SOCIAL SECURITY

The Senate resumed consideration of the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The VICE PRESIDENT. The Chair understands that the Senator from Missouri last evening, as the RECORD shows, asked permission to offer certain amendments to be considered as one amendment and to have them pending. The Chair considers those amendments to be pending, unless the Senator from Mississippi [Mr. HARRISON] calls up a committee amendment which was passed over, as under the unanimous-consent agreement committee amendments were first to be considered.

Mr. HARRISON. It is perfectly agreeable that the amendments of the Senator from Missouri be considered at this time.

Mr. CLARK obtained the floor.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. CLARK. I yield.

Mr. BORAH. I simply desired to know what was pending; that is all.

The VICE PRESIDENT. The pending question is on the amendments offered by the Senator from Missouri at the conclusion of the session last evening.

Mr. CLARK. Mr. President, I ask that the amendments be stated.

The VICE PRESIDENT. The amendments will be stated.

The CHIEF CLERK. On page 15, after line 25, it is proposed to add the following new paragraph:

(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection.

On page 43, line 11, after "Sec. 702.", insert "(a)."

On page 43, lines 17 and 18, add the following new paragraphs:

(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee approved by the board.

(4) Termination of employment shall constitute withdrawal from the plan.

(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

(c) The board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

(d) The board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b).

On page 52, after line 7, add the following new paragraph:

(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually.

Mr. CLARK. Mr. President, I ask unanimous consent that my amendments may be considered as one amendment.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. CLARK. Mr. President, while it has been necessary to propose amendments to various sections in the bill, the amendments essentially comprise but one amendment. The purpose may be very briefly stated. The purpose of the amendment is to permit companies which have or may establish private pension plans, which are at least equally favorable or more favorable to the employee than the plan set up under the provisions of the bill as a Government plan, to be exempted from the provisions of the bill and to continue the operation of the private plan provided it meets the requirements of the amendment and is approved by the board set up by the bill itself.

Mr. CONNALLY. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Texas?

Mr. CLARK. I yield.

Mr. CONNALLY. Would the Senator's amendment exempt such corporations from paying the tax?

Mr. CLARK. Yes; to the extent of the requirements of the amendment.

Mr. CONNALLY. If under the Senator's plan a company should qualify under his amendment, there would be no payroll tax on the company or the employees, I understand.

Mr. CLARK. Insofar as this title is regarded, that would be true; but the amendment requires that the employer shall pay into the private pension fund, under conditions approved by the board, not less than the amount of the taxes which would otherwise be paid under the provisions of the bill.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. CLARK. Certainly.

Mr. ROBINSON. In connection with the statement the Senator is now making, on page 3 of the amendment, I find the following language:

And if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes.

Will the Senator explain the meaning of the last clause, "that the employer pays an amount at least equal to 50 percent of such taxes", in view of the requirement that the annual contribution under such plan, when approved, shall be "not less than the taxes which would otherwise be payable"?

Mr. CLARK. Some of the plans require diversified contributions by employer and employee. It is provided further that the amount of the contribution shall be not less than the taxes to be paid as provided in the pending bill, and further, there is a requirement for the purpose of insuring that no employer can gain anything financially by remaining under a private pension plan or going under a private pension plan. To that end a provision is inserted that he shall pay not less than 50 percent of the joint contribution. No employer shall, under the exemption granted by the amendment, be permitted to pay into the private pension fund, as a minimum, less than the amount of the taxes he would have to pay under the bill. That is the whole purpose of the amendment.

Provision is made as fully and adequately, in my judgment, as it is possible to make provision to cover the purposes intended; and the amendment has been recast since it was offered in the committee for the purpose of meeting objections made in the committee. It is provided on page 2:

The board shall receive applications—

That is, the board set up under the bill, and no one may have exemption unless his plan meets the requirements of the amendment and is approved by the board itself.

(b) The board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirement:

(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

Of course, the exemption does not provide for forcing under the operation of the plan any employee who would prefer to remain under the Government plan.

(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

In other words, it remains for the board, set up under the bill to administer the Government pension plan, to determine in each case and make an affirmative requirement; and the board shall find, before they grant the exemption, that the benefits to the employee under the private pension plan are not less favorable, based upon accepted actuarial principles, than those provided under the Government pension plan.

3. The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee approved by the board.

This puts in the hands of the board itself the security of these funds and insures that no possible failure on the part of the employer may jeopardize the interests which the employees acquire. It puts it in the hands of the board to make requirement for that security.

4. Termination of employment shall constitute withdrawal from the plan.

Mr. O'MAHONEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Wyoming?

Mr. CLARK. I yield.

Mr. O'MAHONEY. May I ask the Senator from Missouri if he does not believe that there is a possibility, at least,

that clause (4) would allow an employer to terminate the employment and thereby defeat the plan?

Mr. CLARK. I will say that, in my judgment, that is completely guarded against—although I shall be very glad to accept a further amendment to make it more certain—by later language in the amendment which provides that upon termination of employment—

There shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury may prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum, compounded annually.

Mr. O'MAHONEY. Would the Senator accept an amendment by which the word "voluntary" should be inserted before the word "termination"?

Mr. CLARK. I should be glad to accept the amendment. As a matter of fact, it seems to me that the termination under this plan should be from any cause, either by discharge of the employee or by the withdrawal of the employee, provided it is made certain that at such time the employee should pay into the Government fund the amount which would have accrued by taxes, plus 3 percent compounded annually. That is the theory of the amendment. I am willing to accept the amendment suggested by the Senator from Wyoming.

Mr. BARKLEY. Mr. President, in that connection, will the Senator yield?

Mr. CLARK. I yield to the Senator from Kentucky.

Mr. BARKLEY. The mere insertion of the word "voluntary", so that it would read "voluntary termination of employment", unless we should put in "on the part of the employee", might mean the voluntary termination of it by the employer.

Mr. CLARK. If the Senator from Wyoming will permit me, if he will examine the amendment carefully, I think he will find that the theory of the amendment is that whenever the employment is terminated from any cause whatever, at that moment the employee shall have the right, as already provided, to have paid into the Government fund from the private pension fund the amount of taxes which would have been paid in from the beginning of his employment, plus 3 percent compounded annually, which is exactly the basis of the Government plan. In other words, the theory is that whenever the employee from any cause goes off the private pension plan, he shall automatically be entitled to take his place in the Government plan with the same benefits that would have been there if he had been under the Government plan all the time.

Mr. O'MAHONEY. Of course, this is the first opportunity many of us have had to examine the amendment, and I have just been following the Senator as he proceeded through it. I believe the amendment should be studied carefully before acting upon it.

Mr. CLARK. I shall be very glad to have any suggestions from the Senator. The amendment has been carefully gone over by the legislative drafting service in order to meet the objections which were made in the committee. I believe it to be comprehensive. I had the amendment printed several days ago, and have urged many Senators to take the trouble to examine it, and if there are any suggestions on the part of any Senator for the purpose of making abundantly clear the purposes of the amendment, I shall be very glad indeed to have them brought forward.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. CLARK. I yield to the Senator from New York.

Mr. WAGNER. Referring to the first requirement, the Senator's amendment provides:

The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

Does the Senator interpret that to mean that any employee, if he elects to join this plan, may join it—in other words, that the employer is compelled to accept as a member of the plan any employee who elects to become a member of it?

Mr. CLARK. Yes.

Mr. WAGNER. It seems to me that the language is not subject to the interpretation given it by the Senator.

Mr. CLARK. It seems to me it is. If the Senator from New York has any suggestions, I shall be very glad to have them.

Mr. WAGNER. The language of the amendment is:

The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

That is, the employer cannot compel an employee to become a member of the plan.

Mr. CLARK. That is not intended.

Mr. WAGNER. But, at the same time, there is nothing in the amendment which will prohibit an employer from declining to accept the employee.

Mr. CLARK. Mr. President, if this language is not clear, I shall be very glad if the Senator from New York will suggest some amendment to make it clear, because I personally should be unable to frame it in any clearer language.

The plan shall be available without limitation—

The last clause prohibits any employer from shutting out, on the ground of age, any of his employees who wish to come under it.

Mr. LONG. Mr. President——

Mr. CLARK. I shall be glad to yield to the Senator from Louisiana in a moment.

The plan shall be available, without limitation as to age, to any employee who elects to come under such plan.

I do not know how to make that any clearer. If the Senator from New York can suggest some way of clarifying it, I shall be glad to have him do it.

Mr. WAGNER. There is nothing in the amendment which requires the employer, if that election takes place, to accept it. He may decline to do so.

Mr. CLARK. The amendment says:

The plan shall be available * * * to any employee who elects to come under such plan.

Mr. WAGNER. "Elects"—yes.

Mr. CLARK. I shall be glad to accept any amendment to the effect that the employer must accept any employee who desires to come in, because that certainly is the intention of the language. I think the language is perfectly clear, but I shall be very glad to accept an amendment to that effect, which I will prepare a little later.

Mr. LONG. Mr. President——

Mr. CLARK. I yield to the Senator from Louisiana.

Mr. LONG. Is this the amendment about which I have been getting some letters from employees of oil refineries? Is this to take care of them?

Mr. CLARK. I dare say it is. I have had a great many letters from employees and a great many letters from employers. Some of the oil companies—notably the Standard Oil Co. of California, the Socony-Vacuum Co. of New York, I believe the Standard Oil Co. of New Jersey, and a great number of companies—have voluntary pension plans.

Mr. LONG. This amendment protects them in what they already have?

Mr. CLARK. This amendment is for the purpose of protecting them in their rights.

Mr. BARKLEY. Mr. President——

Mr. CLARK. I yield to the Senator from Kentucky.

Mr. BARKLEY. Would not this amendment, if adopted, subject the whole measure to the possibility of creating a competitive situation between the Government and private annuity or insurance companies, so that a lot of high-pressure salesmanship would be brought to bear on employers by private companies to adopt a private system in competition with the national system?

Mr. CLARK. Mr. President, I do not think it would; and if the high-pressure salesmanship led to employers extending more generous treatment to their employees, I do not see that there would be any disadvantage to anybody if that were the result.

Mr. BARKLEY. Let me ask the Senator another question. Would not the employer be permitted or induced to discriminate as between younger employees and older employees, so that the older ones might be shunted off on the

Government, while the younger ones were taken care of by the private plan?

Mr. CLARK. That objection was raised before the committee, and the amendment was redrawn and the provision added that the payment of the employer shall not be less than the amount of tax for the specific purpose of meeting that objection; so there is no possible way, under the amendment as now drawn, by which any employer can profit to the extent of a single penny, in any manner, by going on a private pension plan rather than on the Government pension plan.

Of course, the suggestion originally arose in connection with such companies as the Ford Motor Co. and the Goodyear company. The suggestion was made that when they had limitations as to the ages of their employees, or refused to employ men over 35 or 40 years old, to allow them to have private pension plans was to put a premium on such conduct. As a matter of fact, Mr. President, of course, everybody knows that nearly all the companies which have age limits as to their employees are companies, like the Ford Motor Co., which manufacture on a line which requires each employee to perform a certain operation at a certain time, and a slowing up of one employee slows up the whole operation. In other words, it is like a ball player's legs giving out on him and slowing up the whole baseball team. The purpose of that requirement in such companies as that has nothing to do with any pension plan, but is simply because the younger employees are more efficient in the line operation.

For the purpose of meeting such an objection as that, however, a provision was inserted in this amendment as redrawn, and as now before the Senate, which provides that the employer must in every case pay into the private pension fund, and to the reserve set up under the private pension fund, an amount not less than the amount of the tax, so that it is impossible for him to profit in any way by going under a private pension system.

Furthermore, if, as suggested before the committee, there is any advantage to the employer in being able to insure more cheaply because of the average younger age of his employees by reason of this age-limit requirement, under the amendment the only person who could benefit by such cheaper rate would be the employee.

In other words, if the employer under the provisions of the Government pension scheme should be required to pay in $300 a year, he would still be required to pay in a minimum of $300 a year under the private pension scheme, because that is specifically set forth in the amendment. The only advantage which could come to anybody would be, in such a situation, if there were lower rates of insurance on account of the younger age of the employees, that the employer in paying the $300 into the private pension fund would be able to buy a larger annuity for his employee than he otherwise would under the Government pension scheme. That would be the only possible advantage.

Mr. President, it was said before the committee, and was said again in the Senate the other day by the distinguished chairman of the committee, that there are in fact no private pension plans which are more favorable to the employee than the Government pension plan provided for in the bill. I do not desire to go into great detail on that matter. I simply desire to point out that while I freely admit that there are private pension plans now in existence which are not as favorable to the employee as the Government pension plan, which class of private pension plans would not come within the purview of the exemption set up in the amendment, there are a great number of private pension plans which are vastly more favorable to the employee in many particulars. For instance, some private pension plans now in existence—many of them, in fact—provide for an earlier retirement age for women than for men. The bill makes no distinction between the retirement age for men and for women under the Government pension plan; and yet it is almost universally agreed among doctors and sociologists that in any pension scheme a distinction should be made between the retirement age for men and for women, because in the wear and tear of industry it is very desirable that women should be retired earlier than men.

Mr. LEWIS. Mr. President——

Mr. CLARK. I yield to the Senator from Illinois.

Mr. LEWIS. I wish to say to the Senator from Missouri that the large institutions in my home city called the "packing companies" inform me that they have long had in existence their own private systems; and, if I may be forgiven a personal touch, while for a little while acting mayor of that city—previously the corporation counsel—we sought to inaugurate a joint city concern with that of the packing interests, which did not succeed. The packing companies feel, however, that their own plan has been a very great success; and there is presented, I may say to the Senator, a joint paper on the subject signed by a certain number of their employees. What proportion the number bears to the whole of their employees I do not know. I ask the Senator, is there anything in his amendment or in the bill which would prevent these concerns from dropping their private arrangement and coming into the Federal bill at a later time if they chose to do so?

Mr. CLARK. There is not. There is specifically provided in the amendment, I will say to the Senator from Illinois, the completest freedom of action. In other words, an employee would be permitted to withdraw from the system at any time he chose and to take into the Federal system with him the amount which would have been there if he had been under the Federal system all the time. The board not only has the right but it is the duty of the board, at any time all of the conditions provided for in the amendment are not complied with, to withdraw the exemption and force the employer and the employee into the Government pension system.

Under the amendment the employer has the right, if he finds he cannot go on with the private pension plan, to withdraw his application for exemption, at which time the whole concern passes under the Government plan, with every right secured to the employees that would have been theirs if they had been under the plan all the time.

Mr. LEWIS. Then I understand the able Senator to say that if the amendment should be agreed to and the private concerns continue as they are, should anything arise as between the employers and the employees, the availability under the general law would be open to them completely, without obstructions?

Mr. CLARK. That is entirely correct.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. BARKLEY. Does the Senator think it is in the interest of efficient administration to have some of the employees of any employer under a private annuity system and other employees of the same employer under the Government system?

Mr. CLARK. That might be a matter of inconvenience to the employer, but if in truth and in fact the private annuity plan were more beneficial to the employee, I think there would be very little danger that the employees would not desire to be under the private plan. On the other hand, if it were not more beneficial, then there would be very little doubt that all the employees would desire to be under the Government plan.

Mr. BARKLEY. In any case, would not the Government be under an obligation to carry on inspections to determine whether or not the plan was as favorable as that of the Government?

Mr. CLARK. There is so much inspection and so much administrative overhead machinery provided for in the bill that it is impossible for me to believe that a few more Government employees in the administrative section would make much difference.

Mr. BARKLEY. One more question, although I do not like to take the Senator's time.

The Senator will recall that we attempted to eliminate child labor, first, by prohibition against the shipment in interstate commerce of products of child labor, which was declared unconstitutional. Then we tried to reach it by tax-

ation, and the Supreme Court held that unconstitutional in part on the ground that it was a penalty assessed against those who did indulge in child labor. Under the pending amendment, as I understand it, those who adopt the private system are exempt from the tax that is levied generally for the support of the Government system. Does the Senator think that lays the bill open to the constitutional objection, on the ground that it penalizes those who do not have a private insurance plan as compared with those who have, and that that might endanger the bill on the question of constitutionality?

Mr. CLARK. The constitutionality of the proposed act is already so doubtful that it would seem to me to be a work of supererogation to bring up the question of constitutionality in regard to the pending amendment. Let me say to the Senator, to answer more seriously, that if the question of constitutionality is involved in regard to the matter he has suggested, it is already in the bill under the amendment in title IX offered by the Senator from Wisconsin [Mr. LA FOLLETTE], and adopted by the Senate, making certain exemptions in the case of employees' pensions. In other words, the distinction, while not identical, is in principle the same.

Mr. BARKLEY. The amendment to which the Senator refers deals with a different subject.

Mr. CLARK. Of course it deals with a different subject; in other words, it deals with an exemption for the purpose of allowing the State of Wisconsin to continue its own State system without interference.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. LONG. I wish to say that, as the Senator from Kentucky very appropriately pointed out, on the basis of the complete analysis he has made, the bill is unconstitutional. The private pension system is the thing which the Government could afford to encourage.

Mr. BORAH. Mr. President, will the Senator yield to me?

Mr. CLARK. I yield.

Mr. BORAH. The Senator made reference to exemptions already incorporated in the bill.

Mr. CLARK. That is in a different title, I will say to the Senator from Idaho. That is under unemployment insurance, in title IX.

Mr. BORAH. The bill does not cover all employees in all lines of industry or avocation, does it?

Mr. CLARK. It does not. I take it for granted that it is an undoubted constitutional principle that the matter of classification is a matter for the legislature rather than the courts. The bill specifically exempts large classes from its operation. For instance, it exempts agricultural classes, and exempts Government employees, one of the largest classes of employees in the country, I assume for the reason that the Congress recognizes, in considering this bill, that the Government already has in effect, in its capacity as employer, a pension system more beneficial to the employees than the one set up in the bill for the general run of industry. As the Senator has suggested, there are large classes of the population who are already excluded or exempted from the operation of the proposed law.

Mr. BORAH. May not the Congress make any classification it desires, so long as it is not purely arbitrary or capricious? If there is any foundation for a difference of classification, the Congress can make it.

Mr. CLARK. It seems to me there cannot be any question of that as a legal proposition.

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. CLARK. I reserve the balance of my time, then.

Mr. MCNARY. Mr. President, a few days ago I received a very interesting letter from Mr. H. W. Forster, vice president of an insurance company of Philadelphia, setting forth some of the advantages embodied in the proposal made by the Senator from Missouri [Mr. CLARK]. Having that in mind, I ask unanimous consent to have the clerk read the reasons set forth in the letter in support of the amendment. It is very brief, comprising but one page.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the clerk will read.

The legislative clerk read as follows:

REASONS IN SUPPORT OF AN AMENDMENT PERMITTING PRIVATE ANNUITY PLANS UNDER SOCIAL SECURITY BILL (H. R. 7260)

ADVANTAGES TO EMPLOYEES

1. More liberal annuities.
2. Credit for past service.
3. Protection for employees now on pension.
4. Employees age 60 and over are covered.
5. Annuities in true proportion to earnings and service.
6. Joint annuities, so as to protect wives also.
7. Earlier retirements for women.
8. Earlier retirements for disability or other reasons.
9. Annuities, not cash, for withdrawing employees.

ADVANTAGES TO EMPLOYERS

10. They need and want the more adequate annuities provided by private plans, with recognition of past service.
11. They know that it is not feasible to impose on all employers any heavier burden than the bill contemplates, but more liberal plans are desired by many who can afford to carry them.
12. Private plans take adequate care of older employees, their most pressing problem.

ADVANTAGES TO THE GOVERNMENT

13. Relief from deficits due to unearned annuities.
14. Reserves of private annuity plans flow into business channels.
15. Private plans will absorb part of the burden on other portions of the social-security program.
16. Private plans will relieve the Social Security Board of a vast amount of detail.

SAFETY OF PRIVATE PLANS

17. Past record of properly financed plans, and the future outlook, show only security for properly safeguarded private plans.

THE "SUPPLEMENTARY PLAN" IDEA

18. Theoretically appealing, but not practically workable and certainly not productive of liberal guaranteed annuities for employees.

Mr. GEORGE. Mr. President, I desire to support the amendment offered by the Senator from Missouri [Mr. CLARK] not only upon the grounds stated in the presentation made and in the document just read from the desk, but also because there is very grave doubt of the constitutionality of the bill as it stands. I do not believe that any lawyer of experience would assert that the bill is free from constitutional question. I do not wish to expand the constitutional argument, because the Senate is not in receptive mood, but the bill undertakes to impose a tax upon specific employers. The beneficiaries of the tax are a special class, it is disclosed in the hearings, and it is disclosed in the suggestion of the Secretary of the Treasury at one time for an alteration in the tax rate itself, showing that the only purpose of the bill is to set up a system of old-age annuity and unemployment insurance by the use of the taxing power, and by the creation of the annuity system and the old-age employment insurance system.

I direct the attention of the Senate to the fact that the bill is not a grant in aid to the States. That is true as to title II, portions of title III and title VIII of the bill, the taxing title, and part of title IX, which also covers taxing provisions. It is not a grant in aid of the States, but it does undertake, by the use of the power to appropriate money out of the General Treasury, to apply the money so appropriated to the establishment of the old-age-annuity and unemployment-insurance systems, under which the beneficiaries are the identical employees of the taxed employers, and under which the taxing provisions of this bill undoubtedly are tied in with the titles establishing the old-age annuity and the unemployment-insurance provision.

I also direct attention to the salient and important fact that under title II of this bill and a part of title III of the bill rights enforceable at law are granted to private citizens, irrespective of the character of their employment, irrespective of the character of the industry in which employed, in every State in the Union; and that, in my judgmen, clearly shows that an effort is here made to establish a system which does not lie within the powers granted to the Congress, but which have been definitely reserved to the States under the reserved rights and powers of the States.

Even the preamble of the bill shows unmistakably that the taxing power is invoked for the purpose of setting up old-age annuity and unemployment insurance.

Mr. President, I know that the courts will go a long way to uphold the power of Congress to appropriate; and I am not going to controvert that. I also know that the courts will go a long way to sustain legislation of this character, and I think they should. But if the court looks through mere form to the substance of this bill, I assert again that the question of the validity of the bill is one which no responsible lawyer would undertake to say is not in serious question. Hence, why strike down, with the probably unconstitutional bill, the private pension systems and private benefit systems granting benefits to the employees of employers of this country, some 450 in number, embracing a large part of our population—why strike those down when a bill is proposed which probably will not pass the muster of the courts?

Let me say that it was argued in committee that the private pension systems might still be maintained. I submit as a matter of plain common sense that the private systems will not, in fact, be maintained if the employers are subjected to a tax which they must in any event pay for the purpose of setting up an exactly similar system, or a system that has for its objectives the same general purpose.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LEWIS. Conscious as I am that the able Senator from Georgia occupied a high place on the bench, and, therefore, that the subject he is now discussing is not one to be called primary with him, I should like his judgment on one matter. How far does he feel that the decision of the Supreme Court of the United States on the tax feature to which he alludes, in the cause which came up from North Carolina where the question of tax was assumed to be the motive in the case of protecting child labor—how far does he feel that that opinion supports the viewpoint he has uttered here today respecting the doubtful features of the tax provisions of this bill?

Mr. GEORGE. In reply to the distinguished Senator from Illinois, I would not say that the child-labor taxing decision is strictly applicable to this case, except in point of principle. In that case the act itself carried upon its face the disclosure of the real purpose of imposing the tax; and the Supreme Court, of course, said that the object was not that of raising revenue.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER (Mr. McGILL in the chair). Does the Senator from Georgia yield to the Senator from New York?

Mr. GEORGE. I yield.

Mr. WAGNER. Will the Senator from Georgia permit me to read to him some language from the case of United States against Doremus, Two Hundred and Forty-ninth United States Reports, page 86, involving the Harrison Narcotic Act, in which the question was whether a bill which contained a taxing feature could also accomplish some other purpose in addition to that of merely levying a tax? The Court said:

> An act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue. If the legislation is within the taxing authority of Congress, it is sufficient to sustain it.

There the act itself had other purposes in addition to levying a tax.

Mr. GEORGE. The decision to which the Senator from New York calls attention would not be controverted by anyone, anywhere.

Mr. WAGNER. I thought the Senator was controverting it.

Mr. GEORGE. No; I am not controverting it. I am trying to make my position clear, and I am saying that we are setting up in this bill a particular old-age annuity and unemployment insurance system under which the individual citizen in any State in the Union acquires an enforceable right; and when he undertakes to enforce it, by what authority has the Congress established it? That is the simple, the necessary, the logical question.

I know that the tax may be imposed if within the taxing power of the Congress, although other objectives may be effected or accomplished through the imposition of the tax; but I also know that it is a sound principle of law that a tax cannot be imposed for a private purpose. It must be public. I also know that as a matter of sound legislation the Congress ought not to set up a scheme under which enforceable rights are given to individuals unless the Congress can relate its legislation to some grant of power.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WAGNER. I absolutely agree, of course, with the Senator from Georgia that we certainly cannot levy a tax for a purely private purpose; but does the Senator contend that the payment of an old-age pension is a private purpose as distinguished from a public purpose?

Mr. GEORGE. I contend that we do not levy this tax nor do we use the proceeds of the appropriation made out of the General Treasury for the purpose of setting up an annuity for all old people in the United States. We have selected classes. I contend also that we have selected the classes which are intimately and inescapably tied in with the employers who are taxed under title VIII and title IX of this bill, and therefore the scheme is palpable and clear to my mind, and that we are imposing the tax for identically the same purpose condemned by the Supreme Court in the railway-retirement decision, aside from the first suggestion that there were inseparable clauses which offended varied provisions of the Constitution; that we could not by compulsion make the industry set up an old-age-pension system.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BLACK. The Senator several times has referred to the bill, when, as I gather his argument, he intends to limit his constitutional objection to title II.

Mr. GEORGE. Exactly.

Mr. BLACK. As I understand the Senator, he concedes fully and completely the right of a State under the Constitution to establish an old-age-pension system.

Mr. GEORGE. Beyond all doubt.

Mr. BLACK. And, therefore, he concedes the right of the Federal Government to aid that State by Federal grants in aid, under such conditions as it sees fit.

Mr. GEORGE. I do; and I should have been most enthusiastic in my support of the bill had this particular part of the bill been dealt with in that way—that is, through grants in aid to the States.

Mr. BLACK. As I understand further, the Senator's objection on the constitutional ground is that instead of permitting the State—which he says does have the power to set up a system—to set up that system, in title II the Federal Government sets up an old-age-pension system; and the Senator from Georgia is of the opinion that the Federal Government does not have that power under the Constitution?

Mr. GEORGE. I am of that opinion, because I can find in the Constitution no provision which grants that power. This is clearly, as I think, among the reserved powers of the State.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WAGNER. I do not wish to annoy the Senator with my interruptions.

Mr. GEORGE. No; I shall be glad to yield.

Mr. WAGNER. I am not quite clear as to one of the Senator's contentions. Does the Senator contend that, because of the decision in the Railway Pension Act, we are powerless to enact a law of this character?

Mr. GEORGE. I contend that under that decision the Congress cannot directly say to an industry, "You must set up an old-age-pension system" or "a retirement system"; and I contend further that when the scheme which has been devised is so tied in with the taxing provision as

to disclose but one purpose, and that is the purpose of using the general taxing power for the purpose of providing this system only for the beneficiaries who fall within the classification of the employees of the taxed employers, we shall have a legislative act, if the bill shall be passed, which any reasonable lawyer of experience will be bound to say is subject to serious question.

For my purposes, that is all I desire to say, because I am arguing in this instance for the approval of the Clark amendment.

Mr. WAGNER. I understand.

Mr. GEORGE. And I am proceeding upon the theory that Congress ought not, through this legislation, practically to strike down and prevent the expansion of private or company insurance, or annuity plans. The effect of the proposed legislation undoubtedly will be to discourage any further advances of the private pension systems in the United States.

Mr. WAGNER. Mr. President, as I recall, there was not anything in the decision that might even suggest that the establishment of a pension system, providing that the classification is fair, would not be considered a public purpose.

The decision was based on the ground that interstate commerce was not affected by the retirement of old workers. The taxing power was not involved.

Mr. GEORGE. That is very true; the taxing power was not involved, but we cannot, under the compulsion of a tax, make an industry do any more and we ought not at least to undertake to make it do any more than we could do directly. If the scheme is one that can be referred to any legitimate power of the Congress, all well and good; but if it cannot be, and if it is one that must depend rightfully and rightly upon the exercise of the reserved powers of the States, then Congress should not through the compulsion of a tax undertake to compel the adoption of the scheme.

Mr. WAGNER. Then, as I understand the Senator's contention, it is that he doubts whether the establishment by Federal Government of a Federal pension system for a class of workers in this country is a public purpose.

Mr. GEORGE. I did not say that it was not a public purpose.

Mr. WAGNER. I mean the Senator contends that there is a serious question as to whether or not it is a public purpose.

Mr. GEORGE. I said that under this bill there is a serious question as to whether or not it is.

Mr. WAGNER. Is that because of the classification?

Mr. GEORGE. Because the beneficiaries are so restricted and tied in with those who are taxed as to make it, in substance at least, a compulsory system through the use of the taxing power by the Congress.

Mr. WAGNER. In other words, as I understand the Senator's contention, he believes that it would be a safer method if we should tax all the people of the United States, instead of merely taxing the employers of the workers, for the purpose of supporting a pension system.

Mr. GEORGE. Mr. President, I do not regard it as within the power of the Federal Government to set up a pension system for all the people of the United States; I take the contrary view. My philosophy is quite different from that of the distinguished Senator from New York.

Mr. WAGNER. The Senator misunderstood me, I am sure.

Mr. GEORGE. I think that the pensioning of the people of the country is essentially within the reserved powers of the States.

Mr. WAGNER. As a general proposition, I agree with the Senator. I am trying to have clear in my mind the particular objection the Senator raises to the proposed legislation. As I understand, the Senator feels that there is a serious constitutional question involved because we are levying a tax for the payment of pensions upon the employers of the particular workers benefited.

Mr. GEORGE. And the employees, too.

Mr. WAGNER. Yes; and the employees, too. Does the Senator feel that we would be on safer ground if we taxed everybody in the United States to pay these particular pensions? I do not know where the Senator got the notion that I ever contended that everybody in the United States ought to have a pension. I never made any such contention.

Mr. GEORGE. I think it would.

Mr. BARKLEY. Mr. President, will the Senator yield there?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Kentucky?

Mr. GEORGE. I yield.

Mr. BARKLEY. If I understand the Senator correctly, he does not raise any constitutional question as to the power of Congress to levy the tax as a tax?

Mr. GEORGE. Oh, no.

Mr. BARKLEY. The money to go into the Treasury for general governmental purposes.

Mr. GEORGE. I want to qualify my statement. I do not raise any question regarding the power of the Federal Government to make appropriations out of the General Treasury and to levy taxes, of course.

Mr. BARKLEY. Therefore, if the proposed pension system is tied in with the tax, although in an attenuated way, the Senator thinks that the tax, then, is lawful, just as a pure tax would be lawful, and is within the power of Congress?

Mr. GEORGE. I think Congress may impose an excise tax based upon the volume of pay rolls, if that is what the Senator means; but if it is tied in with this particular scheme, as provided in this bill, I question the validity of the tax.

Mr. BARKLEY. Where is the difference, in constitutional principle, between making a lump-sum appropriation out of the Treasury for relief purposes and making an appropriation out of the Treasury for relief purposes by setting up classifications under which relief shall be paid in the form of old-age pensions? I do not quite understand the distinction the Senator makes or how it would raise any constitutional question as to the power of Congress to pay aged people what we call a pension.

Mr. GEORGE. Does the Senator mean to pay them as a mere matter of gratuity?

Mr. BARKLEY. Well, not necessarily as a matter of gratuity; but assuming that it were a gratuity——

Mr. GEORGE. Does the Senator mean to say, if enforcible rights are granted to pensioners generally, that even if the appropriation is made out of the general funds of the Treasury, no serious question might be raised?

Mr. BARKLEY. Of course, the line of demarcation is so blurred at points that it is always difficult for anybody here to be sure that what he does is constitutional.

Mr. GEORGE. Perhaps I may help the Senator by this observation: I did not undertake to make a constitutional argument; that is not my purpose; my purpose is to point out the doubtful validity of this proposed act and to invite the Senate to permit, under the Clark amendment, the continuance of the plans now in existence if they meet the standards which the Congress is setting up.

Mr. BARKLEY. I do not want to take the Senator's time, but I derived the impression early in his remarks that his main objection was that the payment of the pension, the distribution of the fund, is so tied in with the collection of the fund as to make them one and the same transaction and that, therefore, the bill would be subject to grave constitutional question, whereas either transaction standing, on its own bottom, would not be subject to that fear.

Mr. FLETCHER and Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield; and if so, to whom?

Mr. GEORGE. I yield first to the Senator from Florida.

Mr. FLETCHER. As I understand the decision in the Child Labor case, it was to the effect that, although the act purported to raise revenue, as a matter of fact, it did not raise any revenue.

Mr. GEORGE. Exactly.

Mr. FLETCHER. The Supreme Court held that it was never intended to raise revenue.

Mr. GEORGE. Exactly; and that is what I am trying to say here. In that respect the principle is in point that this proposed act does not raise any revenue for the General Treasury, because all the money that it does raise is taken out and devoted to this specific purpose.

Mr. FLETCHER. I was going to ask the Senator, if this proposed act does, in fact, raise any revenue?

Mr. GEORGE. It is not intended to raise revenue, but it is intended to furnish support to the old-age-annuity and unemployment-insurance sections of the bill.

Mr. FLETCHER. Then the Supreme Court held that the Child Labor Act was an encroachment upon the police powers of the States, and that was really its purpose, in effect, if it was good for anything; that it deprived the States of the exercise of their police powers. Does this bill interfere with the establishment of old-age pensions and legislation on the subject by the States?

Mr. GEORGE. No, it does not, I may say to the Senator; I do not understand it so interferes at all.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from New York?

Mr. GEORGE. My time is limited on the amendment.

Mr. WAGNER. I will give the Senator some of my time, although, if it annoys him, I will not interrupt the Senator further.

Mr. GEORGE. I yield to the Senator from New York.

Mr. WAGNER. I desire to have a clear understanding of the Senator's point. The two features of the bill, paying the pension and raising the taxes, are separated. As I understand the proposed legislation, when the tax is collected it is to be paid into the General Treasury?

Mr. GEORGE. Yes; that is true.

Mr. WAGNER. And out of the General Treasury there will be made an appropriation for the payment of the pension?

Mr. GEORGE. Exactly.

Mr. WAGNER. In answer to my inquiry a short time ago, I understood the Senator to say that he did not doubt the power of Congress to make an appropriation for the purpose of paying old-age pensions to a class not arbitrarily selected. Thus, even if the court should hold that the classification of those taxed was an arbitrary classification and therefore unconstitutional, nevertheless the remainder of the bill, the portions providing for the payment of old-age pensions, could survive such a decision, could it not?

Mr. GEORGE. Mr. President, I was not considering that phase of it; I was considering the taxing power as being in fact, under this bill, tied in with the particular provision of title II, and a portion of title III of the bill.

Mr. WAGNER. But the Senator understands that the tax, as collected, is paid into the General Treasury?

Mr. GEORGE. I do, under the bill, and I so stated.

Mr. WAGNER. Exactly. There is an appropriation for paying old-age pensions?

Mr. GEORGE. Yes.

Mr. WAGNER. So it could very well be held by the Court to be constitutional.

Mr. GEORGE. If the tax was stricken down, it could very well be that the other portions of the bill might be held to be valid; I am not controverting that; but I do say it is not within the granted power of Congress to set up directly this kind of a pension system in the United States. It might be done, but I am trying to show that, despite the conscious and undoubted effort to separate the tax from the scheme set up in title II of the bill, nevertheless, the Court will look beyond the mere words or mere form and to the substance of the thing, and they will say that they are tied together, or, as I said in the beginning, they are likely to say they are tied together, or at least a serious question is raised as to whether they are tied together here.

Mr. WAGNER. Mr. President, I should like to ask the Senator one further question. Assuming that they are tied together, and the Court finds that the tax is levied upon a class that really gains a benefit through the payment of old-age pensions, might not the Court very well find that the Congress did make a proper classification for the purpose of imposing the tax?

Mr. GEORGE. It might find it, but let me ask the Senator from New York, if the taxing provision of the bill should be stricken down, would he undertake to justify the provision for old-age annuities running, as it does, to special classes if we are forced to go to the General Treasury for the money?

Mr. WAGNER. No!

Mr. GEORGE. The Senator very frankly says "no."

Mr. WAGNER. I say "no" because I am for the insurance system.

Mr. GEORGE. I understand, and I am asking the Senator the question if the taxing provision of the bill should be stricken down, would the Senator undertake to restrict title II to those employees who now come within it?

Mr. WAGNER. No. I should say we would have to revise the classifications altogether, of course.

Mr. GEORGE. I understand the Senator's viewpoint.

Mr. WAGNER. I think the Senator and I do not disagree on that point.

Mr. GEORGE. I know we do not.

Mr. WAGNER. I am very confident that it is a proper exercise of the taxing power and that the incidental purpose is valid for that reason.

Mr. GEORGE. I am not confident of it, and if time sufficed I should be glad to go into the constitutional question at length.

The Senator from New York now admits—and it does his conscience and humane purpose very great credit—that if the taxing provision of the bill should be stricken down he would limit the benefits under title II to those who now would receive them under title II. He is quite right about it. Therefore, I have said that title VIII is tied in inescapably with title II, and its sole purpose is to impose a tax for setting up a system of insurance and old-age annuities.

Mr. WAGNER. Mr. President, will the Senator yield further?

Mr. GEORGE. Will the Senator please let me finish my statement? I think I have been quite liberal in yielding.

Mr. WAGNER. The Senator made an assertion, but whatever I say cannot bind my colleagues as to what should be done in the event the tax provision is stricken down.

Mr. GEORGE. I understand that, but I understand the real proponents of the legislation——

The PRESIDING OFFICER. The time of the Senator from Georgia on the amendment has expired. Does the Senator desire to be recognized on the bill?

Mr. GEORGE. I shall take my time on the bill.

Mr. BONE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Washington?

Mr. GEORGE. I yield.

Mr. BONE. Is it the view of the Senator that any effort on the part of the Congress to set up a general old-age pension system would involve a vested property right, the right to advance a claim for monthly pension from Federal sources, and that a system of that kind would infringe upon the Constitution in a way to make it unconstitutional?

Mr. GEORGE. I am not discussing that question.

Mr. BONE. I understand that.

Mr. GEORGE. The bill grants benefits to a special and limited class and it imposes a burden upon a special and limited class.

Mr. BONE. My question was quite outside of that point.

Mr. GEORGE. I would rather not go into that wider field. I am going to undertake to say further as to the constitutionality of the tax that even the tax, to be constitutional, must be immune against the provisions of the fifth amendment. In other words, it is permissible under the fifth amendment to question the validity of the tax. Here is a tax upon certain employers. The beneficiaries of the tax are those who come within title II, let us say, of the bill, and they are a limited class. The tax on em-

ployers to support the system is levied at a uniform rate without regard to the hazards of industry. The mining company which sends its men down to the bowels of the earth, where fatalities often occur, has to bear the same burden of tax as the industry in which retirement, accidents, and death rarely and seldom occur. That is another feature involving the constitutionality of the measure, but I do not intend to do more than say that no responsible lawyer who has been in a courthouse three times would dare say that the provisions of this bill which have been discussed are not subject to serious question.

I do not have to go further than that, and on that predicate I say why strike down the private systems which have been built up through the years and which have granted benefits to employees? Why not preserve them?

The answer is, "We do not strike them down. They will still go on", when we know that will not be the case. Our mail is full of assurances by responsible men that they will be compelled to abandon their own systems if this tax shall be imposed upon them and if they shall have to pay it.

Also it was answered us in committee that none of the private systems grant equal benefits to those provided in title II and title III of the bill. If none of them grant equal benefit, pray answer me why would private industry maintain a system which did not grant equal benefits, but at the same time pay taxes to set up another system which increases the benefits over those of the private system then in existence? In other words, it is said in one breath that the private system can do more and will do more, that the private companies will maintain their private plans, and in the next breath we are answered and told that not one of the private systems maintained by private companies in this country bestows benefits equal to those provided by the bill.

Now let me answer those who stand firmly against the amendment, and they ought to be answered for the benefit of the American people. There is but one solid ground of objection to the amendment and that is the basic ground upon which it stands. Those who oppose the amendment want to put in the Federal Government the business of pensioning the people of the country. They want to centralize power here. They want to socialize and federalize the Nation in all its affairs. Otherwise they would accept the amendment and say, "We will not take the risk of striking down the private insurance systems in this country which have been built up through the years. We will not take the risk of destroying them, but of the private companies and individuals setting up their own insurance plans we will require—we will absolutely demand of them—that they set up a plan equal to that set up in the law of Congress. If they do that we will let them operate.

It may be said—it can be said, I concede, that the exemption from the tax of those who set up an acceptable and approved plan of insurance or of benefits, may emphasize the character of the bill, may further open it to attack upon constitutional grounds; but it is already open to attack. It is inescapable that the Court will be called upon to pass upon this bill. I do not wish to assert dogmatically that the Court will strike it down, but I do wish to say that no well-grounded lawyer can say certainly and dogmatically that the bill will ultimately prevail. Surely there is serious question of its validity when we look beyond the form and words of the bill to its substance.

The real objection to the amendment, the basic objection to the amendment, is not that it takes out the strong and leaves the weak to pay the tax, is not, in my humble judgment, the ground which has been advanced, but the real objection is the overweening desire of those who seek to concentrate in Washington all power and reduce the States to a system of vassalage, and to convert a free people, able and willing to manage and conduct their own affairs, into humble supplicants for the crumbs and for the benefits which may fall from the national table. I do not think it is healthy or wholesome. The least that can be done is to take this amendment and let the private systems continue to function if they grant equal or superior benefits, and let industry carry on as it has been carrying on through a period of years in building up these private systems.

It is said that only 1 percent or a fraction of 1 percent of all employees are now able to receive benefits through these private systems. Grant it; but up to this time the Federal Government has done nothing to induce, to aid, or to assist, and remarkable progress has been made in setting up some 450 private systems now operating in the United States, and making at least some provision for a large number of employees working for the individuals and companies which have established these private systems.

I wish it to be definitely understood that the purpose and objective of old-age annuities and of unemployment insurance have my heartiest approval; but in my judgment there is no necessity for the impatience with which we seek to do things which we cannot do, and then the courts strike them down and destroy all that industry has done.

The distinguished Senator from New York [Mr. WAGNER] has gone from the floor; but I recall that he was equally certain that the railway pension retirement act was constitutional, and yet the Supreme Court—by a divided Court, it is true—said that it was not.

From this bill are already excepted State employees and Federal employees, as the Senator from Missouri said, perhaps the largest class of employees working for one concern or one corporation or one political subdivision or one sovereignty in all of the United States. Already they are excepted from the bill. They do not pay any tax. Of course, the Government does not, as a tax, nor do the employees who work for the Government or for the States or for the municipalities, nor does agricultural labor or domestic labor. I am not saying that those exceptions are not properly granted; that if it were a mere matter of classification they would not constitute a proper basis for classification. I am not asserting that at all; but I am saying that the bill is already open to the constitutional objection which I candidly concede may be emphasized by further exceptions of classes on whom it does not operate. At the same time the question is there, and the act may go down before the decision of the Court; and if it does, then we shall have lost, after some 1 or 2 years of trial, all that has been gained by the efforts of private employers to set up their own systems.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. GEORGE. I yield to the Senator from Massachusetts.

Mr. WALSH. In the event the Senator should be satisfied that this measure is constitutional, would he favor the Clark amendment?

Mr. GEORGE. I think I should still favor the Clark amendment.

Mr. WALSH. In other words, it is not merely the irreparable loss that may result to employees who are now receiving benefits under private arrangements with their employers about which the Senator is concerned. Of course, there would be almost irreparable harm to them if this measure should be found to be unconstitutional.

Mr. GEORGE. That is quite true.

Mr. WALSH. But the Senator goes further than that, and regardless of the constitutionality of the measure, he is inclined to favor lifting out of it those private companies which make beneficial arrangements with their employees?

Mr. GEORGE. I do, but I was stressing the other point upon this particular amendment.

Mr. BARKLEY. Mr. President, in that connection, of course, if the courts should declare the act unconstitutional, it would then have no effect upon these private annuity arrangements. They would go on just as they are now.

Mr. GEORGE. Exactly; but in the meantime they would have been destroyed. The employers would have abandoned any effort to maintain their organizations. They would not wait for a year or two until the Supreme Court passed upon this measure and abide by the decision, or go into the courts

at the expense of heavy litigation to test the constitutionality of the measure.

Mr. CLARK. Mr. President——

Mr. GEORGE. I yield to the Senator from Missouri.

Mr. CLARK. I received this suggestion from the head of one of the largest banks in the State of Missouri, who told me that they have had a pension system for more than 20 years, and that they now have a large number of employees who will be eligible to retirement in the next year or two. If the bill should be passed without the amendment I have offered, and should strike down that pension system, and then the act should be declared unconstitutional, those men would simply be deprived of their rights.

Mr. HARRISON. Mr. President, will the Senator yield to me?

Mr. GEORGE. I yield to the Senator from Mississippi.

Mr. HARRISON. The Senator from Missouri will recall that the bill especially exempts Government agencies and Government employees, also such persons as are employed by a national bank.

Mr. CLARK. I will say to the Senator that this is not a national bank.

Mr. HARRISON. If it is a part of the Federal Reserve System, it is exempt.

Mr. CLARK. This was simply an illustration; not that that particular bank was important. I used the illustration to show what might happen in any industry where there is now established such a pension plan. It does not make any particular difference about whether or not that particular bank would be exempt, if the same thing ran through industry wherever private pension plans are now existing.

Mr. WALSH. Mr. President, may I ask the Senator from Missouri a question?

Mr. CLARK. The Senator from Georgia has the floor.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. GEORGE. I do.

Mr. WALSH. Would the Senator from Missouri accept an amendment that would permit the status quo to continue between employees and employers who now have insurance benefits until such time as the Supreme Court might pass upon the constitutionality of this measure?

Mr. CLARK. I should be perfectly willing to accept such an amendment as that, but I do not think such an amendment would reach the whole question.

Mr. WALSH. It would not completely take care of the Senator's objection.

Mr. CLARK. That is perfectly true.

Mr. WALSH. It would in part, but it would not completely do so. The Senator still thinks, notwithstanding the passage of this bill, that private employers who desire to make special arrangements with their employees should be permitted to do so?

Mr. CLARK. I do not think there is any question about it.

Mr. GEORGE. Mr. President, I had not intended to occupy the time I have taken, and I had not intended to discuss the general bill under consideration. I had intended to confine myself strictly to the Clark amendment. My purpose was to point out at least the possibility of serious constitutional objection to titles II and VIII of the bill as it now stands; admitting that further exceptions from those who are made liable to the tax may still open the bill somewhat to more direct attack, nevertheless, that question is there, and the Supreme Court will be compelled to meet it whenever a proper case reaches that tribunal; and that if the Court should hold the act unconstitutional, all that has been gained by individuals and companies that have operated their own systems probably would be lost; at least, the larger part of it would be lost. While many of the systems operated by individuals and corporations and associations may be open to question, while many of their practices may be subjected to certain sharp criticisms, nevertheless on the whole they have accomplished great social good for their employees; and therefore this simple amendment, which gives the election to the employee to go under the Federal system or to remain in his private system, ought to be adopted as a part of this proposed legislation.

Mr. COPELAND. Mr. President, I have been much impressed by what the author of the amendment has said, as well as by what the Senator from Georgia [Mr. GEORGE] has stated.

I desire to use a part of my time in asking questions of the Senator from Missouri regarding the effects of this plan.

I am disturbed because in my State many industrial concerns have arrangements for insurance and of course prefer not to be disturbed. At the same time there are many citizens of New York who feel that to permit the continuance of the private insurance arrangements would result materially to reduce the level of age of the employees in such industrial establishments. For these reasons I wish to ask a question or two of the Senator from Missouri, questions founded on an analysis of his amendment which has been given to me.

We will assume that a basic condition to permitting an employer to maintain a private pension plan would be the establishment of benefits at least equal to those under the Security Act. The two main factors in cost would be the general level of wages and salaries paid by the employer, and the ages of his employees. The younger the employees, and the higher the level of pay, the greater the advantage to the employer in buying annuities from a private insurance company.

Of course, these two basic factors are in part opposed to each other, since high age distribution is usually associated with higher than average wages.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. CLARK. Under the amendment as it is now before the Senate the objection the Senator has just raised is taken care of by the provision that the employer must pay into his private pension system or into any other system not less than the amount of the tax he would pay in under the Government plan; so that if there be any advantage to an employer who employs younger men, that advantage must go to the employees, because the employer will be able to buy more annuity with the amount of tax he is required to pay in.

Mr. COPELAND. That is a very satisfactory answer; but I desire to press the matter for the moment, in order that my conscience may be clear.

Does the Senator from Missouri believe that this private plan would tend to the employment of fewer persons over middle age? The problem of employment for a person past middle age, of course, is rapidly becoming one of the most serious social problems with which we have to deal. Would the effect of the amendment which the Senator has offered be to intensify that problem?

Mr. CLARK. I do not see how that could possibly be true, in view of the fact that the employer at every stage of the game, at every period of paying the tax, must pay into the private pension fund not less than the amount of tax; and then, when the employment of the employee is terminated, there must be paid into the Government fund as much as the tax would have been compounded at 3 percent annually.

Mr. COPELAND. I thank the Senator. I take it to be his view that the amendment would not aggravate unemployment among the middle aged.

Mr. CLARK. I do not see how it possibly could.

Mr. COPELAND. I assume the Senator has seen the same analysis to which I am referring.

Mr. CLARK. I have never seen that particular analysis, but I may say to the Senator that the same question was raised in the committee, and that the amendment was drawn to meet that specific objection.

Mr. COPELAND. So the Senator is quite satisfied that the retention of these successful private systems would in no sense endanger the employment of persons of advanced age, and could not be used by the industries which have such systems to coerce employees in any sense?

Mr. CLARK. I do not see how it possibly could. I may say to the Senator from New York that I have agreed with the Senator from Washington [Mr. SCHWELLENBACH] to accept an amendment to my amendment which will provide specifically that the election to go under a private system shall not in any sense be made a condition of employment or

of retention of employment, which I think would be an improvement on the amendment.

Mr. COPELAND. May I ask the Senator from Washington what his amendment is? It perhaps covers the very point I have in mind.

Mr. SCHWELLENBACH. Mr. President, on page 2, line 16 of the amendment of the Senator from Missouri, after the word "plan", I propose to insert a colon instead of the period and the words "*Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment."

Mr. CLARK. I am glad to accept that amendment.

Mr. COPELAND. I think that is a very valuable amendment.

Mr. SCHWELLENBACH. If the Senator has no objection, I might offer it at this time.

Mr. COPELAND. I wish the Senator would do so, because it would help to answer the criticism I have in mind.

Mr. CLARK. I accept the amendment, and modify my own amendment in accordance therewith.

The PRESIDING OFFICER. The Senator from Washington offers an amendment to the amendment of the Senator from Missouri, which the clerk will report.

The LEGISLATIVE CLERK. On page 2, line 16, after the word "plan", it is proposed to insert a colon instead of the period and the following words:

Provided, That no employer shall make election to come or remain under the plan a condition precedent for the securing or retention of employment.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. McNARY. Mr. President, may I inquire whether this is a perfecting amendment to the amendment offered by the Senator from Missouri?

The PRESIDING OFFICER. It is a perfecting amendment offered by the Senator from Washington [Mr. SCHWELLENBACH].

Mr. CLARK. I accept the amendment offered by the Senator from Washington, and modify my own amendment in accordance therewith.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. COPELAND. Mr. President, I take it that answers the criticism I had in mind, namely, that the encouragement of private pension plans would place powerful coercive weapons in the hands of employers.

Mr. SCHWELLENBACH. I may say to the Senator that that was my purpose in preparing the amendment.

Mr. COPELAND. I think it is a very valuable addition to the amendment of the Senator from Missouri.

As I review the amendment, as it now stands, as compared with the amendment as it was originally offered, I think it has been very greatly improved. To a great degree it answers the criticisms which have been passed upon it. I am glad, because, as I have already said, there are many private plans in force in my own State, and they have been very successful in most instances. Yet I would not want anything to interfere with the proposed legislation, which to my mind is very important.

The greatest tragedy in the world is the tragedy of old age in poverty, and whatever we can do to relieve the distress of mind of those of our people who have not been fortunate enough to accumulate the wherewithal to be maintained in old age is a very desirable and necessary thing to do. At this time, too, there are thousands of families, I suppose millions, who thought they had prepared for the rainy day, but by reason of the depression, and the circumstances involved in it, they have come to be almost as bad off as many who were born and have lived all their lives in poverty.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. CLARK. I should like to call the attention of the Senator to a plan in force in a company in his own State as an example of private pension plans. I refer to the Socony Vacuum Oil Co. I have in my hand a letter from the chairman of the annuity insurance committee of that company in which he states:

The employee pays 3 percent of his wages into the fund; the company pays approximately 4 or 4½ percent into the fund.

Over 99 percent of our employees are under the plan, which is insured with the Metropolitan Life Insurance Co. The average pension payable exceeds the maximum $85 payable under the Government plan.

I should like to read that again:

The average pension payable exceeds the maximum $85 payable under the Government plan.

In other words, under this plan the average annuity is greater than is possible under the Government plan.

As part of this plan, each employee is carried for life insurance to the extent of 1 year's salary, for which he pays six-tenths of 1 percent and the company pays the balance.

Our company desires to continue with its private plan.

I ask the Senator this question: When a company has been willing voluntarily, without any compulsion of law, to do more for its employees than is likely or than would be permitted under the proposed act, why should not those employees have the benefit of that additional plan?

Mr. LONG. Mr. President, will the Senator from New York yield to me?

Mr. COPELAND. I yield.

Mr. LONG. I merely desire to call the attention of the Senator from Missouri to the fact that under most of the private pension plans an ex-employee does not have to prove himself to be needy in order to get his pension.

Mr. CLARK. That is perfectly true; the pension accrues as a matter of right.

Mr. LONG. It accrues as a matter of right, but under the particular bill before us that would be wiped out, and unless a man proved himself to be a pauper he could not qualify for the pension roll.

Mr. COPELAND. Mr. President, the great trouble in the United States, and I suppose all over the world, is that when a man or woman approaches middle life, or passes middle age, and is out of employment, it is almost impossible to find new employment. There is almost unanimity of opinion among employers that such persons are not desirable employees; the situation is pathetic.

My only regret about the bill is that we have not been a little bit more generous in it. I assume we will go just as far as we can, and we ought to, but certainly if there is one thing which stirs the emotions and should excite us to do the right thing it is the urge to take care of aged persons.

We can find means to aid the babies, we establish institutions to prevent disease, but the most amazing thing is that the homes for the care of old people are almost bankrupt. If we cannot through voluntary contributions maintain in decency persons in old age, then certainly it is time for the Government to step in and undertake what is intended to be done by this measure. As I have said, my only regret is that we cannot deal more generously with our aged citizens.

Mr. HARRISON. Mr. President, before a vote is taken on the amendment I desire to say to the Membership of the Senate that there was no question presented to the committee related to the pending legislation to which we gave more consideration than to the question before us. It was presented by the distinguished Senator from Missouri [Mr. CLARK] and the distinguished Senator from Georgia [Mr. GEORGE].

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield. I mean the idea was presented by the Senator from Missouri.

Mr. CLARK. If the Senator will permit, I merely desire to recall to the Senator's mind the fact that the amendment was lost in the committee on a tie vote only.

Mr. HARRISON. That corroborates my statement that the committee gave the matter every consideration.

When the question was first presented to the committee, the amendment appealed to me, as one member of the committee, and I am sure it appealed to others. I thought that those institutions which had built up private pension systems of their own should be commended; that they had taken a great forward and progressive step and that they

should be encouraged because they were forward looking; and personally I did not want to see anything done by legislation which might hamper their progressive march.

When we begin to analyze the proposition, however, from every angle and to stop, look, and listen, we find there is more to it than might appear at first glance, and I changed from the first opinion that I held about the matter.

We had before us some experts; one gentleman from Rochester, N. Y., Mr. Folsom, who made a splendid presentation and was thoroughly informed on the matter. He is a man of extraordinary ability and has charge of the pension system for the Eastman Kodak Co. It is my impression that he is thoroughly satisfied with this provision as written now. He appeared before us when the bill was being considered in executive session by the Finance Committee.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. So far as Mr. Folsom is concerned, the Senator will recall that in the executive session of the Finance Committee, when this proposition was under discussion, the statement was made by Mr. Murray W. Latimer that Mr. Folsom did not approve this amendment, and I have here a communication from Mr. Folsom in which he says that Mr. Latimer was not authorized in any way to say that.

Mr. HARRISON. Mr. President, I am not in a combative mood or of such disposition at all. I am in the most amiable spirit in the world. My greatest desire is to try to finish the debate on the bill this afternoon and send the bill to conference; so I admit, if the Senator makes the statement, that it is so. I have been led to believe that he is satisfied with it. Mr. Latimer, who is one of the great experts on this legislation, appeared before the committee and, if I correctly recall his testimony, he said he met with the representatives of nine of the biggest industrial institutions of the country, which had inaugurated and carried on for many years these private pension plans, and he said that of the 9 representatives present 5 of them thought it was better for these corporations to come under the Government's pension plan.

Let us see now why some believe that it is better to have one system than for business institutions to continue their individual pension systems and not participate in the proposed plan. It was pointed out by the distinguished Senator from Delaware [Mr. HASTINGS] the other day that there is favored treatment accorded to those in the old, ripe years over those of younger years. We admit that. It is just so. It cannot be otherwise. They have worked many years in comparison with the short period they will be under the proposed annuity system, and consequently we give them proportionately more for the time they are in the system than we do younger men.

Then some of us believe that in a great crisis such as the present, with problems such as now face us, that favored treatment should be given to help to bear the burdens of the older worker. However, that was the Senator's criticism of the bill. When he compared the benefits and burdens imposed by this measure, he found that the old received larger benefits compared to burdens. If these private institutions are permitted to carry on their private pension plan, there is nothing in the amendment of the Senator from Missouri [Mr. CLARK] which prevents them from doing what they please in the matter of discharging men when they reach a certain age, because of the heavy obligations which are imposed upon the private industrial institutions, and take on in their places younger men, because the younger the men are the less heavy are the obligations.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. Is there anything in the bill as it now stands which prevents an industrial company from laying off men when they reach a certain age?

Mr. HARRISON. Yes.

Mr. CLARK. What is in the bill that prevents that, which is not in the amendment?

Mr. HARRISON. Of course, they can fire them if they want to, so far as direct provisions of either bill or amendment is concerned.

Mr. CLARK. In other words the same situation exactly exists under the bill as it is proposed which will exist under the bill with the amendment in it, is that not correct? Is that not precisely the situation?

Mr. HARRISON. There is nothing in the bill which compels an institution to keep somebody on, but there is a provision that if a man has worked a number of years, or has reached a certain age, or he dies, that he or his heirs shall get a certain fixed payment.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. BLACK. It does not have to be in the law, it seems to me, for the reason that if the company buys a private annuity for all of its men it would certainly be able to buy it much cheaper if it were to employ men from 21 to 25 than it could if it kept men from 50 to 65 years of age.

Mr. HARRISON. Absolutely.

Mr. BLACK. So there is the strongest inducement in the world for them to endeavor to get the insurance the cheapest way possible, and you would find them competing to get cheaper rates of private insurance by employing younger men, if they were permitted to discharge their older employees.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. If the Senator from Alabama will take the trouble to read the amendment he will find a specific provision in the amendment that the employer under private practice shall pay into the private-pension plan not less than the amount of the tax. So that his argument of there being an incentive to employ younger men absolutely falls down. If it be true that by employing younger men he is able to get his insurance cheaper, then by reason of the fact that he must pay in at least the amount of the tax he can simply get more annuity for the employees.

Mr. HARRISON. The Senator at one place in his amendment provides:

> Except that if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection.

In other words, if there is a private industrial institution with a private pension system, and it should go bankrupt just before an employee became 65 years of age, or entitled to the pension, the responsibility would be placed on the Government, and it would have to pay the pension and not the private institution, because there would be nothing left of that institution. There is another provision in the amendment which says that he can receive back the amount he paid in——

Mr. CLARK. Plus 3 percent interest; exactly what he would get under the Government system.

Mr. HARRISON. Yes. There is this about that. The amount he pays in amounts to 3½ percent of his wages, payable in the case of death to the estate. What the employer paid in thus goes into the Federal Treasury of the United States, if the employee is in the Federal system, and is lost to the Treasury if the employer has a private system. The older man would naturally be left in the Federal system, and funds from general taxation paying benefits under the Senator's amendment.

However, aside from all the analysis which we might go on with here, which I was hopeful we might avoid, the simple question, Members of the Senate, is this: We did not adopt this amendment which was offered in the committee because, first, we thought it might be an encouragement to private institutions to stay out of the system, weakening the Federal plan and giving a leverage to private institutions to discharge their employees when they had reached a certain age, and to take on younger men, or that same institution would go out and take Federal insurance under this plan to the number of its older men, but as to the younger men

they would carry private insurance, because the burden would not be so great in one case as in the other case; and, secondly, some of us believed that it would add to the doubtfulness of the constitutionality of this bill. Of course, I do not know, and no one else can know what the Supreme Court will hold.

Mr. CLARK rose.

Mr. HARRISON. I will yield to the Senator in a moment. I had not completed my sentence. I can talk so much better when the Senator is sitting down. No one in the world can tell what law is going to be held unconstitutional until it is passed on by the Supreme Court. I am not criticizing the Supreme Court. They have their functions to perform and we have our functions to perform; but I might say incidentally that when the question comes up before the Senate of two-thirds of the Justices passing on the unconstitutionality of congressional legislation I am going to support that proposed amendment to the Constitution of the United States.

Mr. LONG. Mr. President, what is that? What did the Senator say?

Mr. HARRISON. It is not worth repeating to the Senator. [Laughter in the galleries.] I do not suppose that the Senator agrees with me.

In the Child Labor case the Supreme Court did declare that act unconstitutional. They declared it unconstitutional when Congress levied a tax upon products made by child labor, or by those under a certain age, which entered into interstate commerce.

Here the measure presents a uniform system of old-age benefits. The taxing features of the bill are entirely separate from other provisions. These taxing provisions are to raise revenue which, it is believed, will roughly equal anticipated appropriations for unemployment insurance and a system of annuities. Whether that will have any influence on the Supreme Court I do not know, but it was drafted by some very fine experts, and the tax features are over here in a part by themselves, so far as the constructive features of this legislation are concerned.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CONNALLY. It will not have any effect on the court unless the Senator talks about it.

Mr. HARRISON. The experts drafted it, and it is there, and we hope that it will have its influence and its bearing. However, if this amendment were adopted, it would seem to me that it would make the measure more doubtful than otherwise, because with this you are imposing a tax and trying to compel people to set up unemployment plans, because you say to them, "If you do not go into a private insurance plan, we are going to tax you." That might be held analogous to the Child Labor case.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Colorado?

Mr. HARRISON. I promised to yield to the Senator from Missouri [Mr. CLARK] first.

Mr. CLARK. I do not desire to disturb the Senator's train of thought, because he has left the subject upon which he was talking at the time I tried to get him to yield.

I should like to get the Senator to explain merely wherein his statement is correct that under this amendment as it now stands there could possibly be any advantage to an employer financially in staying under a private plan and being under the Government plan, assuming that he employed younger men, if he has to pay the amount of tax, anyway, plus a further amount?

Mr. HARRISON. Let us take the provisions with reference to the proposal in the bill as recommended by the committee:

All industrial employers pay the tax imposed, and annually appropriations are made to the reserve fund to be invested; a large reserve is to be built up through their investment, by the purchase of Government bonds, and so on. The purpose is to give strength to the fund and assurance that when employees shall reach 65 they will get the payments due them, and when they shall pass off the stage of life their estates will receive the money to which the worker was entitled. But if an industry sets up a private plan under the amendment it is separate and apart; the board to be created will not be authorized to investigate, for instance, what reserve the private institution may have.

Mr. CLARK. The board has to approve the plan.

Mr. HARRISON. Oh, yes; the board has to approve the plan when the application is first made, but there is nothing in the amendment with reference to the board following through to determine whether or not the reserves may be dissipated, or what may become of them, of what the financial status of the industrial corporation is; and, consequently, after men have paid into this private fund for years and years, if the institution becomes bankrupt, they may lose their all.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HARRISON. I yield.

Mr. CLARK. It is perfectly apparent the Senator has not read the amendment, because in paragraphs (c) and (d), page 3, it is specifically provided:

(c) The Board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

(d) The Board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b).

So the board has the authority to follow up the operation of the private plan, and it is the duty of the board to do so, though I do not concur in your conclusion, but conceding it for the moment.

Mr. HARRISON. If the board should withdraw its approval of the plan, and the fund has been dissipated, or there is not sufficient reserve to meet the demands upon the fund, or the plan is discarded, then what is going to happen to the poor individual who has been paying into the fund for many years and who is shortly about to reach the age limit?

Mr. CLARK. The reserves will largely be invested under supervision of the board and under such regulations as the board may make.

Mr. HARRISON. The amendment does not say "under the supervision of the board."

Mr. CLARK. Let me read the Senator the provision:

The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee, approved by the Board.

Mr. HARRISON. Yes; but it does not say anything about continuing supervision, as I understand. When a concern makes application for the approval of a particular plan the board has authority to approve it, but it has no jurisdiction, as I understand, to follow through with subsequent investigation and with general supervision and control of the funds of the private institution.

Mr. CLARK. Subsection 3 clearly gives the board that authority.

Mr. COSTIGAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Colorado?

Mr. HARRISON. I yield.

Mr. COSTIGAN. Mr. President, with his usual force and ability, the Senator from Mississippi has stated the reasons for rejecting this amendment. May I ask the Senator whether it is not true that the experts who have continuously counseled the committee with respect to this proposed legislation believe that this amendment threatens the welfare of the older workers and is calculated to impair the integrity and efficiency of the bill?

Mr. HARRISON. As I have suggested, I was led to believe in this proposal when it was first advanced, but later I became thoroughly convinced that it might be used to the disadvantage of the older men in favor of the younger men; that it might affect greatly the system we are trying to put into operation; that it also might affect the constitu-

tionality of the measure; and that is why, as one member of the committee, I did not support it.

Mr. BARKLEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Kentucky?

Mr. HARRISON. I yield.

Mr. BARKLEY. The point has not been raised, as I recall, but it seems to me that this amendment may endanger the constitutionality of the proposed act on another ground. The Constitution provides that:

All duties, imposts, and excises shall be uniform throughout the United States.

Of course, that does not mean that Congress has to levy the same kind of tax on everybody in the United States; Congress has the power to classify the people for the purpose of taxation; but within that class the tax must be uniform. How can the Congress establish a class in order to bring about uniformity of taxation and then lift individuals or groups out of that class and say, "You shall not be subject to the tax provided you have a private institution of your own", without endangering the constitutionality of the tax on the ground of the lack of uniformity?

Mr. HARRISON. I agree with the Senator. I hope the Senate will not adopt the amendment and that it will be rejected.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Minnesota?

Mr. HARRISON. I yield to the Senator.

Mr. SHIPSTEAD. It seems to me there is a question of policy involved here. I have had, in recent years, complaints from people who supposed they were the beneficiaries of private retirement systems but who found that the reserve funds invested to carry on the retirement plan had been so badly invested that when the time came for them to receive the benefits which were anticipated, and which they expected to receive annually, the condition of the fund was such that the amount received by them, in many cases, was very little. Others have complained that they have been discharged from the service a year before the date for their retirement without, at least so they claim, any just cause. I wonder if the committee has considered the injustices and the disappointments which in many cases have come to those who are supposed to be beneficiaries of private pension systems.

Mr. HARRISON. That, as I have stated, was among the reasons that caused some of us to oppose the adoption of such an amendment as is now pending. There is nothing in this proposed legislation that will prevent private institutions from carrying on their pension systems just as they have carried them on in the past. They can do that if they so desire. There is no reason in the world because of the adoption of this measure for any person who has an interest in such a private fund and who has been a participant in a private pension system losing it. He will have all his equities and all his rights just the same. If a private pension system is, as some have pointed out, better than the Government's plan, those supporting it will have a perfect right, so far as this legislation is concerned, to carry it on as they have done in the past. If some big-hearted industry has been doing that, it can continue to do it just the same. Of course, it will have to pay the tax that is required under the proposed law, but it may add that to the benefits of its employees.

Mr. President, it was stated by the Senator from Georgia that we are trying to centralize administration of the system here in Washington. I do not think he was talking about me, but he was talking about some who have had something to do with the framing of this proposed legislation. It must be recalled that when this proposal was first made to the Senate Finance Committee it gave much more power to officials in Washington, so far as pensions were concerned. The authorities here were to pass on State plans with respect to amount of pensions, who should get pensions, and so forth. They were, in many respects, to pass on standards of my State, such as those specifying who is a needy individual and how much he is to obtain; but we subsequently effected a complete change.

I know it was the opinion of the Committee on Finance that the whole order should be changed and that the authority should be vested in the States. The House acted first; they completely rewrote the bill, and they left it to the States to say who should get a pension. The Finance Committee put in only the limitations that the Federal Government would contribute pensions to needy aged individuals. The $15 per month Federal contribution does not limit the pension to $30. The State may go up higher than that if it so desires. The measure also provides that the age should be 65 years, with the exception that up to 1940 the State, if it chooses, may fix the age at 70. So the measure is not one which centralizes everything in Washington, but it is to be left largely to the States to determine how to expend this money.

Of course, the Federal annuity the proposed amendment affects is wholly a Federal matter and naturally is administered in Washington, but this is only one of the many phases of the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HARRISON. I yield to the Senator from Louisiana.

Mr. LONG. I notice the Senator is of the opinion that the administration is to be left to the States. I call his attention to the fact, however, that the board in Washington can judge that the State has failed to comply with the general outline or the specific plan and can thereby eliminate the State from receiving a contribution. In other words, whenever the board takes a notion it can cut off the State.

Mr. HARRISON. No; the Senator is mistaken about that.

Mr. LONG. Let the Senator look on page 6.

Mr. HARRISON. We lay down the conditions——

Mr. LONG. But the bill lets the board be the judge.

Mr. HARRISON. And we leave to the States to say who shall be the persons selected to receive the Federal assistance.

Mr. LONG. But the Senator does not catch my point.

Mr. HARRISON. Of course, reports must be made to Washington.

Mr. LONG. Not only that, but the board is the sole judge as to whether or not the act is being properly carried out by the States. The board is the sole judge of the facts and of the law, and it can say, "Under the law and the facts we have decided that the State of Mississippi is not complying with this law, and therefore it will receive no more help from the Federal Government for pensions." Furthermore, not even an appeal to the courts has been provided. The board can cut the States off if it wants to, and my experience has always been that when boards are made judges of the facts and the law they fit the law and the facts to whatever they want to do.

Mr. HARRISON. Of course, the States have to make reports to Washington, and they should make reports to Washington. The Federal Government will be expending millions of dollars, and some agency of the Federal Government should know about the expenditure and should have reports. We do that with reference to the Federal aid for roads, for which purpose we appropriate millions of dollars; naturally, reports have to be made and some supervision provided. But the bill gives the maximum amount of jurisdiction and authority and power and discretion to the States with reference to the aid granted for old-age pensions, and with reference also, I may say, to unemployment insurance and provision for child welfare, and so forth. When this bill was first proposed to our committee it provided what kind of plan of unemployment insurance there should be. We broadened it so that the State itself may adopt unemployment insurance providing for pooled funds, separate accounts, or a combination of these plans.

Mr. LONG. Mr. President, I want to say to the Senator that if the board should decide that the States are discriminating among the people to whom they are giving pensions, if the board should decide the States are giving to the nonneedy and leaving out the needy, if the board should

decide that any of the sections of the bill are not being carried out in spirit or in letter, the board could cut off any State if it should want to cut it off. A blind man can see that if he knows what has happened in similar cases. He would know they could cut off whom they wanted to. The facts are always there, as Frederick the Great had them, as I was telling, and there are always professors in universities to explain the reason they have for cutting them off.

Mr. HARRISON. Mr. President, I think I have said all I desire to say.

Mr. WAGNER. Mr. President, I do not desire to extend this discussion unduly. I only wish to call the attention of the Senate to a few considerations that make me very apprehensive about the pending amendment. One of our great industrial problems—and I think most Senators who have given any thought to the subject realize it—has been the preservation of employment opportunities for older men, men above 40 years of age. We have heard time and time again that industry refuses to employ these men. In spite of what the Senator from Missouri [Mr. CLARK] said, surveys which have been made time after time show that private pension plans tend to discourage the employment of older men.

The bill now pending would do away with the incentive to get rid of the older workers, because the contributions of the employer and the employee will be the same whether the man employed is 55 years of age or 30. There will be no financial advantage to be derived merely by the employment of younger men.

To show that there has been discrimination in the past I cite the fact, that of all the employees who have been entitled to draw pensions from industry under voluntary pension systems, only 4 percent of them are actually drawing any benefits. Men are rarely employed until they reach the age where they would be entitled to a pension. The amendment of the Senator from Missouri would tend to perpetuate this evil. It would create an incentive to the discharge of older workers that many employers could not resist.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK. Will the Senator be kind enough to explain wherein that danger lies?

Mr. WAGNER. Yes; I shall try to do so. Under the bill as now drawn the older men of today will receive an annuity which is greater than they will have actually earned. The theory is that the younger men and the employees who are contributing to the fund will make up that difference by contributing over a longer period of time; otherwise the system would, of course, become bankrupt.

Industries are going to try to make this plan as inexpensive to themselves as possible. If they employ older men, they will have to use part of the funds contributed by the younger men to pay the annuities to the older men. The chances are that the employer himself will have to make up a substantial part of the difference.

Mr. CLARK. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. Does the Senator from New York yield further to the Senator from Missouri?

Mr. WAGNER. I yield.

Mr. CLARK. If under the amendment the employer is required to pay into the private fund not less than the amount of the taxes he would have to pay if he were paying into the Government fund, where can there be any advantage in the way the Senator has indicated?

Mr. WAGNER. If he has a greater number of older men than of younger men, his fund is bound to become bankrupt; because, as I said, when the older man of today retires he will get an annuity far larger than he has actually earned. Somebody has to make up that difference. If there is a large pooling system, however, to which the younger men and the employers throughout the country contribute, there will be ample funds to make up the difference.

Mr. CLARK. Under the amendment the employee cannot possibly get less than he would get under the Government system. The employer cannot contribute less than he would contribute if he were under the Government system.

Mr. WAGNER. But the employer will say that he will not employ older men. He does not want the problem of having to pay his employees more than they have actually earned. It is very clear to me, although I may not have made it very clear to the Senator from Missouri.

Mr. CLARK. The Senator certainly has not.

Mr. CONNALLY. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Texas?

Mr. WAGNER. I yield.

Mr. CONNALLY. I suppose it has already been pointed out, but the chief objection to the amendment is that it will interfere with any wide-spread general plan. All the prosperous businesses will build up their own little plan, thinking they can save money by it, and there will be left only the little wabbling, crippled corporations to participate in the Government plan. It seems to me the plan ought to be universal in its application.

Mr. WAGNER. That is the only way to make it work successfully.

Mr. CONNALLY. If we have the same standard throughout all industry, then no one will have any advantage over anybody else in industry.

Mr. WAGNER. That is the idea of any pooling system.

Mr. CLARK. Mr. President, will the Senator yield further?

Mr. WAGNER. I yield.

Mr. CLARK. The same rule would apply under section 909, where provision is made for a lesser tax based on experience.

Mr. WAGNER. That may be, but there is no question of a national pooling system there. Each State has its own system. Under the bill it may be a pooling system, or it may not be A State may enact a law permitting private industries to carry their own unemployment insurance funds. That has no bearing here.

Mr. GEORGE. Mr. President, may I ask the Senator a question?

Mr. WAGNER. I yield to the Senator from Georgia.

Mr. GEORGE. If it is absolutely necessary to have a uniform and universal system, why is it the Senator has excepted some existing systems?

Mr. WAGNER. I meant universal within a class.

Mr. GEORGE. Why so? Why say "class"?

Mr. WAGNER. We must have a pooling system, insofar as those with whom we deal are concerned. We need not include in the pool classes excluded from the bill.

Mr. GEORGE. The chairman of the committee stated a little while ago that the national banking system, which had its own pension plan, would be under the Government system, while the State banking system, which is not under control of the Federal Government, would be outside the Government plan.

Mr. WAGNER. A number of States have pooling systems for workmen's compensation. The State of Washington has one that has been sustained by the Supreme Court, the Court saying that some of the better and more prosperous employers could be compelled to bear part of the cost of those who had a more unfavorable experience. That is the whole theory of a pooling system. Any actuary, I am sure, would be able to persuade the Senator that it would pay an employer operating a private pension system to eliminate entirely the risks arising from employing the older men.

Mr. LONG. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. LONG. We have not outlawed it in this bill, and that is the point which the Senator from Georgia and the Senator from Missouri were making.

Mr. WAGNER. The Senator was talking about another matter altogether. He was talking about unemployment insurance. We do not attempt to deal with that on a national scale. Each State will be free to determine under what system it desires to pay unemployment insurance. That has no connection here.

There is another consideration that we have not said very much about, and I wish to invite the attention of the Senator from Missouri to it. Our country has a tremendous industrial turn-over. Suppose, to be very moderate indeed, that in the industries which adopt this system a million men are the annual turn-over.

In each individual case when a job is vacated, either voluntarily or through discharge, the board would be required to determine what amount should be paid by the employer into the Federal fund on behalf of the particular worker, or if the employee died in service the board would have to examine whether his estate received its full due. Such circumstances would require in each instance a separate investigation. How will it be possible to conduct a million investigations per year just to ascertain these facts? It would certainly be unfair not to investigate them, because some of these plans may be run loosely, and may not afford the individual worker the protection to which he is entitled.

Mr. CLARK. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Missouri?

Mr. WAGNER. I do.

Mr. CLARK. If any private plan were loosely run, it would be directly chargeable to the holy social security board set up by the Senator himself in this measure, because they are specifically charged with the responsibility of seeing that these plans are not loosely run; and since we are giving them practically powers of life and death over the population of the United States anyway, it does not seem to me too much to require that they should see that these private plans are not loosely run.

Mr. WAGNER. Even though they may not be loosely run, certainly the worker should have some assurance that he is getting all that he is entitled to get. He is not an actuary. He is not a mathematician. He is just a plain worker. He does not know whether or not he is getting the proper sum, and he is entitled to Government protection.

We had a persuasive experience upon an analogous matter in New York State. For a period of time after the workmen's compensation law was enacted—and I was largely responsible for the liberal provisions of that law—we permitted insurance companies to make private settlements with workers when they were injured. We thought that no abuses would occur, and that a proper determination would be made of the injury which a man received and of the amount of compensation to which he was entitled under the law. But very soon abuses came to the attention of the authorities. Officials and investigators themselves were frequently at fault. Wanting to make good records, they paid, for the loss of a leg, perhaps, the price of the loss of a finger. The poor worker did not know the difference. He did not know what he was entitled to, so he signed a release. The system was in existence for only about a year when the abuses were called to the attention of the legislature, and we changed the law so that the approval of the authorities must be had in each case before payment was permitted to be made.

These millions of workers, when they leave one employment and go into another, are entitled to protection, and where can enough inspectors be obtained to make investigations and report every case? I think that, as a pure matter of administration, the amendment of the Senator from Missouri is an impossibility.

Besides, of course, as the Senator from Mississippi [Mr. HARRISON] has pointed out, there would be no public control over the administration of the private funds of companies. A man could not be sent in every week or every month to make an investigation as to how the funds were being administered. I do not say that there would be so very many abuses; but the worker must be protected in every case.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WAGNER. I yield to the Senator from Missouri.

Mr. CLARK. How does the Senator construe subsection (c) on page 3 if he says the board has no right to make inspections and follow up these matters? The subsection provides for that as specifically as the legislative drafting service was able to make it do so.

Mr. WAGNER. I am addressing myself more to the physical impossibility of doing it. I should like to agree with the Senator on his plan. I know that most of the private companies wish to be fair to their employees, but, at the same time, they all feel that they owe an obligation to their stockholders, and they are going to conduct these funds with as little expense as possible.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Mississippi?

Mr. WAGNER. I do.

Mr. HARRISON. I was about to ask the Senator a question, but I wished to have the Senator from Missouri hear it in the hope that it might appeal to him.

This part of the bill is to go into effect in 1937, 2 years from now. Am I right in that statement?

Mr. WAGNER. Yes.

Mr. HARRISON. If we could pass the bill in this form we should have 2 years in which to study the question of amending the law and working out the safeguards that might be absolutely needed in the way of supervision, inspection, and all those things. We could study this particular proposal further, and we should have 2 years in which to make the study.

Mr. WAGNER. Yes; that may very well be.

Mr. HARRISON. I hope the Senator from Missouri will acquiesce in taking that course.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. WAGNER. I yield.

Mr. CLARK. The Senator's argument answers itself. If the amendment should be accepted, and any hardship were to develop, it would always be possible to amend the act and cut out the exemption. The Senator's proposal is to wipe out these private pension systems, and then, if we find that we have done a wrong, to try to cure the wrong by amendment.

Mr. WAGNER. I know the Senator will not agree with me on that point; but I am firmly convinced that if this amendment were adopted we should find the Government holding the bag for the older men who are entitled to consideration, while the industries would take care only of the younger men who earned every bit of annuity they received. That is the danger; and in connection with this very remarkable step forward in taking care of the aged members of the community, I do not think we ought to risk, even in the slightest degree, an amendment of this character.

Mr. CLARK. Mr. President, will the Senator yield one moment more?

Mr. WAGNER. Yes.

Mr. CLARK. A while ago I referred to the plan in effect in the Socony-Vacuum Co., which gives to its employees certain very outstanding advantages above the Government plan. I am just in receipt of a telegram from Mr. Guth, of the Socony-Vacuum Co., which it seems to me answers the Senator's argument. He says:

> The average age of our company's 42,000 employees in the United States—
>
> Who receive these benefits, voluntarily given—
>
> is over 40.

Mr. WAGNER. Yes; they have a particularly good record. There is no doubt about that. There are some companies which undoubtedly would administer this privilege in a way that would be of great advantage to the worker. The difficulty is that we cannot make exceptions that would let in a lot of abuses. The Senator happened to mention one company which has had an excellent system; but there are many bad ones. In addition, this bill does not abolish any system. If any employer desires to give to his employees an advantage in addition to that which is given under this bill, he is at liberty to do so. He can supplement our efforts; and let me say that I am sure that the company whose name the Senator has just read will do so—and many other companies will.

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Mr. CLARK. The Senator means to say, if he will permit me, that a company may have two systems going at the same time if it desires. In other words, they are not permitted to have one system which will grant to the employees very distinct advantages, but they must go to the trouble of having two separate and distinct systems.

Mr. WAGNER. I have given the reasons why I think the amendment is dangerous. I am apprehensive of its effect upon this legislation; and the experts—who, after all, have given study and thought to this subject for a long while—all agree that this amendment is devastating to the object of the legislation.

I do not wish to make a long constitutional argument upon this question, because apparently I talked to deaf ears the other day. I tried, in my introductory address in the Senate, to cover the question and to advance the reasons why I believe that the measure is constitutional. Of course, as the Senator from Mississippi has said, all these matters ultimately will be determined by the United States Supreme Court, and we can only base our predictions upon what the Court heretofore has done.

The first question raised by the Senator from Georgia was whether the legislation embodies a public purpose. I thought we had reached the stage where we accepted this as a legal truism; that the prevention of destitution in old age and taking care of our old people who have spent their lifetimes in creating the wealth of the country, are certainly public purposes. We have so recognized by prior legislative acts. We have made appropriations to take care of many people, not only the old, but also the young who are on the point of starvation.

Mr. GEORGE. Mr. President, I am not quarreling with that.

Mr. WAGNER. I understood that the Senator was.

Mr. GEORGE. Oh, no; I am not. I do not see how the Senator could have misunderstood my statement.

Mr. WAGNER. The Senator did say, as he will see if he will look back in the RECORD, that there is a question as to whether this bill embraces a public purpose.

Mr. GEORGE. Yes.

Mr. WAGNER. And I asked the Senator a question about some of the State pension laws, which certainly are based upon the theory of a public purpose.

Mr. GEORGE. It is one thing to care for the aged and the infirm out of general appropriations. It is one thing to provide general relief. It is quite a different thing, when we have a specific bill which, in my judgment, may be open to that attack, from saying that Congress has not general power for that purpose.

Mr. WAGNER. Then there is still a doubt in the Senator's mind as to whether our classification is rational and not arbitrary. Time and time again Congress has made classifications, and so long as they have been reasonable, the courts have never interfered. In many States laws which have been upheld by the courts have provided that no pension shall be paid until one is 65 years of age. That discriminates against younger men who, perhaps, would like to retire; but it is a classification which is fair and reasonable.

I am sure we all agree that one of the fundamental purposes of government is to give security to its people; and I do not think any greater contribution could be made to the happiness of our people than to give them security in old age. So I think that, so far as the question of a public purpose is concerned, there will not be much dispute.

The second question which the Senator from Georgia has raised is that the taxing power is here used indirectly to provide a social advantage or a pension for a certain class of persons.

It is argued that we cannot use the taxing power for these other purposes. Unfortunately for the argument, the courts say that we can. Long ago, when Congress passed a law taxing State bank notes, not only the ostensible reason but the conceded reason for the legislation was to drive them out of circulation. As a matter of fact, I do not think a dollar was ever collected under the imposition of that tax, but it did accomplish the purpose of destroying the notes. That act went to the Court, and the argument was made: "This measure is really not a taxing measure. The purpose of it is to drive the notes out of circulation." The Court said: "It is a proper exercise of the taxing power of Congress, and if it serves some other purpose, that does not affect its constitutionality."

The same thing is true of the Narcotic Act. That act was passed not so very long ago, in the form of a tax measure, but other purposes were tied in with it, among them a health purpose. The act was attacked upon the ground that the tax was a mere pretext. The Court declined to consider that objection, and said:

> An act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue.

Then there is the oleomargarine case. And while the question has not yet been passed upon by the Supreme Court, the circuit courts of appeals have upheld the processing tax, although the act embodying it concededly has objectives other than the levying of a tax.

The final question which the Senator from Georgia has raised is that we are only calling upon a certain class of our citizens to pay the tax, which goes into the Federal Treasury, and in time will be used in part to finance the payment of pensions.

I think that is a fair classification. I think it can be justified easily, because the employer gets a special benefit from the pension law. Of course, the public generally is benefited by the prevention of destitution; but specifically the employer is benefited, because it is now a recognized fact that more security to the worker improves his efficiency.

In New York State we had experience along that line after the workmen's compensation law was enacted. A survey was made 3 or 4 years later; and it was shown that, excluding the question of new labor-saving machinery, the productivity per worker actually increased, although at the same time hours were shortened. As I have said, experience has very definitely shown, and I do not think anyone will contradict me on this, that in affording the employee better conditions of life, better sanitary conditions, and security in old age, the employer makes a happy and contented worker and thus increases his productivity. Therefore, it seems to me that the classification is perfectly fair, since employers will get benefits greater than the benefits which the common run of citizens will receive.

I think these are the questions which the Senator raised. I know the Senator did not contend that the proposed act would be unconstitutional; he merely indicated his grave doubts about it. On the contrary, I feel very confident that the proposed legislation will run the gantlet of the courts; and of course it has the approval of the overwhelming sentiment of the country.

Mr. TYDINGS. Mr. President, I do not wish to say anything about the merits of the bill or to discuss its constitutionality, but I rise to support the amendment offered by the Senator from Missouri [Mr. CLARK]. About 2 weeks ago I offered a similar amendment, which the committee considered. I am advised by the members of the committee that they were very sympathetic to the exemption contained in the amendment of the Senator from Missouri, as well as the amendment proposed by me.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CLARK. I stated a while ago, during the absence of the Senator, that my amendment was lost only on a tie vote when there was a very slim attendance of the committee, when a quorum of the committee was not actually present; in other words, lost on a vote of 5 to 5 in the committee. There were a great many more experts present than members of the committee.

Mr. TYDINGS. I understand those who voted against the amendment voted in that way because they thought that with the exemption in the bill it would make the bill unconstitutional.

I wish to speak primarily of the merits of the amendment offered by the Senator from Missouri. Long before this

matter was agitated by the States or by the National Government, some forward-looking concerns, having the interests of the workingman at heart, and realizing that a contented worker was a good investment, set up insurance plans, particularly old-age and retirement plans.

In my State there are any number of such plans which are working efficiently. The United Railways, in Baltimore City, having about 4,000 employees, has such a system, and I have learned from the lips of the employees themselves that it works splendidly, and they would prefer, at least for the present, to have the company insurance feature retained, rather than to have a Federal law enacted. Probably later on if the national law turns out as its authors think it will, they may want to abandon their own scheme and come in under the national scheme, but for the time being they have confidence in the insurance plan set up by the United Railways of Baltimore. There are a number of other plants, employing thousands of people, which have similar old-age-retirement set-ups to take care of those who would be taken care of by the Federal Government under the proposed law.

As a matter of policy, is it wise to wipe out in one fell swoop these successful insurance set-ups, and substitute one that is only on trial, to say the least? Would it not be better to exempt them for the time being, and then, if we find the Government plan to be a success, as everyone hopes it will be, to legislate again later on? That is what the employees in the concerns themselves want, and I can see no harm, certainly at this juncture, in making an exemption in this case, so that where there is contentment, and where the employee finds that he is protected against the vicissitudes of old age to his own satisfaction, that scheme may be kept in existence until the proposed plan can demonstrate its good fruits.

Mr. President, that is basically what the amendment of the Senator from Missouri would do. It would not change the philosophy of the bill. It provides only that where, after a review, it is felt that the agency in the private system is comparable with the set-up proposed on the part of the Federal Government, it shall receive a certificate of exemption from the provisions of the proposed act. What harm could be done? As I understand, the agency certified must be as good as the agency proposed to be set up by the Federal Government in order to get the exemption certificate. It may be better.

Some of these annuity systems have been built up for 25 or 30 years. Fortunately, where physical examination is an incident to employment, and where there is little drain on the fund, the amount of money built up in reserve far exceeds that which would be built up in the ordinary run of labor employment. Therefore, what earthly harm can there be, until the proposed act shall have been tried out, in letting the concerns to which I have referred, which are already doing what the Federal Government would do, retain their own systems, until the Federal system shall have been promulgated and placed in full operation?

If it turns out that private systems of any business organizations are falling below the standard which the Government wants established, we can legislate at a later date and say, "You are not doing as well as the Federal Government is requiring other concerns to do, and therefore we will have to legislate you out of business."

Certainly at this juncture, when the plans referred to are the only voluntary old-age-insurance schemes in existence; and since they are satisfactory to both employer and employee, it seems to me that the weight of logic is that for the present we should make an exemption; and if subsequent events prove it to be unwise we can correct it.

Let us consider the other alternative. Suppose we do not allow this exemption; suppose we wipe out all these benefits; all these annuity funds which have been created; and we find that our scheme is not working as well as the private schemes are working at this moment; that for some unexpected reason the lack of taxes, a new depression, or for any other reason the Federal scheme becomes impracticable. We would have wiped out all the insurance systems in the meantime, and we could not go back then and reestablish them. Their reserves would have been liquidated, and concerns would have been disorganized, insofar as the insurance features were concerned, and we would have many people, perhaps, on the relief rolls, whereas if we had made this exemption the companies themselves could have taken charge of them.

I do not believe the Federal Government ought to discourage legitimate business in trying to cooperate with labor for the best interests of labor in providing a retirement fund when the laborer shall have reached the age of 65 years and has rendered efficient service.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CONNALLY. Would not the argument of the Senator be met, however, by limiting this amendment to systems already in existence? The amendment of the Senator from Missouri invites the establishment of new systems for the purpose of avoiding the requirements of the Federal plan.

Mr. TYDINGS. I personally should like to see the exemption as the Senator from Missouri has it in his amendment; but I should be satisfied, I may say to the Senator from Texas, if the amendment were restricted to apply only to concerns now having such systems in existence.

Mr. CONNALLY. After the establishment of the Federal system there is no reason why everybody should not come in, except for the temptation to devise a system by which employers might think they could save money.

Mr. TYDINGS. If the Senator from Missouri were to restrict his amendment, I should not object to it at all. My concern at this time is bottomed primarily on the fact that where these agencies are already in existence, and they are doing as good a job as the Federal Government expects to do, or in some cases a better job, and it is desired that they remain in existence until the Federal law can be promulgated and proven, they are well within their rights in saying, "We did this 25 or 30 years before the proposal ever came to Congress; our plan is a success; it is as good as the plan which the Federal Government itself intends to set up, or better, and we ask only that for the time being we be given an exemption."

What harm can be done by giving such an exemption? The private agency must be doing as good a job as the Government expects to do in order to get its exemption certificate. If the private system were inferior to that which the Federal Government would set up, it would be a different proposition; but where they are already carrying out not only the intent but the substance of the law, and have been doing so for 25 or 30 years, and when we have been urging employers to do this very thing, it strikes me it would be discouraging to industry and to employees alike to have that effort wiped out in one fell swoop.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. CLARK. I should like to invite the attention of the Senator from Maryland, and the Senate, to the fact that the Federal Government itself is exempted under the provisions of this bill. It is the largest employer in the country, and it is exempted. I should blush, I am sure every Member of the Senate would blush, if he thought the Federal Government was requiring from industry or from other employers advantages which it was not willing to grant to its own employees. The Federal Government is exempting itself under the operations of this bill for the reason that we have already in effect a better retirement and annuity plan than is provided in this bill for general labor.

Certain religious bodies, notably the Presbyterian Church, are exempted under the provisions of this bill by reason of the fact—and it can be the only reason—that they already have in effect a much more liberal and more meritorious plan.

If the Federal Government, the Presbyterian Church, and other religious bodies are to be exempted, why should not other employers who desire to do the same thing be exempted?

Mr. TYDINGS. In my judgment, the Senator's argument is unanswerable.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. BARKLEY. Of course, the object of this bill is to levy the tax on organizations which are set up for profit. The Presbyterian Church or any other organization under it is not a profit-making institution, and, therefore, the Government does not desire to tax it in order that it may set up a fund of this sort. It would be utterly inconsistent for the Government of the United States to tax itself in order to raise funds in a way similar to the way the tax is levied on private industry. It is not a question of whether there has already been established a retirement system which is better than the one we are setting up for private industry, or whether the Federal Government plan will be better than a plan which some private institution or agency already has in operation.

It seems to me there would be no logic in undertaking to put the Federal Government, or a church, or even a State, which is a political division of the Nation, on the same basis as that on which we would put a corporation which is employing men, out of whom it makes a profit. It seems to me there is no analogy between those situations.

Mr. TYDINGS. Mr. President, I do not altogether agree with the Senator from Kentucky. The purpose of the bill, as I understand, is to declare a new policy in this Nation; namely, that when people arrive at the age of 65 years they shall have, in effect, the right to retire. It does not make any difference whether they are preachers, or doctors in a hospital, or workers in a steel mill, or conductors on the street cars. If our general policy is to take people off the work list when they have arrived at 65 years of age there is no earthly reason why the Federal Government or the Presbyterian Church or any other body should have an exemption, unless every other concern which is already providing age retirement should have an equal right, particularly when it is maintaining a better system or pays more than is proposed to be paid by the Federal Government.

Mr. BARKLEY and Mr. LONG rose.

The PRESIDING OFFICER. Does the Senator from Maryland yield; and if so, to whom?

Mr. TYDINGS. I first yield to the Senator from Kentucky. Then I will yield to the Senator from Louisiana.

Mr. BARKLEY. Mr. President, if we were establishing a general old-age-pension system applicable to all when they reach a certain age, of course we should have to provide the money out of general taxation. We could not tax a church, we could not tax the Federal Government, because neither has anything upon which to levy a tax. If we are ever to embark upon a general old-age-pension system applicable to everybody, we may have to abolish any special taxes to raise funds on the part of employers, and pay the pensions out of money in the Treasury raised by general taxation.

However, this bill does not contemplate any such step as that, though it may come some day; but it has been felt that this is as far as we can go now in undertaking to make employees and employers contribute to a fund for old-age pensions.

Mr. TYDINGS. I see the point of the Senator from Kentucky; and, as I have said, I do not wholly disagree with him. I think, however, the Senator from Kentucky will be fair enough to say that the main purpose of the bill is not to levy a tax on anybody. The main purpose of the bill is to provide retirement for people who have reached the age when they can no longer work. If that is the case, there is no reason why anybody should be exempted; and if exemptions are to be made for the Government, or for the Presbyterian Church, or for an organization which has provided its own retirement agency, then it strikes me that concerns which have provided retirement agencies comparable or superior to that which is envisaged by the bill should receive an exemption, at least temporarily, until the fruits of the bill can be tested in the light of experience.

Mr. LONG rose.

Mr. TYDINGS. I desire to make further answer to the Senator from Kentucky before I yield to the Senator from Louisiana.

What is the title of the act?—

An act to provide for the general welfare by establishing a system of Federal old-age benefits—

And so forth. That ought to apply to the preachers the same as to anybody else. I am sure the Senator from Kentucky does not desire to have the ministers left out of this system.

Mr. BARKLEY. No.

Mr. TYDINGS. I agree with him that we cannot tax the congregation to make its particular contribution to this fund; but indirectly we tax the congregation, because it consumes the things which all the concerns covered by this bill make; and, therefore, if we tax them, the congregation bears the indirect if not the direct tax.

Mr. BARKLEY. Mr. President, my contention is that whenever we shall establish an old-age-pension system for everybody we will have to pay for it by general taxation. We cannot levy a tax on the Ford Motor Co. to pay old-age pensions to its own employees and also to the Presbyterian preacher and the school teacher. We cannot levy an employer's tax on the Baldwin Locomotive Works in order to pension somebody who does not work for the Baldwin Locomotive Works. So whenever we decide to pension everybody who is over 65 years of age we must levy a general tax on everybody, subject to tax.

Mr. TYDINGS. Mr. President, I will answer that statement in a moment. Now I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, has the Senator from Maryland any figures showing how much is being paid in pensions under the private employers' system?

Mr. TYDINGS. I did have some figures. I do not know how accurate they were. I do not have them available. Perhaps the Senator from Missouri has them.

Mr. LONG. Has the Senator from New York such figures?

Mr. WAGNER. I have not the figures, but I will say that there are only 2,000,000 employees under pension systems today.

Mr. TYDINGS. I am surprised there are so many.

Mr. LONG. If there are 2,000,000 persons under pension systems today, I will say that that is more than will be accommodated under the proposed act.

Mr. TYDINGS. Mr. President, according to the 1930 census there are 48,000,000 people of working age in this country. From that number we must eliminate, first of all, many millions engaged in agriculture.

We also must eliminate those who are engaged in transportation, particularly on the railroads, almost all of which have a pension system. We also must eliminate most of those who work in the steel mills. When we add all the municipal and State employees who are under merit systems and retirement acts, I shall be very much surprised if the number does not far exceed the 2,000,000 which the Senator from New York gives.

Mr. WAGNER. Will the Senator yield?

Mr. TYDINGS. I yield.

Mr. WAGNER. Of course, I did not include public employees.

Mr. TYDINGS. But the Senator must concede that the 48,000,000 also includes those who work for the Government, so if he is going to state one part of the proposition for one purpose he ought to state the other part of the proposition for the other purpose.

Mr. LONG. Mr. President——

The PRESIDING OFFICER (Mr. POPE in the chair). Does the Senator from Maryland yield to the Senator from Louisiana?

Mr. TYDINGS. I yield.

Mr. LONG. I will put what I wish to present in the form of a question. If we had what we knew was a compensatory pension system which actually covered all persons beyond a certain age when they should retire from labor, that would be one thing; but we know that this bill is necessarily confined by reason of the amount of money involved, if by no other reason, to a very small number of those who reach that age; and we are about to destroy the private system. I con-

cede the private system to have some faults; but nonetheless, with a far more faulty system we are about to destroy a system which is taking care of a far greater number of people on a pension roll. Not only that, but I may add to the Senator from Maryland that this bill prescribes that only the needy, the paupers, may get a pension.

Mr. TYDINGS. I do not desire the Senator to take too much of my time.

Mr. WAGNER. I think the Senator from Louisiana is mistaken in the statement he has just made.

Mr. LONG. The Senator is talking about unemployment insurance?

Mr. TYDINGS. Yes.

Mr. WAGNER. Yes; that is correct.

Mr. LONG. I was talking about pensions.

Mr. TYDINGS. Let us take the argument made by the Senator from Kentucky in regard to the Presbyterian ministers. The Senator from Kentucky very properly says that the congregation or the employers, so to speak, do not pay any tax into this fund, and, therefore, the preacher who has retired should not receive any of the benefits out of this fund, and therefore that it is a proper exemption.

By direct analogy, does not that apply to the company which is exempted? It receives no benefits from this fund. It pays into its own fund, and, therefore, why should it not be exempted? It does not cost the Government a 5-cent piece to maintain insurance agencies which are now in existence; and if they provide their own funds and pay their own benefits, why should they pay into a Federal fund?

Mr. BARKLEY. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. BARKLEY. We are dealing now with private corporations engaged in the employment of men for profit. I do not believe we can have a successful national pension system while at the same time exempting those who may set up their own system and who may be subject to high-pressure salesmanship on the part of agents of annuity or insurance companies coming around and telling them that they can establish their own system and save money over and above what they would pay into the Federal Government. I think ultimately it would tend to break down the national system, for the only prospect of success in this national system is that it shall be universal. If it is going to have any competition in the field on the part of private annuity companies and insurance companies, it will be a failure to that extent.

Mr. TYDINGS. Basically the Senator from Kentucky and I are not far apart. What we think is the direct purpose of the bill, in effect, is to compel every employer in the country who employs more than 10 men——

Mr. BARKLEY. As the bill now reads, more than four men.

Mr. TYDINGS. Very well; more than four men. The direct purpose is to compel such employer to enter into a system of retirement insurance whereby his employees will receive the benefit of it when they reach a certain age. The modus operandi in that case is by taxes, but the purpose is to compel them all to insure their workingmen. I am not quarreling with that; but the way to compel them to do that is by taxing them, taking the money and putting it into the system, whether they want it or not. If they are already doing that, if they are already paying benefits either equal or superior to those set up by the bill, then why should not the Government let them alone, for they are already doing what the Federal Government through its taxing power is trying to make the other concerns do that have not heretofore done it.

Mr. BARKLEY. Mr. President——

Mr. TYDINGS. I shall yield to the Senator in just a moment. I submit to the Senator from Kentucky that if every employer employing more than four people now had this kind of insurance system, this bill would not be here. The only reason this bill is here is that most concerns have not set up such a system of insurance, and this is an attempt by the taxing power to compel them to set up that sort of a system.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Kentucky?

Mr. TYDINGS. I yield.

Mr. BARKLEY. Those concerns which now have their own private system which is as beneficial to the employee as would be the system we are proposing to set up will lose nothing by going into the Federal system, for it would cost them no more, if they are already paying into such a fund. So they will not be harmed by being required to go in. If they have a system that is better than the proposed Government system, then they can go into this system and still supplement their old system by whatever excess of good they are now engaged in doing toward their employees. So they will not be hurt.

Mr. TYDINGS. That is a fair concession from the Senator from Kentucky.

Mr. BARKLEY. I am always fair.

Mr. TYDINGS. The Senator said inferentially that where the system which is now in existence under private concerns is better than that which the Federal Government attempts to set up he hopes they will go ahead with it, but he is unwilling to give them any exemption to go ahead with a plan which is better than the Federal Government's plan.

Mr. BARKLEY. I do not know that there are any such concerns; I am assuming that there may be.

Mr. TYDINGS. I can tell the Senator that there are.

Mr. BARKLEY. If there are, there is nothing in this proposed law that will prevent them from going ahead with their unusual generosity toward their employees.

Mr. TYDINGS. The bill provides, we will say, $30-a-month old-age retirement pensions. In Baltimore the United Railways, I think, pay their men $50-a-month retirement pay; yet that is to be wiped out. In other words, those men who have looked forward all their lives to getting $50 a month when they are retired are to be cut down to $30 a month; and yet this bill is in the interest of labor.

Mr. BARKLEY. The Senator will concede that there is nothing in this bill that prevents such a concern from supplementing this tax so as to make it $50 a month?

Mr. TYDINGS. If we are going to give them the right to do it anyhow, in a supplementary form, why not let the system which is better than the proposed Government system stay?

Mr. BARKLEY. Because we cannot have a successful patchwork system; it has got to be universal and uniform in order to be successful.

Mr. TYDINGS. I do not think it has got to be "uniform." The Senator's own words belie that, I think, because he says if the system now in existence is better than the one to be provided by the Federal Government he hopes there will be supplemental action; so it will not be uniform.

Mr. BARKLEY. The Senator cannot take advantage of a mere expression. What I was talking about was uniformity in the minimum requirement of the Federal statute as to the Federal system. Any concern which desires to go beyond that may do it; any concern which desires to continue its present system may do it in full. It might not want to do it, and, I dare say, would not want to do it, but it may do it if it wants to.

Mr. TYDINGS. I am going to make a suggestion to the Senator from Kentucky and to others who may do me the honor to listen to me. My prediction is—and mark this well, Senators—that if the exemption is not granted, if individual concerns do not have the right to set up their own insurance systems, if they are compelled to conform to the letter and spirit of this proposed national law, what will happen will be that they will liquidate their present insurance systems, go under the Federal law, and the workers will get less money than they would get if the exemption were granted. The concerns having private systems will say, "That is the Federal standard; we have lived up to the Federal standard, and therefore, gentlemen, although we did have a system, the Federal law has wiped it out; we feel we have done our part; we told the Congress that we would like an exemption, but the Federal Congress did not care to grant it to us, even though our system was better than that the Federal Congress

had in mind; and now that they have wiped out our own agencies, we will just go along with the Federal agency."

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. Yes; I yield.

Mr. BARKLEY. Where there is 1 private institution which is providing a better system than this bill would provide there are 400 which are not providing systems that do as well.

Mr. TYDINGS. All this amendment seeks to do is to exempt those that are doing as well or doing better than the bill requires that they shall all do; and what reason there can be for failing to grant an exemption in such a case I do not know.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. Yes; I yield.

Mr. BARKLEY. The Senator has very consistently urged for many years his opposition to an army of Federal inspectors going out all over the country.

Mr. TYDINGS. The Senator is correct as to that.

Mr. BARKLEY. But if we exempt all these private concerns, it will take another army of Federal inspectors, going all the time, to ascertain whether they are living up to the standard.

Mr. TYDINGS. I approach this matter with the positive view that if we are going to establish a uniform law, and wipe out all private initiative, we shall be laying the foundation of real bureaucracy. So long as we leave the door open for private initiative, particularly that which has established itself for 25 or 30 years, we encourage the employer to take care of his employees, which he is doing now better than would be done under the proposed Federal Government. I predict that this bill is only the first step on the stairs, and the Members of this Chamber—and I am not taking sides on the matter; I am merely making an observation—will see the day, particularly if there are no exemptions granted, when we will have a uniform retirement law for all the workers of this country, regardless of their health, regardless of their salaries, regardless of their savings or income, or anything else, just as certain as that the sun rises and sets. That will be the first real bureaucracy that we will have under this bill. What I am proposing to do is to keep the Federal Government from interfering with private organizations which are already doing as well as this bill, if enacted, would compel them all to do. I would rather see this done voluntarily all over the country than to have the Federal Government in it at all, were it possible to have it done voluntarily.

I take it for granted that the only reason we have this bill before us today is that certain concerns will not insure their employees, and, therefore, the time has come when Congress desires to compel them to do it; but why should those concerns which have for 25 or 30 years built up their own insurance agencies, which are doing better than the plan which this bill proposes to do, be wiped out? Why should they not be given an exemption? What harm could it do?

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER. The time of the Senator from Maryland has expired on the amendment.

Mr. TYDINGS. Very well, I will speak on the bill.

Mr. SHIPSTEAD. I believe that Andrew Carnegie was a good business man. He established a retirement fund for college professors. My information is that there is very little left of that fund.

If some particular business institution employing labor exempted from the provisions of this bill should not manage and supervise the reserve fund better than has been done in the case of the Andrew Carnegie fund and the private industrial company's pension fund should go the way of the Andrew Carnegie fund, what would happen to those dependent upon it? Undoubtedly the establishment of the fund was a good thing for Andrew Carnegie; he got a lot of college professors to carry out his ideas; but where does it leave the professors, and how does it affect the United States?

Mr. TYDINGS. The Carnegie Institute was a charitable institution, pure and simple.

Mr. SHIPSTEAD. Mr. President——

Mr. TYDINGS. Just a moment. The Federal Government had not any say in the world over Mr. Carnegie's fund, but under this amendment the industrial concern would only be exempted if its plan in operation was equivalent to or better than that to be provided by the Federal Government. So that the power of supervision, the right to take away their exemption certificates and compel them to do this or that or the other thing in order to retain their exemption certificates, would always lodge in the Federal board. So the Senator's analogy, in my judgment, is not an accurate one.

Mr. SHIPSTEAD. Mr. President, may I ask the Senator another question?

Mr. TYDINGS. I yield.

Mr. SHIPSTEAD. Does not the Senator think there should be some supervision over private institutions, if they are to be exempted from the provisions of the bill, so the fund would be protected from dissipation and investment in worthless securities?

Mr. TYDINGS. I have no objection to that; in fact, I would encourage it. I should like to see the funds invested in the strongest and safest possible way. In many States, including my own, such funds can be invested only in that kind of security which is approved by the court; and under that plan there has been little or no loss, because the court will only approve National or State bonds, or city or county bonds which are in good standing. I suppose that system is in existence in other States so that trust funds can be invested only in securities approved by the court. I know in the majority of States of the Union that is the law.

Mr. President, I now return to the question with which I opened my remarks. Can there be any harm done to the proposed retirement system if the amendment offered by the Senator from Missouri [Mr. CLARK] is accepted? No; there cannot be, because in order to be excepted or exempted the private retirement agency must be equal or superior in its benefits to the agency set up or the standard fixed by the Federal Government. The workingman is better off, or at least as well off, under the private insurance agency as he would be under the Federal Government.

In view of that fact—and when the law is in its initial stages, when it has not had a chance to operate—what harm can there be in keeping the demonstrated institutions which have proven real strength and real benefit and real consideration for the workingman on the part of those who have employed him? What harm can there be in giving them a temporary exemption until the fruits of the law may be ascertained? If anyone can show me where the workingman will be any worse off, I shall not have another word to utter. Thus far no one on this floor has been able to offer a single scintilla of evidence to show that the workingman will be any worse off under this exemption than under the terms of the bill. On the contrary, it is conceded that in cases he will be better off under the exemption than if he is forced to come under the terms of the bill.

If these facts be true, and I believe they are true, then why not grant the exemption until we can observe the workings of the law for a year or two, and then if we see that it comes up to our expectations, that private systems are no longer to be considered in connection with this phase of work in human activity, we can wipe them out. But is it not the part of wisdom, and is it not the part of caution, and is it not the part of vision to retain something that is a success until we can find out whether the promulgated measure shall bear the very lovely fruit which its sponsors think it will?

That is all the amendment seeks to do. It simply provides that where a system is operating and paying benefits equal to those set up in the bill, or better than those provided in the bill, then the board shall grant to such private agency a certificate of exemption. The board can revoke the certificate whenever the private system falls below the standard, but so long as it is operating in a fashion equal or superior to the plan proposed by the bill, it shall be granted that exemption.

I have not heard anyone yet offer any objection to the amendment except that we ought to make the system uniform, even if making it uniform takes from some workingman some benefits which he would have if the exemption were granted.

Mr. SMITH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from South Carolina?

Mr. TYDINGS. I yield.

Mr. SMITH. The Senator is losing sight of the cardinal principle behind most of this type of legislation, namely, that all the beneficiaries must look to the Federal Government and not to local or private agencies. The theory is we must centralize here in the Federal Government. Of course, we cannot argue against that because we want to wipe out all the States and all their rights and have everything all centered here in Washington!

Mr. TYDINGS. In conclusion, let me submit this pertinent fact for the consideration of the Senate. Bear in mind, Senators, that when this measure was pending before the Finance Committee, the committee divided evenly on whether they should adopt the amendment or should not adopt it. The Finance Committee was very close to adopting it, and I understand from some of those who did not support it in committee that at that time they opposed it solely on the ground that they were afraid it might call into question the constitutionality of the measure. Inasmuch as since that time other exemptions have been granted, why in the name of heaven should not this exemption be granted when it does as much for the workingman or more for the workingman than the provisions of the bill?

This is one of the times when the Senator from New York [Mr. WAGNER], who is said by many to be the best friend that labor has in Congress, is trying to take benefits away from the workingman which he would otherwise have, and when I, who am sometimes said to be not friendly to labor, am trying to hold for the workingman the benefits which he already has under private agencies. The Senator from New York does not say the amendment would make the bill unconstitutional.

I only ask that where private industry over a long period of years has established a system which gives to the workingman more than the Federal Government can give him under the bill, let us give that exemption to such industry so that the fruits of retirement may be full rather than meager, which will be the effect if the amendment shall not be adopted.

Mr. LONG. Mr. President, will the Senator answer a question?

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Maryland yield to the Senator from Louisiana?

Mr. TYDINGS. I yield.

Mr. LONG. Would not the natural thing be for big concerns that have already put into operation pension plans, when the Federal Government adopts this plan, simply to say, "We do not care to compete with the Government, and hence our pension plan is at an end"?

Mr. TYDINGS. I should think so. The predicition which I made previously, and which I now restate, is that if the bill shall be passed and there shall be no exemption, then private concerns will liquidate their annuity funds, and there will be established a uniform standard over the country which, if no exemptions are granted, will result, in the case of millions of employees, in their receiving a lesser annuity than they would have received had the exemptions been granted.

Mr. LONG. I wish to say, referring to the $50 about which the Senator from Maryland spoke, that I have two or three good friends who are drawing $100 a month. I think my friend Moran, who served his time with the Standard Oil Co., today draws $100 a month under their pension plan. I do not understand why anyone should oppose it. Let us not now destroy these private systems.

Mr. TYDINGS. Let me interrupt the Senator to say that in the little village in which I have lived, Havre de Grace, Md., there recently died a man who had been a telegraph operator. He had worked for the Pennsylvania Railroad for about 35 or 40 years, I believe. When he retired he received a pension of something over $50 a month. Under the terms of the bill, if that system had been wiped out, that poor fellow would have been getting, assuming he would have lived 5 or 10 years more, only $30 a month instead of the $50 a month which he had built up for himself over a long term of years with the railroad company. I submit that it smacks of injustice when this man, who had looked forward all those years to a definite sum of money which he would have gotten under that system, would have been compelled under the Federal retirement plan contemplated by this bill to take a much less sum.

In conclusion, I predict again if we pass the bill without exemption that many Senators will find millions of laboring men who are going to be very much displeased, because I believe there will be millions who will get less under the compulsory retirement standard set by the bill than they now expect to enjoy under the pension plans of private industry.

Mr. LONG. Mr. President, further on this line let me say——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Louisiana?

Mr. LONG. I can use my own time to make this statement.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I have not heard anyone advocating this bill who does not doubt its constitutionality.

Mr. TYDINGS. Does the Senator mean the amendment?

Mr. LONG. No; I am talking about the bill. Everyone doubts the constitutionality of the bill. Even the proponents of the bill doubt it. I desire to say to them that they not only have a right to doubt it but I do not believe it is possible for the bill as it is now written to be held constitutional. I would bet everything I have on it. I do not mean that it will be held unconstitutional by a divided court, either. We need not worry about the amendment of the Senator from Nebraska [Mr. NORRIS] that it will take six to three to declare a law unconstitutional. Not one out of nine will uphold the constitutionality of this measure, any more than one out of nine upheld the constitutionality of the N. R. A. Not a single member of the Supreme Court of the United States will hold this bill constitutional as now written.

What is it that the bill proposes? It is not a tax in order to decentralize wealth. It is not a tax in order to serve the common welfare. This is a pension system established by the Government. That is what it is—an unemployment system established by the Government. We cannot put a tail on one end of it and a head on the other end of it and make it anything else, and it does not necessarily depend upon any interstate transactions in order to have its constitutionality maintained.

If this bill is going to be sustained, all well and good; but let us not wipe out pension systems that are doing good. There will be hundreds and thousands of people who will become eligible for the private pensions that they have earned long before this bill is held to be constitutional or unconstitutional; but if it finally goes into effect, and the private concerns wipe out their private pension systems, and the pensions of men who are drawing $100 a month are wiped out on the ground that they should have $30, and then they do not get the $30, and we have destroyed the private pension systems, the harm will have been done in two ways. The first is, we shall have given no pensions at all. The second is, we shall have destroyed a private system that may have considerable merit and may have some faults.

Let me say one thing further, Mr. President. I have no particular faith in the good will of any corporation, except such as is necessary to its own interest. I am wholly in favor of the regulations that are imposed in this particular amendment upon private pension systems; but I think I see chances for far less harm under the amendment that is proposed than I do under the regular bill, because we must

bear in mind the fact that there is a very small contribution made, to begin with, by the Federal Government. That is one thing. We must bear in mind the further fact that it is left within the province of the various and sundry boards that are in control of the several functions under the several titles of the bill to discontinue the system as prevailing and as maintained in certain localities whenever they desire to do so; and there is just as much room—aye, more—there is more practical room for abuse, and in effect it will be found that in many instances there is more abuse, in a publicly administered system of this kind than there is in privately administered systems of this kind.

Under this particular amendment, the abuse of the private system can be controlled. The Government can step in and prevent abuse in a private system, but it cannot step in and prevent abuse in the public system, nor can it breathe life into concerns destroyed by a law which may be unconstitutional—aye, which is unconstitutional if I know anything about the law. I venture the assertion that the enactment of the bill without the amendment will mean the wiping out of whatever good has been done under the private systems, and no good will be done under the system proposed here. So let us try the plan contemplated by the amendment.

What harm can be done? We meet here every year. Let us get this public pension system or public unemployment system to working. Let us see what good it does. Let us have it held constitutional if it can be held constitutional, which it never will be, but let us have it held constitutional before we wipe out the pensions of millions and millions of employees under the private systems. When it is held constitutional, and when it is proved to be reasonably workable, that will be time enough to talk about destroying the private pension systems.

We have plenty of time to do that. When we find that we have a baby here that is able to walk, and then is able to stand alone, we shall have something on which we can base our good judgment to destroy the private pension systems; but let us not destroy a system that is now accommodating many more millions of persons than our own program may accommodate, and a system that is paying more money than this system will pay, and risk it all subject to the hazard that what we are doing here may be either ineffectual or invalid when it reaches the Court.

Mr. LA FOLLETTE. Mr. President, I am opposed to the amendment offered by the Senator from Missouri [Mr. CLARK]. I recognize that upon its face it has much appeal; but, as stated by the Senator from Mississippi, after most careful consideration in the committee I came to the conclusion, as did a number of other Senators who had previously been inclined to favor the amendment, that its adoption would very seriously undermine this particular title of the act, namely, the old-age benefit title.

Mr. ROBINSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Arkansas?

Mr. LA FOLLETTE. I yield.

Mr. ROBINSON. The Senator has just made a statement which I believe to be correct. I should like to have him elaborate his thought on that subject if he chooses to do so, and explain why, in his opinion, the adoption of this amendment exempting existing arrangements and institutions will undermine and impair the effectiveness of the proposed Federal system for retirement.

Mr. LA FOLLETTE. I shall be glad to attempt to do that, Mr. President.

In the discussion here this afternoon it has been quite evident that many Senators are laboring under the impression that all the existing private pension plans are of a high standard, and that they confer great benefits upon the employees covered by them. The contrary is the fact. Most of the plans which are now in existence do not bring, in the end, great benefits to the aged employees. This is conclusively shown by the fact, as brought out in the record before the committee, that, while there are now approximately some 2,000,000 employees under private plans other than those of railroad companies, only approximately 165,000 persons are drawing any retirement benefits under industrial pension plans and half of these are under railroad company plans. This salient fact is a clear indication that there must be something wrong with plans which have succeeded in bringing benefits and payments to only about 4 percent of those who are under those plans.

Mr. ROBINSON. Mr. President, will the Senator yield for a further question?

Mr. LA FOLLETTE. I yield.

Mr. ROBINSON. The statement has been repeatedly made on the floor this afternoon by at least one Senator that the number of workers who are now receiving benefits from private arrangements for retirement far exceeds the number that may receive benefits under this measure. I have been unable to reconcile that declaration with my knowledge of the facts. What are the facts in that particular?

Mr. LA FOLLETTE. Mr. President, the best information I can obtain, refreshing my recollection, is that there will be approximately 25,000,000 people under this Federal plan if it is not impaired by the amendment of the Senator from Missouri.

Mr. ROBINSON. And the number now is said to be 2,000,000?

Mr. LA FOLLETTE. Two million.

Mr. President, I do not wish to be understood as criticizing or not giving full credit to the employers who have attempted to set up these plans; but I wish to point out that the plans are not so beneficial, so far as the employees are concerned, as many Senators seem to feel, as I judge from the discussion which has taken place here this afternoon.

It is stated by those who are supporting this amendment that no harm can result, insofar as title II is concerned, if we permit private plans to be approved which give benefits equal to those contemplated under the Federal system.

On its face, if we do not analyze that statement any further, it is an appealing one; but the fact is that if this amendment shall be adopted, inevitably employers will study the various advantages from a financial standpoint as between the system set up in title II—the Federal system—and a private plan. That is inevitable. Therefore, to start with, if we shall adopt this amendment the Government, having determined to set up a Federal system of old-age benefits, will provide in its own bill creating that system, for competition, which in the end may destroy the Federal system; and I submit that no Senator approaching this problem from a logical, businesslike point of view could for a moment believe that to be a sound public policy.

If this amendment should be agreed to and the employer should sit down to compare the Federal system, as provided in title II, with the system being urged upon him by some insurance broker, one of two things would inevitably result. Either he would decide that it was better for him to employ only those in the younger age groups and to provide a system embracing all his employees under a private plan, or he would employ a fair share of the older men but do all in his power to encourage the older employees in his employment to elect to come under the Government plan, so that under either course he would be able to provide as liberal benefits as the Federal system without paying as much for them, because the Federal system would have to carry the older workers.

Mr. GEORGE. Mr. President, may I ask the Senator from Wisconsin if he is not really making an argument against the whole bill—that is, against all the provisions under discussion? If employers are going to assume the attitude the Senator thinks they will assume with reference to the privilege which would be accorded them under this amendment will they not also try to escape just as much taxes as they can, and will they not also try to get just as much service as they can for every dollar they expend, and will they not also use every bit of labor-saving machinery they can possibly employ?

If the Senator's hypothesis is correct that our industrialists are going to try to take advantage of an amendment which they themselves certainly may desire, is not the Senator making an argument against the whole bill?

Mr. LA FOLLETTE. No, Mr. President; I do not see that point, if I may say so to the Senator, because the tax provided is uniform.

Mr. GEORGE. I know it is uniform, but if the employees are going to assume the attitude assumed by the Senator from Wisconsin and the Senator from New York and other Senators, will not the American business man, actuated by such selfish motives and impulses as have been here ascribed to him, try to get the maximum service, the maximum production, out of every laborer to whom he is paying a wage, to the end that his excise tax, which is measured by his pay roll, will be just as little as possible for the amount of work which is done, and will he not be influenced and induced to employ a younger man who can work more and harder, and perhaps can turn out more product that the older employee?

Mr. LA FOLLETTE. Unfortunately, Mr. President, without any tax at all; that has been the tendency of industry under the pressure of economic conditions. But I do not want to be a party to making an additional inducement for further lowering the average hiring age in the United States, for I may say to the Senator that the situation which confronts employees between the ages of 40 or 45 and beyond is becoming one of the most serious problems which this country is now called upon to solve.

Mr. GEORGE. I fully agree with the Senator.

Mr. LA FOLLETTE. The Senator is aware of the fact that during the depression, a man 40, 45, or going on 50 years of age, no matter how well preserved he might be, has found it very difficult to secure reemployment in competition with younger persons.

Mr. GEORGE. Mr. President, I must not trespass on the Senator's time, but permit me to say that I know that to be true, and I know that the Senator is not making an argument against the bill; but it does seem to me that an argument against the amendment is an argument against the whole philosophy of the bill. I do not share the view that American industries as a whole will undertake to take advantage of this amendment, and will employ only young men, because their obligation would be the same as it is under the plan set out in the bill. But if the Senator is correct, it seems to me that we might as well accept as an established fact in the beginning that the same selfish motives will induce the American employer to hire and employ the young man who can produce more per hour than the old man. Remember, the employer's tax is measured by his pay roll, and that will also induce him to use every bit of labor-saving machinery he can put into his establishment. If selfishness is the driving motive of all American business, it seems to me the Senator's argument is against the whole bill as much as it is against the amendment.

Mr. LA FOLLETTE. I do not see that, because the amendment sets up a situation whereby one of two things, as I started to say, will result; either the employer will elect to hire only people in the younger age group and will put the whole group of employees under the private plan, because hiring them in the lower age group the employer will be able to secure his annuities at a cheaper rate; or if he elects to keep some of his older employees he will urge them, he will use all his persuasive and his economic power to get them, to elect to take their benefits under the Federal system; and if that shall be the eventuality, then the Federal system will be carrying all the heavier risk, because it will have the older groups, which are more expensive to carry.

I can understand Senators being completely against the objectives which are outlined in the pending social-security bill; I can understand their position, although I do not agree with it; but it seems to me that all Senators who regard the objectives of this title as being sound public policy should hesitate long ere they accept an amendment which will tend to break down and to destroy the effectiveness and the success of the Federal old-age-benefit system.

The Senator from Maryland urged that by adopting this amendment we should give an opportunity to employees and employers to elect to continue under their present private plan, but to leave it open for them later to come in under the Federal system if they wish to do so. That, it seems to me, is an argument which will not stand analysis for a moment. Let us take the case of the United Railways in Baltimore, cited by the Senator from Maryland. It might be very advantageous to them to stay out of the proposed system for a number of years, until they have relatively more aged employees than they now have, and then to dump them over onto the Federal system, but thereby they would burden and help to upset the actuarial basis of the Federal system; and, if it were done in a large number of instances, such practices would upset it altogether.

Much has been said in the debate about destroying the existing plan. So far as I know, there is not a private pension plan in the United States which will not have to be revised if the bill shall become a law, whether the amendment of the Senator from Missouri shall be agreed to or not. Everyone of them will have to be changed to meet the requirements of this amendment, and it is just as easy for those socially minded employers who desire to add additional benefits to the plan now proposed in title II of the bill to revise their existing plans so as to offer benefits in addition to those provided in title II as it is for them to revise them in order to take advantage of the amendment offered by the Senator from Missouri, if it shall be agreed to.

Reference has also been made in the debate to the situation confronting employees who have been under these plans, and it has been argued that if the bill becomes a law those upon the verge of retirement may lose all of their benefits. Unfortunately, that happens all too often under private pension plans. But the employers who have systems which are upon a sound basis, and which have any social justification at all, have established reserves for their individual employees. To say that such employers would use the enactment of the pending bill as a justification for refusing to pay the beneficiaries of the reserves which have been contributed by employees and employers over a long period of time is to make an indictment of the integrity of these forward-looking industrial leaders which I would not make upon the floor of the Senate or in any other place. If there be any such unscrupulous employers, the individual employee has not a Chinaman's chance with them anyway, because when he got up to within a few months of the time when he would be entitled to the benefit provided, he would be discharged by the employer and would lose his benefits.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. TYDINGS. Assuming what the Senator says to be so, then what harm can there be in granting them an exemption, if they build up these reserves, and the benefits are superior to those contemplated by the bill?

Mr. LA FOLLETTE. I have already pointed out a number of reasons why I think it is an unwise policy. The Senator was not in the Chamber when I covered those points, and as my time is limited, I beg him to excuse me from going over the ground again.

Mr. TYDINGS. May I ask the Senator one other question, which I think is apropos the point of which he is now speaking?

Mr. LA FOLLETTE. Certainly.

Mr. TYDINGS. The Senator said that he had covered the point to which I referred. Did the Senator say there would be harm in granting these exemptions?

Mr. LA FOLLETTE. I did.

Mr. TYDINGS. Then, I will read the Senator's remarks.

Mr. LA FOLLETTE. Now the Senator has tempted me to do what I said I would not do.

It is my firm conviction, I may say to the Senator from Maryland, after the most careful study I have been able to make of this whole question, that if the Federal Government in establishing this Federal system should adopt the amendment of the Senator from Missouri it would be inviting and encouraging competition with its own plan which ultimately would undermine and destroy it.

I do not think the amendment which the Senator from Missouri accepted, as tendered by the Senator from Washington [Mr. SCHWELLENBACH], is any protection at all to employees. It reads:

Provided, That no employer shall make election to come under or remain under the plan a condition precedent or a requirement of continued employment.

Mr. President, that sounds well; but how are individual employees all over the United States to be protected from being subjected to economic coercion, either direct or indirect, which their employers may exert upon them? It is perfectly silly, it seems to me, for any person to contend that a mere affirmative declaration in this amendment will be any protection whatsoever to employees from coercion upon the part of the employer.

In that connection I may say that I am authorized to make the declaration on the floor of the Senate that the American Federation of Labor regards the amendment offered by the Senator from Missouri with great apprehension. The A. F. of L. is convinced that it will do more to engender the type of company unionism which the Wagner labor-disputes bill—passed by the Senate some days ago—was designed to prevent than any other single thing which can be done.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. CLARK. Would the Senator mind pointing out wherein my amendment will tend to promote company unionism? It is very easy to make such a statement.

Mr. LA FOLLETTE. It is based upon the theory, as I understand, that private pension plans which enable the employer to have the right to say whether an employee is to be a beneficiary under one type of plan or the other produces a condition in which the employee feels unable to assert his economic rights. Labor also feels, and I think rightly so, that the employer controls the private annuity plan, and is likely to use it to keep organized labor out of his plant.

Mr. CLARK. Mr. President, will the Senator further yield?

Mr. LA FOLLETTE. I yield.

Mr. CLARK. If the Senator will take the trouble to read the amendment he will find that suggestion expressed in the negative in the amendment as I introduced it, and specifically covered in the amendment to the amendment offered by the Senator from Washington.

Mr. LA FOLLETTE. I do not agree with the Senator that the affirmative statements contained in this amendment are any protection whatsoever to millions of employees scattered all over the United States. This body recognized the problem when it went on record overwhelmingly in favor of setting up specific machinery in an attempt to protect labor in its right to organize and to bargain collectively. We have just completed a tragic experience in regard to section 7 (a) of the National Industrial Recovery Act, where there was an affirmative legislative declaration which proved hardly worth the paper on which it was written.

Mr. LONG. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. LONG. I did not think we went so very far to set up specific provisions to protect labor. The Senator is one of those who voted to let the value of labor be set by a more or less arbitrary order, which down in my section of the country amounted to $19 for a month's work. I do not see why we ought to kick on a thing like this.

Mr. LA FOLLETTE. I debated that question, Mr. President, with the Senator when the work-relief measure was under consideration. I stated then, and I now repeat, that the Senator was opposed to the measure, and that I refused to follow his leadership in that regard when he sought to defeat the measure, rather than to secure its enactment.

Mr. CLARK. Mr. President, will the Senator yield for a suggestion?

Mr. LA FOLLETTE. If the Senator will bear in mind that my time is running out.

Mr. CLARK. I simply desire to suggest to the Senator, when he says that none of these propositions can be valid or controlling, that the control of the subject and the enforcement of the subject are vested in the very same board on whom the validity of the whole act depends, and who are to administer every provision of this measure which the Senator thinks to be of such great merit.

Mr. LA FOLLETTE. Yes, Mr. President; but the Senator desires to increase their responsibilities several million fold by the amendment which he is proposing.

I admit that the administrative responsibilities under this bill, as it was reported, are great, and I was coming to that very point in a moment. That is another reason why I think the adoption of the amendment offered by the Senator from Missouri would be a very grave mistake from the point of view of those who are in sympathy with the objectives of this proposed legislation.

Mr. President, under the amendment of the Senator from Missouri, employees are to have the right to elect whether they shall come under the Federal plan or whether they shall stay under the private plan. Furthermore, employees will be able to elect, later, whether they desire to change from the private plan to the Federal plan; or, if an employer decides to abandon his system, then all of his employees will be transferred over into the Federal plan. There will be involved in transfers of this kind, in hundreds of thousands if not millions of instances, separate calculations, which will have to be made, and there will have to be audits of the books of the various corporations having private annuity plans with relation to every individual employee to determine whether the proper taxes have been paid for the employees included in the Federal system.

If there could be anything better calculated to destroy the effectiveness of the Social Security Board and to burden it with a task beyond human execution, I fail to see how it could be devised. At least it goes beyond the powers of my imagination to conceive of any task which could be imposed upon this board which would more quickly break down its efficiency and its administration.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Wisconsin yield to the Senator from New York?

Mr. LA FOLLETTE. I yield.

Mr. WAGNER. Of course it must be conceded that it would be to the advantage of the employer to have as many as possible of his employees younger men.

Mr. LA FOLLETTE. The Senator's point is well taken, and I agree with him entirely.

Mr. WAGNER. I do not see how there can be any question about that, because the older men get as an annuity more than they put in. We recognize that the employer still has some economic influence over his workers. Suppose a worker were employed at the age of 55, and should elect to go into the private system, and the employer would rather not have him in that system, but would rather have him in the Government system: It is conceivable that there might be some economic influence used to induce the employee to accept the Government plan rather than the other.

Mr. LA FOLLETTE. I have no doubt, Mr. President, that such influence will be exercised. Furthermore, I may point out, as the Senator well knows, that an inducement is already afforded to the older employees to elect to come under the Government plan, as they will get a larger percentage of the employer's contribution if they do so. Under the amendment, inducements would be offered to both the employer and the employee to load down the Government plan with the older employees and to upset its actuarial basis, and, as I said at the outset, ultimately to destroy the whole plan.

There is one other point in connection with the increased administrative problems which will be presented to the board if the amendment of the Senator from Missouri shall be adopted: A worker who has been in the employ of his employer under a private plan for a number of years either elects to go under the Federal plan or he loses his job with that employer and goes to another. Think of the many calculations which will have to be made after an audit of the books to find out just what that man's wages were during all the time he was in the first employer's employ; and if he shall have gone to another employer, additional calculations will have to be made in that instance.

I think the administrative calculations that will have to be made if this amendment shall become law will run into astronomical figures and will entail an administrative force which will make any other agency of the Government, in

relation to the number of its employees, shrink into insignificance.

Mr. President, I desire to say that, so far as I know, the Committee on Finance heard every person who desired to be heard upon this question. The hearings are here. They embrace 1,354 printed pages. There are only two instances where any of the witnesses who appeared before the committee urged the proposition which is now being favored by the Senator from Missouri. One was Mr. Folsom——

The PRESIDING OFFICER. The time of the Senator from Wisconsin on the amendment has expired.

Mr. LA FOLLETTE. I will speak on the bill. One was Mr. Folsom, of the Eastman Kodak Co., who came, I submit, primarily to argue in favor of the plant-reserve type of unemployment insurance, but who, it is true, incidentally pleaded for the exemption of private pension plans. The other was a Mr. Forster, of Philadelphia, a very estimable gentleman whom I have known casually for several years, but who, let it be said, is in the business of selling this kind of insurance.

If the amendment offered by the Senator from Missouri shall become a law it will provide a bonanza for the brokers who are engaged in selling this type of insurance, because they will have all the employers of the United States as prospects, since all employers can derive financial profit through establishing private annuity plans covering their younger employees, leaving the Federal system to take care of the older employees. Wherever they can devise a plan which appears to be of less expense to the employer than the public plan, there will be a sale prospect for the insurance broker. The insurance brokers will be reaping commissions and let it be said, they will be getting commissions and will be getting pay for selling something in this country which everybody would otherwise be compelled to buy.

It is my understanding that most of the large employers in the United States, who have the kind of plans which have been referred to in the debate as being good plans, have already made studies of the bill as it was reported from the Senate Committee on Finance and have come to the conclusion that it is better for them to revise their plan, to bring their employees under the Federal title, and to supplement the Federal plan with their private plan to take care of certain groups of their employees, especially those in the higher-income class.

I recognize the right and the obligation of any Senator who regards this proposed legislation as unsound, from the point of view of public policy, to oppose it and to vote against it on the final roll call; but to those Senators who believe that the objectives sought by this title of the bill are sound, I appeal not to take this oblique method of destroying this part of the bill. I absolve any Senator from any intent to do that and especially the Senator from Missouri. I know that he and the other Senators who have been supporting the amendment are doing so in the best of faith, but I appeal to the Senators who have not considered the amendment carefully and who believe in the principles of the bill not to vote for the amendment and thus to preserve the integrity of the bill.

I reserve the balance of my time on the bill.

Mr. KING. Mr. President, it had been my purpose to discuss somewhat in detail various provisions of the pending measure and to examine a number of decisions of the Supreme Court of the United States, which, in my opinion, condemned as unconstitutional titles II and VIII. However, the time for general debate has passed and under the unanimous-consent agreement there is but limited opportunity for discussion.

Mr. President, with the general purposes of the bill I am in accord and sincerely desire that some measure within the authority of the Federal Government might be enacted that would tend to accomplish the results desired. I am anxious to see ample provisions made for old-age benefits and for unemployment insurance. I cannot help but believe that this measure will prove disappointing and will not attain the objects desired. That several of its provisions will be held invalid I am constrained to believe.

I shall briefly consider titles II and VII because it is the view of many, as well as my own, that they exceed the power of Congress to enact into law.

These titles do not provide for appropriations to the States as do the other titles, which provide for child welfare, old-age assistance, unemployment compensation, public health, and maternal care. They seek to set up a Federal system of providing for compulsory old-age annuities. This is apparent from the face of the bill, which is entitled "An act to provide for the general welfare by establishing a system of Federal old-age benefits", and so forth. Title II is designated Federal old-age benefits, and title VIII taxes with respect to employment. It is clear from a reading of the bill, as well as the reports, that the taxes imposed by title VIII are to be levied for the purpose of paying for the Federal old-age benefits provided for under title II. It must be conceded that the Federal Government, being a government of delegated powers, cannot directly set up a system of compulsory old-age annuities. This is evident from such decisions as *United States* v. *Knight* (156 U. S. 1), holding that the power of a State to protect the life, health, and property of its citizens is a power not surrendered to the Federal Government and is essentially exclusive to the State. This principle was recently reaffirmed by the Supreme Court in the Railroad Retirement Act decision, the effect of which the Chief Justice said in his dissenting opinion was to deny to Congress "the power to pass any compulsory pension act for railroad employees." If we cannot pass a compulsory pension act for railroad employees engaged in interstate commerce, how can we pass a pension act for employees engaged in intrastate, as well as interstate, commerce? Yet this is what we are trying to do.

Congress, in titles II and VIII, knowing that it cannot directly collect premiums to pay compulsory old-age annuities, is attempting to reach this result indirectly through the taxing power. It is obviously disclosed on the face of the act what is trying to be done. The premiums are collected as taxes under title VIII and the annuities paid as Federal old-age benefits under title II. I do not believe anyone ought seriously to contend that Congress by changing the form of the bill can overcome the constitutional limitations. As stated by the Supreme Court in *Linder* v. *United States* (268 U. S. 5)—

> Congress cannot under the pretext of executing delegated power pass laws for the accomplishment of objects not intrusted to the Federal Government. And we accept as an established doctrine that any provision granted by the Constitution not naturally and reasonably adapted to the effective exercise of such power but solely reserved to the States is invalid and cannot be enforced.

This is not the first time we have attempted to exercise a power which belongs to the States or the people. Congress at one time passed an act prohibiting transportation in interstate commerce of goods made at a factory in which 30 days prior to removal of the goods children under certain ages had been permitted to work. This was, of course, an attempt to regulate child labor under the constitutional power to regulate commerce among the several States. The Supreme Court held this act unconstitutional, stating that the grant of power to Congress over the subject of interstate commerce was to enable it to regulate such commerce and not to give it authority to control the States in the exercise of their police power over local trade and manufacturing (*Hammer* v. *Dagenhart*, 247 U. S. 251). Having failed in this attempt, Congress next tried to regulate child labor under the taxing power. The Supreme Court also held the taxing act unconstitutional, stating in the Child Labor Tax case (259 U. S. 20) that the decision in the *Hammer* v. *Dagenhart case* was controlling and reaffirming its position that Congress could not "under the pretext of exercising its powers pass laws for the accomplishment of objects not intrusted to the Government."

I might also cite numerous other cases bearing out this same principle, such as *Hill* v. *Wallace* (259 U. S. 44) and *Trusler* v. *Crooks* (269 U. S. 475), holding that Congress cannot under the taxing power regulate boards of exchange.

Yet in this bill we are trying to do that which the Supreme Court has repeatedly held we are without power to do.

It has been stated on the floor that the Railroad Retirement Act decision does not affect this bill, due to the fact that that act related to the power of Congress to regulate interstate commerce and not to the power of Congress to levy taxes. But this is an old argument. This argument was also advanced in the Child Labor Tax case after the Supreme Court had already held that Congress had no power to regulate child labor under the commerce clause. The Supreme Court stated that Congress, likewise, had no power to regulate child labor under the taxing clause. Do we wish to go around the circle again now that the Supreme Court has held in the Railroad Retirement Act decision that Congress is without power under the commerce clause to provide compulsory pensions to railroad employees? In view of this decision, and in view of the Child Labor Tax case, how can it be said that Congress can provide pension plans for employees under the taxing clause? Have we not already learned a lesson from cases already decided?

I listened with interest to the argument advanced by the Senator from New York [Mr. WAGNER] in support of this part of the bill. He relies to a large extent on the decisions of the Supreme Court in the *Veazie Bank case* (8 Wall. 553) upholding a 10-percent tax on bank notes issued by State banks, the *McCray case* (195 U. S. 27, 59) upholding a discriminating tax upon the sale of oleomargarine, the *Doremus case* (249 U. S. 89) sustaining the constitutionality of the Harrison Narcotics Act, and the case of *Magnano* v. *Hamilton* (292 U. S. 40) upholding a State tax of 15 cents a pound on butter substitutes. But the sole objection to these taxes was their excessive character. Nobody contended that Congress did not have the power to lay a tax upon bank notes issued by State banks, or to lay a tax upon oleomargarine. Nothing except the taxes appeared upon the face of the acts. This was pointed out by the Supreme Court in the Child Labor Tax case and was also emphasized in the Doremus case, in which a regulation subjecting the sale and distribution of narcotic drugs to official supervision and inspection was upheld as a necessary means to enforce the special tax imposed upon such drugs. But here the face of the bill itself shows that the tax under title VIII has been adopted as a mere disguise to permit the Federal Government to set up a system of compulsory old-age annuities, which it has no power to do under the Federal Constitution.

Let us glance at these two titles to see whether or not they disclose on their face their real purpose.

(1) The employees subject to tax under section 801 of title VIII of the bill are the only persons who receive benefits under title II of the bill.

(2) The employees whose wages are exempt from the tax under section 801 of title VIII of the bill do not receive any benefits under title II of the bill.

(3) The tax on employees is computed on a percentage of the wages received by the employee after December 31, 1926, with respect to employment after such date. The old-age benefits under title II are computed upon wages received by the employee after December 31, 1936, with respect to employment after December 31, 1936.

The PRESIDING OFFICER. The time of the Senator from Utah on the amendment has expired.

Mr. KING. I will speak a few minutes, then, on the bill.

Mr. President, continuing,

(4) Services performed by an individual after he has attained the age of 65 are not counted in arriving at the benefits payable under title II but are subject to tax under title VIII. The purpose of this provision is to discourage individuals from working after they attain the age of 65. However, some of the people who will be 65 at the time this bill is enacted will be forced to pay taxes on their wages, although they cannot obtain any benefits at all under title II. Manifestly it is claimed that this is done to mislead the court into believing that title II has no direct connection with title VIII. But I do not believe the court will be misled by such subterfuge, and it is certainly a rank discrimination against aged people to tax their meager earnings after they become 65 and at the same time deny them any benefits under title II.

(5) In the case of a person who dies before attaining the age of 65, his estate receives under title II 3½ percent of the total wages determined by the Social Security Board to have been paid to him with respect to employment after December 31, 1936. These are the same wages upon which he is subject to tax under title VIII. There seems to be no justification for paying to the estate of such person subject to tax under title VIII a certain portion of his wages regardless of his financial needs, unless it is admitted that such payment is a return of the taxes paid under title VIII.

(7) An individual who is not qualified for benefits under section 202 of title II of the bill will receive payments under title II equal to 3½ percent of the wages paid with respect to employment after December 31, 1936, and before he reached the age of 65. These wages are the same as those with respect to which such person is subject to tax under title VIII. This means that an employee who has received wages subject to tax under title VIII before he attained the age of 65 of less than $2,000, or an employee who did not receive wages in each of at least five different calendar years after December 31, 1936, and before he attains the age of 65, will get back 3½ percent of such wages regardless of his financial needs. This can only be justified on the theory that he is being returned the taxes he paid under title VIII.

It is true that the tax under title VIII is paid into the general fund of the Treasury. But this was also the case in respect of the child-labor tax imposed by title XII of the Revenue Act of 1918 and the tax on grain futures imposed by the act of August 24, 1921 (42 Stat. 187). The Supreme Court did not hesitate to hold both of these taxes unconstitutional. (*Child Labor Tax case*, 259 U. S. 20; *Hill* v. *Wallace*, 259 U. S. 44.)

But suppose the two titles are held to be separate. How can title II standing alone be upheld, for how can it be said that Congress is providing for the general welfare by paying bounties to wealthy salaried individuals, or their estates at death, and at the same time deny such payments to agricultural laborers, persons employed by religious or educational institutions, and domestic servants? Moreover, under title VIII, when standing alone, there is a discrimination in its classification apparently in violation of the fifth amendment. Why should stenographers, clerks, janitors, and so forth, doing the same class of work, be exempted from a tax when they are working for religious, charitable, scientific, or educational institutions and subject to the tax when working for other institutions or business?

If one looks at the face of the bill, the conclusion seems inescapable that the tax under title VIII is not a tax at all, but an attempt by Congress to assert a power reserved to the States and the people under the tenth amendment. The decision cited by the Senator from New York [Mr. WAGNER] dealing with State workmen's compensation acts do not appear to be decisive of this question, for these acts deal with the powers reserved to the States or the people and not to the powers delegated to the Federal Government under the Constitution. I do not see how we can expect the Supreme Court to be "misled" by the subterfuges we have adopted in this bill in the attempt to exercise a power over which Congress has no control under the Constitution. I cannot help but believe that under the decisions of the Supreme Court titles II and VII will be declared unconstitutional.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri.

Mr. VANDENBERG. Let us have the yeas and nays.

Mr. HARRISON. Mr. President, I am convinced that it will be impossible for us to reach a vote on the pending amendment tonight. There are, however, some other amendments which I think we can dispose of which will not take much time. I have talked to a number of Senators, and I hope the unanimous-consent agreement which I send to the desk may be entered into.

The PRESIDING OFFICER. The proposed unanimous-consent agreement will be read.

The legislative clerk read as follows:

Ordered, by unanimous consent, That when the Senate concludes its business today it take a recess until 12 o'clock noon tomorrow; that at not later than 1 o'clock p. m. tomorrow the Senate proceed to vote without further debate upon the pending amendments; and that thereafter no Senator shall speak more than once or longer than 10 minutes upon the bill or any amendment or motion relating thereto.

The PRESIDING OFFICER. Is there objection?

Mr. McNARY obtained the floor.

Mr. LONERGAN. Mr. President——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HARRISON. Will the Senator from Oregon yield to permit the Senator from Connecticut to ask a question?

Mr. McNARY. Mr. President, just a moment. Reserving the right to object, and making the same reservation for the Senator from Connecticut, I desire to have it understood, as accompanying this proposal, that there shall be an agreement that no action shall be taken with respect to the Holt case tomorrow, because I understand that at 12 o'clock the majority and minority members of the committee will file reports. I desire to have them printed and lie over at least for the day.

Mr. GEORGE. Mr. President, I may say that in the event the Senator-elect from West Virginia [Mr. HOLT] should present himself, the program of the Privileges and Elections Committee would be to present such a report as the committee may finally submit, and ask for the printing of the report, and that the matter lie over at least for 1 day.

The PRESIDING OFFICER. Does the Senator from Georgia desire the attention of the Senator from Oregon?

Mr. GEORGE. I merely stated that if the Senator-elect from West Virginia should present himself tomorrow, the purpose and program of the Privileges and Elections Committee would be to ask that the report submitted be printed and that the matter lie over for at least 1 day, so that it would not interfere with the legislative program.

Mr. HARRISON. Mr. President, I may say to the Senator from Oregon that I have conferred with the colleague of the Senator-elect from West Virginia [Mr. NEELY]; and he states—I think we shall get through with this measure by 2 o'clock, anyway, under this arrangement—that he does not feel that there would be any objection, and that the Senator-elect would not present himself until after this matter should have been disposed of. I am confirmed in that by what the Senator says.

Mr. LONG. We can take up the Holt case at sometime tomorrow, however, can we not?

Mr. HARRISON. Oh, yes; if we get to it.

Mr. McNARY. No, Mr. President; I understood from the response to the statement I made that that would not be done I intended to imply that I thought it was fair and orderly for the reports from the committee to be filed at 12 o'clock, and that they should go over for at least 1 day. I think that statement was confirmed by the Senator from Georgia, who thought likewise.

Mr. GEORGE. I should ask that the matter take that direction, Mr. President. If the Senator-elect should present himself tomorrow, the reports of the committee would be in order; and I should certainly request that the matter lie over for 1 day, in order that the reports might be printed and made available to the Senate.

Mr. McNARY. That is correct. Then I suggest, after conferring with the Senator from Rhode Island [Mr. METCALF], that it would be well to provide that 15 minutes should be allowed on the bill and 10 minutes on the amendments.

Mr. HARRISON. I have no objection to that.

Mr. McNARY. Very well. Then, with that modification, I ask that the proposed agreement be stated.

The VICE PRESIDENT. The clerk will state the modified unanimous-consent proposal.

The legislative clerk read as follows:

Ordered, by unanimous consent, That when the Senate concludes its business today it take a recess until 12 o'clock noon tomorrow; that at not later than 1 o'clock p. m. tomorrow the Senate proceed to vote without further debate upon the pending amendments, and that thereafter no Senator shall speak more than once nor longer than 15 minutes upon the bill, or more than once nor longer than 10 minutes upon any amendment or motion relating thereto.

The VICE PRESIDENT. Is there objection?

Mr. LONERGAN. Mr. President, I desire the attention of the Senator from Mississippi. Does the proposed agreement say "pending amendment" or "pending amendments"?

Mr. HARRISON. The Senator from Connecticut is interested in one of the committee amendments and desires to make a motion with reference to that matter, as I understand. Under this agreement he will have 25 minutes after 1 o'clock to speak on that question.

Mr. LONERGAN. That is satisfactory.

The VICE PRESIDENT. Is there objection to the proposed unanimous-consent agreement as modified? The Chair hears none, and the agreement as modified is entered into.

SOCIAL SECURITY AGAINST FEDERAL POLITICS

Mr. SCHALL. Mr. President, I apprehend that few Members of the Senate are opposed in principle and in fact to the general purposes of this bill as advertised, namely, unemployment insurance, old-age and childhood relief, and sundry measures of social relief.

The striking and outstanding features of the bill, as analyzed by those who have studied it, are:

First. The small and even trifling amount of relief it will afford in the coming fiscal year 1936 to meet urgent conditions of unemployment and social helplessness, as compared with the vast program of promises to be fulfilled in the years 1939 to 1949, when the planned chaos of this so-called "emergency", we hope, will be over.

Second. Compare the estimate of only $400,000,000 which will be realized under the bill for unemployment insurance and old-age relief in 1936 with the $5,000,000,000 appropriated subject to the allocation of the Executive for his emergency in 1936.

In other words, for the 1936 emergency of the Executive, we have appropriated 12 times the amount available in 1936 for unemployment insurance and old-age relief combined.

Thus, under the cloak of "social security" for the unemployed, old age, and childhood relief, we give the Executive $5,000,000,000 for 1936, or an equivalent of $125 per voter for all of the 40,000,000 votes cast in the Presidential election.

Social security is needed now, in the hour of adversity, not in 1939 or 1949, after the "emergency" is presumed to be past.

In a published analysis of the practical effects of the bill I note that beginning January next a tax of 1 percent on pay rolls will begin to finance unemployment insurance, which will amount to $200,000,000, and that the Nation and the States will increase this to $400,000,000—available a year later, when the Government reports the collections.

In 1937 this pay-roll tax will jump to 2 percent for unemployment insurance, and another 2 percent to finance old-age benefits. Thereafter, we are told, these tax rates will steadily mount until by 1949 they are estimated to reach $4,000,000,000—a fifth less than the amount which for 1936 we toss to the Executive for his campaign fund in one lump sum subject to his allocation as he mysteriously chooses.

If we are here as practical statesmen, and not rubber stamps for a Presidential campaign committee, the questions that confront us are these:

First. This emergency which we aim to meet is in the fiscal year 1936 instead of 1949. Then why make available for unemployment insurance and old-age relief only $400,000,000 for 1936 against $4,000,000,000 in 1949?

Second. If we are for social security and not for Federal dominion over the States, then why in this day of emergency do we make only $400,000,000 available to unemployment insurance in 1936, against $5,000,000,000 available as an Executive political club in 1936?

The situation stands that for every dollar available for social security in 1936, we give $12 to the Executive to club the States, yes, even the Congress, into compliance with the dictates of the White House candidate for reelection.

Is that social security, or is it Federal politics?

Does that make for even the political security of the States from Federal domination?

In order to make this plan of social security effective now, when it is bitterly needed, instead of in the remote future, after the emergency is, as we hope, past forever, not to return, I suggest, Mr. President, that the amount of $2,000,000,000 be drawn from the $5,000,000,000 1936 campaign fund hitherto appropriated subject to the allocation of the Executive.

This suggestion will accomplish two principal objects:

First. It will demonstrate that the purpose of Congress is to achieve true social security, and not merely to issue a wide-spread campaign of idle promises, hullabaloo, and hypocrisy. It will start to give that security now, when it is bitterly needed, instead of passing the buck to future administrations and imposing a vast tax burden on both wage earners and employers alike, increasing steadily until 1949.

Second. It will materially aid the cause of the Republic, the protection of the rights of the States, the protection of Congress itself from the Federal encroachment now usurping the legislative powers of Government, if the Executive club of $5,000,000,000 is shortened to $3,000,000,000, and the difference appropriated to the social security of the needy and the political security of the Republic.

THE REPUDIATION PARTY AND ITS EMBLEM, THE BLUE EAGLE

Mr. President, those administration pallbearers who are trying by the passage of this bill to resurrect the dead corpse of the N. R. A., after the nine Justices of the Supreme Court by unanimous decision have consigned it to the grave, place themselves in a unique position.

They brand themselves as the outstanding repudiators of political history.

First. By retaining the provision which suspends the antitrust laws, they repudiate the platform on which they and the President were elected, namely, their "100 percent" pledge demanding—

Strict and impartial enforcement of the antitrust laws to prevent monopoly.

Second. They repudiate two of the outstanding progressive achievements of the former Democratic administration of Woodrow Wilson, namely, the Clayton Antitrust Act and the Federal Trade Commission Act.

Third. They repudiate every Democratic platform in 40 years, from the second administration of Grover Cleveland in 1892 to the one and only administration of Franklin "Delaware" Roosevelt, demanding strict enforcement of antitrust laws against monopoly.

Fourth. They repudiate the Constitution which they swore to uphold when they took their oaths to obtain seats in this Chamber, after the Supreme Court has found that the N. R. A. is unconstitutional.

Fifth. They repudiate the sovereignty of their own States, which this unconstitutional N. R. A. seeks to override.

Sixth. They repudiate the demands of 90 percent of the people of the United States, who overwhelmingly call for the burial of the Blue Eagle and all its progeny as the greatest stench that has ever revolted the American body politic.

Seventh. They repudiate even their own speeches for national industrial recovery, because the N. R. A. has been the chief obstacle to industrial recovery, as witness:

(a) In the first year after the first N. R. A. code, in July 1933, the industrial production of the United States fell 25 percent, while the industrial production of Canada and Great Britain rose 20 percent.

(b) It brought on the greatest industrial strike in American history, 800,000 wage earners being involved in a country-wide strike, and both leaders of the warring industrial factions were factotums of the N. R. A., namely, the Chairman of the N. R. A. Textile Code Authority was spokesman for the employers, while a leading member of the N. R. A. Labor Advisory Board was president of the United Textile Workers, both being official members of the N. R. A. set-up, and the entire strike or industrial war sprang from the N. R. A. and was apparently designed within N. R. A. circles to cut down the surplus supply of textile mill goods and boost consumer prices.

(c) Even in April 1935 the American Federation of Labor finds 11,500,000 unemployed as compared with 7,000,000 reported by the American Federation of Labor for April 1932, showing an increase of 4,500,000, or 65 percent, in 3 years of increasing industrial chaos, during which leading industrial countries abroad, such as Great Britain and Canada, have returned to a normal condition of industrial prosperity, the greatest they have known since the World War.

Eighth. Though the Supreme Court, by declaring the N. R. A. and its huge patronage of 5,400 unlawful under the Constitution, the administration majority repudiates its 100-percent pledge in the Chicago platform to cut off useless bureaus and reduce the cost of Government "by not less than 25 percent."

Ninth. Though the Supreme Court has performed a great public benefaction in cutting down Government costs by several hundred millions in its decision that kills the N. R. A., the administration majority deliberately chooses to ignore the Court's decision and thereby repudiates the Chicago platform pledge for a "Federal Budget annually balanced."

Tenth. Though the greatest bar to national industrial recovery is the uncertainty and fear injected into the economic development of the country by unconstitutional "experiments" and the "crack-down" threats to all private enterprise, the administration majority persists in perpetuating this N. R. A. uncertainty nearly a year longer and thereby repudiates its pledge to "recover economic liberty", to "restore confidence", and to "bring peace, prosperity, and happiness to our people."

Thus the administration supporters of the dead N. R. A.—upholders of the corpse which "nine out of nine" Justices of the Supreme Court have pronounced legally defunct and stinking—have not only defied the judgment of the Court and the provisions of the Constitution, but they have repudiated every economic plank of the platform on which they were elected, repudiated every pretense of recovery on which they based their long chain of "planned emergency", repudiated the record of all previous Democratic administrations in 50 years, repudiated the speeches and White House promises of 3 years of industrial chaos, repudiated even the false hullabaloo of the 11,000 press releases sent out by the publicity division of the N. R. A. and its short official life to date.

In short, we have here the greatest case of partisan self-repudiation known to history. Having repudiated their own party, all their platforms, all their party history, all their former leaders, and finally repudiated themselves and their own works and words—deserted all for one stinking corpse—these "new dealers" of the N. R. A. today have resolved themselves into a new party in American history—the repudiation party.

The other day a mass convention of American citizens gathered at Springfield, Ill., the former home of Abraham Lincoln, who prayed at Gettysburg that "government of the people, by the people, and for the people should not perish from the earth."

Were it not for the vicious principle, the rotten failure, the industrial chaos, exemplified by the unconstitutional N. R. A. Act and its exposure by the nine out of nine Justices of the Supreme Court, that convention might not have been held. This "grass roots" convention of the Mississippi Valley States marked the popular revulsion of the American people against this corpse of the N. R. A. Other like conventions are to be held in Ohio, representing nine central industrial States of the East, another at Salt Lake City representing the Mountain States, and still another representing the Pacific Coast States. Similar revolt against Federal domination of industry is expressed by the Governors of nine States of the South.

Here is one of the cheering patriotic signs at this "grass roots" convention in the town made famous by Abraham Lincoln. That assembly of 8,000 cheered the name of Alfred E. Smith, the Democratic standard-bearer of 1928. They

cheered the names of the Senators of Virginia, the veteran CARTER GLASS and former Governor BYRD. They cheered the name of the Senator from Maryland [Mr. TYDINGS]. And why these cheers from a convention presumed to be of the party of Abraham Lincoln?

The reason is plain enough. They had read the speeches and watched the votes and listened to the radio messages of these statesmen, who placed country above the party whip, Jefferson and Lincoln above Tugwell and Richberg, the nine Justices of the Supreme Court above Frankfurter and Cohen, and Washington, Cleveland, Theodore Roosevelt, and Woodrow Wilson above Franklin Roosevelt, General Johnson, and the Blue Eagle corpse and chaos.

That mass convention of the "grass roots" States had taken notes of the attitude of this administration toward the Supreme Court and toward the Constitution, as expressed by the President in his White House press interviews. Those men and women of the Middle West were not blind to the White House slur, that the nine Justices of the Supreme Court had set the country back 50 years, to the "horse and buggy" days because they had set up the Constitution as their guide, instead of the Roosevelt-Johnson codes; because they had set the principles of American liberty above the edicts of a would-be dictator; because they had placed the sovereign rights of the States above the interests of code monopolies; because they had held, as every court before them held for 146 years, that the legislative power of Congress cannot be delegated and usurped by the Commander in Chief of the Army and Navy to build here a bureaucratic autocracy as in Rome, Berlin, and Moscow.

That is why this "grass roots" convention cheered, not only the names of Jefferson and Lincoln, but the names of Alfred E. Smith and the Senators from Maryland and Virginia. It is only the scared handful, repudiators of their own party and platform, afraid to voice their own true convictions because of that club of the $5,000,000,000 burglary, the officeholders waiting for their split of the greatest hold-up of history, who are unable to read the handwriting on the White House wall—"Mene, mene, tekel, upharsin"—weighed and found wanting!

On the day chosen for dragging this Blue Eagle corpse through the Senate Chamber under a gag law, insisted upon by the President himself, the Shriners of the United States were marching up Pennsylvania Avenue 100,000 strong. The Stars and Stripes waved everywhere, at the reviewing stands and above the marching ranks, and there was not a Blue Eagle sign displayed.

And thereon hung the great news event of the day. When Franklin "Delaware" Roosevelt saluted the Shriner colors as the procession passed his reviewing stand, he was compelled to salute The Star-Spangled Banner—the flag of the free, the flag of the Constitution—instead of the corpse shroud of the Blue Eagle, the bedraggled rag of the N. R. A., salvaged by the swag of $5,000,000,000.

Mr. President, I ask leave to print an industrial-control report relating to the "grass roots" convention.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Industrial Control Reports, issued weekly by the James True Associates, National Press Building, Washington. No. 102. June 15, 1935]

FRANKNESS FROM THE "GRASS ROOTS"

Washington opposers of the administration, both Democrats and Republicans, are greatly encouraged over two results of the "grass roots" convention—establishment of the constitutional issue, and the brushing aside of restraint in attacking Roosevelt personally.

Undoubtedly, the most effective feature of administration propaganda was its protection to Roosevelt until the recent Supreme Court decision. More than 300 official administration press agents were assisted by thousands of socialist "fronts" and "plants" in every section of the country. Reds on the staffs of papers used their influence to the utmost. Jewish advertisers also brought pressure to bear.

About 60 days ago, a prominent Washington correspondent of an opposition paper told the writer that it was not safe to attack Roosevelt. Published criticism brought a flood of protests from the "fronts" and "plants", and their letters were received as an indication of public opinion until their names became familiar to editors. Hoaxing of the press in this way is an established method of Communists and Socialists.

We have received many letters of protest and denunciation, a number of them threatening, because of our many factual statements regarding Roosevelt. A striking similarity of phrasing unmistakably indicates the organized effort on the part of reds and pinks to protect "the first Communist President of the United States", as he is called in Russia, against adverse criticism.

More than a year ago we predicted that the new deal would be blocked when the public learned some of the facts regarding the motive behind it. Now the bars are down. A large part of the public suspicions that it has been betrayed. Roosevelt's responsibility for his appointments and leadership is established. Without serious molestation, newspapers can now publish the truth, thanks to the "grass roots" convention.

"GRASS ROOTS" HIGHLIGHTS

From a well-known observer at the convention, we learn there were 8,666 delegates registered from 10 States. The galleries at all meetings were filled. As many women as men attended. A great many resolutions were thrown out, none but the most important and significant were considered. "The new deal was indicted, tried, found guilty, and sentenced to hang."

Women will wield more influence in the next campaign than ever before, if convention indications hold. Women delegates were unanimous in their denunciation of the First Lady for her political activities and radio advertising. They pronounced her a socialist and severely criticized other members of the family. It was evident that Republican women will make Mrs. Roosevelt one of the major issues, and that they are determined that the next hostess of the White House shall be one who will carry out the American tradition.

DAMNING EVIDENCE AND A FEW QUESTIONS

Breaking of the popularity of Roosevelt is largely due to a public realization of the hypocrisy and double-dealing of the man. If you want just a mild hint of his complete change of front, write the Republican National Committee, Washington, D. C., for a complimentary copy of the pamphlet "Franklin D. Roosevelt, as Governor, Warned Against * * *"

Why did Roosevelt junk the Democratic platform he was elected on and substitute the Socialist platform? Why did he adopt the "brain trust" new-deal program after he had vigorously denounced control by master minds, infringement of State rights, Federal interference with business, and the other communistic ventures he has promoted as President?

Answers to these questions have been supplied the public by millions of letters, books, pamphlets, small periodicals, booklets. Many thousands of these pieces have been stolen from the mails by "new dealers" in the Postal Service. To a large extent, pamphleteers have expressed their goods. The campaigns have been mightily effective and have largely nullified the press censorship and the effects of threatened press boycotts.

CREDIT WHERE CREDIT IS DUE

For the vast and recent change in public sentiment, credit should be given to Albert W. and Elizabeth Dilling, Gerald B. Winrod, H. A. Jung, Col. Edwin M. Hadley, Robert E. Edmondson, Col. E. N. Sanctuary, John B. Trevor, John B. Snow, Miss M. R. Glenn, and many others. At great personal sacrifice, these Americans have exposed the communistic fallacies of the administration and the sinister international influence behind Roosevelt.

DEMOCRATS WITH THE NEW-DEAL JITTERS

Fear of what the new deal will do to the party is expressed by prominent Democrats in two major ways. The movement to block the nomination of Roosevelt is well started, and is based on the fact that he has proved he is not a Democrat. The plan is to have one-third of the delegates instructed or pledged not to vote for Roosevelt, and the movement is said to be making marked headway in Georgia, Tennessee, Virginia, Florida, and Texas.

This week, a secret poll of Democrats in the House was made by the National Congressional Committee to determine sentiment for the 1936 election. The first question is: "What in your opinion is the reaction, personally, to Mr. Roosevelt in your district?" The second deals with the reaction to administration policies, and the third is: "Can Roosevelt carry your district?" It is the earliest poll ever conducted by the committee.

OLD WINE IN A NEW BOTTLE

The United States Flag Association is promoting a declaration of independence of today, to be signed by 56 "outstanding Americans." The announcement will be made on July 4, and the new document will paraphrase the original declaration.

Insiders say that since both Roosevelt and his wife are officials of the United States Flag Association, they cannot understand how a conclusion was reached without removing both the blue and the white from the flag.

DEFYING THE SUPREME COURT?

Apparently in opposition to the principles laid down by the Supreme Court in the recent N. R. A. case, new-deal leaders in Congress are making desperate efforts to push through the A. A. A. amendments. Although new-deal legal tricksters say they have gotten around the decision by "rephrasing" parts of the bill, the legislation, if enacted, will give the Secretary of Agriculture supreme control of farm products. Leaders in both Houses and A. A. A. officials have admitted, insiders say, that the announcement regarding cancelation of licensing power was merely a "gesture." There is no doubt that the proposed legislation is unconstitutional.

The N. R. A. bill, considered under gag rule by the House, holds together the Tammany political machine in a form that can be rapidly extended for the political campaign. It offers practically no benefits to industry and preserves the sinister menace of political control. Even in its emasculated form it is doubtful that all provisions of the N. R. A. bill are constitutional.

TAX FIGHTS

We predict that the next heavy blow dealt the new deal will be in the form of suits to recover processing taxes. While egomania still rules at the top, sane administration officials admit that the entire A. A. A. structure is in grave danger. It has been announced that the tobacco industry will claim about $50,000,000. Thursday, in Philadelphia, six packing companies filed suits in the United States district court.

They have asked that the collector of internal revenue be enjoined from collecting further processing taxes. The suits are based on the claim that the Government has no power to control production, that the processing tax is not a tax as defined by the Constitution, and that the Secretary of Agriculture should not be granted arbitrary taxing power. Other suits for millions of dollars have been filed in various sections of the country.

WORTH-WHILE BROADCASTS

Monday evening, June 17, at 6:30 (eastern standard time), Representative HAMILTON FISH, Jr., will broadcast a vitally important statement on the condition of agricultural exports and imports. His speech will be made over the blue network of the National Broadcasting Co.

On June 21, at 10:30 (eastern standard time), Representative MARTIN DIES, of Texas, will broadcast over the same network an appeal to reason regarding aliens. He will advocate the immediate passage of his bill to permanently stop immigration and deport 3,500,000 aliens unlawfully in this country. His speech is sponsored by more than 100 patriotic organizations.

EXPORTS AND IMPORTS

Recently Representative FISH introduced the last McNary-Haugen bill (H. R. 8427), providing for the control and disposition of surplus farm commodities. He will explain his reasons during his broadcast next Monday, and following we state some of the facts that impelled him to attempt to save vanishing markets for the country's agricultural products.

The present condition vitally affects every American business. Mr. FISH takes the charitable view that the demoralization is due to mistakes of administration officials. About 16 months ago we emphasized certain facts which strongly indicated a deliberate attempt to retard recovery. Since then we have repeatedly charged the administration with planning to impoverish the country in order to make its communistic experiments acceptable. The following facts are submitted as proof of our charges:

EVIDENCE OF OFFICIAL SABOTAGE

Half or more of our cotton exports have been lost. We are actually importing more wheat than we are exporting. Since last July 21,760,000 bushels of wheat have been imported, while exports were only 3,008,697, and the equivalent of 11,702,000 in flour, a large part of it milled from Canadian grain. We have imported 11,269,000 bushels of corn, 14,084,000 bushels of oats, 9,624,000 bushels of barley, and 12,474,000 bushels of rye.

During the first 4 months of this year importation of grains amounted to $22,721,000, and during the same period of 1934 the total was $4,785,000. Wheat exports dropped from 12,174,000 to only 57,000 bushels. Rice imports increased from 12,708,000 to 39,024,000 pounds. Rice exports decreased from 39,375,000 to 28,778,000 pounds. There was a net trade loss of 36,912,000 pounds of rice during the 4-month period.

Butter imports increased from 217,000 pounds last year to 17,398,000 pounds for the first 4 months of this year. Importation of meats increased from 16,326,000 pounds to 38,041,000 pounds, while meat exports decreased from 79,544,000 to 57,888,000 pounds. Lard exports dropped from 166,952,000 pounds to 51,386,000 pounds during the 4-month period. Tobacco exports for April this year were the smallest for any month since March 1918.

In 1925 exports of agricultural products reached a total of about one billion and a half dollars. In 1934 exports were $733,416,000—less than half. Authorities estimate that agricultural exports for this year will not exceed $500,000,000. The 1925 figures are based on a sound, 100-percent dollar. The decreased figures are in the depreciated 59-cent dollar. Based on the old sound dollar, the value of this year's farm exports will not exceed $300,000,000—one-fifth of agricultural exports for 1925.

These figures are but a small part of a large number which point to the same inevitable conclusion. The new deal planned ruin of the country's agriculture is almost complete, and during the process the administration stealthily increased its communistic control. The only success of the administration is its deliberately planned demoralization.

Mr. HARRISON. Mr. President, there is to be no other discussion of the pending amendment this afternoon, I understand.

Mr. McNARY. Does the Senator from Mississippi desire to have me present at this time the amendment in behalf of the Senator from South Dakota [Mr. NORBECK], or shall I wait until tomorrow?

Mr. HARRISON. The Senator may offer the amendment now. I should like to clear up as many of these matters as possible.

Mr. McNARY. In the absence of the Senator from South Dakota, who is compelled to be away on account of official business, I submit the amendment which I send to the desk.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). The Senator from Oregon [Mr. McNARY] presents an amendment on behalf of the Senator from South Dakota [Mr. NORBECK], which the clerk will state.

The LEGISLATIVE CLERK. On page 80, after line 4, it is proposed to insert the following:

TITLE XII—INDIAN PENSIONS

SEC. 1201. That heads of families and single persons of Indian blood, not otherwise entitled to the benefits of this act, who have heretofore attained or shall hereafter attain the age of 65 years, are hereby declared to be entitled to a pension from the United States in the sum of $30 per month, subject to the following conditions:

Applications for pension by persons of Indian blood shall be made in writing in such form as the Secretary of the Interior may prescribe and shall be filed by the applicant with the superintendent or other officer in charge of the agency or tribe to which the applicant belongs. Upon receipt of any such application the Secretary of the Interior shall make, or cause to be made, such investigation as he may deem necessary to determine the accuracy of the facts shown thereon, including the annual income of the applicant from other sources. In all cases where the Secretary of the Interior finds that the annual income of such applicant is less than $1 per day, said Secretary shall award to such applicant a pension in an amount which, when added to the other annual income of such applicant, will bring such annual income up to but not in excess of $1 per day: *Provided, however,* That payments to Indian pensioners entitled hereunder shall be made in equal monthly installments from the date of approval of application therefor by the Secretary of the Interior, and, in the discretion of said Secretary, such payments may be made direct to the individual beneficiaries or to other persons designated by the Secretary of the Interior providing care for any beneficiary under the provisions of this act: *Provided further,* That in the discretion of the Secretary of the Interior such payments due any Indian beneficiary may be handled in accordance with regulations governing individual Indian money accounts; and the Secretary of the Interior is hereby authorized to prescribe such further rules and regulations as may be necessary for carrying out the provisions of this section.

SEC. 1202. All persons of Indian blood who are permanently blind but less than 65 years of age shall be entitled to a pension from the United States in the sum of $10 per month, and all persons of Indian blood who have for 1 year previous to the enactment of this act been unable to perform physical labor on account of being crippled or otherwise disabled shall be entitled to a pension from the United States in the sum of $10 per month during such disability.

SEC. 1203. The Indians and Eskimos of Alaska shall receive a pension under same conditions and in an amount one-half that provided for Indians under this title.

SEC. 1204. There is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this act, including necessary expenses of administration.

Mr. HARRISON. Mr. President, I have considered the amendment very carefully, and I am willing that it shall go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McNARY. Mr. President, I am in possession of a letter written to the Senator from Mississippi [Mr. HARRISON], in charge of the bill, by the Commissioner of Indian Affairs, which the Senator from South Dakota [Mr. NORBECK] desired to have me offer for the RECORD, and I ask unanimous consent that it may be printed following the action on the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 17, 1935.

Hon. PAT HARRISON,
United States Senate.

DEAR SENATOR HARRISON: I have talked with your secretary, Mr. Calhoun, about the proposed amendment to the Securities Act providing for pensions for aged Indians.

I am in sympathy with this proposal, and I call attention to its modest character. These aged Indians will receive from the Government a sufficient monthly pension to bring their total income to a dollar a day. The possibilities of abuse under the terms of the proposed amendment would be minimized. Most of these aged Indians, insofar as they receive incomes at all, receive them from properties under the jurisdiction of the Government and in the form of payments out of individual accounts held in trust. This fact means that the Interior Department, through its local superintendencies, would know with considerable exactness the income already being received by each of these old people.

I should add that a large percentage of them are now receiving little income or none at all. Many of these old Indians possess

land any more. Others are in possession of allotments not yet alienated, from which the regular income is trifling. Often their landholdings are split through numerous heirship processes—lands which have become subdivided through the pernicious allotment system to that point where they can no longer be profitably rented or farmed. These old Indians now subsist at a near-starvation level through such help as relatives may be able to give them and through the very inadequate relief grants now made to the Indian Office.

I should add that these old Indians are the best of their race, and I believe every American feels that the Government ought not to let them starve nor leave them dependent upon uncertain local charity. Usually they do not have access to the relief sources which imperfectly meet the need of aged white people.

What probable liability will the amendment place upon the Government? There are about 14,000 Indians aged 60 years and over; about 11,900 aged 65 years and over; about 9,325 aged 70 years and over. The maximum theoretical liability for the group 60 years and over would be $4,260,000 a year. I would estimate roughly that two-thirds of the total of those 65 years and over (11,900) would be entitled to some aid, and that on the average this two-thirds (7,900) would become entitled to pension at the rate of 66⅔ cents a day. This would mean an annual cost to the Government of about $1,925,000. You will understand that this is a merest estimate and that in time of drought and of business depression the required amount might be larger, while in good times it would be substantially smaller.

Sincerely yours,

JOHN COLLIER, *Commissioner*.

Mr. HARRISON. Mr. President, I offer two clarifying amendments.

The PRESIDING OFFICER. The Senator from Mississippi offers amendments, which the clerk will state.

The LEGISLATIVE CLERK. On page 29, line 1, after the word "State", it is proposed to insert the words "and its political subdivisions."

The amendment was agreed to.

The LEGISLATIVE CLERK. On page 33, line 23, after the word "State", it is proposed to insert the words "and its political subdivisions."

The amendment was agreed to.

Mr. HARRISON. I offer another amendment, to be inserted at three places in the bill.

The PRESIDING OFFICER. The clerk will state the amendments.

The LEGISLATIVE CLERK. On page 8, line 1, it is proposed to strike out the words "Secretary of the Treasury" and to insert in lieu thereof the words "Social Security Board."

The amendment was agreed to.

The LEGISLATIVE CLERK. On page 8, line 4, it is proposed to strike out the words "Secretary of the Treasury" and to insert in lieu thereof the words "Social Security Board."

The amendment was agreed to.

The LEGISLATIVE CLERK. On page 9, line 10, it is proposed to strike out the words "Secretary of the Treasury" and to insert in lieu thereof the words "Social Security Board."

The amendment was agreed to.

Mr. RADCLIFFE. Mr. President, I offer the amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 15, line 22, after the word "literary", it is proposed to strike out "or educational" and to insert in lieu thereof "educational or hospital."

On page 52, line 4, after the word "literary", it is proposed to strike out "or educational" and to insert in lieu thereof "educational or hospital."

On page 61, line 22, after the word "literary", it is proposed to strike out the words "or educational" and in lieu thereof to insert "educational or hospital."

Mr. HARRISON. Mr. President, I have examined this amendment. Many charitable hospitals have been held by the Treasury Department to be exempt, and this provision of the bill is in the same wording as the present law.

Mr. CLARK. Mr. President, what is the purpose of the amendment?

Mr. HARRISON. There are certain charitable hospitals which under the wording of the bill are already exempt.

Mr. CLARK. According to the great argument the Senator from Mississippi [Mr. HARRISON] made this afternoon, as well as the Senator from New York [Mr. WAGNER], this amendment would impair the constitutionality of the bill.

Mr. HARRISON. I am sorry the Senator places that interpretation on it. The wording is as follows:

(b) The term "employment" means any service, of whatever nature, performed within the United States, or as an officer or member of the crew of a vessel documented under the laws of the United States, by an employee for his employer, except—

* * * * * * *

(6) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes—

And so forth.

Mr. CLARK. Unfortunately, perhaps, the Treasury Department does not as yet make the laws of the United States. The Supreme Court within the last 2 or 3 weeks said that the Congress still functions. While I have no objection to this amendment, which simply provides another exemption to those already in the bill, it certainly gives the lie to the argument which has been made here all afternoon by the sponsors of the bill, the Senator from Mississippi [Mr. HARRISON], the Senator from New York [Mr. WAGNER], the Senator from Wisconsin [Mr. LA FOLLETTE], and others, that to put exemptions in the bill would invalidate the measure. I shall not object.

Mr. HARRISON. Mr. President, I desire to say only a word. The amendment does not, in my opinion, add anything to what is already in the bill. It is a clarifying amendment, and for that reason it was offered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland [Mr. RADCLIFFE].

The amendment was agreed to.

Mr. McNARY. Mr. President, I think I shall take this opportunity to say a few words on one section of the bill, particularly that which applies to old-age pensions.

For many years I have been very much interested in the philosophy of legislation of this character. In reviewing a few days ago some of the bills, I found that on August 15, 1919, I introduced a bill which provided a pension for those who had reached the period of old age.

Today we are considering a plan directly affecting millions of our citizens—so many, in fact, that they outnumber the combined populations of Arizona, Delaware, Idaho, Montana, Nevada, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, Wyoming, the District of Columbia, and Alaska.

The problem which we are called upon to face in the care of our dependent aged grows more acute with each year. Within a century man's expectancy of life has jumped from 39 to 60 years, so that in 1930 those over 65 years of age represented more than 5 percent of the entire population, a percentage double that of 1850.

We cannot lightly approach any plan touching so large a number of our citizens. For good or ill, dependent wholly upon the ultimate soundness of our program, our decision will affect the entire economic, social, and perhaps political life of the country. The cry for old-age pensions, delayed though it has been in the United States, is now challenging the attention of the country as never before.

Wrapped in our own affairs, we have gone our separate and indifferent ways until conditions have become so acute as to compel a wide-spread realization of an indefensible situation. Now an awakened and aroused public opinion clamors against this existing evil, and few are left sufficiently entrenched in selfish interests to remain calloused to the call of humanity, or to dare ignore the challenge of an enlightened remedy.

There are some who attribute this to clever and appealing propaganda; but the demand for decent care for our dependent aged is rooted in the fundamentals and ideals of our democracy, and of late years has been intensified by our rapid mechanization and industrialization.

A century ago problems of old age from the economic standpoint were not so acute nor so sharply defined as today. The man of 50, 60, or 70, growing more adept at his trade, handled his simple tools skillfully; and if advancing years laid a restraining hand on his shoulders, they also bestowed

the benediction of experience, trustworthiness, and dependability which youth does not always possess. So the elderly man had his place. The whir of the accelerated motor, the machine which, serving man, demands perfection of eye and muscle of him who serves it—these did not yet constitute a challenge to his efficiency. On the farm, in the simple workshops, in the fields, driving the vehicles of those days on rude but safe highways, the worker of yesterday did not find it necessary to clutch with a life-and-death grasp the job which gave him independence.

The women also had their place. The mother found many things to which her willing hands could turn in the homes of yesterday, with the younger generation coming on apace and no labor-saving devices to lighten the burden. Families were larger in those days. There were more children to share the expense of maintaining the older generation when it ceased to be financially independent.

Again, in the last decade we have turned sharply from agriculture to industry. Forty-five years ago nine and one-half million of our people were engaged in agriculture, topping by more than a million those found in mining, manufacturing, transportation, and trades. But in 1920, 30 years later, agriculture claimed only 11,000,000 as against 21,000,000 in the other fields of endeavor, and in 1930 there was an actual decrease in the number of agriculturists, as against 25,000,000 in the industrial groups. In other words, in 1890 a greater proportion of our people were engaged in agriculture than in any other business activity. Since that time, and up to 1930, agriculture has barely held its own, whereas the industrial group has practically trebled itself.

This, of course, has a direct bearing on old-age dependency. Not only did the elderly man and woman find a niche in the agricultural pursuits, but the struggle for shelter and food was not so exacting on the farm as in the crowded cities to which industry has drawn our people. Every time man's inventive genius constructs another labor-saving device, more men and women walk the streets with empty hands, and the blight falls first on those of matured years.

But to damn the machine is futile, since progress is inevitable, and should be welcome. Nevertheless, it is essential that we adjust our economic life to our new industrialization and mechanical advancement; and when we care for the aged we have taken one necessary step in that direction.

Not alone have we become industrialized as a nation, but we boast an industrialization pitched to the highest degree of efficiency, specialization, and speed. Added to this there is the abominable practice, rapidly increasing, of placing an employment deadline somewhere between 35 and 50. In 1929 the National Association of Manufacturers, after a survey, revealed that 30 percent of the concerns investigated—the large corporations chiefly—operated under set age limits, the most accepted limit for unskilled workers being 45 years of age; for skilled workers, 50 years of age.

Now, if it were possible, in this land of abundant natural wealth, for the majority of our workers to earn enough to accumulate a surplus for their latter years, this condition might not be so tragic. But, of course, in the case of at least half of those employed this is utterly impossible. The Brookings Institution, in its survey based on conditions in 1929, found that about 40 percent of income recipients received incomes less than $1,000. The average income was approximately $1,200. Going by slowly ascending steps to an annual income of $2,000, we find that less than 19 percent of our people receive in excess of this amount. These figures were calculated, not on conditions in one of our depression years, but in our so-called "boom" year of 1929, when we as a people were supposed to be cradled in luxury and abundance. When we consider the exigencies of life, the inevitable periods of unemployment and illness, the losses and the costs involved in these and in other accidents and hazards, we are putting it optimistically if we assume that even 40 percent of our people are able to accumulate a substantial and adequate savings account. As a matter of record, 16,000,000 families, comprising about 59 percent of all our families in the United States, in 1929 had aggregate savings of about $250,000,000 only. This amounts to about $16 per family.

Of this group some will have a few hundreds more, some nothing at all, and many will be in debt, but the net answer is the same. More than half of our people cannnot, out of their meager earnings, set aside any substantial amount against the years of unemployment and old age.

We find, then, in our modern industrialized society these two related causes of old-age dependency, neither of which surely can be charged to those who suffer from them most: Foremost, low wages which prevent accumulation of any degree of wealth, and its close associate, the refusal to employ those who have passed youth and middle age. Various industrial studies made within the last 10 years plainly indicate that only a few of our workers have earned enough to maintain a moderately high standard of living, and not only have earnings fallen short of this in good times, but during periods of depression they have been insufficient to supply even the minimum necessities. It is conceded by most students of the problem, including the foremost authorities in this field, that the major factor for poverty in old age is the low wage scale. I may say that an examination of this class shows that small earnings and dependency in old age maintain an inseparable relationship.

A year ago a study by the Brookings Institute entitled "America's Capacity to Consume" startled us by its statistics concerning the number of families and workers who, because of the small return for their labor, were compelled to exist far below our accepted American standard.

A series of charts on family and individual incomes is followed by this explanatory language:

> The figures in the table and chart reveal in a striking way the wide disparity in incomes, and also the concentration of the great bulk of the families in a relatively narrow income range. The greatest concentration of families was between the $1,000 and $1,500 level, the most frequent income being about $1,300. The following summary statement will aid in showing both the range and the concentration that exists:
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> Nearly 6 million families, or more than 21 percent of the total, had income less than $1,000. About 12 million families, or more than 42 percent, had income less than $1,500. Nearly 20 million families, or 71 percent, had income less than $2,500. Only a little over 2 million families, or 8 percent, had income in excess of $5,000. About 600,000 families, or 2.3 percent, had income in excess of $10,000.

In the face of this cold statement of facts, no argument is needed to establish our responsibility toward those who find themselves at 60 or over without adequate savings. If anything is needed to strengthen this recognition, let us turn again to the study of our wealth distribution for an analysis of surveys during the same period:

> Sixteen and two-tenths million families with income from zero to $2,000 (59 percent) show aggregate savings of about $250,000,000. 8.9 million families (32 percent) with income from $2,000 to $5,000 saved approximately 3.8 billion dollars. Two million families (7 percent) with income from $5,000 to $20,000 contributed about 4.5 billion dollars of the aggregate savings. 219,000 families with income above $20,000 saved over $8,000,000,000.
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> About 2.3 percent of all families—those with incomes in excess of $10,000—contributed two-thirds of the entire savings of all families. At the bottom of the scale 59 percent of the families contributed only about 1.6 percent of the total savings. Approximately 60,000 families at the top of the income scale, with income of more than $50,000 per year, saved almost as much as the $25,000,000 families (91 percent of the total) having income from zero to $5,000.

Thus, it must be evident to the most determined individualist that in most instances old-age dependency in the United States is not due to individual maladjustment, but to social and economic forces which the individual cannot hope to govern.

To present a problem is much simpler than to present its solution. Yet I am confident that once the magnitude of this problem is clearly recognized, once we face squarely the fact that it has passed beyond the ability of the individual to master, and is distinctly national in its character, we shall set ourselves to the task of its solution. It does not square with our sense of fair play and honorable acceptance of responsibilities to flinch and turn a cowardly back upon our duty.

In Wisconsin, where there was an opportunity for voters to register their convictions, they voted in 1931 to change

the law from optional to mandatory form; and Minnesota followed suit in 1933. Six of the 13 laws enacted between 1931 and 1933 set the pensionable age at 65 years instead of 70. Since the beginning of 1935 seven States have enacted laws affecting old-age pensions. In every instance the trend has been toward liberalization such as reduction in age limit, lowering the residence requirements, or making the obligation of the counties mandatory.

I do not claim that an old-age pension alone will bring to this country a full solution of its pressing problems; but it is an important, righteous forward step.

Both the farmer and the business man should profit by the application of a generous pension plan, greatly in excess of whatever share of the financial expense may fall upon them. If it is feasible to spend billions of dollars to lift industry from its prone position and start it again into its stride, it is feasible to expend money in this just cause with the expectation that it will carry out the second part of its twofold purpose, namely, to stimulate the purchase of our so-called "surplus commodities" by assuring for them a fixed and balanced market.

No less a beloved citizen than Abraham Lincoln has said:

> Inasmuch as most good things are produced by labor, it follows that all such things ought to belong to those whose labor has produced them. But it has happened in all ages of the world that some have labored, and others, without labor, have enjoyed a large proportion of the fruits. This is wrong and should not continue. To secure to each laborer the whole product of his labor as nearly as possible is a worthy object of any good government.

Those who are devoting themselves to the cause of good government can take this means of assuring to our workers, in their old age at least, the products of their labor of earlier years. Thus, there shall be happiness and peace in homes now darkened with despair, and in serving the cause of good government we shall serve the cause of democracy and humanity as well.