

The CHAIRMAN. Yesterday afternoon, our colleague, Mr. Treadway, called me and said he understood Senator Hastings probably would like to appear before the committee this morning. I said that would be agreeable to the committee. I see Senator Hastings in the room, and if he will come forward, we shall be glad to hear him at this time.

STATEMENT OF HON. DANIEL O. HASTINGS, A UNITED STATES SENATOR FROM THE STATE OF DELAWARE

Senator HASTINGS. Mr. Chairman and gentlemen, I do not know that I can be of any help to the committee. I do not pretend to know much about this subject. I am a member of the Finance Committee, and have attended the hearings of the Finance Committee, and heard most of the testimony that was given there. I have drawn conclusions from that testimony for my own benefit, and have made some memoranda of them. I think it would save time if the committee would permit me to read what I have written on this subject.

The CHAIRMAN. Proceed in your own way, Senator.

Senator HASTINGS. The Economy Security Act maps out for the country a policy that is almost entirely new in that it places upon the Federal Government a large portion of the expense of taking care of those persons who need public assistance of one kind or another. Until the present depression came upon us this burden was borne by the States, except in instances of earthquakes, floods, and so forth, where the Federal Government has frequently rendered temporary aid.

The great expense growing out of the present bill pertains to old-age pensions and unemployment assurance.

Assuming it to be necessary for the Federal Government to take upon itself this great burden, the question arises as to the administration of it and the conditions imposed upon the States in order to insure that each State bears its share of the burden.

Let us take the problem of old-age pensions and try to ascertain the best and simplest form of helping the various States with this problem. If the Congress should appropriate a certain sum annually for this purpose and allocate it to the States in such proportion as the number of inhabitants of that State bore to the total number in the country upon one single condition, namely, that each dollar appropriated should be matched by an equal number of dollars from the State's funds, the Federal Government would have but one problem upon its hands, and that would be to find the money with which to make its share of the contribution.

The Federal Government ought to specify the minimum, but not the maximum age of the recipient of such fund. In other words, the Federal Government might provide that this fund should not be used for the benefit of any person under 65, but leave it entirely to the State to say whether the age limit should be greater than that. This leaves the problem with the State and with the people of that State. The only Federal political question that could arise under this plan would be in case the States were willing to contribute more than that being paid by the Federal Government, but that question would not be anything like as serious as it will be under the plan outlined in this act.

This method of treating this important subject also takes us into a new field, but the simplicity of it would relieve us of great grief that is sure to grow out of the experiments proposed by this new act.

In addition to that, there is nothing under this plan that is so complicated that would prevent it from being easily abandoned if and when the country so recovered from the depression that such contributions upon the part of the Federal Government were found to be unnecessary. In other words, you could treat this, at the present, under this plan, as an emergency which might or might not develop into a permanent policy, all of which, including the amount of the appropriation, would depend upon the conditions existing from year to year.

The most difficult thing to understand about the old-age-pension phase of this bill is the annuity feature. I do not have reference to the annuity certificates set forth in section 501 of the bill. I have given no consideration to that section in this memorandum. I refer particularly to the imposition of the earnings tax, title 3, page 15, and the payment of old-age annuities under section 405, title 4 of the bill. It will be borne in mind that beginning January 1, 1937, the total tax of 1 percent, one-half of which is paid by the wage earner and one-half by the employer is imposed. This tax is increased 1 percent every 5 years until it reaches a total of 5 percent at the end of 20 years. The fund thus created goes into a Federal treasury and the employee is guaranteed that this money paid in for him and by him will ultimately be returned to him if he lives to be 65 and if he dies before it is all returned to him, his estate will get back the balance of such fund with interest.

The old-age-pension plan under this bill is divided into two parts. For 5 years the annuity part of the plan is not in operation, except for the collection of the tax and return to the estate of the employee the amount that has paid for him in case of his death. Persons over 65 that are in need are taken care of during this first 5-year period by contributions by the Federal Government, plus the contributions by the State government.

Take the next 5-year period as an illustration. During that period there will be a class of persons who have been paying in for a period of 5 years. If a person during that period had earned \$100 a month, he or she would be entitled to be paid \$15 per month, that being 15 percent of the average wage. He would be entitled to this, provided "he is not employed by another in a gainful occupation." If this \$15 per month were not sufficient to sustain him in "health and decency" he must look to the other phase of the old-age-pension plan for sustenance; that is, he must get himself placed upon the pension rolls of the State, but in fixing the amount of the pension the \$15 just mentioned would be taken into account.

Let us take another illustration. Suppose a person is 55 on January 1, 1937, and has a tax imposed for the two 5-year periods. Suppose he has earned during the whole of this 10 years a \$100 per month. When he reaches 65 and is not gainfully employed, he then would be entitled to receive \$20 per month, and if this were not sufficient to sustain him in "health and decency" it would be necessary for him to get himself placed on the pension rolls of the State. The \$20 per month he was receiving would, of course, be taken into account in determining the amount of pension he ought to receive.

If he goes in at 50 years of age and pays in for a period of 15 years, he is entitled to \$30 per month and if he goes in at 45 years and pays for 20 years, he is entitled to \$40 per month. This is the maximum a \$100-a-month wage earner could receive.

There is another provision of the law, however, being paragraph 2 of section 405, which relates to persons who do not enter the plan for the first 5-year period or until January 1, 1942.

It is assumed that in view of the fact that this section applies only to those persons who do not begin to pay in until after 1942 that it will take in the youngest employees, and for the purpose of illustration you might take a person 20 years of age in 1942 who begins to contribute to this fund. Under the first paragraph that I have been discussing, assuming that a person age 45 gets \$100 a month from the beginning and throughout the period, he would only have to pay in for 20 years in order to get \$40 per month. He and his employer would pay in during that 20-year period a total of \$600, which amount at the rate of 3 percent interest compounded, would be increased to \$758 at the end of the 20 years.

But take the second paragraph of this section, which makes provision for those who did not begin to pay in until January 1, 1942. In that case the wage earner who begins to pay at 20 years of age and the employer would pay in over a period of 45 years, and if the salary was \$100 per month the total paid in would amount to \$2,340, and the accumulated interest, compounded at 3 percent, would bring the total to \$4,481. Notwithstanding this fact, such a person would be entitled under the act to receive only \$50 per month, or only \$10 more than the man who had paid in only 20 years under the first paragraph and whose fund amounted to only \$758.

I have pointed out that, under the first paragraph of section 405, the employee is not entitled to payments if he is gainfully employed. This condition does not apply to those persons who do not begin to pay in until after January 1, 1942, but paragraph D of section 405 distinctly provides that when a person reaches the age of 65, although he may not be entitled to the benefit he may claim an amount equal to the amounts that have been paid in for his benefit and that the social-insurance board shall pay him such amounts, together with interest accretions as determined by such board.

I think it is important to consider the apparent discriminations above outlined in order that you may reasonably anticipate the objections that will be made to the bill by the individual taxpayer when all of the facts are known to him.

As I understand it, it is contemplated that the tax levied for the benefit of the young persons will not be held in a reserve fund by the Federal Government in order to meet the Federal obligations to such persons, but that as much of said fund as may be necessary shall be used for the purpose of payments made to the older persons who have contributed but a small part of the amount which they are to receive under the act. It is also admitted that after a certain number of years it will be necessary for the Government to make huge contributions to this fund in order to make up the amount that would be in it if the reserve had been maintained instead of expended.

My own notion about this is that it is a complicated system, difficult to explain, and one in which neither the employer nor the employee will willingly contribute.

It will be observed by all thinking persons that this statute passed at this session may be modified by the next or some future session of the Congress and does not have the stability of an insurance annuity contract, executed by a responsible insurance company. Nobody will deny the importance of every person's purchasing over the years of his or her young life an annuity that will take care of him or her in his or her old age. But an annuity forced upon the people by a Federal Congress is entirely different, first, because it is forced, and second, because there is no guaranty that it will continue long enough for the contributor to get any substantial return.

There is another phase of this which must not be overlooked. This act imposes a tax upon every wage earner, except those receiving more than \$250 per month. This group undoubtedly constitutes a large majority of the voters of this country. The committee's expert estimates it will affect 40,000,000 wage earners. It will reach millions of people who do not pay a tax of any kind and who have never paid a tax of any kind. It will reach the families described by Senator Wagner. He states that there were in 1929 6,000,000 families earning less than \$1,000 a year, 16,000,000 families earning less than \$2,000, and 20,000,000 families earning less than \$2,500. You cannot answer the complaints that will come from these groups by saying that the tax is small. The fact that it is a tax, and particularly the fact that it is a direct tax imposed by the Federal Government, will be deeply resented, and no endeavor to bring home to these people that it is in the end for their benefit will avail.

The fact that the tax does not take effect until after the next general election is of some significance. I doubt whether any Democratic convention in 1936 would dare write any such proposal in its platform. But whether it did or not, when the actual test is made this group of people will drive out of office all persons who refuse to vote to abolish such a tax. For these reasons alone this much of this old-age pension plan is impracticable.

My own judgment is that the only practical plan from the Federal Government's point of view is that which I have originally outlined. A representative of the committee has assured us that the number of people over 65 that must be aided by some governmental agency amount to 1,000,000 persons. If you take the figures proposed in this bill as the Government's share of that responsibility, namely, not to exceed \$15 per month, you would require approximately \$180,000,000 annually. This would be upon the assumption that every State adopted an old-age pension law and contributed as much as \$15 per month to each of these million persons.

My own judgment is that we ought not to agree to any pension plan except in this emergency to match the amount contributed by the States.

In my consideration of this matter, I have not mentioned the very difficult problem of the individual who has in the past and is at present in some form or another contributing to some insurance company to take care of himself or herself in his old age. A very large percentage of the 60,000,000 persons holding life-insurance policies in one form or another will be affected by this tax. Neither have I mentioned the very serious problem of the several hundred corporations that have had some plan of old-age pensions affecting more than 5,000,000 persons for many years, and which corporations, together

with their employees, would be compelled to pay a tax largely for the benefit of a class of persons who have not been so fortunately protected.

Neither have I discussed here the great problem of administering this law. It must be borne in mind that a record must be kept of the millions of people that would be taxed under this plan. Every housewife and every farmer employing a single individual would be compelled to make a return, and it would take an army of people to check up on such individuals. In addition to the amount of money earned by such individuals, it would be necessary to keep a time sheet because the amount of money payable to every employee depends not only on what he earns but the time he takes to earn it.

Title 6 of the economy security act provides for the imposition of an excise tax, beginning January 1, 1936, of 3 percent upon the employer's pay roll.

Under certain conditions set forth in the bill this 3-percent tax for the years 1936 and 1937 may be only 1 percent. The purpose, however, is to make a definite provision for a 3-percent tax upon the pay roll of all persons, employing at least 4 persons "within each of 13 or more calendar weeks of the taxable year." The Federal and State Governments are excluded, as well as municipal corporations.

This tax is a direct tax laid by the Federal Government, but section 602 provides that the employer may have a 90-percent credit allowed upon the showing that he has contributed to some State fund administered under conditions set forth in this section.

The clear purpose of the act is to compel the States to adopt some plan of unemployment compensation. If the State does not adopt such plan, the tax paid by the employer goes into the general fund of the Federal Treasury.

Section 406 provides for an appropriation of \$4,000,000 for the fiscal year ending June 30, 1936, and thereafter not more than \$49,000,000 in each year to be allotted to the States adopting an unemployment-compensation plan. The allotment is to be made upon the basis of need of the State for such financial assistance.

I cannot see how, under our Federal Constitution, we can levy a special tax upon the people of the various States, when its sole purpose is merely to compel the States to enact, for the benefit of the people of such State, the kind of law that the Federal Congress believes to be for their benefit.

Personally, I hesitate, even if I believed it to be constitutional, to compel the people of my State to levy a certain kind of a tax upon a certain class of its citizens, although the purpose of it may seem to be desirable and might, from my point of view, be considered necessary. I think the question of the necessity and the desirability of such a law should be left to the legislature and the executive of each State.

Heretofore the Federal Government has offered inducements to States to do various things by appropriating money and allocating a portion of it to a State on condition that the State appropriate a like sum for that purpose. We have never heretofore, so far as I know, attempted to compel a State to adopt any particular kind of law believed by the Federal Congress to be desirable or necessary. The adoption of this act thus takes us into an entirely new field.

Regardless of the form of a tax, it is generally conceded that the greater burden will fall upon the very people whom it is intended to

protect. It is admitted by all of the witnesses that the employer in many instances cannot absorb the tax and that it must be passed on to the consumer. It is true that the consumer class is larger than the class that will be protected by such unemployment compensation. The consumer will include the farmer, whose burdens we have been endeavoring to lighten.

I am wondering whether it would not be a more satisfactory plan to have the Federal Government follow the plan it has adopted in other instances and agree to contribute a sum to each State on the basis of \$1 from the Federal Government for each \$2 paid into such fund through State taxation.

An appropriation of \$125,000,000, annually would be approximately \$1 for each inhabitant of each State. We probably ought to provide in the bill for this appropriation for at least 3 years, in order that the States might know they would get that much help in building up the compensation fund. This, it seems to me, might be a sufficient inducement to cause the State to adopt some comprehensive plan of its own, administered by its own officials, and the fund for this purpose raised by the imposition of such a tax as such State might deem necessary.

I fully realize that this plan would not be satisfactory to Dr. Frank P. Graham, who was chairman of the advisory committee that assisted in framing this legislation. When Dr. Graham was before the Finance Committee, he made the following statement:

Personally, on the basis of studies made for this committee, I am for this sort of comprehensive program for social security, unemployment compensation, old-age insurance in its three divisions, the old-age pensions, the compulsory contributory and the voluntary contributory systems, and a public employment program, a youth educational program, a public-assistance program, mothers' pensions, maternal care, security for children, a public-health program based on the Public Health Service, and a further study in cooperation with the medical profession of a health-insurance program. * * * I would favor the rehabilitation of crippled children and of crippled people.

I think this statement of Dr. Graham gives us a very clear conception of where it is intended this legislation shall ultimately lead us.

In this connection an article by a German economist by the name of Gustav Hartz is entirely worth-while reading. He calls attention to the fact that Germany was the first to adopt a social insurance about 50 years ago, in the time of Bismarck.

At first the employer contributed three-fourths percent and the employee 1½ percent. Today the entire premium averages nearly 20 percent, and in some industries nearly 30 percent. Germany is about to adopt a plan whereby the employer and employee will each contribute 10 percent. At the time this article was written a pay envelope of \$38.88 was reduced to \$29.45 by the time the taxes were deducted and the check handed to the employee.

Dr. Hartz says:

It is social insurance therefore that makes needy people, in order to give them, after they have become needy, very inadequate support.

My fear is that when the Federal Government undertakes the job of social security, through direct taxation for that purpose, it has taken a step that can hardly be retraced. I fear it may end the progress of a great country and bring its people to the level of the average European. It will furnish delicious food and add great strength to the political demagogue. It will assist in driving worthy

and courageous men from public life. It will discourage and defeat the American trait of thrift. It will go a long way toward destroying American initiative and courage. No man can determine with any degree of accuracy its cost upon the present or future generation. There is danger of our sympathy for its humane objectives overcoming our mature judgment.

We ought, as I view it at the moment, to treat it as an emergency measure until the people of the country, as well as the members of the Congress, become acquainted with its absolute necessity or desirability, from the point of view of the Federal Government.

Mr. LEWIS. May I ask the Senator a question?

The CHAIRMAN. Senator, you do not mind answering questions? That is a rule of the committee.

Senator HASTINGS. Not at all.

Mr. LEWIS. Senator, you spoke of a very antagonistic reaction that would come in the next election, to this bill, with the taxes that it carries in its provisions. I wonder what your experience has been in this field. Very frequently I go home on the railroad. A great number of the railway employees are among my friends. In not a single instance, since the passage of the railway act, looking to old-age pensions, to which they contribute one-third, have I found that the employee was not extremely concerned about what the Supreme Court would do. I found no opposition in a single instance. I wonder what your experience has been with railway employees in this application on a grand scale of taxation for the purpose of taking care of them in their old age.

Senator HASTINGS. I may say in answer to that question that I have not had any experience since that particular act was passed. But I do know that some railroads had some such plan in force before that, and that it worked very well. But I call your attention to this fact: I think you will find that the railroad employees and the wages they received are very much above the average. My notion about it is that these 40 millions of people that Dr. Witte says will be involved in paying this tax, include a lot of people that have never contributed a dollar to anything, except for the purpose of sustaining their own families—if you might call that a contribution.

I do not know anything about it, but this is just my guess, that when you have 40 million people paying a direct tax to the Federal Government—and I care little how small that tax may be—you will find a resentment that will be felt by every person in public life.

Mr. LEWIS. Another question, Senator, addressed to some of the figures that you gave. I think you instanced the case of a contributor who began paying his half of the tax at 25 years of age and paid until he was 65, when, if he were a \$100 a month employee, he would receive a pension of \$50.

Senator HASTINGS. He would begin at 20 and pay for 45 years.

Mr. LEWIS. He would begin at 20 and pay for 45 years?

Senator HASTINGS. Yes; and at \$100 a month salary he would have a pension of \$50.

Mr. LEWIS. I have before me the tables of the Canadian Voluntary Annuity System. Those tables show that on a 4-percent basis—and I do not know what basis you are considering——

Senator HASTINGS. Mine was 3 percent.

Mr. LEWIS. It would cost a man of 65, at 65, \$5,322 to purchase himself a monthly annuity of \$50. Yet, under this system I believe you said that \$4,400 would have gone into the fund, taking into account the interest compounded in the 45 years, one-half of which the employee would have contributed. The employee will be getting for about \$2,200 of contributions, an annuity that would cost him, even under the favorable scheme provided in Canada, \$5,322.

Do you think that because there might be here and there a person who simply resents taxation of any kind, even though he may be in need, in such need as to make our intervention imperative, we ought to allow an antagonism of that kind to deter us from pursuing a program reasonable in itself?

Senator HASTINGS. My only purpose in calling attention to that illustration which Congressman Lewis assumes, was this: In one instance the young man had been paying in for 45 years in order to get \$50 per month, while the man who is now 45 has to pay in only 20 years in order to get \$40 a month.

Mr. LEWIS. Which is a great underpayment.

Senator HASTINGS. It is not my bill. I am talking about the bill as it came to the committee. I assume that the \$40 was what was intended he should have. At any rate, that is what he would get under this bill.

Mr. LEWIS. A great underpayment on his part, I mean.

Senator HASTINGS. Oh, I beg your pardon. The only point I made with respect to that was that the young fellow who has to pay in 45 years to get \$50 a month will bitterly complain because of the injustice from his point of view of the man of 45 paying in only 20 years and getting \$40 a month. That is the only point I made with respect to that.

So far as the annuities are concerned, I think Secretary Morgenthau yesterday set forth before this committee a plan that, if it could be constitutionally enacted, would be a great salvation perhaps for this country, and I think he might have gone a step further and connected with it the unemployment insurance instead of leaving it entirely to the old-age provisions, with somebody to say how much they get who had contributed to this fund or who had had contributed for them—how much they might draw down when they get into difficulty.

But I have been thinking about that a long time. I have never been able to find how the Federal Government can propose any legislation such as Secretary Morgenthau suggested that will compel a man to be thrifty. That is virtually what it does. It would be a great thing. The States, in my judgment, could do it.

What I have sought to do is to have the Federal Government make some inducements to the States to do something voluntarily. I am in sympathy with the object of the whole thing. But, as Dr. Graham virtually says, this whole social-security problem is to become a national one and I think unless we are very careful the Federal Government will be taking over the whole load. When we do that, it will be a new day and a dangerous day for America.

Mr. HILL. Speaking of the discrimination to which you referred as between the young man starting in with his contributory payments and paying over a period of 45 years, and that of the man of advanced

years paying only for a short number of years, if you eliminated from the provisions of this bill the payment of unearned annuities, would that take care of the discrimination to which you refer?

Senator HASTINGS. If you permitted, under this bill, the man to get credit for that which he paid in, and not divide it with anybody else, I think you would do very much to relieve part of the objection.

Mr. HILL. That is, eliminating the payment of unearned annuities?

Senator HASTINGS. I do not know that I quite understand. My own thought about it is that you would relieve this bill of a great many of its objections if some time every man who paid in or his family were going to get what was paid in. I would take the man who has paid in 20 years on that and at the age of 65 I would give him whatever pension that money would earn, or give him the money itself, if he were a man that was employed and demanded his money.

Mr. HILL. That is the same thing I am talking about, Senator. Under this provision of this bill as it stands, a man starting in at the age of 59, we will say, making these contributory payments would at reaching the age of 65 receive whatever annuities his payments entitled him to receive.

Senator HASTINGS. That is right.

Mr. HILL. In addition to that, an annuity amounting to 15 percent of the average wage that he had received over the period of, say, 5 or 6 years, during which he was contributing.

Senator HASTINGS. The bill now provides 15 percent of his average wage during the time he has been paying in.

Mr. HILL. Yes. If you eliminate that 15-percent item, which represents unearned annuity, then you would reach the same result which you are advocating.

Senator HASTINGS. A part of the result that I am advocating. You would relieve it of some of its bad features, in my judgment, if you did.

Mr. HILL. You would eliminate that discrimination.

Senator HASTINGS. That is right. You would eliminate that discrimination.

Mr. TREADWAY. Senator, that last proposition in the colloquy between you and Congressman Hill is practically what a life insurance company will sell to you today, is it not? They will sell an annuity which will guarantee the return to you or your heirs of the amount that you pay for that annuity.

Senator HASTINGS. Yes. The advantage this would have over that is that the employer is contributing half of it.

Mr. TREADWAY. You are advocating that whatever has gone to his credit, from whatever source derived, whether from the employer or the employee, should be the basis of the annuity which the man would receive when he reached the annuity age?

Senator HASTINGS. That is true. Of course, if he were in a position where he could not take care of himself, you would be back again on your old-age pension plan, which is the first provision for the next 5 years. We say if he paid in for only 5 years, and earned only \$100 a month, he would be entitled to what would amount to only a few cents a month, perhaps. I do not know what it would be, I have not figured it out, but it would be less than a dollar a month, which would not be much help to him. If he had paid in for 20 years he would

have quite a little annuity bought. That would not be very much, either. If he were still destitute, you would still have your old-age pension problem on your hands with the contributions of the Federal Government and the State government.

Mr. TREADWAY. In other words, he would have two opportunities to be taken care of in his old age; is that correct?

Senator HASTINGS. That is right.

Mr. TREADWAY. As you know, there are eight titles in this bill.

Senator HASTINGS. Yes.

Mr. TREADWAY. Many of them are not directly connected. They are independent of each other, these eight propositions submitted to us. Do you consider that it is feasible to group different subjects into one measure that way?

Senator HASTINGS. I do not.

Mr. TREADWAY. Do you see any reason why these various items should not be acted upon independently?

Senator HASTINGS. None at all. I do not know how far we will get with it, but in the Finance Committee of the Senate a proposal will be made to separate those into various bills dealing with separate subjects.

Mr. TREADWAY. The only actual connection is that they are all comprehended in the general plan of "social security".

Senator HASTINGS. The real connection between them is that the Social Insurance Board operates them all. That is the only excuse I can see for putting them all together.

Mr. TREADWAY. That brings up another question. There is set up by this bill a Social Insurance Board of three individuals—no specifications as to their qualifications—to be appointed by the President, and to operate under the Department of Labor, and there is no confirmation by the Senate provided for, so it is assumed that they would not be confirmed. That does not appear in the bill. Do you favor a set-up of that nature?

Senator HASTINGS. Of course, I think that every prominent Government official, certainly one prominent enough to draw \$10,000 a year, ought to be confirmed by the Senate or some other body.

Mr. TREADWAY. Or elected by the people?

Senator HASTINGS. Or elected by the people, or confirmed by the Senate.

Mr. TREADWAY. I was interested in your suggestion that we proceed with these subjects somewhat along the line of the precedent that has been established of Federal contribution to States doing certain work. For instance, I suppose you had in mind road appropriations and others of that nature.

Senator HASTINGS. That is correct.

Mr. TREADWAY. Would you advocate a measure that covered that method for these problems that are covered in this bill?

Senator HASTINGS. In my judgment it is the only constitutional way in which it can be done.

Mr. TREADWAY. That is, not all eight, but the old-age pension and the unemployment.

Senator HASTINGS. I am quite sure in my own mind that the Federal Government cannot impose this kind of a tax.

Mr. TREADWAY. Constitutionally?

Senator HASTINGS. Constitutionally.

Mr. TREADWAY. And you are a lawyer?

Senator HASTINGS. Well, I am a member of the bar.

Mr. TREADWAY. That is, you have been admitted to the bar?

Senator HASTINGS. Yes.

Mr. TREADWAY. So that you would favor any legislation so to be adopted following the precedent that Congress has previously set up in other lines and which is now in operation?

Senator HASTINGS. I would; and I would do it for another reason. I would hope while I was doing it that it might still be considered an emergency, and give future Congresses and the public as a whole an opportunity to study the question further and see whether they wanted to continue that or whether they wanted to try to find some new way of meeting this difficult problem. I suggest, however, in connection with the unemployment insurance that the Congress ought to make the pledge not to change it for a period of years so that a State that passes a law depending upon getting that assistance from the Federal Government might be reasonably certain that it would get it for, say, a period of 3 years.

Mr. TREADWAY. You would not drop it without notice?

Senator HASTINGS. That is my idea.

Mr. TREADWAY. You speak of further study. Of course, we are all in favor; that is, I am, and I take it that you are, of the merits of these propositions in general. I am not prepared to and do not want to oppose an old-age system of some kind. In other words, I feel there is merit in the eight propositions before us, whether they are carried out correctly or otherwise. What is your view of that?

Senator HASTINGS. Everybody must admit that the aged as well as other people that are in distress must be taken care of in some form but I think a careful study will show that when the Federal Government—and this Government is entirely different from the European countries, because we have 48 States here that still claim a right to function, and the primary duty of all of this is upon the States. We must, of necessity, it seems to me, if we want to protect this country at all, leave that primary duty with those States, with the Federal Government realizing always that when a State cannot take care of its own we have to do something to help them. That is my idea.

Mr. TREADWAY. That is advocating the plan that you are suggesting of a definite appropriation to be properly divided by States?

Senator HASTINGS. That is right.

Mr. TREADWAY. And the Government having nothing to do with the general management.

Just one other thought, if I may, Senator. Of course, you have had Dr. Witte before you?

Senator HASTINGS. Yes; and I listened to all that he said.

Mr. TREADWAY. You had quite an extended job if you listened continuously.

Senator HASTINGS. It was generally believed that Dr. Witte was better acquainted with this than most of the rest of them who appeared before the committee.

Mr. TREADWAY. Dr. Witte has repeated it several times before us, as have one or two other witnesses, that we should hasten this legislation as rapidly as possible on account of the fact that 44 out of the 48 legislatures are meeting this year, and that we should have it

completed and put before them before their adjournment. We have found that quite a few of the State legislatures have only a 60-day session beginning in January, and in other States the length of the sessions vary according to the different constitutional provisions. Do you think that we can properly digest this tremendous proposition from the viewpoint of Federal legislators and submit it to the legislatures that will adjourn during March?

Senator HASTINGS. I think it is perfectly possible for us to get it done this Congress sometime. I would not say by March 1. I do not think it can be done by that time. But I call attention to this added difficulty: You have 48 legislatures in session. I doubt whether there are 5 legislatures out of the 48 that have given any careful study to this subject. Most of them are elected annually. This takes real, honest-to-goodness thought before you can frame a law that will be workable. I think that if every legislature should from this time on give its full attention to this subject it would not be possible for them to pass reasonable laws agreeable with what we are likely to do here. I think it is not a practical suggestion. I think that it is a mistake to hurry this thing along. I think that the suggestion I make, which is a simple one, of letting the Federal Government agree to appropriate certain sums of money, whatever Congress is willing to appropriate, upon a certain condition, and a very simple condition, too—and it ought to be as simple as possible—in the old-age pension I would put but two conditions to it: Fix the amount that we would contribute on condition that they would contribute a like amount, and for the age limit. If they wanted to fix it at 70, well and good. We would make our contribution just the same. If they wanted to pay the people at 64, they would have to pay it out of their own funds and not out of ours. That is a simple thing. The legislatures can take care of that situation. If their financial conditions will permit it, they can do it quickly. But with all of this complicated system, it will take not a few weeks, not a few months, it will take in my judgment 2 or 3 years of careful study.

What legislatures ought to do, in my judgment, is to appoint committees to make these studies and to make recommendations to the next legislature. That is what has been done with the Federal Government. This committee that is recommending this legislation has been working on it for months, and with all of their study there are hardly two of them that are in agreement on just what ought to be done, because it is a difficult problem.

Mr. TREADWAY. I would just add this observation—

Senator HASTINGS (interposing). I am afraid we are taking too much of the time of the committee, is the only thing.

Mr. TREADWAY (continuing). —as to members of the legislatures studying this problem. I should assume that members of the legislature in Louisiana have not had much time to study it.

Mr. HILL. You suggest a constitutional question. I am sure this committee would be very much interested in getting your views upon those questions. Regardless of what may be considered desirable of one kind or another in this social-insurance program, if a certain plan which might be favorably considered by the committees of Congress should present questions involving constitutional inhibitions, it would be useless to go ahead and adopt such a plan if, when adopted, it is unconstitutional and cannot be enforced. I understand you have

grave doubt as to the constitutionality of the tax which is proposed to be levied here under the old-age-annuity system. Is that true?

Senator HASTINGS. That is true.

Mr. HILL. Do you also have doubts as to the constitutionality of the tax proposed to be imposed with reference to the unemployment compensation feature of the bill?

Senator HASTINGS. Yes. But may I qualify my answer by saying that I have not given that very careful study, because my experience in the Senate leads me to believe that it is not worth while to argue constitutional questions. If the Senate is in favor of a thing, they go ahead frequently and ignore that.

But I go upon this theory: The Federal Government can tax only for governmental purposes. If it were the primary duty of the Federal Government to take care of the aged and to take care of the unemployed, I think the Constitution would permit us to pass this legislation. But it is not the Federal Government's primary duty, it is the State's primary duty. That is the reason that the State may enact such a law and the Federal Government may not. That is more or less of a curbstone opinion, because I have not given very serious thought to it.

Mr. HILL. Of course, the Federal Government has been to a large extent taking care of the unemployed and those in need throughout the country through the relief measures now being administered out of Federal funds.

Senator HASTINGS. Yes; and if the question were raised the chances are that under a strict construction of the Constitution that would not be within the Constitution.

Mr. HILL. That is a very interesting question. I am not arguing, I am simply trying to elicit some information here for the committee and for myself. Why do you say that it is not the primary duty of the Federal Government to take care of the needy and the unemployed, and that it is the primary duty of the State to do those things?

Senator HASTINGS. I thought that that was universally agreed.

Mr. HILL. That may be, but upon what is it based?

Senator HASTINGS. It is based on the theory that the States withheld all their powers that they did not give up to the Federal Government, and kept for themselves not only the duty but the responsibility of taking care of their own people. That has been the history of this country. We never heard of a Federal almshouse. The Federal Government has never gone into any of that, except upon the theory that it was to take care of persons for our national defense. We take care of our old soldiers. That is all that we have ever done up to this time. It has always been considered and never has been disputed that these questions are primarily duties of the communities where the people live.

Mr. HILL. That is because the States heretofore have been measurably able to take care of those situations.

Senator HASTINGS. That is true.

Mr. HILL. But suppose the demand for relief has become so widespread that the States are unable to do that and the situation has got to the point where it threatens the very existence of the Federal Government. Then would there be any duty or any power on the part of the Federal Government to come in and protect itself through relieving this distress?

Senator HASTINGS. I think there is this distinction to be drawn. I think there is a distinction to be drawn between using the general funds of the Government for these purposes and laying a special tax for a particular purpose. I do not think, for instance, that the Federal Government could lay a special tax for the purpose of taking care of the unemployed and pay it out of its own funds, collect it and pay it out itself. I do not think that could be done. I think there is a distinction to be made on funds that are collected for general purposes and that may be used for the general purposes of the Government. If the Government gets into that position, it might use that fund out of that general fund for that purpose.

Mr. HILL. Assuming the soundness of that view, and assuming that it is necessary for the Federal Government to give aid to the States in relieving this situation, as I understand you to suggest, rather than taking the whole burden upon itself through the Federal tax for that specific purpose, where would you suggest that we get the money for that?

Senator HASTINGS. Out of the general fund.

Mr. HILL. It has to come into the general fund from some source.

Senator HASTINGS. Yes.

Mr. HILL. Have you any suggestions you desire to make?

Senator HASTINGS. That is going into the tax question, which is a very complicated question.

Mr. HILL. There has been some suggestion here by witnesses that this money be provided to the general fund and then paid out of the general fund, but that the money come from an increase of taxes on incomes, both corporate and individual, on estates, and on gifts.

Senator HASTINGS. I do not see why it should be necessary to levy a special tax for this purpose. If you are going to add this burden to the Budget, you might just as well add to your Treasury fund from whatever tax the Congress concludes is the easiest tax for the people to pay and the best source on which to levy it. I think it is very important that we should not undertake to levy a tax for a specific purpose.

Mr. HILL. Suppose we should levy a tax on pay rolls and put it into the general fund, and then appropriate out of the general fund moneys to take care of this unemployment compensation and old-age annuities. Would that be constitutional?

Senator HASTINGS. I think you are a little nearer to it. I think it is not so objectionable.

Mr. HILL. You would at least eliminate the question of levying a tax for a special purpose, and applying the moneys received from that tax to that special purpose.

Senator HASTINGS. Yes. If you levy a general tax and put it into the fund, it is very difficult to raise the question of what the Congress does with the money that has been raised by taxation. That is a very difficult question to raise in the first place. But if you undertake to levy the tax for a specific purpose that question may be raised, as to the constitutionality of that tax. But if it is for general purposes, you eliminate it. That is one of the ways of getting around it.

Mr. HILL. Do you think you would eliminate this popular objection that you referred to earlier in your statement by levying a tax on pay rolls and on the earnings of employees, and placing that money in the Treasury without the provision that it shall be applied to the specific purposes provided in this bill?

Senator HASTINGS. I would leave the tax to be levied upon the employer or the employee wholly with the State, and I would not touch that, because you want to leave some place for the State to get its money if you are going to have the State bear a greater portion of this burden, as I would under the unemployment insurance.

Mr. HILL. Then you would have a spotted condition. Some States would not make provision for that, others would.

Senator HASTINGS. I would leave it to the State to say whether it should be on pay rolls, whether it should be a sales tax, or whether they were wealthy enough to pay it out of the general funds without increasing their taxes at all. That, it seems to me, is a thing that the State is entitled to have. I insist that the State ought not to be compelled to adopt a particular kind of a tax in order to prevent the tax that the Federal Government has laid upon it being taken out of the State.

Mr. HILL. I take it that you would object, too, to the States being compelled, if we use that word, to levy any kind of a tax, whether it is a particular kind of a tax or not.

Senator HASTINGS. That is exactly right.

Mr. HILL. To levy any kind of a tax to meet a situation which the Congress might think should be made uniform throughout the country.

Senator HASTINGS. That is correct.

Mr. HILL. So that there would be no inducement at all—we will not use the word “compulsion”—to bring the States within a kind of a uniform system whereby each State would take care of the unemployed situation within its limits, but you would leave to each State whether it did that or whether it did not do that.

Senator HASTINGS. That has been my own difficulty, to find that inducement. The only inducement that I have suggested is that the Federal Government contribute something to the State.

Mr. COOPER. Senator, if you please, sir; we have been led to believe all along that the underlying principle supporting the idea of levying a Federal excise tax for unemployment insurance was the necessity of meeting the competition question that would arise; in other words, if it were left entirely to the States, one State might levy a tax and another State might not, and a certain industry operating in those two States might find itself taxed in one State and not taxed in the other. Therefore, the question of competition that enters into the field of industry would be a very serious question that would have to be encountered. I believe it has been rather clearly shown all along that it is highly desirable to have a uniform rate of tax levied on industry throughout the entire country so as not to produce a situation where the industry of one State can undersell the industry of another State because that other State has to bear a tax that it does not.

Senator HASTINGS. I think that is very important. It is the one argument in favor of this bill that is sound, in my judgment, economically.

Mr. COOPER. Is it not an argument and a reason that we can hardly get away from?

Senator HASTINGS. Regardless of how strong that reason is and how sound that reason may be, it does not in my judgment justify Congress in compelling a State to do what Congress thinks is well for that State, or have a large tax taken from it and contributed to the

Federal Government. While I think your argument is very strong and very sound, I do not think it overcomes the objection that I make.

Mr. COOPER. You do not think it overcomes the constitutional or legal question that would be involved?

Senator HASTINGS. No; or the practical question, either, of asking of me to compel our respective States to adopt a particular kind of law that you and I may agree upon that is good for that State, or else have 3 percent of the tax upon its pay roll taken from it, leaving it to take care of its unemployed in some other way. I do not think that there is anything that can overcome that argument, from my point of view.

Mr. COOPER. Recognizing the soundness of the contention that is made, which you very frankly do, with reference to the question of competition, from a practical standpoint how could we have any unemployment insurance system in this country without that very principle being observed in it?

Senator HASTINGS. I think that there might be worked out with a little time through the governors' conferences, and what not, agreements among the States, particularly adjoining States, as to the kind of a law each State would adopt, which would put us in a position, assuming it to be constitutional, where the States would come to us and ask us to pass this kind of a law. I do not know of any State that has asked Congress to pass this particular legislation with respect to unemployment except the State of New York, and I saw that by last night's paper.

Mr. COOPER. I think we have been very definitely impressed with the statements that have been made both in this hearing and in the hearing held by the subcommittee of this committee during the last Congress, of which I had the privilege of being a member, solely on the question of unemployment insurance, that in order to meet this question of competition it would have to be a national tax, levied on the industries of all States of the Union; that otherwise it could not be worked out on a practical basis and made effective.

Senator HASTINGS. If I were going to take a chance on the Constitution, I would adopt Secretary Morgenthau's suggestion made before this committee yesterday, but I would add to it and make a part of it unemployment insurance, and then I would provide that the States, through some commissions that they appoint to administer it, should give the man who has accumulated over a period of years—maybe a few years and maybe many years—an opportunity, when he gets into a difficult position and where he is about to be thrown upon charity, to have somebody pass upon it and say how much he may draw down of that fund that has been accumulated. If he had been fortunate enough to work for 45 years without drawing any of it, being healthy and being employed all the time, then he would have enough to retire on and go his way, and there would be no responsibility on anybody. But if in the meantime he met with reverses, he would have his own fund, and that body administering that law would pass upon the question of when he could draw it down and when he could not draw it down. I think if it could be done constitutionally, that suggestion of enforced thrift, not only for the old-age pension but for unemployment insurance, could be combined to perhaps more advantage to the country.

Mr. VINSON. Senator, do I understand you to object to the States levying pay-roll taxes to provide the unemployment-insurance fund?

Senator HASTINGS. No; not all. I am perfectly satisfied for the States to do it, and it is probably the only way in which it can be done.

Mr. VINSON. Is there anything in this bill that provides how the moneys shall be raised by the State to provide the unemployment insurance fund?

Senator HASTINGS. It provides the Federal tax of 3 percent upon the pay roll, 90 percent of which may be held as a credit, if they pay it to some State fund on account of unemployment insurance.

Mr. VINSON. The point is that there is no mandatory provision in this act, so far as I can see—I would be happy to have it pointed out if it is otherwise—that tells the State the manner in which they will raise the revenue that they place in the unemployment insurance fund, and which they transmit to the Federal Treasury as a credit upon this 3-percent pay-roll tax. The State may raise that money by pay-roll tax paid entirely by the employer or in part by the employer and in part by the employee, or it may get the money from any other source that they may see fit. Is that your understanding?

Senator HASTINGS. I think that is true. But let me point out from a practical point of view that would mean, unless they did adopt the pay-roll tax, that the employer was paying a 3-percent tax while the money may be collected for that purpose from the citizens everywhere in a general tax. So that from a practical point of view the State must adopt the tax on the pay roll.

Mr. VINSON. Do you not think from the fact that there would be a 3-percent Federal pay-roll tax that it would not be very hard for a State legislature to be persuaded to have taxes raised by the State in the manner that the people of that State wanted them to be raised, in order for them to have the 90-percent credit upon the 3-percent Federal tax?

Senator HASTINGS. I think they will rather hasten to get the job done, and that is what I object to.

Mr. VINSON. You object to their hastening to get it done?

Senator HASTINGS. I object to our forcing them to hasten to do it. In other words, you are going to take away from the employer in every State a 3-percent tax, and the legislature is going to say: "We cannot afford to let that tax go out of this State. We must secure that fund for this State. The only practical way in which we can do it is to lay a 3-percent tax upon the employer ourselves."

Mr. VINSON. They may levy that tax upon the employer or they may not. I am reading from the report of the Committee on Economic Security, if you please, so that we will get that plainly as to the intent of this bill, Senator. It is under the heading of "Suggestions for State legislation" on the unemployment-insurance contributions [reading]:

Contributions.—The State should make all contributions compulsory and may require them from employers alone, or from employers and employees, with or without contributions by the State government.

Benefits.—The States should have freedom in determining their own waiting periods, benefit rates, maximum-benefit periods, and so forth.

It seems to me that that gives the State power to raise that money as they deem best.

Senator HASTINGS. I agree with that. But let me point out this: Will they not in fairness to the employer levy 3 percent tax upon the employer? Because the employer will say to them, "We have to pay

this tax anyway, so we will invite you to levy the 3 percent on us." Why not?

Mr. VINSON. What difference does it make to the employer how the State legislature raises the tax. They have this here of 3 percent but that amount raised under the Federal levy has this State credit of 90 percent.

Mr. HILL. I want to call attention to 602, as to credits, and the question is who gets the credit, whether the State can get the credit or whether the man who pays the tax within the State gets the credit, in other words, the employer.

Mr. VINSON. Within the State?

Mr. HILL. Yes; within the State. Let me read 602:

Any employer may credit against the tax thus due—

Mr. VINSON. That is a credit against the Federal tax payment.

Mr. HILL. Wait a minute. He credits against the Federal tax, up to 90 percent of the tax, the amount of his contributions for the taxable quarter to any unemployment fund under any State law. The credit goes to the man who pays the Federal tax, not to the State. I think that is probably a question which may be very important here in this discussion.

Senator HASTINGS. I thank you, Congressman, because I was mixed for a moment on it. That is absolutely correct. Before he can get any credit he has to show that he has paid to the State this 3 percent. Now, I call your attention to this fact: What that committee witness there had in mind was that this 3 percent would not be sufficient, and the State would want to add to it. In order to add to it they might tax the employee, they might raise it by general funds, and they might do all of those things. But, as is pointed out, before the employer can get the credit for that 90 percent, he has to show that he has paid into some sort of a fund that much money.

Mr. VINSON. Let us follow that up. I am particularly referring to the suggestion made by the gentleman from Washington. In subsection 5 of section 407 on page 31, we find this language:

All of the money raised by contributions of employers and employees under such State law is deposited upon collection to become a part of the unemployment trust fund established under title VI of this act—

And title VI of the act is the imposition of tax title—

and, upon being requisitioned, is extended solely in the payment of unemployment compensation.

The language that the gentleman from Washington read seems to indicate that it refers to the payment of the employer, but taking the context of the bill, it occurs to me that it is really referring to the amount of tax raised in the State.

Mr. HILL. If you will pardon an observation there, the credit, however, goes to the employer, the man who pays this Federal tax. If the employee pays a State tax under a State law, he gets no credit because he has paid no Federal tax.

Mr. VINSON. Let us see what that would be. You have a 2-to-1 proposition in the States, 2 percent by the employer and 1 percent by the employee, then if the employer got only 2-percent credit for what he paid, 2 percent, there would still be a 1-percent additional tax he would have to pay.

Senator HASTINGS. That is right.

Mr. VINSON. Consequently I do not think that is the intention at all.

Senator HASTINGS. That would go into the general fund. From a practical point of view, if the State wants only to levy a 3-percent tax to take care of the unemployed, it is undoubtedly going to levy it on the employer, because the employer pays to them and gets a credit from the Federal Government.

Mr. VINSON. In some States they do and in some States they do not. In some States they split it between the employer and employee.

Senator HASTINGS. But certainly, in order to prevent the Federal Government from getting that money, every State is going to impose that 3-percent tax upon the employer. That is the only way in which they can save it for themselves. It is true that there is nothing to prevent the State from taxing the employee and from adding to it through any general fund.

I thank the committee.

The CHAIRMAN. We thank you, Senator, for your appearance and the information you have given the committee.

STATEMENT OF HON. GEORGE BURNHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BURNHAM. My name is George Burnham. I am a Representative from the Twentieth Congressional District of California.

Mr. Chairman, I am here this morning at the request of many of my constituents, approximately 50,000 of whom are anxious that the so-called "Townsend old-age revolving pension plan" should be enacted into law. Dr. Townsend has appeared before you and you have heard his plan explained and discussed.

For many months I have cooperated with these people to the extent that when I received many petitions, bearing thousands of names, early last spring, I filed them with the Speaker of the House of Representatives. I secured several copies of the plan describing the Townsend revolving pension and left one with the President, one with Miss Perkins, the Secretary of Labor, another with Harry L. Hopkins, Federal Emergency Relief Administrator, and I took one to Dr. Moulton, president of the Brookings Institution, with the request that he have it analyzed. I have cooperated with them to that extent.

They have urged me to introduce a bill whereby this Townsend plan might be enacted into law. I told them that I would be willing to introduce such a bill, but that did not mean that it would be enacted into law. I told them that it would be referred to a committee, undoubtedly the Committee on Ways and Means, because it provided some means of taxation. I told them also that that committee was composed of 24 or more intelligent, fair-minded business and professional men, who would analyze the plan from every angle. I told them that if it proved to be economically sound I would support it 100 percent, which I am ready to do.

I believe that Dr. Townsend is honest, earnest, and sincere.