

THE DEVELOPMENT OF THE OLD-AGE INSURANCE PROVISIONS OF THE SOCIAL SECURITY ACT

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When on August 14, 1935, President Roosevelt signed the Social Security Act,¹ he approved the inauguration of a program of old-age insurance which will include within its coverage more than twenty-five million people. Embodied in Titles II and VIII of the Act, this program constitutes the largest single system of social insurance in the world. Under Title II, the Act provides for the establishment by the federal government of an old-age reserve account and for the payment of old-age and death benefits. Title VIII provides for a system of income and excise taxes to be levied on a large proportion of the employees and employers of the country. Although there is no direct connection between these two titles, the benefits paid under Title II of the Act are to be computed on the *same wages* received in the *same employments* upon which the taxes under Title VIII of the Act are levied.²

The affixing of the President's signature terminated a year of intensive planning and discussion of this program of old-age insurance. In this short period of time, the results of experience with old-age security programs both at home and abroad were restudied and evaluated. The special characteristics of American economic and social life and of the American legal system were analyzed in their relation to improved techniques of meeting the problem of mounting old-age dependency. The outcome of these studies and discussions was the adoption of a technique in public welfare administration new to this country.

The enactment of the old-age insurance provisions of the Social Security Act is, however, but the first step in a long process of evolution. A social insurance program of such immense size and widespread influence will require a generation or more of adjustment in meeting the actuarial, administrative, financial and social problems which experience is bound to raise. Regardless of the care exercised in planning a

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¹ Public, No. 271, 74th Cong., 1st Sess., 49 STAT. 620.

² Compare §210 (a) with §811 (a) and §210 (b) with §811 (b).

system of old-age insurance, the great mass of experience necessary in its perfection is forthcoming only after operations begin.

In the study of biology, the rapid development of an organism in the embryonic stage of life is perhaps more interesting to observe than is the slow growth which follows birth. So in the evolution of a complex governmental program, the stage of research and recommendation offers many opportunities for critical analysis. In the following brief account, the development of a few of the more important features of the old-age insurance program is reported. Emphasis has been placed on the reasoning that lies behind these provisions rather than the chronology of their genesis.³

THE EXTENSION OF OLD-AGE ASSISTANCE

In its recommendation for the establishment of a plan for federal subsidization of state old-age assistance programs, the Committee on Economic Security was in large measure but extending and supplementing the principles inherent in the succession of old-age pension bills which had already been urged upon Congress.⁴ As a logical next step, the major provisions of Title I of the Act were seldom challenged in the

³ On account of limitations of space, many phases of the history of the old-age security provisions of the Social Security Act are omitted or treated but briefly in this article. The development of Title I, which established a program of federal subsidization of state old-age assistance systems, and the history of the ill-fated plan for a federal system of voluntary old-age annuities should be given much more consideration than is here possible. The rapid extension of the assistance technique in meeting old-age dependency constituted not only an important part of a coordinated program but was the historical and logical premise for the projection of a program on insurance. In the thought of those who developed the recommendations upon which the old-age provisions of the Act were based, the scheme for voluntary annuities rounded out an effective three-fold program in attacking the problem of old-age dependency.

Much of the legislative history of the Social Security Act as a whole is summarized by Professor Edwin E. Witte in his valuable article "An Historical Account of Unemployment Insurance in the Social Security Act" in the January issue of this periodical. 3 *LAW AND CONTEMPORARY PROBLEMS*, 157-169. Dr. Witte, who was Executive Director of the Committee on Economic Security, there explains the organization of that Committee, its staff, the Technical Board, the Advisory Council, and the other groups cooperating in the development of the social security program. He also outlines the various steps in the consideration of the bill in Congress. To avoid repetition, this historical background, common to both the unemployment insurance and old-age security features of the legislation, has been omitted in this article.

The section of the staff of the Committee on Economic Security assigned to the development of recommendations on old-age security included: Professor Barbara Nachtrieb Armstrong of the University of California; Mr. Murray W. Latimer, Chairman of the Railroad Retirement Board and also chairman of the sub-committee of the Technical Board on old-age security; Mr. Otto C. Richter, actuary of the American Telephone and Telegraph Company, who served as staff actuary; and the author of this article. Research assistants associated with the section included Miss Marianne Sakmann and Mr. Robert J. Myers. In the course of the revision of this part of the legislation in the congressional committees, Mr. Latimer was frequently called upon as adviser along with Dr. Witte and Mr. Eliot, Counsel of the cabinet committee.

The sub-committee of the Technical Board assigned to the consideration of recommendations on old-age security included in addition to Mr. Latimer: Mr. Otto S. Beyer, Labor Relations Director, Office of the Federal Coordinator of Transportation; Dr. Winfield D. Riefler, Executive Director, Central Statistical Board; Dr. Stuart A. Rice, Assistant Director, Bureau of the Census; and Dr. Victor N. Valgren, Senior Agricultural Economist, Department of Agriculture.

⁴ For a complete list of bills on old-age pensions introduced in the United States Congress, see HASSE, *A SELECTED LIST OF REFERENCES ON OLD-AGE SECURITY; THE UNITED STATES* (Federal Emergency Relief Adm'n, 1935). For a short summary of earlier proposals for federal old-age pensions, see EPSTEIN, *THE CHALLENGE OF THE AGED* (1928) 259-262.

various stages of the development of the legislation. State old-age assistance programs and federal subsidization of unemployment relief had become accepted principles by the fall of 1934. Already 28 states and two territories had enacted old-age assistance laws. The operation of the Federal Emergency Relief Administration and the repeated attempts to enact the Dill-Connery Bill⁶ had directed attention to need for federal grants-in-aid if state laws were to be encouraged and improved. By the time the Committee's recommendations reached Congress, the growing pressure for the Townsend Plan left no doubt but that federal assistance in this field of social security would be authorized.

For these reasons, the staff of the Committee on Economic Security assigned to old-age security assumed from the first that a part of its task was the precise formulation of the procedures and standards which should be incorporated in any legislation for the subsidization of state old-age assistance systems. The arguments for such systems as contrasted with other methods of old-age relief were convincing. No feasible system of old-age insurance would meet the immediate need, or cover the whole area of dependency. Although all of the procedures and standards incorporated in the final form of Title I of the Act, along with many alternative proposals, cannot be discussed at length, certain recommendations deserve special mention.

The Dill-Connery Bill for federal aid to state old-age assistance programs proved a most valuable basis for the formulation of Title I. This bill, however, provided for a federal subsidy of but one-third of state appropriations for old-age assistance. The staff recommended that this ratio be increased to one-half. It also recommended that the length of residence requirement permitted in approved state plans be lowered. It proposed, as in the Dill-Connery Bill, that state plans should be mandatory on all sub-divisions within the state, and that the age limit be fixed at 65—at least after a brief number of years. These and many other recommendations found their way into the Act.

At least two significant recommendations, proposed by the staff and embodied in the original bill presented to Congress, were not accepted by Congress. In order to standardize upward the character of the relief afforded under state systems, the staff proposed that approval for federal aid should be contingent upon the granting of a minimum of assistance, which, when added to other income, would be sufficient to provide the recipient "a reasonable subsistence compatible with decency and health." It soon became evident in Congressional hearings, however, that this savored too much of federal dictation. The staff also recommended the use of an individual or "recipient-and-spouse" means test rather than one covering various relatives liable for the support of the recipient. It was believed that needy old persons, neglected by their relatives, should be granted assistance, with the possibility of legal action by the state against the relatives in order to recover the costs of such

⁶ This bill, S. 493, 73rd Cong., 1st Sess. (1933), passed the Senate at the close of the second session of that Congress in 1934, but a motion to reconsider was passed immediately thereafter. For the text of the bill as passed, see 78 CONG. REC. 11313 (1934).

assistance. This recommendation also proved unpopular with those congressmen who viewed with alarm any questioning of the efficacy of filial responsibility. The Ways and Means Committee of the House of Representatives soon pruned these progressive features from the bill.

In general, however, Congress took kindly to the principle of old-age assistance which was the basis of Title I of the Act. With the expectation that this would be the case, the staff of the Committee was early convinced that a more constructive program should be developed to meet the shortcomings of this method of attack.

THE ADOPTION OF THE INSURANCE PRINCIPLE

The recommendation of a system of old-age insurance, unlike that for federal subsidization of state old-age assistance programs, went far beyond any earlier proposals. Neither in Congress nor among American students of social insurance had much thought been given to the adaptation of the insurance principle to old-age relief in this country. Intellectual interest in social insurance programs was largely centered on the unemployment problem. The debate between the adherents of the Wisconsin and Ohio plans of unemployment compensation had held the center of the stage during most of the depression. To the extent that national action seemed possible, proposals for federal encouragement to state unemployment compensation legislation absorbed the attention of both students and publicists. Political interest in the old-age problem was confined to a growing anxiety concerning the propaganda for outright federal grants. With this diversion of interest to other phases of social security, there was little, if any, specific pressure upon the Committee on Economic Security to propose the adoption of a social insurance technique in meeting the old-age problem of the country.

The single exception to this lack of active discussion of old-age insurance in this country was that accompanying the proposal and passage of the first Railroad Retirement Act.⁶ Although this Act applied the principles of contributory old-age insurance to one of our outstanding industries, its swift enactment, its application to an industry frequently affected by special legislation, and the absorption of public attention in many other governmental activities, greatly lessened the impact of the Act on the public mind. A thorough study of the railroad retirement problem, which had been initiated in 1933 and had been continued after the passage of the Act, had, however, much influence on the thinking of the technicians later concerned with the general old-age security problem.

The proposal for old-age insurance came from the staff of the Committee on Economic Security assigned to the task of making recommendations for old-age security. Developed in the early days of staff work, it was studied and restudied by this section of the Committee's personnel. While recommendations for federal legislation for unemployment compensation were being discussed in the meetings of

⁶ Act of June 27, 1934, 48 STAT. 1283, declared unconstitutional in *Railroad Retirement Board, v. Alton R. R.*, 295 U. S. 330 (1935).

the Technical Board, various alternative plans for old-age insurance were being formulated and tested. At this stage of staff work, there seemed little likelihood that old-age insurance would be included in the recommendations of the Committee. Two circumstances led to this result, however. First, the reasons which convinced the staff of the necessity of a federal system of old-age annuities received increasing acceptance by the various officials and committees concerned in the development of security legislation. Second, external forces, mainly political, made the proposal of a comprehensive and constructive program of old-age security desirable.

The main reasons which convinced the staff of the necessity of adopting the principle of old-age insurance may be outlined briefly, although many corollary reasons must be omitted.

1. *The need to control the upward trend in the costs of old-age assistance.* Based on the forecasts of a sharply rising proportion of aged persons in the general population, of an increasing ratio of dependency among the superannuated group due to economic and social forces, and of an increasing readiness to accept relief status as assistance systems expanded, the projected trend of assistance expenditures on the part of the federal and state governments presented a serious prospect. The experience of other countries lent weight to the conclusion that sole reliance on the assistance technique could be but temporary.

2. *The need to prevent the social consequences of increasing dependence upon old-age assistance.* It was believed highly desirable to establish at the earliest possible time some means whereby workers through the exercise of thrift could protect themselves against dependency in old age. The insurance technique would permit benefits based on contributions as a matter of *right*. The principle that it was a proper function of government to afford a safe and convenient mechanism by which workers could free themselves from reliance on relief in old age seemed convincing. While much of the emphasis on the "contributory-contractual" concept of social insurance was lost in the later development of a bill which separated the tax and benefit features of the system, there is no question of the importance of the concept in securing acceptance for the annuity principle.

3. *American experience with industrial pensions.* To most of the persons concerned with the development of the old-age benefit provisions of the Act, the growth of industrial and civil service pension schemes in this country were matters of first-hand observation. Various members of the staff, the Technical Board and the Advisory Council had been in close touch with such pension programs. The shift in industrial pension plans to the principle of employee contributions and the accumulation of individual pension "rights" seemed a forward step which might properly be reflected in a general program for old-age security. The shortcomings of private pension plans in meeting the needs of the whole population and the contrasts in purposes and techniques in private and public programs were recognized by the staff from the first, and emphasized in its recommendations.

4. *The experience of other countries with old-age assistance and insurance.* In

few fields of government policy are the resources of foreign experience of more value in projecting new programs than in that of social security. The staff had available not only first-hand knowledge of foreign programs for old-age security, but a large mass of studies and reports including those of the International Labour Office. The policies and experience of Great Britain in developing, first, old-age assistance and, later, contributory insurance were particularly suggestive. The experience of Germany and of many other countries throughout the world contributed to the conviction that, in constructing a workable program, old-age assistance should be supplemented by contributory insurance.

Throughout the development of the old-age benefit provisions of the Act, many other factors carried weight. The inadequacy of assistance grants, the need for new sources of revenue to insure adequate protection, the possibility of relating more closely the sources of revenue and the benefits afforded, the greater willingness of workers to contribute toward old-age benefits than to other forms of insurance, and the advantages of a uniform system which could be readily administered on a nation-wide basis all led to the conclusion that the insurance principle should be adopted.

THE PROPOSAL OF A NATIONAL SYSTEM

That a system of old-age insurance should be established on a federal rather than a federal-state coöperative basis was likewise a departure from accepted notions of the kind of social insurance procedure which was possible in this country. From the very first, however, the staff group in the field of old-age security was convinced of the necessity of a single national system, if the insurance principle were to be adopted. The lack of precedents or convictions for *any* particular form of old-age insurance in this country proved a marked advantage. Unlike unemployment compensation, old-age insurance had not become law or even the subject of investigation in any state. Once a formula for meeting the limitations of the federal constitution was accepted as feasible, the necessity as well as the advantages of a national system were increasingly appreciated by the various committees which later considered the proposal.

The main reasons advanced for national administration were as follows:

1. The mobility of population across state lines made the use of the actuarial procedures necessary in any workable plan impossible on any but a country-wide base. While such estimates as those of population growth, age distribution, and mortality could be developed with sufficient accuracy for the total population, future migrations of young or old persons from one state to another, whether for climatic considerations or as a result of shifts in industry, made such estimates untenable if constructed on the basis of a single state. The operation of 48 separate systems of old-age insurance would involve virtually insuperable administrative difficulties, excessive costs, and almost certain failure in many states. Some of the most desirable features of social insurance would be lost were the problem of old-age security attacked in this way.

2. Aside from the actuarial problems involved in state administration of old-age insurance, many other disadvantages of separate state systems are apparent after even casual examination. With varying standards of benefits and the probability that many states would fail to act, large numbers of workers moving from one state to another in the course of adult life would reach old age without adequate protection. The mobility of labor would be affected if there were any considerable variations in rates of contribution or benefits. Federal administration, on the other hand, would afford uniform standards over the entire area.

3. The accumulation of reserves by 48 states would involve both investment and administrative problems of serious proportions. Not only might the degree of safety and the adequacy of funds vary, but the effects of diverse investment policies upon the credit structure of the country might prove unfortunate. Furthermore, the transfer of individual credits from the reserve account of one state to that of another would require a great amount of administrative labor. Where the reserve policies of states varied in the degree to which "accrued liabilities" were funded, the transfer of individual credits would lead to difficult adjustments in equities.

4. Varying rates of state taxes upon employers would affect the competitive costs of doing business as well as complicate the accounting procedures of interstate corporations. For such corporations, the adjustment of industrial pension plans to various state old-age insurance programs would become a most discouraging task.

5. The argument for state experimentation with social insurance techniques has much less validity in the case of old-age insurance than in the case of unemployment or sickness insurance since fifty to seventy-five years are required to test a system through one complete life cycle. The confusion of various systems in all stages of maturity would, without doubt, soon kill any urge toward continued experimentation.

6. Finally, the routine character of the administration of old-age insurance makes it more adapted to large scale operation. Since rates of contribution would be uniform and benefits would be based on past records alone, with little, if any, discretionary determination, the machinery for administering an old-age insurance system would be much simpler than that for administering unemployment compensation. With broad policies determined by a central federal authority, operating procedures could be reduced to standardized routines. The advantages in economy and convenience resulting from such a uniformity of procedure alone seemed to warrant the paralleling of old-age insurance with such services as the federal postal system rather than incurring the vagaries of state workmen's compensation administrations.

Such reasons proved convincing to the staff and the other groups which considered the problem. Once the advantages of uniform standards and centralized administration were explained, little opposition to this feature of the proposed system was raised except on the question of constitutionality.

ADJUSTMENT TO CONSTITUTIONAL LIMITATIONS

With state systems of old-age insurance a practical impossibility, the development of a formula for federal action within constitutional limitations was early recognized as the key to a sound solution of the problem. The proposal to separate the contribution and benefit features of the legislation into two separate measures based on the taxing and appropriation powers of the federal government, was advanced early in the deliberations of the staff and the Technical Board. The absence of any need for elaborate regulatory material in either measure gave basis for the hope that the courts would not question the exercise of these broad federal powers, if clear-cut separation were possible. The staff was bolstered in this hope by the approval of the plan by a number of outstanding students of constitutional law.

The drafting of two distinctly separate titles covering the tax and benefit features of the proposed system proved a difficult task. Since the contributions, now taxes, were necessarily covered into the general funds of the Treasury, some formula had to be developed for the reappropriation of an equivalent amount from general funds to an old-age reserve account. To avoid any direct connection between benefits and tax payments in the language of the legislation, benefits were based upon wages rather than upon tax payments. The designation of the amount that should be repaid to the heirs of a deceased contributor could no longer be stated as "contributions plus interest" but had to become a percentage of wages, regardless of the precise time when taxes were paid. Many other questions arose. It was only at the time when the bill was undergoing a thorough revision in the House Ways and Means Committee that satisfactory solutions were found.

As a result of this necessary adjustment to the exigencies of constitutional law, the character of the scheme was fundamentally different from that first considered by the staff. With the legal separation of contributions and benefits, the system lost much of the "contractual" atmosphere of contributory insurance. All social insurance is, of course, subject to legislative revision. But the need to cover taxes into the general funds of the Treasury and to depend upon current appropriations of Congress to maintain an old-age reserve account introduced a degree of legislative discretion which the proponents of the plan would have preferred to avoid.⁷

THE PROBLEM OF FINANCIAL ADMINISTRATION

Few problems faced in the development of the old-age benefit provisions of the Social Security Act were more fundamental or more involved than that of constructing a workable program for financing the plan. The whole complex of rates of

⁷In contrast to the disjointed program of benefits and taxes embodied in Titles II and VIII of the Social Security Act, the old-age insurance systems of other countries offer several important advantages. Under these systems a single insurance institution is established which is responsible for the collection of contributions, the investment of reserves, and the disbursement of benefits. Under such systems benefits are virtually guaranteed and legislative discretion can be reduced to a minimum. Perhaps in the evolution of our system of constitutional law, some means will develop which will permit the reorganization of our old-age insurance mechanism along these lines.

contributions and benefits, of amounts of possible governmental subsidies, of the investment of funds, and of the economic and political interactions of public and private finance, was bound up in the character of the reserve policy upon which the system should be based.

In the early days of staff work, two financial programs were projected in order to delimit the field of choice. These programs became the subject of repeated conferences with the technical boards cooperating with the staff. One scheme was based on the proposal that full benefits should be paid to older workers as though they had made contributions to the system throughout their working lives. At the other extreme, a second scheme was developed which made no special provision for older workers but gave them precisely those benefits which the contributions made on their behalf would finance. Actuarial studies indicated that both schemes raised serious financial difficulties. The first plan involved heavy, sudden tax burdens on industry and workers, excessive subsidies by government, reserves ultimately totalling 90 to 100 billion dollars, and unnecessarily large benefits in the early years from the standpoint of a reasonable social security program.

The second plan, likewise, was found to involve serious objections. Should the rate of contribution be set at 4%, for example, but \$10.19 a month would be provided to a person contributing to the system for fifteen years on an average monthly wage of \$100. The social and political implications of such limited benefits were sufficient to militate against the choice of a scheme which would afford no substantial reduction in old-age dependency for more than a generation. This scheme also involved large reserves estimated to reach 50 to 60 billions of dollars in the years to come.

In order to arrive at a workable program, a series of compromise plans were projected by the staff and discussed with the technical committees in an effort to afford reasonably adequate benefits, moderately increasing contributions, and a reserve within the limits of normal fiscal operations. A *maximum* reserve of ten billion was considered practical from a fiscal standpoint. The theoretical advantages of a completely pay-as-you-go policy were considered, but both the adjustment of contribution and benefit schedules in a gradually expanding system and the exposure of the system to cyclical fluctuations in income and disbursements led to the conviction that a moderate contingency reserve was necessary. The staff group was fully aware of the fact that such a reserve, if invested in federal securities, was essentially a bookkeeping device to disassociate the system as far as possible from dependence on continuous congressional direction in financing the system. While dependent on the credit of the federal government for the liquidation of such reserves in time of need, the resale or repayment of securities was considered preferable to a sudden revision of contribution schedules or dependence on emergency appropriations.

The financial schedules finally recommended by the staff appear in the original bill presented to Congress.⁸ The joint rates of contribution proposed were arranged

⁸H. R. 4120, 74th Cong., 1st Sess. (1935).

on a gradually increasing level, commencing at 1% during the first five years of the system, and reaching a permanent level of 5% at the end of twenty years. The gradual rise served two purposes. It softened the impact of the tax on industry and workers and also prevented the accumulation of excessive reserves in the early years of the system before benefits reached a relatively constant volume.

The benefit schedule was divided into two categories; rates for workers entering the system within five years after its inauguration, including a cross-section of all eligible age groups in the population, and, second, rates for workers entering the system after five years. The initial rates of monthly benefits under these two schedules were, respectively, 15% and 10% of average monthly contributory wages. The temporary schedule limited monthly benefits to a maximum of 40%, but the permanent schedule permitted a variable upper limit approximating 50% based on the period during which contributions were paid.

The maximum reserve which would be accumulated under this plan was estimated as approximately \$11,450,000,000. This would be reached soon after 1960. From then on disbursements would exceed income so that an increasing government subsidy would be needed to maintain this reserve intact. Although but \$124,000,000 in 1965, the amount of the subsidy would approximate \$1,100,000,000 by 1980.⁹

It was this financial program which after considerable discussion obtained the approval of the Technical Board, the committee of actuarial consultants, the Advisory Council and the Committee on Economic Security. Embodied in the original bill presented to Congress in January, 1935, it became the basis of the hearings before the Committee on Ways and Means in the House of Representatives and the Committee on Finance in the Senate.

In the course of the hearings on the bill Secretary Morgenthau proposed a revision of the financial schedules of the plan which seriously altered the balance that the Committee's staff had striven to secure.¹⁰ In order to place the scheme on a "self-sufficing" basis and to avoid the prospect of governmental subsidies, he suggested that the tax schedule be raised. Instead of graduated rates rising from one to five per cent over a twenty-year period, he proposed a scale increasing from two to six per cent in twelve years. The reserve which would accumulate under this program was estimated as 36 billion dollars by 1960 and 50 billion by 1980. Despite the serious effects which this tax and reserve program involved, the proposal of the Secretary of the Treasury was adopted with little change by the Ways and Means Committee. At the same time, a revised schedule of benefits was adopted to replace the temporary and permanent schedules originally proposed. This revised schedule, which is em-

⁹The coverage of the system was later altered by the Committee on Economic Security to include farm labor and domestics. This change increased considerably the totals involved in the financial program recommended by the staff. However, these classes of employees, along with certain others, were excluded from coverage in the revision of the bill in Congress.

¹⁰Statement of Hon. Henry Morgenthau, Jr., Hearings before House Ways and Means Committee on H. R. 4120 (Economic Security Act) (Feb. 5, 1935) 897-900.

bodied in the Act as passed, was a marked improvement over the original schedule on both technical and legislative grounds.¹¹

THE PRINCIPLE OF GOVERNMENT SUBSIDIES

The proposal for federal subsidization of the old-age insurance system, as originally advanced by the staff, was not simply a device for balancing income and disbursements. The staff was convinced that the government should participate in the financial cost of the system. The contributory insurance system would in years to come assume an increasing proportion of public cost of old-age security. Employers, and especially workers, it was believed, should not be expected to bear the full burden of the "unearned" benefits which hastened this shift in the early years of the system. Experience abroad clearly pointed to the wisdom of governmental subsidization. In constructing a workable reserve program, eventual subsidies seemed inescapable if one were to avoid the necessity of accumulating huge reserves with which to meet future drains. The current economic effect of subsidies seemed indistinguishable from federal payments of "interest" on the scale which huge reserves would involve. But the most important reason for governmental subsidies is summed up in the following passage from the report of the old-age security staff:

"The quality of self-respect which perhaps more than any other helps to build and maintain a sturdy community has an important dollar and cent value to society. Government contribution to social insurance is based upon the recognition of this situation. It amounts to a dedication to the policy of putting public funds in keeping people out of a state of destitution in substitution for the policy of charitable assistance . . . after dependency has become a fact."

THE IMPACT OF OLD-AGE INSURANCE ON PRIVATE ANNUITY PROGRAMS

Two significant developments in the course of congressional deliberations on the old-age provisions of the Social Security Act demonstrated the close relationship which exists between public and private programs for old-age protection. The first was the early demise, the resurrection, and final elimination of the proposal for voluntary old-age annuities. The second was the campaign for the Clark Amendment for the exemption of approved company pension plans from coverage under the Act.

The proposal of a system of voluntary governmental annuities originated in the staff of the Committee on Economic Security. It was believed advisable to provide a means whereby the large number of wage-earners, such as farm laborers and

¹¹ Space does not permit a discussion of the serious effects which may result from the adoption of the excessive schedule of taxes proposed by Secretary Morgenthau. Not only may unnecessarily large amounts of funds be diverted from consumption to capital expenditure, but the fiscal policy of the federal government will have to be adjusted to the rapidly mounting flow of tax funds. Whether this will lead to governmental extravagance or the reduction of other federal taxes, the result will be unfortunate. Furthermore, the possible effects on private finance may well cause apprehension. When these consequences are better understood, there is every likelihood that the tax schedule will be reduced to rates more closely approximating those originally proposed. If such a reduction should occur within the next few years, little damage will be done.

domestic servants, who were not covered by the compulsory program, could purchase modest old-age annuities at cost on an instalment basis. Operated in conjunction with the compulsory program, there was much reason to believe that a growing number of self-employed persons, such as farmers, shop-keepers, and housewives, might be attracted by the economy, safety and convenience of this method of saving for old age. Incorporated as Title V of the original bill, this plan was discarded by the House Ways and Means Committee. Reinserted by the Senate Finance Committee, it was killed a second time on the floor of the Senate. The principal reason advanced in opposition was that the scheme constituted an invasion by government into the field of private insurance.

The Clark Amendment proved one of the most serious obstacles to the enactment of a sound program of old-age insurance. The pressure for its inclusion was in large measure the result of a misunderstanding of the true effect of the federal insurance program on existing pension plans. As passed by the Senate, the amendment provided that wherever a private plan paid equally favorable benefits and met with certain other conditions, the Social Security Board should exempt both the employer operating the plan and his employees from the payment of the taxes under Title VIII.¹² The amendment failed to protect either the government or the exempted workers from many of the dangers which might arise under such an arrangement. The great majority of employers who supported the exemption principle failed to appreciate the sharply increased costs and the burdensome administration which any such device would entail if adequately safeguarded. Furthermore, the amendment not only ran counter to the basic principles of social insurance but, by tying together the tax and benefit features of the program, would greatly increase the chances of successful attack upon its constitutionality.

Since the House of Representatives refused to accept the Clark Amendment, the matter was referred to the conference committee assigned to the bill. Despite protracted discussion, this committee was unable to work out any satisfactory solution of the many difficulties involved in safeguarding an exemption provision. The proponents of the amendment finally agreed to concede the passage of the Act without such a provision, if an interim committee were assigned the task of preparing a revised amendment for introduction in the following session of Congress.

Meanwhile an increasing number of industrial executives have come to realize the impracticality and costliness of attempting to duplicate in their own plans the basic protection afforded by the federal insurance system. Already many companies have revised their pension plans so that they will supplement this basic protection. The difficulties faced by the interim committee in drafting a workable amendment still seem insuperable. With little support remaining, the campaign for special exemptions now seems to be largely a matter of history.

The development of the many other features of the old-age insurance provisions

¹² For the text of this amendment, see 79 CONG. REC. 9442 (1935).

of the Social Security Act involved a similar history of study and adjustment. The problems of coverage, the tax base, the death benefit, the qualifications for old-age benefits in relation to contributions and employment, the graduation of benefits according to earnings; administration; enforcement; and the investment of funds were necessarily the subjects of a great deal of study and discussion. From the first meetings of the staff in early September, 1934, until the final enactment of the law in August, 1935, new problems arose and further adjustments proved necessary. The most important changes in the plan were made in the Ways and Means Committee. It was at this stage that time permitted the revision and improvement of various features of the bill to a degree impossible in the very limited period which was assigned to the drafting of the original recommendations into law. With political, legal, and technical talents concentrated on the measure, the old-age benefit features of the bill approached their final form. After many weeks of further congressional deliberation and delay, Titles II and VIII of the Social Security Act along with Title I became the law of the land. How long they will so remain rests with the Supreme Court and the people of the United States.