Mr. **HOOKER.** Not if you destroy the power companies.

Senator **CONNALLY.** These others will take their place.

Mr. **HOOKER.** Not if they do not last.

Senator **KING.** At this point in the record, I am placing a memorandum submitted by Prof. Paul H. Douglas of the University of Chicago.

UNEMPLOYMENT INSURANCE FEATURES OF THE WAGNER-LEWIS BILL FOR SOCIAL SECURITY. (S. 1130; H. R. 4142)

By Prof. Paul H. Douglas of the University of Chicago, Department of Economics

I am in hearty agreement with the general purposes of this bill. It is impossible to rely exclusively upon State action if we are to protect the aged poor and those thrown out of work by unemployment and through no fault of their own. For each State will be reluctant to levy an extra assessment upon the employers within it confines lest in doing so it should place these enterprises at a competitive disadvantage in comparison with employers in other States which do not have to pay such taxes or contributions. The tendency, therefore, is for the States to hold back and for much-needed social legislation to be prevented or at the least greatly delayed.

It is greatly to the credit of the administration that it has seen this fundamental difficulty and that it proposes to have the Federal Government attempt to get united action on much needed types of social security. If I must criticize some of the details of the bill as presented, I do not want to be understood as attacking the primary purposes which it seeks to fulfill. On the contrary, as one who has been advocating unemployment insurance and old-age pensions for at least 15 years, I heartily approve of the general aim of this program. I believe, however, that these fundamental purposes could be effected better if certain vital changes were made in the bill, more particularly in those sections dealing with unemployment insurance.

I. THE COMPARATIVE UNDESIRABILITY OF THE OFFSET METHOD

Choosing to adopt a Federal-State system rather than an outright Federal law, the method which is proposed of obtaining favorable State action is that of a tax offset. The Federal Government imposes a tax on pay rolls which by **1938** must amount to 3 percent. In States which pass unemployment insurance, laws employers are then permitted to have the amounts which they contribute. to the State systems credited as an offset against the Federal tax up to 90 percent of the latter amounts. If a State passes such an unemployment insurance act, it does not, therefore, impose any additional expense upon its employers but merely permits these enterprises to make their contributions to a local fund which will relieve the local unemployed instead of these moneys going to Washington and possibly being spent on entirely different objects.

This plan is most certainly ingenious, but in my opinion it is vitally defective in a number of important reafures:

(1) The bill lays down very few standards to which the State systems will have to conform to in order to be credited with the offsets. This was apparently because of the fear that if many such standards were set up, the act might be declared unconstitutional on the ground that it was using the taxing powers for a purpose which was primarily if not exclusively regulatory. As a result, the act leaves a State free to enact almost any kind of unemployment-insurance system which it wishes, subject to a few simple rules governing eligibility for benefit and to the requirement, under the distribution of the residual funds for administration, that the personnel of the State services be on a merit and nonpolitical basis and that the benefits must be paid out through the State employment offices.

But no standards are set on such vital matters as (a) the minimum or maximum length of the waiting period; (b) the minimum or maximum length of the benefit period; (c) the average percentage of weekly wages to be paid in benefits; (d) the minimum and maximum weekly benefits; (e) provisions for part-time employment; (f) whether plant reserves, industry reserves, or State-pooled funds are to be used; (g) the salary limit for including nonmanual workers. While some variation and experimentation between the States may be desirable, it is apparent that under the method proposed a bewildering variety of provisions is likely to result which will give widely varying degrees of protection to workers in different States.

(2) The bill in its present form does not make any provision for the wide differences in unemployment between the various States. Thus in April 1930 when the average percentage of unemployment among the nonagricultural workers was 8.5 percent for the country as a whole, the average for Michigan was 13.9 percent; for Rhode Island 11.2 percent, Montana 10.7, and for Illinois 10.1 percent. On the other hand, the average in South Dakota was only 3.9 percent.[1] In other words, there was almost four times as much relative unemployment in the State with the highest percentage as in that with the lowest. If the 4 years from 1930 to 1933 are taken as a whole, the actuaries of the Committee on Economic Security estimate the averagefor the country as 25.5 percent. Michigan, which was again the high State, however, had an average of 34.3 percent while Georgia, the lowest State, had an average of 17.0 percent." Here the highest State had a volume of unemployment which was relatively twice that of the lowest.

It is apparent, therefore, that under the proposed bill, if each State levies the assessment upon employers of 3 percent, which it is hoped that they will, the amount of benefit which can be given will vary greatly from State to State. States with a high volume of unemployment will be able to pay only a few week's benefit to their unemployed while those with a low volume will be able to provide much more. There will be no justification for any such treatment. The unemployed in the States where the benefit period is short will be just as innocent as those where it is much longer. There is, in fact, no justifiable reason for penalizing them because of the accident of their location.

(3) The proposed bill will also result in 48 different sets of central records and probably in a bewildering variety of forms and administrative procedure. Anyone who has spent any time studying the handling of the central records of the British system at Kew will realize the necessity of a relative concentration of these records in at least large districts. There is good evidence to indicate that most States are too small administrative units to handle this work effectively.

(4) The proposed bill makes no provision for those workers who acquire eligibility in one State and who on moving to another become unemployed. It, therefore, largely leaves migratory workers out of its protection. The numbers of this class are, in absolute terms, fairly large. And many of them need protection against unemployment more acutely perhaps than any other group. Yet the present bill, by making eligibility occur exclusively within a State and not the country as a whole, debars this class from aid.

(5) The proposed bill, so far as its "offset" features are concerned, will be ineffective in enforcing such few standards as it prescribes for the States. If a State violates any of these standards, the only way the offset provisions can be used will be to declare that an employer's contributions to a State fund will not be credited against the Federal pay-roll tax. If this were done, the employers would have to pay double. In practice, the Federal authorities would be almost completely unwilling to invoke such a severe penalty against private parties who would not have been guilty of any offense. In practice, therefore, the offset features would be almost completely ineffective in maintaining uniform standards, on these few points now covered in the bill. Nor could they be used to lay down further standards' in 'the future.

A greater degree of control can be exercised by the Federal Government through the 10 percent of the pay-roll tax which it retains, and then presumably redistributes to the States in order to provide for their administrative cost. These sums can be withheld if the States do not conform to proper standards of personnel. This is important, but it should be noted that it is effected only by abandoning the offset feature so far as this part of the funds is concerned and resorting to an outright Federal subsidy plan.

(6) In practice, employers will have to make two sets of contributions. The first will be to the States under the State unemployment insurance laws. The second will be to the Federal Government for the three-tenths of 1 percent of the pay roll which is to be used, through redistribution, for administrative expenses (secs. 406 and 602). There will be some extra difficulty imposed upon employers in paying their contributions to two different sets of officials.

(7) Perhaps most important of all is the fact that the offset law will tend to confine not only the present but the future financing of unemployment insurance to a levy upon pay rolls. For such is the nature of the Federal tax. A State cannot, therefore, obtain offsets for its citizens if it wishes to finance a portion of

[1] Supplement to the report to the President of the Committee on Economic Security (1935), pp. 5-6.
[2] Idem.

the costs from income or escess-profit taxes. These could not be offset against a Federal tax on pay rolls since they would not fall exclusively on the same persons or to the same degree upon identical persons.

It may well be held by some, however, that a portion of the costs of standard benefit;: should be met by tases upon those n-ho can best afford them and which will not either be shifted backwards to the workers or forward to the consumers, The offset method prevents this method of financing from being used within the range of protection afforded by the pay-roll levy.

There are also many who, while they would be initially willing to finance unemployment insurance from a pay-roll tax would wish to have some of the financing later shifted toward income and excess-profits taxes or at the very least would like to have this possibility left open. But this cannot be done so far as the basic protection is concerned as long as the principle of offsets against pay rolls is retained. The proposed measure, therefore, forecloses future as well as present recourse to these other methods of finance. For all these reasons, therefore, the offset feature, while better than no Federal action at all, is seen to be clumsy and comparatively ineffective.

II. A NATIONAL SYSTEM OF UNEMPLOYMENT INSURANCE

From the economic and administrative standpoints, there can be little doubt 'that an outright national system of unemployment insurance, under which the Federal Government would at once collect the money and disburse the benefits would be superior to any other system.

1, It would provide a uniformity of rules and provisions for the country as a whole.

2, Administrative records could be relatively centralized and a standardization of forms effected. The country could be divided into some eight or ten administrative districts, each of which would have a set of central records.

3. Migratory workers and those transferring from one State to another would not lose their claim to benefit.

4. Since the insurance fund would be Nation-wide in scope, a uniformity in 'benefits would be provided. The unemployed in States with high unemployment would not be penalized because of the accident of residence, but would share equally with all.

5. There would be no problem of keeping the localities up to minimum standards, since this would follow from the fact that the administration would be in central hands.

6. Employers would make their contributions to only one governmental agency.

7. The Government could, if and when it wished, use other methods of financing the payment of unemployment benefits in addition to the levy on payrolls.

I presume tliat the objections which are chiefly advanced against such a national system are primarily constitutional and (in the better sense of the term) political. I am not a constitutional lawyer, but it should be noted that the bill properly calls for a national system of old-age annuities in which the contributions of employed persons and of employers are paid into a Federal fund. This is the only practicable way of handling this situation in view of the way in which many people move from State to State during their working life. But what I chiefly want to emphasize in this connection is that the drafters of this legislation evidently believed that such a national system of old-age annuities would be constitutional. If this is so, there would seem to be at least equal reason to believe that a national system of unemployment insurance would also be constitutional..

In fact, the case for the constitutionality of a national system of unemployment insurance would seem to be appreciably stronger than that for old-age annuities. For old-age annuities will be paid steadily, irrespective of whether we are in periods of prosperity or depression. Unemployment insurance benefits, however, will be paid out primarily in periods of depression. As such they will consequently serve to build up and steady consumers' purchasing power during such depressions and hence decrease their severity: The. prospect of benefits will, moreover, lessen the hectic savings of the working classes during the early stages of a depression and will lead to a better distribution of these savings over longer periods of time. The decrease in the demand for consumers goods and services at such periods and the piling up of idle savings in banks where they are "sterilized" will, therefore, be lessened and a further cumulative cause of depressions will be reduced.

It would seem to me, therefore, that a national system of unemployment insurance can be defended constitutionally on the added ground that it helps to protect

the integrity of commerce and trade as a whole and that it thus falls within the power of Congress "to regulate commerce * * * among the several States," and the implied powers which were stressed by the great jurist John Marshall as falling within the provision that Congress could "make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

Furthermore, if there is still any doubt as to whether a national system of unemployment insurance would be declare constitutional, I would suggest that this can be lessened by Congress passing two acts instead of one. The first could collect the funds; the second could outline the benefits. Congress would certianly have the power to tax in this way. There are, moreover, almost no limitations upon the spending powers of Congress, so that the payment of unemployment benefits would seem to be above legitimate criticism as constitutional. Even if a national system of unemployment insurance were to be declared unconstitutional, if these two features were to be joined together (which I do not believe) I suggest that it should be able to run the constitutional gamut if they were put asunder.

I do not feel competent to pronounce on the broader political aspects of a national system of unemployment insurance, but I believe that the Congress of this country is well able to pass upon such considerations and if they decide that it is proper from this standpoint, I would be more than willing to accept their judgment. From the administrative and economic aspects of the problem, a national system would most decidedly be superior.

III. A FEDERAL TAX REMISSION SYSTEM

If it should be decided, however, that an outright national system was not practicable or expedient, a Federal tax remission plan would be preferable to the offset method. Under the tax remission plan, the Federal Government would levy taxes to collect the necessary funds and it would then distribute these sums back to those States which passed satisfactory unemployment insurance laws. Such a system would have distinct advantages over the tax offset method.

1. It would permit more thorough-going and adequate standards to be laid down as a basis for State action.

2. By withholding a portion of the sums collected for a national reinsurance fund, aid could be given under proper controls to those States with relatively high unemployment so that a uniformity of minimum benefits could virtually be assured to the unemployed of all States. Judging by the experience for the years 1930-33, it would seem fairly safe for the Federal Government to retain one-third of the total receipts for such purposes and for those mentioned in the next paragraph.

3. With such a central fund, it would be possible to take care of those workers who transferred from one State to another.

4. The Federal Government would have a much greater possibility of keeping the States up to satisfactory standards, since it could simply refuse to remit the taxes if a State failed to carry out the proper administration of the plan. Uniform records, etc., could rather easily be obtained.

5. Taxpayers would have to contribute to only one agency, namely, the Federal Government, instead of to two. The Federal Government would subsequently remit these taxes.

6. The way would be left open for other sources of revenue than the pay-roll tax to be used if and when, in the judgment of Congress, this became desirable. A portion of these taxes could be remitted between the States in the precise proportion in which they were collected, while another portion could be distributed according to the relative ratio of unemployment.

IV. OTHER SUGGESTIONS IN THE FIELD OF UNEMPLOYMENT INSURANCE

1. The provision that the maximum assessment against the pay rolls shall not exceed 3 percent seems much too cautious. The actuaries attached to the President's Committee on Economic Security have estimated, on the basis of the 1922-30 experience, that such an assessment (when combined with a 4 weeks' waiting period and benefits equal to 50 percent of the wage, subject to a maximum weekly benefit of $15) would only provide for 15 weeks of benefit and if a 3 weeks' waiting period were used, for only 14 weeks of benefits.[3] This is very inadequate, particularly in view of the failure of the bill to make any provision for those who

[3] Report to the President of the Committee on Economic Security, p. 13.

will exhaust their claims to standard benefits but still be in need. While this benefit period may be extended in some States by levying a small contribution upon the employees, it is not certain how many will adopt this method. Such a policy is, moreover., opposed by large and influential sections of popular opinion.

If a pay-roll tax is, therefore, to be used as the exclusive method of raising funds, it would seem wise to increase the maximum assessment to 4 percent; According to the actuaries, this would provide 24 weeks of benefits with a 4 weeks' waiting period, while if the waiting period were reduced to 3 weeks, 21 weeks of benefits could be paid. In other words, by increasing assessments by one-third, the length of the benefit period could be extended from 50 to 60 percent. Nor would this constitute too heavy an ultimate burden upon industry. An assessment of 4 percent upon the pay roll would amount on the average to only around nine-tenths of 1 percent of the sales value added by manufacturing, although the ratio would be higher in the service trades. It should also be remembered that the added 1 percent could be met by the Federal Government itself from taxes imposed on the upper income brackets and upon excess profits.

2. The bill is much too cautious in levying a tax of only 1 percent upon pay rolls if the index of production for the years ending October 1, 1935, and October 1936, does not exceed 84 percent of the 1923-25 average, and only 2 percent if the index is between 84 percent and 95 percent. These sums will be inadequate and will not accumulate a sufficient fund for protection. I would much prefer to have the assessment 3 percent or 4 percent from the outset, but if this cannot be done, I would suggest that the assessment be fixed at 2 percent if the index of production is less than 90, and if it exceeds this figure for it to be raised to the full amount.

3. As at present drawn, the tax upon pay rolls is levied on the basis of the total amount of the pay roll. I would suggest that this be modified to include only the amounts paid to those who are subject to unemployment insurance. These could be defined as (a) all wage earners and (b) all salaried workers receiving less than $50 or $60 per week. In this way the employers would not have to pay, as they should not be compelled to do, for employees who are not under the protection of the unemployment insurance system.

4. The bill is correct in including establishments which employ four or more wage earners. Because of administrative reasons, it would not be wise initially to lower this form of coverage any further. It is probable, however, that certain specific types of employment should be excluded initially because of the low unemployment ratios, excessive seasonal unemployment, administrative difficulties, or political reasons. I would suggest that agriculture and fishing should specifically be excluded in the beginning and also public employees and those employees of religious and charitable institutions employed on an annual salary basis. Some of these classes might be included later.

V. SUGGESTIONS IN THE FIELD OF OLD-AGE PENSIONS

While the unemployment insurance provisions of the bill are most in need of amendment, I would suggest that the maximum amount which the Government would contribute towards old-age pensions be raised from $15 a month (sec. 7) to at least $20 a month. In many cases, particularly in urban-communities, a total of $30 a month may not be adequate to provide "a reasonable subsistence consistent with decency and health" (sec. 4).

I think the provision that the States must pay half the cost of such old-age pensions will restrain them from granting excessive amounts in pensions. There is little justification, therefore, in providing that the Federal Government will not give aid in support of pensions which are in excess of $30 a month. By raising the Federal limit to $20 a month, pensions running up to $40 will be made much more possible.

I am not certain that this will necessarily entail a larger appropriation by the Federal Government since the appropriations provided seem to be based upon the assumption that 1,000,000 old people will receive such pensions. This is five times the present number protected by present State old-age pension plans. This estimate seems to me to be exceedingly generous and the added $5 a month might not necessitate the appropriation of any added sums.

Senator KING. The committee stands adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 1:35 p. m., the committee is adjourned until Thursday, Feb. 14, 1935, at 10 a. m.)