

Wartime Federal Civilian Employees and Old-Age and Survivors Insurance

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MOST JUSTIFIABLY, members of the armed forces have received, and are receiving, legislative attention in matters relating to pay,¹ benefit programs,² and relief from civilian obligations.³ Federal acts and orders have increased the serviceman's base pay, granted Government allowances to his dependents, provided the higher war rates for death and disability benefits administered by the Veterans Administration, made available the inexpensive protection of National Service Life Insurance, and established various forms of relief, moratoria, and deferments of obligations incurred in his previous civilian status. Moreover, some 40 State legislatures have amended their unemployment compensation laws to freeze or protect his benefit rights for the period of his military service.

Although no similar measures have as yet been taken to protect the serviceman's acquired rights under old-age and survivors insurance, the problem was recognized when selective service began operation and has frequently been mentioned in Congress as one which needs solution. Various plans have been suggested,⁴ such as a complete moratorium, to eliminate rights to benefits during his period of service while freezing his existing benefit status for resumption without penalty upon his return to private life; an incomplete moratorium, which would hold open during his service period eligibility to benefit for his survivors while his existing benefit status was frozen; automatic granting of insured status to service men, perhaps dependent on their having previously worked in covered employment; or direct extension of old-age and survivors insurance coverage to all the armed forces. One of the difficulties is to find a satisfactory method of coordinating the amount of benefits and period of coverage with the cor-

responding provisions of the Veterans Administration program, to prevent, for one thing, an undesirable duplication of survivor payments and, perhaps later, disability benefit payments. Certainly the man should not suffer upon his return to private life either by lapse of his insured status or reduction in his covered average wage on account of his service in the armed forces. Perhaps this problem will not be increased by some delay since, because of the various provisions for his family if he dies while in the service, the time at which the needed old-age and survivors insurance amendment should be directed is when the man leaves the forces and resumes, or is ready and available to resume, employment in private industry.

The situation among the civilian employees of the Government, particularly among those we might call the "duration employees," presents a different picture. There are no veterans' benefits, no National Service Life Insurance, no family allowances, no civilian relief measures; the States have set up no safeguards to preserve unemployment compensation rights; nor has Federal legislation been introduced or specifically promised with respect to continuity of credits and maintenance of protection under old-age and survivors insurance. There are probably valid arguments for this variation in the treatment of civilians, except for the last. Civilians presumptively do not run equal risks with servicemen as to death and disability; civilians usually voluntarily seek and leave their Government jobs; civilians are better paid and more able to provide their own protection, savings, and so on, and to maintain their civil obligations and relationships. There is nothing, however, that they are able to do voluntarily, or with Government cooperation, to prevent their Federal employment from causing a gap in their social security protection, a gap which widens with each day on the Federal pay roll.

In the Bulletin for May 1940, the writer discussed the advantages which would accrue to public employees if coverage under the Social

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¹ Public, No. 607, 77th Cong., Public, No. 625, 77th Cong., and Public, No. 490, 77th Cong.

² See provisions for death and disability benefits through the Veterans Administration, including protection under the National Service Life Insurance Act of 1940.

³ Public, No. 861, 76th Cong.

⁴ See Tate, Jack B., "The Contemplated Federal Provisions for Men in the Army and Their Families," an address presented at the National Conference of Social Work, Atlantic City, June 3, 1941.

Security Act were extended to them, and the resulting increase in the effectiveness of the Social Security Act as an instrument for the general welfare. Such extension, together with the inclusion of other groups whose employment is not now within the purview of the act, has been consistently advocated by the Advisory Council, the Social Security Board, and the President. Opposition has been met from some public-employee groups, and in certain other quarters. Without injecting those arguments into the present article, let us assume for purposes of discussion that it is not yet feasible to extend old-age and survivors insurance coverage to the whole area of Federal employment. What then of the hundreds of thousands of individuals who during the last few years have come to Federal civilian defense jobs from private covered employment, to which most of them will return? They should not be permanently penalized by the effect of this Federal employment on their insured status. An indication of the magnitude of the problem in terms of the number of employees involved can be seen from data on the absolute and relative increases in certain major war agencies and in the total executive branch of the Federal Government (table 1). Since the increase shown is net, the gross number of new entrants already far exceeds 1 million persons. One recent newspaper account,⁵ allegedly based on statistics from the Civil Service Commission, claims gross placements during the fiscal year 1941-42 alone of 1.5 million persons, as a result of a very high rate of current turn-over.

It is true that, of the more than 2 million persons now in Federal employment, probably 85-90 percent are members of a retirement plan, mainly the civil-service system. The amendments to the Civil Service Retirement Act, effective January 24, 1942, broadened the scope of its membership, although Executive Order No. 9154 of May 1, 1942, excluded an unknown number of persons (probably 200,000 or 300,000) in various types of temporary intermittent, fee, and piece-work services. It is also true that members of the civil-service system who obtain 5 years of Federal service and subsequently leave the service will have available, as a deferred annuity, a monthly income representing their own contributions plus the Government's retirement obligation for the

⁵ *The Washington Post*, May 28, 1942.

period of service rendered. This provision, however, does not adequately compensate workers whose active old-age and survivors insurance participation terminates upon their entering Federal service. Individuals with wives, children, and dependent parents will lose the protection afforded their survivors in the event of their death, and all who return to private pursuits will be obliged to make up the "Federal gap" before they regain insured status. Moreover, a permanent reduction will have been made in their average wage for benefit purposes. A small potential annuity from the civil-service retirement system cannot make up for lapse in protection of survivors, should the individual die, which may represent the loss of thousands of dollars of insurance value. Even this deferred annuity does not apply if the employee has had less than 5 years' service on terminating his Federal service; in that case he receives a refund of his contributions plus interest, or contributions minus \$1 a month (tontine)⁶ plus interest, depending on whether his separation is voluntary or involuntary.

Since at present, for large numbers of these duration employees, the long-range protection of the old-age and survivors insurance program is impaired by their civilian war service, it is pertinent to examine the steps which could be taken to right this anomaly and remove or abate the impairment. By hypothesis, the more satisfactory and basic solution of complete coverage of Government employees under old-age and survivors insurance has been ruled out of this discussion.

It has been suggested that whatever solution in respect to old-age and survivors insurance is worked out for the armed forces should apply in this civilian area also. Since no one plan for servicemen is yet advocated with much unanimity, however, this suggestion offers no concrete solution of the civilian problem, which seems more immediate than that affecting the armed forces. The complete moratorium would give no substitute death-benefit protection comparable to veterans' benefits. The incomplete moratorium of paying benefits but collecting no taxes and chalking up neither zero wages nor time elapsed would clearly deprive the old-age and survivors insurance trust fund of any quid pro quo, and

⁶ A charge of \$1 per month deducted from the employee's contributions and credited to the general retirement and disability fund.

Table 1.—Growth in selected defense and war agencies, January 1940–April 1942

Agency	Number of employees		Increase	
	January 1940	April 1942	Number	Percent
Total, executive branch.....	936, 700	2, 011, 800	1, 075, 100	115
Total, 10 agencies.....	298, 500	1, 306, 800	1, 008, 300	338
War Department.....	120, 600	724, 800	604, 200	501
Navy Department.....	101, 000	401, 000	300, 000	297
Civil Aeronautics Administration.....	5, 200	7, 700	2, 500	48
Civil Service Commission.....	1, 800	6, 400	4, 600	256
Maritime Commission.....	1, 600	4, 400	2, 800	176
Office for Emergency Management.....		21, 900	21, 900	-----
Panama Canal.....	16, 000	36, 600	20, 600	129
Selective Service System.....		21, 400	21, 400	-----
Tennessee Valley Authority.....	13, 500	38, 800	25, 300	187
Veterans Administration.....	38, 800	43, 800	5, 000	13

Source: Civil Service Commission, Statistical Division, *Monthly Report of Employment* . . . June 12, 1942.

would also involve various administrative difficulties, particularly with respect to those who may have intermittent or part-time covered employment. Unless the old-age and survivors insurance trust fund is prepared to grant an indefinite "free ride" as to tax collections, any moratorium or freezing plan for civilians does not seem susceptible of satisfactory development.

It seems probable that the majority of these duration employees will leave the Federal civilian ranks after the war, though perhaps not immediately. Would it then not be feasible to consider all employees entering after a given date as a special group for purposes of continuing old-age and survivors insurance protection of those with previous covered employment and including in the system those who may have their first jobs in Federal service but will spend the greater part of their working life in employment covered by the old-age and survivors insurance system. The President declared a limited emergency in September 1939, and the resulting increase in personnel began to be noticeable shortly thereafter; January 1, 1940, might therefore be chosen as the beginning date for defining such special group. Large numbers of employees hired after January 1, 1940, came through regular civil-service channels and received classified jobs in the civil-service system. This situation held until Executive Order No. 9063 of February 16, 1942, which provided that personnel appointed for most positions thereafter should not acquire classified civil-service status, though they were not excluded

from the provisions of the civil-service retirement system. This order gives further support for establishing a special classification of employees, although its date is too late for effective use and January 1, 1940, is suggested.

Another delimitation of the special group should be that it is confined to the executive branch of the Government, where the large increase in personnel has taken and is taking place; this provision would exclude legislative and judicial employees and personnel of the District Government. However, to allow for possible war corporations, seized plants, and other establishments owned or controlled by the Government, the plan could permit the President by Executive Order to include employees of such owned, controlled, or seized establishments in the special group if he decides that such inclusion is warranted.

The special group should be confined, as far as practicable, to bona fide new Government employees. Thus, it might exclude any reentrant who, prior to January 1, 1940, had accumulated 3 years of Federal employment creditable under section 5 of the Civil Service Retirement Act. There might be other preferable administrative short cuts to this weeding-out process.

The special group should be confined to those in the Federal service on a set date (to be discussed later) together with those hired after that date, and there would be no retroactive treatment for persons who had been in Federal service but had left prior to the set date. The termination date for the special group should be fixed at a point after the end of the war—perhaps 6 months, to conform with the tenure established under Executive Order No. 9063. It may well be, however, that 6 months will be much too short, depending on the nature of the peace and the military, social, and economic problems it may impose on the Government.

Individuals should probably not be excluded from the group on the basis of temporariness or intermittency of their employment, as they are excluded from the civil-service retirement system by Executive Order No. 9154, although certain contractors, consultants, and dollar-a-year men could reasonably be omitted.

Additional criteria might be necessary or advisable for the complete delimitation of this special group. But assuming a satisfactory definition, what then is the treatment suggested? It is pro-

posed that the members of this special group be included in the old-age and survivors insurance coverage, commencing with an effective date (to be decided) and ending with a calendar date (to be decided) which will terminate the special group as such. As to the effective beginning date there are several possibilities. Assuming that in no event will Federal service prior to January 1, 1940, be counted, that date might be chosen as the starting date, and all persons hired thereafter (subject to the other conditions) would be included and credited with their Federal service from then on. This procedure would raise the question of back tax collections and necessitate tracing back, practically on an individual basis, to discover the period on the Federal pay roll and the salary paid since January 1, 1940, or later entrance date. Another method might be to assign an arbitrary but reasonable salary—say \$150 a month—for use in computing the back taxes and wage credits; this method would still require tracing the periods of employment. Still another suggestion is to treat any interval of Federal service since January 1, 1940, and the effective date of extension as a moratorium period for tax obligations and credited wages, tying in the latter date to the date of induction after January 1, 1940, as if there were no gap—again an awkward matter of individual adjustment.

An approach which assumes that the gap is not yet wide enough to harm seriously the rights of the majority of duration-employees, and one which would obviate individual adjustments and enormously simplify administrative problems, is to allow any hiatus between January 1, 1940, and the effective date of the extension to remain as non-covered employment. Thus, if the extending amendment were effective October 1, 1942, a person who entered Federal service on October 1, 1940, would have a permanent 2-year gap in his old-age and survivors insurance records. Assuming that he came from covered employment and had had such employment since January 1, 1937, he would have acquired $3\frac{3}{4}$ years of coverage on October 1, 1940, and would still be fully insured on October 1, 1942. Picking up from October 1, 1942, he could maintain his insured status thereafter. The gap would, of course, operate to reduce somewhat his average wage, on which benefits are computed, but this reduction would become less with the passage of time. In other cases in

which insured status has actually lapsed during the gap, a certain length of time would be required to regain it. This simplified plan of treating the gap would, however, be far more advantageous to the individual than the present ever-widening non-covered interval.

Having established the special group and having set the formula for treating the gap since January 1, 1940, the plan of extension would provide for regular tax collections from the included employees and the Government as employer from the effective date, say October 1, 1942, onward. Regular wage credits would be posted, and death or retirement claims would be handled under the regular adjudicative processes for old-age and survivors insurance benefits. At the termination of the special group, or earlier separation from Government service, such wage credits and insured status as an employee had built up while in Federal service would remain to his credit in the old-age and survivors insurance records.

In appraising this proposal it must be borne in mind that a majority of these duration employees are also required to contribute to the civil-service retirement system, under which the rate of deduction increased from $3\frac{1}{4}$ to 5 percent as of July 1, 1942. The old-age and survivors insurance tax proposed herein would be in addition to the civil-service deduction. Hence, if the plan commenced October 1, 1942, there would be 3 months in which the total deduction would be 6 percent, and after January 1, 1943, for 3 years (on present statutory tax scale and if the special group exists) the total rate would be 7 percent. (Total rates apply to the first \$3,000 only; above that amount only the civil-service rate of 5 percent applies.) This deduction load does not appear unreasonable in these days of high taxes and savings, particularly in view of the fact that the money would go into Government securities in the two trust funds. The contribution to civil service is solely a savings plan for all those duration employees who leave Government service within 5 years; and for those who do not leave for some time after having acquired 5 years of service, the contributions help provide a vested deferred annuity to commence at age 62, the size of which depends on the length of Government service and the mode of separation therefrom. It is recognized also that some workers who do not continue in covered employment would lose the benefit rights they might acquire under old-age

and survivors insurance during their Federal employment; their situation, however, would be no different from that of persons who work for only a brief period in private covered employment and subsequently, after leaving it, lose rights they have thus acquired. For any but a temporary plan, a method of coordination between such deferred annuity and the old-age and survivors insurance retirement benefits would be necessary (see the article in the May 1940 Bulletin); on a relatively short-term basis, however, the problems of anomalies and duplicate retirement benefits should not be important.

Assuming for purposes of this article that it is not yet feasible to adopt the most satisfactory and basic solution of complete coverage of Government employees under old-age and survivors insurance, and adopting among the alternate specifications discussed above the ones which appeal to the writer, the proposal outlined is, in summary: to provide that all civilian employees (1) who are on the active pay roll of the executive branch on or after October 1, 1942 (or other date) and (2) who have been inducted into Government service since January 1, 1940 (without having had 3 previous years of Federal service) shall be covered from October 1, 1942, under the benefit and contribution provisions of the Social Security Act; this coverage and participation shall continue until a date to be fixed as 1 year (or other period) beyond the official ending of the states of war; during this period and thereafter all provisions with respect to old-age and survivors insurance wage credits, insured status, and benefits shall operate to make such period and such employment a permanent part of the included coverage for old-age and survivors insurance; the plan shall not change any schedules for deductions, contributions, or benefits under any Federal retirement or benefit system in which any such employee is also participating.

This, then, is a general sketch of a plan for alleviating the losses of protection and impairments of old-age and survivors insurance wage credits among civilian Government employees, which are now operating and will continue to operate if no corrective amendments to title II of the Social Security Act are adopted. As stated earlier, the armed forces appear to have adequate substitute protections, and the problem for them will come mainly at the end of the war, although the railroad retirement system already has legislation⁷ protecting the "military gap" as to railroad workers entering the armed forces. Also, unemployment insurance legislation in the States is being amended to recognize the serviceman's possible future job problem. For civilian Government employees, little if any special treatment as to unemployment insurance has been accorded or discussed; the civil-service retirement refund upon separation, plus the Federal annual-leave provisions, may represent for the duration employees a fair substitute for the unemployment compensation benefit, the rights to which they can later regain in private fields. The writer feels that an immediate need is in the area of Federal civilian personnel, the so-called duration employees.

In Great Britain the basic social security program has been recognized as primary for temporary civilian Government workers, and such employees have not been brought within the civil-service staff pension plan. They have been continued under the social insurances, the peacetime areas of which they came from and to which they expect to return. Our approach to the matter thus far appears to be along opposite lines, which need at least partial correction if impairment of old-age and survivors wage credits and loss of insurance protection are to be obviated.

⁷ Public, No. 520, 77th Cong.