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(The) development of social insurance in the United States

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Boston University
THE DEVELOPMENT OF SOCIAL INSURANCE IN THE UNITED STATES

by

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FOREWORD

This study relates to attempts made at social control of the American laborers' insecurity. This particular kind of control is social insurance.

The study shows that the roots of social insurance started in Europe at the time the wage system was appearing as the principal means of providing a livelihood to a growing portion of the European working population. At first such schemes were voluntary. Later they were made compulsory for the workmen. A little later employers were required to contribute especially in trades where hazards were great. Gradually the plan was extended to cover all forms of employments. The movement first took shape with the passage of legislation in Germany in 1883 and later in England in 1897. With these beginnings social insurance legislation also crystallized in the other European countries.

The first efforts made in the United States to incorporate the principle of social insurance into legislation were in behalf of workmen's compensation in order to correct the acknowledged defects and inadequacies of employers' liability. The first workmen's compensation bill to appear before an American legislature was in 1898 in the New York Senate. Because of the inadequacies of employers' liability many states appointed commissions to study methods of improving it. Gradually the belief was accepted that employers'
liability fell short of meeting the need of industrial hazards. Workmen's compensation bills began to appear in several state legislatures. A growing support, including organized labor, was urging passage of this legislation. Constitutional limitations as well as other deterrents held back at the start passage of these bills. Once the movement got under way progress was rapid. Between 1911 and 1921 all of the states, except four, passed such legislation. Since then the principle of workmen's compensation has been generally accepted and it is today the best developed form of social insurance legislation in the United States.

The next proposal to appear was in the interest of the indigent aged. Old workers were finding it increasingly difficult to make a living. Industry did not want them. This portion of our population was a growing one, increasing from four and two-tenths per cent in 1900 (1) to five and five-tenths per cent in 1930 for those sixty-five years and over.(2) Relief in its then existing form as well as almshouse care was considered a most unsuitable provision for the care of the aged. So-called "pensions" were proposed. This reform met with all kinds of opposition at first--even organized labor violently opposed it. Many commissions were appointed to study this need of which the Pennsylvania Commission was one of the most outstanding. Many of the early bills met

(1) Abraham Epstein, Facing Old Age, p. 8
(2) Figure given to writer by Professor William G. Sutcliffe
with defeat. Between 1923 and 1933 over one-half of the states of the Union passed old age "pension" acts. It must be pointed out that as important as this legislation was it was not a form of social insurance but was merely a higher standard of relief. In order to qualify for aid, the applicant had to prove need. This legislation is included in this study because the writer believes that it frequently leads the way for contributory old age pensions to follow later. In addition it must be said that it was encouraged, in part, by a small group of people who were urging adoption of the principle of social insurance into American legislation.

During the "twenties" a small group in Wisconsin under the able leadership of Dr. John R. Commons was urging passage of a particular type of unemployment compensation. A powerful opposition thwarted all efforts to the passage of such legislation. Not until the impact of the depression along with the inroads it made in curtailing employment opportunities was the need for this legislation taken seriously. Other states felt the need for considering such proposals and as a result many commissions were appointed to study such plans. Bills were presented in several legislatures but none of them met with success until the passage of the first Wisconsin Act in 1932. At the present writing the Wisconsin Act is the only unemployment compensation act which is functioning. From August 17, 1936 to December 1, 1936 it has paid unemployment compensation to 6,700 unemployed workers in the sum of nearly $33,000
from the plant reserve accounts of 517 different employers. (1) Six additional state unemployment compensation laws were passed however in the period during which the Social Security Bill was before Congress—January to August, 1935.

Until the passage of the Social Security Act public opinion was much opposed to all types of social insurance legislation with the single exception of workmen's compensation. A strong rugged individualism prevailed. The prosperity period terminating in the fall of 1929 was one in which most people felt secure. If worst came, thrift could provide for such contingencies as arose. Even organized labor was steeped in the individualistic philosophy of the late Samuel Gompers who was a vigorous opponent of such a form of social control. There was no strong "leftist" party to urge such action by the more conservative governing parties. The Socialist party it may properly be said had withered away to almost nothing, polling less than one per cent of the votes in 1928. None of the forty-eight states dared to venture far with such legislation fearing the handicaps it would give to business which knew no state boundary lines. The deepening of the depression and the prolonged unemployment as well as the other losses brought to the American people were the silent and convincing arguments for the need of some kind of action. Little was it dreamed, however, that it would come later through

(1) National Association of Manufacturers, Labor Relations Bulletin #15, December 7, 1936, p. 30
federal leadership. But with the financial drain on local, state and federal treasuries to meet the relief needs there was an acute awareness of the fact that something had to be done.

No mention is made in this study to what Professor Paul H. Douglas aptly refers to as the "thunder of the left"—the Townsend Plan and the Lundeen Bill. Neither of these proposals made any use of the principles of social insurance. Nor is mention made of the carefully prepared Wagner-Lewis Bill which would have been most important had it obtained the necessary administrative approval. It was overshadowed by the administration's bill which took form in the Social Security Act of 1935.

Three important parts of the Social Security Act are considered in this study—old age assistance, old age benefits and unemployment compensation. The old age assistance measure provides federal aid to those states complying with certain established standards of the federal act. The old age benefit provision is a contributory scheme which is administered by the federal Social Security Board. The unemployment compensation section provides for a refund of ninety per cent on an employer's tax for those states enacting unemployment compensation legislation which meets with the approval of the federal act. Because of the grants which the federal act provides with reference to old age assistance and unemployment compensation state legislatures have been hastening the passage of such state measures. Unemployment compensation
Legislation is taking on different forms because no standards for it appear in the federal act. An evaluation of these different state plans appears in this study.

What this act will mean in the future depends primarily on what the Supreme Court has to say about it. If the act meets with judicial approval a real step has been taken in the direction of security for the worker. If it fails, however, it seems reasonable to believe that other measures will be proposed to take its place. One thing is certain, however, that the need for some kind of security cannot go unattended.
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I

INTRODUCTION

Dependence on Wage

If conditions were such that wage earners could secure work without difficulty and hold it at fairly reasonable wages throughout the remainder of their lives without accident, sickness, unemployment, infirmities of old age, or other reversals coming to them there would be no need for this discussion. All of the security needed would be present. The worker would have a wage. It would be adequate and it would come regularly. When the opposite occurs hardship ensues for most people.

Economic independence of the individual is not a common thing. "Despite lip service rendered the principle of 'independence of the individual' in the United States," says Professor Armstrong, "there has been, for the most part, failure to face the fact that our present economic system is a constant threat to his independence.

"The costly result of this inattention has been that millions of families annually have been thrust into the ranks of the dependent destitute, through circumstances over which they have no control, such as unemployment, sickness, or death of the wage earner."(1)

(1) B. N. Armstrong, Annals, American Academy, November 1933, Vol. 170, p. 1
The text on the page is not clearly visible due to the quality of the image. It appears to be a page from a document, possibly containing paragraphs of text. The content is not legible enough to transcribe accurately.
Adequacy of Income

It has been estimated that the necessary income for the average-size American family in order to meet the basic necessities of life at 1929 prices is about $2,000. If this be true there were sixty per cent of the families that fell below this level in the so-called prosperous year of 1929. Twelve million families, or more than forty-two per cent of the total number in the United States, had incomes of less than $1,500. Of this group, six millions had incomes less than $1,000.(1) From the standpoint of this measure of adequate income it is apparent that the majority of our wage-earning group have low incomes.

Loss of Income

Loss of income is worse for then the worker must rely on other resources until he receives wages again. The more common conditions responsible for this loss are accident, industrial disease, sickness, unemployment, infirmities of old age and death of the wage earner. It is almost impossible for the worker to go through life without being confronted with one or more of them.

Social Insurance defined

One of the methods that has been advanced to combat this loss to the worker is social insurance. It is one form of substitution for the loss of wages. Its method has grown from insurance which is "a provision made by a group of persons, each singly in danger of some loss, the incidence of which

(1) Maurice Leven, et al: America's Capacity to Consume, Brookings Institution, 1934, see section on Diversity of Family Incomes, pp. 51-58
cannot be foreseen and that when such loss shall occur to one of them, it shall be distributed over the whole group." (1)

In other words social insurance applies the insurance method to the hazards of the wage earner by distributing such losses over the insured wage-earning group, their employers and sometimes the state itself. It is a social policy of the state to give protection "to one part of the population, which some other part may need less, or, if needing, is able to purchase voluntarily through private insurance." (2)

**Contributory and noncontributory Forms**

Social insurance schemes fall into two general classes, the contributory and the noncontributory. When an individual financially participates in an insurance scheme where he is beneficiary, such a plan is contributory. The amount which he pays is prescribed by law and is usually determined by actuarial methods. Such contributions are compulsory and with the addition of others go to build a reserve out of which benefits are paid. Nearly always the employer must contribute a similar amount in behalf of each employee. Frequently the state contributes to the fund or provides for the necessary administrative expense. A noncontributory insurance scheme is one where the contributions are made by others than the prospective beneficiary, usually the employer and sometimes the state. Workmen's compensation is a good example of this type of social insurance.

(1) Encyclopedia Britannica--Insurance
(2) I. M. Rubinow, Social Insurance, p.3
Assistance Acts not Social Insurance

So-called "assistance acts" have often been confused with insurance schemes probably because they have been referred to as "pensions". This type of legislation is relief on a supposedly "higher level" than the usual poor relief measures. But in both types of measures the need for aid must be shown by the applicant. Assistance laws as a rule permit applicants to receive a certain minimum amount of income and own a small amount of property without disqualifying the application. Relief usually takes the form of a definite periodic cash allowance while ordinary relief is more frequently "relief in kind". It is difficult, however, to draw a clear-cut line between either types of relief. A liberal and understanding relief administration may administer its laws on standards comparable to assistance acts and sometimes, for that matter, superior to them. In assistance acts the aid given varies while benefit features of insurance acts are fixed by law.

Social Insurance not Relief

As stated already a grant of relief is determined on the basis of need of the applicant. It is the state's method of relieving want when no other resources are available to him. In the case of insurance the question of need does not enter into the benefit. If the conditions which the worker was insured against arise he qualifies as a matter of right. It is a property right.
Social Insurance and Social Security

Although social insurance is a form of social security, the term social security legislation usually refers to such laws as combine social insurance along with assistance or special relief acts. To apply the term "social insurance" or "relief" would be wrong. The Social Security Act is an example of such legislation.

Other Terms used

Where insurance principles are being applied for the first time to a social risk it is customary to use the term "compensation" in place of "insurance". The reason is that statistics and experience tables are lacking and it becomes necessary to grope one's way in the new field. A person who receives benefits from an insurance act is usually referred to as a "beneficiary". A person who receives allowances from an "assistance act" is called a "recipient". To call such a person a "pensioner" is wrong although it is commonly done. Private schemes are commonly (and correctly) called pensions. Webster's Dictionary defines pensions as "a stated allowance made for past services or the surrender of rights or emoluments to one retired from service."

Opposition to Social Insurance Legislation

The progress of social insurance in the United States has been obstructed by strong opposition. It has been called an un-American and European method. The idea of compulsion has not been readily accepted. It has been called paternalistic.
It tends to lessen individual initiative and infringes on individual liberties. "In no European country," writes Professor Ogg in 1926, "has individualism had so wide a scope as it has had in the United States, where even yet it is so conscious and assertive as to resent any interference with the right of the strong to exploit the weak."(1) Another criticism has been that social insurance builds bureaucratic government. Although the following was written about 1923 it does convey the stubborn resistance to encroachment on individual liberties and attempts at social control through the extension of governmental activities which prevailed to some degree throughout the period under review: "But it is in the vast recent growth of administrative law that we have most largely departed from the principles of our ancestors; and here, more than in anything else, must we depend on our Supreme Court alone to check the tidal wave of bureaucracy in government by commission whereby our most essential liberties are submitted to the regulation, our very livelihood to the control, of some political functionary, without real appeal to the courts. The right to lead freely our own lives, earn our living, pursue our happiness, is under real menace. Not only in the States; still more under National Government--because there the busybody's desire to attend to every other body's business, to control all men's

(1) Ogg & Sharp, Economic Development of Modern Europe, 1926, p. 545
actions to the pattern preferred by a few, to submit the labor and trade and domestic relations, the education and the hygiene and the rearing of children, throughout all this wide continent of a hundred million people and of all the races and all the religions, to the Procrustean standard that some society in some few states thinks best, can be brought about sweepingly throughout the land by some act of Congress that can be justified under the interstate commerce clause or otherwise ranged with those things which are properly the affair of the central government."(1) Such convictions made it difficult to advance far along the lines of any kind of social welfare legislation.

The question of constitutionality was raised about this legislation. It was considered class legislation. It was probably true that as many state constitutions stood at that time, amendments would have been necessary to make such legislation constitutional. Another objection, and a very difficult one, was that legislation of this sort was left to forty-eight separate states to consider. As much as the people of a state may believe in the need for some kind of social legislation, they are hesitant to enact it when burdens on the industries of the state may be expected as a result. Industries depending on interstate commerce are placed at a disadvantage with competition of other states. Furthermore such legislation

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(1) F. J. Stimson, The American Constitution, 1923, pp. 82-83
acts as a deterrent to new industries locating in such a state. On occasions when some new form of social welfare legislation was being considered this objection proved very effective at times.

Attitude of different Groups toward Social Insurance

In the promotional stages of social insurance legislation it is of interest to note the stand taken by at least three groups who were close to these proposals. Employers were obviously close because of the financial obligations they would be required to meet. Labor would be concerned for the same reason and also because it receives the benefits. Political groups would be called upon to legislate on such matters.

A. Employers

Employers have been bitterly opposed to this and other kinds of social legislation. They evolved all of the objections already noted with particular emphasis on the interstate aspects. What chance did they have, they questioned, to compete on equal terms with similar business of other states with such added burdens?

B. Labor

Labor was not kindly to such proposals except workmen's compensation. The thought of the American workman appearing in such a precarious position was resented. Give the workman, labor argued, an adequate wage and he can through his own sense of foresight and thrift provide for himself. There was also much propaganda spread against private pension schemes. It
is possible organized labor was fearful of private schemes for the reason that such plans would lessen its hold on the workers by having the employer appear as their sponsor. Many private schemes presented to them by employers were turned down by the workers.

The late Samuel Gompers, former president of the American Federation of Labor, said a few years ago: 
"Paternalism either in government or in industry is abhorrent. It takes away the initiative of the workers who should themselves prepare for old age or the proverbial 'rainy day'. Where the workers receive an adequate wage, one that will permit them to live as an American should live, they will provide their own pension system, and whatever men do for themselves increases their value as workers. It brings independence and a desire to live as men should live without fear of losing that which will protect them in their old age."(1)

Labor leaders did believe however in government pensions. Labor's viewpoint since the depression is a reversal of its former position, including endorsement of health insurance in 1932. Today, William Green and other officials endorse old age benefits and unemployment compensation. As already indicated labor's former opposition to both public and private pension schemes was probably based on self interest. Its leaders

(1) Quoted in L. Conant, Jr., A Critical Analysis of Industrial Pension Systems, 1922, p. 22
feared such provisions were attempts to weaken the position of the labor unions.

C. Political Groups

With the exception of workmen's compensation, neither of the two major political parties had much to say on social insurance until the appearance of the New Deal in 1933. As late as 1936 the Republican candidate declared himself opposed to the social insurance features embodied in the Social Security Act of 1935. He proposed as an alternative direct relief as the method of providing security to the worker. Many of the leaders of both parties have from time to time expressed themselves, as individuals, as in sympathy with such a program.

The minority parties have advocated this legislation much earlier, however. The first party to advocate it was the Social Democratic party in its platform of 1900. The Socialist party in 1904 insisted on, "the insurance of the workers against accident, sickness and lack of employment; ... and pensions for aged and exhausted workers."(1) In 1908 it put its position clear by stating that it favored "abolishing official charity and substituting in its place compulsory insurance against unemployment, illness, accident, invalidism, old age and death."(2) It was not until 1912 that

(1) K. H. Porter, National Party Platforms, p. 269
(2) ibid. p. 317
an important party, although a short-lived one, the Progressive party, advocated: "The protection of home life against the hazards of sickness, irregular employment and old age through the adoption of a system of social insurance adapted to American use."(1) The Prohibition party declared in its 1916 platform, "We stand for the rights, safety, justice and development of humanity; we believe in the equality of all before the law; in old age pensions and insurance against unemployment and in help for needy mothers, all of which could be provided from what is now wasted on drink."(2) In 1920 a plank in the Farm Labor platform read as follows: "Old age and unemployment payments and workmen's compensation to insure workers and their dependents against accident and disease."(3)

Proponents of Social Insurance

A. Individuals

Certain individuals stood out as exceptional leaders in behalf of this movement. Among the earlier sponsors were Miles M. Dawson, Professor H. R. Seager, Professor Robert M. Woodbury, Dr. John B. Andrews, Lee W. Squier and Dr. I. M. Rubinow. Drs. Seager and Rubinow gave the first courses ever offered on the subject of social insurance. Three more recent leaders have been Dr. Paul H. Douglas, Abraham Epstein and Dr. Frieda Wunderlich. This list is in no sense a complete one; all that the writer has tried to do has been to select

(1) ibid. p. 339
(2) ibid. p. 394
(3) ibid. p. 441
from a long list those who seem to him as the most prominent.

B. Groups

Some state commissions have done much in the interest of social insurance. Of course it is true they were in most instances short-lived but they did leave in many instances worth while studies behind them. Their work was not all in vain.

The two most active agents in behalf of this legislation have been the American Association for Labor Legislation and the American Association for Social Security, formerly the American Association for Old Age Security. The former has been very active in workmen's compensation and unemployment insurance. The latter has particularly emphasized old age benefits as well as certain types of assistance legislation—mothers' allowance and old age assistance.

Certain fraternal orders were advocates of various pension schemes which embodied social insurance principles. Two organizations in particular did much toward popularizing the subject during the twenties—the Fraternal Order of Eagles and the Loyal Order of Moose. The former emphasized legislative need for sickness, old age and unemployment. So active was its efforts in this field that Governor Franklin D. Roosevelt of New York presented the pen to the Order when he signed the Old Age Assistance Act of 1930, saying; "Most of the credit for showing the need of old age pension legislation is due—and will be given—to the Fraternal Order of
Eagles. They started this nation-wide movement; and it is because of their continued efforts that the idea has been brought to the attention of the people in the various states."

Questioning these claims Colliers, a national weekly periodical, determined to investigate this matter and concluded: "Our voluntary study of Old Age Pensions has disclosed that the Eagles were undoubtedly responsible for the forward movement of this ideal."(1) Regardless of whether the Order's efforts were as effective as these claims seem to indicate, it may be stated that the order did actively propagandize the need for this kind of legislation.

These leaders and groups undertook to batter down a strong wall of indifference and opposition. Their accomplishments were few, but they were persistent.

**Until recently Need has not been great**

Until the depression years of the present decade relief need was not great. There was little prevailing belief, if any, that insecurity would ever be as widespread as recent years have made us realize. Most people felt secure. It is true that we had some need for institutional and outdoor relief but the localities were handling this problem without financial difficulty. Relief did not loom large as a local expenditure, at least, not to the point where it was believed to be beyond the tax powers of local government. Furthermore the care of the poor was looked upon since the days of Queen

(1) Quoted in W. G. Shepherd, Eagle Magazine, February, 1937, Vol. 25, p.8
Elizabeth as a local responsibility. Why then should state and federal governments concern themselves with such legislative proposals as social insurance?

**Insistence on better Standards of Care**

Instead of widespread insecurity being the reason for urging early consideration of this legislation, the most important motive behind such attempts was a growing humanitarianism. Better standards of care were urged to replace the old, more antiquated forms of relief. It was argued why the indigent aged should be sent to the poor farm. Such provisions are costly and inhumane. Instead, give an allowance to the deserving indigent aged so that they can provide for themselves. The claim was that institutional care was more expensive than giving monthly allowances to the aged poor. But it was overlooked in the early period that by raising standards of relief more applicants who were in need but finding some way out would apply, thus increasing greatly the cost of such care.

It was argued that giving the customary relief to widows with small children was inhumane. It bred chronic dependency in the growing children. Instead there should be provision for mothers' allowances or "widows' pensions" to take the place of poor relief. As worthy as this proposal was it did result in increasing applications beyond the number who would accept local relief. Much progress was made, however, with this type of assistance.
Summary of Support and Opposition to Social Insurance

It is difficult to list all of the arguments advanced in favor of and opposed to this type of legislation. A few will be mentioned here without thought to balance, but at the same time with no attempt to do injustice to either side.

Those advocating social insurance make the following claims:

(1) This type of legislation has social and economic justification. "Social insurance provides a means for maintaining a balance between consumption and production, and in the simplest manner. There is no inflation or deflation of the currency. There is no interference with the methods of manufacture or distribution of commodities. There are no codes. But the ability of the people to consume is maintained. A scheme which puts into continuous circulation several billion dollars is of great advantage as a corrective of underconsumption."(1)

(2) It gives protection to the individual insured. The amount of protection it gives depends on the length of time-period covered and the amounts provided.

(3) There is proof of its need from the standpoint of experience. This argument, of course, varies in intensity with the type of contingency considered.

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Those opposing such legislation advance among other objections the following:

(1) It will not accomplish the desired results. The claims of the security it provides are most inadequate at best.

(2) Its proposal is revolutionary to the American way. Many of these arguments have already been mentioned. In brief, it is class legislation; it establishes bureaucratic and paternal government.

(3) It is claimed to be a failure in actual practice. Actuarial computations will not be adhered to. Premiums decreased and benefits increased are mentioned as the experience of countries having such legislation.

(4) Such proposals lead to undesirable economic consequences. They weaken individual responsibility and self reliance. They create a great class of beneficiaries. They increase the tax burden. They build up huge governmental reserves that government must invest in its own bonds, thus giving opportunity for wasteful and extravagant governmental expenditures to make use of these surplus funds. A surplus of government funds is nearly as bad as a deficit. As desirable as such legislation may be it places upon industry and government a charge beyond their ability to handle.

To evaluate the worth of social insurance legislation there are certain important questions which must be borne in mind:

(1) "Does the legislation achieve its objective of reducing
general insecurity?

(2) "Does it do so with the minimum of disturbance to the economic order?

(3) "Does it require an excessive bureaucracy?

(4) "How much will it cost?

(5) "Who will foot the bill?"(1)

(1) Mrs. Eveline Burns, Toward Social Security, Preface, p.6
II
THE EUROPEAN BACKGROUND

Before reviewing the development of social insurance legislation in the United States, it does seem important to give some brief account of the beginnings of this movement in Europe, for it is there that the first efforts were made, particularly in Germany and England. Not only are its roots to be found in Europe but also it is there where its development to the present time has been to the fullest extent.

First Beginnings of the Social Insurance Idea

The brilliant mind of Germany's Iron Chancellor has been incorrectly credited as author of the social insurance idea. In truth no one individual can claim such authorship and no one country deserves the exclusive honor of formulating this concept. The social insurance idea has been a slow and gradual growth. Its beginnings are found in the idea of mutual aid of the early craft and gild associations. It grew slowly and coincident with the development of the wage system. "In short, the working class showed in many ways its appreciation of the necessity for organized relief, and its willingness to contribute to it, while the state was making the first steps in the direction of participation in such relief. In a large measure the same conditions obtained in other industrial countries of Europe as well."(1)

(1) I. M. Rubinow, Social Insurance, p. 13
Early German Background

At first workers made provision through the gilds and journeymen's associations for protection against accident, sickness and infirmity in old age. All such provisions were codified in the Prussian law of 1794. By this law journeymen could choose one of their members to supervise a fund to administer to those in need of aid. When funds were inadequate masters were required to contribute, otherwise they had no obligations unless required by their contract with the journeymen. Gilds of masters provided in a similar manner for their members. Early factory owners were held in a similar position as the masters. Thus most of the cost for care of incapacitated workmen was placed upon their own mutual organizations.

Where risks of employment were great and frequency of accidents high the need for compulsion was early recognized, particularly in the case of the mining industry. In the Prussian codification claims against associations were given legal sanction. A portion of the cost of care of the injured worker was placed first upon the mine owner for a specified period. Mine owners also contributed to the journeymen's fund.

Freedom of movement to country laborers appeared early in the nineteenth century with the disappearance of serfdom. The land owners were no longer required to care for the sick and injured. Industrial freedom began with the disappearance of control of the gild over trade. Gilds were no longer held responsible for the care of their sick and injured journeymen,
but many of the compulsory organizations continued.

Prussia passed in 1838 an accident statute for railway workers which contained the principle of employers' liability. It was extended in 1871 to include factories, mines and quarries. In this manner the first principles of workmen's compensation were slowly crystallizing.

Because of the increasing cost of poor relief in the rapidly growing cities a law was passed in 1845 permitting local ordinances to require journeymen and other workers to contribute to a fund for their care when sick or otherwise incapacitated. By 1854 local authorities were further empowered to compel certain employers to contribute one-half of the necessary cost, thus introducing for the first time the principle of obligatory state insurance. This law was adopted in the mining code of 1865. Benefits were provided for sickness and medical care, accident, and a pension for those permanently injured. Exemption from contributing to the local insurance funds was permitted to those who were enrolled in one of the mutual organizations by the law of 1869. In 1876 these societies were distinguished as "registered" and "free".

"Insurance under this system of private initiative, optional local compulsion, and direct compulsion in a few industries, were not by any means general. Comparatively few of the communes made use of their option. By the close of 1853 only 226 communes in Prussia had required local insurance, and only 58 of these levied a contribution
on the employers. In 1868 there existed in Prussia a total of 4,700 funds making provision for sickness, with 690,000 members. By 1874 there were nearly 800,000 members enrolled. Besides these, the compulsory miners' associations insured 235,000 members and railroad funds had 66,000 more. Although there were nearly 1,100,000 workers insured against sickness in these various organizations, provision for old age was made less general. The miners' funds included usually benefits for superannuation and infirmity, but gave them only to about one-half of the total membership. Aside from these, in 1876 one hundred sixty-six funds with membership of 36,000 provided specifically for old age and invalidity. Death benefits were given by 5,144 death benefit associations with 1,600,000 members. Mixed funds numbered 1,095 with 172,000 enrolled."(1)

Beginnings of Compulsory Insurance in Germany

By 1880 several of the German states, including Baden, Bavaria, Saxony and Württemburg, had accident and sickness insurance, some of which embodied compulsory features.

German Situation after Franco-Prussian War

Many changes took place in Germany following the close of the Franco-Prussian War in 1871. Prior to the war there was a heavy immigration movement to the New World, particularly the United States. This number declined following the war

(1) Robert Morse Woodbury, Social Insurance, an Economic Analysis, p. 11
and the movement was more in the direction of migration from the rural areas to the rapidly growing towns and cities within Germany. A rapid growing urbanization was taking place. The wage-earning class was growing and becoming more class conscious. Out of this was coming a growing social unrest. Socialism was gaining foothold. The Imperial constitution of 1871 extended male suffrage. The socialist vote grew from 124,655 in 1871 to 493,288 in 1877. This trend disturbed Chancellor Bismarck. He feared the consequences of this growth, believing that it imperilled the future of imperial Germany. He, therefore, sought to curb this dangerous trend by two general types of legislation. One method was by enactment of repressive legislation, making it difficult for the Socialists to promulgate their cause. Heavy fines were imposed on individuals participating in any kind of socialistic activity. The other method was by stealing the socialists' "thunder". By showing that the state is genuinely interested in their welfare, the workers will come to its support. "Give the workingman the right to work as long as he is healthy, assure him care when he is sick, and maintenance when he is old," declared Bismarck in 1884. "Do not fear the sacrifice involved, or cry out at state socialism, as the words 'provision for old age' are uttered. If the state will show a little more Christian solicitude for the workingman, then the socialists will sing their siren song in vain, and the workingmen will cease to
throng to their banner as soon as they see that the government and the legislative bodies are earnestly concerned for their welfare."(1) Bismarck's road was not easy by any means. He was forced to combat much opposition in getting his measures accepted. Outside of a limited group who were convinced of the wisdom of such measures since about 1878, Bismarck had to use his utmost powers to convince an opposing Reichstag. His famous address was delivered in the Reichstag on February 15, 1881. "The purport of it was that all proprietors of railways, mines, and factories should be required to insure their employees against occupational accidents, either in an Imperial insurance department or in mutual associations organized by employers under government supervision."(2) The funds were to be provided by employers and employees, with additional aid coming from the Empire. "The chamber assented to the principle of compulsory insurance, but it refused to vote an Imperial subsidy; it substituted a plan under which employers were to contribute two-thirds and the employees one-third of the funds required; and it greatly altered the complexion of the bill by voting to transfer the administration of the system entirely to the several states. Bismarck, supported by the Bundesrath, refused to concede the desired modifications, and the bill failed."(3)

(1) Bismarck, quoted in Ogg & Sharp, The Economic Development of Modern Europe, p. 551
(2) ibid. p. 552
(3) ibid. p. 552
German Sickness Insurance Act--1883

In 1882 an amended Accident Insurance Bill and a Sickness Insurance Bill were introduced. The latter bill passed May 31, 1883 by a majority of 117 votes in the Reichstag and became effective December 1, 1884. The former bill did not pass and was again reintroduced with changes in March, 1884.

"The agencies through which sickness insurance was to be administered were to care for insured persons during the first thirteen weeks of inability to work; thereafter responsibility was to be assumed by the agencies of accident insurance. It is to be observed, too, that the government abandoned its original plan of insurance by the state direct and accepted in lieu of a central state institution an arrangement for trade organizations, based on the principle of mutual liability."(1)

Bismarck insisted that it was the duty of the state to provide for its less able citizens. It could not be left to voluntary effort. He said, "To leave to private initiative the creation and management of social insurance agencies meant to encourage private speculation on the misfortunes of the labouring population."(2)

German Accident Insurance Act of 1884

The Accident Insurance bill was passed by a large majority on July 6, 1884, taking effect October 1, 1885. It was not until November, 1887 that the first bill providing for old

(1) ibid. p. 553
(2) ibid. pp. 553-554
age and invalidity was introduced. William II ascended the throne in the meantime and the emperor put his moral support behind the measure. It passed the Reichstag on June 22, 1889, taking effect on January 1, 1891.

It must be remembered that state insurance was in an experimental stage at this time. Time was required to work out the difficulties which arose. To smooth out these difficulties many amending acts followed. By 1886 the Sickness Insurance law was extended in scope until it covered nearly the entire working-class population as well as the lesser officials of the Empire. By 1886 the Accident Insurance law covered the employees of postal, railway, naval and military officials, inland navigation, agriculture, forestry and soldiers. In 1887 those employed in building operations and all engaged in maritime work including sailors were covered. Between 1899 and 1903 all of the insurance laws were revised and in some measure codified. Final codification took place July 19, 1911 when a statute consisting of 1,805 separate articles was passed. The English version of this statute appears in the Bulletin of the U. S. Bureau of Labour, Number 95, September, 1911. (1) "It embodied the development of a scheme of compulsory insurance through a quarter of a century and covering substantially the entire industrial population of the Empire, a system which is easily the most elaborate of the kind that the world has known." (2)

(1) pp. 514-774
(2) Ogg & Sharp, Economic Development of Modern Europe, p. 555
Two English Proposals of the eighteenth Century

In the late eighteenth century, Thomas Paine who was then considered a radical politician but who would be considered a moderate social reformer today advocated old age pensions in his "Agrarian Justice": "The community as the owner of the land must reclaim the ground rent in the shape of a 10% death duty on estates, and turn its revenues into a national fund, out of which should be paid to every propertyless person, in compensation for the loss of his or her natural rights, the sum of £15 when arrived at the age of 21 years, and £10 annually as an old age pension for life. The surplus should be used for the upkeep of the blind, lame, and incapable."(1) Dr. Priestly also recommended in 1787 the establishment of old age and sickness funds by means of deduction from wages. He argued that "since the labour of the husbandman or manufacturer is the only source of all gain or property in any country, even that of the gentleman, it is their own labour that, more circuitously and ineffectually, now maintains them in their wretched and dependent state, whereas upon this plan, their own labour (and probably much increased) will be more immediately employed for their own advantage."(2)

Legislation in England

England's experience with social insurance legislation

(1) Quoted in M. Beer, A History of British Socialism, Vol. 1, pp. 112-113
(2) ibid. footnote, p. 99
was much later than Germany's. Her development was similarly, however. In fact she was undergoing industrial and commercial changes long before Germany. Her early crafts and gilds had done much to advance the idea of mutual aid. But there was not the fear of socialism making much headway to encourage England to hasten such legislation as was the case in Germany. It is doubtful if England was as ready to submit to state paternalism. It is true, however, that there was much suffering in England growing out of the maladjustments brought about by the Industrial Revolution. That condition prompted such leaders as Edwin Chadwick and the seventh Earl of Shaftsbury to promote the cause of the democratic movement in England. The laws of settlement and the consequences of the Enclosure acts augmented much suffering. "It would seem," writes Dr. A. P. Usher, "that abundant explanation can be found in the lack of sound statesmanship shown in the Enclosure Acts and in the systems of relief then existing. It is highly repugnant to the writer to presume that such distress can be a necessary accompaniment of social changes. Some problems were perhaps too difficult to be successfully handled at that time, but the worst of the evils were certainly due to causes within the significant control of British statesmen. No iron law of wages, no Malthusian principle of population, no smug theory of necessary 'pains of transition' can diminish the responsibility of British statesmen for the conditions that
prevailed."(1)

There are some who believe that the prevalence of individualism and the doctrine of laissez-faire discouraged, or, at least, retarded, the growth of this type of legislation. According to Dr. Usher the importance of the laissez-faire doctrine was never important. He says, "Some trace of laissez-faire doctrine may be seen in the disposition to limit administrative interference to the protected classes but the validity of the noninterference theory was quickly disposed of in the debates of the forties, and in the general history of factory legislation the argument from laissez-faire principles was not important."(2)

Chadwick recommended a form of social insurance legislation in connection with his proposed system of poor relief in 1832. "The elaboration of insurance legislation is really a form of the policy of classification recommended by Chadwick in 1832 as the sound basis for any system of poor relief. The insurance legislation would free the recipient from the legal disabilities usually attached to the receipt of poor-relief. The insurance stipend, too, would assume the form of a purely contractual payment as distinct from a charitable dole."(3)

England's Act of 1897

Not until 1897 did England pass its first piece of social

(1) Abbott Payson Usher, An Introduction to the Industrial History of England, p. 418
(2) ibid. p. 408
(3) ibid. p. 424
insurance legislation—the Workmen's Compensation Act. Strangely enough it was passed by the Conservatives. Under the common law the burden of industrial risk rested on the shoulders of the workmen. This act made it unnecessary for the employee to prove neglect on the part of the employer, but simply to show that the injury was sustained in the course of employment.

"In event of death the sum of three years' wages is paid to the dependents, but not more than £300 nor less than £150. If there are no direct dependents the employer is responsible merely for funeral expenses not exceeding £10. In event of disability exceeding one week, half the average weekly wage must be paid, but not more than one pound. If the disability becomes permanent, the same rate of compensation is paid during life. The Act of 1907 makes somewhat more liberal provision in a number of administrative details."(1) Labor leaders in England opposed this legislation at the time it was first proposed. The fear existed that it tended to threaten the strength of the labor movement.

Much litigation of a petty nature grew out of the Act of 1897. To those needing its benefits the expense of litigation frequently occurred. Furthermore the first act was limited as to the industries it covered, causing much criticism as a result. Some believed that since the principle was accepted

(1) ibid. p. 425
the law should be extended further. In 1900 it was amended to cover agriculture and gardening, thus extending the principle of compensation beyond the so-called "dangerous trades". In 1901 it was extended to include shiplading. The Unionist government tried to extend the scope of the act much further in 1905, but amendments added to this attempt lost sight of the purpose intended and the Bill of 1905 was finally dropped. The Act of 1906 which became operative July 1, 1907 sought to reduce the whole mass of legislation into one unified act. This amendment did not introduce any new principle of importance but made the act applicable to all workmen unless expressly excluded. The previous acts covered about seven million workmen while this amendment extended the coverage to about thirteen million employees, thus nearly doubling the effectiveness of the previous acts.

**British National Insurance Act of 1911**

The National Insurance Act was passed in 1911. It provided measures against illness and disablement. It was compulsory for all workers between the ages of sixteen and sixty-five years. The plan was contributory—the employee, employer and the state were to contribute to the central fund. The employer deducts the worker's contribution from his wages and is held responsible to submit this payment along with his own. Benefits are paid either through some approved friendly society or the British postal system. The benefits include: a weekly payment for not more than twenty-six weeks as a sick benefit,
or during a period of incapacity as a disability benefit; provision for necessary medical and hospital care; and maternity benefits. The rates were determined on an actuarial basis. A slight surplus was intended to provide for other extra features which the act hoped to bring about. Labor was exceedingly vehement in its opposition to this act at the time it was passed.

The act also provided unemployment compensation benefits. It aimed to provide out-of-work benefits to a selected number of trades: building, construction of works, shipbuilding, mechanical engineering, iron-founding, construction of vehicles and saw-milling. Contributions are compulsory to employer and worker. The government also contributes to the fund. The benefit is paid for a period of fifteen weeks after the lapse of one week's unemployment. The act is quite elaborate in its structure and is closely interwoven with the Labor Exchanges Act of 1909.

Voluntary contributory Old Age in England--1833

Voluntary contributory old age insurance has been purchasable in Great Britain since 1833. Except for a small group of the middle class few others have availed themselves of its opportunities. Until 1864 such insurance could be purchased through the National Debt Office for an amount up to twenty pounds on one life. After that date such opportunities for greater amounts could be purchased through the Postal Savings
Former Care of the Aged

Since passage of the Poor Law Amendment of 1834 the aged poor were provided for in one of three different ways, at different time periods since that date. Prior to 1871 the indigent aged were placed in the mixed workhouse. In a few instances, however, outdoor relief was possible at the discretion of the poor relief official, but application for assistance had to be made through the above-mentioned workhouse. Placing the deserving aged in such a composite institution worked great hardships on them. They intermingled in this workhouse with an undesirable lot consisting of the vagrant and shiftless; the mentally deficient; and the insane. This atmosphere was not a pleasant place for one to have to spend his or her last days.

Beginning in 1871 the workhouse test was applied to all those in need. The chief purpose of this test was to keep at a minimum the applications for assistance. It was argued that only the undeserving would submit to the stigma of such an application. This policy was most severe in the hardships it worked on those who were deserving of government care. The seriousness of the situation which grew out of this policy resulted in the appointment of a commission which studied the

(1) A. P. Usher, An Introduction to the Industrial History of England, 1920, p. 428
period 1893-1895. As a result of this report the workhouse test was relaxed. Outdoor relief was granted to those who could show themselves as industrious and deserving, provided that they had relatives or friends who could give them the necessary physical care. If they had no private home in which to live the only alternative was the workhouse, but, fortunately, separate and apart from the other inmates.

Advocates of Old Age Benefits

Reference has already been made to Priestly and Paine who advocated old age pensions earlier. Since 1880 much reform was sought to improve the conditions of the aged poor. Charles Booth advocated old age insurance for all persons over sixty-five years of age. His scheme provided five shillings weekly—the funds from which this money was to be derived was obtained by increasing the income tax. In 1835 a Select Committee on National Provident Insurance was created to study the advisability of old age insurance. This committee brought in an unfavorable report, believing that the difficulties of such provisions at that time were insuperable. In 1899, 1900 and 1903 parliamentary committees were appointed to study and report on the subject of old age insurance schemes. About all that was accomplished was the gathering of information into extended reports.

British Old Age Assistance Act

The most important study made and considered a step of
some importance was by the Poor Law Commission of 1905. It led the way to the Old Age Pension Act of 1903 which was introduced into Parliament in May of that year. Various attempts were made to obstruct its passage by a series of amendments but it passed by an overwhelming majority of four hundred seventeen to twenty-nine. It became effective on January 1, 1909. The complete text of this act may be found in Carlton J. Hayes, British Social Politics. (1) From the beginning the authors of this act were determined on the noncontributory principle. The argument for this feature of the act rested on the grounds that the poor were having hard enough times making both ends meet and the requirement of contributions from them was adding to their already existing misery. An amending act was passed in 1909 rescinding the stipulation that those receiving relief could not qualify.

Summary of Beginnings

From this brief review of social insurance legislation we can see its early development. First of all we find that it grew out of mutual aid of the early crafts and gilds. Then we find state adoption of one measure or another. Gradually as experience entered into the situation with these pioneer acts there evolved systems. Then other countries throughout the world followed by similar developments, profiting by the

(1) Ginn and Co. 1913, pp. 167-176
pioneering of its predecessors.
III

WORKMEN'S COMPENSATION

Extent of Industrial Accidents and Need for Protection

Industrial accidents are a serious hazard to the American workmen. It is estimated that industrial accidents result in a toll of 25,000 deaths annually. These fatalities cut off about twenty years of productive labor for each life lost. (1) In other words a total of 500,000 productive work years are lost annually due to accidental deaths arising through industry.

Unless the families of these deceased workmen are protected in some way from an economic standpoint, it is certain that their limited resources in the form of savings and life insurance do not go far, or last long, in providing for the slow process of raising a family. Without some provision the only recourse is public relief. This frequently means assistance for a period of years. Such provision from a social viewpoint is not good for the reason that it serves as a training ground for children in their formative years to become dependent on public relief for support. In other words, it can open up the way for chronic dependency.

In addition to accidental deaths, there are about two million workers annually who suffer temporary or permanent injuries. This means the burden of medical and hospital bills as well as the loss of earning power during the recovery

period. But some workers are permanently injured and never able to resume remunerative labor again. Consequently they are a burden to their families and to society. "It is estimated that industrial injuries result in the loss of about three hundred million working days in the space of one short year. The economic cost of these accidents will total over one billion dollars annually."(1)

Employers' Liability

Prior to the passage of workmen's compensation legislation, the injured, or his surviving dependents, had recourse for industrial accidents in the common law doctrine of employers' liability. This was the only redress possible. "The essential feature of this doctrine was that the employee was compelled to prove that his injury was the result of his employer's negligence. Evidence had to be submitted to substantiate the employee's claim that the employer had failed to use ordinary and reasonable care. The employee, of course, assumed all of the risks incident to his employment as it was ordinarily carried on and for an injury arising out of these ordinary risks of his occupation, the employee had no remedy."(2) If the injury grew out of ordinary risks of employment, the worker had no recourse. The worker was supposed to assume these dangers when he accepted employment in

(2) ibid. p. 54
hazardous occupations. Thus, in instances of an unskilled track laborer killed by a train; a lineman employed by an electric company, electrocuted while employed; or a person whose death occurred as a result of poisoning while working in a paint, leather, or phosphorous factory; it necessarily followed that his wife and dependents had no recourse for such losses.

There were many other drawbacks to the doctrine of employers' liability. This meant that the injured worker, or his survivors, had to institute legal proceedings in order to obtain a possible award. At least half of the award went into legal fees. Frequently, an unscrupulous lawyer would exact fees greater than half the award. Long periods of time frequently transpired before the case was settled, thus giving the worker and his family nothing on which to go beyond his limited resources. Many times public relief was needed before the settlement was made. The worker's chances for reemployment were often imperilled by taking the case to court. "The job was so difficult that only one out of every eight injuries went to court, leaving the other seven injured workmen without legal relief."(1)

To avoid liability many employers resorted to a variety of subterfuges in order to free themselves from possible damages. The fellow servant rule was frequently invoked

(1) ibid. p. 541
whereby the employer escaped on grounds of placing blame on a fellow workman. "If, for example, workman 'A' drops a heavy timber, severely injuring workman 'B', the fellow-servant rule could be invoked, and the employer would escape liability."(1)

It was a customary practice for employers to place responsibility for injuries on the shoulders of subordinate officials. Thus the employer relieved himself from all direct responsibility in case of accident. Another employer's defense was that of contributory negligence on the part of the employee. Regardless of how gross the negligence on the part of the employer, the slightest indication of negligence of the worker would nullify the worker's chance of compensation.

**Early Attempts to modify Employers' Liability**

During the first decade of the present century much agitation was inaugurated to bring about the needed correctives to the inadequacies of employers' liability. At first, efforts were along the lines of modifying employers' liability acts. However, it was soon appreciated that even though every kind of constructive revision was made, the act still remained inadequate to the needs. At best, compensation for the worker required litigation, but it gave every opportunity for the employer to triumph. The workman and his family were most always in poor position to bear loss. It was emphasized that economic losses through industrial accidents should be in-

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(1) ibid. p. 541
cluded as one of the costs of industry and should be put in the same category with the cost of raw materials, wages and machinery. "In the final analysis, the consumer pays for the hazards to workmen in the production of his winter coal supply, his four-piece golf suit, or his automobile."(1)

Remedies were urged through Workmen's Compensation Acts

Labor organizations were quick to sense the gross injustices of employers' liability. In fact, until recently, this was the only type of social insurance legislation which organized labor vigorously supported and urged. The American Association for Labor Legislation, under the leadership of Mr. John B. Andrews, took a very active part in urging passage of workmen's compensation acts. Its leadership in this field has been much in evidence throughout the years of compensation legislation. President Theodore Roosevelt did much by his moral support, his vigorous words and his high office, to encourage action by the several states. He did much to awaken the public conscience on this subject.

As already pointed out, the first step taken was the modification of the Employers' Liability Act. The fellow servant rule was modified so that railroads and mining operators were responsible for the actions of their executives, foremen and superintendents. In like manner, contributory negligence was no ground to void gross negligence of an employer. If,

(1) ibid. p. 540
however, contributory negligence was proven, it did lessen the amount of the award. All this revision merely proved beyond question that the principle of employers' liability was obsolete and could not work out fairly for the injured worker. Between 1909 and 1911 over twenty-five state and federal commissions studied the subject of workmen's compensation.

**Early Studies on Workmen's Compensation**

As early as 1891, Carroll D. Wright, Commissioner of Labor, authorized one of his assistants, Mr. John Graham Brooks, to study the German system of insurance. This study was published in the fourth Special Report of the Commissioner of Labor in 1893, entitled, "Compulsory Insurance in Germany." In 1898, Mr. William Willoughby of the Department of Labor, published a book entitled "Workmen's Compensation Insurance." In the same year the General Court of Massachusetts instructed the Bureau of Labor Statistics to investigate "the subject of labor and co-operative insurance." In 1901 this study appeared in Part II of the 31st Annual Report of the Bureau.(1)

**First Bill proposed--New York**

The first workmen's compensation bill was introduced in the New York Senate February 28, 1898. It was introduced by State Senator John Ford who later became Justice of the Supreme Court of the State of New York. This bill was first conceived

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(1) pp. 65-248
by the Social Reform Club of New York City and was modelled
after the British Workmen's Compensation Act of 1897. Miles
M. Dawson, president of the club, was one of the early leading
American authorities on social insurance. The bill was
referred to the Judiciary Committee of the Senate and was
never reported by the committee. "The time was not ripe for
such legislation, its purpose was misunderstood, and so the
efforts for its passage were abandoned. It is said, however,
that the movement set in motion by this attempt finally
resulted in the passage of the New York Employers' Liability
Act of 1902."(1)

In the platform of the Social Democratic Party in 1900
there was listed among the immediate demands: "national insur-
ance of working people against accidents, lack of employment,
and want in old age."(2)

First Workmen's Compensation Act -- Maryland, 1902

In 1902 Maryland enacted the first workmen's compensation
act.(3) Although it was only fragmentary in character and
ineffective in operation because of the limited number of
employers included, it deserves our attention because of its
historical significance. It was declared unconstitutional
by an inferior court and was never appealed to the state's
supreme court.

The law was exceedingly limited in its scope. It applied
only to the business of 'operating any coal or clay mine, quarry,

(1) J. E. Rhodes, 2d, Workmen's Compensation, p. 89
(2) Kirk H. Porter, National Party Platforms, 1924, p. 239
(3) 1902 Maryland Statutes, c. 139
steam or street railroad' and the work of municipal corporations in constructing any sewer, excavation, or other physical structure' or the contractors engaged in such work for municipal corporations. It provided that the employers in those occupations should be liable for injuries or death sustained by reason of the negligence of the employer or any of his servants, except that in case of contributory negligence on the part of the injured or deceased the damages should be one-half of the damages that otherwise would have been payable. While both non-fatal and fatal injuries were mentioned, the statute was ineffective as to non-fatal injuries because no scale of indemnities was fixed for such injuries. The law then provided that none of the employers should be liable if they made certain payments to the Insurance Commission to form an Insurance Fund, the rate for the different classes of employments being specified except that for the work of municipal corporations, which was left discretionary with the Insurance Commission. It was provided also that the employer might, if he so informed his employees, deduct a proportion of the premium not exceeding one-half from their wages.

"The fund thus created was to be known as 'The Employers and Employees Co-operative Insurance Fund', and the Insurance Commissioner was to be its custodian and administrator. The payment to be made to the dependents in fatal cases was $1,000. It was provided that no contract waiving the provisions of the act should be lawful, and also that the Insurance Commissioner
might release employers from the provisions of the act when shown that such employers were making better provisions for their employees than were required by the act. The report of the operation of the act shows that only nine employers elected to avail themselves of its provisions, and that five settlements in fatal cases were made while it was in force. It was declared unconstitutional by an inferior court in April, 1904, and no appeal was taken from that decision, so its operation was ended. "(1)

The decision on constitutionality was rendered in the case of Franklin versus The United Railways and Electric Company of Baltimore.(2)

Massachusetts Committee and Bill Proposed

The Massachusetts legislature enacted a resolution in 1903 authorizing the governor to appoint a committee of five persons to be known as the Committee on Relations between Employers and Employees.(3) It was charged with the responsibility of examining and considering the laws of the Commonwealth concerning "liability of the employer for injuries received by the employee in the course of his employment." The committee submitted its report January 13, 1904. It reviewed the common law of employers' liabilities.

(1) J. E. Rhodes 2a, Workmen's Compensation, pp. 90-91
(2) Court of Common Pleas of Baltimore, April 27, 1904
(3) 1903 Massachusetts Resolves, c. 87
liability along with the statutory modifications. The committee reported that it was inexpedient to amend the Employers' Liability Act. After considering the compensation systems of other countries, the committee concluded that a workmen's compensation act was needed. The committee submitted a draft of a workmen's compensation bill which it recommended in its report.

Like the New York bill mentioned earlier in this discussion, the Massachusetts bill was modelled after the British Act of 1897. The proposed law never received any consideration by the General Court.

"The bill was limited in its application to railroad operations, work in a factory, workshop, mine, quarry, engineering work, and construction work where scaffolds or ladders were used, or on which power driven machinery was used."(1) Although application of the bill was limited, it had sufficiently broad coverage to include practically all employments which involved any occupational dangers. "It applied to 'personal injury while performing duties growing out of or incidental' to the employments which were covered, but it preserved the rights of the employee in cases where the injury was caused by the negligence of the employer; or that of any person for whose negligence he was liable, by allowing the employee

(1) J. E. Rhodes, 2d, Workmen's Compensation, 1917, p. 92
to elect after the injury either to receive compensation under the act or to proceed independently of it, but his election was final and he was bound by the proceedings first instituted. The employee could not receive compensation if injured by his own wilful or fraudulent misconduct.

"No compensation was payable for an injury which did not disable an injured for at least one week. After the first week the payment in non-fatal cases was to be 50% of the average weekly wages, not to exceed $10.00 a week, for a period not exceeding four years. In fatal cases the dependents who were wholly dependent were to receive three years' earnings of the deceased or $1,000, whichever was the largest, but not exceeding $2,000; those partly dependent were to receive a sum not exceeding that paid to those wholly dependent, the amount to be determined upon by agreement or arbitration.

"The bill contemplated the adjustment of all disputes between the parties by a committee on which employer and employee should have equal representation, but if this committee failed to come to an agreement, the matter was to be submitted to a single arbitrator agreed on by the parties, or in the absence of such agreement the arbitrator, who should be called the referee, should be appointed by any Justice of the Superior Court. Appeal from the decision of the referee on matters of law could be taken to the Supreme Judicial Court."(1)

Illinois Committee of 1905 Recommend Law

In 1905 a resolution was passed by the state of Illinois

(1) J. E. Rhodes 2d, Workmen's Compensation, pp. 93-94
authorizing the appointment of a committee of five to study industrial insurance and old age pensions and to draft a bill for the consideration of the next convening General Assembly. This commission was also authorized to study the subject of old age insurance. The report of the commission appeared in printed form in 1907, entitled: "Report of the Industrial Insurance Commission to the Governor of Illinois." No reference was made in it to old age pensions. "The passage of a law was recommended whereby employers and employees could agree upon a system of insurance against accidents which might occur in the course of employment that would be a substitute for the common law system of employers' liability, and a draft of a bill which would establish such a system was presented with the report." (1)

Montana Law of 1909 applied contributory Principle

In 1909 a law was passed in Montana establishing "Employers' and Employees' Cooperative Insurance and Total Disability Fund." (2) This law applied the contributory principle to the employee as well as employer. The worker paid one per cent of his monthly wages and the mining operator paid one cent on every ton of coal mined. Application of this law was limited to mines and washers. In case of death $3,000 was to be paid to the dependents. For nonfatal accidents a maximum of $1.00 per day could be paid during the period of injury.

(1) ibid. p. 95
(2) 1909 Montana Statutes, c. 67
Constitutional Difficulties retarded first Efforts

Concerning the constitutionality of this legislation, it has been pointed out that: "Workmen's compensation legislation was retarded in its enactment and enforcement on account of the adverse attitude of courts which held such laws unconstitutional. Though constitutional amendments and changes in the laws have removed some of the objections raised by the courts, the operation of compensation acts is necessarily restricted by judicial interpretations of constitutional inhibitions. Despite these obstacles, laws have now been enacted in most states, and their administration has, it is generally conceded, greatly improved the methods of paying workers for losses due to industrial accidents."(1)

Rapid Progress beginning 1911

Once the need for the movement was understood, progress was rapid. In 1911 ten states passed compensation acts. These states were California, Illinois, Kansas, Massachusetts, Nevada, New Hampshire, New Jersey, Ohio, Washington and Wisconsin. Four states, Arizona, Maryland, Michigan and Rhode Island were added to the list in 1912. In 1913, Connecticut, Iowa, Minnesota, Missouri, Nebraska, New York, Oregon, Texas and West Virginia joined the ranks. Louisiana passed an act in 1914. The following states and territories passed com-

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Compensation laws in 1915, namely: Alaska, Colorado, Hawaii, Indiana, Maine, Montana, Oklahoma, Pennsylvania, Vermont and Wyoming. In 1916 Kentucky and Porto Rico were added. In 1917 Delaware, Idaho, New Mexico, South Dakota and Utah enacted compensation legislation. Virginia joined the states in 1918. Alabama, North Dakota and Tennessee were added to the list in 1919. Georgia was added in 1921. At the present time there are four states without workmen's compensation acts. This indicates a rapid-fire achievement within the short course of a few years. It was not an easy task to accomplish for many reasons.

Advantages of Workmen's Compensation

The advantages of the act in comparison to the principles of employers' liability had to be better appreciated. Compensation legislation has three distinct advantages, namely; (1) practically every injured employee covered by the act receives some damages; (2) the necessity for a lawsuit is eliminated; and (3) it encourages the application of safety devices and safety research. One important obstacle that had to be overcome was adjusting this type of legislation to the constitutional machinery of the several states. At first it was considered class legislation and for that reason was objected to on constitutional grounds. At the present time there is universal acceptance of the compensation principle. The trend is in the direction of constant improvement of these acts. There is still room for improvement in many of these acts for the benefit of all concerned.

(1) Arkansas, Florida, Mississippi and South Carolina
In thirty-one states the compensation plans are elective. The employer or worker may reject the compensation scheme by giving written notice of such rejection to the state commissions governing it. It is not usual for employers to reject the act because it then submits them to the old employers' liability law without the benefits of the former provisions such as the fellow servant principle, the assumption of risk and the contributory negligence defenses. In twenty-two states if neither employer nor worker at the time of first employment gives such written notice choosing the liability principle, it is taken for granted that the workmen's compensation plan has been accepted.

Conference of 1934 on Workmen's Compensation Legislation—Recommendations

In 1934 a National Labor Conference called by Secretary of Labor Frances Perkins was for the purpose of formulating higher standards of compensation legislation. Among the more important recommendations were:

(1) All necessary medical care should be included. This is in the interest of the employer as well as the employee since it tends to get the injured back to work more promptly, thus reducing to a minimum the period of cash compensation. By 1933 twenty-four laws had made this necessary provision.

(2) The waiting period should not be less than three nor more than seven days. In forty-five laws the period is as recommended. In Oregon and South Dakota there is no waiting period.
(3) Compensation should be based on two-thirds of wages, subject to a maximum weekly limit of at least $25.00. Twenty-six laws now operate on approximately a two-third basis. Nearly a score provide a weekly maximum of $20.00 or more, and few have already adopted a higher standard.

(4) Compensation should be paid throughout the period of total disability, as provided in eighteen laws, and in death cases should be paid to the widow until her death or remarriage, as provided by seven laws.

(5) All occupational diseases should be compensated as in the case of about a dozen American compensation laws.(1)

Compensation of Occupation Diseases

Although all occupational diseases should be covered by the act, some believe that these diseases should be listed in the statute, otherwise difficulties arise as to what is an occupational disease. Some states list them, for example: Illinois lists three; Kentucky, one; Minnesota, twenty-three; New Jersey, ten; and Ohio, twenty-one. New York listed twenty-seven until it amended its law in September, 1935 to include all occupational diseases. California, Connecticut, Massachusetts, Missouri, North Dakota, and Wisconsin have general coverage of occupational diseases. General coverage throws upon the courts of the states to define when a disease is occupational and when it is not. It results in expensive

litigation to the injured as well as to the employer. "The Pennsylvania compensation law covers 'injuries by accident and 'such disease or infection as naturally results therefrom.' It is only necessary to introduce medical testimony that such disease or infection did result from an injury occurring in the course of employment. . . . . Pennsylvania cases have held that blood poisoning, cancer, traumatic epilepsy, influenza, endocarditis and sarcoma resulting from injuries received in the course of employment are all compensable."(1)

Criticisms of these Acts

A common criticism of this legislation is that it does not include all classes of workers. Agricultural workers and household employees are commonly excluded from its provisions. Yet Maine and New Jersey cover both of these classes of employees. Some states limit protection only to those workers engaged in what the state defines as hazardous employments. Some acts exclude workers when those employed do not reach a minimum number defined by law. The New York law requires insurance for one or more employees engaged in listed hazardous occupations; for nonhazardous employments, employers with less than four workers are not required to be covered by the law. And still there are four states without any kind of workmen's compensation—Arkansas, Florida, Mississippi and South Carolina.

Compensation awarded by these Acts

It was estimated in 1933 that the United States spends

annually, as the result of its fifty-one workmen's compensation laws, the sum of $150,000,000. (1) In 1935 the state of New York alone had 69,770 compensable accidents of which 1,372 were fatal. In that year it expended the sum of $25,405,110 to injured and surviving dependents of deceased workers. (2)

(1) J. B. Andrews in Annals, American Academy, November 1933, Vol. 170, p. 88
(2) World Almanac, 1937, p. 452
OLD AGE

Early Position of Aged

The attitude toward the aged changes as we pass through the different stages of society. In the patriarchal stage the old members of the family household were the embodiment of wisdom and final authority. Reverence and respect for them was unquestioned. The support of them was the unquestioned duty of the younger members. In these stages one could grow old, looking forward to happy years ahead. Even today in China this position of the aged is still the prevalent one. It is said to be no uncommon thing for a Chinese business man to stop in his day's work so that he may go home to get the wisdom of his father or his grandfather on some new aspect of his business. Of course this relationship between old and young may retard progress, nevertheless from the standpoint of family living it has its virtues.

In the Feudal system, the lord of the manor was responsible for his old people. During the artisan and craft stages the old worker could ply away at his craft as long as he was physically able. In an agricultural society, old people had their place in the scheme of things. When they became incapacitated the younger members of the household willingly accepted their responsibility to provide for them.

Position of Aged in early Stages of factory System

During earlier stages of the factory system, when industry
was in its infancy, the relationship between employer and employee was a close personal one. An old and faithful worker who had performed over a period of years, continued to work as long as he was able. When he was less able to perform the more strenuous tasks of his earlier years, he was given lighter tasks, but never was there a thought of eliminating him. His inefficiencies with advancing years were a thing to be expected and accepted without question.

**Later Position of Aged**

As industry grew to a larger scale, the personal relationship between management and workers slowly disappeared. Obligation of continued employment to the older worker was displaced by the need for efficiency and speed in production. Out of highly geared and highly mechanized industry grew a demand for a constant flow of fresh and new blood. The older worker could not keep up with the pace. When a worker reached a stage in his employment career where he was showing signs of lagging behind in the speed demanded of him, then was the time to displace his services for that of a younger recruit. He was no longer wanted even if he had given his best years. Worse still, no one else wanted him. He was relegated to the class of unemployables to make the best of it in whatever manner he could. The increased insurance rates required for older workers by workmen's compensation laws, it must regretfully be said, have made older workers less desirable as employees. Thus facing old age becomes a living dread to many
of our older workers. No longer are the employee's children able to do much for him. They have probably moved away from the old homestead, if there was one, married and are living in quarters too cramped and crowded to welcome the old parent.

About thirty-three and one-third Per Cent of Aged independent

Independence in old age is an ambition many strive to attain but few are blessed in obtaining. Mr. Abraham Epstein estimated that not over thirty-three and one-third per cent of the superannuated reach the goal of independence. The remainder become a burden on their children as unwelcome guests or on public funds. Many unexpected happenings make the possibility of independence a hard thing to achieve. Even the careful savings of a lifetime suddenly vanish through unwise and fraudulent investments. Even where savings have been possible they have had to be used for other unforeseen needs such as illness, unemployment and other vicissitudes of earlier years. Investments made in the schooling of irresponsible and unappreciative children leave many parents penniless in their later years. Other contingencies, too numerous to mention, have blocked the path of independence in old age.

Ratio of Aged to total Population increasing

The proportion of old people in our population is increasing. Improved living conditions because of advancements made in sanitation and medicine make it possible for people to live longer. Declining birth rates also affect this ratio. Our earlier heavy immigrations tended to reduce the number
of old people in the population. When immigrants ceased coming to our shores, it meant that a heavy adult population, through birth and immigration, would for several years increase the ratio of the older age grouping. Until the time when most of these adults die off, the aged population in relation to other age groups will be high. Thus the problem of poverty in old age is also a problem of population. "In 1900 there were in the United States, 3,083,995 persons 65 years of age and over, constituting 4.2% of the total population. In 1910, this number increased to 3,949,524 and constituted 4.3% of the population."(1) The 1920 census listed 4,933,215 persons over sixty-five years of age; the census of 1930 showed 6,633,805 persons over sixty-five years of age.

**Relief was main Provision for Aged**

Public support of the aged poor has long been looked upon as a public obligation. It was decided in 1601 during the reign of Queen Elizabeth when the first English poor law was passed. At first the remedy was institutional care, the workhouse. Later, outdoor relief was the method of care provided.

**Higher Standards of Care appear later**

More recently higher standards of care have developed. Old age assistance acts were passed to take the place of

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(1) Abraham Epstein, *Facing Old Age*, p. 8
earlier poor relief. It was claimed assistance acts did not have the same stigma of pauperism attached to them. People considered them as "pensions". Private pensions, contributory and noncontributory, developed in connection with industry and other types of employment. Until the passage of the Social Security Act there was no existing contributory scheme of benefits of a public kind that related to all of the aged population. There were, however, many laws passed of this sort relating to special groups in the population.

An assistance act is relief. Such a measure is customarily discussed in connection with old age insurance. Its expense is usually a good argument in leading to the development of the contributory scheme.

Assistance acts specify the maximum income an applicant may receive and the maximum amount of property he may possess in order to qualify. There are other qualifications which must be met besides financial, for example, citizenship, length of residence in the state, whether the applicant has been convicted of a felony within a certain period prior to application, whether the applicant has been an inmate in a state institution, and the resources of the applicant's children. It is the purpose of this legislation to supplement income up to a specified maximum.

Mr. Epstein justifies assistance acts as essential and
inevitable. He says, "Had the United States adopted a system of social insurance half a century ago, it could have built up funds to provide against the present calamities of old age. Having failed to deal with the problem until we were confronted with millions of aged dependents, we now are forced to pay the price of our long neglect. The aged poor are with us. Society cannot ignore them, they must be taken care of somehow; and non-contributory pensions offer the most economical and humane method of helping them."(1) Mr. Epstein calls such acts "non-contributory pensions" but they are nothing but relief.

Two Kinds of Assistance Acts

Assistance acts are divided into two types—mandatory and optional. The mandatory act requires counties of the state to carry out the provisions of the law. In such cases the state usually pays a portion of the expense—one-third or one-half—of administration. Administration of such laws usually rests with county officials. Delaware provides state supervision. The Social Security Act is requiring changes, calling for state administration in order to qualify for federal grants. Optional acts left it up to the counties to adopt the provisions if it chose to do so. Such acts have usually been ineffective as, for example, the Maryland and Kentucky laws.

First Efforts—Massachusetts, 1907—Voluntary Contributory Insurance

As early as 1907 Massachusetts passed an act making it

(1) Abraham Epstein, Insecurity—A Challenge to America, p. 547
possible for persons to purchase voluntary old age annuities up to $800 per year through the states' savings banks. The expense of this program was to be borne largely by the state in order to keep premiums at the lowest possible minimum. Thus the savings institutions of Massachusetts were able to offer its citizens an old age annuity plan cheaper than could be purchased through private insurance companies. In addition each policy holder received at the end of each year a dividend in the profits of the company. Other forms of insurance were offered by this act, namely: straight life insurance; twenty year payment life; twenty year endowment insurance; combination insurance and annuities; and immediate annuities. Very few people availed themselves of its opportunities in spite of its liberal features. Probably the reason has been that banks could not employ paid solicitors either for the purpose of selling policies or collecting premiums when due.

Massachusetts' Commission on Old Age Pensions, 1908-1909

The first state study of dependency of the aged was made by the Massachusetts' Commission on Old Age Pensions, Annuities, and Insurance. This was made in 1908 and 1909. In this study it was pointed out that the commission only found four firms that were operating pension systems for their superannuated employees. This commission did not believe it was the proper time to consider straight government pensions or compulsory insurance schemes.

"The adoption of any scheme of insurance in this state
appears to be inexpedient at the present time. The practical objections to the principle of compulsion are weighty. The idea itself is essentially distasteful to Americans. In England it was abandoned as quite out of question, in view of the prejudice against compulsion. In this Commonwealth this practical objection is reinforced by constitutional difficulties. In view of these conditions, it would be futile to recommend any compulsory insurance system at this time. Whatever the outcome of American experiments with social insurance may be, whether in the direction of the final establishment of compulsory systems, or the extension of voluntary schemes, the introduction of the former can hardly be seriously considered now. In any event, long training in the development of voluntary insurance agencies seems desirable, to furnish the preparation and foundation of any scheme of state insurance, if such should be found ultimately necessary and desirable.

"It is conceivable, however, that the final solution of the problem of old age insurance may be found in some system of obligatory state insurance."(1)

First important Book in U. S. on Old Age--1912

One of the first important books published in the United States on the subject of old age was written by Lee Welling Squier entitled "Old Age Dependency in the United States."(2)

(1) Quoted in Abraham Epstein, Facing Old Age, 1922, pp.247-248
(2) Published by Macmillan Company, 1912
Until the appearance of Epstein's study in 1922, this was one of the most quoted books on the subject. Mr. Squier estimated that there were approximately 1,123,000 dependent persons of sixty-five years or over in the United States, basing his estimates on the findings of the Massachusetts Commission for Old Age Pensions. Out of this number about 313,000 were in almshouses and benevolent homes, or receiving public or private relief in their own homes. Two years prior to the appearance of this book, the author sent one thousand letters to the employers of labor concerning the number of private pension schemes then existing in the United States and discovered only twenty-nine systems of old age pensions in existence.

**First Bill in Congress—1909**

Mr. W. B. Wilson of Pennsylvania introduced the first bill in Congress relative to pensioning the aged. It was introduced December 14, 1909. This strange bill proposed that an Old Age Home Guard be organized under the direction and supervision of the United States Department of War. It was to be comprised of persons not less than sixty-five years of age and citizens of the United States for the previous fifteen years. None of these "recruits" were to have property in excess of $1,500 or annual income in excess of $240. No property was to be disposed of to qualify for "service" in this army. The pay was at the rate of $10 per month and made in quarterly payments. The bill stated,
"ten dollars per annum shall be deducted from the pay of each private, and retained in the treasury of the United States, for every one hundred dollars worth of property in excess of $300, and for every $10 per annum income in excess of $120 possessed by such private."(1) No service of any kind was required of the "private", except that an annual report in writing was to be submitted to the Secretary of War. Both men and women could "enlist".

Second Bill--1911

On July 31, 1911, Mr. Victor Berger, Socialist representative from New York introduced in Congress a bill which was referred to the Committee on Pensions to provide old age pensions. Persons applying were to be sixty years of age or more. It required sixteen years of citizenship prior to filing application. Applicants were allowed private income up to $6.00 per week. The pension provided $4.00 per week when the private income was $6.00; $5.00 in pension when the income was $5.00; $6.00 allowed when the income was $4.00; et cetera. The total income and pension provision were not to exceed $10 in any case. Pensions were to be paid in four-week instalments. Persons earning more than $6.00 but less than $10 were "left out in the cold." Administration of its provisions was to be under the direction of the United States Department of Interior. Like Mr. Wilson's proposal

(1) Quoted in Lee Welling Squier, Old Age Dependency in the United States, 1912, p. 344
nothing ever developed out of this bill.

**Governor Samuel McCall's Recommendation in 1917**

In Governor Samuel W. McCall's inaugural address delivered to the Massachusetts Legislature in January, 1917 a reference to old age pensions and compulsory health insurance appeared for the first time by any governor of any state in the Union. Such legislation was defined and defended by him as "the insurance of society against its diseases, and that society should take wholly or in part upon itself the work of defending against certain well-defined evils which result from our modern system of production, the chief burdens of which have heretofore been left upon deserving people who are least able to bear them."(1) He recommended noncontributory insurance for those seventy years or more of age whose children were unable to support them or whose income did not exceed $200 per year. Such applicants were required to have resided in the state for a period of at least ten years. The annual allowance to be made was not to exceed $65 per year. "In his opinion it was 'a new field in America' and could 'much more easily be broadened,' if experience showed that it was wise to do so, than narrowed if a false step had been taken."(2) He recommended the venture but had doubts as to its success. Naturally such a position as this one was could not be very effective on the legislature. Under such circumstances the

(1) Quoted in Fred E. Haines, Social Politics in the United States, 1924, p. 370
(2) ibid. p. 370
expected outcome was what happened—nothing was done about it.

Report of Wisconsin Industrial Commission—1915

In 1915 the Wisconsin Industrial Commission reported on the subject of Old Age Relief. The report was prepared at the request of the 1913 Legislature. The report did not endorse any plan or scheme of old age pensions. It indicated, however, that it was favorable to the idea but did not present a plan. Consequently the legislature did not act on the report.

Old Age Pension League of Columbus, Ohio—1916

In 1916 an Old Age Pension League was formed at Columbus, Ohio. Its purpose was to prepare a bill to be presented to the Ohio Legislature at the session beginning in January, 1917. This bill was presented to the legislature requiring the state to pay pensions, not to exceed $240 per year to applicants over sixty-five years of age, provided such applicants had incomes under $240 per year and property not exceeding $1,500 in value. Such applicants could not be inmates of state institutions. The revenues necessary for administering the bill were to come from the state's inheritance taxes.

Ohio Commission appointed by Governor

Out of this proposal, the legislature instructed the governor to appoint an unpaid commission of seven members "to study health insurance, sickness prevention and old age insurance." The commission reported in 1919 in a most comprehensive manner. It reviewed the development of social insurance in Europe. It recommended that the state provide for the
payment of a weekly pension not to exceed $5.00 per week to all persons sixty-five years of age or over. The combined pension and income of the individual was not to exceed $350 per year. Definite restrictions were to be placed on those who could qualify for the pension. It required citizenship and residence in the state for at least fifteen years prior to application. Aliens and persons who had been convicted of felonies within ten years preceding application could not qualify. Persons disposing of property in order to qualify could not receive a pension.

Individuals could purchase annuities voluntarily by making weekly premiums not to exceed 10¢ or make a lump sum payment for a longer period. A person who qualified but who deferred his pension benefits, could under this proposed plan receive a higher benefit at a later date by computing his past benefits which he elected to remain, adding them to his payments up to the age of sixty-five. This excess benefit which he would receive would not be included in the maximum of $350 annual income and pension allowed him.

All property left by the pensioner at his death in excess of $100 was to pass to the state which was to deduct from it an amount up to the total benefits paid to the individual, if large enough. Any remainder after this was done was to be returned to the lawful heirs of the individual.

The state machinery was to be administered by a commission of three members known as the State Board of Pensioners and
the expense of its operations was to come from the general funds of the state. There was also a provision for coordinating the necessary county machinery with the other welfare activities of the county.

**Pennsylvania Commission—Report in 1919**

The Pennsylvania Commission to Investigate Old Age Pensions was created shortly afterwards and presented its report in 1919. Mr. Abraham Epstein of the American Association for Social Security served as Director to the commission, and concerning its study says: "The Pennsylvania Commission's investigations of the aged in that state covered a wider scope and included phases not previously dealt with by any of its predecessors. It made exhaustive studies of the dependents in county poorhouses, private benevolent homes, and aged persons who resided in their own homes. It also made a study of the moral and financial conditions, as well as the general management of Pennsylvania almshouses. In addition, the report contains a summary of a great many pension schemes for old age protection as operated in foreign countries. In the group studied this commission found that forty-three per cent of persons studied were approaching old age without any visible means of support--this group was of persons fifty years of age and over. Only thirty-eight per cent of the general aged population in the state claim to possess personal property of their own. This would indicate clearly that many of these aged folk will fall dependent, in many cases through no fault
of their own, either upon the state or upon private charity when their power of earning is steadily declining with advancing years. The investigations also show that in most of the industries of the state, many workers become unfit before reaching the age of fifty, with the inevitable result of steadily decreasing earnings. In certain industries, like that of the railroads for instance, it appears that more than half of the workers become impaired before their fiftieth birthday. It is also shown that when the prime of life has passed, many Pennsylvanians are compelled to change their occupations, which ordinarily involves a decline in wages. This decline, with the majority of aged people, appears to be due entirely to sickness and enfeebled age. The increasing problem of old age stands out even more significantly when it is remembered that while the earning power of most wage workers is steadily decreasing, after a certain period of age has been attained, the expenditures on food and rents, enough under normal price conditions, remain the same, while that on medicine is steadily increasing. The investigations also disclose that as far as Pennsylvania is concerned, the problem of support of the aged is largely a native problem, rather than an imported one. The immigrant paupers all claim to have had a long term of residence in both the United States and Pennsylvania.”(1)

(1) Abraham Epstein, Facing Old Age, 1922, pp. 251-252
Sterling--Lehlbach Act--1920

In the spring of 1920, the sixty-sixth Congress of the United States passed the Sterling-Lehlbach Act authorizing compulsory contributory old age and disability insurance for all employees who worked fifteen years or more in the classified Civil Service of the United States.

The age at which retirement became effective varied with the type of employment. Railway mail clerks could retire at sixty-two years of age. Letter carriers and post office clerks were eligible for retirement at sixty-five years. Mechanics could retire at the same age. All employees were subject to compulsory retirement at seventy years of age, provided they met the other requirements of the act. It was also provided that an employee could continue in his position for a period of two years beyond the retirement age when it met with the approval of his department head and the Commissioner of Civil Service. This provision could be extended for five two-year periods during the first ten years of the act; after the act was in operation for ten years, this extension could not exceed a total of four years. All employees contributed two and one-half per cent of their monthly income to a fund under the control of the United States Treasury Department. This fund was known as the "Civil Service Retirement and Disability Fund". It was estimated that the compulsory employee-contributions would constitute about one-third of the necessary fund, the remainder to be appropriated by Congress. The pension
received was determined on the basis of two per cent of the average annual wage multiplied by the number of years' service of the worker. For those who rendered thirty years of service in the Class A group, the pension would amount to about sixty per cent of their annual salary; in the Class B group, twenty-seven years of service would amount to a pension equal to about fifty-four per cent; Class C would get forty-eight per cent of the salary for twenty-four years of service, et cetera. The maximum pension payable was $720 which was sixty per cent of an annual salary of $1,200. The minimum pension was $180 per year. For disabled workers before reaching retirement age, compensation was provided on the same basis as pensions if employment at time of disability was fifteen years or more. Disability allowance could not be received for "vicious habits, intemperance, or wilful misconduct." If an employee left the service before he was eligible for retirement, he would receive an amount equal to his total contributions plus accumulated interest; in case of death, lawful heirs would receive a similar amount. The Commissioner of Pensions who came under the Department of Interior was responsible for the administration of the act. This was changed in July, 1931 when the administration was consolidated with the United States Veterans Bureau. At the time of passage of the act there were over 300,000 employees under the Civil Service of the United States; in June, 1936 there were 498,725 under this service. (1)

(1) 55d Annual Report of U. S. Civil Service Commission, June 1936, p. 1; see also pp. 78-85 relating to Retirement Statistics
On June 30, 1932 there were 25,567 beneficiaries of the act. Of this number, 16,600 were retired and 5,975 were beneficiaries because of disability. Of this number, ninety-two percent of the pensioners were men. The average annuity was $955.32.

It was believed that passage of this act would lead the way for others to follow suit. It did not, however, encourage the action expected among other governmental units.

New York City Employees' Retirement Law—1920

The New York City Employees' Retirement Law (1) became effective for all city employees entering employment in the city service after October 1, 1920. Other employees engaged by the city before this date were given opportunity to come under its provisions but it was not compulsory for them to do so. The employees contribute one-half and the remainder comes out of city appropriations. The administration of the funds is under the Board of Estimate and Apportionment. "Among the provisions of this law are life insurance protection equal to six to twelve months' pay of the employee, disability insurance protection of from one-quarter to one-half of the salary any time after completing ten years of service and paying, as long as the disability continues, a three-quarter pay

(1) Does not include schoolteachers. The Teachers' Retirement Act of New York City, the first of its kind has been operating since 1894.
pension if the employee is disabled in the performance of duty, a half-pay pension to the dependents with return in cash of all contributions at 4% per annum if the employee is killed in the performance of duty, and retirement on demand after the ages of fifty-five, fifty-eight, fifty-nine and sixty, on a benefit proportioned to half pay after 30 to 35 years."(1)

"Year of One" in old age "Pensions"—1923

Mr. Epstein calls 1923, the "Year One", in the enactment of old age pensions in the United States. During that year three states passed old age assistance legislation; namely, Montana, Nevada and Pennsylvania. Of the three, the Pennsylvania law was by far the best although the legislature appropriated only $25,000 for the payment of such pensions. The State Supreme Court declared the act unconstitutional because of a specific limitation in the state constitution prohibiting the appropriation of state funds for benevolent purposes. Ten years of effort since that time did not accomplish the necessary amendment to make it constitutionally possible to pass such legislation. Apart from the humanitarian arguments urged for the passage of the act, the principal argument was that it was cheaper to provide pensions to those in need than to maintain the aged in costly administered almshouses and on outdoor relief programs. The Nevada Act was repealed in 1925. In its place an ineffective law was

(1) The World Almanac, 1937, N. Y. City Employees' Retirement Law, p. 479
substituted which never functioned.

**Montana Law**

The Montana law was one of the most effective of the optional laws passed. Nearly all of the counties eventually adopted its provisions. As a result pensions have been paid there longer than in any other state.

**Assistance Acts 1923--1929**

Between 1923 and 1929, four states followed in the footsteps of Montana, passing similar optional legislation—leaving it to the counties to determine its local adoption. Wisconsin passed its act in 1925; Kentucky in 1926; Colorado and Maryland in 1927. Of this group, the least effective was that of Kentucky where only one county accepted the provisions of the act. Had it not been for Baltimore, Maryland's act would have been equally as ineffective.

**Wisconsin Law made mandatory--1931**

The optional feature of the Wisconsin law was made mandatory on the counties by an amendment in 1931, effective July, 1933. In 1933 the legislature postponed the mandatory feature until July, 1935.

**California first mandatory Law--1929--Other Laws**

The first mandatory old age assistance law to be passed was by the state of California in 1929. This law required the counties to meet one-half of the necessary expenses, the state was to furnish the remainder. The act was to be administered under state supervision. In the same year Wyoming
adopted a similar mandatory act. The states of Utah and Minnesota passed optional acts in 1929. The Minnesota act was amended later making it mandatory for the counties to adopt by January, 1934.

In 1930 New York and Massachusetts adopted state-wide mandatory laws providing for direct state contributions. This year marked the turning point in the slow moving program of old age assistance legislation. Five states joined the ranks in the year 1931, namely: Delaware, Idaho, New Jersey, New Hampshire, and West Virginia. In 1933 the record of mandatory laws was remarkable in that Arkansas, Arizona, Indiana, Maine, Michigan, Nebraska, North Dakota, Oregon, and Washington enacted such legislation. The Arkansas law was declared unconstitutional because of the method proposed for raising the revenue. Colorado enacted a new law in 1933 because the earlier act was voided by the courts in 1932. As a result of this legislation, in 1933 over half of the states had some kind of old age assistance legislation. The trend was also away from the old type of county-option legislation. Outside of Kentucky, Maryland, Montana, Nevada, Utah and West Virginia, the remainder of the states had mandatory acts. Of these twenty-five states having old age assistance acts, eleven states set the age limit at sixty-five years, one at sixty-eight years, and the remaining thirteen states at seventy years of age.
Amount of Assistance granted to Applicants

Most of the states limited the maximum pension to be granted at $30 per month. New York and Massachusetts set no maximum but left it to the administrators to determine the needs in terms of each individual's circumstances.

Governor Roosevelt urges Need for contributory Legislation

In Governor Franklin Roosevelt's message to the New York Legislature on January 7, 1931 he expressed his dissatisfaction with this type of assistance legislation. "Our American aged do not want charity," he declared, "but rather old age comforts to which they are rightfully entitled by their own thrift and foresight in the form of insurance. It is, therefore, my judgment that the next step to be taken should be based on the theory of insurance by a system of contributions commencing at an early age....

"In this way all men and women will, on arriving at a period when work is no longer practicable, be assured not merely of a roof overhead and enough food to keep body and soul together, but also enough income to maintain life during the balance of their days in accordance with the American standard of living." By these words Governor Roosevelt made his position clearly in favor of the contributory insurance principle as against the customary noncontributory acts that had been passed up to that time. No contributory legislation was enacted as a result of his message, however.
Panama Canal and Railroad Act--1931

By an Act of Congress on March 2, 1931 a contributory system of retirement pensions was enacted in behalf of 3,200 employees of the Panama Canal and the Panama Railroad Company, effective July 1, 1931. The employees were required to contribute five per cent of their salary. There were 157 annuitants by June of the following year as a result of this act.

Dill--Connery Bill--1932

The Dill-Connery Bill was introduced in Congress in 1932. Its chief purpose was to encourage the states to pass mandatory old age assistance acts by having Congress reimburse such states to the extent of one-third of the costs. This bill received little, if any, attention by Congress.

Railroad Retirement Act--1934

The Railroad Retirement Act was passed by Congress in June, 1934. Compulsory contributions were to be made by the railroads and the employees to the Railroad Retirement Fund. This central fund was under the supervision of the United States Treasury Department. Pensions were to be granted employees upon reaching the age of sixty-five years. The amount of the pension was to be determined on the basis of the wages paid the worker and the length of time he had been employed. It has been criticized as one of the most hastily and poorly drafted bills ever to be enacted by Congress.
The text content of the image is not legible or contains non-English characters, making it impossible to transcribe.
It was declared unconstitutional by the United States Supreme Court. "A pension plan thus imposed is in no proper sense a regulation of the activity of interstate transportation. It is an attempt for social ends to impose by sheer fiat non-contractual incidents upon the relation of employer and employee, not as a rule or regulation of commerce and transportation between the states, but as a means of assuring a particular class of employees against old age dependency."(1)

Railroad Pension Law and Tax Act--1935

In August, 1935 a second bill was enacted by Congress, known as the Railroad Pension Law. It was of the compulsory contributory type, imposing equal contributions of three and one-half per cent of the worker's wages from the railroad and the insured worker. This act, too, was declared unconstitutional by the District of Columbia Supreme Court on June 26, 1936. The court considered this act inseparable from an accompanying Tax Act and that the two acts dovetailed "into one another so as to create a complete system."(2) Thus, these two acts combined were held unconstitutional on the same ground as the Railroad Retirement Act of 1934.

Other State Laws


(2) From the opinion rendered by Justice Jennings Bailey; see Monthly Labor Review, August 1936, pp. 328-330
law was declared unconstitutional because of its tax provisions. It was replaced by a new law in 1935. Oklahoma held a special referendum on September 24, 1935 to vote on a $30 per month act, payable to men at sixty years and to women at fifty-five years of age. The State Supreme Court held the law void in February, 1936 on the ground that the signatures petitioning for this referendum had not been checked.

State Legislation—February, 1936

Only ten states were without laws in February, 1936. These were Georgia, Kansas, Louisiana, New Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee and Virginia.

Retirement Laws of State Employees

Retirement plans for state employees were operating in eight states in 1935. In six of these states the contributory plan was operating, while in the remaining two—Connecticut and Maine—the noncontributory plan was in force. Massachusetts was the first state to provide such legislation for its state employees, doing so in 1911.

Rapid Changes since Social Security Act

Since the enactment of the Social Security Act there have been rapid-fire changes of state legislation. Many of these acts have had to be revamped so as to meet the requirements of the Social Security Board for the purpose of receiving the available federal aid. The states, however, are not to be troubled with passing contributory old age acts for the
reason that the federal legislation restricts the administration of this provision to the Social Security Board.

Brief Summary of private pension Plans

It has not been intended in this study to review the many private pension plans that have been inaugurated in the United States during the past three decades. Such a study would involve endless research as well as extend the discussion beyond its reasonable boundaries. A few summary words concerning these efforts are properly in order.

It must be remembered that such plans have played an important part in giving security to some—but the number covered is not known. One of the best studies on this subject was made by Luther Conant, Jr. in 1922.(1) But it is much out of date since the following ten years were important along the lines of further development.

Private pensions have been both contributory and non-contributory. Some noncontributory schemes were nothing other than skilful attempts to keep down labor turnover. In some instances the management kept pension grants at a minimum in order to keep down expense. Such retirement plans were left to the arbitrary decision of management. They did not give much security to the worker because of their uncertainty of application. Instead of building up good will on the part of the worker toward the management they often tended to breed ill

(1) A Critical Analysis of Industrial Pension Systems, 1922
will. Organized labor denounced them and was equally opposed to those noncontributory plans which were operated in the sincere interests of the worker.

Many of the private contributory plans failed for the reason that little thought was given to the reserve requirements necessary to maintain them. Some of them were established on a sound actuarial footing and the management of them placed in the hands of trust departments of banks and other financial institutions.

The chief reasons for encouraging the development of private industrial schemes have been (1) a reward for long and faithful service, (2) a means of increasing the workers' efficiency, (3) a means of building up the morale of the labor force, (4) a means of reducing labor turnover and (5) a means of enforcing disciplinary control.

The Metropolitan Life Insurance Company reported in its study in 1932 that there were "records of well over 600 plans in industry in the United States covering five million employees. There may be as many more unrecorded formal pension systems.

"In addition, it is likely that considerable numbers of persons receive monthly allowances on a wholly informal basis from their former employers. Figures are not available on this subject."(1)

(1) The Problem of Old Age Dependency, Monograph #13, The Metropolitan Life Insurance Company, 1932, p. 45
V

UNEMPLOYMENT INSURANCE

Extent of Unemployment

None of the causes of insecurity has been more widely discussed in recent years than unemployment. The impact of the recent depression has emphasized the importance of this subject. Consequently we shall give our attention here to the extent of unemployment and the part that social insurance measures render as a substitute for relief.

There are few who are fortunately able to secure any part of the national product without the means provided by employment. To put it in another way it is necessary for most of us to be gainfully employed in order to eke out our livelihood. "Employment, moreover, serves as a means of distributing the national product, for it is through employment that the majority of the people acquire claims to the goods and services which are being produced. Employment, therefore, is itself a determinant of production."(1)

Kinds of Unemployment

In general, unemployment falls mainly into three broad classes--seasonal, technological and cyclical. These terms are indicative of general economic conditions that do produce an unevenness of flow of employment. In addition there are numerous other minor causes of unemployment--some grow out of

personal conditions, while others result from more general conditions such as strikes and lockouts and so-called acts of God.

The principal concern is with varying volume of employment which comes with varying economic conditions. Thus far, stabilization of employment at a fixed level of output has not met with much success. This should not, however, discourage attempts in that direction. Until stabilized employment comes we must employ measures that will cushion the ill effects that the uneven flow of employment brings to the worker. In periods of seasonal, technological or cyclical unemployment an individual's ability to work, his genuine willingness to be employed and his skill at a particular task do not produce a job.

**Numbers of Unemployed**

According to estimates made by the President's Committee on Economic Security and revised by the Brookings Institution there were 1,600,000 persons out of work in the so-called prosperous year of 1929. The number reached its peak in 1933 when 14,100,000 were unemployed. For the year of 1936 approximately 11,900,000 individuals were without employment. (1) In January, 1935, according to the Report of the Federal Emergency Relief Administration for that month, about one-sixth of the population of the United States was on relief, principally as a result of widespread unemployment.

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(1) ibid. Table, p. 135
Population a Factor of increased Unemployment

The restriction of immigration, a steady decline in our birth rate and prolongation of life in general have been important factors in bringing about progressive changes in the age distribution of our population. Immigration means three things to a population--an increase in an adult labor population, a higher birth rate and a decrease in the ratio of old people to the total population for the reason that fewer older people immigrate. For the last three census enumerations the ratio of those between the ages of fifteen and sixty-four years has, however, remained about stationary. Since the last census "the estimates indicate that the number of workers available for gainful occupations in the past six or seven years has increased at a higher rate than has the total population."(1)

Again, Dr. Leven points out, "The gain in population was confined to the ages from which most of the gainful workers are drawn. As a matter of fact, the increase in the number of persons of working age surpassed by some fifteen per cent the net increase in the entire population."

"Seen in this light, the problem of employment with which we are now faced assumes more than cyclical significance. It would appear that the present depression is complicated by the operation of a deep-rooted secular change in the popula-

(1) ibid. p. 121
tion of the United States. Both the decrease in birth rates and the increase in longevity tend to increase the supply of workers relative to the total population. The first, in addition to increasing the ratio of adults to the total population, tends to release women from the home for gainful employment, and the second increases the labor force by lengthening the average period of active employment."(1)

This situation calls for added employment, not one of re-employment alone. It indicates, too, that the disappearance of unemployment of the depression years is going to be a slower process than it would be had the age ratios of the population remained stationary. Of course, no kind of unemployment insurance program can be helpful to a permanently unemployed population. The only possible provision for such is relief.

Unemployment Insurance defined

Unemployment insurance may be defined as a means by which the unemployed worker receives a specified sum in lieu of wages for a definite period of time in order to help sustain himself and his family during a period in which he hopes again to find work. It assumes that he is out of work through no fault of his own. It may require that he contribute periodically to a central fund but, more commonly, it requires that industry provide the necessary funds, since industry is responsible for his idleness. Nearly every important industrial

(1) ibid. p. 122
country of the world has some kinds of unemployment insurance provisions. Formerly we looked disdainfully at such countries, characterizing their methods as most un-American, but our recent bitter experience, accompanied by a staggering relief bill, has made us a little more inclined to consider the wisdom of such methods.

Objections to Unemployment Insurance

Like other social insurance proposals, unemployment insurance has come in for its share of opposition. The objections raised to social insurance in its broader implications, and already referred to in the first part of this discussion, apply to unemployment insurance. In addition there have been specific objections to this measure. Some of them can be put in the category of insurance versus prevention. Examples of such objections are: (1) such measures do not lessen unemployment; and (2) such measures create a false sense of security by making unemployment less acute, thus distracting the attention it deserves. Another argument, common among organized labor groups, was that what the worker wanted was a job, not the "dole". Incidentally since the state and federal governments entered the field of relief one hears less about the offensiveness of this thing called the "dole".

Another type of argument is as follows: "Unemployment compensation cannot tend to regularize employment by placing a penalty on irregularity, because the employer has little if any control over the regularity of his operations. Regularity
depends upon the volume and availability of capital and credit; changes in style, consumer demand and tariffs; fluctuations in foreign exchange, and many other economic factors involved in our complicated economic system. This is especially true in the service industries and the durable goods industries.

"A system of unemployment insurance will not tend to maintain purchasing power for it is not the kind of purchasing power in anticipation of which new construction will be undertaken or which will provide a market for the durable goods industries. Unemployment lies almost entirely in these industries, or is directly traceable to these industries. From the amount of benefits paid in Great Britain, it may be realized that these payments can in no sense be used for the purchase of anything except the minimum necessities of life."(1)

A recent argument has been that unemployment is not an insurable risk. It is claimed that the probability of occurrence of this contingency is not predictable within reasonable limits; that the certainty of its occurrence cannot be verified; and that during periods of general and protracted unemployment the strain upon its reserves is too great. In this connection it has been mentioned that the dearth of reliable statistics adds to this difficulty. It must be admitted that the complications connected with working out the insurance aspects of this program are much more complex than the prob-

lems connected with the program of old age annuities.

No attempt is made to give all of the objections that have been raised. The writer believes that those listed above are fair samples of the arguments raised, including, of course, those already brought out concerning the broader aspects of social insurance. Most of the opposition has come from the manufacturing group. Organized labor shifted from its former position of opposition to that of being a strong believer in the scheme. The seriousness and extensiveness of the depression was undoubtedly effective in shifting labor's position in this matter.

**Arguments for Unemployment Compensation**

Those who have sponsored unemployment insurance have negated most of the objections that have been raised. They do not believe that insurance which aims to lessen the ill effects of unemployment stands in the way of preventive measures aiming to stabilize employment. One naturally agrees with labor's former opposition that what the worker wants is a job. But when there is no job, what then?

The late Dr. I. M. Rubinow, probably America's foremost authority on social insurance, has ably answered in the affirmative the question as to whether or not the unemployment risk is insurable. He deplores the inadequacy of statistics on the subject and agrees that the irregularity of incidence of unemployment is greater than with other hazards—fluctuating as much as five per cent to thirty per cent.
He admits the fluctuations as between different industries and between different sections of the country. He points out that the period which unemployment statistics must cover is a complete cycle which does tend to complicate its administrative aspects as compared with other forms of social insurance. (1) The existence of the successful operation of this scheme in about fifteen countries of the world should answer doubts as to its practicability.

In addition it is claimed that unemployment insurance surpasses relief as the measure to employ for the following reasons: (1) it furnishes a more satisfactory method of protection—benefits are paid as a matter of right; (2) it sustains the standards of the working class because it allows more for consumption purposes; and (3) there is no stigma attached to it like charity—the question of need does not have to be proved.

Groups favoring Unemployment Insurance

The following groups have urged the passage of this legislation in this country: the National League of Women Voters, the National Consumers League, and numerous other public welfare organizations. For many years it has been constantly urged by the American Association for Labor Legislation and the American Association for Social Security. Since the onset of the depression it has been endorsed by the American Federation of Labor. In 1932 it received the endorsement of the

(1) See Annals, American Academy, Vol. 170, November 1933, pp. 40-52
National Democratic party. At that time Mr. Franklin D. Roosevelt declared, "We shall come to unemployment insurance in this country just as certainly as we have come to workmen's compensation."(1) Many economists believe in the wisdom of the social insurance method, for example, Paul H. Douglas, Eveline Burns, Leo Wolman, John R. Commons and Barbara Armstrong.

Two Developments--private Plans and public Efforts

As in the case of the development of old age pension schemes one finds in reviewing the history of unemployment insurance that it has followed two courses--one, private and the other, promotion of public legislation. The first group is made up of three subdivisions which have attempted to provide out-of-work or unemployment benefits, namely, labor union programs, joint agreements between employers and labor unions, and company plans. Up to the time of the depression all three of these schemes had some difficulty with their reserves from which the benefits were paid. Consequently the mortality rate of these plans was high. Because of this and other administrative difficulties, there were only about 106,720 workers covered in 1928. Although the writer has no figures for the subsequent years as to what happened to many of these plans, as the depression deepened, it seems reasonable to suppose that some of them, at least, were forced to cease operation.

Some of the outstanding company plans have been those of

the Dennison Manufacturing Company, Leeds and Northrup, the General Electric Company, Proctor and Gamble, and the Fond du Lac companies. It must be noted, however, that as admirable as such plans have been, they have covered only an exceedingly small part of the total working population. Also, in view of the unemployment provisions of the Social Security Act, if held to be constitutional, it is doubtful if many existing plans which have weathered through the depression will continue operation indefinitely. Of course it is possible that some plans will continue operation, particularly where benefits are a feature to attract and to hold members, as in the case of labor unions, justifying such continuance on the grounds of supplementing the limited compensation provided by state acts as well as for other reasons such as questioning the future soundness of some state reserves.

Attempts through public Effort

The second course pursued, and the one which concerns us most, relates to those efforts made to promote unemployment legislation. Until the Wisconsin Act of 1932 the course has been a particularly hard and futile one for the principal reason that no state wants to initiate legislation that handicaps its industries in competition with those of other states which have no intention of enacting similar legislation. Nevertheless, many bold and persistent attempts have been made since 1916.
Meyer London Resolution 1916

Meyer London, Congressman from New York, introduced a resolution in February, 1916 calling "for the appointment of a commission to prepare and recommend a plan for the establishment of a national insurance fund and for the mitigation of the evil of unemployment."(1) At the hearing there was much opposition evidenced. The bill died in committee. Organized labor violently opposed the resolution. Later in the year, Samuel Gompers who was present at the hearing had this to say about such efforts: "During the past year persistent agitation in favor of compulsory social insurance has been carried on. The agitation originated with an organization that is neither responsible to the wage earners nor representative of their desires....It is very significant of the attitude and policy of those who have legislation of this class in charge that the measures they have drawn up were formulated without consultation with the wage earners and introduced in legislatures with professional representatives of social welfare as their sponsors. The measures themselves and the people who present them represent that class of society that is very desirous of doing things for the workers and establishing institutions for them that will prevent their doing things for themselves and maintaining their own institutions.

"The London resolution was also introduced without con-

(1) Quoted in Bryce M. Stewart; Unemployment Benefits in the United States, Industrial Relations Counselors, N. Y. 1930, p. 570
sultation with the responsible representatives of the wage earners of the country."(1)

New York Commission 1909

A commission appointed in New York in 1909 to consider employers' liability and other matters relating to unemployment commented on the Ghent system as practiced in Belgium:

"Insurance against unemployment through labor organizations is commendable, but we are not prepared to recommend legislation on this phase of the subject. In the absence of any exact information in regard to the average time lost in different trades, such insurance must rest on an uncertain basis. Only when fuller information becomes available will the question whether the United States can safely imitate Belgium in encouraging trade unions to insure their members against unemployment come within the field of practical politics."(2)

California Commission--1914

A California commission reported on unemployment in December, 1914. It recommended the establishment of labor exchanges, out of which would come the necessary data to build an unemployment insurance system.

Chicago, Illinois Commission--1914

A city commission was appointed by the mayor and aldermen of Chicago in 1914 to study unemployment. This commission ambitiously recommended for Chicago employment bureaus, part-time work projects, public works program and unemployment insurance.

(1) Quoted in ibid. p. 571
(2) Quoted in ibid. pp. 571-572
Bills appearing before State Legislatures

Several bills have been presented to state legislatures to legalize the underwriting of unemployment insurance by private insurance carriers. One bill of this kind was defeated in New York in 1927. Two bills were passed in Michigan in 1915. Both of these laws authorized the formation of mutual insurance societies among certain industrial groups for the purpose of insuring against discharge or retirement.

Massachusetts Bill--first to be presented--1916

The first unemployment insurance bill to be presented to a legislature in the United States was introduced in Massachusetts in January, 1916. It was presented by the American Association for Labor Legislation and the Massachusetts Committee on Unemployment. The bill was opposed by labor and employers alike. It was killed in committee. "The function of the bill was primarily to arouse discussion of the subject for general educational purposes." (1)

Bills in 1921

In 1921 the three states of New York, Pennsylvania and Wisconsin introduced bills on unemployment insurance. The New York bill introduced by Representative Orr, Socialist, provided that employees, employers and the state contribute to a fund for unemployment compensation. It resembled in its features the earlier Massachusetts bill. It was never reported

(1) ibid. p. 574
out of committee. The Pennsylvania bill was sponsored by the State Federation of Labor and the Eastern Consumers' League. The bill was drafted by the American Association for Labor Legislation. It resembled the Wisconsin Bill except that the insurance could be handled by a private insurance company instead of an employers' mutual company. The most important bill was the Wisconsin Bill, better known as the Huber or Commons Bill. "The importance of the bill lies in the fact that (1) employers alone were made liable for payments in contrast with the plans in which there are unemployment funds jointly supported by employers, employees, and the state, as found in several European systems and in the bills introduced in Massachusetts in 1916 and in New York in 1921; (2) insurance was to be principally handled by an employers' mutual unemployment insurance company as contrasted with joint unemployment funds and insurance placed with mutual or private insurance carriers (as in later bills introduced in Wisconsin and in other states); (3) the method of administration was similar to the administration of the workmen's compensation laws in many states; (4) the bill itself came nearer passage than any succeeding bills either in Wisconsin or in other states." (1) The bill and the hearings held received widespread publicity. Dr. John R. Commons of the University of Wisconsin

(1) ibid. p. 578
took a very active and leading part in urging passage of the bill. He claimed that the bill prevented "the over-expansion of credit (which) is the cause of unemployment and to prevent over-expansion of credit you place an insurance liability on the business man against the day when he lays off the workman."(1) He concluded his remarks, as follows:

"If we recognize that this question of capital and labor acquires its bitterness from this failure of capitalism to protect the security of labor, then we shall conclude that unemployment compensation and prevention is of first importance. We have already removed from the struggle between capital and labor the bitterness over the responsibility for accidents. Labor agitators formerly could stir up hatred of the employer on the ground that the employer gets his profits out of the flesh and blood of his workmen. No longer do we hear that language; but we do hear them say that capitalists profit out of the poverty and misery of labor and the reserve army of the unemployed. That is a big remaining obstacle which embitters the relations between capital and labor. While individuals may think it is undesirable, yet from the standpoint of the states and of the nation, we must submit somewhat our individual preferences to what may help to prevent a serious menace in the future, and must impose upon capital that same

(1) ibid. p. 578
duty of establishing security of the job which it has long since assumed in establishing security of investment."(1)

The bill had the endorsement of the State Federation of Labor. Two prominent business men, Mr. Henry Dennison and Mr. Ernest Draper, went to Wisconsin to support the measure. It was violently opposed by the state's manufacturing associations and many individual employers. That "It would sound the death knell of industry in Wisconsin to pass any such measure as the Huber Bill without assurance that all competing industries in other states would be brought under a like act"(2) has been in this writer's opinion a reasonably sound objection to a state bill.

Second Massachusetts Bill—1922

A second bill was introduced into the Massachusetts General Court in 1922. It was presented to the House, January 5, by Representative Henry L. Shattuck who said, in part, in its behalf: "By providing unemployment insurance we shall not only create a reserve fund for the relief of those thrown out of employment in times of industrial depression, but we shall also give to every employer an incentive to provide steady employment by every means possible and we shall provide a deterrent to over expansion of industry in boom periods."(3) The bill was endorsed by Mr. Henry Dennison and Dr. John B.

(1) ibid. p. 579
(2) ibid. p. 580
(3) ibid. p. 575
Andrews. The Massachusetts Associated Industries and a representative of the Knights of Labor opposed its passage. The American Federation of Labor remained indifferent to it. It was referred to the Massachusetts Special Commission on Social Insurance who did not believe that such a proposal was in the interests of industry or labor. As a result the bill died in the House of Representatives.

State Bills in 1923

Two bills appeared before state legislatures in 1923. A second Huber Bill appeared in Wisconsin. It was amended later, calling for a committee to study unemployment insurance but the amendment failed adoption by a vote of sixteen to seventeen. This bill was limited to employers of six or more workers; regular vacation periods were not considered unemployment; the maximum compensation allowed was sixty-five per cent of the worker's wages; an insurance bureau was to be created; the insurance could be carried by private insurance companies; and penalties of the previous bill were lessened. No vote was taken on the bill and it was referred to a Committee on the Judiciary.

Other State Bills

The Minnesota Bill appearing in the same year was a copy of the Huber Bill. The bill was referred to the Committee on Workmen's Compensation and after being reported by this committee failed to pass. This bill was endorsed by the State Federation of Labor and the American Association for Labor
Legislation. Similar bills were presented in 1925 and 1927 and received the same support as the first one. Both of these later bills failed to pass.

A third Wisconsin bill, known as the Heck Bill, was introduced in 1925. It was similar to the second Huber Bill of 1923. Indefinite postponement of the bill was voted by the Senate.

One bill in 1926 and two in 1927 in New York, known as the Cuvillier Bills, were never reported out of committees. Writing to one of his critics in 1927, Mr. Cuvillier said in part: "This bill should not be taken seriously. It was introduced for the purpose of ascertaining public sentiment on the question of public health in all its phases. This bill will not be pushed. I trust that you will publish this fact." (1)

Connecticut joined the procession in 1927. The bill was introduced by Representative Steiber, a Socialist, who was attempting to boost the cause of his group. It was rejected on the day it was presented to the House. A similar fate disposed of a second bill introduced in 1929.

In 1928 and 1929 two bills were introduced into the General Court of Massachusetts by Mr. Rolland D. Sawyer. The purpose of these bills was "to create an unemployment insurance commission, and employers' mutual unemployment insurance company." (2) Both of these bills failed to pass.

(1) Quoted in ibid. p. 577
(2) ibid. p. 577
The Coleman Bill of 1927 and Nixon Bill of 1929 in Wisconsin were both indefinitely postponed.

South Carolina entered upon the scene in 1929 with a bill that attempted to regulate employment methods of textile manufacturers. This bill required thirty days' notice to employees who were to be dismissed for any reason except by acts of God. The bill required paying workers while plants were closed to the extent of fifty per cent of their wages provided they had been employed for a period of three months or longer. The length of time this pay was to continue for or the fund from which it was to be paid was not specified. Companies were excepted from this proposal if they had not declared dividends for a previous twelve-month period. The bill was killed in the Senate.

Summary of State Bills

For the period beginning with 1916 when the first bill was introduced in Massachusetts to the beginning of the depression in 1930, twenty bills for unemployment insurance were introduced in only seven of the forty-eight states of the Union. Wisconsin led the list with five bills, Massachusetts and New York with four each, Minnesota with three, Connecticut with two, and Pennsylvania and South Carolina with one each. None of these bills passed and, in most instances, the bills were not taken seriously.

One federal bill was presented to Congress in this period by Congressman Victor Berger, Socialist from New York, who intro-
duced it March 19, 1928. The bill never left committee. It provided for a Bureau of Unemployment Insurance. Except for certain exemptions, unemployment benefits were to be paid to the extent of fifty per cent of the weekly wage to all employees of eighteen years of age or over. Benefits were to begin after two weeks' unemployment and to continue for a period not exceeding six months in any one year. The fund out of which compensation was to be paid was to be made up of compulsory contributions from employers, employees and the federal government. The amount necessary to maintain the fund was to be determined by a director who would assess one-third each to the three contributing parties. The bill also called for considerable expansion of the United States Employment Service.

**Bills appearing since Depression**

Thus far, we have covered the period of the pre-depression years. Since that time bills have appeared in greater numbers and in a greater number of states. It is evident that more time and thought were given to their preparation. Taking just one small part of the depression period, as many as sixty-eight bills appeared in the first eight months of 1933 in twenty-five of our state legislatures.

Under the active leadership of the American Association for Labor Legislation country-wide conferences began in 1930 to encourage plans for uniform state legislation on this subject. Leading American authorities on social insurance
along with socially-minded employers and union representatives who had had a rich experience in running union out-of-work benefit associations attended these many conferences. At one of these meetings was Sir William Beveridge, the author of the first unemployment insurance act of Great Britain. Out of these conferences grew "An American Plan for Unemployment Reserves" which was published in pamphlet form and 34,000 copies circulated throughout the country.

**Appearance of Two different Plans--Ohio and Wisconsin**

Out of this and other studies grew two distinctly different proposals: the Ohio Plan or state-wide pool; and the Wisconsin Plan or individual plant reserve. Because of the way matters were heading up, it seemed unnecessary to relate each and every bill of each and every state of this period. For this reason attention will be confined to consideration of the two proposals.

The Ohio Plan grew out of the deliberations of the Ohio Commission on Unemployment Insurance. Its study received widespread attention and is a milestone in the development of American unemployment insurance. The first conclusion which it made was "that charity and relief, private and public, have broken down as a method of meeting the unemployment situation"(1)

"The majority further concluded that some other method

(1) Quoted in I. M. Rubinow, Annals, American Academy, Vol. 170, p. 77
was advisable, a method more effective from a material point of view and less destructive of personality values; that insurance is the better method; that to be effective it must be compulsory and not the voluntary action of either employer or employees for experience here and abroad has shown that voluntary insurance is extremely slow in developing, it includes only a small proportion of those who need it, and it penalizes the humane employer and the thrifty employee to the benefit of their competitors who may be neither. The proposal of the Ohio Commission is based upon these few fundamental principles."

The proposed administrative set-up in this bill is a commission, similar to the Workmen's Compensation Commission of Ohio. There is a close relationship in the commission's functioning with the existing state's employment bureaus.

The Ohio bill covers all workers earning up to $2,000 per year except farm laborers, domestic servants, employees of interstate commerce, government employees, and casual laborers. It excludes firms or individuals employing less than three workers.

The benefits begin after a three weeks' waiting period which was extended to that length of time in order to keep down rates and extend the payment period for a longer interval. Benefits are fifty per cent of the worker's wages, but such benefits are not to exceed $15 per week. The period covered is for sixteen weeks beyond the three weeks' period.

The proposed bill is different from the established European systems in that it requires no contribution from the state.

(1) Ibid. p. 77
The study gives evidence that thought was given in working out the contributions from the standpoint of justice, ability to pay, responsibility of hazard, shifting of costs and other social and economic consequences. Of course there is always room for debate in interpreting the rates arrived at—there are those who believe that the worker should be excluded from any payments. This bill, however, places a two per cent tax on payrolls of employers and a one per cent tax on the worker's wages. Some of the members of this commission believed that the employees should have been required to pay a two per cent tax but it was feared that the bill would meet with much opposition by organized labor if this was done.

The proposed bill has three distinct features which make it different from the Wisconsin Plan. First, all of the contributions go into one central pool, from which benefits are paid; second, employees are required to contribute to this fund as already indicated; and third, it permits working out of a merit rating after the lapse of a certain period.

In justifying the state pool, Mr. I. M. Rubinow says in this connection, "The fundamental difference between the insurance plan (Ohio) and the reserve plan (Wisconsin) is that the Wisconsin plan proposes an individual reserve for each establishment, modified somewhat by permission to establishments voluntarily joining, to pool their reserves. Responsibility therefore rests with the individual-plant reserve fund; and the spread of risk through pooling of the entire
industry, which is the fundamental basis of insurance, does not exist. If in insurance it is difficult to determine the average amount of unemployment and the average cost of benefits and to establish a definite premium rate and a definite benefit scale, how much greater are the chances that a rate formula will work out in each individual-plant reserve? The lucky or efficient ones are likely to have more money than is needed, and the others less than is required to pay the benefit scale. Thus Wisconsin benefits must be limited to amounts available in the reserves of the individual plants. It is an insurance scheme without insurance, or at least without assurance."(1)

As to whether or not employees should be compelled to contribute to the fund has been a controversial question. States have differed in this interpretation as evidenced by the laws they have passed. Some believe that it should be the full responsibility of business to assume the entire contribution. Of course one would expect business to favor the proposal of employee contributions in order to cut down on its own. Likewise organized labor would naturally sponsor the plan of business assuming the full burden. One writer points out that the decision of employee contributions rests on three basic issues: 

"(1) The demands of justice in the distribution of the cost of unemployment benefits; (2) the effects of contributions upon employers and employees in their relation to the system; and (3) the question of adequate benefits."(2)

(1) Annals, Vol. 170, November, 1933, p. 82
(2) George H. Trafton, in Law and Contemporary Problems, Duke University, Vol. 3, #1, January, 1936, p. 50
The sponsors of the Ohio Plan believe in the wisdom of employee contributions; five states have followed this plan, including Massachusetts.

It is possible that the third distinguishing feature of the Ohio Plan may eventually cause trouble, i.e. the question of merit rating. It is possible that it may bring political pressures into the situation by granting a rating beyond that which an industry deserves. Only time can tell, however. It is interesting to incorporate at this point Dr. Rubinow's thinking since he was a member of the Ohio Commission.

"Authorization to vary premium rates is based not only upon financial considerations but also upon the purpose of meeting the Wisconsin idea of regularization half way. This idea is that through a fluctuating rate, unemployment insurance may be made a factor in encouraging efforts toward regularization. Furthermore, it is claimed to be true insurance, the premium rate must take into consideration the degree of unemployment hazard, and its fluctuations. There is nothing particularly novel in this idea. The English tried and abandoned it; the Germans considered it when they were introducing their system and discarded it because it was felt that theoretical considerations have been grossly exaggerated and practical difficulties in establishing the fluctuations in the unemployment hazard grossly minimized."(1)

In a later writing he summarizes the promises of the merit

(1) I. M. Rubinow--Annals, Vol. 170, November 1933; p.61
rating scheme of the Ohio Commission as follows:

"It promised that within three years: (1) the Commission would 'classify employments, industries and occupations' from the point of view of unemployment hazard; (2) would 'determine the risk of unemployment on the basis of the unemployment record and fluctuations in the payroll of each employer'; (3) would 'fix the rate of premium to be paid by each employer' (presumably employments as well as occupations); and (4) while so doing, would yet hold to a minimum of 1% from the employer, even though the actual risk might justify a much lower rate, and to a maximum of 3½%, even though the actual risk might justify a very much higher rate." (1)

First Unemployment Compensation Act -- Wisconsin

The first unemployment compensation act to be passed by an American legislature was enacted in January, 1932 by the Wisconsin Legislature. It was revised in May, 1933, requiring contributions by employers and giving opportunity to employees to contribute voluntarily in order to increase their benefits. It issued the first unemployment compensation ever granted to an American workman in August, 1936. The chief credit for this act and the efforts put forth for its passage belong to Professor John R. Commons and his colleagues at the University of Wisconsin. This act along with its present modifications was one of the first to be approved by the Social Security Board.

The provisions of the act as it presently stands are as

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(1) I. M. Rubinow, in Duke University, Law and Contemporary Problems, January, 1936, Vol. 3, #1, p. 85
follows:

A. Coverage: It covers all employees except farm laborers, domestic servants, relief workers, public officials, workers in the logging industry, interstate railroad employees, school-teachers, and registered part-time workers. It covers only firms with ten or more employees.

B. Contributions: Employers contribute two per cent of the payroll to a reserve fund and an additional two-tenths per cent for administration. When the reserve reaches $55 per worker, the contribution is reduced to one per cent until it reaches $75 per worker. Contributions stop after this amount is reached and do not begin again until the reserve goes below $75. The administrative tax continues, however. "Employers who guarantee forty-two weeks of employment in a year at the rate of at least $2/3 of the full-time weekly hours, are exempted from the payment of the regular contributions to the reserve fund."(1)

C. Benefits: Fifty per cent of wages are allowed, except that the amount cannot exceed $10, nor be under $5. Provision is made for partial unemployment. When the amount in the individual plant reserve is not sufficient to make the prescribed payments, the benefits are reduced.

Duration of Benefits: Unemployment benefits may not exceed ten weeks in any one year.

E. Eligibility: The worker must be able and willing to work. He must be a resident of the state for two years, having been gainfully employed for a period of forty weeks during that time. He must have been employed for a minimum period of four weeks with the employer whose reserve is to be used in paying benefits to him. "No benefits are to be paid if the employee received in wages during the twelve months preceding unemployment $1,500 or more, or if he has lost his employment through misconduct, left it voluntarily without good cause, or because of an industrial dispute still in active progress in the establishment in which he was last employed."(1)

If an individual refuses to accept work because of an industrial dispute or because labor conditions or wages are below the prevailing standard in similar work, he is not denied benefits.

F. Waiting Period: The waiting period is two weeks.

G. Unemployment Reserve Fund: The fund is state administered, each employer receiving a separate account to which he contributes. Except where the commission approves there can be no merging of employers' accounts.

H. Administration: The fund is administered by the State Industrial Commission which has broad powers to make such rules and regulations as it deems necessary in order to minimize the need for later legislation. It is also empowered to establish such employment offices as it considers necessary.

(1) ibid. p. 1199
The voluntary features of the act became effective January 29, 1934. The compulsory features took effect July 1, 1934. Benefits became payable July 1, 1935.

**What the Wisconsin Plan proposes**

The backbone of the Wisconsin Plan is the regularization of employment. Its proponents insist that only by such a method is incentive given to encourage the employer to do something about stabilizing his own employment. It, therefore, places full responsibility of contributions on employers—although it will permit voluntary contributions by the employee on the theory that it is not incompatible with the purpose of the plan.

Its sponsors argue that insurance advocates believe that unemployment is incurable under our present economic system. In truth, insurance experts believe nothing of the sort but insist that prevention measures must come about by other means. But to give the Wisconsin supporters a fair hearing, what else do they say? They say that insurance may be the only solution for England because of its chronic unemployment problem growing out of its dependence on uncontrollable world markets and its shrinking industries, for example the coal and shipbuilding industries. In the United States the situation is different. We are more self-sufficient and depend less on world trade. They say that most of our unemployment grows out of too rapidly expanding industries such as the automobile and the radio industries. They believe
that the American economic situation is brighter than that of Europe. Regarding their interpretation of the economic situation in this country there is little disagreement on either side of the fence. But the crux of the situation is their optimism that by such a plan they can regularize employment. To do so it must be done on an individual plant basis. The several industries cannot do it collectively or separately as individual industries. They insist that regularization is possible particularly in normal years. Such fluctuations as consumer habits, seasonal factors and other sheer haphazard causes are controllable, they insist.

This school of thought originated at the University of Wisconsin. Most of its sponsors with the exception of some business men, are colleagues and former students of Professor John R. Commons. This group has been talking about this plan for over ten years. If we talk about a thing long enough we can be thoroughly convinced in its worth. The writer believes that to this sincere group their plan has reached a stage where it has become a "cause". If this group accomplishes the objective of which it is so thoroughly convinced, it may drive all other insurance plans to shame.

**A Weakness of Wisconsin Plan from Standpoint of Workers' Security**

One thing is certain, the plan is a restricted form of pooled insurance in that the plant funds are kept separate, a kind of self-insurance. Furthermore, it cannot lay much claim
to guaranteeing benefits. Professor Paul H. Douglas of the University of Chicago gives a clear-cut analysis of the benefits of this plan and its injustices in the following: "What is the import of these figures for a system of plant reserves such as that provided for in the Wisconsin act? That act provides for assessments upon employers of 2% of the payroll until a reserve of $55 per employee is accumulated. According to present wage scales this would require on the average slightly over two years to accomplish even though the plant were to experience no unemployment at all. After the reserve reaches $55 per worker, the assessments are then reduced 1% upon the payroll until an average of $75 is attained when the assessments cease altogether.

"When the reserves are drawn down to $45, then for each fall of $5 in the reserve the maximum benefits are cut one-tenth. Thus, since $10 is the highest amount which can be paid weekly this means that when the reserves are at $45, the maximum weekly benefit is reduced to $9 and that when it falls to $40 the maximum is but $8. With an average reserve of $30 the highest weekly benefit is only $6, while at average reserves of $20 and $10 respectively the benefits are but $4 and $2 a week. It will thus be seen when the depression has reduced the reserves of a steel plant to $20 per worker its unemployed will only be able to receive benefits of $4 per week, while a flour mill with average reserves of say $50 will be able to pay the full benefits of $10 per week. Such an
inequality of benefits as between workers who are equally innocent has nothing to commend it."(1)

Features of Wisconsin Plan

The distinctive features of the Wisconsin Plan are three:
(1) compulsory contributions are made by the employer only;
(2) these contributions are recorded in separate plant accounts;
(3) the amount which an employer contributes depends on how successful he can regularize his own employment.

One thing must not be forgotten, however, in regard to the Wisconsin Act—the state was not "whipped" into line by the Social Security Act before it passed the act. To this extent the act deserves commendation as a bold pioneer!

Summary of present Legislation to January, 1937.

At the beginning of 1937, twenty-nine state unemployment compensation acts, as well as the District of Columbia Act, had been approved by the Social Security Board. Nine of these acts require employee contributions. Nineteen laws accept the merit rating plan. The following states comprise the list to January 1, 1937: Alabama, Arizona, California, Colorado, Connecticut, District of Columbia, Idaho, Indiana, Louisiana, Maine, Maryland, Massachusetts, Mississippi, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Okla-

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homa, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia and Wisconsin.

Further discussion relating to the subject of unemployment compensation, including the matter of state and federal relationships, will be discussed in the section devoted to the Social Security Act.

The many private plans which were briefly referred to at the beginning of this discussion have not been examined for the reason that this study has been concerned with the public development. Private attempts have been both commendable and important—though small, indeed, as to the number of workers covered. Where they have been worked out, especially the joint agreements and company plans, they have undoubtedly encouraged attempts along the lines of the regularization of employment. And, too, they have probably come closer to adhering to the principles of social insurance than have most public efforts. Nor has reference been made to such important preventive measures as employment exchanges, control and stabilization of employment, public works programs and vocational guidance, all of which tie up closely with the administration of unemployment insurance. Such prevention measures are a study in themselves. Social insurance, or any of its special forms, cannot claim to be preventive—although in its application it does encourage preventive measures. Some of the state compensation commissions, as for instance those of New York, are empowered to employ experts to study prevention measures for unemployment.
VI

THREE PROVISIONS OF THE SOCIAL SECURITY ACT

General

The Social Security Bill was an outgrowth of the many deliberations and researches of the President's Committee for Economic Security. The President presented it to Congress on January 4, 1935, stating that it embodied his ideas on social security. For several months Congress wrangled over it a good deal, amending it in many places, and passing it in the summer of 1935. It was one of the "high lights" of the administration, but it is doubtful if the man in the street about whom it concerned knew what it was all about, or still knows for that matter. Like many of the more important measures, the stage was set for the President to attach his signature—surrounded by a battery of newsreel cameras and sound recording mechanisms and the President using more than twenty of the much coveted pens to attach his signature. As he signed it, he declared: "The Social Security measure will give at least some measure of protection to 30,000,000 of our citizens who will reap direct benefits through unemployment compensation, through old age pensions, and through increased services for the protection of children and the prevention of ill health."

An omnibus Measure

This act is an omnibus measure, a composite act made up of several, separate measures, any one of which could be
declared unconstitutional without voiding its other features. The act is about thirty pages in length and its preamble reads as follows: "To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue and for other purposes."

Three main Objectives of the Act

As to purpose the act may be roughly divided into three parts: the unemployment compensation; old age annuities; and assistance and service features.

Three Phases of this Study

Only three phases of the act concern us in this discussion, namely: (a) old age assistance; (b) old age annuities; and (c) unemployment insurance. The other features have no direct bearing on social insurance. The question may be properly raised as to the wisdom of considering old age assistance in this discussion and excluding other so-called "pension" provisions of the act. It is true that such assistance provisions are relief and do not embody the principles of social insurance. But in the discussions of the insurance

(1) Public #271, 74th Congress, H. R. 7260
features of old age annuities it has been customary to include old age assistance legislation. Also old age assistance legislation may be a factor in encouraging annuity legislation later. The expense of assistance legislation is occasionally a good argument for the annuity program. This was certainly the case with Great Britain when the Act of January 4, 1926 was passed, requiring men to contribute four pence, women two pence, and employers similarly to the employee. This act even included agricultural workers and domestic servants in the plan.

**Old Age Assistance Provisions**

This measure provides that federal funds may be granted to states which have enacted laws satisfactory to the requirements of this act and to the requirements of the Social Security Board whose responsibility it is to supervise state programs and to determine allotments to be granted to the cooperating states.

1. **Requirements of State Legislation**

In order to comply with the act, state legislation must include the following items: (a) there must be financial participation by the state; (b) there must be established a state agency to administer the act, or in its place, there must be a satisfactory supervisory agency to whom the local administrative units must comply; (c) there must be provision made by
the state agency to hold hearings, when requested, for those applicants who have been denied assistance; (d) states must employ such personnel as meets the standards established by the Social Security Board; (e) the state must make periodic reports, covering the work done; (f) the state must surrender one-half of the value of any estate of a deceased recipient to the federal treasury; (g) the state may set seventy years of age as the qualifying age until January 1, 1940, after that time the age requirement must be sixty-five years; (h) no resident requirement in an act may exceed five years' residence out of a nine-year period prior to application; (i) the state act must be mandatory in its operations upon all of the political subdivisions of a state. State administrations must comply with the rules and regulations of the Social Security Board.

2. Federal Grants allowed by Act

When state acts meet the above requirements and are approved by the Social Security Board, grants in aid are made to the state to the extent of fifty per cent of the assistance given to the applicant, such assistance not exceeding $30 per month. But if a state like Massachusetts which sets no maximum allowance, grants, let us say, $35 per month to an applicant, all that Massachusetts will be reimbursed is $15, one-half of the maximum. If, in addition, this same state gives $25 to another applicant, thus making the total for the two grants $60, the federal reimbursement is $27.50, not $30 as might be supposed. In addition the federal government will allow an
additional grant of five per cent of the total aid expended for administration of the state program. In the opinion of the writer (who has over ten years' experience as a relief administrator) this administrative allowance is a generous one. It is doubtful if most state administration costs, including, of course, the local administrative units, would equal ten per cent of the assistance expenditures. But trained personnel is important to good administration! It is to be hoped, in view of this generous administrative allowance, that the Social Security Board will insist upon a highly trained case-work personnel, specially trained in the needs of old people, to administer the state programs.

3. States cooperating, November, 1936

The Social Security Board reported on November 6, 1936 that there were forty states, besides the District of Columbia, and Hawaii cooperating with this measure of the Social Security Act. In March of the same year only twenty-one acts and the District of Columbia measure were approved. Seven of these operated on a state-wide basis while the remaining fourteen were administered on a local basis, supervised by the state. At that time it was estimated that approximately 223,913 were assisted, receiving $3,928,492 per month. If these states are a fair cross-section of the entire country, it has been estimated that over a million applicants would be cared for at an expense of $224,557,000 per year for the entire country, if all the states were cooperating in this measure. Usually these
estimates are under the mark rather than over it.

The states are put in the position by this federal measure of either providing their own relief and institutional care out of state and local funds, or adopting the federal plan and collecting fifty per cent of the assistance granted as well as the administrative expenses allowed. The Social Security Act aims to make every state fall into line by its liberal provisions in this measure.

At the time the act was passed thirty-nine states were providing assistance of this kind to the aged. Twenty-seven such acts established sixty-five years as the qualifying age. The remainder had higher age requirements. Because of the liberal provisions of the federal measure, many states will have to modify their laws in order to qualify. At the present time this is being done at break-neck speed. There were still eight states in November, 1936 that had to enact such legislation for the first time. It is probable that the familiar county almshouse will become an institution of the past, leaving as the only other alternative to assistance measures that of outdoor relief.

4. Source of Funds

It must be remembered that this measure is not a contributory scheme. The funds are provided through federal and state taxation. It is probable that some states will require local units of government to pay a portion of the state bill. Federal appropriations will probably be made by Congress. Most states
are not restricted as to the method they must use to raise the money. As a rule, such funds come from general taxation. But in some instances they are provided by special taxes. Until we know exactly where this money comes from we are not in a position to know who pays for it.

5. Criticism of State Assistance Acts

State assistance laws have been criticized as having an aroma of the poor law. But it must be remembered that they are a form of relief, on a "higher order", however, than ordinary relief legislation. Such acts do permit the recipient to own a certain minimum amount of property and to receive an income up to a certain small sum. The relief is usually cash while in ordinary relief it may be in kind. It comes with more certainty at stated intervals than does regular relief which fluctuates in accordance with changing needs. In this kind of aid there is less emphasis on minimum budgetary deficiency. It is to be regretted, however, that in some state administrations the relief workers, or investigators of poor relief also administer the old age assistance act. Thus, to the general public those on whom the relief worker calls are still on the "poor list".

Old Age Benefits

(1) Provisions

The Social Security Act provides that old age benefits, better called annuities, shall be paid to certain workers upon meeting specific requirements as required by law. As indicated,
this provision must not be confused with the old age assistance provision. Annuities are a form of social insurance. The worker receives these benefits as a contractual right, regardless of what his needs are. In no sense must they be taken for relief. What a worker's private income is, or what his savings may be does not enter into the payment of this benefit.

2. Contributions

Beginning January 1, 1937 workers, with certain exceptions to be noted later, are required by this law to contribute one per cent of their wages for the purpose of building up the necessary reserve out of which their benefits are to be paid on reaching the age of sixty-five years. For the years 1940, 1941, and 1942 this contribution will be increased to one and one-half per cent; for 1943 through 1945 the contribution required is two per cent; for 1946 through 1948 the contribution is two and one-half percent; and from 1949 on this tax is fixed at three per cent. Instead of the worker paying this contribution directly to the central fund, it is deducted from his periodic wages by the employer who is held responsible for the payment. In addition to the worker's contribution, the employer is required to contribute a similar amount, advancing in amount throughout the time period as in the case of the wage earner and becoming a fixed amount in the year 1949, and thereafter. To these contributions is added interest at the rate of three per cent by the federal treasury.
3. Workers excluded

Certain workers are exempted and accordingly their employers. Those excluded are agricultural workers; domestic servants; casual laborers; officers and members of crews of vessels; federal, state and local government employees; and employees of non-profit corporations, such as charitable, religious and educational ones. Consequently these workers are excluded from all benefits connected with this provision.

Why should some workers be excluded? Some are already provided for, especially federal, some state and local government employees. As for others there are no existing provisions. Some nonprofit corporations make provisions such as educational, religious and research foundations. But there are many employed in this group who are not as fortunate, for example, the social work group. It cannot be claimed that their earnings are much, if at all, out of range with the wage-earning group. Certainly domestic servants and agricultural workers are not. It has been estimated that sixty-two and six-tenths per cent of the negro women gainfully employed are in the servant class. Of the male negroes, forty per cent are employed in agriculture. Agricultural workers were not included because the storm of protest that might arise, additionally intensified in view of the plight of the farmer in recent years, would impair the passage of the act. But it seems that these exclusions work singular hardships on negroes and women particularly. After the act gets under way it is probable that some of this group will be in-
cluded as has been the case in other countries.

4. Benefits

Benefits are not to be paid until January 1, 1942. A "qualified individual" after that date will be a person who has reached sixty-five years of age; has received a total of wages of $2,000 between January 1, 1937 and his sixty-fifth birthday; and to whom "Wages were paid ... with respect to employment on some five days after December 31, 1936, and before he attained the age of sixty-five, each day being in a different calendar year."(1)

For those whose total wages exceeded $2,000 and were not over $3,000, the monthly benefit is one-half per cent on the total wages. In other words for the person who earns the minimum $2,000 total wage, his monthly benefit is $10. For those whose total wages range from $3,000 to $45,000, the benefit is determined as follows: one-half per cent for $3,000 plus one-twelfth per cent for that amount above $3,000, but which sum when added to $3,000 does not exceed $45,000. For total wages exceeding $45,000, the determination of monthly benefit is arrived at, as already described, except that the amount above $45,000 added is one-twenty-fourth per cent of that amount. The maximum benefit allowed by law is $85 per month. In other words the range is from $10 as minimum to $85 as maximum monthly benefit to those who qualify at sixty-five years of age.

(1) Social Security Act, Title II, Section 210-C-3
If an individual continues employment after sixty-five years of age his benefits are not paid to him "for each calendar month in any part of which such regular employment occurred, by an amount equal to one month's benefit. Such reduction shall be made, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefit to such individual."(1) The purpose of this provision is to force retirement of older workers so as to make room for the younger ones in employment. It seems a questionable practice to use annuity benefits for the purpose of eliminating the older worker from his job.

5. Compulsory Savings Plan

The plan is really a compulsory savings scheme. The worker loses nothing. For those who have paid contributions on wages under $2,000 they receive back all that they have paid in plus one-half per cent of total earnings in lieu of interest. In case the wage earner dies, this fund is paid to his estate.

The question of compulsion has been subject to much opposition by those who have objected to the principles of social insurance. Dr. S. S. Huebner answers this objection: "The reasons for compulsory welfare insurance are the same as those for compulsory education, compulsory sanitary measures, compulsory food inspection and compulsory fire precaution.

(1) Social Security Act, Title II, Sec. 202
and are no more an unwarranted interference with liberty of a citizen than these and other compulsions to which every good citizen willingly submits because they are for the benefit of the whole community, including himself."(1)

An attempt was made to amend the act to exempt such companies as had private pension schemes of their own equal to or superior to the provisions of this act. It also proposed to allow individual employers to "contract out" to private carriers for equal annuity benefits to their workers. The amendment failed to carry.

6. Number covered by Act

It should be mentioned that the act only taxes on $3,000 of any income which goes above that amount. It stops at that figure on the assumption that a person earning in excess of it is quite able to supplement these provisions by additional annuities with private companies. It was estimated that federal old age annuities would cover about 25,800,000 wage earners. This measure is administered by the Social Security Board.

Taxes, or contributions, are collected by the Bureau of Internal Revenue. "The taxes levied for this purpose will diminish the purchasing power of contributors by $1,800,000,000 a year for 20 years and at the rate of $700,000,000 a year thereafter until 1980. Employees who bear three per cent of the tax form a large part of the consuming power of the country upon which

(1) Julia E. Johnsen, Selected Articles on Social Insurance, 1922, pp. 310-311
present recovery measures depend for a restoration of economic recovery."(1)

7. Question of Reserve

The funds collected by this measure will go to make a huge governmental reserve, estimated to reach $50,000,000,000 by 1960. There are those who question the wisdom of it for several reasons. For one thing it will reduce the consuming power of the wage earner about as much each year as he contributes to it. It is doubtful by the time it reaches its maturing magnitude that there will be sufficiently available government bonds in which to invest it. Such purchases will cause real difficulties to such businesses as savings institutions and insurance companies, as well as private investors who desire such securities because of their safety factor. It will force these investors to resort to less valuable securities. Also, government surpluses are nearly as bad as deficits because such huge reserves, available to government, lead to unwise expenditures. "It could be drawn on to pay a veterans' bonus, purchase railroads for public ownership, or finance a war."(2) A reserve of a private insurance company is a different matter because it purchases bonds of others available on the market. In the case of a government, however, it must restrict its investments in its own bonds. At the present writing a committee of the United States Senate is studying this matter. Judging from the press reports of two of the members the wisdom of a "pay as you go" plan is being considered very seriously. If

(2) ibid. p. 568
this be the result, the actuarial computations which were worked out as needed to make the plan pay for itself may be "thrown into the discard." But it must be admitted that actuarial computations creating huge reserves do not work out always as one would like when one considers the human factor of government--take for instance Great Britain and Germany.

8. Provision of First Bill

The original Social Security Bill permitted those not included in the provisions, as well as those coming under its provisions, to purchase annuities voluntarily up to $100 per month. This section was removed probably on grounds of the government entering into competition with private companies. If this be true it must not be forgotten that Massachusetts has such a provision available which has not worked hardships on private companies. It does seem however that such a provision should have been retained, especially for those whom the act excluded.

Unemployment Compensation

The Social Security Act does not establish an unemployment compensation system. It attempts, however, through an employer tax to make state compensation systems possible. "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 contributions made under the laws of States certified for the taxable year as provided...."(1) This tax method serves as a "big stick" to put the states into line with its wishes.

The federal administration of this measure is under the direction of the Social Security Board. The approval of state compensation laws rests in the powers of this board.

Rate of Tax

For the year 1936 employers were taxed one per cent of their payrolls for that calendar year; for 1937 the tax is two per cent of the payroll; and for 1938 and after three per cent of the payroll. The tax is to be collected by the Bureau of Internal Revenue for the Treasury of the United States.

The act taxes employers of eight or more wage earners, except the following employments: agriculture; employers of domestic servants; operators of vessels; employers of relatives; government; and nonprofit corporations.

Requirements for Federal Approval

For a state to obtain such federal approval it must meet the following conditions:

(1) Methods of state administration must give reasonable assurance to the Social Security Board that unemployment compensation will be paid when due;

(2) Unemployment compensation is paid through state

(1) Social Security Act, Title IX, Sec. 902
employment offices or through such agencies as the board
approves;

(3) All funds for unemployment compensation received by
the state are to be paid immediately to the Federal Unemploy-
ment Trust Fund;

(4) Create the necessary machinery to provide a fair
hearing to all claimants for unemployment compensation who may
request same;

(5) Expend all money received from Unemployment Trust Fund
for unemployment compensation, exclusive of expenses of admin-
istration;

(6) Make such reports as are requested by the board.

(7) Make available the names, addresses, occupations, etc.
of all beneficiaries on their list to such agencies charged
with the administration of public works; and

(8) Comply with hearing requirements of the Social Security
Board.

The act further provides that certain other requirements
must be met before a law may be certified by the Social Security
Board. (1) No unemployment compensation may be paid until the
state act has been in force for two years. (2) "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."(1)

States operating Unemployment Compensation

Reference has been already made in the preceding discussion to the existence of twenty-nine state unemployment compensation acts as well as the District of Columbia Act at the beginning of 1937.

Centralization of Fund

As indicated the states must deposit all contributions collected with the Unemployment Trust Fund of the United States Treasury. This eliminates the possibility of the states using such funds for other purposes than those intended. The money is on hand for use when needed by the states. There is some justification for centralization of funds from an investment point of view rather than having them handled by forty-eight separate units. It would also be better to have one central collection agency than forty-eight. As now administered there is much duplication of effort in collection of funds.

Three Types of unemployment Reserves in Operation

The types of laws which have been considered by the states are three: the simple pooled reserve; the plant reserve:

(1) Social Security Act, Section 903, item 5
and the merit rating system. As already indicated earlier in the discussion the degree of security given to the worker as well as the purpose behind the legislation adopted, varies with such legislation.

1. Simple Pooled Reserve

The simple pooled reserve from an insurance point of view comes first as to the greatest amount of protection it gives the worker. All of the employers' taxes are placed in one central pool. The worker who loses his job by his firm's going out of business is protected. The fluctuations of employment as between different plants of the same industry and between different industries does not reduce the security of one worker below that of another, regardless of plant or industry. Opportunity is given through this method to accumulate reserves for periods of general slack in employment. For the present New York has adopted this plan although there is some doubt if it will continue on this basis after 1939.

2. Plant Reserve

The plant reserve type has already been discussed at some length in another connection. It is known as the Wisconsin Plan. Separate plant accounts are set up by the state unemployment compensation office from which compensation is paid to the unemployed worker. The amount of the unemployed worker's compensation depends on the financial condition of the plant reserve account. If there is nothing in it, the worker gets nothing. There is little opportunity to accumulate
reserves because of the fixed maximum reserve requirements established. Thus during periods of general unemployment the security to the worker does not loom large as things now stand. The Social Security Act restricts the minimum reserve requirement that may be allowed by a state law at seven and one-half per cent of total annual payroll. The Wisconsin reserve is ten per cent. The belief of the supporters of this type of legislation, excluding those who endorse it for selfish purposes, is that it will regularize employment, thus making insurance unnecessary. The stress is put upon the incentive it gives to the employer to do something about his unemployment.

"At any rate the Wisconsin unemployment reserves plan assumes that much of our chronic irregularity of jobs should prove gradually preventible, and that the compensation laws should encourage rather than penalize efforts in that direction. Indeed such laws are indispensable to a constructive long-run attack on our employment problems, even though shorter hours, public works, credit control, and many other measures both state and federal should likewise play their part. To what extent irregularity of employment can be reduced or eliminated cannot be demonstrated in advance, but must be determined by using the forces of social control to initiate intelligent and sustained efforts in this direction. It is sufficiently clear that such efforts must be made primarily by business management with some government help and guidance, rather than by employees. And there are at least indications that such
efforts will prove worth making."(1)

3. Merit Rating Plan

As pointed out earlier in this discussion, the merit rating plan is not new. It was discussed in Europe two decades ago. It was suggested by some who believed in the pooled reserve in order to bring in the incentive principle of the plant reserve plan. This adoption was believed necessary as a concession in order to make the insurance plan attractive to legislatures as against the plant reserve. Of course there have been other reasons for its adoption, too, so there is no inference intended that those who propose it are not sincere in their convictions. But it is probably true that had not the plant reserve plan existed, the principle would have probably never been introduced into the proposed legislation.

The merit rating plan permits reduction of an employer's payments, down to a minimum usually one per cent, in recognition of a good employment record, after three years of full payment of the tax. In discussion of some state legislation there has been a proposal to place an additional tax, above the normal one, on employers with bad records. If the bad concern is engaged in interstate commerce, such a proposal would probably drive him out of business. There are few states that would be willing to tax their employers in this manner.

But the employers with a good record must pay a minimum tax which usually does not go below one percent of payroll. The tax does not stop as in the case of the plant reserve when a certain reserve level is reached.

The extent to which the average tax approaches two and seven-tenths percent or three percent for the state, to that extent does the merit rating plan approach the pooled reserve as to the security it gives the worker.

"The most serious kinds of unemployment are, after all, outside the control of any individual employer. No employer can protect himself against the consequences of a general depression however hard he may try. At most he can control minor fluctuations. Some ways of stabilizing production may be quite costly and may even counterbalance any gain through a reduction in his payroll tax. It is also doubtful whether, if he has not tried to stabilize production until now, a relatively small payroll tax will be a sharp enough spur to make him attempt it.

'It is indeed unlikely that job security will be increased sufficiently to counterbalance the very real loss of unemployment protection that these methods involve. But under the merit rating system workers have about the same chance of benefiting from the efforts of employers to regularize employment as under the plant-reserve system plus better opportunities to obtain unemployment benefits out of a central pool if their employer is unsuccessful."(1)

(1) Mrs. Eveline Burns, Toward Social Security, pp. 74-75
Fourth Type of Unemployment Compensation

Guaranteed employment is still another plan which is permitted by the state under the federal law. It has not been adopted by any state exclusively. Under this plan an employer guarantees to workers forty weeks of employment in each year. To adopt this plan it requires an employer to build up a reserve, the minimum not less than seven and one-half per cent of the total wages paid. A worker who has received forty weeks of work in any fifty-two week period,--a work-week as low as thirty hours is permitted--cannot receive any compensation. In other words a worker could be unemployed for three months, short of one week, without any compensation. It is hard for one to see much security in this kind of a proposition for the small-wage worker. There are few, if any, employers who would care to make this guarantee which means making good to the full amount, at the rate of thirty hours a week, for a forty-week period.

Criticism of Plans

It is obvious that the protection given to the worker varies with the plan adopted. The original bill provided a minimum tax of at least one per cent of the payroll to the fund however good the employment record was or high the employer's reserve. This provision was discarded by Congress. But many of the states at present have such a requirement. Whether it will remain in the laws permanently only the future can tell. The security given to the worker depends on the
amount granted, the duration of the compensation period and the length of the waiting period before payments begin. Thus it is plain that we can have four types of plans with as many as forty-eight varieties deviating from them. The emphasis of one act can be the regularization of employment, another act might stress the security of the worker as its principal concern, while still another act might be a hybrid, trying to do both things. Instead of having a uniform act, required by the states to adopt, we have the possibilities for the greatest degree of hodge-podge.

One act requires a two weeks' waiting period before the unemployed may qualify for compensation, another act requires three weeks. One act gives fifteen weeks of compensation, another act ten weeks. One act allows fifty per cent compensation, another forty per cent, still another guarantees nothing if the reserve is depleted. And as Professor Douglas has pointed out earlier in this discussion there can be one amount of compensation in one plant and still another amount in another firm and both firms in the same state. And so it goes from the standpoint of the worker's security. "Workers are likely to feel that the mountainous labors of the Committee on Economic Security and of Congress have produced a disappointingly small mouse."(1)

From the standpoint of contributions there is similar confusion. One act requires a maximum employer's tax of

(1) Mrs. Eveline Burns, Toward Social Security, p. 88
three per cent, another act establishes the maximum at two per cent. One state permits cessation of the tax when certain reserve requirements are met, another requires a minimum tax. One state allows merit rating; another does not allow it. One state requires employees to contribute, while another requires no contributions.

What is this variation in tax requirements going to do to those plants depending on interstate commerce? One of the difficulties which states had to contend with in considering this legislation, prior to the enactment of the Social Security Act, was on the score of interstate commerce. A state contended then, and rightfully so, that it could not afford to tax its industries for such purposes when there were other states intending to do nothing along similar lines. But now, with the complications of different tax requirements, has the situation changed? A Wisconsin manufacturer who has met the reserve requirements of his state has no tax to bother him but the poor fellow in New York State is up against it—he must go on paying his tax. "Closer analysis will indicate that on the all-important principle of national tax uniformity the law is a failure. The unemployment insurance sections of the Social Security Act are so constructed that by 1941 through merit-rating provisions it is possible for many employers to pay less than a 3% payroll tax, and it is possible for some to pay a total payroll tax as low as 3/10 of 1%."(1)

(1) A. A. Imberman, Unemployment Insurance, Current History, February 1937, p. 66
Should Labor contribute?

There is much controversy over the question of employees contributing to this scheme. The employer can pass his tax on as a part of production costs, thus he gets out from under. But the employee is up against it if he is taxed, because he cannot pass it on. When workmen's compensation was under discussion years ago the principle was settled that this cost should fall on industry. By so doing it did much to stimulate prevention of accidents through the application of safety measures. Organized labor is on record as opposed to employee's contributions in the case of unemployment compensation.

"Labor is not responsible for unemployment. Workers are not in a position to control the causes of unemployment. That is a function of management. Unemployment compensation is a recognition of this fact. Simple justice demands that workers shall not be forced out of their inadequate earnings to pay for management's failure to stabilize employment....Under our accident compensation laws we have rightly agreed that the worker should not have to contribute to the fund from which cash benefits are paid. As a cost of production, the insurance premium very properly is figured by the employer as a part of his over-head expense and is ultimately passed on to the consumer. The same arguments apply with special force against compelling the worker to contribute under unemployment compensation or insurance.

"Those who would force workers to contribute to unemploy-
ment insurance ignore the fact that while the employer is in a position to pass his contribution on to the consumer, workers cannot do so. The worker therefore would bear the entire burden of such a levy; but the employer would escape. To argue that under a scheme of forced worker contributions workers will 'share' the cost with employers is to be guilty of deception. The worker would have to take his contribution out of his standard of living, but the employer can recoup his 'share' by slightly increasing the price of his product."

What the Provision does

To sum up in one sentence one may say that all the federal measure does is to induce states to pass compensation laws.

Summary of Main Criticisms

The act has been subject to all kinds of adverse criticisms as one might expect. The extent of them seems endless. No attempt is made to list all but some of the more common ones are:

(1) It is a "glorified" relief act for the reason that the majority of the provisions are assistance measures. Relief grants outdo insurance features.

(2) There is little real security offered—merely "inching" toward security.

(3) The insurance benefits do not compare favorably with the assistance provisions. Furthermore the benefit feature

fails to take price changes into consideration. In addition it may be said that the benefit features are more favorable to younger workers than older employees.

(4) It has been hastily drawn up and badly mangled by Congress.

(5) It is building not only a huge bureaucratic machine but one in which there is much duplicity.

(6) It is creating a huge reserve fund which may lead later to extravagant government spending.

(7) The chief insecurity for which the act was created—unemployment—is the weakest measure in it. In states predominantly agricultural it may take years before unemployment compensation legislation is passed, consequently industrial workers will not be covered. State unemployment compensation acts may give security to the unemployed during so-called normal years while in depression periods it would mean that the unemployed would have to resort to relief as the only method.

(8) A large number of the working population are excluded from its provisions.

(9) Workmen's compensation is omitted from the act. A federal provision in the Social Security Act would go far toward strengthening unsatisfactory state laws.

(10) Parts of the act are of doubtful constitutionality.

(11) The act does not provide for health insurance.

Many of the above criticisms have been already discussed. The last two, in particular, are deserving of some discussion.
at this point since they have not been previously touched upon.

**Question of Constitutionality**

The Social Security Act says: "If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby."(1) Thus, the several measures stand by themselves. The sections which are most in doubt as to constitutionality are the insurance provisions, namely: old age benefits and unemployment compensation. The more doubtful of the two is the former. But what the courts decide is, to say the least, hard to guess. Chief Justice Hughes has been quoted as saying, "we are under a constitution, but the Constitution is what the judges say it is."(2) As one person once said, "the Supreme Court has the last guess as to what is constitutional."

The constitutionality of the act hinges on the use of the tax power. Is it possible to use such power to regulate local business and commerce? The writer cannot attempt to enter into a discussion of the abstruse legal aspects of this subject. Some have argued that Congress should not have ventured into this kind of legislation without a constitutional amendment—whether this opinion grew out of an honest attempt at legal interpretation or was raised as an obstacle to hinder the passage of this act, it is hard to say.

(1) Title XI, Sec. 1103
(2) Mrs. Eveline Burns, Toward Social Security, p. 219
The federal government attempts to use its powers in three ways: (1) subsidize the states in order to carry through certain programs; (2) use the tax power to provide old-age benefits; and (3) use the tax power to induce states to undertake programs for unemployment compensation. It is the exercise of such power that is subject to challenge, and only the Supreme Court can tell us the real answer.

In title VI of the Social Security Act provision is made in the interest of public health work, but there is nothing in the act relating to health insurance.

Additional Comments on Health Insurance

On account of the fact that health insurance is still in the promotional stage in this country and nothing along the lines of public action has resulted, no special attention has been given to it in this study. But this inattention, of course, does not minimize its importance. One can readily appreciate the economic consequences of illness to the worker and to the community. In the first instance it means loss of earning power, and, in the other, a reduced productivity. "The costs of medical care exceed the loss of earnings."(1)

In an average year workers earning under $1,200 lose $250,000,000 in earnings and spend $300,000,000 for costs of medical care. Those earning between $1,200 and $1,500 lose about $650,000,000 in wages and spend $1,200,000,000 for medical expense.

Practically all the civilized countries of the world,

(1) S. Falk in Social Security, National Municipal League, 1936, p. 89
except the United States, have recognized its importance and have enacted legislation. Health insurance is a means by which workers are compelled to protect themselves against the consequences of ill health. Benefits usually take two forms: a cash allowance as partial recovery of loss of earnings; and hospital and medical provisions. From the insurance point of view this hazard does not present the difficulties common to some forms, as for example, unemployment.

During the brief period from 1915 to 1920 much attention was given to the need for this kind of legislation in the United States. At that time at least eight state commissions were studying this need. Several bills were introduced into state legislatures. All kinds of vicious pressure were exerted to oppose this legislation, coming from medical associations, certain religious groups, insurance companies, organized labor and some employers. As a consequence nothing was accomplished. Since that time some single attempts have been faced with this same opposition. There are, however, at least three types of private schemes operating in the United States, namely: labor union plans, mutual benefit societies, and group sickness insurance plans.
CONCLUSION

Beginnings of Social Insurance

The beginnings of the social insurance movement are to be found in the European countries—the forerunner of this movement being Germany. The inception of the movement was coincident with the increasing prevalence and prominence of the wage system. In the programs of the many early craft and gild organizations it was quickly realized that the wage earner needed some kind of financial protection against the more common hazards which tended to cut off his chief source of livelihood—his wage. It was fully appreciated that accident, sickness, unemployment and the infirmities of old age meant a loss of wage to the worker. What could be done to counteract the hardships arising through the loss of wages? The workers quickly sensed that they had to contribute to a central fund through which those of the members participating who suffered hardships brought about by such unforeseen happenings would be taken care of. Thus, the insurance principle was invoked. At first the steps taken were of a voluntary nature. A little later it was believed that the employer should be made to contribute to such a fund. Consequently, this step was taken. Still later it was believed necessary that such a program of protection should be reinforced by legal action and that the state itself should contribute to the central funds. This development gradually took place. Out of these beginnings legislative programs aiming to give some measure of financial protection to the workers whose wages were
cut off grew in most of the European countries. This movement was well under way in Europe long before similar plans were believed necessary in the United States.

**Workmen's Compensation**

Workmen's compensation legislation was the first type of social insurance to be considered in the United States. Between 1890 and 1910 the inadequacies of employers' liability were being appreciated by a growing group of American leaders. It was being sensed that employers' liability could not be adapted to the needs of the time and do justice to the injured workman and his family.

Many state commissions were appointed in this period to study the inadequacies of the existing laws. The reports of many of these bodies urged the need for workmen's compensation legislation. Many such proposals appeared before several of the state legislatures. At first much opposition had to be overcome. The question of the constitutionality of such legislation arose. In fact in some instances actual amendments to state constitutions were necessary, as for example, New York. Furthermore there was inertia to contend with. Many states hesitated to take the initiative with such legislation when other states were doing nothing about it. But Maryland took the lead by passing the first act in 1902. It was a small beginning—an act covering a small group of workmen in certain hazardous occupations—and soon was declared unconstitutional by an inferior court.
Through the active work of state commissions plus an increasing realization of the need for such legislation the movement got definitely under way by 1910. Contrary to the stand taken on other and later social insurance proposals organized labor was wholeheartedly behind the movement almost from its very beginnings. The American Association for Labor Legislation did much to urge the need for these laws as well as other social insurance bills which appeared in later years. Even Theodore Roosevelt did much to encourage legislative action by giving the movement his vigorous support.

From 1910 to 1921 all of the states except four—Florida, Mississippi, South Carolina and Arkansas—had passed such legislation. These state acts varied in the extent of protection they gave the worker, but in spite of the fact they were imperfect, the beginnings in this legislation were made. Since the passage of these first laws many improvements have been made by necessary amendments and further improvements are still under way. There can be no doubt that workmen's compensation legislation is here to stay and this legislation constitutes the chief progressive development made in social insurance legislation in the United States today.

Social Security

Subsequent developments in the United States may be considered as a movement toward social security. The choice of the term "social security" in place of "social insurance" seems justified for the reason that the proposals that followed later
were combinations of social insurance and special relief or assistance principles.

1. Old Age

Between 1912 and 1920 there was a growing consciousness in the United States that institutional and outdoor relief was an inadequate and inhumane method of providing care for the indigent aged. It was further claimed that institutional or almshouse care was expensive. During this period the emphasis was on the humane aspects of treatment of the indigent aged; it was not an emphasis on the prospects that the aged were becoming an increasingly insecure group. What the aged person needed was a pension. State commissions were appointed to study this problem. Out of these studies came recommendations for so-called "pension" legislation—in reality such proposals were merely special relief or assistance bills—granting financial aid up to a certain maximum amount and determined on the basis of need of each individual case.

This movement was being urged by at least two distinct groups. One group was comprised for the most part of social workers who were sponsoring higher standards of relief or assistance legislation for the indigent aged on the grounds that existing methods of care were inadequate and inhumane as well as costly. This group did not confine itself to old age assistance measures but sponsored also "widows' pensions", "blind pensions", and "pensions" for the lame and halt. The other prominent group was made up of social insurance advocates who considered assist-
ance acts as a necessary beginning for social insurance legislation to follow later. Of this latter group the American Association for Old Age Security was the most prominent and did much to encourage the need for this kind of legislation. Besides these two groups were many others—individuals and fraternal organizations, particularly the Fraternal Order of Eagles—which did much to propagandize the cause for old age pensions.

On the whole progress along these lines was slow and much bitter opposition was in evidence. Such proposals were claimed to discount American virtues of thrift and independence. As a movement it was considered foreign to the United States. It was further argued that such a program would kill individual initiative and discourage the necessary foresight to provide for the so-called "proverbial rainy day". These bills were declared to be unconstitutional. They would lead to the development of paternal and bureaucratic government.

Except for the minor political parties little attention was being given to the early proposals by the major parties, although scattered instances were in evidence where the subject was receiving serious study and consideration, as for instance in Ohio and Pennsylvania. Organized labor bitterly opposed such measures. It claimed that the American workman was quite able to provide for his individual needs if given an adequate working wage.

But the movement was persistent and could not be easily dismissed or disregarded. Here and there throughout the country, it was gaining some little headway. Out of these persistent
attempts came a few state acts--some of which were declared later to be unconstitutional, as for example the first Pennsylvania act.

These first state acts were so-called "optional" laws, which left adoption of the provisions to each of the counties of the state. The "year of one" of this legislation was 1923. Between that year and the passage of the Social Security Act in 1935 over thirty states passed such legislation. Most of the later acts were of the "mandatory" type which required the counties to carry out the provisions which the act prescribed. Many of the earlier "optional" laws were later changed to "mandatory" acts.

From the foregoing it is evident that old age assistance measures providing for the indigent aged were well under way in over half of the states prior to 1935. Such acts it must be remembered were not social insurance legislation. To qualify the applicant had to give satisfactory evidence of being in need as well as meeting other requirements such as those regarding character, age and residence. Contributory old age insurance legislation was not passed by a single state prior to the passage of the Social Security Act in 1935. This act provides for federally controlled old age benefits, applying the principles of social insurance. This measure makes state legislation unnecessary and already, according to the Social Security Board, 26,200,000 persons are enrolled in the old age benefit provisions of the federal act.
2. Sickness Insurance

Beginning in 1918 sporadic efforts have been under way concerning the need for sickness insurance. A few state commissions have been appointed to study this matter but nothing thus far has been accomplished. It may be considered that the subject is still in its promotional stages. The need, however, for this type of legislation is generally recognized and there is a growing optimism that something will be done about it. It must not be forgotten that from an economic standpoint sickness is a serious matter to the wage earner. The bitterest opposition to this movement has come from the medical profession. Thus far, the medical group has been successful in preventing any action along this line, even to the extent of blocking sickness insurance as a feature of the recently enacted Social Security Act. The medical group objects to this legislation on the ground that it might lead to state medicine later. But the subject of sickness insurance is not dead by any means. There is an active and growing group sponsoring it. In 1932 organized labor went on record as endorsing it. It is not unreasonable to assume that before many years pass something will be done about this important subject.

3. Unemployment Insurance

In 1916 Massachusetts was presented with the first unemployment insurance bill to appear before an American state legislature. In 1921 the first important bill appeared, known as the Huber Bill, before the Wisconsin legislature. Between 1916 and
1930, a total of twenty different unemployment insurance bills appeared before seven state legislatures. These states were Connecticut, Massachusetts, Minnesota, New York, Pennsylvania, South Carolina and Wisconsin. Many of these bills were not taken seriously and died in committee. During this period the most important movement in this direction was in Wisconsin under the able leadership of Professor John R. Commons of the University of Wisconsin. On the whole there was little interest in this legislation prior to the depression period. Although organized labor was vigorously opposed at first except for two or three state labor organizations, it later grew indifferent to such attempts. It was the depression period that drove home the seriousness of unemployment and the importance of such measures. The American Association for Labor Legislation did much in arousing interest in this proposed legislation once the gravity of the depression period was being felt. Prior to the presentation of the Social Security Bill to Congress in January 1935, Wisconsin was the only state which had enacted unemployment insurance, having passed its first act in 1932. Several state commissions were studying this need however; the most important of them was the Ohio Commission on Unemployment. During the period that the Social Security Bill was being considered in Congress, that is from January to August, 1935, a total of seven states passed unemployment insurance legislation.

The Social Security Act of 1935

With the passage of the Social Security Act in 1935 federal
leadership appeared for the first time in two important phases of the subject matter treated in this study. These phases are (1) provision for old age and (2) unemployment compensation.

1. Old Age

There are two different provisions relating to old age in the Social Security Act. One measure provides federal aid to states having old age assistance acts which meet certain requirements defined in the federal act. Such states will be reimbursed by the federal government to the extent of fifty percent of the aid given to the indigent aged providing the total assistance in each instance does not exceed $30 per month. The federal act also provides an additional grant to take care of a portion of state administrative expenditures. This measure will do much to encourage the passage of such legislation in those states which have not, thus far, done anything along this line. It will also encourage some of the other states to raise their standards in order to meet the minimum requirements established by the act.

The second provision relates to old age benefits. This measure is under the direct control of the federal government through its Social Security Board. All persons engaged in certain employments are required by this law to contribute a certain fixed sum to a fund for the purpose of building the necessary reserves from which annuities will be paid to them upon reaching the age of sixty-five years. Their employers are required to contribute a like amount. This measure conforms
to the principles of social insurance; the former measure encourages relief legislation by the several states.

2. Unemployment Compensation

This feature of the Social Security Act goes far toward encouraging the several states to pass unemployment compensation acts by crediting against the federal tax paid by the employer an amount not to exceed ninety per cent of the contribution to the state fund. To comply with this feature of the act, state legislation may be one of several different types. These types of unemployment compensation acts are: (1) the simple pool; (2) the merit rating plan; (3) the plant reserve; and (4) the guaranteed employment plan. The merits of these different plans have already been discussed at some length.

The future of the Social Security Act depends on what the United States Supreme Court has to say about it. Should this act be declared unconstitutional it seems reasonable to assume that it will be followed by some similar type of legislation. The need for this measure is real and the remedies for these needs must be met. There can be no backward movement with this type of legislation. Social security legislation is here to stay. It also seems probable to suppose that future developments along these lines will make the present achievements appear later as mere beginnings of social security in the United States.
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