you can handle the unemployment situation very well, if it is just seasonal. If it is a canner that works 18 weeks, I think there is considerable force to it.

The CHAIRMAN. All right.

Mr. ELIOT (reading):

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

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

- (1) Agricultural labor;
- (2) Domestic service in a private home;
- (3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States.

The CHAIRMAN. Is there any need for changing that provision?

Mr. BEAMAN. No, Senator. Number (3) that he just read is an entirely different matter from the similar provision in title VIII in which you made a change yesterday.

The CHAIRMAN. This ought to be included?

Mr. BEAMAN. Senator, let me tell you about it. The reason for the exemption here is not so much the administrative difficulty which led the House to make the exemption in the other place, the question here is a combination of policy and constitutional law. The situation

is this: Under the decisions of the Supreme Court, a person performing service within the maritime jurisdiction of the United States is not subject to the regulation of the States. The Court held that a State could not include in its Workmen's Compensation Act a person working within the maritime jurisdiction of the United States. Not only could the State not do it, but it was beyond the power of Congress to permit the State to do it. In that case in the Supreme Court, Congress had attempted to do that very thing, and the court held it could not do it. The result is if you make the vessel owner, the employer, pay this tax on the members of the crew of his vessel, he can, by no possibility, get the credit from the State, because the State law requiring him to place money in the State unemployment fund would be unconstitutional as applied to him. Therefore, the effect of taxing the vessel owner here is to make him pay 3 percent in the Federal Treasury with no possibility of getting any credit against it. The Ways and Means Committee thought that was not what they ought to do, therefore they made this exemption. It is a totally different proposition from the proposition in the other title.

Senator BLACK. How could that be taken care of?

Mr. BEAMAN. It could be taken care of by a Federal law for unemployment compensation. I think some people want to do that. That could not be done in this bill. It would take an awfully long time to write that into this bill.

The CHAIRMAN. All right, Mr. Eliot.

Mr. ELIOT (reading):

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother.

Senator BLACK. Mr. Beaman, would you mind if somebody supplied a brief on that point, the point that you have just discussed?

Mr. BEAMAN. *The Knickerbocker Ice Co. v. Stewart*.

Senator BLACK. It is based on that?

Mr. BEAMAN. Yes.

Senator BLACK. What is the citation?

Mr. BEAMAN. I have forgotten the citation.

Mr. ELIOT (reading):

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

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

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

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

(e) The term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation, all the assets of which are mingled and undivided, and in which no separate account is maintained with respect to any person.

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

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

RULES AND REGULATIONS

SEC. 908. The commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title, except sections 903 and 904.

The CHAIRMAN. Now the other is the grants to States for aid to the blind.

Mr. ELIOT. We haven't read title III. It is only on three pages, back on page 16 in this draft. It is the companion title to the title which has just been read.

The CHAIRMAN. All right.

Mr. ELIOT. In many instances it repeats the language.

The CHAIRMAN. Yes.

Mr. ELIOT (reading):

TITLE III. GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION
ADMINISTRATION

APPROPRIATION

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

PAYMENTS TO STATES

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

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

Senator WALSH. Going back to page 16, line 21, is not the language there, "such other factors as the Board finds relevant" pretty strong and pretty large power?

Mr. ELIOT. I think that language was used because it would be impossible, as the Ways and Means Committee felt, to spell out all the factors that might be relevant, such as the geographical size of the State. If the State was very large and sparsely populated, the cost of administration would be more than otherwise. I grant you it is fairly wide power. [Reading:]

PROVISIONS OF STATE LAWS

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

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

(2) Payment of unemployment compensation solely through public employment offices in the State; and

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

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

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

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

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

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

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

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

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

Senator BLACK. Who determines whether they have declined to pay in a substantial number of cases?

Mr. ELIOT. If the refusal to pay in any substantial number of cases is brought before the Social Security Board, the Board would then have the power to determine that their refusal to pay was in violation of their own State law.

Senator BLACK. In other words, it transfers the right of these people to have their case tried in court, it puts it in the Board here in Washington?

Mr. ELIOT. No, sir; I do not think it does that at all.

Senator BLACK. If they find the State has declined in a substantial number of cases, to pay these benefits under their own law, it permits them to hold up the payments.

Mr. BEAMAN. It simply means if they violate their own laws.

Senator BLACK. Suppose they insist they have not violated the law. Then this Board determines whether or not they have violated the law, and whether or not they will withhold the payment.

Mr. ELIOT. That is because these State plans must be carried out as approved, if the States are to get the money.

Senator BLACK. I certainly object to any part of it which takes away from the courts the right to determine whether they are entitled to compensation, and transfer it to a board up here. Of course the courts could pass upon it, but even if the courts down there should hold that they should not pay him and the board up here held that they should, then the board could pay him the money.

Mr. BEAMAN. They could mandamus the board to pay it.

Senator BLACK. Why should they be given the power which would require them to mandamus the board? In other words, what this does at the top of page 19 is to provide if the State declines to pay in a substantial number of cases—and the board will decide what is a substantial number—it does not make any difference what grounds

they decline to do it on, for the board here can decline to pay them any more money until the State complies with the interpretation of this board.

Mr. BEAMAN. I think, Senator, you will agree that the words "entitled thereto under such law" means, as a matter of law, not what the Board says, but what they are entitled to under the State law.

Senator BLACK. I think it also gives the Board the jurisdiction of determining whether or not it is under that law, and whether or not they are complying with the law.

Mr. BEAMAN. Only in the first instance. The determination is not final.

Senator BLACK. It does not provide for any appeal.

Mr. BEAMAN. It does not need to. In other words, our view is that the Board has the authority only to stop payments when, as a matter of law, there has been a denial in a substantial number of cases of compensation to people who are, as a matter of law, entitled to it under the State law. Now, naturally, if the Board thinks that is so, it can stop it, but all the State has got to do is bring a mandamus and the court will pass on it.

Senator BLACK. It will have to come up to Washington and bring a petition here for mandamus? My judgment is even then this Board's action would be final, when you give them the right absolutely to withhold funds.

Mr. BEAMAN. If you put in here a line that is not here, then I agree with you. If you said the "individual who, in the opinion of the Board, was entitled to such compensation", then I think your position would be absolutely right.

Senator BLACK. It says

The Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied—

Mr. BEAMAN (interposing). That is right.

Senator BLACK (continuing reading):

that there is no longer any such denial or failure to comply.

Mr. BEAMAN. That is right.

Senator BLACK. I move to strike out that section, the one on page 19. I do not believe the Board ought to have any such power.

Senator LA FOLLETTE. I certainly hope that will not be done, Mr. Chairman, because otherwise it takes away from the Board any right to make certain that this Federal money which is being collected on the basis of a Federal tax, that the law which the State has adopted and approved, is being carried out. There might be flagrant violations of it. Of course I hesitate to advance a legal opinion, but it seems to me just on the statement, on the face of it, they would not be denied the right to review any arbitrary action by the Board in the courts in a mandamus proceeding.

Senator BLACK. I call your attention to (2) where it says:

the failure to comply substantially with any provision specified in subsection (a).

In other words, this money could be withheld if they did not give them the right to have a fair trial before a fair tribunal. This goes still further. Even if they give them a fair trial before a fair tribunal which is set up in compliance with their request, then if the Board reaches the conclusion, as set out in section 1, that in a substantial

number of cases they have not given them all that they are entitled to, that amounts to a refutation and an extension of the rights granted for failure to comply with sections 1, 2, 3, 4, 5, 6, and 7, under subsection (a) on pages 17 and 18. They have got all that you ask for in number 2, "a failure to comply substantially with any provision specified in subsection (a)." If you look at subsection (a) you will see it has 8 provisions, and one of them is they must give a claimant fair trial.

The CHAIRMAN. Why is not (1) included in (2)?

Mr. BEAMAN. A State could comply with all the things in (1) to (6), inclusive, and still arbitrarily deny compensation to people that the State law said should get it.

Senator BLACK. But you could not arbitrarily decline to give them a fair hearing before an impartial tribunal.

Mr. BEAMAN. No, sir.

Senator BLACK. Because it is provided they must do that. After they give them that fair trial before a fair and impartial tribunal, and they have to do it to get their money, why should this Board also have the power to decline to give them the money because they think the States haven't paid them as provided by law?

Senator LA FOLLETTE. Assuming they gave them a fair trial before a partial tribunal and then this agency that was administering this in the State should arbitrarily refuse to pay the people and say they had not given this thing a fair trial?

Senator BLACK. All right. Look at (2), you have provided there—payment of unemployment compensation solely through public employment offices in the States

If they decline to make payment after they have complied with this provision, then the money could be withheld under section (2).

Senator LA FOLLETTE. (2) is simply the manner in which payment should be made.

Mr. BEAMAN. If they pay anything at all, they have got to do it that way.

Senator BLACK. It says payment is the—

methods of administration as are found by the Board to be reasonably calculated to insure full payment,

And so forth. They have the right in there to provide the regulation for full payment. What I am objecting to is after they have complied with all these things and then say that they can withhold the money, because they do not pay it after they have given them a fair trial. I do not think that is proper.

Senator GERRY. What does an impartial tribunal mean?

Mr. BEAMAN. That means a tribunal that is impartial.

Senator GERRY. How is it set up?

Mr. BEAMAN. It is set up any way you want to set it up, any kind of tribunal that they want, as long as it is an impartial one.

The CHAIRMAN. Of course it gives a good deal of discretion to the Board.

Senator COSTIGAN. Mr. Chairman, I hope this will not be stricken. If there are any abuses, let us find out what they are.

Senator BLACK. I am perfectly willing, Mr. Chairman, to find out about the abuses, but I am not willing to have a power put into this Board to determine, after you had a fair trial in court, that the court

is wrong and then decline to pay, to hold up all the money, to suspend payment for months and not let people have the money. They can hold up the payment of every dollar going to a State because they decide in a substantial number of cases, they have not paid somebody who is authorized under the law to be paid, even though the court has previously held that they are not entitled to it.

Senator COSTIGAN. It is better to have a substantial number of cases than individual cases.

Senator BLACK. The Board determines what is a substantial number.

Senator COSTIGAN. I think it is quite clear that in many of these instances mandamus would lie to enforce a payment in the States probably.

Senator BLACK. Let us assume it would, Senator. Mandamus is a slow proceeding. In the meantime you have held up the money. If the State did not happen to have enough money in the treasury to supplement it, you would deprive those who are entitled to the insurance from getting it, even under the mandamus case.

Senator KING. Senator, it seems to me there must be some authority in the Federal agency to determine whether the terms under which it will make a grant are complied with, and it is presumed that they will act wisely and honestly, and if they determine that a substantial number of individuals within a State, or within a district, have not been treated as the law requires, it would seem to me there ought to be some power in them to withhold payment.

Senator BLACK. Senator, I do not object to what you say, if it is amended so as to say, after a court has determined that they are entitled to it and then they decline to pay, that is quite a different thing, but this does not say any such thing. This says that even if the court had decided on it, the agency up here would have the power to withhold payment of the entire State allotment.

Now they say you can mandamus them. Conceding that you could—

Senator COSTIGAN. You mean you would be willing to accept "a denial in a substantial number of cases where the impartial tribunal has determined it"?

Senator BLACK. Certainly. I have no objection in the world to that.

Senator LA FOLLETTE. Suppose that the State law made a provision for this impartial tribunal which, I understand, would have to be set up before the plan could be approved; that would be State law, would not it? I mean, whatever tribunal they set up would be the tribunal to pass upon the cases?

Senator BLACK. That is right.

Senator LA FOLLETTE. I do not see how the contingency could arise that you suggest, because (1) is limited to the denial in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law. Does not that confine the Board's action to situations where your impartial tribunal as set up under the State law declared, let us say, that 500 people were entitled to compensation and, for some reason or other, the State agency declined to pay the awards under that tribunal?

Senator BLACK. No. (2) does. No. (2) would take care of that, in my judgment, or no. (1) would. If it is thought that if no. (2) did not,

no. (1) would if it would be amended so as to provide if the State failed to make payment after it had been judicially determined, or determined as provided herein, that the people were entitled to it. But what I object to, suppose the judicial tribunal determines they are entitled to the money, still under no. (1) the Board would have the right to cut off the entire allotment to the State. That is what I am objecting to:

The CHAIRMAN. It has been suggested here that it read:

(1) A denial in a substantial number of cases of unemployment compensation to individuals entitled thereto after award by the State tribunal.

Senator BLACK. I have no objection in the world to that. I think that is perfectly right.

Senator COSTIGAN. Do you see any objection to that?

Mr. BEAMAN. Senator, I am simply pointing out that I do not think that carries out the policy that is behind this. Of course, your policy I am not concerned with. Let us assume this tribunal, in violation of its own law, refuses an award.

The CHAIRMAN. You do not want here, Mr. Beaman, to veto the action of the courts with reference to a board, do you?

Mr. BEAMAN. The understanding of this thing is that the Board would simply stop the payment if the State had refused to comply with its own law and was denying the benefit to people who are entitled to it under their own law. The State would have ample remedy by mandamus.

Senator COSTIGAN. In other words, if they failed to pay these people, then they could stop the whole payment to everybody in the State.

Mr. BEAMAN. It is not the payment to everybody in the State, Senator, but all this is is the payment of the administrative costs to the State in carrying out this plan. We say, "We will not give you money to pay your administrative costs if you are not paying compensation under your own law."

Senator COSTIGAN. Does this relate solely to administrative costs?

Mr. BEAMAN. It relates solely to administrative costs. Title III deals with the payment from the Treasury to the States of a sufficient amount to pay the expenses of administration of their laws.

Senator BLACK. It says, "payment to any State."

Mr. BEAMAN. This is only under this title, Senator.

Senator LA FOLLETTE. This relates to the Federal Government's contribution to the State's cost of administration.

Senator BLACK. I am perfectly willing to concede it is not important under those conditions. However, I still think the principle is wholly wrong.

Mr. HARRIS. I think it should be called to your attention that in the Ways and Means Committee here this was put in. It was not in the original bill. It was to make sure that the Federal agency here would not have the power to cut off the State if in the operation of these conditions some single individual in that State might be cut off, so the words there, "a substantial number of cases", definitely limits the power of the Federal agency in the State. It diminishes the power, rather than increases it.

Senator BLACK. I am opposed to the principle. I am not insisting on my amendment. If it did hold up the whole thing, I would insist on it.

The CHAIRMAN. I though it did hold up the whole thing. We will proceed.

Mr. ELIOT. Do you want to read the "blind" title that was put in yesterday?

The CHAIRMAN. Yes.

Senator GERRY. What page?

Mr. ELIOT. Page 62 of this latest print, Print No. 3. [Reading:]

TITLE X. GRANTS TO STATES FOR AID TO THE BLIND

APPROPRIATIONS

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

STATE PLANS FOR AID TO THE BLIND

SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports.

The CHAIRMAN. Before you go into that, Mr. Bell is here. We called him here with reference to this matter that was advanced by Senator Gore yesterday.

Mr. Bell, Senator Gore yesterday suggested, with reference to this contributory old-age pension, that this fund, that is collected in the various States and sent to Washington here and kept earmarked in this unemployment fund, with reference to investments, he suggested that some provision should be written in here that those in authority should loan this fund back to the State banks, or the banks in the particular States, up to the amount that was collected from that State, and, of course, that the banks put up Government bonds as security, and so forth; in other words, give them prior rights, provided they pay as much as the fund might obtain through some other investment. I think that is the situation. There was a good deal of controversy about it. He wanted, first, to put it into a depository in the States and keep it there, and then it was pointed out to Senator Gore that this fund must be invested, and then he changed his suggestion to perhaps letting the banks have it and pay as much interest, provided they put up Government securities and so on. What is your answer to that?

Mr. BELL. I take it, he means to deposit the money with the banks, not as an investment, but as a Government deposit.

Senator KING. Is that the entire fund, or just the fund contributed by the States?

Mr. BEAMAN. The fund is exclusively State money, and no Federal money in it whatsoever.

Senator GEORGE. That is the fund that the State must contribute that is sent to the Treasury. The proposition is, that they want to give the banks and trust companies within that State the privilege of handling that fund, with certain provisions.

Mr. BELL. I think that is it. I think they want a deposit back in the State in which it is collected, somewhat similar to the Postal Savings deposits. The law requires it to go back into the community from which it is taken. Under the banking law, the member banks, the Federal Reserve System, cannot pay interest on demand deposits, and this certainly has to be a liquid fund. I do not think you can tie it up in a time deposit. The Federal Reserve Board is required to fix the interest rates on time deposits. It is now not more than 2½ per cent. So that you might have your deposits in the banks earning less than you would get by the investment in Government securities. If it comes into the Treasury and is invested in special securities, as authorized by this section, the funds then are no longer the property of the trust fund, they become Government funds.

Of course the Secretary now has authority to redeposit public funds in banks throughout the country, but, so far as possible, we are getting away from any kind of a time deposit in keeping all of our funds liquid, and the only funds we are depositing at the present time are the ones representing purchases of Government securities at the time of sale.

I think this might be rather hard to operate in the light of such a provision. I think the fund probably will never get large and the money may never stay in the fund for a very long period.

Senator LAFOLLETTE. Mr. Bell, what advantage would this be to the banks?

Mr. BELL. It might have a temporary advantage.

Senator LAFOLLETTE. I mean, if the fund is going to be turning over all the time, I cannot see what advantage it is going to be to them.

Mr. BELL. Supposing the State puts up \$1,000,000 in the fund, and we say to the bank from which that fund is drawn that we will create a Government deposit, and, instead of transferring the money to Washington, they merely transfer a credit on their books. We might draw that money out—not \$1,000,000 at a time, but \$100,000 at a time—and pay it back to the States over several months instead of doing it all at once.

The CHAIRMAN. You can do it by regulation now.

Mr. BELL. We can do it by regulation now, so long as it is Government money. There might be some question as to trust funds.

Senator CLARK. There would be some of the deposits in the State banks.

The CHAIRMAN. As I understand you, Mr. Bell, on Government funds like this, where they are placed there on demand, you cannot, under the law, pay any interest.

Mr. BELL. That is right.

The CHAIRMAN. But where they are time deposits, you can pay. But it is your opinion that putting the money in this fund, the fund would accumulate better on investment, and in other things, rather than put it on time deposits.

Mr. BELL. I think it would work more smoothly.

Senator LA FOLLETTE. My only point was, Senator, it seems to me these funds would be very active.

Mr. BELL. That is right.

Senator LA FOLLETTE. Some State deposit funds do not turn over so fast.

Mr. BELL. It would be a temporary advantage to the bank only, as I see it.

The CHAIRMAN. All right.

Senator KING. What objection could there be to authorizing the Government, under such rules and regulations as may be prescribed, to make deposits of the funds in State banks, with those in authority receiving such evidences of the solvency of the banks, and so on, as they may deem necessary for the protection of the fund? There ought to be some authority, it seems to me, for them to make investments, and, for that matter, to leave with the State banks some of the funds under such rules and regulations as they deem proper, where they will get reasonable interest and where the funds will be adequate.

The CHAIRMAN. What do you think of this suggestion about writing a general provision "under such rules and regulations as prescribed", and then making it mandatory?

Mr. BELL. My objection would be the interest. It would have to be a demand deposit. If these funds are to be as active as indicated, they have got to be liquid.

Mr. BEAMAN. Mr. Chairman, in that connection, may I refresh your recollection, as pointed out yesterday, and Mr. Bell referred to it this morning, that the theory of this section of the House bill is this: This money which the State has collected, if it were not covered in this section here, would be kept by the State in its own unemployment fund and presumably invested by the State to bring the largest return possible.

The CHAIRMAN. Until it was transferred to the fund up here.

Mr. BEAMAN. I say, if there were not any such section, the State, of course, having collected the money from the employers and employees, or wherever it got it, would establish an unemployment fund for the payment of compensation to people unemployed, and would naturally invest that fund in the most advantageous way possible, so as to make it as solvent as possible.

Now, this bill takes away that right of the State to invest its own money and keep it where it wants to, and puts it on deposit with the Treasury of the United States as a trust fund; and in order to play fair with the State, it provides that this money, every penny of it that is not needed for immediate use—for current withdrawals, to pay back to the State, to pay compensation with—every penny of it not so needed by the State must be invested; and the bill provides that the rate of interest shall be the average rate of interest at that time borne by United States obligations. Now, the moment you provide that you can do anything else with the money, you can do something which will produce a lower rate of interest, you are, to that extent, diminishing the benefits to the fund and to the States' money which you are taking away from them.

The CHAIRMAN. Senator Gore, Mr. Bell is here. He has made a statement to this committee with reference to your suggestion about the fund. Do you desire to ask Mr. Bell any questions on this thing?

Senator GORE. Will you state the substance of what you have already said?

Mr. BELL. I have said, Senator Gore, that this fund will probably be very active and for that reason must be kept very liquid. Under the Banking Act we cannot create the demand deposit and require the banks to pay interest on it; and if it is a time deposit, under the present regulations of the Federal Reserve Board, we cannot collect more than 2½ percent interest on it. So if we create a time deposit, we must get less interest on the fund in the bank than we would by investing it in Government securities. I think it would be wrong to create a time deposit, because you might have it tied up.

Senator GORE. How many millions do you think this would amount to in the long run?

Mr. BELL. I do not know.

Senator GORE. It is quite a good many, is it not?

Mr. BELL. I should not think it would be a large fund; certainly not anywhere near as large as the old-age pension funds.

Mr. PARKER. It will only be between one and two billions, probably. It is not as large a fund as under the old-age benefits. There you have a very large fund.

Senator GORE. Is not this the State unemployment fund?

Mr. BELL. This is the unemployment trust fund deposited by the States.

Senator GORE. My thought was it was going to run up more than any of the others.

The CHAIRMAN. What would you say with reference to the old-age-benefit fund?

Mr. BELL. Well, there is nothing collected from the States on it except taxes from the citizens, and they come into the Treasury just like any other taxes, and the money that comes into the fund, the appropriation is made by Congress.

The CHAIRMAN. That is the Government assistance.

Mr. BELL. Those are Government funds, and the Secretary has authority to redeposit the public moneys in the banks.

The CHAIRMAN. You have got plenty of authority for that now?

Mr. BELL. Absolutely.

The CHAIRMAN. Do not you think it ought to be deposited, as far as possible, back in the States from which it is collected?

Mr. BELL. Well, possibly I should defer to somebody else on that.

Mr. BEAMAN. You are talking about the old-age reserve account?

The CHAIRMAN. Yes.

Mr. BEAMAN. You have the same proposition there. This bill provides that the appropriations made shall be sufficient, on an actuarial basis, at 3-percent interest, to make the payments. If you do not get 3 percent, the fund is not solvent. If you loan any substantial amount of it to the banks without any interest at all, your fund is not solvent.

Mr. BELL. I certainly do not think you ought to deposit the fund back in the banks without any interest.

Senator WALSH. In other words, to carry out the purposes of this law, the money would have to be deposited in the State banks at 3-percent interest?

Mr. BELL. That is right; as a fund, Senator—if you do it as a fund. If you do it as public funds, that is not true. The way that would operate, if you get in more money than is needed to carry on the or-

dinary operations of the Government, and the Secretary would use that to retire the debt. If he sold public-debt obligations to this fund, that gives the Treasurer the funds that were appropriated. Do I make it clear? He takes that and retires public-debt obligations in the market.

Senator GORE. Here is what I had in mind, Mr. Bell: You say this would only amount to a billion or two, and I apologize for discussing trifles; but I thought, Mr. Bell, since this money is paid in by the several States, there should be a provision in this law, even if it be regarded as a sort of acknowledgment, that these States doing this—that if the banks in the States actually need the money, that Congress might, at least, give the Secretary of the Treasury the power to meet that demand. Is there some fundamental objection to that?

Mr. BELL. I think the question is one of investment.

Senator GORE. Do you want to ignore the States and withdraw this money from them, and fix it so that the States, no matter how dire the need of the banks may be, could not get the money, so that the Secretary of the Treasury cannot put it back under any circumstances? Is that essential to the enforcement of this golden scheme?

Mr. BELL. You would want the banks to pay interest, would not you, Senator?

Senator GORE. Certainly; and the same rate of interest that you draw on your bonds.

Mr. BELL. Well, then, you would have to create a time deposit.

Senator GORE. Certainly you would. You do not mean, with \$2,000,000,000, the turnover would be so rapid that you could not make time deposits?

Senator HASTINGS. This will run into 30 or 40 billion dollars.

Mr. BELL. No.

Senator GORE. He said 1 or 2 billion.

Mr. BELL. This is the unemployment insurance.

Senator GORE. He says it does not amount to much.

Senator WALSH. Why not submit the proposition to the Secretary of the Treasury and have a written communication from him on the subject?

Senator HASTINGS. Has not it been estimated, by 1980 that this fund ought to amount to 40 or 45 or 50 billion dollars?

Mr. BEAMAN. No, sir; that is the old-age reserve account, not the unemployment trust fund.

Senator HASTINGS. Well, we are talking about both.

The CHAIRMAN. We have been talking about both. We went from one to the other. If it can be done, Mr. Bell, will you talk to the Secretary of the Treasury and give us a memorandum on it, so that if we get it reported out the amendment will be offered?

Mr. BELL. We will be glad to.

The CHAIRMAN. Proceed, Mr. Eliot, with this proposition.

Mr. ELIOT (reading):

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

(1) Any residence requirement which excludes any resident of the State who has resided therein 5 years during the 9 years immediately preceding the application for aid and has resided therein continuously for 1 year immediately preceding the application; or

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

PAYMENT TO STATES

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

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

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

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

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

OPERATION OF STATE PLANS

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

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

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

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

ADMINISTRATION

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

DEFINITION

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

Senator CLARK. Mr. Chairman, I have got a proposition here that I would like to have the sense of the committee taken on. I do not know that this is drafted in the proper form. If the committee should see fit, in principle, to adopt it, I would like the Legislative Drafting

Service to prepare the amendment. There are several different amendments to two or three sections simply constituting one amendment, having to do with the proposition that the Chairman mentioned yesterday, of authorizing employers that have approved insurance systems, to be approved by the authority set up under this act, where the benefits are at least equal or superior to the benefits provided for in this act, to continue subject to the regulation and approval of the authority set up here. If I may, I will just read this.

Senator HASTINGS. How was it left yesterday, Mr. Chairman?

The CHAIRMAN. We just left it open, Senator. We have taken no action on that proposition.

May I say, Senator Clark, this is the last proposition, this provision that relates to the blind. When we read that we will have finished the reading of the bill, and then we can take up the various propositions, amendments, and so forth.

Mr. ELIOT. Shall I read, Senator?

The CHAIRMAN. I think it would be a good idea to finish reading this provision. The action of the Committee yesterday was to incorporate that provision. That was the sentiment.

Mr. ELIOT. Those requirements are the same as in the old-age assistance. The only thing that is left out is the age requirement, in view of the committee's action. The payment section, section 1003, is exactly the same, with equal matching, as the payment section for assistance to aged individuals.

Senator KING. It is equal?

Mr. ELIOT. It is equal, the Federal Government paying one-half.

Senator KING. Why?

Mr. ELIOT. That was the action of the committee yesterday.

Mr. BEAMAN. The section provides that the matching, for payments to individuals who are permanently blind and not inmates of public institutions, be up to \$15.

Senator KING. May I ask Dr. Witte, if I may interrupt, Mr. Chairman, whether your observations shows the importance of this measure? I have in mind, of course, my own State. We have always been interested in the blind. We have taken care of them. We have a school for the blind. It is properly cared for in their appropriation bill, and I am sure my State, unless other States were asking for it, though we are a poor State, would ask for Federal aid in that manner.

Mr. WITTE. There are 22 States now that have blind pension laws. In 18 of those States, taking the latest reports we could not get the data for 4 of them, there were on the pension rolls as blind pensioners not quite 23,000 people, and those 18 States sent \$5,000,000 last year. That is the latest year. It is not last year, but the latest year we could hurriedly get together.

The CHAIRMAN. Does that include blind institutions?

Mr. WITTE. No, sir; these are blind pensions. The census shows in 1930 there were 64,000 blind people in this country. That is perhaps an understatement.

Senator WALSH. What is the average rate of those pensions in those States?

Mr. WITTE. The average pension paid was \$20.85 a month. It ranges very much higher in some of the States. The State of California pays \$33 a month.

Senator LONERGAN. That is blind people outside of institutions?

Mr. WITTE. Blind people outside of institutions. Most of them have limitations of 40 years of age, some 50, some even 60, but of all the blind people, 40 percent are over 65 years of age. You know more than two-thirds of all the blind people are over 45. In most of these States nearly all of the blind people—not all of them literally, but nearly—are pensioners. In the State of Missouri, for instance, the census discovered 3,879 blind people, and there were 4,326 pensioners. That is due to the fact that the census missed many of them. There are only 100,000 people in the United States that the census found to be blind. That means that the census taker, in coming to the home, very frequently he takes it for granted that there are no blind people unless he happens to see a blind person.

The CHAIRMAN. When was the last census taken?

Mr. WITTE. In 1930.

Senator COSTIGAN. What is the present estimate of the number in the United States?

Mr. WITTE. The census shows 64,000. The people that have studied the problem estimate there are probably 100,000. The census would indicate 52 persons per 100,000 people. The estimate is that it is perhaps 1 to 1,000 people, which would make quite a much larger number. Actually, in the States where the blind pension laws are in operation, there are more people in receipt of pensions than the census lists as blind.

Senator GORE. Do you regard that as strange?

Mr. WITTE. No, I do not regard that as strange.

Senator GORE. Do you not know, that a lot of people when you pass this sort of legislation, claim to be blind in order to get a pension?

Mr. WITTE. I presume that might occur, Senator.

The CHAIRMAN. Doctor Witte, what would you think about making it "permanently and wholly blind"? Some people might claim to be blind when they might not be wholly blind.

Mr. WITTE. Even that requires a definition as to what is wholly blind. I think that would not hurt the bill by any means, but there still would be the interpretation by the States.

Senator HASTINGS. Could not we leave that to the States?

Senator GORE. How much would it amount to?

Mr. WITTE. These figures indicate that if you want to match the State contributions for the 22 States that now have a system—and one State, I understand, enacted a law, the State of Washington—you will need at the present time \$3,000,000. That is about one-half of the total cost. Ultimately the costs will approximate, I think 9 or 10 million dollars, on a half matching basis. The situation is that of all the blind people only 15 percent reported themselves in the census of 1930 as being gainfully occupied, in comparison with a good deal more than 40 percent of the total population. These are old people mainly, and blindness is, especially for the older people, a very serious handicap.

Senator HASTINGS. Mr. Chairman, I was wondering whether we ought to write into this amendment some provision to the effect that this provision for taking care of the blind should not in any way interfere with the old age pensions. My thought was that that might

be shifting them from one to the other. The pension people might say, "Well, we can put you off on the blind fund."

The CHAIRMAN. Why could not you provide they should not receive two pensions?

Senator HASTINGS. I think we might provide that the age of 65 might apply to old people, whether they were blind or not, and limit this provision to those under 65. My thought was, perhaps the best way to fix it was to leave the person 65 and over under the regular pension plan, and apply the blind provision to those under 65.

The CHAIRMAN. What is your reaction to that?

Mr. WITTE. I think that would not quite work, Senator, because in very many of these States they have special commissions for the blind and you have a different administrative agency charged with handling it.

The one thing that gives me concern, Senator, is the 26 States, or 25 now, that have no blind pension laws. In those States there may be some reason for making a provision for blind people that are not quite 65 years old yet, as in the English law, because the situation is that the blind people unquestionably are very needy. Now most of the Southern States do not have blind pension laws.

Senator KING. Dr. Witte, may I interrupt you?

Mr. WITTE. Yes.

Senator KING. In many States—I know it is the case in my own State—we have a provision for the blind, we have in each county a home for the aged and for the indigent, and when I say in each county, that is true in the important counties, and provision is made by taxes, by the counties supplemented by a State tax—I know in the county where I lived for a number of years there were several blind that were cared for there. Now, is it not true that many of the States that may not have blind pension law, that the blind are cared for there through taxation in infirmaries and otherwise, not alone by charitable institutions but by contributions from counties, from cities, and from the State themselves?

Mr. WITTE. The blind pension laws are primarily for the care of blind people outside of institutions just like the old-age pensions.

The CHAIRMAN. Doctor, what do you think about the suggestion that one who goes on the old-age pension roll shall not obtain this blind pension, or if he obtains the blind pension he shall not obtain the other?

Mr. WITTE. I think that is rather sensible.

The CHAIRMAN. What do you think, Mr. Beaman?

Mr. BEAMAN. Senator, I have nothing to do with the policy. It seems to me it would present enormous administrative difficulties. The security board would have to keep a record of the name of every pensioner in the State to see that he was not getting the two pensions.

Senator GORE. If a man passes the age of 65 let him automatically go on the Federal roll, the old-age pension roll.

Mr. BEAMAN. Of course the State may want to keep him on the other roll.

Senator KING. It occurred to me that that must be left to the State. May I say, it seems to me it might not be fair to automatically, when the man reaches a given age, for him to be automatically transferred from one to the other, because if he is blind he might want to receive more than the old-age pension.

The CHAIRMAN. That is quite true. That would be the burden of the State. If the State board would give both the blind and the old-age pension, they could do it.

Mr. WITTE. There is one further consideration, I think. There is not an old-age pension law in this country that does not provide that the pension shall not be payable to anyone who receives public relief in any other form. If he receives public relief in any other form, he cannot get old-age pensions. That is the provision, I think, of every old-age-pension law in the country.

Senator KING. Would it be true with respect to many of these who are getting \$50 and \$60, some more per month from the Government as ex-service men, or Spanish-American War veterans?

Mr. WITTE. There are some States that say "Except military pensions." I think the majority of them do not so provide. The majority take military pensions into consideration. If a person receives a military pension he cannot receive old-age pensions.

Senator LA FOLLETTE. Mr. Chairman, we have got to put in some amount of money here.

The CHAIRMAN. How much would you say?

Mr. WITTE. Three million dollars will take care of the situation, on the basis of the present States only.

The CHAIRMAN. \$3,000,000.

Mr. WITTE. Yes; for the first year. If you contemplate that this will encourage States that have not now passed such laws to pass them, you would need more than \$3,000,000.

The CHAIRMAN. What would you say as to the other years?

Mr. ELIOT. It is drawn the same as the other titles are. All you need to put in is the first year.

The CHAIRMAN. Without objection, the \$3,000,000 will be written in for the first year.

Senator GORE. This does not contemplate that the same individual would receive the old-age benefits and this blind pension, both?

Mr. ELIOT. That is up to the State, Senator.

Senator GORE. The Federal Government would not match both, would it?

Mr. ELIOT. The Federal Government would match whatever the State gives as an old-age pension and as a pension to the blind, up to \$15 for each month. That is assuming, of course, that the State would be giving two pensions to one individual.

Senator HASTINGS. It is limited to \$15 for any one person for any one purpose?

Mr. ELIOT. A total of \$30, that the State gave to an old blind man.

Senator HASTINGS. No, no; we do not intend to do that.

The CHAIRMAN. That is what we suggested, whether or not you want a provision written in here that it shall not be paid to those over 65 years of age.

Senator HASTINGS. I think the general understanding of the committee yesterday was that we merely wanted to make the same provision for the blind, more or less regardless of age, that we were making for those over 65.

The CHAIRMAN. That was the question.

Mr. ELIOT. Mr. Beaman pointed out if you write it so a man who receives one cannot get the other, that would mean the social-security board here in Washington would have to have the name, the amount

of the pension, and so forth, of every pensioner in the United States, which is almost an administrative impossibility.

Senator HASTINGS. It seems to me all we have to do is to make the State certify that nobody is receiving more than \$15 for either purpose.

The CHAIRMAN. Without objection then, the provision will be written. Mr. Beaman, draw it accordingly.

Senator KING. Let me ask you another question. Probably it is unnecessary, but I want to ask it again, because I have in mind an old man who was an Indian war veteran, who lives in Lehigh, Utah. He was getting—I have forgotten whether it is \$30 or \$50 a month. Would he come under these provisions, and would he, under these provisions, get an additional pension to that which he is getting now?

Mr. ELIOT. That is entirely up to the State, sir. If the State has enough money to spend more than is necessary, I mean to give additional pensions to people who are already getting pensions, the State can do that.

Senator HASTINGS. Is not it safe, Senator King, to leave that to the States?

Mr. ELIOT. If the man is getting what is virtually an old-age pension, even though it is an additional amount, we would only match up to \$15, not beyond that.

Senator KING. I am speaking in regard to the war veterans.

Mr. ELIOT. I took it that your question also applied to the blind.

The CHAIRMAN. All right; let us proceed.

Senator GORE. Mr. Chairman, I want to say one word about this. I think if any class is to receive pensions, I think a better case can be made out for the blind than can be made for almost any other class. Now, if you include the blind, you are not going to say "no" to the deaf and dumb, you are not going to be able to say "no" to the ones who have lost a leg or an arm.

Now, I have two objections to this kind of legislation. One is on constitutional grounds. I think the people who framed the Constitution limited the powers and functions of the General Government to regulating our relationship with foreign powers, to regulating our relationship between the States. I cannot, by any stretch of the imagination, imagine the framers of the Constitution ever contemplated that the Government of the United States would pension a blind man in the State who had rendered no military service to the Government and no civil service to the Government.

The other objection to this sort of legislation is more fundamental than that. I do not think the Government has the power to do it under the Constitution. If it has power, I am not convinced that it ought to exercise it. Here is the reason: I think there is fundamental antagonism between this sort of legislation, social security, and the struggle for existence. I think the struggle for existence accounts practically for all the progress the human race has ever made or will make. You cannot have the struggle for existence and have security both. The two things cannot coexist. You are making a choice here and now as between the two. Other countries have embarked on this scheme in ancient times and in modern times. I think it is a mistake. Every country that has ever ventured on it has been ruined by it. I think it is fundamental, and I think it is inevitable. There is not any escape when you start this business. You fix it at 65 now, and it will be 60 in the next few years.

A bill has been introduced in the House to pay \$50 a month to everybody over 50 years of age, and for everybody over 21 years of age—it is a mere coincidence that it corresponds with the voting age—everyone over 21 years of age who is infirm and permanently retired from industry is to receive a pension of \$50 a month, and the bill provides that he shall not be required to stigmatize himself by proving that he is not a pauper.

You are including the blind in this. The party that administers the law in one State, where the blind get a pension of \$25 a month, talked to me about it once and made this remark. She says, "Whatever you do, do not ever give the blind a pension." She was administering the law. She said: "From that day forward you cannot get them even to try to do anything. That ends it." That was not surprising. That is just human nature, and you can figure that in the abstract, but she made this point, which had not occurred to me, she says that every family where there is a blind person, when this \$25 check a month goes into that family, it gets to be the central item in the family budget; and the rest of the family skirmish around and tries to scoop up enough which, added to the \$25, will enable it to eke out an existence. She says it reacts not only on the blind person but on each member of the family. I feel I ought to say that. I make no further protest to this than I would make to any other. If you make any exception, the blind ought to be the exception. I think, however, it is the first exception, but it is not the last exception.

Senator WALSH. How about the mentally deficient that are a great burden to poor families who have imbecility in children?

Senator GORE. I think the State ought to make provision for the physically infirm and indigent. It is the duty of the State. It is not the duty of the Federal Government to take care of the physically indigent, unless it is the result of military service for the United States, and I might go so far as to say "civil service", where it occurred in the performance of duty; and, of course, then the Government ought to do it.

Senator HASTINGS. Senator George, did you introduce some amendment yesterday on this bill?

Senator GEORGE. I hope to do it.

Senator HASTINGS. I had printed a substitute.

The CHAIRMAN. In this unemployment-insurance proposition they have laid down one standard. You recall the testimony where the Wisconsin plan was presented, and other plans were presented. It occurred to some of the members of the committee, I know it did to me, it ought to be more elastic than the bill as passed in the House. If one State wanted a certain plan, such as the Wisconsin plan, which was in operation, it ought not to be deprived of following that plan.

Senator KING. May I make an inquiry now? We had before us, at the early hearing, a gentleman representing someone—what is his name? Folsom?

The CHAIRMAN. Folsom, of the Eastman Kodak Co.

Senator KING. Yes. It seemed to me the presentation which he made justified that policy, in contradistinction to any other.

The CHAIRMAN. That is one of the suggestions he made. Senator La Follette's amendment carried out that suggestion.

Senator GORE. Mr. Chairman, I want to allow all the elasticity possible in the local systems. I want to offer an amendment. It is an amendment to this bill, the same as I offered before to the bonus

bill, authorizing the President to pay the bonus out of the 4.8 billions, in his discretion. It is not mandatory.

I will change the amendment I offered here some time ago with regard to the debts. It simply authorizes and directs the President to resume negotiations with the foreign countries, to see if any money cannot be found that is coming to us from those debts.

Senator HASTINGS. Senator Gore, does it give him the right to settle the debts without coming to Congress?

Senator GORE. No, sir; it does not permit him to make any change in the total amount of the debts at all, it just asks him to renew the effort to make collections. There is a very strong argument, and a sentiment, that we could urge on those countries to pay this money, that it is to go to the soldiers that fought for them. Besides that, there is the psychological situation over there now. There is a strained relationship between those countries, which I thought might unloosen some payment now that they would not be disposed to make when the conditions were not so acute. At least we ought to offer them that opportunity.

The CHAIRMAN. The committee understands this amendment. It is the same as it was before. All in favor of the amendment say "aye." Do you want a roll call on it?

Senator GORE. Yes. This to pay the bonus.

The CHAIRMAN. Does that deal solely with the bonus?

Senator GORE. Solely with the bonus. It leaves it discretionary with the President.

Senator BYRD. If the bonus is paid, it is paid out of the Public Works bill?

Senator GORE. Suppose you read the first paragraph there.

Senator BYRD. It gives the discretion to the President to make the payment?

Senator GORE. It is not mandatory. It authorizes the President to make the payment if he sees fit.

The CHAIRMAN. Call the roll.

(The roll call showed the following vote: Ayes: Senators George, Byrd, Metcalf, Hastings, Gore. Noes: King, Walsh, Barkley, Costigan, Clark, Lonergan, Gerry, Guffey, La Follette, Capper, the Chairman.)

The CHAIRMAN. On this vote the "ayes" are 5, the "noes" are 11. The amendment is defeated.

Now, Senator La Follette, you may go ahead.

Senator LA FOLLETTE. Did we put in the amount in this other thing?

Mr. ELIOT. We put in \$3,000,000 for the main proposition there, there is still an amount blank for the cost of administration.

The CHAIRMAN. What do you suggest?

Mr. ELIOT. Perhaps 1 percent. That would be \$30,000.

The CHAIRMAN. \$30,000.

Senator LA FOLLETTE. What do you think about that, Dr. Witte?

Mr. WITTE. I see no great reason for any great expense.

The CHAIRMAN. Without objection \$30,000 will be written for the expenses of the proposition.

Senator LA FOLLETTE. Now, Mr. Chairman, in regard to this question of the two plans which have been set up in the four States that have thus far acted on unemployment insurance, as the com-

mittee probably knows, two of the States, Wisconsin and Utah, adopted the reserve-fund plan, and New York and Washington adopted the pool-fund plan.

Senator KING. Mr. Chairman, I leave my vote on this matter with Senator La Follette. I am for it.

Senator LA FOLLETTE. Now, as you know, the decisions in the Railroad Retirement Act seem to or did go partly upon the point of this pool fund plan. Therefore, it seems very obvious, aside from any other considerations, that provision should be in this law which will give equal opportunity for the States, as they come to decide upon the types of plans which they are going to adopt, to choose between the pool plan and the reserve plan.

Senator HASTINGS. Are those the only two plans that have been suggested?

Senator LA FOLLETTE. They are the only two that I know of. Dr. Witte is more familiar with that than I am.

Mr. WITTE. In the New Hampshire bill it is a combination of the two. It was passed by the House of Representatives and we are advised it will pass in the Senate this week. Under the law the New Hampshire bill also would be invalid, because the House bill requires the pooling in all instances.

Senator LA FOLLETTE. Of course one of the arguments for years in behalf of the reserve plan is it gives credit to employers after they have established their experience under the law for stabilization and continuity of employment. In other words, it offers an inducement by the lowering of rates after certain requirements have been fulfilled which those who support the reserve plan idea contend will help to induce employers, because it will be to their advantage to regularize and to stabilize their employment.

Senator HASTINGS. Is that the Wisconsin plan?

Senator LA FOLLETTE. That is the Wisconsin plan. Now, in order to carry that idea into the law—and incidentally I would like to recall that the President, in his message, when this matter was brought up, when he transmitted the report stated that moreover, in order to encourage the stabilization of private employment, Federal legislation should not foreclose the States from establishing means for inducing industries to afford an even greater stability of employment; and also the report of the Cabinet Committee advocated that the State shall have broad freedom to set up the type of unemployment compensation they wish.

Now, these amendments which I intend to offer have been drawn at my request by Mr. Eliot, and I think he has conferred with some of the people who have been interested and active in the administration of the Wisconsin Act, and also he has conferred with Dr. Witte, and I think, to some extent, with Mr. Beaman—although, as I understand it, Mr. Beaman has not come to a final determination, because he does not feel that he has had sufficient time to study these amendments. Before reading them I would like to ask Dr. Witte, with the permission of the committee, to make a statement concerning the objectives which they seek to achieve.

Mr. WITTE. The amendments, as the Senator has stated—I think there is practically nothing to be added to what the Senator has said, except this, that the Railroad Retirement Act decision, as you appreciate, and as was explained by the Assistant Solicitor General when

he appeared before you, has language in it which throws doubt upon the constitutionality of the pooled unemployment insurance fund. The Supreme Court decision at least suggests that the reserve type of law is the type of law that is at least more valid than the pooled unemployment insurance type of law.

All that the Senator's amendment does, in effect is to permit the States freedom of choice in that respect, whether they wish a pool law or a reserve type of law.

As the President has advocated, the type of unemployment insurance law that is adopted should encourage stabilization, the President has advocated that type of law.

The purpose is twofold: To permit this to go ahead to do that, and when they do that, and to the extent that they do that, to allow additional credit against the tax for employers that have built up adequate reserves, so they do not have to continue to build up reserves.

About half of the States that have had commissions on this subject have reported one way and half the other way. Some have a pooled fund, some have a reserve type. For instance, the commission of the State of Virginia reported for a reserve type of law. The commission in Massachusetts has reported a reserve type first, and this year's commission reported for a pooled fund, with a minority dissenting.

The CHAIRMAN. Would this amendment of Senator La Follette permit the New Hampshire law when passed?

Mr. WITTE. Yes, it would permit all types of laws.

Senator HASTINGS. Why should not we do just that?

The CHAIRMAN. I am in favor of it.

Senator HASTINGS. I am in favor of giving the State all the possible powers you can give it.

The CHAIRMAN. Why cannot we go ahead and dispose of that, gentlemen?

Mr. BEAMAN. There are two propositions, Senator. One is very, very simple. It requires a very small change. In other words, to carry out that part of Senator La Follette's amendment that seeks to leave it free to the States to do as they please, that is done quickly and easily. There is no question about that. I assume everybody wants to do that.

Senator HASTINGS. Is that not what you want to do?

Mr. BEAMAN. Sure. Everybody wants to do that. Senator La Follette's amendment, however, goes further and seeks to give credit to the employer for what he did not pay into the fund.

Mr. ELIOT. Mr. Chairman, that I am perfectly sure that Senator La Follette meant, when he said a State shall be able to carry out its own law, that the States should be able to have a reserve account, as Wisconsin does, and encourage stabilization of employment, as the Wisconsin system does. The idea would be that if the State allowed an employer, who, after some years, had built up his reserve to a very adequate amount, to reduce his contributions to that fund because it was so adequate, that then for the amounts by which that reduction was allowed the Federal Government would give him credit against his tax, just as it does allow him credit for the amount he actually contributes. Otherwise, if the State reduced the contributions, he would have to pay that much more to the Federal Government, and

his cash burden would be as much as it was, and there would therefore be no incentive for stabilization.

Senator LA FOLLETTE. It is our hope, and we are confident in Wisconsin that the plan which has been set up is going to be a great incentive for employers to work upon the problem of stabilization, and while I recognize the arguments that can be made for the pooled fund, there is a contradistinction from the reserve plan in that the pool plan requires no incentive from the employer, because he dumps his expenses in the general fund where all are carrying it.

Senator HASTINGS. What I was getting at, we ought to give the State an opportunity to adopt either of them, if it wants to adopt it.

Senator LA FOLLETTE. Senator, my point is, if you do not get this additional credit on the Federal tax, you remove the incentive for the employer to go ahead and try to regularize the business. Those of you who heard Mr. Folsom's testimony as to what was done in his particular industry in order to make this thing function, they have done all they could to stabilize and regularize the employment.

Senator HASTINGS. I would like to give the State all the power we can consistently give it in order to carry out the purpose of the act.

The CHAIRMAN. That is what this does.

Mr. ELIOT. That is what this is intended to do; yes, sir.

Senator LA FOLLETTE. At page 61, line 9, put in a period after the word "compensation", and strike out the balance of the paragraph, and insert [reading]:

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

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

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

(a) Guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks); and

(b) Gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties.

From which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

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

Then (p. 59, line 7), strike out "903 and 904" and insert "903, 904, and 910" (this is purely a technical amendment). Following this insert the following new section:

ALLOWANCE OF ADDITIONAL CREDIT

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

by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser.

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

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

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

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

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

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

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than 3 years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ percent of the total wages paid by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (1) compensation has been payable from such account throughout the preceding calendar year, and (2) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the 3 preceding calendar years, and (3) such account amounts to not less than 7½ percent of the total wages paid by him (plus the total wages paid by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

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

Senator COSTIGAN. Mr. Chairman, with due respect to the Senator from Wisconsin, there is one question I want to ask: Whether any of the lawyers here feel there is any constitutional question involved.

Mr. ELIOT. Senator, I want to say, and I know Mr. Beaman feels the same way, that while title IX as a whole does not seem so open to constitutional question as title VIII, there might be some question as to title IX also, and the inclusion of these provisions would undoubtedly be an added task imposed on those having to defend the title. How much of an added task it is would be hard to say. Some think it makes very little difference, and some think it makes a good deal of difference.

Mr. BEAMAN. I feel very much the same way. I attribute more weight to the constitutional difficulties presented by this amendment than Mr. Eliot. Obviously if you wrote a law that said the employer could get a credit for payment into the State compensation fund, if that State has a law which reads as follows—and then gave the text of the law—I think most any lawyer would agree that is bad. If you go to the other extreme you prepare something that is good. Just where you cross the line is impossible to predict.

As Mr. Eliot said, most any lawyer would agree that this certainly does not help those that are attempting to support the constitutionality of it, but rather the reverse. Whether it is enough to turn the balance no man can tell.

Senator LONERGAN. Is this guaranteed employment agreement compulsory under your amendment, or is that in accordance with the agreement between employer and employee?

Senator LA FOLLETTE. Under this amendment it would be in accordance with the State law.

Mr. ELIOT. The State law might, as some State laws and State bills do, permit a particular employer, with respect to all or some of his employees, to set up a guaranteed account.

Senator LONERGAN. That is a matter that is between the employer and employee?

Mr. ELIOT. Yes, sir.

Senator LA FOLLETTE. It would have to meet the provisions of the State law if they would get additional credit. This law has been on the statute books, and no employer in the State of Wisconsin has even moved to take it into the courts, and we have collected over \$5,000,000 during the last 2 years.

The CHAIRMAN. It seems to me like a very fair proposition to put in this optional provision. Without objection, the amendments suggested will be written at the proper place in the bill.

Senator LA FOLLETTE. I have one other amendment that I would like to offer.

The CHAIRMAN. Is it in that connection?

Senator LA FOLLETTE. It is in connection with another title. It is with reference to the retirement matter.

The CHAIRMAN. We will meet at 10 o'clock tomorrow morning.

(Whereupon, at the hour of 12:05 p. m., the committee recessed until 10 a. m. of the following day, Friday, May 17, 1935.)

[CONFIDENTIAL]

SOCIAL SECURITY ACT

FRIDAY, MAY 17, 1935

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met at 10:15 a. m. in the Finance Committee room, Senate Office Building, Senator Pat Harrison (chairman) presiding.

Present: Senators Harrison (chairman), King, George, Walsh, Barkley, Connally, Gore, Costigan, Clark, Loneragan, Black, Gerry, Couzens, La Follette, Metcalf, Hastings, and Capper.

Also present: Thomas H. Eliot, Assistant Solicitor, Department of Labor; Edwin E. Witte, executive director, Committee on Economic Security; Murray Latimer, chairman, Railroad Retirement Board.

Senator LA FOLLETTE. Mr. Chairman, I think there is one matter here that we might take up at the moment. I do not believe there is any objection to it. That is the matter of the question of a person who works after 65, regularly, not receiving the benefits. As I understand it, in the discussion we have had previously in the committee, most of the members seem to feel that that ought to be done. I understand that the draftsmen are working on the question if we could agreed on it in principle. Then they could work it out.

The CHAIRMAN. Mr. Eliot, let us get an explanation on that.

Mr. ELIOT. I think it has been brought up two or three times in the committee, and everyone seems to agree—

The CHAIRMAN (interrupting). They do under the bill?

Mr. ELIOT. They do under the bill. He gets the old-age benefit at the age of 65 or thereafter, even though he is still in employment, and the idea that has been advanced before and is advanced now by Senator La Follette is that a man should not get the Federal benefit after the age of 65 for any month in which he is regularly employed.

The CHAIRMAN. What was the argument for the House provision on that?

Mr. ELIOT. The argument was that as the bill was drawn there, if a man worked at all in the month, he would lose his whole month's benefit. If he worked only one day, he would lose the whole month's benefit; and that was too strict, and the House came to that question near the end of its consideration of the bill and realized that that was much too strict a provision; and, instead of trying to amend it, they struck it out altogether.

The CHAIRMAN. They really believed then, in principle that a man, when he got to the age of 65, should retire?

Mr. ELIOT. I do not know. You cannot tell at all what the principle was. They only knew that they all felt that to penalize a man by depriving him of a whole month's pension if he only worked a few hours in the month was too strict, and they cut it out.

The CHAIRMAN. What would you say?

Mr. ELIOT. I should say he should have a month's benefit withheld from him if in the month he was found to be regularly employed and in the service of another.

Senator LA FOLLETTE. In other words, it is unjust to prevent a person from doing casual work, but if he still goes on in his regular job, then he ought not to have his benefits.

Senator KING. Suppose he is not needy? Supposing he has accumulations from which he receives sufficient for his maintenance; would he still get benefits?

Mr. ELIOT. He would still get benefits under title II, as the bill has been passed by the House, because he has earned wages, and paid taxes.

Senator KING. What contribution has he made during his working period?

Mr. ELIOT. He has paid taxes regularly on his wages at the regular rates.

Senator KING. You mean under title VIII?

Mr. ELIOT. Yes.

The CHAIRMAN. Under the suggestion you made, suppose that a man had been paying these benefits all of these years and he is entitled to retire at 65, but he elects to go on for 2 or 3 years more. Then your theory is that during the time that he is regularly employed after 65, he should not draw these benefits, but when he does retire, if it is at 68, let us say, then he can come in and get them?

Mr. ELIOT. Yes.

The CHAIRMAN. That seems to me to be sound.

Senator METCALF. But he will be taxed right along?

Mr. ELIOT. No, sir; the present bill does not tax him after 65.

The CHAIRMAN. If he continues regular employment, why should he not be taxed?

Mr. ELIOT. Mr. Witte feels that he should be.

Senator KING. So long as he is employed in regular employment, he should pay the taxes, and when he retires he can get the benefit of the annuity, but I agree with you that if he works, as Senator La Follette said, just occasionally after he is 65, for a day or two, then he gets his annuity just the same.

The CHAIRMAN. Of course, if he continued regular employment, he ought to pay the tax, but if he continued regular employment and did not pay the tax he should not get the benefit.

Mr. WITTE. There would be this about it, that the employer also under the bill as it stands would not pay a tax, and instead of encouraging retirement, this would actually be a bonus to the employer. The employer under the bill has an incentive to keep on a man beyond 65. One of the very purposes in the retirement system is, of course, to make it possible to retire these older people.

The CHAIRMAN. Then why is it not best to fix the 65 age limit and provide that they should cease, except as to these exceptions?

Mr. ELIOT. The answer to that, if I may be pardoned, Mr. Witte—

Mr. WITTE. Certainly.

Mr. ELIOT. The answer to that would be this, that on page 50 there is a clause in italics saying that the service performed by an individual, if prior to the time of the payment of the wages therefor it had been established to the satisfaction of the Commissioner of Internal Revenue, under proper regulations under the title, that he had attained the age of 65 at the time of performing the service, is exempt in the definition of employment; which means that both the man that performed the service and his employer are exempt from taxation. And to carry out the idea that Mr. Witte just expressed would mean simply deleting that italicized section on page 50. That means the taxes would be paid by both regardless of the age, as long as the relationship existed of employer and employee.

Senator GEORGE. You would be really tying in section VIII with section II as an aid to constitutionality?

Mr. ELIOT. To delete that particular section would be very slight, but nevertheless a very slight aid toward constitutionality in creating a very slight discrepancy. It might help in saying that the two were separate.

Senator GEORGE. As it stands now, they would be considered separated?

Mr. ELIOT. It is just another indication of the tie-up between the two.

Mr. WITTE. This is really a very important matter, because this change made by the House at the last minute completely unbalances the balance between title II and title VIII. The original bill was unbalanced, and the President strongly objected to it because it would supply or involve a Government subsidy of over a billion dollars per year after 1980. This provision under which a man can draw his retirement and still keep on working will mean to again completely unbalance the system and will mean Government subsidies of over a billion dollars by 1980, due to the fact that although the provisions of this bill, men may retire at 65, and most of them perhaps will, a large number of them will not, and the experience of industrial pension plans—I think Mr. Latimer has the exact figures—is something of the sort that the actual retirement in the average case is about a year and a half later than the age at which they can retire. What you will do to this change that the House made, in the average case, you are paying a pension for a year and a half while the man also draws his pay; which is very costly to the Government and I personally do not see any logic in it. The President in his fireside address specifically mentioned the fact that a retirement system should provide for retirement, and this bill as it stands now does not. It pays an annuity although the man does not retire, and to pay such an annuity under such circumstances would be inconsistent with the objectives.

Senator KING. Would it unbalance the system if he should continue to pay the taxes and the employer continued to pay the taxes so long as he was employed?

Mr. WITTE. No; I think not. That is what should be done.

Senator KING. Suppose he went on for 2 years beyond the 65 years retirement age, and he paid his taxes out of his wages every

month, and the employer paid the taxes required, would that unbalance the system?

Mr. WITTE. No; it would not. That puts the thing into balance.

Senator GERRY. Of course it would have a tendency to have the employers try and get rid of him probably because they would still be paying, and he would be paying, and they would try and get a younger man in.

Senator LA FOLLETTE. That is one of the objectives, it seems to me, of a retirement plan.

Senator GERRY. I am not sure that I agree with that.

Senator LA FOLLETTE. Mr. Chairman, I move that it is the sense of the committee that the draftsmen prepare an amendment to provide that a person must not be regularly employed in order to receive pension; and I also move that on page 50 we strike out the italicized language beginning on line 14 and ending on line 20.

Senator GEORGE. Will you state just what you contemplate by that, Senator La Follette?

Senator LA FOLLETTE. What I am trying to do is first of all to provide that in order to receive benefits under this bill—

Senator GEORGE (interrupting). If after the age of 65 he continues to work regularly, he does not get his benefit?

Senator LA FOLLETTE. Yes.

Senator GEORGE. And is subject to the tax.

Senator LA FOLLETTE. And he and his employer continue to be subject to the tax as long as he is working for him in regular employment. That will put the fund in the better situation and also will retain some of the objectives of the bill.

Senator KING. I favor that.

Senator GEORGE. I am going to be perfectly frank about it. I think the bill as it stands is subject to very grave constitutional questions.

(Discussion off the record.)

Senator GEORGE. It seems to me if you do not pay the annuity or the benefit after 65 and the employee continues to work and you reimpose or continue the tax on him, and if you also continue the tax on the employer in that same instance, you are more definitely tying in your tax with title II of the bill.

Mr. ELIOT. Senator, I think I must bring to the attention of the committee—it just occurred to me—an answer to Senator George, that it is just the opposite to that unless you likewise increase the benefits in proportion to the wages earned after 65.

In title II a man receives benefits which are a percentage of the wages he earned prior to the age of 65. That is an incentive to retirement at 65. If what is proposed by Senator La Follette is adopted by the committee and the italicized paragraph is stricken out, that will have the effect of making a discrepancy between title II and title VIII in the bill and will aid the constitutionality.

The point would be—and I think I ought to bring it to the attention of the committee—you would be taxing under title VIII employees over 65, whereas under title II you would not be taking into account the wages they earned over 65 in measuring the benefit.

The CHAIRMAN. In other words, they do not get a proportionate benefit for these last 2 years over 65.

Senator GERRY. I want to get what Senator George's theory is—that the employer and the employee still pay after 65?

Mr. ELIOT. If he is working; yes.

Senator KING. That is the suggestion of Senator La Follette.

Senator GERRY. That the employer and the employee still contribute to the fund if he continues working after the age of 65.

Senator HASTINGS. Will you state that again?

Senator GERRY. After 65 the employer and the employee still contribute to the fund if the employee continues working.

Senator GEORGE. They still pay taxes. Whenever you say that they contribute to the fund, they still pay the tax.

Senator GERRY. Suppose your age limit in the future is decreased, then you are putting more people on the retirement list—which may happen in the future—and you are probably having men interfere more and more with other people working in other employment in the community. I am just wondering whether that is a sound policy.

Senator KING. Is it a sound policy for the Government at this time, with the limited experience which we have, to attempt at this time an annuity provision? I am very much opposed to it. I think that that ought to be deleted from the bill and give us time to think that over, and I hope that Senator George will submit his amendment.

Senator GEORGE. I think it ought to be deleted, too.

Senator KING. Cut this bill in two parts, and pass these things which are direct grants in aid of the States. No particular objection to that. Then take the unemployment and the other, where the Government itself is to become the tax gatherer and taxpayer and hold the bag and be compelled to hold the bag, and treat those in a separate bill. That is the logical and proper thing to do, it seems to me.

The CHAIRMAN. Well, we might vote on this proposition.

Senator BARKLEY. What is the proposition?

The CHAIRMAN. That at the age of 65, under Senator La Follette's amendment, that these men retire, but if they choose to proceed along, that the tax should be borne by the employer and the employee, but the benefits which come to them shall not be paid in the upper years after 65. That is the practical idea of it, is it not?

Senator LA FOLLETTE. In order to receive benefits after 65, the individual shall not be regularly employed.

The CHAIRMAN. Yes.

Senator GEORGE. If he is regularly employed for a stated period of a month or 2 months, or whatever you suggest, he should be subject to the tax.

Senator LA FOLLETTE. And does not get the benefit.

Senator GEORGE. How do you define "regular employment"?

Senator LA FOLLETTE. I have left that to the draftsmen.

Senator HASTINGS. Suppose a man is 65 and he is earning \$150 a month. If he takes any benefits under this act he must give up his position; is that correct?

Senator LA FOLLETTE. That is correct.

The CHAIRMAN. Except as to casual work.

Senator HASTINGS. It is up to him to make his decision. If I keep on and drop over dead sometime while I am earning \$150 a month, my family will get back not all that has been in for me, but

they will get back only that which I have paid in. This demonstrates to my mind the other principle which I think is sound, that that man's estate ought to get back all that he has paid in and all that is paid in for him.

Senator KING. Who would pay it in for him?

Senator HASTINGS. The employer. The employer has contributed two-thirds. The employer has contributed \$200 and he has contributed \$100. It is contributed for his benefit, and if he lived long enough, that would not be long enough to take care of him, but if he died it seems to me that his family ought to get the whole amount.

Senator BARKLEY. If he has not made himself eligible to draw out of the fund contributed by himself and by his employer, and he dropped dead, why should he by his death be entitled to get what the employer has paid in?

Senator HASTINGS. I do not think Senator La Follette's situation is practical unless you add that to it, because you have this man now and he has to figure it out. We will assume that he has been paying in for 45 years—

Senator BARKLEY (interrupting). Suppose he drops dead before he gets to be 65?

Senator HASTINGS. I want to confine it now to the situation where the man is 65 and he is earning \$100 a month instead of \$100, and under this bill he could get \$80. Suppose he could stop working and draw the \$80—

Senator BARKLEY (interrupting). In other words, he would try to keep on working and try to draw the \$80?

Senator HASTINGS. I think you will run into some difficulty with it, although I agree with Senator La Follette that if this thing is to be a practical thing, that you ought to offer some inducement for a man to quit work when he is 65 and give place to some younger man.

Senator KING. Do you see any insuperable objections or difficulties or injustices growing out of the plan suggested by Senator La Follette? Does it unbalance or throw out of equilibrium any features of the bill, Mr. Witte?

Mr. WITTE. It is necessary to put it into equilibrium, and I believe that there is no private pension system in the world or no national system that pays a man a retirement allowance while he is still working regularly. I think this House proposal is the first time that anybody has proposed a retirement system, assuming that this is a retirement system, in which a man will draw his benefit and still be permitted to work. As I understand Senator La Follette's amendment, it is to eliminate that very unusual sort of a situation that a man will draw a retirement allowance yet get his regular pay at the same time.

Senator KING. I have in mind the point which has been suggested during the colloquy here that it is rather advantageous, perhaps, to get rid of the older ones and give the place to the younger. Are the disadvantages which would arise from continuing a man in employment beyond 65 so great as to make it prohibitive, no matter how strong physically or mentally they may be or how competent, they continue for 2 or 3 years and to be continued in employment? They pay their share just the same as the others.

Mr. WITTE. They are not forced to retire. They can elect whether they get the old-age benefit or the regular pay, even under Senator La Follette's amendment, but as Senator Gerry stated, it would give,

of course, an incentive for the men to retire and, perhaps, for the employer to replace him with a younger man, and I think that is one of the purposes of the retirement system the world over. It is one of the purposes of industrial-pension systems set up by private employers to have a humane method through which the old people who are no longer at the top efficiency can be retired without being thrown on the bread line.

Senator KING. Is there anything in the bill covering a situation like this? Supposing a man wanted to continue and the employer wanted to get rid of him, although he were entirely competent, is there anything that will compel him to retire?

Mr. WITTE. No, sir.

Senator KING. The employer would be compelled to keep him?

Mr. WITTE. That is a matter of contractual arrangement whether he wishes to keep him or not. The employer does not have to keep him and he can keep him if he wants to.

Senator KING. At the age of 65, the employer can compel him to retire, is that right?

Mr. WITTE. He can compel him to retire in the sense that he can discharge him at 65, too, if he wants to. If he discharges him at 65, he is entitled to an old-age annuity.

Senator GERRY. The only thing is that the employer having to pay the tax may want to get rid of him when the man does not want to retire.

Senator BARKLEY. Of course, if you leave it absolutely to the employee, a man at 65 and getting a pretty good wage still feels that he would like to work somewhat longer, and if he does, he goes on and works 2 or 3 years at the wage which he is getting, which in every case is larger than the retirement pay which he gets. Such a man in that situation is at a great advantage over the man who must retire at 65 and go on retirement pay. If it is really to be a retirement bill and to put the pressure on to get people to retire at 65, there ought to be some modification of a purely optional situation with him that he can take advantage of to bring him the most money, to go on and work 3 or 4 more years at the higher wage and then retire and get his annuity.

Senator HASTINGS. There is nothing that prevents Army or Navy officers from taking other employment after retiring.

Senator KING. Many of them do, and at higher pay.

Senator HASTINGS. I know in the police department in the city of Wilmington they have no such conditions in their retirement. A man there retires, and the first thing he does is to go and get another job which pays him as much or more.

Senator KING. We have had men in the District of Columbia, and perhaps we have them now, getting \$6,000 or \$8,000 a year from the District, and at the same time getting their retirement pay.

The CHAIRMAN. Let us have a vote on this, gentlemen. Those in favor of this suggestion of Senator La Follette, that an amendment be properly drafted carrying out that idea say "aye." (Chorus of ayes.) Those opposed, "No."

The CHAIRMAN. The ayes have it. Draft the amendment carrying out that idea.

Senator BARKLEY. Do they know what the idea is?

Mr. ELIOT. I can repeat it if you want.

The CHAIRMAN. Yes.

Mr. ELIOT. After a man is 65, the present provision exempting him from the tax when he continues to earn wages shall be deleted, and he and his employer, even though he is over 65, if he is employed and earning wages, will continue to pay taxes as long as he is employed and earning wages. Furthermore, that no pension will be paid for any month to any old man if in that month he is regularly employed.

Senator COSTIGAN. Is there any element of final election about his position or decision?

Mr. ELIOT. No, sir. He can retire at 68 and begin getting his pension then.

Senator GORE. I am for that. I do not believe in compulsory drones, myself.

Senator GEORGE. From the standpoint of administration, if he works regularly one month and is out one month, and then goes back another month, how would it work out?

Mr. ELIOT. It would have to be by regulation. But if he held a regular job with one company for one month, and then was out for, let us say, the month of April, he would be entitled to the benefit for that month.

Senator GEORGE. Would the difficulties of administration be great?

Mr. ELIOT. They would be considerable. Probably if an affidavit were required to the effect that a man had not been regularly employed, it would perhaps cover 98 percent of the cases.

Senator HASTINGS. Do you think it is necessary to write in there anything more than "regularly employed"?

Mr. ELIOT. No, sir. I am sorry that Mr. Beaman is not here. He has already fixed that in one of the changes he made in one of the earlier drafts. Merely putting in the word "regular" in 2 or 3 places.

The CHAIRMAN. Did you have a motion to make, Senator Hastings?

Senator HASTINGS. I want to make a motion with respect to this annuity, that it be eliminated from this bill, the old-age pension.

Mr. ELIOT. We will have to know whether that means both title II, which pays the annuity, and title VIII, which represents the tax, or one of the two.

Senator HASTINGS. One follows the other.

Senator GEORGE. Would it not also carry title III?

Mr. ELIOT. No, sir; it has nothing to do with it.

Senator GEORGE. Would it carry title IX?

Mr. ELIOT. No, sir.

Senator GEORGE. It would only carry title II?

Mr. ELIOT. And title VIII.

Senator HASTINGS. I think that we ought to have a full vote on that question. I do not think we ought to pass that particular point.

The CHAIRMAN. You may have a full vote. We will give permission to any absent Senator who has not already signified how he wants to vote, to cast his vote on the proposition.

Senator GORE. Is that the phase that impounds all of this money?

Mr. ELIOT. It raises a tax, Senator, and then in title II there is an appropriation to an old-age reserve account in the Treasury which

will amount, in the course of years, to many billions of dollars. It will mount up. Perhaps 30 or 40 billion.

Senator HASTINGS. The purpose of my motion is to eliminate from this bill all of that which pertains to this elaborate annuity system set up in this bill with respect to taking care of old age.

Senator BARKLEY. In other words, your motion is to eliminate the old-age pension altogether.

Senator HASTINGS. Not by any means.

Senator BLACK. Before we vote on that, I want to ask Mr. Eliot if the bill in his judgment is written in such a way that these provisions are sufficiently separable from each other so that in your judgment if the Supreme Court should hold those particular titles unconstitutional, it would not affect the others?

Mr. ELIOT. Oh, certainly. I am not saying that titles II and VIII are so clearly separated that the Supreme Court would hold that those two titles are separate. I do not know anything about that, but certainly titles II and VIII could be held unconstitutional without having any effect on the rest of the bill. I think there is no question about that.

Senator BLACK. That is on the grant to the States as provided in the first title?

Mr. ELIOT. Title I would not be affected by any unconstitutionality as to title VIII.

Senator GEORGE. That is, you mean on the same ground?

Mr. ELIOT. I mean that if a taxpayer resisted title VIII in the courts and was upheld on the ground that title VIII was unconstitutional, that would not impair the validity of title I, and so forth.

Senator GEORGE. I think you are entirely correct about that. I think the same constitutional objections to title II and VIII would not necessarily have any bearing on the other portions of the bill.

Senator BLACK. I am sure of that, but I wanted to be sure that that was so clearly expressed in the bill that the whole measure would not be stricken out under those conditions.

Senator GEORGE. Senator Hastings has made this motion, which in effect brings up what I had proposed to offer as a substitute for titles II and VIII. Frankly and candidly, the substitute which I am offering in this present exact form is in my judgment open to constitutional objection. Very clearly—

Senator KING (interrupting). As is the bill itself.

Senator GEORGE. For another reason, I want to deal fairly and frankly with the situation, but I think it can be made as immune against constitutional attack as title II and VIII as they are in the bill at the present time, but I have not got that worked out very clearly in my own mind yet, and therefore I have not reduced it in my substitute to a written form—

Senator GORE (interrupting). You can just say that it is an emergency.

Senator GEORGE. I believe thoroughly that title II and VIII ought to be out of this bill, not for the purpose of defeating it or defeating the aims and objectives in title II and title VIII. The Senator from Delaware, of course, might want to eliminate them permanently and for all time. That might be his motive, but, irrespective of that, I think the motion is good, and I am going to vote for the motion because I think that titles II and VIII of this bill ought to be in a

separate bill for all practical purposes and for the purposes of enabling both the Senate and the country to very thoroughly digest this legislation and see what this really means. I think this is the most important legislation, barring none, that we have had, because with this legislation on the books and with the court's approval given to it you have set up then a permanent scheme under which there will be the constant effort to increase benefits and reduce taxes. There is not any other answer to it, and in the next half century we will have a situation on hand that will be far more disturbing than the bonus or anything else that we have to deal with now, because those things are not necessarily continuous. They may be recurrent, but this is continuous. It goes right on. It may be sound and it may be that our experience may justify it. I believe that the objectives here ought to be realized. The substitute which I have in mind for title II and, of course, title VIII, goes along with it, is to put the burden on industry, but put the burden on industry with a definite congressional requirement as to just what they must do, and to put it on the individual industries which fall within it. It would not include all industries. My substitute does not undertake to include all employers. To my mind, it is not practical or physically possible to reduce that number below something like 50, or maybe it could fall on a smaller number of employees; that is, it could be made to apply to an employer who has less than 50, perhaps.

But for the reason that I thoroughly believe that title II ought to go into a separate bill, and that this committee ought to have the opportunity through a subcommittee of thoroughly studying and thoroughly digesting this question until January 2 of the Congress, I am going to support the motion made by the Senator from Delaware and to eliminate it from the bill.

I wish to make it perfectly plain that my purpose is to attain in another way, if after study a better way can be found and can be justified, the same objectives that are sought here. But for the reasons that I have stated, I think the bill ought to be segregated, and we ought to be content at this time with a general old-age provision and the aids in grant for maternity and child welfare and disabled children and public health, and so forth, and leave the committee free to give to this subject more thorough study than the committee has given to it.

I do not say or intimate or suggest, of course, that study has not been given to it by the President's committee and those who have been primarily interested in or especially interested in this kind of legislation. But I do think I can say that this committee has not given this bill the study that it ought to have, and I do not believe—and I know I am speaking the truth when I confine my present statement to myself—I do not believe that we thoroughly understand or that we thoroughly know just the ultimate effects of title II of this bill.

Senator KING. Mr. Chairman, I agree with what Senator George has said. When the bill was first up for consideration, I suggested then it ought to be divided, and I had in mind the point which has been made by the Senator from Delaware and the observations submitted by the Senator from Georgia. I want to take the liberty of reading to the committee here some views in regard to this matter. I hope I will be pardoned.

I may say that for several days I was ill and did not attend the hearings of the committee and the meetings; therefore I do not have in mind all of the discussions which have taken place.

I have in mind, and I am sure the Senators have, the presentation which was made by Mr. Jackson, one of the clearest and ablest witnesses, in my judgment, that appeared before the committee; and the views which Senator George has expressed, and I think those which I shall imperfectly delineate now, are views which in part at least met his approval.

1. The establishment of a compulsory annuity system for substantially all workers of the country is beyond the powers of Congress. While no citizen can bring an action to test the validity of the appropriations made in title II, the taxpayers, who are subject to the taxes imposed in title VIII, can get a decision upon the question whether these taxes are genuinely levied under the taxing power of Congress, or are merely a method for financing the establishment of an insurance system, which is beyond the powers of Congress. If this question comes before the Supreme Court, a majority of the Court will almost certainly look beyond the fact that title VIII is, in form, distinct from title II. The Court can hardly help but conclude that both titles are part and parcel of an insurance scheme.

The relationship between titles II and VIII is clearly disclosed through the fact that the persons to whom benefits are payable under title II are the persons who are subject to the income tax on employees imposed in title VIII. Similarly, the "wages" on which benefits are computed in title II are the "wages" upon which taxes are payable in title VIII. Further evidence of the fact that the taxes imposed in title VIII are part of an insurance plan is afforded through the provision in section 803 that the taxes paid by employees under this title shall not be deductible from the Federal income tax. As this provision clearly suggests, these taxes are in effect payments of insurance premiums for building up an annuity, not taxes levied for the support of the Government.

2. The compulsory annuity system is the only part of the Social Security Act which sets up a social insurance system administered directly by the Federal Government. All other parts of the bill recognize that social insurance measures are within the domain of the States, the Federal Government merely giving aid to the States for these purposes (no unemployment compensation allowing a credit against Federal taxes for payments made under State laws). The proposed compulsory annuity system is inconsistent with the rest of the Social Security Act, as well as representing an unconstitutional invasion of State rights.

3. The compulsory annuity system is the part of the Social Security Act for which the country is least prepared. There is great demand for noncontributory old-age pensions, and practically no demand for a contributory-old-age-insurance system.

I might add that I never heard it mentioned when we were discussing a great deal, the question of old-age compensation. No bill for a contributory annuity system has ever been introduced in Congress before. Likewise, contributory annuities have never been proposed in any State. There has been much discussion of noncontributory old-age pensions and of unemployment insurance for years,

but no discussion of contributory annuities, except within a very small circle or ardent advocates of social insurance.

4. The contributory annuity system will impose heavy financial burdens on both employers and employees from which they will derive no benefits for many years to come. While the initial tax rate on employers and employees is but 1 percent on each, this rate will, within 3 years, become a combined 3 percent, and increase to an ultimate 6 percent. From table IX on page 15 of the report of the Ways and Means Committee on the social-security bill (H. Rept. No. 615) it appears that the taxes under title VIII are estimated to yield \$278,800,000 in the first year and \$560,200,000 in the second year. By 1943 these taxes will exceed \$1,000,000,000, by 1947, \$1,500,000,000, and by 1950 will amount to almost \$1,900,000,000. These latter amounts far exceed the present total taxes on incomes.

No other part of the Social Security Act is anywhere near as costly as the compulsory annuity system, and prospects of the heavy taxes which this system entails cannot have other than a retarding effect upon economic recovery.

Under title II no benefits will be payable until after taxes have been collected for 5 years; that is, until 1942. For a decade or more thereafter, according to the actuarial estimates, there will be relatively few people who will receive any benefits under the compulsory annuity plan. This plan, hence, might be described as one under which heavy taxes will become payable at once, while benefits will be long delayed. And I might add in passing that the taxes will be a very heavy burden upon industry while it is prostrate and will retard recovery.

5. The compulsory annuity system will prove very difficult of administration; and, at least for some years to come, will probably be very unpopular, no less with the workers than with the employers. As shown in table VIII, on page 14 of the report of the House Ways and Means Committee on the Social Security Bill, nearly 26,000,000 workers are expected to be brought at once under the compulsory annuity system. Taxes must be collected from these 26,000,000 workers through a complicated stamp-tax method at least once each month and perhaps oftener. Separate accounts must be kept for the contributions of each employee, and these will all be centralized in Washington. No similarly complex administrative problem has ever been tackled by the Federal Government. Deductions from wages of all these workers for tax purposes are certain to be bitterly resented, particularly by younger workers who feel no concern about their old age.

6. The compulsory annuity system will add many thousands of employees to the Federal bureaucracy. More than 6,000 people are employed in the administration of the German old-age insurance system. This country has more than twice the population of Germany and is many times greater in area. The problems of administering an old-age insurance system in this country, moreover, are very much more complex, due to the much greater shifting about in the population.

The Senators know that the population in Germany is much like that in Great Britain, more homogeneous, and they are tied to the soil more than they are in the United States.

7. The compulsory annuity system will in time result in unmanageable reserves. As indicated in table IV on page 6 of the House report, the annuity system established in titles II and VIII is expected to have a reserve of above \$10,000,000,000 by 1948, \$30,000,000,000 by 1965, and nearly \$33,000,000,000 by 1970. I might add that, while I have looked at those reports and the testimony in support of it, I believe that the system is going to break, and the reserves will be very much less than anticipated.

Senator GORE. Don't you think the Government will be borrowing from those and that it will be a temptation to extravagance?

Senator KING. Undoubtedly. But we do not need temptations for extravagance.

Senator CLARK. Let me make one suggestion on that point. We have an illustration of that very thing in the fund that was set up to pay the bonus. That fund is not there because Congress instead of setting aside the money for the sinking fund from year to year, and borrowed from that fund and simply appropriated the carrying charges. With the funds to be set up under this bill, it seems manifestly probable that similar borrowings will be made from time to time.

Senator BARKLEY. The Senator means though, that instead of allowing this fund to lie idle in a pool and let the Government borrow the same amount from other sources and pay interest on it, it has just borrowed from this fund and paid interest on that.

Senator KING. No such reserve has ever existed in any country of the world. While many European countries have old-age insurance systems, all of them are being operated on what amounts to a "pay-as-you-go" plan. The reserves in no other country exceed a few hundred thousand, or at the most a few million dollars.

A reserve of such size as is contemplated in the compulsory annuity plan will create difficult problems of investment. It will deprive people who want the security of Government bonds of an opportunity to invest in United States securities and will greatly increase the investment problems of insurance companies.

Much more serious than the investment problem, however, is the consideration that a large reserve will be a direct incentive to increasing benefits. With so many millions of people interested in the compulsory annuities, there will be constant pressure upon Congress to increase the benefits, and that pressure will be the stronger because of the large reserves which are contemplated. Not unlikely it will prove impossible to maintain these reserves, as future Congresses will increase the benefits. Such an increase in benefits, however, will lead to serious trouble later on, as the number of beneficiaries increase.

8. As passed by the House, the compulsory annuity system is not self-supporting, but will require large Government contributions after 1970. This is a result principally of the change made by the House committee under which old-age benefits will become payable upon reaching age 65, regardless whether the employee retires from active employment or not.

Senator LA FOLLETTE. We have continued that.

Senator KING. This feature of the House bill can be eliminated through amendment and the contributory annuity plan again made self-sustaining on the basis of the benefits which are established in title II. Should these benefits be increased by later Congresses, with-

out an increase in the tax rates in title VIII, as is very likely in view of the pressure to which Congress will constantly be subjected to increase the benefits, the plan will again cease to be self-sustaining. Every country in the world that has started a compulsory annuity system has made contributions to it from Government funds, if not at the outset, then in the course of time.

That is true in Germany; that is true in Great Britain, and the fund has been almost constantly insolvent by reason of the additions and the demands which have been made.

9. The existing industrial pension systems create an almost unsurmountable obstacle to the establishment of the proposed contributory annuity system. If the industrial pension systems are exempted, the contributory annuity system is much more certain to be held unconstitutional than otherwise. If the plans are not exempted some employees, at least, will lose the advantage of much more liberal benefits than are provided under the Government plan.

10. Since benefits will not, in any event, be payable for a long time, it would seem to be advisable to delay action upon compulsory annuities until there is further study of the problem.

One compulsory annuity plan was presented in the original bill recommended by the Committee on Economic Security; a different plan was outlined to the House Ways and Means Committee on behalf of the Committee on Economic Security by Secretary Morgenthau. The House committee adopted a third plan embodying the rates of contribution suggested by Secretary Morgenthau, but proposing a radically different benefit scheme. Still other plans for compulsory annuities have been suggested to the House and Senate committees by various other outside organizations. Altogether so little consideration has been given to compulsory annuities that no one can be certain that the present plan is the best one that can be worked out.

The CHAIRMAN. Is there any other discussion?

Senator LA FOLLETTE. We have heard from Mr. Jackson. I would like to hear from Dr. Witte.

Mr. WITTE. There is not any question, gentlemen, that the compulsory annuity system does present problems. I think there is no question about that. It is, of course, a matter of policy for you to decide. The major consideration why I think this country should go into a compulsory annuity system is, if you do not adopt the principles of contribution by employees, I think you will be in for free pensions for everybody, and whatever problems there may be—for all old people—and whatever problems there may be in the compulsory contributory system, I think those problems will be multiplied in a system under which you have free pensions for everybody.

I am aware, and our committee certainly believes this to be the right principle, and I am aware that this bill does not provide—and I want to have this clearly understood—this bill does not provide for free pensions for all of the old people. It does provide merely for free pensions to old people who are in need and dependent on the public for support.

But you Senators, I think, know that from now on there will be terrific pressure to have free pensions for everybody.

Senator LONERGAN. Do you mean regardless of need?

Senator GORE. It is just a matter of time.

Mr. WITTE. That, I take it, is the real essence of this Townsend plan. It is not \$200. The \$200 has actually been dropped out, but really what it means is free pensions to all of the old people, and you will have constant pressure for it. If you go in for any such system, the cost to industry and the cost to the country will be tremendous; in fact, every country practically that has started with a system of free pensions for dependents has supplemented it by a contributory system for old-age annuities.

Senator HASTINGS. Dr. Witte, you do not mind being interrupted?

Mr. WITTE. Certainly.

Senator HASTINGS. While I agree with you that this sort of legislation starts us on a dangerous course, to my mind so long as the Congress holds to the principle of making the States contribute half of the amount that goes for old-age pensions, we won't ruin the country by granting pensions that we cannot pay.

Mr. WITTE. The question, Senator, would be, can you hold that principle? I call your attention to the fact that the amendment which received the largest vote in the House was an amendment to throw the entire cost on the Federal Government.

Senator GORE. They will do that in 5 years.

Mr. WITTE. And once you get into that sort of a system, where the costs will be on the Federal Government and free pensions for everybody, the costs are almost unimaginable. Even if we adhere to the principles in this bill, pensions only for the people in need, and I for one believe you cannot do any less—I think you have to come to a pension system in which people who are dependent on the public for support will get a regular allowance, and you have to take care of them in some way—even if you adhere to that principle, according to the estimates of our actuaries, this cost of the free pension part of this bill, the cost to the State and Federal Government combined will be \$800,000,000 by 1940 already—in 5 years from now. It will be \$2,000,000,000 by 1960, and it will be \$2,600,000,000 by 1980.

If you are forced to, and I think no Congress will adopt that principle, at least understanding what it means—free pensions for everybody—you get a much higher cost.

I can illustrate that by this: On the present number of the people who are over 65 years of age, if you only pay them \$25 a month, the whole group of them, it will cost you \$2,500,000,000. And the number of old people is increasing at a rate which will mean double the number you now have by 1960. If you once get into free pensions, you are not going to hold them down to \$25 a month.

Senator LONERGAN. Do not the other countries limit it to cases in need?

Mr. WITTE. In England, for instance—England started with a system of free pensions for the people in need, just as we are doing. Then they found that the costs mounted so—they started that system in 1908. By 1925, 70 percent of all the old people were on this free pension system anyhow. Then the English Government came in with a contributory annuity system, because the Government could not stand the cost.

The CHAIRMAN. Doctor, may I ask you this question? Is it your opinion that the contributory annuity system will be a check on

the increases of the Government assistance direct to the States for old-age pensions, and will gradually as the thing works out, absorb in large part, that other system?

Mr. WITTE. It will take at least one-half of the cost off. The ultimate cost likewise of the contributory system, if you get the principle established of having the employees contribute half of the cost, I think that is a protection against excessive pensions.

Senator KING. Did you say employees or employers?

Mr. WITTE. Employees. This plan contemplates equal contributions by employers and employees. That will be a check, and as a permanent policy I submit that the sound thing to do is that at the time when you are going in for free pensions to people in need you should also go in for a system under which the younger workers will build up their own protection; otherwise your costs and the burdens on industry in the course of time will be much greater than they will be under the systems we propose.

There are heavy burdens, and there are difficulties. Nobody can go out and say that this contributory annuity system is going to work very smoothly. It is something new. It is a terrific job. I agree with that, and it is a great problem, but I think that unless you go to it you are getting in for something worse.

The CHAIRMAN. Thank you very much, Doctor. Is there any further discussion?

Senator BARKLEY. Yes, Mr. Chairman. I am not going to enter into any discussion of legal phases of this, but to emphasize just what Dr. Witte has said, if this is eliminated we need not delude ourselves, we are not going to pass this in the next session. The subject will be out of the legislative calendar. We will have the unemployment features of this bill and the free pension referred to, and we will wait until some convenient season to take up this annuity if it is ever taken up again, and I do feel that the pressure would be greater for a continuation and an extension of the free pension system with this out than it will be with it in, and in order to have that in as a basis, a point from which to start ultimately to work out a contributory system, I believe that it is much better to keep these two sections in the bill than to eliminate them, and for that reason I am going to vote against that motion of the Senator from Delaware.

Senator CLARK. May the amendment of the Senator from Delaware be stated again? I came in just after it had been stated.

Senator HASTINGS. Just briefly, it is to eliminate that portion of title II which sets up this annuity system. It does not affect in any way the grants of old-age pensions to the States, either old age or for any other purpose.

Senator KING. In supporting the motion, Mr. Chairman. I do not mean to indicate that I would not favor considering title II and title VIII separately and independently, and I would be perfectly willing to resume the consideration of those at this session of Congress, but it does seem to me that to tie all of these plans together is unwise, and the problems indicated in the observations which I have made, and confessed in part by Dr. Witte indicate that we have not given sufficient consideration to this matter. As I stated here a few moments ago, the President's Economic Council had one

view, and the House had another view, and different views have been presented. There seems to be no harmony in the views as to the best plan to be adopted, and I am sure that we are fully advised or sufficiently advised to determine as to the best plan to be adopted for this annuity system.

Senator BARKLEY. Are we not just as well informed on the annuity system as we are on the unemployment features of this bill? I am. That may mean that I do not know much about any of them, but I know just as much about the one as I do about the other.

Senator HASTINGS. Just along the line of what Senator King said. I would not hesitate nearly as much with this situation if it were purely an annuity and running to the benefit of the person who pays in, but you have this all complicated. I had an illustration of it one time. I think a man starting in here at 45 that earns \$100 a month and pays in until the age of 65, has an accumulation at 3 percent compounded interest, something like \$762, and he will get \$40 a month; while the young fellow who starts in at 20 and pays in for 45 years has an accumulation of something like \$4,200 and he will only get \$50 a month. There is a situation that is wholly unfair to the young man. The excuse for him is that we have got to do that to take care of the fellow who has not had the benefit of this in his younger years, but it seems we are trying to accomplish it by too much at one time in one bill.

Senator LA FOLLETTE. I would like to make just a brief statement. I do not want to go on with the argument, but it seems to me that to eliminate this contributory system is to fly in the face of the world experience in legislation in this field, and that the very difficulties which are admittedly inherent in establishing this system are small as compared to the difficulties that will follow if we eliminate this contributory system and pass legislation simply providing for old-age pensions to the needy on a 50-50 basis between the Federal Government and the States.

Furthermore, the Senator from Delaware will follow this motion with the motion to strike out the unemployment-insurance features of this bill, and if that is so, and if this motion carries, it seems to me that you have cut the heart out of this whole program which the administration has worked out in conjunction with the best available people that could be found in this country to work on it, and therefore I hope that this motion will not be agreed to.

Senator KING. I would like to ask one question.

Senator HASTINGS. I would like to say in connection with this constant reference to the countries in Europe that I am not yet willing to admit that this country is going to the depths that the various countries have gone, and I do not think that the precedents cited from the European countries ought to influence us at all.

Senator LA FOLLETTE. Of course, the Senator from Delaware is opposed to the whole objective of this legislation. He refers to the depths to which the European countries have gone. I say that it is an indictment of the civilization of this country that we are as far behind other industrial countries in this field of social legislation. That is a sharp conflict of opinion, and I recognize the right of the Senator from Delaware to hold that opinion; but if we are going into this field at all, then it seems to me that we are justified in

taking something from the experience of countries that have pioneered in this field, and the history shows that every one of them have established this contributory system as a means of achieving the objectives desired without the terrific drain upon the Government which has established these systems.

Senator KING. Mr. Chairman, I would like to ask Dr. Witte: As I understand, there are about 26,000,000 employed in the United States now?

Mr. WITTE. The 26,000,000 figure is based on the 1930 census. This coverage is, as near as we could estimate—it was 25,800,000 on the basis of the 1930 figures. Our present employment is a little less. Many of these people are out of work now, but presumably by 1937 we will probably be back to 1930 or better.

Senator KING. What part of that 25,000,000 would come within the sphere of this bill?

Mr. WITTE. That is the number that now come under this bill. The total number of gainfully employed people in this country is 50,000,000. That includes proprietors and farmers and all of us.

Senator KING. Then you think the 25,000,000 would come under this bill?

Mr. WITTE. Approximately.

Senator KING. The 25,000,000 outside of the bill, how are they to be cared for?

Mr. WITTE. They are the farmers, they are the agricultural workers, they are the domestics, they are the professional people and the employers. They will not be brought under the compulsory annuity system, therefore you have some free pensions even with the compulsory annuity system, because some of these people will become dependent in their old age. They are not so likely to as the industrial workers on the whole, but some of them will; but your cost of course is reduced because you are taking care of the industrial population through this contributory system.

Senator HASTINGS. Do we get rid of more than half of our trouble this way?

Mr. WITTE. I think you get rid of at least half of your trouble, and perhaps more. One-half is the minimum estimate.

Senator KING. Don't you think if you take care of one-half, these 25,000,000 people by this industrial insurance, the other 25,000,000 unemployed are going to knock at the doors of Congress with stronger sledge hammers than the other for relief?

Mr. WITTE. I think, Senator—

Senator KING (interrupting). And haven't we established the policy that the Federal Government must step into the States and take care of all of the people in this social effort?

Mr. WITTE. I think in course of time this country can work out systems under which considerable numbers of these people that are now excluded will be brought under a contributory system. In England the agricultural workers, the farmer, and all of those groups are under a contributory system.

The CHAIRMAN. I desire to make one statement before we vote on this proposition. I agree thoroughly with Senator Barkley and Senator La Follette. It would seem to me, if we cut this proposition out, it would be just like walking up the hill and down the hill. The administration has proposed it as part of the system. I do not

know how they would feel if you would put in a straight proposition here of title I and the Government assistance to the State for old-age pensions. The two are linked together, and there has been great study and great consideration given to this proposition. If it were eliminated from this bill and a subcommittee appointed, they would have to go over the same testimony that we have already gone over. It has been studied by this Board, it has been studied by this committee, those who have had the time to do so and listened to it; it has been studied by the House and the House has passed it.

If this is eliminated from the discussion, it does not eliminate it from the floor of the Senate. You have to strike out the House provision.

It seems to me the wise thing for us to do is to go ahead and make such proper amendments to this title as we desire and go on the floor with it. Of course, it is up to the committee if they want to strike this from it, but we do not save any time on the floor.

Senator HASTINGS. That was not my object. I think it is important, too important, to talk about saving time. That was not the purpose of it.

The CHAIRMAN. I can appreciate that.

Senator GORE. You say that England started out with a free pension and was driven through sheer necessity on account of the cost, to this contributory system. Has any other country had that experience?

Mr. WITTE. Quite a few countries have done the same thing that we are doing. Germany started with a contributory annuity system from the very outset, in the very first instance. The situation now is that contributory annuity systems exist in practically every country in Europe. The free pension systems exist only in the countries that have gone into the pension system recently. Canada started with a national system of aid to the Provinces just as we are proposing to do here now. It started in 1927.

Senator GORE. Free?

Mr. WITTE. Free pension with aid to the Provinces to the tune of about 75 percent of the cost. Bills are pending in the Canadian Parliament at this time to make it 100 percent. That is the proposal of the Liberal Party, and the proposal of the Government Party is to supplement this with a contributory annuity system.

Senator GORE. It was not necessary to add that they now propose 100 percent. That is inherent in the thing. That is the way it works. If we are going to profit by the experience of other countries, starting with the free and then paying the others, adding the compulsory plan, might it not be better not to start at all. No matter when we start, we will never stop.

I want to make this one observation. This illustrates my attitude. Take any Senator here. If he were an engineer, he would not build a bridge across the Potomac River and put steel in it that would not sustain the stress and strain to be put on it. You could not get an engineer to do that unless he was running for office. What we are doing here—human nature is a good deal like steel, it stands so much stress and so much strain and then gives way. We are putting a stress and strain on the character of the people now in this dole and in this pension. You can all see it. You see it every day in your

own States and in your own towns. It is the worst feature in this whole business, the deterioration of character.

It is the perfectly inevitable reaction to what we are doing. The people are not to blame for it. They are human beings, and they have so much resistance and no more, and they yield to this stress and strain and to this temptation to get something.

And that is not the worst of it. In turn the people put a stress and a strain on Congress, on Congressmen and Senators, that we cannot stand. Everyone knows it; we feel it; and everybody knows it. It is pressing on you today. It was last week, is this week, and will be worse next week.

When you start this business—well, the Townsend plan got 56 votes in the House, and I imagine if it were a secret vote, it would not have gotten 1. In my judgment, we are gone in this country unless we resort to secret ballot. That might save the country.

The CHAIRMAN. If there is no further discussion, the clerk will call the roll.

(The clerk called the roll as directed by the chairman.)

The CHAIRMAN. On this vote the ayes are 6, and the noes are 12, and the motion is defeated.

Senator George, did you want to offer your substitute now?

Senator GEORGE. No, not now.

Senator GORE. Mr. Chairman, I have prepared an amendment in connection with Mr. Boots here. Under the *Frothingham case*, the Supreme Court virtually held that no taxpayer could challenge the validity of an act such as the maternity act involved in that case. I have prepared an amendment giving any person who pays taxes under an act of Congress or any association of taxpayers the right to contest the validity of any part of this act that they see fit. I forgot to bring it with me, but that is the point.

Senator HASTINGS. Senator Bailey desires to offer something similar to that.

Senator BARKLEY. Why should a taxpayer or a group of taxpayers organized into an antitaxpaying association be given any more right in legislation of this sort than they have in any other legislation which carries taxes?

Senator GORE. In a great many instances they can challenge the validity of the tax.

Senator BARKLEY. It is not because of any special act of Congress. It is because of an inherent right—

Senator GORE (interrupting). Because they have such an interest as gives them, in the judgment of the court—

Senator BARKLEY (interrupting). You cannot sue the Government for damages for claims which will be legitimate claims against the Government without the Government's consent.

Senator GORE. I think the Government should give its consent.

The CHAIRMAN. Is that not an invitation for them to file suit?

Senator GORE. Here is my view about it. It is conceivable under that case, that a tax might be admittedly unconstitutional and yet an American citizen who is entitled under the constitution to the protection that his property cannot be taken from him without due process of law, that a taxpayer cannot bring an action to test it.

Senator CONNALLY. Isn't this the situation? If the tax itself is unconstitutional, it can be resisted, and you can get an adjudication,

but in the case you are talking about, in the maternity case, it was not a special tax at all. Somebody wanted to contest the act. If a tax is unconstitutional, it can be attacked.

Senator BARKLEY. In other words, his right to go into court or resist the tax does not depend upon the amount of the tax?

The CHAIRMAN. Do you want a roll call on your motion?

Senator GORE. Here is the point. Suppose a tax is levied and the use of it is unconstitutional and not a public use, a great many people still think that you can only tax the American people for a public use and not a private use. That used to be regarded as rather fundamental in the matter of taxation. A good deal of this tax is not for the public, it is not for the general welfare, but it is for private individuals, and a good many people think that Congress has not any power to take a man's earnings out of his own pocket, money that he has earned, in the form of a tax. If in connection with the Government in some public capacity, or if the money is not expended in any public use.

Senator GEORGE. I do not think there is any question but what the taxpaying employer and employee can raise the question of the validity of this act.

Senator GORE. I think they could.

Senator GEORGE. But when it comes to raising the validity of the provisions of title I, for instance, or maternity welfare treatment, you could not under the Massachusetts decision do it.

Senator GORE. That is the point.

The CHAIRMAN. Those in favor of the amendment offered by Senator Gore will show by raising their hands.

(Hands raised.)

The CHAIRMAN. Those opposed.

(Hands raised.)

The CHAIRMAN. There are 2 ayes and 14 noes.

Senator GORE. I would like to ask one other question. There was a Mr. Irwin here one day, and I was absent when he was here. He represents the American Foundation for the Blind, and he made certain suggestions. They were not agreed to, were they?

The CHAIRMAN. Mr. Irwin made one with reference to the blind.

Senator GEORGE. We put in a provision, Senator Gore—I think you were not here—dealing with the benefits to the blind.

The CHAIRMAN. That was read yesterday.

Senator GORE. That was pensions to the blind. I did not see Mr. Irwin. He called at my office and I did not see him. But he did want something that would look to the rehabilitation of the adult blind, to make them self-sustaining, instead of giving them pensions, and he submitted some amendments. I have them here.

The CHAIRMAN. What he wanted—instead of reading "crippled children"—he wanted it to read "physically handicapped children."

Senator GORE. He wanted to be certain that that would include the blind. There were two or three. One was rehabilitation of the adult blind, to help them become self-sustaining.

The CHAIRMAN. Senator, do you want to offer your motion now, Senator Hastings?

Senator HASTINGS. Mr. Chairman, I want to offer this as a substitute for titles III and IX.

The CHAIRMAN. This is the unemployment-insurance proposition?

Senator HASTINGS. That Congress shall appropriate about \$125,000,000, or about \$1 per person annually for a period of 3 years, the purpose being to offer an inducement for at least 3 years to the States to set up this unemployment insurance, to be paid to the States according to the population, on condition that the States will contribute \$2 or more for each \$1 contributed by the Federal Government; the combined fund to be used for an appropriate plan of unemployment compensation.

I do not want to discuss it, but in my judgment, one of the things that has been urged on us with respect to this unemployment compensation system is that it was necessary to force that upon all of the States in order that the industries of one State would not take advantage of industries in other States that were not paying the tax. That is the strongest argument in favor of it in my judgment, and everybody can see how important that is from the industry's point of view.

Senator COSTIGAN. Senator Hastings, how do you determine an appropriate plan?

Senator HASTINGS. That I will leave to be worked out readily, if this was agreeable. My thought is to encourage the States to do what the Congress thinks they ought to do with respect to unemployment compensation. If we contribute and set it up as a policy for at least 3 years, we will contribute approximately \$1 for each person, \$125,000,000, and see whether or not that would not be sufficient inducement to the various States in this country to set up their own unemployment compensation plan and not put the Congress in the position of forcing upon a State by means of this taxation plan, a system which the State is not agreeable to have forced upon it.

The CHAIRMAN. Have you finished your statement?

Senator HASTINGS. Yes.

The CHAIRMAN. Those in favor of this will say "aye."

(Ayes.) Those opposed, "no." (Noes.)

The CHAIRMAN. The noes have it; the amendment is defeated.

Senator KING. May I ask Mr. Eliot a question? Under the provisions of the bill caring for unemployment, is there any tax upon the Federal Government now other than the contribution—

Mr. ELIOT (interrupting). The Federal Government makes no additional contribution out of general revenue, no.

Senator KING. It comes out of the employers and the employees?

Mr. ELIOT. Yes. Title III apparently comes out of the general treasury, but the amount appropriated in title III is less than the amount that will be collected under the tax, or the approximate amount that will be collected under the tax. But we are on the safe side by making it a little less, so actually it will not create any new hole in the Treasury at all.

Senator CLARK. On the first amendment offered by Senator Hastings to divide this bill up, I was called out of the room for just a moment and the vote was taken while I was gone. Upon my return I asked to have my vote recorded in favor of the amendment.

I would simply like to say that I did that not because I am not thoroughly in favor of a compulsory annuity, but because I regard it as essentially very vicious legislation to take a large number of

entirely differentiated propositions and include them in the same bill, obviously for the purpose of compelling a Senator or a Representative who happens to be in favor of a majority of it or a part of it, to vote for measures which he is not in favor of. That has been my consistent position throughout, and it is my position in this matter likewise for the reason stated.

The CHAIRMAN. Your vote is recorded.

Senator HASTINGS. If it won't take any time, I would like to have a vote on striking out entirely title III.

The CHAIRMAN. All in favor of striking out the unemployment provision will say "aye." (Ayes.) Those opposed, "no." (Noes.)

The CHAIRMAN. The noes have it.

I asked Congressman Lewis to come over here. There was in the original bill, as you recall, the right to purchase certain annuity bonds, and he merely wanted to call the attention of the committee briefly to it. In the House they struck that provision out. Congressman Lewis is a member of the House Ways and Means Committee.

STATEMENT OF HON. DAVID J. LEWIS, OF MARYLAND

Mr. LEWIS. I appreciate this invitation indeed. My reason for presuming on your time at all is to discuss one of a quartet of objectives in the bill as to voluntary annuities, which was not discussed in the hearings. Apparently there was no objection as far as the public was concerned or any part of the public. In fact, the insurance companies have spoken through one of their principal leaders, Mr. Thomas I. Parkinson, of the Equitable Life Assurance Society of the United States, and his statement was that the social insurance provisions of the bill would, like the \$10,000-insurance provision in the War Act for the soldiers, operate to greatly increase and intensify the thought of the public on the subject of individual protection through insurance.

The CHAIRMAN. Are the insurance companies objecting to this provision, or are they for it?

Mr. LEWIS. So far as one can say from the hearings, no; they are not objecting. The only objection that was heard was made by a member in the committee, that this was entering into private business. If I may be very elementary on this subject, gentlemen, I think I can be through within 10 minutes.

Senator CONNALLY. Will you state just what your purpose is? If you do that, we can understand your argument better. What do you propose to do?

Mr. LEWIS. The original Administration bill proposing the program of social security carried a provision permitting the Treasury, with the aid of the Postal System, to sell annuity policies in order that people willing and able to pay for such annuities in full might secure their own old age without resort to old-age pensions. As you will see in an estimate of the committee on economic security appended, there are about 22,000,000 persons who are not embraced under title II. Take the owners, self employed and professionals, who are not "employees", they number 11,825,000. Then there are the workers excluded by their occupations, 10,156,000. All these, as they may be able, could by the purchase of an annuity from the

Treasury at its actual cost, secure their own old age and not have to lean on the State pensions under the bill.

Let me be concrete. I know a married couple who are past 60. They have saved some \$15,000 in their life's efforts. If they knew just how long each of them would live they could provide their own annuity by investing the \$15,000 in safe Government bonds. They could take enough out of the principal each year, in addition to the interest, to provide themselves a hundred dollars per month. But they do not know how long either of them will live, and so they are afraid to touch the principal. Now, the Government does know how long they are going to live as members of a class, and paying them the interest as it would on the bonds, can take enough out of the principal each year to provide them the annuity for which they fully pay.

Take again, a case of a husband who has a \$15,000 estate, who wishes to provide for his wife, in the event of his death. In his will he can have the estate converted into a life annuity for her benefit, instead of having the estate eaten up by the court costs and trustee's fees and commissions. If he has children he can secure their futures in the same way instead of willing them lump sums to be wasted by inexperienced hands.

Senator CONNALLY. You mean anybody can come in and avail themselves of the advantages of this annuity system conducted under the auspices of the Treasury?

Mr. LEWIS. Yes; upon paying the premiums.

The CHAIRMAN. And it would not cost anything to the Government?

Mr. LEWIS. It would cost the Government nothing; indeed, under the basic rate fixed here, the Government would probably profit from it.

Senator LONERGAN. You mean policies without limitation?

Mr. LEWIS. No.

Senator LONERGAN. Up to what sum?

Mr. LEWIS. Up to \$100 a month.

Senator COSTIGAN. That was in the House bill, as I understood it.

Mr. LEWIS. The recommendation of the committee was \$50 a month. The Treasury finally recommended \$150 a month as a maximum, and the committee on Ways and Means on its first vote in this matter, a vote of 12 to 6 in favor of the proposal, adopted \$100. Let me say as to the great human interest involved here—

The CHAIRMAN (interrupting). The security board recommended how much?

Mr. LEWIS. \$50. The Treasury recommended \$150. The House Ways and Means Committee agreed upon \$100 by a 12 to 6 vote, and then things happened within the committee, as they do happen, into which I do not care to enter.

Let us see about the great human interest involved. In this bill we undertake to realize certain social-security objectives. With regard to wage workers and employees up to \$2,500 a year, we have covered the field approximately; but how about the immense number of people who are not employees? Take the physicians, the lawyers, the clergy, take the small-business man, and what may be his situation when he reaches 65 or 66? There are more than 20,000,000

involved in that situation who may be reasonably included in the social-security principle of this bill.

Senator KING. Won't the insurance companies do that?

Mr. LEWIS. Private insurance are willing to do it, but now you come to a very vital element in this whole situation—the vital question. It is the question of faith.

Now, the Government supplies that element of faith. It exists with respect to the Government and through it we can hope to provide a means which men and women who are not covered by these pension and employment provisions may, through their own savings and efforts in life, provide for themselves. Some, of course, will be satisfied with \$30 a month; others may desire in proportion to their capacity to acquire such annuities for themselves. Why deny them the surest security in doing so?

The CHAIRMAN (interrupting). Congressman, let me ask you: This plan that is proposed here is no better plan than insurance companies now have?

Mr. LEWIS. It provides an element of faith which only the Government can provide.

The CHAIRMAN. I understand. But what I mean is as to the rates of the premiums?

Mr. LEWIS. It is more economical.

The CHAIRMAN. I understand that it is your idea that the average person would have more faith in the Government than in somebody else. The second question is the question of experience. England has this system?

Mr. LEWIS. Yes.

The CHAIRMAN. Has it worked very well over there?

Mr. LEWIS. It has worked satisfactorily. There have been no disappointments with it so far as I can learn.

The CHAIRMAN. Have they sold many of them?

Mr. LEWIS. They have, but I do not know the figures.

The CHAIRMAN. The impression I got from the hearings was that there had not been much sold, although they had this system.

Mr. LEWIS. They have it in Canada. Unless the committee desires to ask some questions—

The CHAIRMAN (interrupting). Are there any questions?

Senator KING. Does not the New York Life Insurance Co., and do not some of these Gibraltar insurance companies—and I use the word "Gibraltar" in the sense that we regard them as being as substantial as any business organization in the United States—sell annuities?

Mr. LEWIS. Yes.

Senator KING. Are not the rates satisfactory, and have they not proven satisfactory?

Mr. LEWIS. I do not think the rates are inviting when they must include the overhead in the premiums.

Senator COSTIGAN. Did not Massachusetts, through the instrumentality of Justice Brandeis, adopt a system of annuity insurance?

Mr. LEWIS. Yes.

Senator COSTIGAN. It has worked satisfactorily?

Mr. LEWIS. Yes.

Senator COSTIGAN. And has not adversely affected the other insurance companies there?

Mr. LEWIS. That is limited to the State of Massachusetts, and I, for instance, could not take advantage of it.

Senator GEORGE. Was a vote taken in the House on this amendment?

Mr. LEWIS. No.

Senator GEORGE. It did not get to the floor?

Mr. LEWIS. The practical situation was such that I did not present it as an amendment to the bill.

The CHAIRMAN. There was no opposition raised to it in the hearings to this bill here. It was suggested in the bill.

Mr. LEWIS. And none over there at the hearings.

The CHAIRMAN. Was there something else?

Senator BLACK. May I ask one question? As I recall it—I may be wrong—but as I recall it, the president of the New York Life Insurance Co. or one of the big companies either sent a letter or a statement or a letter and said that they would favor it before the committee.

Mr. LEWIS. May I quote just a couple of paragraphs of his letter?

Senator BLACK. Yes.

Mr. LEWIS. It was the letter of Mr. Thomas I. Parkinson, the president of the Equitable Life Assurance Society. I read:

Just as the business of life insurance received tremendous impetus from the successful efforts of the Government to provide a sizable amount of insurance on the lives of all called to the Arms in the creation and the development of the War Risk Bureau, so do I believe that social-insurance agitation will result in renewed appreciation and great stimulation of life-insurance activities both individual and group (p. 206, Senate hearing).

Insurance men are ready to lend their experience in the service of this social-insurance class by assisting in the formation of social-insurance measures along lines of sanity and workability. As an insurance man, I would say without hesitation that the efforts to provide through social-insurance measures a more self-respecting form of relief, a better budgeted charity program, will do much to arouse public interest in the whole subject of security. In doing this, that overwhelming number of upstanding men and women who represent the insurance field will be inspired to look more deeply into their insurance needs and to more completely provide security for themselves. Thus it is likely, in my judgment, that history will repeat itself and the impetus given to the cause of life insurance by the War Risk Bureau in putting a value of \$10,000 on the life of every enlisted man will be accentuated with the result that the present agitation for social-insurance measures will swell the volume of individual and group life insurance and annuities.

In doing this, the insurance companies and their agents will not only be benefited by an enhanced business, but the business itself will the better be able to muster to its support public appreciation of the tremendous national and community service rendered by life insurance supplied through premium-paying Americans who, wanting no charity, take care of themselves and those dependent on them.

The CHAIRMAN. I got the impression that the life-insurance companies generally were for it, because it would create an agitation on the subject, and because of that advertisement, might increase the sale of annuities.

Mr. LEWIS. It would make the people annuity conscious. They need education.

Senator BLACK. Was there any objection expressed by any of the companies?

Mr. LEWIS. By none of the companies.

Senator BLACK. Were any before your committee?

Mr. WITTE. I think certain insurance companies have written Members of Congress, but they did not enter appearance. Certain Members of Congress have told me that they had letters from insurance companies in opposition. They never appeared in opposition. The question was not suggested here for our consideration.

The CHAIRMAN. Yes, it was. It was recommended by this Board and was agitated here to some extent and was spoken about by some witnesses. The clerk of the committee tells me that he has had no protest to the committee about it.

Senator COSTIGAN. Was it not in title III of the bill?

Mr. LEWIS. As first presented in the House.

One suggestion—and I think it is important. There is a field of potential traffic here, as there was in the small parcel, if I may hark back to the experience of a generation ago, which requires special inducement and conditions in order to develop it.

May I be concrete? It will take but a moment. When we took up the parcel post 24 years ago we found that the express companies were moving three parcels per capita in the United States. In Switzerland they were moving nine per capita. They had a completely developed parcel-post system, with rates and conditions of service adapted to the needs of this small parcel. It could not pay the 25-cent minimum which the express company found it necessary to charge the parcel here. It could pay 7 or 8 or 10 cents.

With our Parcel Post System, the three parcels per capita have reached about nine in the United States, all of which shows that two-thirds of that traffic potential for generations had been defeated by the absence of rate systems and conditions of service permitting it to move.

In this small annuity field you are finding analogous phenomenon. For the big lump-sum payment you would make \$15,000 in at one stroke; oh, yes—an agent assuredly would call. The company will get about 4½ percent out of that. But for the small installment, monthly payment that John and Mary may begin as early as 30 or 35, to accumulate an annuity at 60 or 65, no agent can bother with that. The expenses of the work would utterly defeat the motive to do it, unless the great expense were added to the premiums, when the motive to buy the annuity would be defeated.

And so we find here as with the parcel, a neglected field the insurance company cannot serve with sufficient economy.

Senator CLARK. You mean the expense of acquiring the business, to a private insurance company, does not justify the effort to attempt to expand the volume in that field?

Mr. LEWIS. In the small field.

Senator CLARK. And they make no effort in that direction?

Mr. LEWIS. It is killing the potential annuity business in the field, just as the express rate was killing it in the parcel field.

Senator COSTIGAN. Was this draft, which I find here printed as title III of the bill, carefully considered?

Mr. ELIOT. That was not. While the bill, before it was taken up in executive session in the House—pardon me for interrupting you, Congressman Lewis—

Mr. LEWIS. That is all right.

Mr. ELIOT. Mr. Beaman, in conjunction with the experts in the Treasury who would be handling the matter, completely redrafted it.

As far as carrying out the policies which Mr. Lewis has stated today, that draft is as nearly perfect as Mr. Beaman could make it, and I think he would agree that it was fully as satisfactory a job of draftsmanship as could be made to carry out the purpose.

Senator COSTIGAN. Is it self-supporting?

Mr. ELIOT. The whole idea is a completely actuarial self-supporting one.

The CHAIRMAN. We thank you, Congressman Lewis, for coming over and presenting the matter to us. We are trying to get through.

Senator GEORGE. Mr. Lewis, may I say that I have had no protest from insurance companies, as I recall. I have had some protests from insurance agents, those selling annuities.

Mr. LEWIS. It happens that the best piece of literature that I have seen on it, indeed, the first suggestion was from an insurance man, an insurance agent—

Senator GEORGE (interrupting). I recall a few during the time it was under discussion.

Senator BARKLEY. Is there some analogy between this suggestion and the Postal Savings bank idea?

Mr. LEWIS. Yes, faith. It is the controlling element in our conditions. The Government supplies it fully. The private company has to face a wall of distrust and break through it. In the course of generations, and it has taken generations, it has succeeded with respect to the familiar life policies. But the annuity policy is new, that is new to the masses. They need to be educated to its wisdom. The Government has no wall of distrust to meet. It can educate the public. The companies will come in for their share in the resulting confidence in the annuity—and will have a monopoly of the business in annuities above \$100 a month—

Senator KING. If the Federal Government goes into the business of selling annuities for the reasons which you have indicated, among others, would there be any objection to going into life insurance?

Mr. LEWIS. Very, very great objections. I would under no circumstances be favorable to the Government going into life insurance.

Senator KING. Would not the demand come very strongly that the Government go into the sale of life insurance?

Mr. LEWIS. Such a demand would be rejected as surely as the Townsend plan. In the case of life insurance, Senator, you will see at once that if the Government went into it, everybody in the hospital and everybody on the way to the hospital would be demanding life insurance. The Government would stand to get the sick, the companies the healthy.

But with the annuity you are protected from those conditions, because if the man lives longer than the calculations, society is growing in strength. The Government gets its reward in that direction. If he lives less than the expectations, Uncle Sam has so much less to pay.

APPENDIX TO MR. LEWIS' TESTIMONY

Estimate of number of individuals not covered under the provisions of title II and eligible for voluntary annuities under title XI

[Based on 1930 Census]

Owners, self-employed and professionals-----	11, 825, 000
Farm operators-----	5, 882, 000
Retail and wholesale dealers-----	1, 796, 000
Self-employed trades-----	352, 000
Professionals-----	2, 223, 000
Others-----	1, 572, 000
Workers excluded because of occupation-----	10, 156, 000
Farm laborers-----	4, 376, 000
Domestics in private homes-----	2, 060, 000
Teachers-----	1, 082, 000
Government, N. E. C. ¹ -----	1, 403, 000
Casuals-----	490, 000
Institutional-----	680, 000
Others-----	65, 000
Total-----	21, 981, 000

Source: Committee on economic security. An adjustment has been made for those individuals 65 years of age and over.

The per capita income of employees in agriculture was \$648 in 1929 and \$352 in 1932.²

The per capita income of employees in domestic service was \$961 in 1929 and \$670 in 1932.³

The number of annuities in force under the Canadian voluntary annuity system was 14,400 on March 31, 1933. The maximum annuity is \$1,200. The contracts pay 4 percent interest compounded annually, the interest and administrative cost being paid by the Government. The average annuity contract for the immediate annuity type was \$418 on March 31, 1933. Nearly 84 percent of all annuity contracts written in 1930 were for less than \$600.

In addition to Canada, Equador, France, Japan, and The Netherlands have voluntary annuity systems.

The CHAIRMAN. Thank you very much.

Senator COSTIGAN. May I ask that the Beaman draft, so-called, be brought to the attention of the committee?

The CHAIRMAN. Yes.

Senator COSTIGAN. I should like to make a motion afterward.

Mr. ELIOT. It is printed in full in the pamphlet.

The CHAIRMAN. Are there any other amendments?

Senator COSTIGAN. I have two or three relatively minor ones.

The CHAIRMAN. Please offer them now.

Senator COSTIGAN. Under the provision for the crippled children, pages 30 to 34, we have a plan for locating crippled children and providing medical attention and facilities, containing an appropriation of \$2,850,000,000. Under section 512, the section right below, there is a provision for the allocation by the Secretary of Labor of \$20,000, and the remainder to the States according to needs, to deal with these services. It is my information that the allotment to the States is not likely to be in some cases utilized.

Senator KING. Why not, Senator, if you will pardon me?

Senator COSTIGAN. The suggestion is that under this approved plan there may not be the amount received by the States, under subsection

¹ Not elsewhere classified.

² National Income, 1929-32, 73d Cong., 2d sess., Senate Doc. No. 124, p. 28.

³ Ibid., p. 142.

(a) of section 512, of the full amount allotted to the States. The provision that I have to offer, which I have asked Mr. Eliot to assist me in drafting, provides that the Secretary of Labor, if any State with an approved plan has not received payment for a fiscal year under subsection (a), of the whole of its allotment available for such year, and if the Secretary of Labor finds that such State is in special need of financial assistance in carrying out its plan, the Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to such State from such allotment, in addition to any payment that may have been made under subsection (a), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotment at the time or times specified by the Secretary of Labor.

The CHAIRMAN. Do you not think that that raises a new question with reference to other questions, and the same power is given to crippled children, and the States do not match it, that pressure will be brought to do that with reference to the other?

Mr. ELIOT. In the matter of maternal health and child welfare and all of these services that involve small amounts, the appropriations in each instance are small; and you have provided in each of those other parts that if the State is unable to match, where the physical well-being of some child is affected, the Federal money will be paid to the State regardless. The only effect that this amendment would have is that if a State was unable to match its entire allotment, the State allotment might be only \$30,000; and if it was unable to raise that, and was suddenly hit by an epidemic of infantile paralysis, making it necessary for a good deal of money to be spent there to take care of that epidemic, that the Government could recognize that situation and let the State draw on its allotment accordingly.

The CHAIRMAN. Where there are cases of epidemic and unusual cases, the Government always comes to the rescue; and if we get this involved, I am afraid of the complications.

Senator COSTIGAN. It seems to me something to which no one should object.

The CHAIRMAN. We will take a vote on Senator Costigan's amendment. All in favor will say "aye." (Ayes.) Those opposed, "no." (Noes.)

The CHAIRMAN. The noes have it.

You have another amendment, Senator Costigan, have you not?

Senator COSTIGAN. The educators of the country have been particularly concerned, and Dr. Studebaker, of the Bureau of Education, has been distressed, over the failure to connect the educational forces of the country with some of the approved State plans. In section 513, on pages 30 and 31, we have a provision for a State plan for crippled children, and it is provided at the end that the plan shall be passed upon in administering State laws for vocational rehabilitation of physically handicapped children by certain agencies. I suggest the addition of this clause at the bottom of section (b), which provides for the approval by the Children's Bureau—

Senator BLACK (interrupting). Which clause is that?

Senator COSTIGAN. There is clause (b) of section 513, on page 32, reading as follows:

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

My amendment is to add to that [reading]—

Provided, That when an educational agency is involved in a State plan, the State plan shall be approved by the State department of public instruction and the United States Office of Public Education.

Senator KING. What provision is there in here for the Federal Government making contribution for education in States?

The CHAIRMAN. For crippled children, they may have a vocational educational policy in the State, and if they have, that is under the educational department. It seems to me that anything affecting education should be approved by the Commissioner of Education.

Mr. ELIOT. Vocational rehabilitation is dealt with in a different section, and the only connection this has at all is a remote one—this is for physical care and not education, physical care of crippled children. Just above where the Senator is reading from it says that the State plan should cooperate with vocational rehabilitation agencies in the State, which is a very minor point. It is among a great many things that the State plan must do. I think Mr. Studebaker and the Office of Education are unduly alarmed if they think that their preserves are going to be encroached upon at all. The committee has already adopted specific exemptions that nobody would interfere with education by voting section 531. That adequately took care of that contingency.

The CHAIRMAN. You do not think it is necessary?

Mr. ELIOT. I do not; and I do not understand, and I do not think Mr. Boots does, the meaning of the amendment.

Senator KING. What provision is there in the bill under which we make grants to the educational system?

Mr. ELIOT. Under section 531, on page 37, we make grants under existing law for vocational rehabilitation.

The CHAIRMAN. Do you insist upon your amendment?

Senator COSTIGAN. Yes; and I want to reserve the right to offer it later.

The CHAIRMAN. All in favor of the amendment will say "aye." (Ayes.) Those opposed, "no." (Noes.)

The noes have it, and the amendment is rejected.

Senator COSTIGAN. My amendments are so unpopular that I hesitate to offer the last. The duties of the Social Security Board under title IV apparently include aid for dependent children. It is generally understood that the Children's Bureau deals with the problem of dependent children and is peculiarly equipped to deal with that. If that policy is to be continued, where we deal with these plans and these grants, the Children's Bureau should be referred to instead of this administrative body.

The CHAIRMAN. What do you say to that, Mr. Eliot?

Mr. ELIOT. I think that unless that is done you will have an infinite amount of confusion because the Children's Bureau under title V will be dealing with neglected children and homeless children, and already has done a good deal of work under the mothers' pension laws

which comes under title IV, and if this is put under the Social Security Board, there will be endless confusion and duplication of effort. Nevertheless, logically and from the point of view of common sense, I would think that a grant for the dependent children would normally come under a bureau which is functioning in this particular field and which is handling the matter of children, which is the Children's Bureau.

The CHAIRMAN. Without objection we will put it under the Children's Bureau.

Are there any other amendments?

Senator CLARK. I desire to offer the amendment which I mentioned yesterday on the voluntary plan which has already been put in.

The CHAIRMAN. Explain it, please.

Senator COSTIGAN. Before Senator Clark proceeds, I want to move the adoption of the amendment offered by Congressman Lewis. He provided the draft.

Mr. ELIOT. It is on page 10 of the pamphlet.

The CHAIRMAN. Let us get it out of the way.

Mr. ELIOT. It will take some time to read it.

The CHAIRMAN. Have you gone over it carefully?

Mr. ELIOT. Mr. Beaman worked very carefully with the Treasury experts for over a week and was, I think, satisfied with it as a technical matter.

Senator KING. That would mean a large addition to the staff of the Department, would it not?

Mr. ELIOT. Only if unexpectedly large numbers will avail themselves of these annuities.

Senator COSTIGAN. It would be self-supporting?

Mr. ELIOT. Yes. The experience in Canada indicates that it would not entail a great deal of administrative trouble.

Senator GERRY. How would it affect the States going into it as Massachusetts has?

Mr. ELIOT. I doubt if it would affect it much, one way or the other, because the proposition is quite different.

Senator CONNALLY. In Canada, you say, many do not apply?

Mr. WITTE. The insurance companies have liked it, because, as Mr. Lewis said, it made the people annuity-conscious.

Senator CLARK. And it does not to any very large extent compete with private insurance companies, does it?

Mr. WITTE. No, sir.

Senator CLARK. In other words, it is intended to cover a field that the insurance companies cannot now reach because of the expense of putting the business on the books.

Mr. WITTE. Yes; it is not economical for them.

Senator LONERGAN. Mr. Chairman, I am opposed to this. (Remainder of statement of the record.)

Senator BARKLEY. Let me ask you this: I have a number of life-insurance policies, not very large, but I have several policies, and these insurance companies with which I have policies write me letters every few months suggesting an annuity policy that they would like for me to take. They are all above my ability to reach them. I cannot comply with their terms and take one unless it be an insignificant amount, because the amount involved in an initial payment and then the annual payment thereafter is so large that

the ordinary fellow who has not a considerable income cannot get it at all. What is going to happen about that? This is just an inquiry for information. These companies, it seems to me, do not get out in that little field where many people who might have a desire for an annuity can obtain it. What are we to do about that?

Senator LONERGAN. All of the insurance companies with which I am familiar will write any kind of an annuity policy.

Senator BARKLEY. I do not know any of that sort.

Senator LONERGAN. I do not think there is any doubt about it.

Senator BARKLEY. I have the New York Life, the Union Central, the Penn Mutual, the Equitable, and none of them do.

Senator LONERGAN. We have some of the outstanding insurance companies in Hartford, Conn., where I reside, and I know that they do it.

Senator GEORGE. They write small annuities?

Senator LONERGAN. Yes.

Senator GEORGE. But of course you do not get much annuity.

Senator CLARK. Not only that; I think it is undoubtedly true, the statement of Mr. Lewis, that the insurance companies have not invaded the small fields, and they base their agency commissions and their rates on the large annuities, which will justify an agent going out and making a great deal of effort to put that business on the books. Most of the policies that are taken out are taken out at the instigation of an insurance agent who makes it his business to instigate that business and prosecute it.

The annuity that this amendment is designed to reach is not worth while for the insurance agent to cultivate the business and try to secure it, but, on the other hand, the rate of the insurance company is necessarily based on a liberal commission to the agent to secure the business. So, in that class of business, it seems to me that there has been very little of it done because there has been no incentive for anybody to put it on the books, and if an individual were to look up some nationally advertised company and ask them for a small annuity, the rate would still be based on a commission to an agent. It seems to me that this is an analogy, as Mr. Lewis has said, of the parcels-post system in this country.

Senator LONERGAN. You take industrial-insurance policies up to \$1,000; there are very few companies in the country that solicit those. Nevertheless, they all write them. They do not make a specialty of it, with the exception of the Metropolitan and the Prudential companies.

Senator KING. I have had a gentleman come to see me two or three times, asking me to take out an annuity policy. I do not think the American people are annuity-conscious, but the companies are willing to write them, and I would not feel that the Federal Government ought to write it at a less rate than what actuarial experience justifies the companies in adopting. If we go into competition with them and write at a lower rate, obviously we may come out with a deficit. It seems to me it is a rather important thing, and hardly a time to engage now in the insurance business.

Senator COSTIGAN. I think all of these arguments were used at the time the Massachusetts system was established. Mr. Justice Brandeis is reported to be particularly proud of this contribution to the Massa-

chusetts law, where apparently insurance is sold to the people through savings banks.

Senator KING (interrupting). A State may do what I conceive the Federal Government ought not to do.

Senator COSTIGAN. I realize that, but they are said to sell, largely to working people, these policies at lower premiums. At first it was feared that policy would adversely affect the business of the insurance companies. The result has been to popularize the insurance, and the insurance business of the standard insurance companies has increased in Massachusetts, side by side with a fairly large purchase of these policies by the workers of Massachusetts. It seems to me that is an answer.

The CHAIRMAN. I would like to ask Senator Lonergan—I had to step out a moment—have you received any protects with reference to this matter from your State?

Senator LONERGAN. No, sir. I knew nothing about it until a few moments ago.

The CHAIRMAN. It was in the original bill. I was just wondering, because the statement had been made that it might help them in their business.

Senator LA FOLLETTE. This matter has had consideration, I know, by the insurance companies—by some of the larger insurance companies. It is not anything that could be in the nature of a surprise amendment. It was in the original bill, and, so far as I know, none of them are opposed to it. Mr. Parkinson, who is at the head of one of the large and well-established insurance companies, has indicated his approval of this. I am certain that they do not look upon it as an entering wedge of the Government entering into the field of general insurance.

Senator KING. I cannot conceive that the Government ought to be interested in helping or hurting the insurance field.

The CHAIRMAN. What is the sense of the committee with reference to the incorporating of this provision? Those in favor will say "aye." (Ayes.)

The CHAIRMAN. Those opposed, "no." (Noes.)

Senator LA FOLLETTE. Let us have a roll call.

The CHAIRMAN. The clerk will call the roll.

(Whereupon, by direction of the chairman, the clerk called the roll, and the votes were recorded.)

The CHAIRMAN. On this vote the ayes are 7 and the noes are 5, and the amendment is agreed to.

Senator Clark, we will have your amendments now.

Senator CLARK. As I said yesterday, the draft of the amendment is not important, but the principle of it is to authorize in cases where industries, private businesses, have established private annuities plans which are equal to the minimum benefits provided in this act, and the plans are approved by the authorities set up under this act, that they should be permitted to continue with those plans.

Mr. ELIOT. From the point of view of the drafting of the act, and not of policy, is it the intention of the Senator that if a plan as a matter of law to be interpreted by the courts provides equivalent benefits, it must be approved, or is it the policy of the Senator to empower the Social Security Board to approve such plans as it finds are of equal benefit?

Senator CLARK. I will leave the discretion in the Social Security Board, subject to the declaration of policy of Congress.

Mr. ELIOT. If the Social Security Board finds that such and such a plan provides equivalent benefits, they shall approve it and exempt it?

Senator CLARK. Yes.

Senator BLACK. If the money is handled by the Federal Government so as to guarantee security?

Senator CLARK. The security shall be satisfactory to the Federal Government, and I will say to the Senator that this plan provides also an option to the employees to withdraw from the plan at any time and receive his proportion of it.

A great many employees have been contributing now for a period of several years, in many cases, and for a lesser number of years in other cases, to voluntary plans which give to the employees greater benefits than are provided as a minimum under the Government plan. It seems to me those employees have a vested interest. To cut off those employees is an injustice to the employees.

In addition to allowing a voluntary plan, where it is approved by the regulatory authorities, where the funds are safeguarded, offers an incentive to the employers to give greater than the Government plan's benefits, which is good business where an employer is in a position to do it. It is recognized that many employers are not in a position to give greater than the benefits provided in the Government plan, but where an employer is in a position and financially able to, progressive employers and intelligent employers realize that it is excellent business for them to do that.

Senator CONNALLY. An employer today might be entirely financially secure and able to do it, but 10 years from now he might be insolvent.

Senator CLARK. Yes. He must provide for the security, according to the terms set out by the supervisory body.

Senator BARKLEY. Let us take an employee who has been making his contribution. If the company ceases to exist and goes out of business, and a man could come in just before he is 65 and get the benefits of the plan we are setting up here without having made any contribution.

Senator CLARK. As I said, this is an imperfect draft. In such cases as that, he should be permitted to get the benefits of the Government system by paying in the equivalent amount of a man who had been under the Government system all the time.

Senator BARKLEY. He would have to, under the private system.

Senator CLARK. He is permitted to draw out.

Senator BARKLEY. He could pay up any arrears and then enjoy both plans, could he not?

Senator CLARK. No. He would pay into the Government system what those in the Government plan had paid.

Senator KING. Does your amendment comprehend cases such as those represented by—I think it was Mr. Doremus, where he spoke about the systems that had been installed in the Eastman Kodak Co., and several others, where these private systems were in effect, as I understand they are in many of the large industries, where they had set up provisions for unemployment, sickness, and so forth,

which were more generous than the provisions in the pending bill. Is that what you are seeking now to do; to legalize those?

Senator CLARK. To permit those to continue, particularly in cases where there is a vested interest in the employee who may have served several years under that plan and made contributions to it and is entitled to greater benefits than he would receive under the Government plan.

Senator KING. Does the present bill boycott them or legislate them out of business, and, if so, what becomes of the funds which they already have?

Mr. ELIOT. It does not legislate them out of existence. Some of the companies say that the added expense which this bill would impose would mean that they would want to drop the plan. It does not automatically legislate them out, but undoubtedly some of them would drop their plans; and, undoubtedly, many of them would not drop the plan.

Senator KING. But they would pay the taxes as well?

Mr. ELIOT. The incentive to make them drop the plan is the additional burden.

Senator KING. Supposing the employees, because of the large benefits they are receiving and the security which they believe the present plan affords them prefer to continue under that plan with their employers, they would be forced nevertheless to come under the present bill?

Mr. ELIOT. Under the present bill.

Senator LA FOLLETTE. Mr. Chairman, Mr. Latimer has given a tremendous amount of attention to this thing, and I would like to have him make a brief statement.

Senator GEORGE. Would Senator Clark accept as an amendment to his proposal a portion of the bill that I prepared in addition to subtitle II at the end, to wit, that any plan or plans approved by the Social Security Board should provide for the setting up of a reserve fund by the employers and for the transfer of the credits of that fund in the event of the separation of the employee from his employment, or in the event that he elects to go out from under the private plan?

Senator CLARK. I am very much in favor of that. I have tried to take care of that in this amendment. In other words, the objection that has always been urged to such a proposition as this is that an employer might, in the latter years of the man's service, before he reached a certain age, become oppressive in his methods and try to make him quit his employment by cutting him down on his compensation and drive him out.

If the principle of this amendment is adopted, I think it should certainly be optional with the employee at any time he pleases to withdraw either from the employment or from the terms of the private system. In other words, he should have a vested interest up to the very last dollar that he has paid in, and up to the very last day that he works for any employer, which will give him the option either to continue under that system and quit his employment without losing the vested interest that he has built up, or to continue under that employment if the employer is willing for him to continue under the Government plan.

Senator GEORGE. The point I was getting to, Senator, was that the plan, before the Social Security Board approved any plan, must provide for the setting up of a reserve fund, which, in the event of his separation from that employment, would be transferred to any other plan or, if he elected to get under the Government plan, would provide for the transfer of credits secured by this reserve fund to the Government itself.

Senator CLARK. I am very much in favor of that principle. It is a matter of drafting.

Senator KING. I know a number of cases where in addition to the unemployment benefits which they receive, they receive sick benefits, and so forth, which perhaps in the bill before us they could not get, and the companies with which I am familiar provide benefits which are very much greater than are given here, sick benefits and all that sort of thing.

Senator CLARK. The whole purpose of this amendment may be summed up in the proposition that the Government is establishing a system which necessarily must be the maximum that can be gone to at this time; in other words, if you put in a general system, necessarily you cannot require everybody to do the things that the stronger and more intelligent employers may be able to do, and the whole theory of this is to allow an employer to do more for his employees than would be possible under a general plan.

Senator CONNALLY. Under this bill that we are now considering, to what extent do the private corporations or employers have their systems? How are they affected? Can they continue those systems?

Mr. ELIOT. They could continue those systems.

Senator CONNALLY. Individually, or by industries?

Mr. ELIOT. In any way they have them. This bill does not affect them, one way or the other, except that such companies, regardless of whether they have systems or not, pay their taxes into the Federal Government. That would undoubtedly discourage some of those companies from going on.

Senator KING. It would drive them out of existence.

Mr. ELIOT. It would probably knock out some of those plans.

The CHAIRMAN. It was stated yesterday that at a meeting of representatives of companies which had such plans, that 10 of them voted for this system and 5 voted to retain their old plans.

Senator CONNALLY. There have been some people to see me about it.

Senator LA FOLLETTE. There are two interests here. I do not contend that all of the companies that now have plans prefer the one in this bill, but there are some that do.

On the other hand, the people who have been most active in this matter are the people who are in the business of selling this private insurance of these systems. They are really brokers. They go out and try and get private employers or corporations to set up these plans, and if they do, they advise with them. They are the people that I have seen the most of.

Senator CLARK. I think that is perfectly true. I will say to the Senator from Wisconsin that these people have devised a system, just as Mr. Latimer worked in the thing for the railroad retirement fund, and they have given a good deal of thought to it. They think

they have an idea which is meritorious, and they have gone to see employers to interest the employers in it, and if their idea does give additional benefits—

Senator LA FOLLETTE (interrupting). I was not criticizing their possessing their ideas. What I was suggesting is that it is not fair to assume from their attitude that it is the attitude of all of the plans.

Senator CLARK. I think that is entirely true, but I think that the assumption that the employers would not care to have one system superimposed on the other, is a fair assumption.

Senator GERRY. Under Senator Clark's suggestion, they could have the option and do as they like.

The CHAIRMAN. Let us get to the question.

Senator CLARK. The draftsmanship may be imperfect, but if you will notice the amendment which is proposed under title VII, the amendment to section 702, it provides that the contribution of employers and employees shall be deposited with the life insurance company, etc., approved by the Board.

When you turn to title VIII, the amendment there provides for the withdrawal of the employee, and the whole theory of it is to set up a reserve back of each employee's interest a reserve which will give him the option at any time he desires to withdraw from that system and go into the Government plan or any other system that he may desire to, where he may secure employment, but to take with him the amount of the interest that is vested in him during his service under this plan.

The CHAIRMAN. All right, Mr. Latimer.

Mr. LATIMER. I believe that part of the discussion has proceeded upon a somewhat false assumption. There is no plan in this country today which would meet the standards of the social security bill. It is more liberal and gives the employees generally more than any private plan in existence.

The CHAIRMAN. Would not the plan presented here by Mr. Doremus—

Mr. LATIMER (interrupting). It was Mr. Folsom, of the Eastman Kodak Company. It gives to those employees who remain under the Eastman Kodak Company employment until the age of 65 or more, but, on the other hand—

The CHAIRMAN (interrupting). Is he in favor of the present provisions?

Mr. LATIMER. He is in favor of the present provisions. He would not by any chance want to contract out.

Senator KING. I do not understand you. What do you mean by that?

Mr. LATIMER. He does not want an exemption.

Senator COSTIGAN. What is the effect of contracting out? Does it not operate against the older men?

Mr. LATIMER. Yes. I would like to explain that contracting out will be determined on the basis of each company's self-interest. Those companies which can reduce their cost by contracting out—

Senator CONNALLY (interposing). What is contracting out?

Mr. LATIMER. Let us say that the company sets up the benefits equal to those under the social security plan. Eventually, 12 years from now, the taxes will be 3 percent, 3 percent from the employee and

3 percent from the company, or a total of 6 percent. If they find that they can go to a private insurance company and buy those some benefits for a cost lower than 6 percent, or lower than 3 percent, after the employee contributes the 3 percent, they will undoubtedly do so.

Senator KING. I apologize for my stupidity, perhaps, but I understood the gentleman to whom we have just referred, Mr. Folsom, and Mr. Jackson, as well as a number of others, who testified, to indicate that a large number of corporations, large corporations particularly—and I know one in my State that adopted plans which they regarded as more generous to the employees than the plans provided here.

Mr. LATIMER. More generous to one out of a hundred.

Senator KING. More generous to all of them.

Mr. LATIMER. No, sir.

Senator KING. And they preferred those plans to coming in under the bill.

Mr. LATIMER. Those plans could not possibly qualify under the social security plan, because they violate the first fundamental, because they do not give anything to anybody who leaves the employ of the company before long periods of service. They are in no way protected. There is not a single plan in America that does it.

Senator GEORGE. That is what I suggested that Senator Clark might take as an amendment.

Mr. LATIMER. And that is not the fundamental point. You have just voted that titles II and VIII should remain in the bill.

Senator GEORGE. You are speaking of the plans.

Mr. LATIMER. Let us suppose that company does come to the Social Security Board and say, "We want to be permitted to go with a private insurance company and have this plan outside of the Social Security Board." Why would they come to the Social Security Board? They would come purely and simply because they find that privately, outside, they can get by with a cost of 4 or 5 percent instead of 6 percent.

Senator GEORGE. I do not think you are just altogether fair about it. Suppose they can do it a little cheaper. If they provide the same or superior benefits, are they not entitled to do that?

Mr. LATIMER. The reasons why they can do it more cheaply are conditions which I do not think it wise to encourage, in my judgment.

Senator GEORGE. Suppose it is written in the law that the Social Security Board shall approve no plan that does not meet the requirements of the act?

Mr. LATIMER. It is not a question of meeting the requirements. It is purely and simply a question of the age of the employees.

Let us take an automobile company that forces out every employee at 40. They can undoubtedly support the benefits of this plan, for 4 percent. A rubber company which never has anybody above 30, can provide the benefits of this plan for 4 percent.

Senator GEORGE. Under title II, why cannot they fire them now, if they want to?

Mr. LATIMER. They can, but it does not save them anything.

Senator GEORGE. I understand, but they could do exactly what they could do under the proposal of Senator Clark. Ought it not

be some incentive for industry to save money where they can, provided it meets all of the requirements of the act?

Mr. LATIMER. There is one fundamental difference between social insurance and every other form of insurance. Every other form of insurance tends to make the people who have it pay them to cut the cost. That is the best thing in the world for unemployment and accidents and fire and for life insurance. But when it comes to old-age insurance, what it means in old-age insurance means that it gives you an incentive to fire men when they are old. People who are 40 or 45, who have a hard time getting a job, you are making it very profitable to discharge those men.

Senator CLARK. There is nothing to prevent them doing it now.

Senator GEORGE. When the Security Board is required to demand the same minimum benefits, when the employee is entitled under any plan that is approved by that Board to have a transfer of his credits when he wishes to go under the Government plan with the accumulations in the fund, how can they take any advantage of the employee?

Mr. LATIMER. They can take advantage as the Ford Motor Co. does, of probably \$10,000,000 a year in that way.

Senator CLARK. They can do it now.

Mr. LATIMER. But why make it profitable for them to do it?

Senator LA FOLLETTE. Why offer them an inducement of monetary value for them to do it? There is an instance of \$10,000,000 for one company. It will offer greater benefits to those employees in the lower age group, and they will be able to do it cheaper.

Senator CLARK. If the employees get just as great benefits under one plan as they do under the other, why are you interested in penalizing the employer and making him pay more?

Mr. LATIMER. It is not penalizing the employer. The only reason he can save money is because he pursues a socially undesirable and unsound policy.

Senator GEORGE. You want to have the employer keep a man until Congress thinks he should let him go?

Mr. LATIMER. Until, if he can, up to 65.

Senator GEORGE. If that is true, then I grant that.

Mr. LATIMER. I understand it was the object of this bill to provide social security for people up to 65. And there is no social security if you get the incentive to fire them at 40.

Senator GEORGE. The fund is there, and it must go to the Government.

Senator CONNALLY. Your theory is that since we have decided that 65 is the age at which old-age pensions should start, that we ought not do anything to encourage their ever being sent away before they get to that age. I would rather see them all come under the Government plan, so long as they are going to establish the doctrine.

Senator CLARK. Let me see if I have clearly in mind what your argument is. As I understand it, your argument is that—under the bill as we now have it—the company will have to pay 3 percent and the employees 3 percent, irrespective of age?

Mr. LATIMER. Yes, sir.

Senator BLACK. But, if they are permitted to buy insurance and reduce the company's payment, they would have constantly before

them an inducement and a stimulant to keep men of the lower ages in order to buy cheaper and to save the company more money?

Mr. LATIMER. Yes.

Senator BLACK. And so it really gets down to the question of whether we want a system which will encourage the employment of men all the way up to 65, or whether we want a system which will give a profit to the employer if he will keep his employees of a low age and eliminate the older ones. That, as I understand it, is your view?

Mr. LATIMER. Yes, sir.

Senator GERRY. If the Senator from Missouri wants to give this opportunity to the employers to have their separate plans, could that difficulty that the expert witness has told us about, could not that be remedied by an amendment to the requirements?

Senator BLACK. At the beginning I favored Senator Clark's amendment, but I say, as I see it now, if you let that company reduce its payments, as it would in this way, it is not merely a saving to them but it is constantly stimulating and inducing them to have a group of employees of a low age limit, which I believe is very undesirable socially.

Senator CLARK. The answer to that is, of course, the policies which have been set up by the companies which Mr. Latimer mentioned of employing only young men or of certain age limits has nothing to do with insurance at the present time. The companies he is talking about do not have any employee insurance. The reason they do that is because they think the younger men are more efficient. There is nothing to prohibit them, as it stands now, from going ahead and doing it.

Mr. Latimer's plan cuts off any incentive for an employer to do more than the Government plan involves.

Senator BLACK. The answer to that is that under the bill as it is now written they have to pay 3 percent whether their men are 40 or 45 or 60 or 64.

Senator CLARK. That is true, but if they think a man of 40 is more efficient than a man of 60, they can fire him.

Senator BLACK. But why induce them to do it by letting them pay less than 3 percent? I have had men come to me from Birmingham, men who were in the employ of one of the large companies there, and the man who employed them told me that he was instructed to discharge them when they got to the age of 45, and they are doing it.

Senator CLARK. According to this amendment, if the employee is discharged before attaining the age of 65, or if approval be withdrawn, there should be paid to the Treasury of the United States the taxes which would otherwise be payable during his membership in such plan at 3 percent, compounded annually.

Mr. LATIMER. As I read that amendment, I think it says, "withdraw from the plan"? There is nothing in your amendment which would prevent the employer saying to the employee, "You sign up that you will not withdraw from the plan, even though I fire you."

Senator CLARK. I want to make the employee just as secure as I possibly can, and if the employer discharges the employee before the age of 65, then under this thing, as far as I am concerned, I

would make that an automatic withdrawal and make the employer pay up the accrued benefits with 3-percent interest.

Mr. LATIMER. That does not eliminate the whole trouble? I was speaking of the amendment as it was there drawn.

My business, before I became connected with the Government service, was to advise companies what to do about pension plans. I have been in that business for some years and I have written a great many plans.

Under this particular amendment, the company would not know what to do. Let us take the case of an oil company, and I have had occasion to advise a number of oil companies. They see now that the taxes are such and such an amount. That is not an individual matter with them. They have to know what the automobile companies in Detroit are going to do, and they have to know what the rubber companies in Akron are going to do, and all of the others in the country, and all of them go out and get the benefit of the lower rates, and the taxes under title VIII of this act are found to be increased to support title II. Then there will inevitably arise a deficit. This company can go on for 5 or 6 years and think that they are getting by, but suddenly Congress will find that they have to raise the taxes to get the benefits. The whole thing works cumulatively, and will eventually destroy the plan and makes it impossible for a company to make a decision what to do.

Senator BARKLEY. Would it not be better to let the private annuity funds be liquidated and have a uniform system?

Mr. LATIMER. There is no reason to liquidate them. Take the Standard Oil Co. of New Jersey plan. They have \$70,000,000 on their books. They cannot liquidate this plan as far as prior service is concerned. Those employees will not lose their money. There is a legally binding agreement, drawn up by the best lawyer that the Standard Oil Co. of New Jersey could employ to protect them in that respect.

The Eastman Kodak Co. intends to reduce the benefits for the future.

The Metropolitan Life Insurance Co. has one of the most liberal employer plans. They have publicly stated that they have no intention of contracting out and reducing their benefits in the future, but that is the position they have arrived at, I presume, after due study.

I know, in my own work, if I should go back in my usual business, as I say, it would be extremely difficult to know what to advise if this kind of a minimum rate were put in, because I would never know whether it is for the interest of the employer to contract out. But there would be no difficulty if the plan were kept as it is now.

If you want to give additional benefits, then contract for them outside of the social security.

Senator GEORGE. Do you think that a great many of the companies will continue their plan?

Mr. LATIMER. Yes, sir; I do.

Senator GEORGE. And increase the benefits to the employees?

Mr. LATIMER. They will have the plans continued, so that they will have those benefits go to a few of the employees entitled to receive them.

Senator GEORGE. Do you think that that is consistent with your suggestion that if you give a company the option of continuing its present plan, that it will follow that and farm out or undertake to discharge all of its older employees?

Mr. LATIMER. The point there is that the companies which have pursued socially bad policies in the past will be the ones that want to contract out. Those progressive employers who have already done something for the employees would not do it.

Senator GEORGE. They would not take that attitude?

Mr. LATIMER. They would have to, because the companies which are competing with them could go out and get lower rates.

The CHAIRMAN. Thank you.

Those in favor of the amendment as suggested by the Senator from Missouri will say "Yea."

(Chorus of ayes.)

The CHAIRMAN. Those opposed to the amendment as suggested by the Senator from Missouri will say "No."

(Chorus of noes.)

The CHAIRMAN. I will take the vote by a showing of hands.

Senator LA FOLLETTE. I think we ought to have a roll call.

Senator CLARK. In view of the number of absentees, I do not think that there should be a roll-call vote. I intend to offer the amendment on the floor anyhow and fight for it.

The CHAIRMAN. Offer your amendment on the floor then, Senator. The amendment is defeated. The vote 5 to 5.

Senator CLARK. I would be glad to have a roll call except for the number of members absent.

Senator GEORGE. I also had a substitute which, of course, brings up the same general question, and with the consent and permission of Senator Clark—I presume he would because he said so just now—I will cooperate with him in the insertion into the amendment of some provisions that I think ought to go in there, and will not offer formally the substitute I wish to present.

Senator KING. Senator George, is not that substitute which you have prepared, the one to which you referred in your brief address in the Senate the other day?

Senator GEORGE. Yes; it is.

Senator KING. And is it not more comprehensive and does it not cover more things than indicated by Senator Clark?

Senator CLARK. I think it does, and as far as I am concerned—

The CHAIRMAN (interrupting). You want to offer that on the floor, do you not, Senator George?

Senator GEORGE. Yes; I am going to offer that on the floor.

The CHAIRMAN. There is an amendment here offered by Senator Tydings. You will recall that Governor Winship appeared before the committee with reference to Puerto Rico being included in the provisions of this bill.

Senator KING. What was that?

Senator GEORGE. They wanted to have the same thing.

Mr. ELIOT. The President's committee had no view on this. The House limited the bill to Alaska and the Hawaiian Islands as well as the United States on the ground that the normal tax collections of the United States applied to those Territories but not to Puerto Rico and the Virgin Islands.

The CHAIRMAN. Let Senator Tydings offer his amendment on the floor.

Senator KING. The bill applies to the District of Columbia, does it not?

Mr. ELIOT. Yes, sir.

The CHAIRMAN. The Secretary of the Interior to have that proposition incorporated in the bill.

Senator BARKLEY. I do not see myself why there should be any discrimination against Puerto Rico.

Senator KING. What was the reason?

Mr. ELIOT. As I understood it, the normal tax collections apply as far as Hawaii and Alaska are concerned, but do not apply to the residents of Puerto Rico.

Senator KING. They pay their taxes into their own treasury; we do not get any. The same with the tariff duties. Anything they collect, they get themselves. They are autonomous.

The CHAIRMAN. Are there any other amendments to be offered?

Senator LA FOLLETTE. I want to bring up a matter. We have had it up once or twice before. That is the matter of the exclusions or the exemption from this plan of these various agencies that have plans of educational, religious, community chest, and other features.

The CHAIRMAN. There was a delegation came to see me yesterday about this community chest.

Senator LA FOLLETTE. This is on page 15 and is among the definitions and other provisions in the bill. In the definition of the term "employment", section 6 reads as follows:

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

I think that all of the members of the committee are familiar with the problem that is created in this situation. There are some of the various organizations that are included in this paragraph now who do not desire to be included. In other words, they would prefer to come in. This matter has been thrashed around a good deal. I do not know whether we can work out a solution on it. The only one that has occurred to me is perhaps to narrow the exclusion. I think Dr. Witte has talked to some of these people. I am not asking him for a statement of policy, but I am asking him whether there are any suggestions that have come so far as the manner in which this could be done to take care of these people who want to come in, in case the committee should decide that they desire to do so.

Mr. WITTE. Of course, I talked to these church people and Y. M. C. A. people. I think all of you have, because they have been very active. A great many of them undoubtedly feel that they would like to have the bill cover at least their employees that are not covered by pension funds now. None of these churches have pension funds for their lay workers, for their stenographers, or for their secretaries. They only cover their clergymen.

The State of New Hampshire in the unemployment bill which passed yesterday—the Senate of New Hampshire passed the unemployment bill yesterday making it the fifth State in the Union with

the unemployment insurance law—they have an exemption. They have included in their bill an exemption by classes. They exempt clergymen. They exempt teachers in the public and private schools and they exempt nurses, physicians, and nurses in training in hospitals.

This exemption as it reads now exempts anybody employed by these particular companies. This would exempt certain occupations for which there has been established some private funds.

Our committee has never taken a stand on this, deeming it entirely a matter of policy, and I am not in any manner presenting any view to you.

The CHAIRMAN. They are all divided on the proposition.

Senator CLARK. The whole theory of the proponents of this bill is to establish a regular-sized bed for a man with the average-sized legs. If they are too long, they cut them off; and if they are too short, they stretch them out.

Senator BARKLEY. This is an industrial bill to provide social security for industrial workers, largely. Why should we take in churches and the Y. M. C. A. and community chests and who are out and raising funds for charity? I cannot see why we can include them in a system of this sort.

Senator KING. My recollection is that the testimony before us warrants us in taking the position suggested by Senator Clark.

The CHAIRMAN. I think we had better leave this proposition as it is.

Senator COSTIGAN. Senator La Follette, have you any particular suggestion to offer?

Senator LA FOLLETTE. I would offer in principle the amendment suggested by Dr. Witte and just take a vote on it. I personally do not think it should be excluded.

The CHAIRMAN. All of those in favor of the amendment will say "aye." (Ayes.)

The CHAIRMAN. Those opposed, "No." (Noes.)

The "noes" have it. The amendment is defeated.

Is there any other amendment?

(No response.)

The CHAIRMAN. The General Accounting Office offered some amendments, but those are opposed by Mr. Eliot and those who represent the administration.

Mr. ELIOT. Yes, sir.

The CHAIRMAN. Without objection, the bill will be reported out favorably with the amendments agreed to by the committee.

Senator CLARK. It is understood that the members have a right to offer amendments on the floor.

The CHAIRMAN. Yes; the bill will be reported out favorably and the committee stands adjourned.

(Whereupon, at 1:15 p. m., the committee completed its executive session consideration of H. R. 7260.)