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 question is on the amendment offered by the Senator from Missouri [Mr. CLARK].

Mr. BARKLEY. Mr. President, the amendment which has been offered by my friend the Senator from Missouri [Mr. CLARK] is to be voted on at 1 o'clock, and inasmuch as the Senator from Missouri desires to conclude the argument on his own amendment, I promised him not to occupy all the time; and I have no desire to do it independent of that in order that I may extend to him the courtesy to which he is entitled as the author of the amendment.

There are so many things involved in the amendment which is now before us that I could not hope to call attention to all of them in the space of time which I shall occupy. We have heard a good deal of discussion here on the pending bill and in connection with the amendment, in which the fear has been expressed that the bill itself is of doubtful constitutionality, and the intimation is that we ought to vote against it on that account.

Mr. BORAH. Mr. President——

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

Mr. BARKLEY. I yield.

Mr. BORAH. The fear, as I understand, is with reference to title II; but does not the Senator think that title II might be held to be unconstitutional without affecting the other portions of the bill?

Mr. BARKLEY. Yes; I think the various titles of the bill are separable. The point that I have in mind at this particular juncture is that, if it be true that there is any part of this measure concerning the constitutionality of which there is doubt, that doubt ought not to be increased by adding an amendment such as that which is now before the Senate.

We have heard the Federal Government berated and denounced here on the floor as if it were a sort of monster; we have heard it talked about as if it were a sort of glacier, gigantic in proportions, crawling along the surface of the earth and crushing everything with which it comes in contact, and that, because it is a monster, because it is constantly reaching its hands out to crush somebody or to rob somebody of authority, we ought to vote against this measure and all similar measures which are brought forward for our consideration.

I do not entertain that conception of the Federal Government. The same people who pay taxes into the State treasuries pay taxes into the Federal Treasury; the same people who are citizens of the States are citizens of the United States; and I look upon our National Government rather as a benevolent organization than as a ruthless organization seeking all those whom it may devour. Certainly in its effort to relieve economic insecurity by providing some universal and uniform way by which we may eliminate the hazards of old age, of unemployment, and of illness, our National Government takes on the qualities of a benevolent government and not of a despotic or ruthless government.

We have had our attention called to the decision of the Supreme Court in the famous case sometimes referred to as the "sick chicken" case, sometimes as the "chicken coop" case, and other derisive terms which have been applied to it. I think it is unfortunate that the decision as to the legality of N. R. A. had to arise on a case involving the plucking of chickens out of a coop, because it seems to be a trivial situation; but the Supreme Court went into it in detail and therefore I have no disposition to treat it in a trivial way.

I believe there is no question that the Congress has the power to levy the tax which is proposed to be levied under the pending bill. I am not concerned with fear as to the constitutionality of title II, which can only be doubted on the ground that we are invading a field which was reserved to the States or the people; but I do not see any difference in principle between appropriating billions of dollars to be given to unemployed men and women all over the United States in an emergency to keep them from starving and freezing and appropriating money out of the Treasury in an orderly way to provide against the existence of such an emergency in the future.

We need not grow fearful that the foundations of our Government are going to crumble because the Supreme Court on one day rendered three decisions, two of which nullified acts of the Federal Congress, one being the N. R. A. case, the other involving the Frazier-Lemke Act, which was passed by Congress and was not, strictly speaking, a part of the new deal, as it has been assumed that all these decisions were rendered against the new deal, and the third having to do with exercise of the power of dismissal on the part of the President.

It might be interesting for Senators to recall that from 1789 to 1859 the Supreme Court rendered only 2 decisions nullifying acts of Congress. From 1860 to 1869 it rendered 4 decisions nullifying acts of Congress; from 1870 to 1879 it rendered 9 decisions nullifying acts of Congress; from 1880 to 1889 there were 5 such decisions; from 1890 to 1899 there were 5 such decisions; from 1900 to 1909 there were 9 such decisions; from 1910 to 1919 there were 7 such decisions; from 1920 to 1929 there were 19 such decisions; from 1930 to 1932 there were 3 such decisions; and from 1933 to 1935, both inclusive, there were 7 such decisions, which involved only 6 acts of Congress. So that from 1920 to 1929, a period of 10 years, the Supreme Court nullified, in all 19 decisions, acts of Congress, but no one was then fearful that because of that fact Congress had ceased to function or that the Supreme Court had arrogated to itself the powers of government.

No one thought the foundations of our Government were about to crumble; yet because during the last 5 years the Supreme Court has rendered 10 decisions in which it nullified acts of Congress, 7 of which have been rendered within the last 3 years, we are cautioned not to vote for anything that even implies a position near the border line, lest we may do something that is unconstitutional.

Mr. President, my objection to the Clark amendment is that it sets up two competitive systems of old-age relief. I believe one of the wisest things the Nation has done has been to recognize the duty of the Government toward indigents. Whether the indigent condition be brought about by unemployment or old age or ill health, there is no way by which the public can escape the burden. It is always present in one form or another. Those who work must support those who do not work. It has always been so, and it will always be so. With respect to reduction of hours of labor, my theory has been that if we must decide whether all our people should be allowed to work three-fourths of the time or three-fourths

of them should be allowed to work all the time and the other one-fourth never work at all, I prefer the first alternative so as to divide whatever work is available among all the able-bodied men and women of the country who desire to work, so they may share it in proportion to their ability, rather than that we shall have a permanent condition in this country in which three-fourths of the people shall be allowed to work all the time and one-fourth never to work at all, and therefore become burdens upon the three-fourths who shall be allowed to work. That is the reason why I favor reduction in hours of labor, insofar as we can do that, in order to spread the work which is available among all the people capable of working.

I feel the same way with respect to the provisions for old-age pensions and unemployment insurance. That is why I believe in this measure, worked out by a commission appointed a year ago by the President at the time he sent his message to Congress announcing that at this session he would propose a constructive plan of legislation to deal with this complicated and interrelated situation. After months of investigation and months of labor that commission brought out a tentative plan, which was submitted to the Houses of Congress, and both Houses, through their committees, held exhaustive hearings on the subject. The House of Representatives finally passed a bill, I believe, in much modified form. Our Committee on Finance gave weeks and months of study to this problem, and has brought here a bill proposing a uniform and universal plan to apply to our country.

Abraham Lincoln once said this country cannot endure half slave and half free. I do not believe any old-age pension system we may inaugurate can long endure half public and half private, because if we have private insurance or annuity plans set up in opposition to the plan of the Federal Government, it is not difficult to see that the high-pressure salesmanship of annuity companies and of insurance companies will always be on the doorsteps of the employers to convince them that they can insure their employees in a private system more cheaply than they can by the payment of taxes into the Federal Government and a consequent dispensation of the benefits in an orderly and scientific fashion.

Therefore I believe the effect of the Clark amendment—and I am sure, of course, the Senator from Missouri was not actuated by any such design or desire—will be to disorganize and disarrange the reserve fund set up in the Treasury under the Federal plan, and that it will gradually and effectually undermine the Federal system which we are trying to set up. We will then have our Government in competition with every annuity writer and every employer in the country who thinks he may be able to save a little money by insuring his employees or by adopting some private annuity plan which may be suggested to him by some private insurance company or annuity company which desires to obtain the business.

As the Senator from Wisconsin [Mr. LA FOLLETTE] said yesterday, the employers of the United States have not asked for this amendment. Only one employer of labor came before our committee and suggested it. He was a representative of the Eastman Kodak Co., of Rochester, N. Y., which for many years has had a very commendable system of private annuities for its employees. The only other man who came before the committee to suggest the amendment was a man who represents an annuity company which desires to write policies for employers throughout the United States.

The question which we are to settle when we vote on the Clark amendment at 1 o'clock is whether we are to have a Federal system uniform in its application all over the United States or whether we are to have a spotted system, part Federal and part private.

The argument has been advanced here that failure to adopt the amendment would rob the States of some rights to which they are entitled. The argument has even been made that the enactment of this bill into law will rob the States themselves of some right under the theory of State rights. I believe in State rights. I was schooled in the doctrine of State rights. I come from a section of the country and I belong to a political organization one of whose cardinal doctrines has always been the preservation of the rights of the States. But while I am in favor of State rights, I am also opposed to State wrongs.

We take nothing away from any State in this measure. There is nothing here which interferes with the right of any State to pass its own old-age-pension laws and its own old-age annuities or any other form of old-age relief which the State legislature, through the representatives of the people, may desire to enact. We not only take away from the States no right which they enjoy but we take away from no employer any right which he enjoys. He may continue his private plan if he desires; and if he is so generous as not to be satisfied with what the old people who work for him or his concern for the able-bodied years of their lives are to get out of this bill, he may supplement that by adding to it, or inaugurating a private system of his own which will give them more than they will be able to obtain under the bill as we have it here.

My contention is, however, that we cannot safely take away from this uniform, universal system which we are trying to establish here the universality and the uniformity of its application by holding out an invitation or an encouragement to private individuals to impinge upon the system set up by the Federal Government, and utterly to destroy its reserve fund, and thereby break down its application, because the Federal Government will be compelled to bear the burden of it on the seamy side, while private employers may so manipulate their employment as to age as to have a large majority of younger men who would not be an immediate burden upon them, while shifting to the Federal Government all of the older employees whom they do not desire to carry on their rolls because of the greater burden that might be attached to payment of annuities to them over a term of years.

Mr. COSTIGAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Colorado?

Mr. BARKLEY. I yield to the Senator from Colorado.

Mr. COSTIGAN. I am much impressed by the statement of the Senator from Kentucky. In connection with it, I ask his attention to the proviso on page 4 of the Clark amendment, to which, as I view the amendment, not enough attention has been directed.

Under that proviso, with which the Senator from Kentucky doubtless is familiar, if an employee leaves private employment prior to reaching 65 years of age, the duty falls upon the employer to pay to the Treasury of the United States an amount equal to the taxes which otherwise would have been payable by the employer, plus 3 percent per annum, compounded annually. Since we are dealing with insurance principles, is the Senator prepared to tell the Senate why the payment to be made at such a time is not based on actuarial standards, which would result in a larger payment by the employer than the amount provided for in the Clark amendment?

Mr. BARKLEY. Of course, I am not able to answer the question of the Senator, because I do not know why it was not based upon actuarial facts and upon actuarial investigations.

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

Mr. BARKLEY. I yield.

Mr. CLARK. I do not desire to take the Senator's time and I shall be glad to have the Senator make up out of my time the amount of time consumed by this interruption.

The question is very simple to answer. The provision was included in that form to meet the objection which was made in the committee that the employee might be the loser at any time by transferring from a private fund to the Government fund. The provision was put in the amendment in this form to insure that an employee who, either from his own wishes or from any other cause, transfers at any time from a private fund to the Government fund will certainly not be any worse off than if he had been in the Government fund all the time.

Mr. BARKLEY. That leads me to discuss another matter which I think is very serious and will be very difficult to administer.

The amendment of the Senator from Missouri provides, of course, that the board shall approve these plans. It must keep constantly in touch with each of them, not only as to the plan as a whole but as to every single employee of any concern, however large the number may be. In other words, if the employment of any man is terminated under the terms of this amendment, whether by his own voluntarily act or by the act of his employer, the board in Washington must investigate the relationship of that employer to that employee; and it is conceivable that it would take an army of inspectors and investigators running all over the United States to innumerable places to which they would be called every time a man terminated his employment, either on his own account or on account of his employer, to ascertain the relationship between the employer and the employee at the time of the termination, and at the same time investigate the employee's rights under the private plan and under the Federal plan, if he had any rights under the Federal plan.

Talk about bureaucratic government, and about snoopers going around all over the country to investigate everything! There would have to be an investigation, if there was any controversy over it, every time a man quit his work or was discharged, as to his rights under his agreement with his employer, or under the law under which he operated.

That brings me to the discussion of another matter which seems to me to add to the doubtful constitutionality of the bill if this amendment should be adopted.

In the child-labor case the Supreme Court practically held that an effort on the part of Congress to levy a tax on the products of a factory intended for interstate commerce, provided they employed children in the manufacture of the product, was the same as fixing a penalty upon any concern that employed child labor. They held that that was unconstitutional for that reason, as well as for other reasons which they assigned.

In the case of this amendment, if the same controversy should arise, and the Court should take the same view of it—that the tax imposed here would be in the nature of a penalty against every concern that did not have a private plan of annuity for the benefit of its employees—of course, the act might be held unconstitutional on that ground.

To me, however, there is even a more serious objection to the amendment on constitutional grounds. The Constitution provides that all duties, imposts, and excises shall be uniform throughout the United States. Of course, that does not mean that we have to levy a given tax on everybody in the country. We have always recognized the right of Congress to establish classifications for the purposes of taxation. We do it in all of our revenue laws. We set up classes which shall pay a certain amount of taxes, and other classes which according to the law will be taxed in a different way; but I do not recall any act of Congress or any decision of a court where it has been held that after fixing these classifications Congress can lift some persons out of the classifications and exempt them from taxes altogether. That is what this amendment would do. It says to every concern and every factory, it says to all those who are subject to it, "You will pay this tax unless you inaugurate a private annuity system of your own. If you do that, you are not required to pay the tax which everybody else in your class will be required to pay."

I seriously doubt whether Congress has any such power as that under the Constitution. Certainly, in my judgment, that would violate the rule of uniformity which the Constitution requires with respect to taxes levied upon all classes and different classes which Congress proposes by its laws to attempt to tax. Certainly there would be enough doubt about it to add to the doubtfulness of the constitutionality of the act as a whole, if there is any serious doubt as to its constitutionality, which I have not the time now to argue at length, because I have promised the Senator from Missouri to leave him 20 or 25 minutes in order that he may close this argument in behalf of his own amendment.

But, regardless of constitutionality, regardless of any question of technicality, regardless of all the legal technicians who may be brought forward in behalf of this proposal, my earnest belief is that it is unwise as a matter of policy to divide this great scheme which has been devised in our country—a belated scheme, I will say, compared to the legislation of other civilized nations, some of which was inaugurated half a century ago, most of which has been in operation for a quarter of a century. It has taken us a long time to march up the hill toward the consideration of our duty to those who have served society, and in many cases have rendered as valuable service to the world as the man who shoulders a musket or goes to war in support of his flag or his Constitution. It has taken us a long time to conceive of it as our duty as a government to do something to recognize, in an organized and regular and orderly way, the duty of society to its aged and to its unemployed and to its indigent, those who have served their day and have passed on beyond the power of service, beyond any capability so far as they are concerned to make their declining years happy and comfortable. I congratulate the Congress of the United States, I congratulate the American Government, I congratulate men of both political parties in this Chamber and in the other Chamber, that at last we have come to recognize the fact that society as a whole, in its organized form, owes an obligation to these men and women which cannot be discharged by mere lip service, but can be discharged in a practical way only by the enactment of workable, practicable plans to apply to all alike and to all sections of the country with equal force, as we have attempted to provide in the bill now before the Senate.

I think the Senate and the Congress will rue the day on which this amendment shall be agreed to, and thereby the strength of our enactments be weakened, and the power of the National Government be weakened in dealing with unemployment and old-age problems.

For these reasons, I sincerely hope the amendment will be defeated. However much I regret to oppose any amendment put forward by my lifelong friend the Senator from Missouri, however much respect I have for his views and for the sympathetic heart which I know he possesses, nevertheless, I believe he is wrong in principle and in policy in this case, and I believe it would be a serious mistake to adopt the amendment; and I, therefore, trust that it will be rejected.

Mr. CLARK. Mr. President, no careful and intelligent observer in these unhappy times can have failed to note that in the last 10 or 12 years there has been an essential change, if not in the form of our Government, at least in its substance, and can have failed to observe that this has ceased to be a government in which legislation is by congressional consideration and vote, but has become a government by experts.

There was quite a long period following the foundation of the Government down to a recent date when Senators and Representatives considered it their duty under the Constitution to formulate legislation on their own responsibility, under their oaths of office, to consider that legislation in the light of their own views, and to cast their votes on the enactment of the legislation in accordance with those views. That situation existed until a period not so long ago. During that time Senators and Representatives considered it to be their duty to take active part in the formulation of legislation. But under the system which has grown up in the last 10 or 12 years, a man who feels himself qualified to participate in the formulation of legislation, to have any voice in its formulation, should not offer himself for election to the Senate or the House of Representatives, but he should procure for himself a position as a member of some commission, or as an employee of some commission or as an employee or agent of some bureau of the Government.

Until very recently these experts were satisfied to go over legislation proposed to be enacted, in private, with the Senators who were to introduce it and sponsor it, and quietly to let it be known that it was legislation sponsored

by the commission or the bureau, as the case might be. In more recent practice the experts come to the committees, in executive sessions of the committees, and the experts come upon the floor of the United States Senate in droves.

In the consideration of the particular bill now before us, when the bill was finally reported out of the Finance Committee I think it is no exaggeration to say that there were three times as many experts in attendance in that supposed executive session of the committee as there were Senators present to vote on the bill, a measure which puts a larger charge upon the taxpayers of the United States than any bill ever heretofore introduced.

During the consideration of the bill on the floor of the Senate the Senator from Mississippi [Mr. HARRISON] has from the beginning been flanked by two experts, the Senator from Wisconsin [Mr. LA FOLLETTE] has had a private expert of his own, and the seats in the back of the Chamber have been occupied by experts of various kinds. So it is with some trepidation that a mere Senator of the United States rises to appeal to his colleagues in this body, and to differ from the opinions of this galaxy of experts.

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

Mr. CLARK. I yield.

Mr. BARKLEY. I do not recall when a single general tariff bill has been enacted during my membership in the two Houses of Congress when there were not clerks and various experts sitting by the chairmen of the committees in both Houses to furnish information with respect to the measure as it went along.

Mr. CLARK. I will state to the Senator from Kentucky that of course the rule of the Senate provides for clerks of committees being admitted to the floor, but I have searched in vain—although I am not complaining about this matter—for any authorization for representatives of various commissions and various bureaus to be on the floor of the Senate. I am making no point of that, however.

Mr. BARKLEY. I thought the Senator was.

Mr. CLARK. I am simply laying the foundation for some remarks which I now desire to make.

I do not desire to criticize these experts; they are honest men, for the most part, wedded to their own ideas, but it seems to me that when the time has come that the Senate of the United States cannot consider measures on its own responsibility without any more effective argument being made against a measure than that this corps of experts does not approve it, this country has come to a pretty pass.

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

Mr. CLARK. I will in just a moment. In other words, it seems to me that there may be very grave suspicion that the real objection of these experts to this amendment and to other suggestions for changes in the proposed act which have been advanced may bear a very close analogy to President Grant's remark about Senator Charles Sumner. It is related that on one occasion someone told President Grant that Sumner did not believe in the Bible, and Grant replied, "Yes, damn him; that is because he didn't write it." That is the attitude of many of these experts regarding many of the measures brought on the floor of the Senate.

I now yield to the Senator from Kentucky.

Mr. BARKLEY. I wish to ask the Senator a question. We are dealing always with a very practical situation. Back in the days when legislation was simple it was easy, of course, for the Senators and the Members of the House of Representatives to deal more at large with the details of legislation. I recall the act creating the Federal Trade Commission which I helped to write as a member of the Committee on Interstate and Foreign Commerce of the House of Representatives, and that was a very short act. But as the problems of the Government have multiplied and our society has become more complex, members of both branches of the National Legislature and of branches of all legislatures everywhere have found it more necessary to acquire accurate information in order to guide them in the matter of legislation.

We will adjourn in a few weeks and go home. We will be at home I hope the remainder of this year. We do not have our minds on legislation when we are at home, we are not writing bills. We are glad to get away from the humdrum and the burden of legislation.

When we come back in January, what harm will come if the President shall appoint some commission to look into a situation which may require legislation when we reassemble, and if such commission shall have gathered a volume of information for our assistance and guidance in the matter of legislation? What harm is there even if some gentlemen have suggested a tentative draft of a bill, which we have the right to change, as in this case we have changed the bill materially from what it was when it came to us?

Mr. CLARK. Evidently I have not been able to make myself clear to my distinguished friend from Kentucky.

Mr. BARKLEY. I am sure that is my fault.

Mr. CLARK. No one complains about the furnishing of information to any committee of the Senate or of the House of Representatives, or to either body itself. What I am complaining about is the assumption of infallibility by this body of experts.

Mark now, how a plain tale shall put my friend down. The first draft of the bill before us was produced after 6 months of work under direction of a stellar array of technical, medical, public-health, hospital, dental, and child-welfare officials.

The bill was prepared, and some 2 or 3 weeks later the experts of the Treasury Department advised a multitude of very radical changes in the bill, which were accepted almost without exception.

Since then experts advisory to the committees in the House and in the Senate have brought about many further modifications, and it is only now, at the last minute, after all this multitude of changes, that the opinion of these experts suddenly becomes infallible, and in the face of this they now maintain that the Federal plan as now contained in the bill has suddenly achieved such perfection as to justify the wiping out of benefits of all private plans in favor of a Government compulsory plan, which will probably again be changed by the experts.

Mr. President, I have only a few minutes remaining, but I desire as briefly as possible to state why I think my amendment should be agreed to.

Mr. LONG. Mr. President, before the Senator leaves the subject he has been discussing, I wish he would not overlook what the Senator from Kentucky has pointed out, that as these experts continue to compile our laws the Government becomes more complex and complicated, and needs more experts.

Mr. CLARK. That is unquestionably true.

Mr. BARKLEY. If the Senator will yield, of course, that is not what I said at all, and the Senator from Louisiana knows it is not what I said. He got the cart before the horse, as he always does.

Mr. CLARK. I do not desire to have the Senator from Kentucky and the Senator from Louisiana engage in a controversy in my time, because I have only 13 minutes left.

Mr. LONG. Mr. President, I beg the Senator's pardon——

Mr. CLARK. I must decline to yield, because I have some serious thoughts I desire to present to the Senate.

The statement was made by the Senator from Mississippi in the course of the debate—and I know in good faith, because it was based on the testimony of one of the experts, to which I myself listened—that there is no private pension plan more generous and more beneficial to the employee than the Government plan.

Mr. President, the expert who made that statement before the Finance Committee, the principal opponent before the committee of the amendment which is soon to be voted on, was M. W. Murray Latimer. He is the inventor, or the chief proponent, at least, of the contention which has been advanced here on the floor that the adoption of the pending amendment would lead to discrimination against the older

type of employees and the laying off of employees at a fixed or earlier age. Yet the same Dr. Latimer, before he became an expert testifying in the executive sessions of the Finance Committee, when he was speaking in public on the stage at Cleveland in January 1930 to the American Management Association, used this language:

Talk of general retiring age limit in any industry is sheer myth.

There has been quite a change in Dr. Latimer's position between the time he appeared independently on his own responsibility in public and when he appeared in a secret session of the Finance Committee as one of the experts of two of these committees.

Mr. President, it is said that there are no private plans which are more beneficial than the plans set up by the Government under this bill. I read to the Senate yesterday a brief description of the plan of one company which now contributes 4½ percent to a benefit fund as against 3 percent contributed by the employees, and which, in addition to certain other benefits, provides in the plan an insurance policy of the face value of 1 year's salary for each employee.

I now desire to place in the RECORD, Mr. President, some other advantages in other private plans. What I shall state is by no means comprehensive, but it is merely illustrative. Many companies under private plans provide that earlier retirement for women may be had, or that there may be special disability retirement.

Companies which normally retire women at age 60, as against the Government plan of retirement at age 65, are, among others, the American Insurance Co., the American Telephone & Telegraph Co., the Clark Thread Co., the Eastman Kodak Co., the General Foods Corporation, the Rochester Gas & Electric Corporation, and the Standard Oil Co. of Ohio.

Plans which retire disabled men before age 65, which is a feature strictly forbidden under this Government plan, among others, are the Boston Consolidated Gas Co., which permits retirement at any age after 15 years' service; the Electric Storage Battery Co., which permits retirement at any age after 15 years' service; the International Harvester Co.; the Standard Oil Co. of New Jersey; and the United States Steel Corporation.

Plans which retire men, not disabled, before age 65 after a specified length of service, among others, are Armour & Co., Commonwealth Edison Co., Spool Cotton Co., and the Standard Oil Co. of California.

Mr. President, the trouble with these experts is that they take their model from the ancient highwayman of old Attica, Procrustes, whose custom it was, so we are told in fable, to overpower wayfarers passing along a certain route and compel them to lie upon a bed which he had specially constructed. Those wayfarers who happened to be too short to fill up the bed had their legs stretched out to the length of the bed, and those unfortunates whose legs happened to be longer than the bed had their legs hacked off. That is the principle of the experts with reference to this bill in opposing such an amendment as that which I have proposed. Where the legs of any private plan are too short to fit the model which the Government has made, no one has any objection to having those legs stretched out; but it seems more than passing hard and passing unfair to require the legs of those companies which happen to have more generous plans, which happen to be too long for the bed, to be hacked off, more particularly when the length of leg hacked off would be for the benefit of the employees concerned.

Mr. President, it was stated by the Senator from Mississippi [Mr. HARRISON] yesterday and by the Senator from Kentucky [Mr. BARKLEY] a while ago that no employers or employees were concerned about the passage of this amendment. I know that they both made that statement in good faith, but, for their information, I should like to say to them that I have on my desk here letters from more than 75 employers now having plans more beneficial to the employees than the Government plan, who protest against having their plans wiped out.

It was stated that the adoption of this amendment would ruin the structure of the bill. That certainly has not always been the opinion of these experts, because in the March-April 1935 number of the Manager's Magazine, Dr. E. E. Witte, who sits upon the floor of the Senate as the adviser of the Senator from Wisconsin [Mr. LA FOLLETTE], used this language:

At the present time, there is no exemption offered to the employer who has already embarked on a plan of private annuities, either with a life-insurance company or by some other means. If those insurance companies underwriting such cases were to offer a reasonable amendment to the pending bill urging an exemption for such employers, it might be accepted. There would probably be two points insisted upon, however, by our committee or by the Social Insurance Board set up under the bill, namely, (1) the ability of the insurer to guarantee security of the fund, and (2) the transferability of the amount vested in the employee in case he leaves his present employer.

Mr. President, both of those features are completely covered in the amendment which I have proposed, and I read that statement simply for the purpose of showing that the statement which has been repeated here on the floor by various Senators that the adoption of this amendment would ruin the whole structure of the bill is apparently entirely without foundation; at least it was not recognized by one of the chief experts of the committee, Dr. Witte.

In closing, I simply desire to emphasize the fact that Senator after Senator in opposition to this amendment has made the statement that the adoption of this amendment, providing for the retention of private pension plans, would redound to the disadvantage of the older employees; and yet, although the Senator from New York [Mr. WAGNER], the Senator from Mississippi [Mr. HARRISON], the Senator from Wisconsin [Mr. LA FOLLETTE], and others have been requested to point out wherein that was possible, not one of them has been able to lay his finger on the manner in which that would be possible and to justify the statement.

The fact is that this amendment, in its present form, containing the provision that the contribution to the fund by any employer shall not be less than the amount of the tax, makes it absolutely impossible for any employer to profit to the extent of one penny by having younger employees. The only effect of cheaper insurance by reason of younger employees would be to enable the employer to purchase larger annuities, which would redound to the benefit of the employee and not of the employer.

The provisions of this amendment make it absolutely certain that the employee can leave the private pension system at any time at his option and go into the Government system, taking with him not less than the amount which would have been to his credit in the Government fund if he had been under the Government fund from the very beginning.

Therefore I submit it is not to the interest either of the public or of the employers to penalize employees who now are under the more liberal pension systems than that proposed to be set up by the Government plan. It is not to the interest of the public to prohibit forward-looking employers who are anxious to be more generous to their employees than would be the system provided in this bill. I point out further that under the provision of the amendment the conditions of the private plan must be such as to meet the approval of the board to be set up under this bill for the administration of the whole bill, and that under this amendment the duty is imposed on that board in the future to follow up the operations of the various private pension plans, and to insure their conformance to the conditions set forth in the amendment.

I now suggest the absence of a quorum.

Mr. LA FOLLETTE. Mr. President, will not the Senator be generous enough to withhold his suggestion of the absence of a quorum in order that I may utilize the remaining time before 1 o'clock in order to read a letter into the RECORD?

Mr. CLARK. Mr. President, I shall be glad to yield the remainder of my time to the Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, yesterday I made the statement that I was authorized to declare that the Amer-

ican Federation of Labor was opposed to this amendment. I shall take the opportunity of using the remaining minutes to read a letter which I received from Mr. William Green, president of the American Federation of Labor, addressed to myself, dated June 19, 1935, as follows:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., June 19, 1935.

Hon. ROBERT M. LA FOLLETTE, Jr.,
United States Senate, Washington, D. C.

DEAR SENATOR: The American Federation of Labor is unalterably opposed to the Clark amendment to H. R. 7260, the social-security bill. The amendment proposes to continue in operation private insurance schemes in effect in various industries. This would exempt these industries that have old-age-pension plans from paying the tax provided in the bill.

It is well known that the management of many industries discharge employees when they approach the retirement age. Information was given the Senate that in the packing industry, for instance, the private insurance plan has been a success. It must not be forgotten that a few years ago when the packing plants of Nelson Morris & Son were sold to Armour & Co. the insurance plan in effect in the former's plants was canceled. Although many employees had contributed for many years to the insurance plan, they never received a penny in return after the sale of the company to Armour & Co.

Another great objection to private pension plans is that it tends to discourage the employment of older men. Men more than 40 years of age are refused employment. There is no hope for them except through the enactment of the national-security bill.

There are many reasons why the Clark amendment should be defeated. It would prevent many thousands of persons over 65 years of age ever receiving old-age pensions. On the other hand, if the security bill is passed as written, those entitled to old-age pensions will receive them.

Private insurance plans were originated in industries which objected to the employees joining trade unions. It was an incentive to the organization of company unions which gave the industries complete control over their employees.

Therefore the American Federation of Labor can see nothing to the advantage of the workers in exempting private insurance plans in the proposed law.

Yours very truly,

WM. GREEN,
President American Federation of Labor.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, under the unanimous-consent agreement entered into yesterday, the Senate will now vote on the amendment offered by the Senator from Missouri [Mr. CLARK].

Mr. LA FOLLETTE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Radcliffe
Ashurst	Coolidge	La Follette	Reynolds
Austin	Copeland	Lewis	Robinson
Bachman	Costigan	Logan	Russell
Bailey	Dickinson	Lonergan	Schall
Bankhead	Dieterich	Long	Schwellenbach
Barbour	Donahey	McGill	Sheppard
Barkley	Duffy	McKellar	Shipstead
Bilbo	Fletcher	McNary	Smith
Black	Frazier	Maloney	Steiwer
Bone	George	Metcalf	Thomas, Okla.
Borah	Gerry	Minton	Townsend
Brown	Gibson	Moore	Trammell
Bulkley	Gore	Murphy	Truman
Bulow	Guffey	Murray	Tydings
Burke	Hale	Neely	Vandenberg
Byrd	Harrison	Norris	Van Nuys
Byrnes	Hastings	Nye	Wagner
Capper	Hatch	O'Mahoney	Walsh
Caraway	Hayden	Overton	Wheeler
Chavez	Johnson	Pittman	White
Clark	Keyes	Pope	

The PRESIDENT pro tempore. Eighty-seven Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendments offered by the Senator from Missouri [Mr. CLARK].

The amendments offered by Mr. CLARK are as follows:

On page 15, after line 25, to insert the following:

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

"(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. I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BULKLEY (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CAREY], who is necessarily absent from the city. I understand that a special pair has been arranged for him on this vote, which leaves me free to vote. I vote "yea."

Mr. LOGAN (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. DAVIS], who is absent. I am advised that if he were present he would vote "yea", and, as I intend to vote the same way, I feel at liberty to vote. I vote "yea."

The roll call was concluded.

Mr. NYE (after having voted in the negative). On this question I have a pair with the senior Senator from Virginia [Mr. GLASS]. If he were present, he would vote "yea." Under the circumstances I withdraw my vote.

Mr. AUSTIN. The Senator from Wyoming [Mr. CAREY] is necessarily absent. He is paired on this question with the Senator from Utah [Mr. THOMAS]. If present, the Senator from Wyoming would vote "yea", and the Senator from Utah would vote "nay."

Mr. LEWIS. I announce that the Senator from Virginia [Mr. GLASS], the Senator from California [Mr. MCADOO], and the Senator from Nevada [Mr. MCCARRAN] are unavoidably absent, and that the Senator from Utah [Mr. THOMAS] is detained on important public business.

I desire to announce the following pair on this question: The Senator from California [Mr. MCADOO] with the Senator from Nevada [Mr. MCCARRAN]. I am not advised how either Senator would vote if present.

The result was announced—yeas 51, nays 35, as follows:

YEAS—51

Adams	Clark	Keyes	Pittman
Austin	Coolidge	King	Pope
Bachman	Copeland	Lewis	Russell
Bailey	Dickinson	Logan	Schall
Barbour	Dieterich	Lonergan	Smith
Borah	Duffy	Long	Steiwer
Bulkley	George	McGill	Townsend
Bulow	Gerry	McKellar	Truman
Burke	Gibson	McNary	Tydings
Byrd	Gore	Maloney	Vandenberg
Capper	Hale	Metcalf	Van Nuys
Caraway	Hastings	Moore	White
Chavez	Hatch	O'Mahoney	

NAYS—35

Ashurst	Costigan	Minton	Schwellenbach
Bankhead	Donahey	Murphy	Sheppard
Barkley	Fletcher	Murray	Shipstead
Bilbo	Frazier	Neely	Thomas, Okla.
Black	Guffey	Norris	Trammell
Bone	Harrison	Overton	Wagner
Brown	Hayden	Radcliffe	Walsh
Byrnes	Johnson	Reynolds	Wheeler
Connally	La Follette	Robinson	

NOT VOTING—9

Carey	Glass	McCarran	Nye
Couzens	McAdoo	Norbeck	Thomas, Utah
Davis			

So Mr. CLARK's amendment was agreed to.

Mr. BORAH. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment of the Senator from Idaho will be stated.

The CHIEF CLERK. It is proposed, on page 4, line 21, after the comma, to insert "and (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30."

On page 4, line 21, strike out "(2)" and insert "(3)."

On page 4, line 22, strike out "amount" and insert "amounts."

On page 5, lines 5 and 6, strike out "clause (1)" and insert "clauses (1) and (2)."

On page 5, line 10, after "clause" insert "(1)."

On page 5, line 24, strike out "clause (1)" and insert "clauses (1) and (2)."

Mr. BORAH. Mr. President, the principle of the amendment was discussed somewhat at length some days ago. The amendment would make it certain that all persons 65 years of age and over shall receive $30 per month. The amendment is, on page 4, line 21, after the comma, to insert the following:

And (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

In other words, if the State shall provide $15, the National Government shall provide $15. If the State shall provide $10, the National Government shall provide $20. The object and purpose of the amendment are to assure that not less than $30 shall be provided for those 65 years of age or over.

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

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senaor from New York?

Mr. BORAH. I yield.

Mr. WAGNER. If the State should appropriate nothing, would the Federal Government then contribute $30 to the individual? Is that the Senator's idea?

Mr. BORAH. No. If the contribution of the State should be absolutely nothing, then the Federal Government would contribute absolutely nothing; but if the State should provide $5 or $10, the National Government would contribute an amount which would make the total $30.

Mr. WAGNER. If the State should contribute only $1, then the Federal Government would contribute $29?

Mr. BORAH. That is quite correct. But I do not accept the theory that the States will not do all they are able to do. The people of the States are just as humane and just as willing to take care of their aged as is the Congress. It is unjust to argue this matter upon the theory that the people of the States are slackers; it is a question of ability.

Mr. STEIWER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Oregon?

Mr. BORAH. I yield.

Mr. STEIWER. May I ask the Senator what determines the relative contributions of the several States and the United States under the proposal of the Senator, whether it shall be $10 or $15 or $20?

Mr. BORAH. The State determines how much it will put up. My amendment provides that whatever additional amount is necessary to make it $30, the National Government shall contribute that much.

Mr. STEIWER. In other words, the State would determine the amount of its contribution in each case, and the Federal Government would merely supplement it with the idea of making the total contribution $30?

Mr. BORAH. Exactly.

Mr. HARRISON. Mr. President, the amendment is not in agreement with what the Senator said he intended to offer, as I read the amendment. It reads:

An amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

Mr. BORAH. That is correct.

Mr. HARRISON. It would seem from the printed amendment which I have read that what the Senator is attempting to do is to exact from the Federal Government $30 a month.

Mr. BORAH. Not at all. The wording of the bill remains as it is. In other words, a State plan for old-age assistance must provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them. Second, it provides for financial participation by the State. Third, such a State plan must "either provide for the establishment or designation of a single State agency to administer the plan", and so forth. All that language remains as it is, and I simply add that the State must put up something, the State must make its contribution, otherwise there is no provision whatever for payment to its old-age people. If the State puts up $15, then the National Government contributes $15.

Mr. HARRISON. Does the Senator have any doubt, if his amendment should be adopted, that the States would contribute the very minimum and the whole burden would then be upon the Federal Government?

Mr. BORAH. The State would have to contribute something before it could get anything.

Mr. ROBINSON. Mr. President, may I ask the Senator from Idaho how much the State would have to contribute?

Mr. BORAH. The State must determine first what it shall contribute. If the State should contribute $1, the Federal Government would contribute $29. I do not recognize the principle that the State would seek to get from under its burden or its obligation. There is just as much reason to assume that the people in a State will be anxious to take care of their people as that the National Government will desire to do so.

Mr. ROBINSON. But the difficulty about the Senator's amendment is that it provides that in case the States do not contribute substantially the Federal Government shall make contribution to the amount of $30. The Senator need not be misled about the matter. The amendment invites the States to make a minimum contribution. In my judgment, if the amendment should be adopted it would mean that the Federal Government would bear practically the entire burden of this title.

Mr. BORAH. That is on the assumption that the States have no sense of responsibility and no idea of discharging their responsibility in regard to this matter. It proceeds upon the theory that the Congress has the power——

Mr. ROBINSON. Mr. President, will the Senator pardon me?

Mr. BORAH. I pardon the Senator.

Mr. ROBINSON. I do not think that conclusion is justified.

Mr. BORAH. And I think it is justified.

Mr. ROBINSON. I think the language of the amendment provides that the States must contribute something, but no matter how little they contribute the Federal Government will contribute the remainder up to the amount of $30 per month. In the case of a State which is in straitened circumstances financially, under the amendment the natural result would be for the State to contribute just as little as is possible in order to secure for its citizens the benefits of the bill.

Mr. BORAH. I assume that the State will contribute whatever it can contribute. I assume that the State will be perfectly willing to discharge its responsibilities toward its old people. The States are just as likely to do it as is the Congress of the United States. If they cannot do so, if a State is unable to make its appropriation, then I say the old people should not be left without help; that they should not be left without sufficient means to take care of themselves; and $30 a month is a very small amount, in my judgment, to take care of these people. To proceed upon the theory that a State will do nothing if it is able to do it is, in my judgment, a wrong theory.

Mr. ROBINSON. But the Senator's amendment does not require the States to do all they are able to do. It leaves it absolutely optional with the State to determine the amount which it shall contribute, and therein lies the vice of the amendment. I, no more than the Senator from Idaho, wish to cast any reflection upon a State, but I know there are some States whose financial condition is such that they would naturally resort to the policy of contributing just as little as would be necessary in order to obtain the Federal contribution.

Mr. BORAH. I have no doubt there are States which are financially in such condition that they would not be able to meet the full $15 contribution. It is for that reason that I do not want the old people in those States to suffer simply because the State is unable to take care of the situation. I do not recognize the principle that the State will not do all it can do. The very fact that the National Government is willing to assist in the matter in case the State undertakes to do something will encourage the people of the State to undertake to do what they can do.

I have no doubt that they would do all they can do; and if they do all they can do, but are unable to put up the necessary amount, shall we leave the old people without any means whatever of being taken care of in this situation?

Mr. President, I ask for the yeas and nays upon this question.

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

Mr. BORAH. I yield.

Mr. LONG. There are some of us who would like to vote for this amendment, particularly the Senator from Georgia and myself, who represent States which are affected by a constitutional inhibition. I wonder if the Senator would not permit us to add just a couple of words at the end of the amendment to provide that this requirement shall apply for the year 1937. In other words, some States cannot submit constitutional amendments until the fall of 1936, close to 1937, and this amendment, as I understand, requires the State to make some contribution. That will give these States a chance to be prepared. Many States, even though they should adopt a constitutional amendment, would not be able to raise the necessary revenue within this length of time.

Mr. BORAH. Mr. President, I should like to take care of those States which are not in a position to do anything whatever, but I felt that if I undertook to do that it would undoubtedly result in the defeat of the amendment. What is it that the Senator wishes to insert?

Mr. LONG. I do not wish to have the Senator endanger his amendment at all. I desire to insert a provision that the requirement as to contribution from any State shall not be effective before the first, say, of 1937. This is the middle of 1935. The Senator is calling on a State to raise a great deal of revenue.

Mr. BORAH. The Senator would be no better off if that were done. He could not come in under the present bill.

Mr. LONG. We could, perhaps, but Georgia could not.

Mr. BORAH. My desire in this matter is to make certain that the old people shall receive at least $30 a month. I believe that each sovereign State will discharge its duty and responsibility in accordance with its financial ability to do so. There is not any more reason to suppose that a State will refuse to discharge its obligation than there is to suppose that Congress will do so. The authorities of the State feel a deep interest in their people, the same as we do. They have a humanitarian feeling the same as we have. They will take care of the condition if they can, but if they cannot, shall we leave the old people uncared for?

Mr. HARRISON. Mr. President, I do not desire to delay action on this amendment. All Senators wish to do what they can for the needy aged; but if this amendment should be adopted it would change the whole structure of this measure. It would properly raise the question of which should have jurisdiction as between the State authorities and the Federal Government in determining who should be eligible for benefits if the Federal Government were to make twenty-nine thirtieths of the appropriations for these people, which could be done under the Senator's amendment. Certainly, if his amendment should be adopted the States could all point to financial burdens as a justification and appropriate $1 each for their needy individuals, leaving the Federal Government burdened with $29, that it would have to carry under the amendment. If some States were to give more than $1, a hue and cry would go up as to inequality among the States with reference to that matter.

We have exercised our judgment as best we could in trying to inaugurate a policy [illegible] the Federal Government cooperating with the States, each giving one-half. Is not every State in the Union in a better position under such a plan than it has been heretofore? The Federal Government heretofore has appropriated nothing for this purpose, and the States have had to take entire care of their needy aged people, except, of course, under the relief measures. We are now proposing to give them $15 per month out of the Federal Treasury. Of course it might be appealing to go back to our respective constituents and say, "I voted to give you gentlemen $30 of Federal funds instead of $15"; but we must look after some other things than merely winning votes from our constituents on this question.

We are doing more than any other Congress has attempted to do in providing $15 out of the Federal Treasury if the States put up $15. If the State puts up $10, the Federal Treasury will put up $10—an equal amount with the State. So let us not get into a controversy here and delay the passage of the bill over the question as to whether the Federal Government ought to put up four-fifths and the States one-fifth, or the Federal Government two-thirds and the States one-third, or the States $1 and the Federal Government $29. If we adopt this amendment, we shall have to undo the whole policy we have already adopted in providing for State determined and administered plans. If the funds are practically all Federal funds, we should naturally provide administration from Washington. The authorities here would direct the administration of this measure, and say who, among the people over 65 years of age, are needy and should receive these payments. In other words, the amendment would necessitate a change so that decisions would be made by a bureau here in Washington and not by the authorities in the local communities of the country. I prefer to leave the jurisdiction in the States and to let the State legislatures and the State authorities determine who is the needy individual who deserves and is entitled to this particular pension. Then if the State puts up $15 or $10, the Federal Government will match the $15 or $10.

So I hope the amendment will be voted down, because it would jeopardize the whole structure of the bill.

Mr. FLETCHER. Mr. President, I should like to ask the Senator a question. Is it necessarily required that the State as a State shall make the contribution, or may the State, through its county commissioners, make it?

Under the laws of Florida, the State as a State would not be permitted to make the contribution, but the county commissioners could arrange to raise the money.

Mr. HARRISON. I may say to the Senator that it is the aggregate of what the counties put up and what the State puts up that the Federal Government will match. It is not confined to the State itself, but is broadened so as to take in communities also.

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

Mr. HARRISON. I yield.

Mr. STEIWER. Does the Senator from Mississippi accept the construction which the Senator from Idaho places upon the amendment?

Mr. HARRISON. No; I do not accept that construction of it. I know what the Senator intended; but, although I have not had time to read the amendment carefully in connection with this provision, Mr. Beaman and others of the experts tell me they construe it differently; that under the amendment the Federal Government must put up $30; and that is the way I read it. But, be that as it may, the Senator can change the provision if there is any doubt about it.

Mr. BORAH. There is not any doubt about it. There is not any occasion for changing the language. No man with a sane mind would contend that for a moment. Nothing goes to the State unless the State puts up something.

Mr. STEIWER. Mr. President, will the Senator yield further? I desire to make an observation about that matter.

Mr. HARRISON. I yield to the Senator.

Mr. STEIWER. It occurs to me that the pending proposal made by the Senator from Idaho leaves the subdivision, numbered 1, on page 4, just exactly as it is; and that the result of the amendment would be, if enacted in the way now proposed, that the Federal Government, under subdivision numbered 1, would match the money put up by the State to the extent of the aggregate amount of $30 per month. That is to say, if the State put up $15, the Government of the United States would put up $15. If the State put up $10, the United States would put up $10. The pending amendment contains added language which provides that the United States shall provide an additional amount. I now read the amendment—

> And (2) an amount, which shall be used exclusively as old-age assistance, sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

Mr. President, what is it that amounts to $30? Is it the total? Of course not. I agree with the Senator from Idaho that this language is perfectly clear. I think there is no ground for misunderstanding or misconstruction. The language provides that the contribution of the Federal Government for each such month shall be $30.

Mr. HARRISON. How does the Senator get away from the plain language of the amendment, which says—

> Sufficient to make the Federal contribution with respect to each such individual for each month in the quarter $30.

Mr. STEIWER. There is no way to get away from it.

Mr. HARRISON. That is the Federal contribution.

Mr. STEIWER. That is right. If the State put up $15 under subdivision no. 1, the United States would put up $15; and then, under the pending amendment, which is marked "Subdivision No. 2" the United States would put up another $15 in order to make the Federal contribution $30; and in that case the net result would be a payment to each person of $45 per month, two-thirds of which payment would be provided by the United States.

I do not wish to vote for that proposition. I am sympathetically disposed toward the proposal made by the Senator from Idaho as he explained his proposal. It is easy for me to approve a guaranty of a minimum payment of $30 per month. If we are to enact a law on this subject the payment ought to be sufficient in amount to mean something to the recipient of the payment. An aggregate payment substantially less in amount than $30 per month is inadequate. It will not accomplish the purposes of the bill. I am wondering if, in order to have that proposition presented, some Senator would not care to revise the pending amendment in order that it may accomplish the purpose sought by the Senator from Idaho.

Mr. BORAH. What is the proposal which the Senator makes?

Mr. STEIWER. I have not attempted to phrase it. I merely asserted that I am sympathetic toward the idea of a minimum guaranty of $30 a month. It would seem the way to secure such guaranty is to add to the present subdivision no. 1 merely a proviso that the Federal contribution shall in any case be in such amount that the total paid shall be $30 per month.

Mr. BORAH. That is precisely what I thought I was doing, and what I believe I am doing.

Mr. FLETCHER. I suggest that the Senator change the word "Federal", in line 3, so as to make the "total contribution", instead of "Federal contribution", $30 a month.

Mr. BORAH. I am willing to consider that.

Mr. WALSH. Will the Senator from Idaho explain whether or not that change will require the same amount to be contributed by the Federal Government as is contributed by the State government?

Mr. BORAH. As I understand, as the amendment would read with the change, if a State government should put up $5 or $10 or $15, the Federal Government would match the amount the State contributed, and then an additional amount so as to make the total contribution $30. If the State government should put up $30, the Federal Government would not put up anything.

Mr. WALSH. By changing the word "Federal" to "total" it would mean that it would be possible for the Federal Government to have to contribute as much as $29.

Mr. BORAH. If the State put up only $1, that would be true. I am not so deeply interested in the division of sovereignty, as to who puts up the money, but I want the money contributed. If the State cannot do it—and I take it that the State will do it if it can—if the State is unable to do it, then I want the National Government to contribute, to have the old folk taken care of.

Mr. FRAZIER. Mr. President, I am very strongly in sympathy with the amendment of the Senator from Idaho. There are many States which, because of conditions due to drought and other circumstances, are not able to collect taxes from the taxpayers. I am satisfied that there are quite a number of States which could not meet the $15 contribution provided for in the original bill. That would mean that the old people in those States above 65 years of age would have no pensions.

It seems to me the amendment would provide a means of giving practically all the States a chance to make a small appropriation so that the old people would get $30. I have great confidence in the States putting up as much as they can, and when conditions improve, if they can put up contributions equal to those of the Federal Government, they will do so.

Furthermore, during the last few years there have been old-age pension organizations formed all over the Nation, which, as we know, have advocated much larger pensions than are suggested. True, the money is to be raised in a different way from that provided here, but that does not alter the fact that those organizations are out for larger pensions, and are advocating larger pensions, and I know they will not be satisfied with the provisions of this measure.

It seems to me that the amendment of the Senator from Idaho would help greatly in assuring at least $30 for old people in States where the States can put up some money, and even if it is limited to only a few years, it would help very materially, in my opinion. I hope the amendment will be agreed to.

Mr. BORAH. Mr. President, in order to make the matter beyond question, I desire to limit the contribution to $30. I do not want any loophole left. I therefore ask leave to insert, after the word "contribution" in line 3, the words "plus the State's contribution with respect to each such individual for each month, not less than $30." That would not create any obligation on the part of the National Government to put up more than the difference between what the State would contribute and $30.

Mr. HARRISON. If the State contributed a dollar the Federal Government would contribute $29, but the whole contribution could not be more than $30.

Mr. BORAH. That is quite correct.

Mr. WALSH. It simply makes more definite the point the Senator has raised.

Mr. BORAH. That is right. There need be no mistake about it, so far as I am concerned; that is what I desire.

The PRESIDING OFFICER (Mr. MINTON in the chair). The question is on agreeing to the amendment offered by the Senator from Idaho, as modified.

Mr. BORAH. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. LOGAN (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. DAVIS]. In his absence, not knowing how he would vote, I withhold my vote. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. LEWIS. I wish to announce that the Senator from Utah [Mr. THOMAS] is detained on important public business.

I also wish to announce that the Senator from Oregon [Mr. MCNARY] has a pair on this question with the Senator from Georgia [Mr. RUSSELL]. The Senator from Oregon would vote "yea" and the Senator from Georgia would vote "nay" if present.

I desire also to announce that the Senator from Arizona [Mr. ASHURST], the Senator from North Carolina [Mr. BAILEY], the senior Senator from Georgia [Mr. GEORGE], the Senator from Virginia [Mr. GLASS], the Senator from California [Mr. MCADOO], the Senator from Nevada [Mr. PITTMAN], the junior Senator from Georgia [Mr. RUSSELL], and the Senator from South Carolina [Mr. SMITH] are necessarily detained from the Senate.

Mr. NYE. Announcing my pair with the senior Senator from Virginia [Mr. GLASS] as previously, I beg to announce that were he present he would vote "nay"; and if I were permitted to vote I should vote "yea."

Mr. BULKLEY. I repeat the announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. Not knowing how he would vote on this amendment, I transfer my pair to the junior Senator from Utah [Mr. THOMAS] and vote "nay."

The result was announced—yeas 18, nays 60, as follows:

YEAS—18

Bilbo	Frazier	Pope	Thomas, Okla.
Bone	Johnson	Schall	Trammell
Borah	Lewis	Schwellenbach	Wheeler
Capper	Long	Shipstead	
Copeland	McCarran	Steiwer	

NAYS—60

Adams	Clark	Hatch	Norris
Austin	Connally	Hayden	O'Mahoney
Bachman	Coolidge	Keyes	Overton
Bankhead	Costigan	King	Radcliffe
Barbour	Dickinson	La Follette	Reynolds
Barkley	Dieterich	Lonergan	Robinson
Black	Duffy	McGill	Sheppard
Brown	Fletcher	McKellar	Townsend
Bulkley	Gerry	Maloney	Truman
Bulow	Gibson	Metcalf	Tydings
Burke	Gore	Minton	Vandenberg
Byrd	Guffey	Moore	Van Nuys
Byrnes	Hale	Murphy	Wagner
Caraway	Harrison	Murray	Walsh
Chavez	Hastings	Neely	White

NOT VOTING—17

Ashurst	Donahey	McNary	Smith
Bailey	George	Norbeck	Thomas, Utah
Carey	Glass	Nye	
Couzens	Logan	Pittman	
Davis	McAdoo	Russell	

So Mr. BORAH's amendment was rejected.

Mr. LONERGAN. Mr. President, I send to the desk an amendment which I ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 72, after line 6, it is proposed to strike out all of title XI, including all sections and paragraphs thereof on pages 72, 73, 74, 75, 76, 77, 78, 79, and to the end of the first paragraph on page 80.

Mr. LONERGAN. Mr. President, title XI relates to annuity bonds.

The proposal was submitted before the House Ways and Means Committee, and was rejected. It was not incorporated in the bill which came to the Finance Committee of the Senate. At a meeting of our committee, when this proposal was considered, 12 members out of 21 were present. Seven voted in favor of the proposal and five voted against it. Three of the four Senators who voted for the proposal, according to their statements in the committee, were under the belief that insurance companies do not sell annuity bonds, especially for small sums. I read from the record of our proceedings:

Senator BARKLEY. Let me ask you this: I have a number of life-insurance policies, not very large, but I have several policies, and these insurance companies with which I have policies write me letters every few months suggesting an annuity policy that they would like for me to take. They are all above my ability to reach them. I cannot comply with their terms and take one unless it be an insignificant amount, because the amount involved in an initial payment and then the annual payment thereafter is so large that the ordinary fellow who has not a considerable income cannot get it at all. What is going to happen about that? This is just an inquiry for information. These companies, it seems to me, do not get out in that little field where many people who might have a desire for an annuity can obtain it. What are we to do about that?

Then comes my answer:

Senator LONERGAN. All of the insurance companies with which I am familiar will write any kind of an annuity policy.

Senator BARKLEY. I do not know any of that sort.

Senator LONERGAN. I do not think there is any doubt about it.

Senator BARKLEY. I have the New York Life, the Union Central, the Penn Mutual, the Equitable, and none of them do.

Senator LONERGAN. We have some of the outstanding insurance companies in Hartford, Conn., where I reside, and I know that they do it.

Senator GEORGE. They write small annuities?

Senator LONERGAN. Yes.

Following the action of the Finance Committee, I contacted officials of life insurance companies to ascertain whether or not the life insurance companies of my city issue annuities in small sums. I now quote from a letter dated May 21, 1935, from the Connecticut Mutual Life Insurance Co., Hartford, Conn.:

As of December 31, 1934, this company had in force 3,855 single premium life annuities, representing a total annual income to the annuitants of $1,652,902.52. The average annual income to each annuitant was $428.77, which would give an average monthly income of $35.73.

This average monthly income of $35.73 indicates the fact that the bulk of our annuity business consists of annuities of moderate size. As our annuity contracts are about the same as those of other companies, we believe these figures are fairly typical.

I now quote from a letter received from the Phoenix Mutual Life Insurance Co., of Hartford, Conn., dated May 29, 1935:

Under another group of contracts on the annuity plan we provide that at a definite time in the future there will be paid an average of $455.93 in annuity income per annum, which is the equivalent of $37.99 per month. These contracts are available in units of $10 per month of annuity income, and the premium, depending upon the duration of the contract, may be as low as $20 per annum.

I quote from a report submitted to me by the Connecticut General Life Insurance Co., of Hartford, Conn.:

Title XI, United States annuity bonds, which was eliminated by the House, has been reintroduced by the Senate. In the Senate Finance Committee report, one of the reasons given for this portion of the bill is that "insurance companies do not now sell any considerable number of commercial annuities to individuals in installments. People of small means are practically outside of the commercial-annuity field." This hardly justifies the issuance of annuity bonds to provide as high as $100 per month old-age income. Many insurance companies will issue policies providing old-age income as low as $10 per month, and some even lower. It seems to me that this portion of the bill should be eliminated, because the few who will purchase the annuity bonds will most likely be individuals who can be taken care of by the insurance companies.

Mr. President, not only have the life-insurance companies already written thousands of annuity policies, but they are preparing to take care of an immense potential market for

annuities in a much more comprehensive way than the plan provided by title XI of this bill.

Dr. S. S. Huebner, dean of the American College of Life Underwriters, in an article in the Life Insurance Courant, pointed out, as long ago as September 1932, that America is rapidly becoming annuity-minded. He said:

During the past decade premiums paid for annuities have increased relatively more than six times as fast as premiums paid for life insurance. Annuities are about the only important branch of the insurance business which has gained during the hectic years of 1930 and 1931. Retirement pensions are also being considered everywhere in industry, by educational institutions, governmental bodies, and the like. Moreover, insurance companies are more and more emphasizing "old-age income insurance", and wisely so, since the plan emphasizes the utilization of life-insurance proceeds for annuity income purposes during old age. Instead of preaching death only, as formerly, emphasis is now placed upon a motive to benefit the policyholder while living. The annuity field will soon be ranged adequately along the insurance field. I believe the growth of the annuity concept among the American people will be the greatest single development in the life-insurance business during the next quarter of a century.

Mr. President, I think these reports point out conclusively that private insurance companies have developed and are developing a much more stable field of annuities than the Senate has perhaps heretofore realized. Here we have a bill including a section which would put the Government into that business in such a way that it would intrude upon private business enterprise, and no doubt discourage the widespread development of annuities which is being undertaken. As has been pointed out, the companies are taking policies with returns as low as $10 per month to the holder. Title XI of this bill would provide for annuities of not less than $60 nor more than $1,200 per annum, which is clearly an intrusion on the private insurance business.

Besides demoralizing the wonderful progress of annuity insurance in private companies, this section would place an unfair burden upon the taxpayers. The Government would pay the overhead, such as rents, lights, and so forth, which private companies must figure into their costs. The taxpayers who would not be interested in the annuities would be required to carry the burdens of those who received the annuities. The benefits would go to a particular few at the expense of the many.

The Government already offers, through the Treasury and the Post Office Departments, numerous opportunities for investments of small savings in the tax-exempt field. An extension of this program to include annuity insurance bonds would definitely compete with an important business, and, moreover, would tend to invite individuals to lean upon the Government instead of private business and the various State and municipal governments which are expected to participate in this social security program.

The PRESIDING OFFICER. The time of the Senator from Connecticut on the amendment has expired. He has 15 minutes on the bill.

Mr. LONERGAN. I will use my time on the bill.

Above all other considerations, I think we should remember, Mr. President, that the insurance companies of this Nation have been our last wall of defense in our depressing times. When our banks crumbled and finance was chaotic our insurance companies stood like the rock of Gibraltar. Everyone knows that had they crashed this Nation would have been placed in a desperate condition. Property values would have vanished and millions more of our people would have been on the charity and relief lists at the expense of the Government. The insurance companies were the last to ask for any governmental assistance. Because of their good management and sound policies, they did not need it so much as did other business enterprises. Their position during the depression, in my opinion, was the strongest single contributing factor to maintenance of financial stability and public confidence. Had they crashed, all confidence would have crashed with them.

Now, Mr. President, is the Senate of the United States going to enact into law a provision in this bill which will injure these companies? Is the Senate going to place the Government into a definitely private business? Is the United States Senate going to discourage sound development of the annuity insurance business along a much broader front than the Government could possibly undertake? Is the United States Senate going to reinsert in this measure a section which was stricken out by the House, and which never should have been there in the first place?

I ask the Senate these questions and believe that Senators will vote for my amendment, which will do no injury to this measure, and which will not harm in any way the theory or the practice of old-age pensions or unemployment insurance, for which I have worked for a great many years.

Mr. HARRISON. Mr. President, I merely desire to make a brief statement. The provision giving an opportunity to people to buy annuity bonds, with the limitation which is in the bill, that in no instance may they receive an annuity of more than $100 a month. It was placed there to take care of a group that did not come within the other provisions of the measure. I think it is one of the minor features of the bill; in other words, I think the annuities provided in title II of the bill, and the old-age pensions and the unemployment features under other titles are much more important than is this; but, for the reasons I have just stated, we placed this provision in the bill on the recommendation of the President's committee which investigated the matter.

Mr. LONERGAN. Mr. President, may I ask the Senator from Mississippi a question?

Mr. HARRISON. I yield.

Mr. LONERGAN. At the time this proposal was before our committee there were 12 Senators present, were there not?

Mr. HARRISON. The Senator states the fact correctly with reference to that.

Mr. LONERGAN. There are 21 members of the committee, and the vote was 7 to 5.

Mr. COSTIGAN. Mr. President, may I ask the Chairman of the Finance Committee a question?

Mr. HARRISON. Certainly.

Mr. COSTIGAN. It is my understanding that the annuity bond feature of the bill is designed to offer many million people an opportunity to purchase cheap annuity insurance, free from premiums to agents, and that the persons who, under the committee amendment, are offered this security are employers or employees who do not come under other provisions of the bill.

Mr. HARRISON. The Senator has stated the facts correctly.

Mr. COSTIGAN. The aggregate number of those who would be enabled, under these provisions, to purchase reasonable annuity insurance would apparently be something like 22,000,000 people. Does the Senator know whether that is a correct estimate?

Mr. HARRISON. That statement was made by Representative LEWIS, I think, in a very able presentation of this matter before the Finance Committee.

Mr. COSTIGAN. Mr. President, may I say that it was on my motion that these provisions were included in the bill in the Finance Committee? The motion was made following what was, as the Chairman of the Finance Committee has just stated, a very able presentation of the reasons for the amendment by Representative DAVID J. LEWIS, of Maryland, who has been a lifelong student of this and allied questions. Representative LEWIS pointed out, as just indicated, that there are about 22,000,000 persons in the United States at this time who do not come under the protective clauses of the pending bill. Among those are the self-employed and the members of professions, who are estimated at this time to be about 11,125,000, and approximately 10,000,000 workers. The purpose of the provisions, of course, is to permit the purchase from the Government, on reasonable terms, of annuity bonds which will guarantee the purchasers incomes running from a minimum of $60 a year to $1,200 a year per person.

When Representative LEWIS presented this matter to the Senate Finance Committee he persuasively enumerated reasons which make these amendments particularly appealing to Members of the Senate, to professional men of all sorts,

and to employers who are unable, for one reason or another, to guard against the likelihood that old age will find them reduced to need. He made a statement which, with the permission of the Senate, I should like to have read at the desk, because it presents the reasons, as concisely as possible, for the adoption of these amendments.

Mr. LONERGAN. Mr. President, will the Senator from Colorado yield?

Mr. COSTIGAN. I yield, with pleasure.

Mr. LONERGAN. Does the Senator know whether or not the United States Government can issue insurance at a cheaper rate than can insurance companies of long experience?

Mr. COSTIGAN. It is my understanding that under these amendments the Government of the United States would sell annuity bonds to investors——

Mr. LONERGAN. That is correct.

Mr. COSTIGAN. And that there would be an absence of the premiums which ordinarily go to insurance representatives.

Mr. LONERGAN. If these bonds were authorized and issued they would be exempt from taxation, would they not?

Mr. COSTIGAN. There is a provision exempting the bonds from taxation, but if the Senator from Connecticut will consult the amendment he will find a provision which does not exempt the income of these bonds from taxation.

Mr. LONERGAN. The Senator from Colorado and the Senator from Connecticut have been working for some time to secure the adoption of a constitutional provision so that in the future such exemption will not be possible.

The next question I should like to ask the Senator from Colorado is——

Mr. COSTIGAN. Before the Senator from Connecticut proceeds, may I call his attention to the provision with respect to tax exemption?

Mr. LONERGAN. The Senator has stated that the proposed law provides that the income from the bonds shall be taxed.

Mr. COSTIGAN. I understand the Senator from Connecticut does not dispute the accuracy of the statement made? The part to which I refer is section 1105 of the amendment, which reads as follows:

SEC. 1105. The provisions of section 7 of the Second Liberty Bond Act, as amended (relating to the exemptions from taxation both as to principal and interest of bonds issued under authority of section 1 of that act, as amended), shall apply as well to United States annuity bonds, except that annuity and redemption payments upon United States annuity bonds shall be subject to taxation by the United States, any State, and any possession of the United States, and by any local taxing authority, but to no greater extent than such payments upon other annuity bonds or agreements are taxed.

Mr. LONERGAN. Is it the purpose of the Senator from Colorado to have incorporated in the RECORD the entire statement made by Representative LEWIS?

Mr. COSTIGAN. It is my understanding that the statement made to the Finance Committee by Representative LEWIS was confidential, because made in executive session.

Mr. LONERGAN. It is a matter of public record now.

Mr. COSTIGAN. Because of that fact, I asked Representative LEWIS to prepare for use of the Senate a statement summarizing his arguments in support of the amendment now being considered. That is the statement before me at this time which I have requested to have read by the clerk at the desk.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The legislative clerk read as follows:

I know a married couple who are past 60. They have saved some $15,000 in their life's efforts. If they knew just how long each of them would live they could provide their own annuity by investing the $15,000 in safe Government bonds. They could take enough out of the principal each year, in addition to the interest, to provide themselves a hundred dollars per month. But they do not know how long either of them will live, and so they are afraid to touch the principal.

Now, the Government does know how long they are going to live as members of a class, and paying them the interest as it would on the bonds the Government can take enough out of the principal each year to provide them annuity for which they fully pay.

Take again, a case of a husband who has a $15,000 estate. He wishes to provide for his wife in the event of his death. In his will he can have the estate converted into a life annuity for her benefit instead of having the estate eaten up by the court costs, trustee's fee, and commissions. If he has children he can secure their futures in the same way instead of willing them lump sums to be wasted by inexperienced hands.

Let us see about the great human interest involved. In this bill we undertake to realize certain social security objectives. With regard to wageworkers and employees up to $2,500 a year, we have covered the field approximately. But how about the immense number of people who are not employees? Take the physicians, the lawyers, the clergy; take the small business man. What may be his situation when he reaches 65 or 66? There are more than 20,000,000 involved in that situation who may be reasonably included in the social security principle of this bill.

Apparently, there is no objection to the annuity provision of this bill as far as the public is concerned or any part of the public. In fact, the insurance companies have spoken through one of their principal leaders, Mr. Thomas I. Parkinson, of the Equitable Life Assurance Society of the United States. He said that the social insurance provisions of the bill would, like the $10,000-insurance provision of the war act for the soldiers, operate to increase greatly and intensify the thought of the public on the subject of individual protection through insurance.

I quote, in part, from a letter on the subject written by Mr. Parkinson:

"Just as the business of life insurance received tremendous impetus from the successful efforts of the Government to provide a sizable amount of insurance on the lives of all called to the Armies in the creation and the development of the War Risk Bureau, so do I believe that social insurance agitation will result in renewed appreciation and great stimulating of life-insurance activities, both individual and group.

"Insurance men are ready to lend their experience in the service of this social insurance class by assisting in the formation of social insurance measures along lines of sanity and workability. As an insurance man, I would say without hesitation that the efforts to provide through social insurance measures a more self-respecting form of relief, a better budgeted charity program, will do much to arouse public interest in the whole subject of security. In doing this, that overwhelming number of upstanding men and women who represent the insurance field will be inspired to look more deeply into their insurance needs and to more completely provide security for themselves. Thus, it is likely, in my judgment, that history will repeat itself and the impetus given to the cause of life insurance by the War Risk Bureau in putting a value of $10,000 on the life of every enlisted man will be accentuated with the result that the present agitation for social-insurance measures will swell the volume of individual and group life insurance and annuities.

"In doing this, the insurance companies and their agents will not only be benefited by an enhanced business, but the business itself will the better be able to muster to its support public appreciation of the tremendous national and community service rendered by life insurance supplied through premium-paying Americans, who, wanting no charity, take care of themselves and those dependent on them."

There is a field of potential traffic in the small annuity, as there was in the small parcel, which requires special inducement and conditions in order to develop it.

When we took up the parcel post 24 years ago we found that the express companies were moving three parcels per capita in the United States. In Switzerland they were moving nine per capita. They had a completely developed parcel-post system, with rates and conditions of service adapted to the needs of this small parcel. It could not pay the 24-cent minimum which the express company found it necessary to charge the parcel here. It could pay 7 or 8 or 10 cents.

With our parcel-post system, the 3 parcels per capita have reached about 9 in the United States, all of which shows that two-thirds of that traffic, potential for generations, had been defeated by the absence of rate systems and conditions of service permitting it to move.

In this small annuity field you are finding analogous phenomenon. For the big lump-sum payment you would take in $15,000 at one stroke. An agent assuredly would call for that. The company will get about 4½ percent out of that. But for the small installment monthly payments that may begin as early as 30 or 35 to accumulate an annuity at 60 or 65, no agent can bother with that. The expenses of the work would utterly defeat the motive to do it, unless the great expense were added to the premiums, when the motive to buy the annuity would be defeated.

And so we find here, as with the small parcel, a neglected field the insurance company cannot serve with sufficient economy.

Then there is the very vital element in this whole situation. It is the question of faith. It is the controlling element in our conditions. Now, the Government supplies that element of faith. The private company has to face a wall of distrust and break through it. In the course of generations—and it has taken generations—it has succeeded with respect to the familiar life policies. But the annuity policy is new; that is, it is new to the masses. They need to be educated to its wisdom. The Govern-

ment has no wall of distrust to meet. It can educate the public. The companies will come in for their share in the resulting confidence in the annuity, and will have a monopoly of the business in annuities above $100 a month.

Through the initial faith that the Government supplies, we can hope to provide a means which men and women who are not covered by these pension and employment provisions may, through their own savings and efforts in life, provide for themselves. Some, of course, will be satisfied with $30 a month; others may desire in proportion to their capacity to acquire such annuities for themselves. Why deny them the surest security in doing so?

Estimate of number of individuals not covered under the provisions of title II and eligible for voluntary annuities under title XI

(Based on 1930 census)

Owners, self-employed and professionals	11,825,000
Farm operators	5,882,000
Retail and wholesale dealers	1,796,000
Self-employed trades	352,000
Professionals	2,223,000
Others	1,572,000
Workers excluded because of occupation	10,156,000
Farm laborers	4,376,000
Domestics in private homes	2,060,000
Teachers	1,082,000
Government, N. E. C.[1]	1,403,000
Casuals	490,000
Institutional	680,000
Others	65,000
Total	21,981,000

Source: Committee on economic security. An adjustment has been made for those individuals 65 years of age and over.

The per capita income of employees in agriculture was $648 in 1929 and $352 in 1932.[2]

The per capita income of employees in domestic service was $961 in 1929 and $670 in 1932.[3]

The number of annuities in force under the Canadian voluntary annuity system was 14,400 on March 31, 1933. The maximum annuity is $1,200. The contracts pay 4-percent interest compounded annually, the interest and administrative cost being paid by the Government. The average annuity contract for the immediate annuity type was $418 on March 31, 1933. Nearly 84 percent of all annuity contracts written in 1930 were for less than $600.

In addition to Canada, Ecuador, France, Japan, and the Netherlands have voluntary annuity systems.

Mr. COSTIGAN. Mr. President, using the balance of my time on the bill, I wish first to express regret that the importance of this question is not being given attention by a larger present representation of the Senate. As disclosed in the thoughtful statement of Representative LEWIS, this proposal represents a moderate plan for handling annuity protection for the benefit of approximately 20,000,000 Americans in a field in which the private insurance companies have shown little active concern.

The subject was canvassed fairly and fully before the Finance Committee. It developed, as illustrated in the statement of Mr. Parkinson, read at the desk a moment ago, the interesting conclusion that the standard insurance companies of the country are today not disposed to criticize this type of Government activity; more than that, their officials incline to believe that if the Government will deal with annuity bonds as provided in this amendment, the ultimate effect will be to popularize other forms of life insurance in this country and increase the business and net earnings of life-insurance companies.

We are not without a precedent in thus anticipating the popularization of life insurance. In or about 1907, under the leadership of no less eminent a public official than Mr. Justice Brandeis, the State of Massachusetts authorized its mutual-savings banks to receive payments in small amounts on moderate-priced insurance policies primarily for the benefit of working men and women, and from that day to this the system inaugurated in Massachusetts has been a marked success. Indeed, it is doubtful if there is any single contribution to public affairs by Mr. Justice Brandeis of which he thinks so highly as this. That law worked as the provisions in this bill may be expected to work. Instead of diminishing insurance sales by the standard companies of Massachusetts, it spread the use and advertisement of insurance to such an extent that by common consent today the standard companies are the substantial beneficiaries of the Massachusetts experiment.

I suggest, therefore, that this amendment should be seriously considered by the Senate. It should at least go to conference. In my judgment, there is no serious opposition to it on the part of the leading insurance companies of the country. The only objection comes from those who, like the Senator from Connecticut [Mr. LONERGAN], are reluctant to see any form of Government activity which may be regarded, even theoretically, as competitive with private business.

I trust that the amendment of the Senator from Connecticut will not prevail.

The PRESIDING OFFICER. The Chair will state the parliamentary situation. The motion of the Senator from Connecticut [Mr. LONERGAN] seeks to strike out an amendment of the committee not as yet acted upon.

Mr. ADAMS. Mr. President, I wish to ask the Senator from Connecticut, in my time, to answer a few questions about this amendment.

One question is as to the accuracy of the terminology. It seems to me it is incorrect to describe that which is really an insurance policy as a bond. I am wondering if I am correct in that feeling.

Mr. LONERGAN. Of course, it is a plan to sell bonds; but the bill provides for the sale of bonds. Bonds and policies in this sense are the same thing.

Mr. ADAMS. A bond, as a matter of legal terminology, is an instrument providing for the payment of a fixed sum of money at a fixed time.

Mr. LONERGAN. That is correct.

Mr. ADAMS. Here is an indefinite sum of money, depending upon the length of life of the annuitant.

Mr. LONERGAN. Yes, sir; and the amount paid.

Mr. ADAMS. Why did not the committee describe these instruments by a correct term, and call them annuity policies rather than bonds?

Mr. LONERGAN. The Senator from Connecticut opposed this proposal in the committee. He subsequently asked that the proposal be submitted to the full membership. Therefore, he is not in position to answer the Senator's question.

Mr. ADAMS. One other question, if I may submit it.

The amendment provides that the installments which are to be paid to the annuitant—

> Shall be such as to afford an investment yield * * * not in excess of 3 percent per annum.

An investment yield, if I understand the term, means the income upon a principal, without the consumption of the principal. The essence of an annuity contract is the consumption of both income and principal.

Mr. LONERGAN. That is correct.

Mr. ADAMS. So that under this bill the return to the annuitant is limited to not to exceed 3 percent. He may have a life prospect of 15 years, and yet be limited to a 3-percent income upon the amount he pays for the bond.

Mr. COSTIGAN rose.

Mr. LONERGAN. Will the Senator from Colorado answer the question of his colleague?

Mr. COSTIGAN. Mr. President, I congratulate the junior Senator from Colorado on the ingenuity of his suggestion.

Mr. ADAMS. It is a question, not a suggestion.

Mr. COSTIGAN. It has not been offered by insurance experts. In fact, it should be said to the Senate that this entire amendment has met the approval of experts. It has not encountered from any part of the Federal Goverment such objections as the Senator from Colorado has made.

Mr. ADAMS. May I suggest that I can see why the insurance company would not object, because the annuity policy pays so much less than the policy which the insurance company would offer. I should apprehend that the

[1] Not elsewhere classified.
[2] National income, 1929–32 (73d Cong., 2d sess., Sen. Doc. No. 124, p. 28).
[3] Ibid., p. 142.

insurance company would object if the Government were issuing a better policy than the company.

Mr. COSTIGAN. May I suggest to the able Senator from Colorado that the field with which we are now dealing is one in which the standard life-insurance companies have rarely issued policies or given the sort of assurances the Senator from Colorado is now indicating? May I also say that if there is merit in his argument, there is no reason for apprehension about these provisions, because the insurance companies can enter the field and provide those who desire old-age annuity security, under the theory of the Senator from Colorado, on much more reasonable terms than are provided in the bill. I think the Senator will find, on investigation, that what the Government would do under these provisions is to provide old-age annuity security in a field where today it cannot be purchased by citizens of this country with anything like the same assurances.

Mr. ADAMS. Mr. President, my distinguished colleague has misinterpreted my inquiry as an argument. I am trying to get some information about a provision of a bill which comes from the committee with very inadequate explanation, which puts into a bill designed for certain purposes, insurance features; and I am merely making inquiries.

I have asked why the terminology should be used to call a policy a bond, which tends to mislead those who invest. The title opens with the declaration that the Secretary of the Treasury is authorized to borrow on the credit of the United States to meet public expenditures and to retire outstanding obligations rather than an accurate statement of what is intended, if I read the section correctly; namely, to issue annuity policies to those who wish to buy them. That is, we start out in the bill with what seems to me to be really a misstatement or, rather, a failure accurately to state the purpose of the title.

Then I have inquired why the payments are limited to investment yields rather than to properly annuity yields, which consume principal as well as interest.

I am not arguing. I am merely inquiring in order that my own vote may be cast in accordance with the facts.

Mr. COSTIGAN. Mr. President, I have, of course, no desire to misinterpret any suggestion of the Senator from Colorado. If I am in error in assuming that the Senator has made an argument, I of course withdraw that assumption or suggestion. I may say that it impresses me as of very slight consequence what the particular phraseology of these amendments is so long as the essential end is clear. The purpose is to provide a Government promise in the form of an annuity bond, which may be described as an insurance policy, if the Senator prefers, constituting a guaranty of security for the later years of those who desire safely to invest their earnings or savings for that result.

Mr. McKELLAR. Mr. President, may I ask the senior Senator from Colorado a question?

Mr. COSTIGAN. Certainly.

Mr. McKELLAR. Does not this title put the Government into the insurance business?

Mr. COSTIGAN. It does in a minor way, in a very limited field, in which, according to the testimony we have had, insurance companies have not desired to go. It is a field which has not been cultivated by standard insurance companies. It has been neglected, and indeed, according to our information, many insurance men would be glad to see the Government undertake this responsibility because it would advertise the value of insurance as protection against the financial casualties of life.

Mr. McKELLAR. But it does put the Government into the insurance business. Will the Senator from Colorado permit me to make an observation?

Mr. ADAMS. I am very glad to yield the floor.

Mr. McKELLAR. During the war we went into the insurance business for our soldiers, but since the war we have found it to be very impracticable for the Government to continue that activity, and we are getting out of it as rapidly as possible. With that experience in mind, it seems to me to be most unwise for us now to go into the insurance business even in a limited way, and my purpose is to vote in favor of the amendment.

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

Mr. McKELLAR. Certainly.

Mr. ADAMS. I wish to ask a question which is very unwelcome these days. In what clause of the Federal Constitution does the Senator find justification for the issuance of a Federal insurance policy?

Mr. McKELLAR. I know of no such clause in the Constitution. I know there has been an opinion by Judge Grubb, in Alabama, which is now on appeal, in which he held that the Government could not go into business. I do not know whether the opinion is correct or not; I have doubts about its correctness. However that may be, there is no clause of the Constitution under which this title can be defended. It is true that under the express war power that is given us in the Constitution we had a right to insure our soldiers, but as I look at it we have not a scintilla of right to put the Government into the insurance business as is proposed, and I stop long enough to ask what clause of the Constitution gives us the right?

Mr. COSTIGAN. May I ask the able Senator from Tennessee on what clause of the Constitution he predicates the ability of the Federal Government to create the Tennessee Valley Authority?

Mr. McKELLAR. It is upon that clause of the Constitution which deals with interstate commerce. It is that provision of the Constitution which gives the Government authority over navigable streams, an entirely different situation from the present one. Even supposing we had no right to create the T. V. A., that would be no reason why we should pass another unconstitutional measure, and I for one am not willing to vote for a bill which I feel is unconstitutional.

Mr. COSTIGAN. The able Senator from Tennessee finds no intrastate activities in the Tennessee Valley Authority?

Mr. McKELLAR. Of course there are intrastate activities, but there are interstate activities also; and it is operating on a navigable stream which runs into several States, a very different situation from the one we are now considering.

Mr. COSTIGAN. It is gratifying to realize that the Senator agrees with those of us who find no constitutional difficulty affecting the Tennessee Valley Authority and other large issues which are to come before the Supreme Court. I wish only to say that what is attempted——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BARKLEY. Mr. President, I desire recognition, and I will yield to the Senator to ask me a question.

Mr. COSTIGAN. I appreciate the courtesy of the able Senator from Kentucky. What I want to say further is this—and to state it as a question, I trust the able Senator from Kentucky will agree with me—that the amendment provides for the issuance of bonds in exchange for money. The Senator from Tennessee undoubtedly does not deny the authority of the United States to sell its bonds for money or to issue agreements in writing.

Mr. McKELLAR. Of course not.

Mr. COSTIGAN. There is sufficient authority for this proposal in that power.

Mr. McKELLAR. I do not think it has anything to do with the beginning and operation of an insurance company in competition with private companies.

Mr. BARKLEY. Mr. President, the Senator from Tennessee a while ago referred to the provisions made by the Government for insuring the soldiers. The Constitution gives the Congress the right to declare war, and that is all it says about that subject. We have used the war power, assuming it covered everything we wanted to do following a declaration of war; but I challenge the Senator from Tennessee or any other Senator to find anything in the Constitution which specifically authorizes the issuance of a life-insurance policy on a soldier. There is no such authority in the Constitution.

Mr. McKELLAR. I do not know whether or not the question of the insurance policies issued on the lives of our soldiers has been before the Supreme Court; I do not believe

it has; but under the broad power of self-defense, in what is generally spoken of by those who quote the Constitution as the "war power", there is some semblance of excuse for the issuance of policies on the lives of soldiers when we are exposing them to the hazards of war. But there is no possible way in which the Constitution could be construed to cover putting the United States Government into the life-insurance business.

Mr. BARKLEY. Of course, it is useless for any Senator to argue with another Senator upon the Constitution, because each Senator knows more about that than all the other 94 Senators.

Mr. McKELLAR. I have no doubt as to the unconstitutionality of the pending proposal, and I expect to vote against it.

Mr. BARKLEY. We talk about war powers which we assume exist, and no doubt they do, but they exist largely because there is another provision in the Constitution giving Congress all power necessary to carry into effect the powers specifically conferred upon it, so that we do act on things which are not mentioned in the Constitution, and we have to do it. But in this particular situation we provide for the issue of a bond by the Secretary of the Treasury. If I have $2,000 which I desire to invest I cannot go to an ordinary life-insurance company and get an annuity; they are not interested in small matters of that sort. They are not concerned about an annuity which involves so small an investment, because it is more trouble than it is worth.

Mr. McKELLAR. Mr. President, I think the Senator is wholly mistaken in making that observation, because on hundreds of occasions I have been urged by representatives of insurance companies to buy an annuity policy.

Mr. BARKLEY. I have, too, but I never had any of them ask me to buy any policy of less than $10,000.

Mr. ADAMS. That was a personal compliment.

Mr. LONERGAN. Mr. President, I read from a communication written by a standard life-insurance company which issues a strictly annuity policy for as low as $10 a month. I quoted from our proceedings in the Senate Committee on Finance, and among other things I remember the query of the Senator along the same line. I think the Senator from Kentucky and a few other Senators joined the majority in voting for this proposal in the belief that the life-insurance companies do not issue small annuity policies. In that respect those who so voted were in error.

Mr. BARKLEY. It may be that I was in error, but so far as the committee had any information on the subject, we were not. However, I am not making any question about it.

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

Mr. BARKLEY. I yield.

Mr. ADAMS. I have made inquiry in reference to the Constitution, and I wanted to suggest to the Senator from Connecticut as to the foundation upon which the inquiry was made. I was relying upon a fair inference from the action of my learned colleague, a good lawyer, who offered an amendment to the Constitution, and I assume he would not have asked to have the Constitution amended if he had thought it was adequate to meet these conditions. That was the basis of my inquiry.

Mr. BARKLEY. I do not know what the suggestion of the Senator's colleague is.

Mr. ADAMS. A broad, sweeping amendment to the Constitution which would provide unquestionably the authority for the Government to take the proposed action.

Mr. BARKLEY. It did not have any reference to insurance, did it?

Mr. ADAMS. I think it would include insurance.

Mr. BARKLEY. That would depend on how broad it is. I do not know how broad it is. I do not think it was specifically intended to refer to a situation such as this. It may be that it is a sort of an omnium gatherum, which contemplates an amendment to the Constitution giving us power to do everything we have not power to do now under the Constitution; but that would be a different thing; and I do not understand that to be the amendment offered by the Senator's colleague. Undoubtedly we have the power to issue bonds, and we have the power to use the credit of the United States. If I have $2,000 to invest in such a bond, the terms of which are that I will be paid back in monthly or annual installments the money I put in, there is certainly nothing unconstitutional about that. It is merely a different way by which the United States would repay its debts or the money that it borrowed from the people, just as in the case of Liberty bonds. The Government could pay them back all at once, or, if it desired to do so, it could authorize repayment in installments. That is all this provision undertakes to do. When we come down to brass tacks, that is all it amounts to. I place a certain amount of money in a Government bond, and we provide for paying it back in annual installments, which is simply a method by which the Government repays its debt.

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

Mr. BARKLEY. I yield.

Mr. McKELLAR. In answer to the Senator's previous question, I read from the Constitution, as follows:

SEC. 8. The Congress shall have power * * * to * * * provide for the common defense and general welfare of the United States.

And again—

To raise and support armies.

And again—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers—

And so forth.

Mr. BARKLEY. Yes; all "the foregoing powers."

Mr. McKELLAR. That is ample provision, in my judgment. I now ask the Senator to put his finger on any clause or phrase of the Constitution which allows the United States Government to enter the insurance business generally.

Mr. BARKLEY. I shall quote, not in exact language, but the substance of the constitutional provision, that Congress shall have the power to borrow money on the credit of the United States; and that is what this amounts to. It is borrowing from the people who desire to buy these bonds money which is to be returned to them in annual payments in the form of an annuity. The Senator can call it an "insurance policy" if he wishes to. If I have $10,000 which I invest in a Liberty bond, that is an insurance policy to some extent. If I invest $10,000 in a bond of the United States, that money will be paid back to me according to the terms of the bond, and that is an insurance that I will get my $10,000 whenever the Government pays it. The pending measure provides that if I put in $10,000 or any other amount provided in the bill instead of paying it all back to me at once, the Government shall pay it back in annual installments which we call an annuity. I do not see any difference, so far as the principle is concerned, between one and the other.

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

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. I understood the Chair to say that the question is on the amendment offered by the Senator from Connecticut [Mr. LONERGAN] to strike out the amendment of the Senate committee.

The PRESIDING OFFICER. The situation, as the Chair understands it, is this: The amendment offered by the Senator from Connecticut [Mr. LONERGAN] would strike out an amendment of the committee not as yet acted upon. Therefore, when the Chair puts the question he will put the question upon the committee amendment; and if a Senator wishes to accomplish the purpose of the Senator from Connecticut he will vote "nay." If he wishes to vote for the committee amendment, he will vote "yea."

Mr. BARKLEY. That is what I was coming to. I thought the Presiding Officer was about to put the question on a motion to strike out a committee amendment which had been acted on. The vote is on the committee amendment. Those who favor the committee amendment will vote "yea", and those who are opposed to the committee amendment will vote "nay."

The PRESIDING OFFICER. Those who wish to accomplish the purpose of the Senator from Connecticut will vote "nay."

Mr. LONERGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	La Follette	Reynolds
Ashurst	Copeland	Lewis	Robinson
Austin	Costigan	Logan	Russell
Bachman	Davis	Lonergan	Schall
Bailey	Dickinson	Long	Schwellenbach
Bankhead	Dieterich	McCarran	Sheppard
Barbour	Donahey	McGill	Shipstead
Barkley	Duffy	McKellar	Smith
Bilbo	Fletcher	McNary	Steiwer
Black	Frazier	Maloney	Thomas, Okla.
Bone	George	Metcalf	Townsend
Borah	Gerry	Minton	Trammell
Brown	Gibson	Moore	Truman
Bulkley	Gore	Murphy	Tydings
Bulow	Guffey	Murray	Vandenberg
Burke	Hale	Neely	Van Nuys
Byrd	Harrison	Norris	Wagner
Byrnes	Hastings	Nye	Walsh
Capper	Hatch	O'Mahoney	Wheeler
Caraway	Hayden	Overton	White
Chavez	Johnson	Pittman	
Clark	Keyes	Pope	
Connally	King	Radcliffe	

The PRESIDING OFFICER (Mr. DUFFY in the chair). Eighty-nine Senators have answered to their names. A quorum is present. The question is on the adoption of the committee amendment.

Mr. LONERGAN. The pending motion is to strike out title XI.

The PRESIDING OFFICER. The Chair will state that the question will be submitted as to the adoption of the committee amendment, beginning on page 72, line 7, being title XI. Those desiring to support the committee amendment will vote "yea." Those favoring the amendment of the Senator from Connecticut will vote "nay."

Mr. HARRISON. Those in favor of the amendment of the Senator from Connecticut will vote "nay."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, on page 72, beginning with line 7, being title XI.

The amendment of the committee was rejected.

Mr. RUSSELL. Mr. President, I offer an amendment, which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, line 24, before the period, it is proposed to insert a colon and the following:

Provided, That in order to assist the aged of the several States who have no State system of old-age pensions until an opportunity is afforded the several States to provide for a State plan, including financial participation by the States, and notwithstanding any other provision of this title, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, to be used exclusively as old-age assistance, in lieu of the amount payable under the provisions of clause (1) of this subsection, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board, to be entitled to receive the same: *Provided further*, That no person who is an inmate of a public institution shall receive such old-age assistance, nor shall any individual receive an amount in excess of $15 per month.

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

Mr. RUSSELL. I yield.

Mr. HARRISON. I have talked to the Senator from Georgia about the subject matter of this amendment and have had numerous conferences in regard to it. What the Senator seeks to do by his amendment is to enable States which have no pension-system set-up, and which, therefore, would be unable to take advantage the first year, 1936, of the appropriations by Federal Government for assistance to States or States such as the Senator's State, Georgia, where the State constitution prohibits pension plans being created, making necessary an amendment to the State constitution, to avail themselves of the Federal assistance until such States may have time to adopt a State plan.

Mr. RUSSELL. For a period of only 2 years, until an opportunity can be afforded all the States to establish a State system.

Mr. HARRISON. And pending such time some agency is to be appointed by the Social Security Board which may reach the needy individuals who would come under the provisions of the bill.

Mr. RUSSELL. The Senator from Mississippi is correct. This problem in the States that have no old-age-pension system has been greatly accentuated within the past 3 or 4 weeks by the policy of the Relief Administration in inaugurating the work-relief program in turning back to the States and local communities that have no means whatever of providing for them, old people who are not capable of being employed on the work-relief program.

Mr. HARRISON. Mr. President, I may state that, so far as one member of the committee is concerned, I shall not interpose an objection to the amendment going to conference, because I believe that the States should have an opportunity of providing pension systems for themselves.

Mr. BORAH and Mr. KING addressed the Chair.

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

Mr. RUSSELL. I yield first to the Senator from Idaho as he rose first. Then I will yield to the Senator from Utah.

Mr. BORAH. May I ask how many States are in the situation which the Senator describes?

Mr. RUSSELL. There are, as I understand, at the present time 15 States which have no old-age-pension systems and 33 that have such systems, the systems varying, of course; they are not uniform throughout the United States.

Mr. BORAH. Do I understand correctly that this amendment provides that for those 15 States the Federal Government will put up $15 for people who have reached the age of 65 and over until such States shall have adopted pension systems?

Mr. RUSSELL. Not necessarily; only for a period of 2 years; the provision suggested will expire by operation of law at the end of a 2-year period.

I may say to the Senator from Idaho that the amendment does not compel the Social Security Board to pay these individuals $15; it may pay them amounts not exceeding $15. I assume that in some States the Social Security Board might not pay the entire amount of $15; but it is limited to $15, that being the maximum which will be paid from the Federal Treasury to individuals in States that today have no old-age-pension system.

Mr. BORAH. Then, I think I understand the amendment correctly. It provides that in such States as have no provision for old-age pensions for the next 2 years the Federal Government is to contribute $15?

Mr. RUSSELL. Or such amount, not exceeding $15, as the Social Security Board may fix in such States.

Mr. BORAH. It is pretty certain that it will be $15.

Mr. RUSSELL. I hope and trust it is. I certainly hope that it will not be any less than that amount.

Mr. President, in view of the statement of the Senator from Mississippi [Mr. HARRISON], I will not make any extended remarks on this amendment. It occurs to me that the proposal is not only just and fair but that it would be unfair to aged and needy individuals in the States which today have no old-age-pension system to say that the Federal Government will not extend its hand to assist them in the slightest degree. Not only that, but they will not be permitted to share in this fund which will be paid by the taxpayers of every State at a time when they are being taken off the relief rolls and being turned back to the counties and municipalities which are already largely involved and are absolutely unable to assist such individuals.

We know the present desperate condition of many of these old people, who have seen their savings swept away either by the depreciation in securities or in other investments. They, perhaps, had farms which were under lien and have seen the lien foreclosed on account of the low price of farm commodities and the depreciation in the value of farms. As I see it,

it would be nothing less than wanton cruelty to an old person in a State that has no old-age-pension system to say, "Commencing with the passage of this bill, $15 a month for such persons will be sent to a State that has an old-age-pension system, but you shall not be permitted a dime, and in addition, you, without any resources whatever, will be taken off the relief rolls."

I would not favor as a permanent policy the Federal Government paying $15, whether the State matched it or not, but States which now have no old-age-pension systems should at least be afforded an opportunity to adopt within the 2-year period a system designed to take care of their aged and those in need. Efforts to establish such systems are now being made all over the Union. In two or three instances constitutional amendments will be submitted to the people of the States within the next several months, or in the general election of 1936, which will enable the adoption of old-age-pension systems. Some States, such as the one I have the honor in part to represent in this body, have constitutional provisions which make it impossible for them to contribute a single dime to an old-age pension system, and under the peculiar provisions of our constitution an amendment cannot be submitted to the people until the next general election, which will be in 1936. So, regardless of how strongly all the people of my State and of other States similarly situated might favor an old-age pension system, they would be powerless to do anything on earth to match the Federal contribution until after the general election in November 1936. I hope the amendment will be adopted.

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

Mr. RUSSELL. I yield to the Senator from Utah.

Mr. KING. Is there no law in the State of Georgia which permits the counties or other political subdivisions to make provision for the indigent?

Mr. RUSSELL. There is; there is a law that permits counties to have poor farms, but if the Senator from Utah were familiar with the conditions obtaining on some of the poor farms or pauper farms of this Nation, he would never by any act or word of his suggest for one moment that any aged person over 65 years should be sent to such a farm.

Mr. KING. I am not talking about that. What I am trying to ascertain is whether the Senator's State, Georgia, is powerless to give to its indigent an amount which would be equivalent to that which under the bill is to be provided by the Federal Government.

Mr. RUSSELL. The State of Georgia is absolutely powerless. The purposes for which taxes may be levied in the State of Georgia are set forth in detail in the constitution of that State. If the Senator from Utah desires, I will read him that provision of our constitution.

Mr. KING. I do not ask the Senator to do that.

Mr. RUSSELL. It is impossible for one cent in taxes to be levied and collected in the State of Georgia under our constitution as it stands today for the purpose contemplated by this bill. In order to do that an amendment to the State constitution is absolutely necessary.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Georgia.

The amendment was agreed to.

Mr. O'MAHONEY. 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 49, line 22, after the word "deposited", it is proposed to insert the following:

Together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties herein imposed upon said Department, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection and payment of taxes provided under section 707 of this title, such sums as may be required for such additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by this act.

Mr. HARRISON. Mr. President.

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

Mr. O'MAHONEY. I yield.

Mr. HARRISON. This is the amendment, is it not, which was suggested by the Post Office Department with reference to bearing the expenses which may be incurred by the Department under the terms of the pending bill?

Mr. O'MAHONEY. Mr. President, the amendment covers the suggestion made to the committee by the Post Office Department. The bill makes it the duty of the Department to collect the taxes for which provision is made, but does not provide any method of meeting the additional expense to which the Department will necessarily be put. In other words, it adds another nonpostal function to the Post Office Department. Last year such nonpostal functions cost the Department more than $66,000,000.

The amendment provides that the Post Office Department shall report to the Treasury what services are required to perform the duties imposed by the bill and directs the Treasury to advance credit to the Department to meet the additional expenditures. Similar provisions are in the duck stamp law and in the baby bond law.

Mr. HARRISON. I shall not object to the amendment going to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Wyoming.

The amendment was agreed to.

Mr. BLACK. Mr. President, I desire to offer an amendment proposing an additional section to the bill. In my judgment, this amendment has been made necessary by the adoption of the so-called "Clark amendment." I shall send the amendment to the desk and request that it be read; and after it shall have been read, if there shall be any desire that it be explained or the necessity for the amendment made plain, I will be glad to explain it to the Senate.

The PRESIDING OFFICER. The amendment proposed by the Senator from Alabama will be stated.

The CHIEF CLERK. On page 52, after line 7, it is proposed to insert the following new section:

SEC. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization, or trustee any contract with respect to carrying out a private annuity plan approved by the Board under section 702 if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization, or trustee.

(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization, or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.

(c) Every insurance company, annuity organization, or trustee who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved by the Board under section 702 shall make, keep, and preserve for such periods such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization, or trustee as the Board may deem necessary to insure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.

(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both.

Mr. BLACK. Mr. President, I think I can explain very briefly the object and purpose of this amendment and the necessity for its adoption.

The amendment which was offered by the Senator from Missouri [Mr. CLARK] and adopted by the Senate would authorize the making of contract of insurance or annuity with private insurance companies, annuity organizations, or trustees. One of the objections a great many of us had to the amendment of the Senator from Missouri was that we believed there would be a constant, continuous, and recurring incentive to companies buying such insurance to have on their list of employees the best risks it was pos-

sible to obtain. In other words, it is easy to see, if one company could obtain insurance on its employees all at the rate that would be accorded to young men from 20 to 30 while other companies retained in their employ employees from 20 to 60, that the company which had the employees from 20 to 60 would be compelled to pay a higher rate, and the result would be that such company would be at a distinct disadvantage in competing with the company which employed men of a lower age.

The Senator from Missouri believed and stated that he had avoided any danger on that score by reason of certain additions which he has made to his amendment since the time it was offered in the Finance Committee. I am perfectly willing to concede that the amendment offered on the floor by the Senator from Missouri was a distinct improvement in that regard over the amendment offered by him before the Finance Committee; but the amendment of the Senator from Missouri does not provide any method, so far as I can see, to protect in the respects in which my amendment provides.

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

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

Mr. BLACK. I yield.

Mr. CLARK. I have had an opportunity now to examine the Senator's amendment and will state that, so far as I am concerned, I am heartily in sympathy with it.

Mr. BLACK. I was sure the Senator would be when he understood the amendment.

I can state in very few words what I have in mind. We have had a good deal of information about the way holding companies pipe profits out of operating companies. If an insurance company can be so associated with an industrial company that the insurance company can pipe the profits from the industrial company through the insurance company by this means, it would obtain exactly the same results, or certain individuals would, as though originally the company insuring the men had made the profits.

My amendment would make the books of the insurance company subject to inspection of the Government and would prevent any such unfair methods. One portion of the amendment would prevent rebates being made by an insurance company to an industrial company where the men work, and another provision would prevent interlocking directorates and interlocking stockholders. In that way it appears to me the amendment of the Senator from Missouri is greatly strengthened to accomplish the exact purpose for which he offered it on the floor of the Senate. Since he has no objection, and I have shown my amendment to the Senator from New York [Mr. WAGNER] and it meets with his approval, unless there is some further question I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GEORGE. Mr. President, if there are no further amendments to be offered to title II and title VIII of the bill, I wish to offer at this time a substitute for title II and title VIII; that is, the Federal old-age benefit provisions.

The PRESIDING OFFICER. The Senator from Georgia offers an amendment in the nature of a substitute, which will be read.

The legislative clerk read the amendment in the nature of a substitute, as follows:

TITLE I—INDUSTRIAL PROTECTION

SECTION 1. (a) When used in this title, unless the context otherwise indicates—

(1) The term "person" means individual, association, partnership, or corporation.

(2) The term "employer" means any person in the United States who at any one time during the taxable year employs 50 or more employees, and any group of persons in the United States engaged in the same field of industry which group at any one time during the taxable year employs 50 or more employees and which is formed voluntarily for the purpose of being considered an employer within the meaning of this act, but does not include the United States Government, or any State or political subdivision or municipality thereof, or any person subject to the Railroad Retirement Act.

(3) The term "employee" means any person in the service of an employer the major portion of whose duties are performed within the United States.

(4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, and the Territories of Alaska and Hawaii.

(5) The term "pay roll" means all wages paid by an employer to employees.

(6) The term "wages" means every form of remuneration for services received by an employee from his employer, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging, payments in kind, and similar advantages.

(b) For the purposes of this title the wages of any employee receiving wages of more than $7,200 per annum shall be considered to be $7,200 per annum.

SEC. 2. There shall be levied, assessed, and collected annually from each employer in the United States for each taxable year an excise tax equal to 5 percent of such employer's pay roll during that part of such taxable year in which he employs 50 or more employees and in which his employees were not covered by an industrial protection plan adopted with the approval of the Social Security Board as hereinafter provided, and announced to his employees.

SEC. 3. (a) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe and publish necessary rules and regulations for the collection of the tax imposed by this title.

(b) Every employer liable for tax under this title shall make a return under oath within 1 month after the close of the year with respect to which such tax is imposed to the collector of internal revenue for the district in which is located his principal place of business. Such return shall contain such information and be made in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector within 1 month after the close of the year with respect to which the tax is imposed. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 percent a month from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this act, be applicable in respect of the tax imposed by this act. The Commissioner may extend the time for filing the return of the tax imposed by this act, under such rules and regulations as he may, with the approval of the Secretary of the Treasury, prescribe, but no such extension shall be for more than 60 days.

(c) Returns required to be filed for the purpose of the tax imposed by this act shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law as returns made under title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer, the time for payment of any initial installment of the amount determined as the tax by the taxpayer may be extended, under regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury, for a period not to exceed 6 months from the date prescribed for the payment of such installment. In such case the amount in respect of which the extension is granted shall be paid (with interest at the rate of one-half of 1 percent per month) on or before the date of the expiration of the period of the extension.

SEC. 4. (a) There is hereby established a Social Security Board (hereinafter referred to as the "Board") to be composed of five members, one of whom shall be designated as chairman, to be appointed by the President, by and with the advice and consent of the Senate. Not more than three of such members shall be of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No member of the Board shall engage in any other business, vocation, or employment. The chairman shall receive a salary at the rate of $10,000 per annum and each of the other members of the Board shall receive a salary at the rate of $7,500 per annum. Each member shall hold office for a term of 5 years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office shall expire, as designated by the President at the time of nomination, one at the end of 1 year, one at the end of 2 years, one at the end of 3 years, one at the end of 4 years, and one at the end of 5 years from the date of enactment of this act. It shall be the duty of the Board to carry out the provisions of

this act and to make an annual report to the President concerning its activities.

(b) The Board is authorized to appoint, subject to the civil-service laws, such officers and employees as are necessary for the execution of its functions under this act and to fix their salaries in accordance with the Classification Act of 1923, as amended. The Board is further authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference and periodicals, and for printing and binding) as may be necessary for the execution of its functions.

SEC. 5. At the close of each taxable year for which a tax is imposed by this title, the Board shall certify to the Secretary of the Treasury, for the purpose of exemption from such tax, the name of each employer whose employees have been covered during such year by an industrial protection plan approved by the Board, together with the portion of such year that the employees were so covered.

SEC. 6. Subject to the limitations of this title, the Board shall adopt and make public standards for industrial protection plans and such rules and regulations as are necessary to carry out the provisions and purposes of this title. Any employer may submit to the Board an industrial protection plan, and the Board shall approve such plan if it complies with the standard fixed by the Board. If at any time the Board finds that a plan which it has approved does not in operation comply with the standards fixed for such plans, it may withdraw its approval and shall immediately notify the employer concerned of such action. It shall be the policy of the Board to allow each such employer as much freedom in determining his plan as is consistent with the purposes of this act and the adequate protection of the fund from which benefit payments are to be made.

SEC. 7. The standards adopted by the Board shall provide—

(a) That a plan to be approved shall provide (1) that the employer will pay annually into a reserve fund deposited with some trustee or other depositary acceptable to the Board, to be used for the payment of benefits under such plan, an amount not less than the amount of earnings distributed by such employer as dividends or profits, or otherwise, during the same year until the reserve fund is on an actuarially sound basis, and (2) that thereafter the employer shall make such payments when necessary to maintain the fund on an actuarially sound basis.

(b) That the payment of benefits under an approved plan shall begin not more than a year after the beginning of its operation; that every employee who has been in the service of the employer for 1 year or more shall be eligible for benefit payments; and that the following minimum schedule of benefit payments shall be paid at the expense of the employer under the plan in full operation:

(1) In the event of the death of an employee, there shall be paid to his dependents or estate an amount equal to 6 months' wages at the rate he was receiving at the time of his death.

(2) In the event of the disability of an employee, compensation shall be paid in monthly installments to such employee while his disability lasts, or until he reaches the age of 65, at the rate of one-eighth the wages he was receiving at the time the disability was incurred.

(3) When an employee reaches the age of 65 he shall receive annually for life an annuity equal to 1 percent of his total wages during his period of employment, payable in monthly installments.

(4) In the event that an employee becomes unemployed and cannot find other employment by complying with regulations prescribed by the Board he shall be paid compensation for 1 year at the rate of one-fourth his average annual wage for the preceding 5 years, payable monthly.

(5) If the period necessary for establishing on an actuarially sound basis the fund from which benefits are to be paid has not elapsed, benefit payments may, subject to the approval of the Board, be proportionately reduced or continued for a proportionately shorter period.

(c) That an approved plan shall provide that employees may, at their election, make contributions to the fund from their wages (such contributions to be deducted from the employees' wages and paid into the fund by the employer, if the employee so requests); that the benefit payments will be increased proportionately by such employee contributions; that the employer will conduct an educational program designed to demonstrate to his employees the advantages of such contributions; and that the employees contributing shall have a right to participate in the management of the plan.

(d) That an approved plan shall provide that an employer must pay the schedule of benefits specified in this act as his part of the protection plan irrespective of any contribution which an employee may or may not make toward securing a similar schedule of benefits for himself.

(e) That an approved plan shall provide for the exchange or transfer of credits and funds upon the separation of an employee from the service of any employer, in a manner that will fully protect the interest of the employee.

(f) That employers may operate their own plans and manage their own funds on a trustee basis; that employers may have their plans wholly or partly underwritten by insurance companies; that employers may unite to pool their risks and pool their funds; and that participation in a plan under the laws of a State may be considered the operation of an approved plan, if the State plan complies with the requirements for an approved plan, including payment of the minimum schedule of benefits, specified in this act.

SEC. 8. An employer who is financially unable to provide the reserve necessary to cover the pension liability arising out of the past years of service of active employees, previous to their retirement age, may make application to the Secretary of the Treasury for a loan up to the amount of such liability. The Secretary of the Treasury, under such rules and regulations as he may prescribe, is authorized and directed to make such loans in the form of negotiable bonds to be known as "social security bonds" and which shall bear interest at the rate of 4 percent per annum. Such loans shall bear interest at a rate not in excess of 4½ percent per annum, and shall be amortized over a period not in excess of 30 years from the date of the loan. The money accruing from the difference between the interest paid on such bonds and the interest received on such loans shall be held in the Treasury as a contingency reserve to protect the United States against loss through the failure to repay any such loan. At the end of each 5-year period after the date of enactment of this act, so much of the unused surplus in such contingency reserve as, in the opinion of the Board, can be distributed without endangering the solvency of such reserve shall be distributed to the persons making payment on such loans in the proportion which the payments of each bear to the total amount of such payments during such 5-year period.

SEC. 9. Deposits in the fund from which benefits are to be paid under an industrial protection plan approved by the Board may be deducted from the gross income of an employer for the purpose of computing income taxes to be paid by him to the United States.

SEC. 10. There is hereby authorized to be appropriated annually for the administration of this act the sum of $1,250,000. From such appropriation the Board is authorized and directed to pay to each State maintaining a cooperative State office for the administration of this act, and furnishing an equal sum, the sum of $12,500 to be used in the administration of such plan; and the Secretary of the Treasury is authorized and directed to pay to the Treasurer of such State the money so allotted.

SEC. 11. Sections 2 and 3 of this act shall become effective when the Congress by appropriate resolution shall so provide.

TITLE II—HOMESTEAD VILLAGES

SECTION 201. For the purpose of providing a means of livelihood for citizens who cannot secure employment in industry or agriculture at a living wage, the Social Security Board is authorized and directed to provide for the construction of self-supporting homestead villages in which such citizens may earn a livelihood or supplement their income from other sources.

SEC. 202. (a) The Board shall make loans for the construction of homestead villages by any agency it approves for such purpose, taking as security for such loans first mortgages on the property in respect of which the loans are made. Such loans may be made up to the full amount necessary to acquire and construct the property covered by such mortgages, shall bear interest at a rate not in excess of 5 percent per annum, and shall be amortized over a period not in excess of 30 years from the date of the loan.

(b) The Board may construct homestead villages under its own supervision and sell the homes or farms in such villages, and shall amortize the unpaid portion of the purchase price over a period not in excess of 30 years, charging interest on unpaid portions of the purchase price at a rate not in excess of 5 percent per annum.

SEC. 203 (a) The Division of Subsistence Homesteads in the Department of the Interior and all functions of the Federal Emergency Relief Administration and the Agricultural Adjustment Administration with respect to subsistence homestead projects are hereby transferred to the Social Security Board, together with all powers and duties relating to each.

(b) All official records and papers now on file in and pertaining exclusively to the business of, and all furniture, office equipment, and other property now in use in, said Division of Subsistence Homesteads or any part, division, or section of the Federal Emergency Relief Administration or of the Agricultural Adjustment Administration whose principal duties relate to subsistence homestead projects, are hereby transferred to said Board.

(c) All officers and employees engaged primarily in carrying out functions transferred to the Board under this act are transferred to the Board without change in classification or compensation; except that the Board may provide for the adjustment of such classification or compensation to conform to the duties to which such officers and employees may be assigned.

(d) All appropriations made or allocated for the purpose of carrying out any of the functions transferred under this act shall be available for the use of the Board in constructing or making loans for homestead villages or in the completion of projects transferred under this act.

(e) All property held in the exercise of functions transferred under this act shall be transferred to the Social Security Board.

SEC. 204. There is hereby created a revolving fund of $1,000,000,000, which shall be used by the Board for the acquisition and construction of, or the making of loans on homestead villages under this act. The funds transferred under this act shall constitute a part of such fund; the President is authorized to allocate any unused funds at his disposal to such revolving fund; and there is hereby authorized to be appropriated for such revolving fund such sums as may be necessary to increase it to $1,000,000,000.

SEC. 205. The Board is authorized to prescribe rules and regulations for carrying out the provisions of this title, including rules and regulations concerning the organization and management of homestead villages, not inconsistent with the purposes of this act.

Mr. GEORGE. Mr. President, I wish to make it clear that I am not opposed to the principles or the provisions of title I of the bill providing for grants to the States for old-age assistance or what we know as the general old-age pension provisions of the bill, nor to title III, grants to the States for unemployment compensation administration; nor to title IV, grants to the States for aid to dependent children; nor to title V, grants to States for maternal and child welfare; nor to title VI, public-health work; nor to title VII, Social Security Board, because we recognize there must be a board created to administer the several titles of the bill; nor to titles IX and X, providing grants to the States for aid to the blind. Title XII, which deals with annuity bonds, I believe, has already been rejected. Nor am I opposed to title XII, the general provisions of the bill.

In other words, with the exception of title II and the supporting tax title, title VIII, I am in full sympathy with the bill.

I am also in full sympathy with the purposes of general old-age benefits sought to be covered by the provisions of title II of the bill. I think it would have been much wiser if the bill had provided for grants in aid to the States to enable them to set up old-age benefits and benefits to cover hazards in industry just as was done under title I in making grants in aid to the States for the purpose of providing old-age assistance.

Also, Mr. President, I have believed from the first, and in the committee supported a motion to the effect that we should separate the bill into its legitimate and component parts. It is obviously unfair to ask one to vote for a bill when there is a particular title in the bill to which he does not agree at all, although having full sympathy with the general objective sought to be accomplished by those who drafted and sponsored the bill. On the contrary, it is obviously unfair to join with objectionable and essentially different legislative proposals other highly desirable proposals for which many Senators would certainly desire to vote. Every Senator no doubt would like to vote for the grant in aid to the States for old-age assistance, for aid to dependent children, for public health work, for aid to the States for the purpose of assisting and caring for the blind.

Mr. President, in this connection I desire to say that, as originally drawn, the substitute which I have offered carried certain provisions imposing a tax, but, on mature deliberation and after exhaustive study, I reached the conclusion that the taxing provisions as they now appear in the bill itself could not be sustained against attack, and therefore the substitute which I now offer as now modified provides for the imposition of a tax, but only when authorized by the Congress by an appropriate resolution.

My substitute as now presented is a substitute for title II and title VIII of the bill reported by the committee. My substitute provides against industrial hazards which are not covered in the bill before the Senate. My substitute grants greater and larger benefits. It does not undertake to cover all employees, but it does undertake to cover employees of a common employer numbering 50 or more, and also provides for separate groups in kindred industries when such groups taken together bring the total to 50 or more.

Since my substitute will appear in the RECORD in connection with my remarks, I do not propose to read its provisions or discuss them more in detail at this time.

Mr. McKELLAR. Mr. President——

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

Mr. McKELLAR. Is the Senator's amendment simply a substitute for titles II and VIII, leaving the remainder of the bill as the Senate has agreed to it?

Mr. GEORGE. Entirely as the Senate has agreed to it.

Mr. President, I wish to make a brief statement regarding the substitute.

The basic features of the substitute, which are offered in the hope, at least, that they are improvements to replace corresponding parts of the pending bill, are, in brief, as follows:

It makes possible and necessary one standard schedule of benefits to be provided by industries throughout the Nation, thus insuring the desired result and putting all industries on a fair basis of competition, as is sought, it is claimed by the proponents of the Federal old-age benefits provision, or title II of the pending bill.

It preserves a real and needed degree of freedom to industries and to the States as cooperators in the administration of the act.

It permits individual industries or groups of industries to construct and operate their own plans, requiring only that they are actuarially sound and sufficient to yield the stipulated benefits.

It permits employers and employees to receive the benefit of any saving they can effect by a wise and efficient management of their own plans.

It requires each industry to pay only the exact cost of its protection program, no more and no less, instead of a flat pay-roll tax which does not represent the cost.

It eliminates the need for a large army of Federal office-holders required by the pending act to administer it and thus saves an excessively large and needless expense.

It does not put on industries immediately a large financial burden which in a time of business depression may be a serious obstacle to recovery, but relates the expense to the process of recovery.

It makes possible the payment of retirement annuities immediately instead of postponing them for a number of years and does so without putting an undue burden on industries and without increasing the public debt or the tax rate.

It makes possible the easy amendment of the act to enlarge its provisions for the scope of its application as experience may require.

It enlarges the protection program to include death and disability hazards, as well as old-age and unemployment hazards, as provided in title II of the bill as it now stands, all four of which are vitally related and constitute essential parts of one program of unemployment.

It requires all four programs to be put on a reserve basis actuarially calculated to be sufficient, so that automatically they are financially sound, instead of imposing on pay rolls a flat rate which is only guessed or estimated to be sufficient.

It provides for the transfer of pension credits from one employment to another, so that each employer bears the expense only for the number of years an employee spent in his services, and an employee does not lose his reward for years of faithful service by changing employment. The transfer of pension credits eliminates the temptation to escape the payment of retirement benefits by discharging older workers, and is thus one of the effective means of removing the "dead line" from industry.

It will both stimulate and compel an increase in the wage standard of American industry, because if the wage of a certain class of employees has not had sufficient margin to enable them to pay their share of the cost, the act will have to be amended by a requirement that employers pay the entire cost; but it will be a financial advantage to employers, and a moral advantage in preserving the self-respect of employees, if the way is opened for employees to pay half the cost of raising the wage to a cultural wage level as an earned right, rather than to have their share of the cost presented to them by employers as a charity.

Last, and most important of all, the substitute bill furnishes a self-supporting method by which a permanent livelihood may be secured by the large excess number of employees who have been displaced from industry, and cannot be reabsorbed in industry or agriculture, and whose number is so large that it is physically impossible to create a reserve fund sufficiently large to support them in idleness, even if it were desirable to supply wages without work. For these idle detached workers, who cannot be covered by any industrial protection plan that is sound and that will permit industry to function without undue and unnecessary retarding

influences and impediments, the only possible unemployment insurance is employment.

Mr. President, yesterday I had occasion to discuss the questionable validity of title II and title VIII of this bill. I am morally certain that in the course of time, if title II shall be enacted as it now stands, it will either break down of its own weight or it will come back under the condemnation of a decision of the Court. For that reason primarily, and especially since the adoption of the Clark amendment, I am offering this substitute and making this statement; and I now ask that I may insert in the RECORD a statement prepared by Mr. Henry E. Jackson, an expert in the field of social insurance, who appeared before the Finance Committee as a witness, and gave to the committee testimony when we were considering the bill now before the Senate.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The statement is as follows:

THE GEORGE SUBSTITUTE SOCIAL-SECURITY BILL

(A statement by Henry E. Jackson)

1. The large and important part of the Wagner social-security bill is concerned with organized industries, providing protection against the hazards of old age and unemployment. The George bill is proposed as a substitute for this part of the Wagner bill and it also covers two additional hazards not provided for in the Wagner bill.

2. The two bills are constructed on principles which are basically different; the Wagner bill provides that the Federal Government own and operate the protection plans of industry; the George bill provides that the Federal Government's function be limited to setting a standard schedule of benefits to be maintained, but permits industries a large degree of freedom in the management of their plans. The George bill is therefore in exact accord with the American principle of democracy, which aims to secure concerted action in the whole, while preserving freedom in the parts.

The Wagner bill meets the problem by the use of state socialism; the George bill uses the principle of democracy. I have no objection to state socialism applied to this problem, as we have applied it to other problems, if this is the best we can do. But I believe the democratic method is far more efficient in securing the desired results and far more helpful in the development of individual citizens.

3. The George bill provides a much larger schedule of benefits than does the Wagner bill, and yet this larger schedule of benefits is made to be financially feasible, because of the freedom of method granted industries to manage their plans, and because of the large needless operating expense eliminated by the George bill, and because of the financial assistance to industries provided in the George bill without additional expense to the Government.

4. The chief distinguishing characteristic of the George bill, here stressed, is that its method of securing the adoption of protection plans in American industries, is not compulsion, but voluntary cooperation. The specified tax in the bill may be made effective by a separate act of Congress, if, and when, it is found to be advisable.

5. The use of the voluntary method stipulated in the bill implies that the social-security board charged with the administration of the act, would use all available means for enlisting industries in the plan, giving advisory service, exhibiting the nature and advantages of the plan, and explaining how the plan can be operated on the most inexpensive basis.

The board could give a rating, like a Federal Dun & Bradstreet's on a public governmental basis, thus giving public recognition and honor to those industries, which adopted plans measuring up to or approximating the standards stipulated in the bill. There would thus be exhibited the number of employers who do voluntarily adopt the plan, also the number who are not willing to adopt it, also those who would be willing to adopt it, if it were made universal, so that they could be on a fair basis of competition. This process would render an invaluable service in exhibiting the need there may be for compulsory legislation.

6. The education, involved in the process of volunteer enlistment of employers, would create a volume of enlightened public opinion, which would clear the way for the easy passage of compulsory legislation. The assumption is justified that a large proportion of employers will probably adopt the plan voluntarily, because all employers are facing this problem wholly apart from any proposed legislation and all intelligent employers recognize that protection of worn-out human machinery is not only just but also an economic advantage, and because an employer who does not have such a plan will find it harder to secure and retain the right type of employee than the employer who adopts such a plan, and because under this bill it will happen to employers as it does to soldiers that an element of distinction and honor attaches to a citizen who is a volunteer soldier rather than to one who is drafted and conscripted under compulsion. Whatever the number of employers who may or may not freely adopt the plan, the voluntary method will be an advantageous process as a preliminary to the use of compulsion, which will affect not those who have by that time adopted the plan, but only those who have not.

7. A bill constructed on the principle of the George bill is obviously the only type of bill which can be operated on the basis of voluntary cooperation. Please observe that freedom of action is not only the method used for securing acceptance of the plan, but after industries have adopted the plan, as stated in the bill, they are given freedom in the management and operation of their plans. The principle involved here is one of paramount importance. It is not only the democratic principle of social control but is the only principle suitable to the treatment and development of human nature. Detail rules and regulations are adapted to dogs and horses. They need them because they are dogs and horses. But what distinguishes a man from a dog or horse is his use of moral judgments. Therefore all social legislation ought not only to permit but stimulate the use of moral judgments. This is what the George bill definitely aims to do. But the Wagner bill will do conspicuous moral damage to citizens, because it is undemocratic, because it, like the original National Security Act, contains detail rules and regulations, handed down from Washington to employers permitting them no chance to use moral judgments. Men properly resent such rules or they would not be normal men. The Wagner bill if adopted will no doubt run the same course as the N. R. A. bill. It will break down of its own weight and then will be pronounced unconstitutional. Then the work will be stopped and be more than wasted, because the work of unscrambling the machinery will have to be done.

8. If a bill of the George type were enacted, for the basic reasons above stated, it will be observed that as a consequence the question of its constitutionality is wholly avoided. It is eliminated. It could not be raised. The bill imposes no penalties and does nothing more or less than establish a bureau or board, whose function is clearly specified and which offers advisory service and operates on the basis of voluntary cooperation. Therefore, as it stands the constitutional question is in no way involved. If later the Congress should pass a joint resolution making the bill's penalties effective and the Supreme Court should pronounce it unconstitutional, the only thing the Court's decision would affect would be the penalty clause and the board could continue to do the work it had already begun and there would be no wasted effect. It could continue to put the bill into operation under the sanction of public opinion instead of using two sanctions, public opinion and the tax penalty.

9. If the board should succeed in securing the voluntary enlistment of a large number of industries in a plan, which they found acceptable and beneficial both to employers and employees, it is highly probable that the Supreme Court would pronounce the taxing provision to be constitutional if Congress decided to use it. For many years we have imposed a tariff tax for an avowed purpose other than to raise revenue, namely, to protect manufacturers against the hazard of foreign competition. No question of its constitutionality has ever been raised. If then as a national policy we have imposed a tariff tax for the protection of employers, we have a conspicuous and convincing precedent for imposing a tax now under a social-security act for the purpose of protecting both employers and employees against industrial hazards, which have become a menace to the national welfare.

After a large number of industries had adopted the plan and demonstrated its usefulness, if Congress made the tax effective in order to compel the participation of the remaining industries and if then the Supreme Court should declare the tax provision to be unconstitutional, we would have established a convincing basis and ample justification for a constitutional amendment. This is a natural and customary procedure, and by the framers of the Constitution was designed and expected to be used whenever the public welfare required its use. The Constitution was made for man, not man for the Constitution. Thomas Jefferson stated in two short sentences all that needs to be said on the wisdom and necessity of amending the Constitution. He said: "Laws and institutions must go hand in hand with the progress of the human mind. We might as well require a man to wear the coat that fitted him as a boy as civilized society to remain ever under the regime of their ancestors."

It is probable, however, that no constitutional amendment will be required, because the question as to whether or not the George type of social-security bill is constitutional, does not involve a question of law, but an economic theory of the facts back of the law. The Nation has now become so completely an economic unity that we no longer have interstate commerce or intrastate commerce, we have just commerce. As soon as this economic fact is recognized as it is the constitutionality of the George bill becomes a foregone conclusion even to a layman. The method of voluntary cooperation, which the bill provides for getting itself into operation, is designed to make such a conspicuous exhibit of this economic fact that the bill's constitutionality will never be raised. Nothing is so convincing as a fact, as Chief Justice Hughes indicated in his dissenting opinion in the Railroad Retirement Act. He said, "Where the constitutional validity of a statute depends upon the existence of facts, courts must be cautious about reaching a conclusion respecting them contrary to that reached by the legislature; and if the question of what the facts establish be a fairly debatable one, it is not permissible for the judge to set up his opinion in respect of it against the opinion of the lawmaker."

10. I am informed that no bill of this character has ever been proposed or passed by the Federal Congress without effective penalties attached. This is probably true. That is the chief reason why it should be passed now as a new legislative procedure. It is likewise true that hitherto no social-security bill has been passed by the Federal Congress. It is a new kind of legislation applied to

a complex industrial problem, and therefore requires a new legislative procedure. New wine calls for new bottles.

Even if we knew that the tax penalty would be ultimately necessary, it would be wise and helpful to use the method of voluntary cooperation as a preliminary process on the way to our desired goal. The shortest distance between two points is the line of least resistance. As far as it is feasible, the more excellent way is to reward men if they do, rather than to punish them if they don't.

It is a curious circumstance that we still persist in believing that the only effective legislation possible must have attached to it a penalty like a fine or imprisonment, whereas it has been repeatedly demonstrated that such penalties have been futile in securing observance of a law if it is not supported by public opinion. The prohibition law as a dramatic case in point. The democratic method is the method of freedom and, despite its obvious defects, democracy is the most efficient form of government yet devised. An illuminating definition of freedom, the only real freedom which I think we possess, would be that it is voluntary obedience to self-recognized law.

While the method here proposed applies with special force to legislation dealing with industrial problems, such as the social-security bill does, yet it is a wise working formula for many other types of legislation, because it ought to be obvious that it is not physically possible to put any law into effective operation unless we first secure a large measure of voluntary obedience to it. The George bill is definitely designed to secure as large a measure of voluntary obedience as possible to a law recognized as wise and desirable. We will dispense with penalties if we can; we will use them if we must.

Mr. GEORGE. Mr. President, I have only this to say further upon the substitute: It does not carry immediate compulsion, or attempt to do so, for the reasons I have already stated; but it is the first attempt to offer an inducement through a Federal agency to industry to provide superior benefits to those specified in title II of the pending bill. Not only that, but it makes possible the doubling of those benefits by voluntary contributions by the employees themselves, though it does not relieve the employers from granting greater benefits than title II of the bill provides and covering two additional hazards to which I have already directed attention. It also holds out a strong inducement to employers to adopt this program by providing for loans from the Treasury in the form of security bonds, but to be retained in the Treasury as its protection, so as to enable industry which has not in the past made suitable provision of a reserve fund to support the plan set out in the bill, or its equivalent. That makes possible also the transfer of credits, which, of course, is an essential feature of any security plan, or of any system which undertakes to provide against industrial hazards.

Mr. President, I am not only convinced of the desirability of such a course, but I believe it will be to the real interest of the country to have an opportunity to consider more deliberately, and separated from other admittedly important proposals in a long and involved bill, the problem we are discussing, and with which I have dealt in the amendment. If and when titles II and VIII of the bill shall be again before the Congress we shall be able, I hope, to work out a program which will provide against the industrial hazards which ought to be provided against as a part of the cost of doing business.

Attached to the substitute is also provision for self-supporting villages, either of the subsistence homestead type or of any other type of homestead with which the Congress has dealt, in recognition of the fact that so large a percentage of our working people have been unable to find employment, and will through a relatively long period be unable to find employment until some way of providing employment shall be found. The benefits granted under title II of the bill when they are analyzed will be found to be exceedingly meager, and there are large groups of our population which will not participate at all in the benefits of title II. Indeed, out of some forty-five to fifty million people who ordinarily and normally are gainfully employed in the United States, approximately one-half only will be affected by title II.

Mr. President, I ask to have inserted as a part of my remarks an editorial which appeared in the New York Times of June 17, entitled "The Social Security Bill," as bearing upon what I have tried to emphasize—the necessity for more careful and more exhaustive study of the subject unembarrassed by other legislative proposals.

The VICE PRESIDENT. Without objection, it is so ordered.

The editorial is as follows:

[From the New York Times of June 17, 1935]

THE SOCIAL-SECURITY BILL

The Senate seems to be on the verge of debating only perfunctorily and passing quickly the full social-security bill already passed by the House. It seems almost too late to hope that a measure of so sweeping a nature will receive the close and careful study it deserves. The case for splitting it into its constituent parts is a strong one. It would obviously be desirable to break it into at least three separate measures—one providing for immediate old-age assistance and Federal contributions for maternal and child aid, a second providing for unemployment insurance, and the third providing for permanent old-age insurance. Only after such a division would each section be likely to receive sufficient consideration, and to be voted upon as its merits deserve.

The whole contributory old-age-pension scheme in particular ought to be postponed and turned over to an expert commission for study. As it stands, it imposes a gradually rising tax on both employers and employees, which at the end of 10 years, it has been estimated, will amount to $1,700,000,000 a year. This in itself would mean an added tax burden equal to nearly half of the existing total Federal tax burden. Further, it would result, it has been calculated, in the accumulation of an eventual reserve fund of the immense total of $32,000,000,000. The problem of managing such a reserve fund, and its possible social and economic effects, have not yet received anything like adequate study. Alternative types of old-age pensions ought to be considered.

Nothing has yet been done, again, about amending the major defects of the unemployment insurance plan as it stands. It still does not provide that the workers shall contribute toward their own insurance, in spite of the convincing arguments for this practice and the fact that it prevails in virtually every such system abroad. And it still, for no good reason that it would be possible to think of, levies a 3-percent tax on the total pay rolls of employers, instead of merely on that part which is paid to workers actually covered by the insurance benefits.

Mr. McCARRAN. Mr. President, in view of the fact that there may be no roll call on the substitute offered by the Senator from Georgia [Mr. GEORGE], and since there are some of us who are more interested in the subject matter of old-age security than in the letter of the pending bill, which in all probability will be passed by the Senate, and as there may be some of us who seriously doubt whether the bill, if enacted into law, can receive the sanction of the Court of last resort, without taking up the time of the Senate, but entertaining an entirely sympathetic idea toward provision for old-age security and social security through a constitutional measure, which I do not believe will be passed here today, I desire to be recorded in favor of the George amendment.

Mr. BORAH. Mr. President, I may say just a word, although it is not directed to the particular amendment now pending, but rather to the bill.

The question of the constitutionality of title II has been raised and discussed. I presume we all recognize that title II does present a serious question. I do not think it is free from doubt. But my vote on the bill will not be controlled by the constitutionality or unconstitutionality of title II. There are provisions in the bill the constitutionality of which cannot be doubted, and I favor those provisions.

The bill provides that in case of any portion of the measure being held unconstitutional, the holding shall not affect other portions. Even if that provision were not in the bill, I think the courts would apply such a rule. In view of the portions of the bill which seem to me wholly unquestioned and which I favor, I shall vote for the measure.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Georgia [Mr. GEORGE] in the nature of a substitute for title II and title VIII.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send an amendment to the desk and ask to have it read.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to strike out title II, beginning in line 15, on page 7, and ending in line 12, page 16.

Mr. HASTINGS. Mr. President, the purpose of the amendment is to strike out title II of the bill. As everyone knows, this title refers to the plan for annuities. I discussed the matter at length on Monday, and do not care now to take the time of the Senate, but I should like to ask,

if there is to be no further discussion with respect to it, that we have a yea-and-nay vote on the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Delaware, on which he has asked for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRISON. Mr. President, let us have the amendment again stated.

The VICE PRESIDENT. The clerk will again state the amendment.

The CHIEF CLERK. It is proposed to strike out title II, beginning in line 15, page 7, and ending in line 12, page 16.

Mr. KING. Mr. President, it is not my purpose to detain the Senate but for a few moments. Yesterday I submitted some observations concerning the pending bill and directed particular attention to titles II and VIII. I stated in substance that the bill under consideration had a number of admirable features which commanded my support, but that in my opinion titles II and VIII contained provisions which would not be sustained when challenged in the courts. It is believed by many—and I am among that number—that in view of the other provisions of the bill there should be legislation of a supplemental character providing old-age benefits. I regret that steps have not been taken, and legislation proposed of a constitutional character, that will accomplish the desired results and afford suitable and adequate annuities or old-age benefits for the class of individuals comprised within the provisions of titles II and VIII of the pending measure. However, the provisions of these two titles do not reach all the persons above the age referred to, and, indeed, deal with perhaps not exceeding 50 percent of those over the age of 65 years.

The Senator from Georgia [Mr. GEORGE] has referred to this matter and pointed out in a clear and comprehensive manner the defects in the present bill and the necessity, if the objectives sought are to be attained, of adopting a different plan from that found in titles II and VIII. As stated, there are provisions in the bill the constitutionality of which cannot be questioned, and which possess merit and should be enacted into law. The bill before us contains separate provisions and separate titles. They are as disconnected or separated as though they were in separate bills.

The bill contains, as Senators know, various titles which are so complete in themselves that the elimination of one or more would not mar or destroy those remaining. Believing as I did that titles II and VIII were subject to challenge upon the ground of being unconstitutional, I took the position, when the Committee on Finance first began the consideration of the bill, that it should be divided into separate bills and each separate part be considered as an independent measure. I especially urged that the consideration of titles II and VIII be deferred until the other provisions of the bill had been acted upon. Moreover, it was my opinion that sufficient study had not been given to the question of old-age benefits, with the intricate and technical questions involved, and that in view of the fact that if the bill as presented were enacted into law titles II and VIII would not become effective for approximately 2 years, it would be the part of wisdom to defer action upon the question of old-age benefits until the next session of Congress.

There are some Senators and many other persons who have given attention to the provisions of the bill, and particularly to titles II and VIII, who have serious doubts as to the constitutionality of the same. I believe that a definite plan should be provided which would embrace a larger part of our population than is covered in the provisions of the titles referred to. The view is entertained by many that to provide old-age benefits for perhaps less than one-half of our population over 65 years of age does not meet the situation or deal with the problem in a satisfactory manner.

It is obvious that if the bill in its present form is enacted into law, hundreds of thousands, and indeed millions, of those reaching the age of 65 years, not finding any provisions for relief in the old-age benefit features of the bill, will be relegated to title I, thus increasing the contributions to be made by the States as well as the Federal Government. The millions who will not receive old-age benefits under titles II and VIII, assuming that those provisions shall be held constitutional, will, if they obtain any relief, be compelled to avail themselves of old-age assistance or pensions, provisions for which appear in title I.

I wish a sound and satisfactory measure were before us to encompass the entire questions with which the measure before us attempts to deal. In view of the fact that the bill does have provisions of merit which I approve, and in view of the separability of the provisions, I may feel constrained to vote for the passage of the bill, though believing the titles referred to to be unsound from a constitutional standpoint.

Mr. President, as I understand, the American Association for Social Security, with headquarters at 22 East Seventeenth Street, New York City, has been active in attempting to secure pensions and social-security legislation. I am advised that Mr. Epstein is connected with this association and, as Senators know, he has for many years earnestly sought to secure State legislation providing for old-age pensions. I am in receipt of a memorandum distributed by this organization a short time ago, which contains an analysis of H. R. 7260, and which gives some attention to title II and title VIII of the pending bill. It states that the provisions in these titles place the largest burden of the future support of the aged upon the workers and industry. Reference is made to the enormous reserves which will be built up.

These reserves will be frozen for many years. The committee estimates that under this bill there will be a reserve fund of over 10 billion dollars by 1948 and the reserve will amount to over 32 billion dollars by 1970. Such enormous reserves are unprecedented.

The statement further continues:

The removal of so much purchasing power in the next few years may hamper recovery and cause great social harm. It is extremely questionable whether our economic system can stand the withdrawal of so much needed purchasing power.

The statement further continues:

In setting up such high contributions the bill places a back-breaking burden upon the present generation. The younger generation, as taxpayers, will not only have to pay the cost of the non-contributory pension system, as well as the largest part of the benefits under the contributory system for those now middle-aged, but will be forced to provide fully for its own old age.

It is further stated that—

The plan under this bill is to build up large reserves out of contributions by employers and employees in order to make the plan self-sustaining in as short a period as possible, so as to relieve the Government from much of its expenditures on non-contributory old-age pensions. We believe that self-sustaining annuities cannot be wisely built up in a short period, and that it is especially unwise to accumulate large reserves from contributions levied largely upon wage and salaried workers without any help from the Government out of funds derived from the higher income recipients in the Nation.

Without assenting to all of the statements above quoted, they furnish, it seems to me, sufficient reason for a further study of the important question of old-age annuities. The statement further continues:

In view of the technical complications of the subject it would probably be advisable to strike out completely titles II and VIII from this bill. A congressional committee should be created to study the subject further and report to the next session of Congress.

I have called attention to this statement because of the study which has been given to pensions, old-age insurance, old-age benefits, and so forth, by the organization from whose statement I have quoted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Delaware [Mr. HASTINGS] to strike title II from the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KING (when his name was called). Upon this vote I have a pair with the junior Senator from California [Mr. MCADOO], and in his absence I withhold my vote.

Mr. LA FOLLETTE (when Mr. NYE's name was called). I desire to announce that the Senator from North Dakota

[Mr. NYE] is detained by illness. He has a pair with the senior Senator from Virginia [Mr. GLASS]. If the Senator from North Dakota were present, he would vote "nay."

The roll call was concluded.

Mr. ROBINSON. I desire to announce that the Senator from Illinois [Mr. LEWIS], the Senator from Montana [Mr. MURRAY], and the Senator from Oklahoma [Mr. THOMAS] are necessarily detained from the Senate on official business. I am advised that these Senators would vote "nay" if present.

I wish also to announce that the Senator from California [Mr. MCADOO], the junior Senator from Virginia [Mr. BYRD], the Senator from Missouri [Mr. CLARK], the Senator from Nevada [Mr. MCCARRAN], the Senator from Kentucky [Mr. LOGAN], and the senior Senator from Virginia [Mr. GLASS], are unavoidably detained.

Mr. BULKLEY. I repeat the announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. Not knowing how he would vote on this question, I transfer my pair to the junior Senator from Utah [Mr. THOMAS], who is detained on important public business, and vote "nay."

Mr. HAYDEN. My colleague, the senior Senator from Arizona [Mr. ASHURST], is necessarily detained from the Senate. If present, he would vote "nay."

The result was announced—yeas 15, nays 63, as follows:

YEAS—15

Austin	George	Keyes	Townsend
Barbour	Gore	Metcalf	Vandenberg
Capper	Hale	Smith	White
Dickinson	Hastings	Steiwer	

NAYS—63

Adams	Coolidge	La Follette	Radcliffe
Bachman	Copeland	Lonergan	Reynolds
Bailey	Costigan	Long	Robinson
Bankhead	Davis	McGill	Russell
Barkley	Dieterich	McKellar	Schall
Bilbo	Donahey	McNary	Schwellenbach
Black	Duffy	Maloney	Sheppard
Bone	Fletcher	Minton	Shipstead
Brown	Frazier	Moore	Trammell
Bulkley	Gerry	Murphy	Truman
Bulow	Gibson	Neely	Tydings
Burke	Guffey	Norris	Van Nuys
Byrnes	Harrison	O'Mahoney	Wagner
Caraway	Hatch	Overton	Walsh
Chavez	Hayden	Pittman	Wheeler
Connally	Johnson	Pope	

NOT VOTING—17

Ashurst	Couzens	McAdoo	Thomas, Okla.
Borah	Glass	McCarran	Thomas, Utah
Byrd	King	Murray	
Carey	Lewis	Norbeck	
Clark	Logan	Nye	

So Mr. HASTINGS' amendment was rejected.

Mr. HARRISON. Mr. President, I offer a clarifying amendment, which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 3, line 13, after the word "plan", it is proposed to strike out "one-half"; and in line 14, after the word "collected", it is proposed to insert:

A part thereof in proportion to the part of the old-age assistance which represents the payments made by the United States.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Mississippi.

The amendment was agreed to.

Mr. HASTINGS. Mr. President, I offer an amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 46, line 19, after "per centum", it is proposed to insert:

Provided, however, That the tax levied in this act to be paid by the employer shall not in any event exceed 1 percent of the gross receipts of the business of the employer.

And on page 52, line 24, after "per centum", it is proposed to insert:

Provided, however, That the tax levied in this act to be paid by the employer shall not in any event exceed 1 percent of the gross receipts of the business of the employer.

Mr. HASTINGS. Mr. President, I have spoken to the chairman of the committee with respect to this amendment, and he has stated that he has no figures to show whether or not its adoption would greatly reduce the amount contemplated to be raised under the bill. I have asked that he accept the amendment and take it to conference, and find out in the meantime whether or not it would seriously interfere with the amount. He has not definitely promised, but I think he is about to do so.

Mr. HARRISON. Mr. President, of course the Senator from Delaware knows that personally I would do anything in the world for him; but this amendment is rather involved, it is uncertain in its terms and in its effect, and I fear it is really so important that I should rather have the Senate pass upon it.

Mr. HASTINGS. Mr. President, this amendment has been suggested by the service industries. The particular industries interested in the amendment are those which are conducting the beauty parlors. There are 57,000 recognized shops, employing 240,000 people, doing a gross annual business of $400,000,000, with certain fixed obligations in connection with leases and equipment and taxes which cannot be passed on, and which, having the practical effect of a 25-percent reduction of the gross business done, must necessarily be absorbed in the nonfixed factors of the business.

The object of the bill is to assist employees where practically all the expense, or a large part of the expense, is in the pay roll. In this particular industry it is contended that it is not possible to pass on to the consumer the expense in question, as will be done in most cases, and that 1 percent on the gross receipts is a sufficient tax to place upon any industry at this or any other time.

I hope the chairman of the committee will consent to take the amendment to conference, and ascertain just what effect a tax of 1 percent on this industry will have upon the bill itself.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. GORE. Mr. President, the amendment I intend to offer tracks very closely the amendment offered by the Senator from Delaware [Mr. HASTINGS], except that his amendment would affect some large concerns, such as the large telephone companies and the large telegraph companies, and the like. The Senate has just rejected his amendment.

The pending bill imposes a tax of 3 percent on the pay rolls of all employers included within the terms of the measure as a contribution to the unemployment insurance fund. A tax of 3 percent on the pay rolls of individuals and partnerships engaged in rendering personal services, such as barber shops, cleaning and pressing establishments, beauty parlors, and the like, will in some instances amount to 25 percent of their net earnings. A tax of 25 percent on net earnings is, of course, disproportionate and excessive, and would in some cases be destructive of the business itself.

To meet this situation and remedy this injustice—to protect the little fish against the big ones—I am offering an amendment tracking the amendment just offered by the Senator from Delaware, but limiting the application of this 1-percent tax to firms and partnerships. In other words, my amendment provides that if 3 percent on the pay rolls of these small concerns exceeds 1 percent of their gross earnings, then 1 percent of their gross earnings shall constitute the limit of their payments rather than the 3 percent of their payrolls. This might prove a life preserver in many deserving cases.

Mr. President, what I have primarily in mind is this: The amendment I offer will limit the tax on such concerns as cleaning and pressing outfits, barber shops, beauty parlors and small concerns which are engaged in rendering personal service. I have here a computation which I shall ask unanimous consent to have printed in the RECORD. In some instances 3 percent of the pay rolls of these small concerns will amount to 25 percent of their net earnings. That is unfair. It will either put these concerns out of business, or seriously cripple them. It will oblige them in many cases either to reduce the pay or reduce the numbe

of their employees. Either of these results is undesirable. My amendment will limit it to individuals or to partnerships. It does not include corporations or stronger concerns which could pay the 3 percent tax on pay rolls and survive.

I hope the Senate will adopt this amendment and allow it to go to conference, because there is certainly justification or at least there is reason why we ought seriously to consider the matter before we impose upon these little concerns a tax which may put them out of business, and certainly will cripple them most seriously.

At this point I ask unanimous consent to have printed in the RECORD a statement showing how excessive this 3-percent tax is with respect to some of these small concerns.

The VICE PRESIDENT. Without objection, it is so ordered.

The statement referred to is as follows:

To the Finance Committee, Senate of the United States:

Memorandum suggesting the necessity and advisability of making certain exceptions or modifications to the pay-roll tax rates provided for by the economic-security bill so as to alleviate the unequally heavy incidence of the tax in those businesses where the proportion of pay-roll expenditures to total business turnover is unusually high

We have been consulted in recent days by several business concerns engaged in what might be called personal-service activities concerning the contemplated pay-roll taxes in the economic-security bill. As a result of information submitted to us by them, as well as an independent investigation of our own into the statistical and operating aspects of various types of personal-service businesses, we feel that these clients are justified in their conviction that businesses of their class will suffer irreparable damage if the pay-roll taxes are applied categorically without regard to the unusual operating factors involved.

It is obvious that a tax of 3 percent on pay rolls (considering for the moment merely the tax for unemployment-insurance purposes) may have a relatively light incidence upon an industry in which the pay-roll expenditures constitute a small proportion of the gross income, say 5 percent to 15 percent. In some businesses, and this is especially true in organizations of a personal-service character, such as laundries, barber shops, beauty parlors, telephone and telegraph companies, etc., the pay-roll expenditures may, and usually do, constitute 50 percent or more of the total business turn-over. For example this figure is reported to be 60 percent for the telephone industry, and 75 percent for the motion-picture production industry.

Perhaps a concrete illustration will help to demonstrate the effect of the application of the contemplated tax on a business with an unusually high pay-roll factor. In the beauty-shop industry the pay-roll averages about 52 percent of the gross income. The net income in the industry is estimated at about 6 percent of the gross business. The tax of 3 percent on the pay rolls would be equal to 1½ percent of the gross income, or 25 percent of the net income. As consumer habits and standards will make it largely impossible to pass any substantial part of this tax on, it becomes tantamount to a tax of 25 percent on the net income, or a reduction of 25 percent in the gross business done.

This industry has 57,000 recognized shops, employing 240,000 people, and does a gross annual business of $400,000,000. With certain fixed obligations in leases and equipment a tax which cannot be passed on, and which would have the practical effect of a 25-percent reduction of the gross business done, must necessarily be absorbed in the nonfixed factors of the business. It is bound, therefore, to have a depressing and damaging effect upon wages and salaries in the industry.

It would seem that there is a reasonable and practical solution of this difficulty consistent not only with the purposes of the economic security bill but also in harmony with the larger economic and social program of which it is a part. We believe that this could be accomplished by amending the pay-roll tax provisions and rates of the bill so that they would in effect provide that the pay-roll tax at the existing rates should not exceed 1 percent of the gross business of the employer. Such a modification would sufficiently alleviate the unduly heavy and unequal incidence of the pay-roll tax in such industries with a high pay-roll factor to enable the tax to be absorbed without the alternative consequences of either destructive absorption of the tax by the business, including its labor, or a loss of business and consequent unemployment from consumer resistance to increased prices.

Mr. GORE. I hope the chairman of the committee will not object to this amendment going to conference.

Mr. HARRISON. I am afraid that if I should agree to it the Senate would overrule me about it.

The VICE PRESIDENT. The Senator offers an amendment?

Mr. GORE. Yes; I offer the amendment.

The VICE PRESIDENT. The Senator has put it in his pocket, the Chair understands.

Mr. GORE. Yes; that is a sort of a pocket veto. [Laughter.] I send the amendment to the desk and ask to have it read.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 46, line 19, after the words "per centum", it is proposed to insert the following:

Provided, however, That the tax levied in this act to be paid by the employer if an individual or partnership shall not in any event exceed one percent of the gross receipts of the business of the employer.

And after the words "per centum", in line 24 on page 52, it is proposed to insert:

Provided, however, That the tax levied in this act to be paid by the employer if an individual or partnership shall not in any event exceed one percent of the gross receipts of the business of the employer.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oklahoma.

The amendment was rejected.

Mr. GORE. Mr. President, I send to the desk an amendment, which I ask to have read. The amendment speaks for itself. I have offered it before. I offer it once again.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to the bill a new section, as follows:

SEC. —. Notwithstanding any other provision of law, the President is empowered in his discretion to allocate funds appropriated by the Emergency Relief Appropriation Act of 1935 for the purpose of making payment or settlement, in whole or in part, in cash or on the installment plan (as may be agreed upon between the President and the beneficiary) of adjusted-service certificates issued to the veterans of the World War, less in any case the amount of any loan or indebtedness secured by such certificate: *Provided,* That the amount of said funds required to carry out the provisions of this section is hereby made available for such purpose.

Mr. GORE. Mr. President, I do not intend to discuss this amendment. I offered the amendment in the committee, and it was voted down. I have discussed it on the floor of the Senate. It simply authorizes the President, in his discretion, to make payment of the soldier's bonus in whole or in part, in cash or on the installment plan, or in such way as may be agreed upon between the President and the holder of the certificate. It is purely in the discretion of the President. There is nothing mandatory about it.

I have offered the amendment before, and in order to keep my record straight I offer it again. I think this is a judicious way in which to pay the bonus in whole or in part at the present time. It is the only way in which it could be done. This is perhaps the last bill to which such an amendment would be appropriate. It is appropriate, it is pertinent, to this social-security bill.

Mr. LONG. Mr. President, at this point I desire to place in the RECORD a statement in a few words as to my vote on this bill. I am going to vote for this amendment also. My vote will be recorded in favor of the bill, though not because I think the bill will do any good. I think the bill in the long run probably will do harm, averaged up one side and down the other, as I expect it to be administered. I do not see much chance of very much good being done by it.

However, the old-age pension and unemployment relief features of the bill I originally sponsored in the Senate in a resolution I submitted and in a bill I introduced, and I would not have the public think this administration has in any respect been obstructed in what it claims to be a gesture of public service.

The bill is apparently intended to do a great deal of good, but it provides for levying more taxes and probably imposing a great deal more of burden than any good it will do; and in its undertaking to make every man who draws a pension establish himself as a public pauper it creates an embarrassment before it allows anyone to receive any benefits, and then leaves it hazardous as to there being any benefits, because at the most only 1 out of 10 can be accommodated under the bill.

However, when there has been any reasonable ground for expecting good to be done I have recorded my vote for these measures of all kinds. There is some reasonable ground here

to expect that good may come from the bill. However, Mr. President, I wish to say that I have not a doubt about the bill being unconstitutional.

I am willing, however, to waive my own opinion on the question of constitutionality in favor of the opinion of those who claim to be better students of the Constitution. I have seen at least nine "brain trusters" on the floor of the Senate since the bill has been under consideration, all of whom evidently claim the bill to be constitutional. Since it is the order of the day to accept the opinion of the "brain trusters" on all constitutional questions which may arise, I am not so sure that before the case would reach the Supreme Court some of the judges of the Supreme Court might die and some of these "brain trusters" might be placed on the Supreme Court bench in time to consider the bill when it shall reach that Court for consideration. That being so, there is that chance of the bill being declared constitutional. I shall give them the benefit of any hazard of a doubt which might accidentally flow into consideration of the bill.

I would have it known by my record that there is no desire on my part to obstruct anything having a pretense of being for the public good, though in this case, as in others similar to it, I shall be very much surprised if a single member of the Court, if it shall remain constituted as it is today, should hesitate for an instant to declare the bill unconstitutional. I should be even more surprised if a single bit of good should come out of the bill, but I give the sponsors of the bill all the benefit of the doubt.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. GORE. Mr. President, I should like to have a yea-and-nay vote. Other Senators may desire it or may not desire it. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. LA FOLLETTE. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BYRD (when his name was called). On this question I have a pair with the Senator from California [Mr. McADOO], who is unavoidably detained. If he were present, he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. LA FOLLETTE (when Mr. NYE's name was called). I was requested to announce that the junior Senator from North Dakota [Mr. NYE] is paired with the senior Senator from Virginia [Mr. GLASS], who is necessarily detained. The junior Senator from North Dakota [Mr. NYE] is absent on account of illness. If present, he would vote "yea." I am informed that the Senator from Virginia [Mr. GLASS], with whom he is paired, would vote "nay."

The roll call was concluded.

Mr. DAVIS (after having voted in the affirmative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN], who is unavoidably detained. I am informed that if present, he would vote as I have voted. Therefore I allow my vote to stand.

Mr. BULKLEY. I repeat my announcement of my general pair with the senior Senator from Wyoming [Mr. CAREY]. I am advised that if he were present, he would vote as I intend to vote. I am therefore free to vote. I vote "yea."

Their names being called, Mr. TYDINGS and Mr. GORE answered "present."

Mr. LEWIS. I wish to announce that the Senator from South Carolina [Mr. SMITH] is necessarily detained in an important committee meeting.

The Senator from UTAH [Mr. THOMAS] is necessarily detained on important public business. If present, he would vote "yea."

The result was announced—yeas 77, nays 6, as follows:

YEAS—77

Adams	Connally	Keyes	Pope
Ashurst	Coolidge	King	Radcliffe
Bachman	Copeland	La Follette	Reynolds
Bailey	Costigan	Lewis	Robinson
Bankhead	Davis	Lonergan	Russell
Barbour	Dickinson	Long	Schall
Barkley	Dieterich	McCarran	Schwellenbach
Bilbo	Donahey	McGill	Sheppard
Black	Duffy	McKellar	Shipstead
Bone	Fletcher	McNary	Steiwer
Borah	Frazier	Maloney	Thomas, Okla.
Brown	George	Minton	Trammell
Bulkley	Gerry	Murphy	Truman
Bulow	Gibson	Murray	Vandenberg
Burke	Guffey	Neely	Van Nuys
Byrnes	Harrison	Norris	Wagner
Capper	Hatch	O'Mahoney	Walsh
Caraway	Hayden	Overton	Wheeler
Chavez	Johnson	Pittman	White
Clark			

NAYS—6

Austin	Hastings	Moore	Townsend
Hale	Metcalf		

NOT VOTING—13

Byrd	Glass	McAdoo	Smith
Carey	Gore	Norbeck	Thomas, Utah
Couzens	Logan	Nye	Tydings

So the bill was passed.

The title was amended so as to read: "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

Mr. HARRISON. I move that the Senate insist upon its amendments, ask for a conference thereon with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to.

The VICE PRESIDENT. The Chair will appoint the Senate conferees later.

The VICE PRESIDENT subsequently appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate.