

Argued November 11 and 12, 1936

Dhananjayrao Gadgil Library



GIPE-PUNE-040727

IN THE

Supreme Court of the United States

OCTOBER TERM, 1936

Nos. 49, 50, 64

W. H. H. CHAMBERLIN, INC., *Appellant*,

vs.

ELMER F. ANDREWS, Industrial Commissioner of the State of
New York, et al.

E. C. STEARNS & CO., *Appellant*,

vs.

ELMER F. ANDREWS, Industrial Commissioner of the State of
New York, et al.

ASSOCIATED INDUSTRIES OF NEW YORK STATE, INC., *Appellant*,

vs.

THE DEPARTMENT OF LABOR OF THE STATE OF NEW YORK and
ELMER F. ANDREWS, as Industrial Commissioner of the
State of New York, et al.

ECONOMIC BRIEF FOR APPELLEES

including

The Legal Brief and Additional Documents

JOHN J. BENNETT, JR.,
Attorney-General, State of New York,

HENRY EPSTEIN,
Solicitor General,

Counsel.

STATE OF NEW YORK
DEPARTMENT OF LABOR

ELMER F. ANDREWS
Industrial Commissioner

GLENN A. BOWERS
*Executive Director, Division of Placement
and Unemployment Insurance*

X8192.7311

9)

40727

First Printing October 1936
Second Printing (revised) September 1937

“Where the constitutional validity of a statute depends upon the existence of facts, courts must be cautious about reaching a conclusion respecting them contrary to that reached by the legislature; and if the question of what the facts establish be a fairly debatable one, it is not permissible for the judge to set up his opinion in respect of it against the opinion of the lawmaker.”

Radice v. New York, 264 U. S. 292 at 294
Stephenson v. Binford, 287 U. S. 251, 272

FOREWORD TO SECOND EDITION

The second edition of the Economic Brief differs from the Economic Brief as it was submitted to the Supreme Court of the United States in November 1936 chiefly in the addition of important documents. These additions have been made to increase the utility of the document for reference purposes, and consist of the insertion, as Appendix VII, of the text of the New York State Unemployment Insurance Law, and the inclusion, as separate sections, of the Legal Brief, which was submitted to the Supreme Court of the United States in defense of that law, and the decision of the New York State Court of Appeals which was affirmed by the Supreme Court in November 1936. All the important official documents in the case are thus brought together in a single volume. The bibliography has been somewhat extended and a new section, showing the record of litigation on the State law, has been added to it. Immediately following the Introduction, a Note on Litigation has been inserted describing the progress of the case through the various courts in which the law was challenged. Minor changes include the addition of one statistical table (Appendix VI, Table 48), cross references between charts and tables, and the addition to Appendix III of an analysis of the Texas law which was passed before the New York case was argued but after the first printing of the Economic Brief. A general index has also been inserted.

MEREDITH B. GIVENS

Director of Research and Statistics

Division of Placement and Unemployment Insurance

September 15, 1937

INTRODUCTION

The economic factors entering into any serious consideration of an attempt to mitigate unemployment by means of unemployment insurance are many, complex, and profound. The preliminary report of the Joint Legislative Committee on Unemployment (February 1932) evidences a study of those factors.* No proper judicial determination of the reasonableness, appropriateness or validity of an unemployment insurance law in the State of New York is possible without an appreciation of the factual background of the statute and its relation to the problem it is designed to alleviate.

That facts condition legislation is now an accepted juristic approach to social and economic laws. Such facts are received by the courts from both inside and outside the "record," when presented from recognized, available and published sources, at least to the extent that they may determine the reasonableness of the action taken by the Legislature in relation to the evil sought to be remedied.

That the Court may have those economic factors in condensed form, the following pages and accompanying documents are respectfully submitted for consideration.

For the researches resulting in the following pages, the Attorney General acknowledges his indebtedness to Meredith B. Givens, Ph. D., Director of Research and Statistics, Division of Placement and Unemployment Insurance, New York State Department of Labor, under whose direction this Brief was prepared, and to the following associates:

C. A. Kulp, Ph. D., Professor of Insurance, Wharton School of Commerce and Finance, University of Pennsylvania

Bryce M. Stewart, Ph. D., Director of Research, Industrial Relations Counselors, Inc., New York City

* State of New York, Joint Legislative Committee on Unemployment, *Preliminary report* (1932); also *Report* (1933); see Appendix V of this Brief.

E. M. Burns, Ph. D., Lecturer in Economics, Columbia University

Leonard P. Adams, Ph. D., Bureau of Research and Statistics, Division of Placement and Unemployment Insurance; former member of staff, Central Statistical Board

Irma Rittenhouse, Bureau of Research and Statistics, Division of Placement and Unemployment Insurance; recently research assistant in a study of the basing point system of pricing conducted for the Cement Institute

Charles L. Franklin, Ph. D., Bureau of Research and Statistics, Division of Placement and Unemployment Insurance

Margaret L. Plunkett, Ph. D., Bureau of Research and Statistics, Division of Placement and Unemployment Insurance

Morris L. Ploscowe, LL. B., former Fellow, Harvard Law School, and special investigator, National Commission on Law Observance and Enforcement

Additional assistance was provided by Rollin Bennett, Ernestine L. Wilke, Gladys Dickason, Ruth Cohen, Jeanne C. Barber, Natalie F. Jaros, Maude B. Patten, Arthur R. Lewis, Eleanor King and others.

The entire Economic Brief was carefully edited by Margaret L. Plunkett. The Brief in the lower Court was edited by Martha Anderson of the National Bureau of Economic Research, Inc. The bibliography was prepared by Hazel E. Ohman. The charts were prepared by Louis Yaphé.

JOHN J. BENNETT, JR.
Attorney-General, New York State
Attorney for Appellees.

HENRY EPSTEIN,
Solicitor General,
Counsel

Albany, New York, October 30, 1936.

NOTE ON LITIGATION

The New York State Unemployment Insurance Law* became effective on April 25, 1935, four months prior to the signing of the Federal Social Security Act by President Roosevelt. This law was an attempt to establish the principle of the payment of benefits by right to unemployed covered employees, the benefits to be paid in accordance with well-defined methods of computation and specified qualifying conditions.

Opponents of the law entered into litigation against it at the first opportunity. In January 1936, immediately after the initial payment of employer contributions became due, W. H. H. Chamberlin, Inc., a firm of stationers, and E. C. Stearns & Co., dealers in hardware, both of Syracuse, N. Y., together sought a judgment, in the New York State Supreme Court of Onondaga County, declaring the law to be unconstitutional and void. On February 29, 1936 Mr. Justice Dowling handed down an opinion upholding the constitutionality of the law with the exception of that part of Section 504 which granted benefits, after a waiting period of ten weeks, to workers unemployed because of misconduct or because of a strike or other industrial controversy in the establishment in which they had been employed.

Within three weeks after this decision Mr. Justice Russell in a court of parallel jurisdiction in Albany County decided, in the case of *Associated Industries v. Elmer F. Andrews*, Industrial Commissioner of the State of New York, that the law was unconstitutional in all its provisions. The necessity therefore arose for taking

* Chapter 468, Laws of 1935, approved and effective April 25, 1935, as amended by Senate 832, Chapter 117, Laws of 1936, and by Chapter 697, Laws of 1936. The law became operative with respect to liability for contributions on January 1, 1936, with contributions payable on and after May 15, 1936. Benefits to unemployed workers are payable on and after January 1, 1938. See Appendix VII for text of the law, and following sections for the legal arguments in the Supreme Court of the United States, and the opinion of the New York State Court of Appeals which was affirmed by the Supreme Court. Since these opinions were rendered, the law has been extensively amended.

the case to the highest state court, the Court of Appeals, on constitutional grounds.

Throughout the litigation, from the lowest state court in which it was heard to the Supreme Court of the United States, the legal argument against the law remained substantially the same, namely, that the law violated Article I, Section 6 of the Constitution of New York and Section I of the Fourteenth Amendment of the Federal Constitution in that it operated to deprive plaintiff of property without due process of law and denied plaintiff the equal protection of the laws, and constituted the taking of private property for private use rather than for general public benefit. Associated Industries argued that plaintiff was deprived of its property without due process because of the imposition of contributions for the purposes set forth in the statute and in the manner and amounts prescribed; that the imposition of civil and criminal penalties deprived plaintiff of property and of liberty without due process and, further, was in violation of the tax law which forbids fines or imprisonment for non-payment of a tax; that it denied plaintiff equal protection of the laws because it was an "arbitrary, capricious and unreasonable" exercise of power and bore "no proper and substantial relation to the health, welfare and morals of the people of this state." It was argued also that the law was unconstitutional because it delegated legislative powers to an executive officer, the Industrial Commissioner.

More specifically, those challenging the law contended that it violated the constitutions of both the State and the nation by requiring that an employer pay substantial sums into a single fund to be used for the benefit of persons never in his employ, or who were employed by persons not subject to the law, or who were employed in seasonal or part-time employments, or whose employers were bankrupt, insolvent or non-existent, such sums being charged against an employer without regard to the amount of unemployment in or to the stability of his own business. They argued, further, that the law deprived plaintiff of

property without due process of law and denied him the equal protection of the laws by requiring payment of substantial sums for benefit of persons discharged because of misconduct or strikes, or for benefit of persons who voluntarily left their employment and had been fully compensated for services rendered. Employers subject to the law were required to pay these sums, while other employers were exempted from such payments, e.g., employers of three or less, employers of farm laborers, and employers of their spouses and minor children.

As to the facts in the case there was no dispute between the parties. The State denied, however, all allegations of unconstitutionality and discrimination advanced by Associated Industries on the ground that the law was enacted in the interest of the general health, welfare and morals of the people of the State, and argued that, on the basis of earlier practice, especially the principles of law established in the Workmen's Compensation cases, the law was a valid exercise of the police power of the State and was not unreasonable, arbitrary or capricious.

Mr. Justice Russell, in the Associated Industries case, refused to accept the basic argument of the State, that industry is responsible for unemployment and should, therefore, bear in part the burden of supporting idle labor; on the contrary, he asserted that industry has omitted no legal duty nor committed any wrong, and that "forces far beyond the control of industry or business have created and perhaps always will create conditions of unemployment." Mr. Justice Russell stated further that the recent decision of the Supreme Court of the United States in the Railroad Retirement case (May 1935) was binding in this case. He based his opinion, on this point, on the fact that the Supreme Court had held as violations of due process the taking of property (contributions of the employer) of one person and bestowing it upon another (payment of benefits to retired employees), and the pooling of assets for the payment of such benefits, "regardless of individual obligations and the

varying conditions" in different enterprises. He ruled out the Workmen's Compensation cases as establishing the validity of unemployment insurance on the ground that workmen's compensation dealt with a direct relation between employer and employee, but that unemployment insurance did not. He concluded that the compulsory payment of money by one employer to be used as benefit for the employee of another constitutes "an unwarranted, unreasonable and arbitrary transfer of property" and is consequently invalid.

It is obvious that a fundamental issue, an issue not exclusively legal, was joined between the State of New York and those challenging the validity of the unemployment insurance law. Plaintiffs argued that the basic assumptions of the State, both as to the necessity for such legislation and as to the responsibility for the conditions the legislation sought to alleviate, were incorrect and that the law was an arbitrary exercise of the police power and bore no relation to the public welfare. The State, on the other hand, demonstrated that unemployment among its citizens was an increasingly serious problem, that it was affected with a public interest and argued that legislation to mitigate its effects was necessary, and a proper exercise of the police power.

If the courts could be persuaded to adopt the point of view of the State on the broad public interests involved, the problem of winning acceptance of the specific means employed to mitigate unemployment would not be too difficult. The opinion of Mr. Justice Dowling in the Chamberlin and Stearns case gave the State some indication of the position which might be taken by a higher court if the State's basic argument were accepted. In that case, in the face of legal arguments similar to those used later by Associated Industries, the State had argued that the state has the power to legislate in behalf of the general health, welfare and morals of its citizens; that the adoption of an insurance medium to mitigate the economic and social costs of unemployment is a public

welfare purpose and therefore proper for state legislative action within the requirements of due process; that the use of the taxing power for a recognized public welfare purpose was established by a long line of decided cases, both federal and state, and that an analysis of the provisions of the statute indicated no feature which was not within the requirements of due process or other constitutional safeguards.

Mr. Justice Dowling accepted the facts as presented and his views were later sustained in the State Court of Appeals. He rejected the argument that industry was not responsible for unemployment, saying that "all who use the labor supply contribute to the aggregate of the problem." He quoted the decision of the United States Supreme Court in the *Nebbia* case (Milk Control law) to the effect that "so far as the requirement of due process is concerned * * * a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare * * *."

The specific objections to the law made by Chamberlin and Stearns were rejected completely, with the exception of their challenge to that part of Section 504 which allows benefit payments to workers discharged for misconduct or unemployed by reason of strikes. Reviewing the principles of law established in the *Head Money Cases*, the *Pilotage cases*, the *Sheep Dog cases*, the *Noble Bank case* (bank deposit security) and others, Mr. Justice Dowling said, "The pertinence of these cases to the purpose and plan of unemployment insurance is inescapable." "The power of the state to raise money by taxation is complete in itself. The legislature has the widest discretion in selecting classes of persons, property or pursuits upon which a tax may be imposed." In answer to the objection of plaintiffs to the pooled fund established under the law, he said, "The argument for the pooled method is persuasive indeed in the case of Unemployment Insurance since it is impossible to measure the effect of any one cause inducing unemployment. The

complexity and interdependence of all causes demonstrate that it is industry as a whole which is responsible for unemployment."

Proceeding further Mr. Justice Dowling denied that the ruling on the Railroad Retirement Act was binding in this case; he rejected also the arguments that the provisions of the law forbidding the deduction of part of the required contribution from the wages of employees or the making of an agreement with employees to that end was a violation of freedom of contract, that the application of the law to employers of four or more persons was an arbitrary classification and that the act was invalid because persons in no immediate need were entitled to benefits. The interpretation of the law, in summary, concluded that the object of the law was of great public moment, that it did not interfere with personal liberty or with property rights, that the charges placed upon employers were not so burdensome as to be manifestly oppressive, that the burden was fairly distributed having regard to the causes that gave rise to the need for the legislation and that, with the exception of Section 504, the Act promoted the general welfare and was therefore a valid exercise of the police power of the State, and was not a violation of the Constitution of the State of New York or of the Fourteenth Amendment of the Constitution of the United States.

Much more interesting to the student of social science were the Justice's remarks as to the position and rights of labor in modern industrial society. "We are too definitely committed", he said, "to a programme of security for those who toil to even think of retracing our steps. Industry rebelled against Workmen's Compensation, yet it proved a blessing to it and to the toilers as well. Industry, with its resourcefulness, will find a way to operate efficiently and profitably under Unemployment Insurance and ultimately will accept it as a blessing. After all, the benefit the worker will receive under the Act is in a sense his share of the profits he helped to create. The workingman is entitled to a job."

Although the adverse decision of the Supreme Court in Albany County followed, in point of time, the Chamberlin & Stearns case, and thus made necessary an appeal by the State to a higher court, the defenders of the law were encouraged by Mr. Justice Dowling's enlightened opinion. In presenting its case to the Court of Appeals, therefore, the State made a special effort to present the facts and to establish the validity of the assumptions upon which the Legislature acted in passing the law. To this end it submitted, in addition to its Legal Brief, an Economic Brief which, in its main outline and general substance, though less elaborate in form, was the same as the Economic Brief which forms the bulk of this volume. In his argument in favor of the law the Solicitor General of the State also presented a series of statistical exhibits in graphic form illustrating the basic economic factors underlying the Unemployment Insurance Law, namely, fluctuations in business activity in the United States, 1831-1935; expenditures from public and private resources for relief in New York City, 1910-1935; unemployment during prosperous years, 1920-1929; business failures in New York State and in the United States, 1900-1935; distribution of income; usual occupations of workers, and others. These charts, it is felt, played no small part in portraying vividly to the Court the urgency of the problem of unemployment.

Opponents of the law undertook to answer the economic arguments presented by saying that unemployment was not, under normal conditions, a wide-spread and growing problem, that no long-run decline in business stability and expansion is evident, and that unemployment insurance could not take care of unemployment during depressions. They went further and argued that the measure would increase rather than decrease unemployment by causing employers of four persons to discharge one employee in order to avoid paying a tax altogether, and by causing marginal concerns to go out of business entirely through inability to assume the additional operating expense im-

posed by this tax. The measure was referred to as "collectivist," and "having for its avowed object the transfer of money from some members of one class of the population to a limited number of another class." The State, presenting essentially the same legal arguments as in the lower courts, asked the Court of Appeals to apply "a dynamic philosophy of the Constitution to the changing circumstances of our social problems rather than a static philosophy."

On April 15, 1936, the Court of Appeals, in a 5 to 2 opinion, upheld the law on all points, including Section 504 granting benefits to persons unemployed for misconduct or because of strikes. It specifically refused to accept as binding in this case the opinion of the United States Supreme Court in the Railroad Retirement case.

On certain specific points, such as the granting of administrative powers to the Industrial Commissioner, and the legality of the deposit of employer contributions in a Federal Trust Fund, the decision of the Court of Appeals was final. Certain other broader features of the Act, however, remained to be settled conclusively by the Supreme Court of the United States, namely:

1. The validity (reasonableness) of the burden placed on employers alone for the benefit of unemployed employees.
2. The validity (reasonableness) of burdening employers of four or more persons and exempting employers of less than four.
3. The validity (reasonableness) of the uniformity of the burden, without regard to the merits of each plant or industry in relation to unemployment experience.
4. The validity (reasonableness) of the central pool of all contributions as a source of benefits, without a provision relating contributions or benefits to the

particular employer's employees or his record of employment experience.

5. The reasonableness of the three per cent payroll contribution.

Following the decision of the State Court of Appeals, the three parties contesting the validity of the law combined forces and carried their cases jointly to the Supreme Court of the United States. Arguments of counsel on both sides were heard on November 11-12, 1936, Mr. Justice Stone not sitting because of illness. Hon. Henry Epstein, Solicitor General of the State of New York, defended the constitutionality of the law, and Messrs. Henry S. Fraser, Frederick H. Wood and James McCormick Mitchell argued in opposition for the appellants.

In general, the same legal arguments were used as had been presented to the lower courts. Several changes of emphasis, however, were apparent. Appellants conceded, in the main, the facts presented in the State's Economic Brief in respect of the existence and effects of unemployment. They contended, however, that "in most cases unemployment results without fault or responsibility on the part of the employer, due to causes beyond his control." Their principal attack was directed not against the theory of unemployment insurance, but against certain aspects of the New York State Law, such as the provision for a pooled fund, the absence of a merit rating system by which employers would pay into the fund in proportion to the amount of their unemployment experience, and the absence of a "means test" for those receiving benefits. Finally they argued that "any claim of economic or social need for the enactment is irrelevant" because in its specific provisions the law is a violation of the due process clauses in both the State and Federal Constitutions.

In his defense of the constitutionality of the law the Solicitor General did not use so extensively as he had in the Court of Appeals, the precedents established in the Workmen's Compensation cases. His argument, in

general, was a defense of the use of the police power of the state for a public welfare purpose. To justify the exercise of this power, he relied mainly upon the factual material presented in the Economic Brief. In addition he presented twenty-three charts illustrating the economic conditions which influenced the legislature in passing the law.

Summing up the case, the Solicitor General argued that the Unemployment Insurance Law "relieves some of the demonstrated economic evils of unemployment inherent in our economic and social system; relieves the taxpayers of the added relief burden otherwise incurred; maintains purchasing power when most needed, with resultant stabilizing effects on industry and commerce; and conduces to the public welfare."

The Supreme Court did not long delay in arriving at a decision. On November 23, 1936, in the absence of Mr. Justice Stone, the court divided equally, four voting in favor of the constitutionality of the law and four against it. This four to four split constituted a decision in favor of the law, since in all instances of an equally divided court, the practice of the Court is to affirm the order of the court from which the appeal was taken. The vote of the individual Justices was not revealed and no opinion accompanied the decision. The Court disposed of the matter in a single sentence saying "The judgments in these cases are severally affirmed by an equally divided court."

By this action the unemployment insurance program for the State was given the signal to proceed, but in the absence of an opinion, the opponents of the law were not convinced that the case was closed. Accordingly, they filed, on December 14, a petition for a rehearing and reargument before a full bench. The State immediately filed an answer denying that there was any "sound or substantial basis" for a rehearing and cited previous legal opinions that a judgment of affirmance by an equally divided court constitutes a conclusive determination of the

matter adjudged. The Court delayed action on the petition until May 24, 1937 when it refused to reopen the case, thereby settling the legal controversy as far as the New York law was concerned.

On this same date, however, much broader constitutional questions relating to unemployment insurance were settled. Although the New York case had been the first to reach the Court, it did not involve the Federal Social Security Act, nor did the Court's 4 to 4 decision, rendered without opinion, clarify the constitutional issues involved in state laws. For these reasons other unemployment insurance cases originating in Massachusetts and Alabama have significance here.

In so brief a space it is impossible to discuss in detail the cases which on May 24 elicited from the Supreme Court its views on the constitutionality of the comprehensive federal social security program. With the old age benefit plans we are not here concerned. But since the Court's final opinions on the unemployment insurance phases of the social security program, upheld by a 5 to 4 vote, are undoubtedly also an expression of its views on the New York law, it is appropriate to outline those opinions here. In the Southern Coal and Coke Company case brought in challenge of the Alabama State Unemployment Insurance Law, some of the questions involved were similar to those in the New York case, e.g., the legality, under the due process clause of the 14th Amendment, of the taxes levied, the pooling of the funds so collected, the exclusion of certain classes of employees, and the exemption of others. Certain phases of the Alabama law, e.g., questions as to the legality of a tax on employees, and alleged coercion of a state by the operations of the Social Security Act, were not involved in the New York case. On points that were pertinent to the New York law, the Court was explicit. It held that not only did the payroll contribution have "all the indicia of a tax" but was also "of a type traditional in the history of Anglo-American legislation". A state is free "to select

the subjects of taxation and to grant exemptions", and inequalities resulting therefrom "infringe no constitutional limitations". This principle applies also to the choice of beneficiaries of the tax. The Court specifically stated that administrative considerations may explain exemptions such as domestic employers, farmers and family businesses.

As to the validity of the tax as determined by its purposes, the Court held that "the existence of local conditions which, because of their nature and extent, are of concern to the public as a whole, the modes of advancing the public interest by correcting them or avoiding their consequences, are peculiarly within the knowledge of the legislature, and to it, and not to the courts, is committed the duty and responsibility of making choice of the possible methods". The Court accepted the views of numerous studies which indicate that "unemployment apparently has become a permanent incident of our industrial system", and concluded that the relief of unemployment is a proper public purpose. It also held legal the payment of benefits to persons unemployed even though for misconduct or for participation in strikes, since such persons are involved in a general problem, and denied the existence of any Constitutional requirement that the burden of a tax for unemployment benefits be placed exclusively on those who cause or contribute to unemployment.

As to the validity of the Federal Social Security Act, upon which in the final analysis the practicability of state laws rests, the Court said, in summary, that the federal tax, like the state taxes, is a valid one, the classifications and exemptions can not be condemned as arbitrary, and that the statute does not involve the coercion of the states, but is merely "an attempt to find a method by which all these public agencies may work together to a common end".

The dissenting Justices were concerned mainly with what they regarded as the surrender of state sovereignty and the tendency of both federal and state laws to con-

centrate more and more power in the hands of the Federal government. The majority of the Court, on the other hand, took a quite different position. Its attitude toward the changing social order is best expressed by Mr. Justice Cardozo in his opinion on old-age benefits, "Needs that were narrow or parochial a century ago may be interwoven in our day with the well-being of the nation. What is critical or urgent changes with the times." Upon this general philosophical basis, unemployment insurance is now constitutional throughout the United States, and the Federal Constitution has been found adaptable to the needs of a dynamic society.

* * * * *

Even though no opinion was rendered as a result of the New York litigation, the Economic Brief played no small part in the final disposition of the unemployment insurance cases. It was used freely by the State of Alabama in presenting its case in the State courts and in the Federal Supreme Court. It was used also by other states, in litigation in their state courts. The extent to which it was drawn upon in the defense of Title IX of the Social Security Act, in its final test in the Supreme Court, is indicated by the following acknowledgment from the office of the Solicitor General of the United States:

"Without your excellent brief in *Chamberlin v. Andrews*, we never could have gotten out our brief in Title IX of the Social Security Act in four days. You will see from pages 9 to 29 [of the Federal Brief in the *Steward Machine Company* case] to what extent we have directly relied upon the material that you presented to the Supreme Court earlier this term. But no direct acknowledgment even suggests how large is our debt."

THE ARGUMENT

- I With the growth of industrialization unemployment has become a widespread and growing burden which weighs upon all groups, classes and localities. A substantial volume of unemployment persists at all times, even during prosperity. Its direct cost to the community is reflected in steadily mounting expenditures, both public and private, for unemployment relief. Its indirect costs are reflected in a general impairment of purchasing power, business activity, economic well-being and social morale. The alleviation of its harmful effects is an imperative public responsibility.
- II Unemployment is a consequence of instability in industry and trade, and as such, is a problem of the business community as a whole. Its principal causes may be distinguished, but they can not be dissociated from one another, nor can they be weighted with precision, either at a given time or over a period. Only to a minor and uncertain extent can they be dealt with by individual firms or industries. They are associated, on the one hand, with the economic interdependence of all industries, geographic areas and social groups, and on the other hand, with the maladjustments of the labor market.
- III The multiple and continually shifting manifestations of unemployment must be dealt with as a whole. The growing magnitude of unemployment, its complicated nature, and the failure of old methods of individual treatment call for a concerted approach by industry. Through a pooled fund available to meet the difficulties brought about by unemployment wherever it arises the employees of individual industries and firms can most

effectively be assured of the protection needed, and the benefits of sustained consumption will be extended to the community at large.

- IV The cost of unemployment insurance is reasonably allocated by means of an employer contribution based on payrolls. Although employers are the sole direct contributors, it is the consensus of expert opinion that, in general, the cost will be borne ultimately by consumers or wage earners or both. Usually it will not fall on profits. The cost can be easily shifted because it is small compared with the value of the products in the industries covered by the Law. Unlike the sales tax, however, the payroll tax is cumulated, not pyramided, and thus prices will never be raised as much as three per cent, even if the entire burden is shifted to consumers.

40727

CONTENTS

PART I

THE EXTENT AND BURDEN OF UNEMPLOYMENT

A	The Nature of Unemployment	1
B	The Volume of Unemployment in the United States and in New York State	9
C	Widespread Incidence of Unemployment	20
D	The Workers' Readjustment—The Lag in Reemployment	25
E	Growing Burden of Unemployment Relief Borne Increasingly by Public Funds	28
F	Effects of Depression on National Income	44
G	Social Wastage Due to Unemployment	46

PART II

INTERDEPENDENCE AND INSTABILITY OF INDUSTRY THE SOURCE OF UNEMPLOYMENT

A	The Tangled Roots of Unemployment	61
	1 Instability an Inevitable Result of Highly Developed Division of Labor	61
	2 There Are No Sheltered Trades; Every Industry and Trade Exposed to the Hazards of Instability	67
	3 Stable Industries Contribute to Instability and Unemployment in Other Industries	73
B	Persistence of the Sources of Unemployment	79
	1 Unemployment Due to Seasonal Variations	79
	2 Fundamental Changes in the Industrial Structure as Sources of Unemployment	83

xxiv

3	Migration of Industry	89
4	The Rise and Fall of Concerns	91
5	Cyclical Unemployment	93
C	Ineffectiveness of Individual Effort to Meet the Problem of Unemployment	94
1	Individual Efforts to Stabilize Plant Operations	94
2	Private Unemployment Benefit Plans	99

PART III

UNEMPLOYMENT INSURANCE AS A MEANS OF MEETING
THE UNEMPLOYMENT RISK

A	The Nature of Unemployment Insurance	112
B	Advantages of Compulsory Unemployment Insurance	116
1	Pooling of Risks	116
2	Advantages to the Community as a Whole	120
3	Advantages to the Worker	124
4	The Scope of the New York Unemployment Insurance Law	125

PART IV

REASONABLENESS OF THE PAYROLL TAX

A	Appropriateness of the Tax	127
B	The Incidence of the Payroll Tax	129
C	Opinions of Experts	131
D	Cost of the Tax	134
E	Payroll Tax Contrasted With Sales Tax	137

APPENDICES

I	Statements by American Business Men in Favor of Unemployment Insurance	141
II	Operation of the British Unemployment System	146
III	Summary of Unemployment Compensation Laws, United States, November 11, 1936	164
IV	Unemployment Insurance Laws in Foreign Countries	176
V	The Background for Unemployment Insurance in New York State (including list of bills on unemployment insurance introduced in the New York State Legislature, 1921-1936)	178
VI	Statistical Appendix	190
VII	Text of New York State Unemployment Insurance Law	211
	LEGAL BRIEF FOR APPELLEES	241
	MAJORITY AND MINORITY OPINIONS IN THE NEW YORK STATE COURT OF APPEALS	303
	BIBLIOGRAPHY	
	A Unemployment Insurance	323
	B Official New York State Publications Preceding the Enactment of the Law	329
	C Litigation Materials	331
	D General References	332
	LIST OF TABLES	341
	LIST OF CHARTS	345
	INDEX	347

LIST OF TABLES

PART I

1	Number and Percentage Distribution of Wage Earners in Manufacturing Industries, New York State and United States, 1933	7
2	Number and Percentage Distribution of Gainful Workers, Ten Years Old and Over, by Occupation, New York State and United States, 1930	8
3	Estimated Unemployment, Insurable Labor Force, United States, 1922-1933	11
4	Unemployment in Selected Industries, United States, January 1929, January 1933 and January 1935	13
5	Average Non-Agricultural Unemployment in the United States, by Leading Industrial States, 1930-1933	16
6	Estimated Unemployment, Insurable Labor Force, by States, 1930-1933	18
7	Distribution of Workers Among Insurable Occupational Groups, March 1936 (Persons Eligible for W. P. A. Employment)	21
8	Unemployment of Males Able and Willing to Work, by Industry Group, Syracuse, November 1931	23
9	Unemployment Status of Males, by Industry Group, Buffalo, 1929-1933	24
10	Public Emergency Relief Expenditures, Classified by Source of Funds, United States, 1933-1935	30
11	National Income Paid Out, by Type of Payment, 1929-1935 (as percentages of 1929)	44

PART II

12	Unemployed Able and Willing to Work, Industries Largely Insurable, State of New York, April 1930	69
13	Bell Telephone System, Employees, 1913-1935	70
14	Electric Light and Power Industry Employees, United States, 1926-1934	70
15	Employment, State of New York, 1921-1935	71
16	Trend of Factory and Steam Railroad Employment, 1919-1935	86
17	Main Provisions of Company Unemployment Benefit Plans	102

PART IV

18	Three Per Cent Payroll Tax Compared with Value of Products of Leading Manufacturing and Trading Industries, New York State, 1933	135
----	--	-----

APPENDIX IV

19	Unemployment Insurance Laws in Foreign Countries	
	A Compulsory Unemployment Insurance Laws and Number of Workers Covered	176
	B Voluntary Unemployment Insurance Laws and Number of Workers Covered	177

APPENDIX VI

20	Unemployment in Manufacturing, Transportation, Building Trades and Mining, United States, 1897-1926	190
----	---	-----

21	Estimated Total Gainful Workers, Employment and Unemployment in Non-Agricultural Industries, United States, 1920-1934	190
22	Estimates of Unemployment in the United States	191
23	Unemployment During Prosperous Years, United States, 1920-1929	193
24	Trend of Relief, United States, 1929-1935	194
25	Expenditures from Public Funds for Relief, New York State, 1910-1934	194
26	Public and Private Expenditures for Relief and Its Administration, New York City, 1910-1935	195
27	Index Numbers of Factory Employment and of Relief Expenditures, Five Cities, New York State, 1929-1936	196
28	Index Numbers of Factory Employment and of Relief Expenditures, Sixteen Cities, United States, 1926-1932	197
29	Index Numbers of Factory Employment and of Relief Expenditures, Thirty Cities, United States, 1929-1936	198
30	Relief and Welfare Expenditures, New York State, 1929-1934	199
31	Index Numbers of Employment in the United States and Employables on Relief in 13 Cities, by Selected Industries, Dec. 1934-Dec. 1935	199
32	Business Failures in New York State and in the United States, 1900-1935	200
33	Estimated Number of Rural and Town Families Receiving Relief, by Farm Tenure, February 1935	200
34	Index Numbers of Employment in All Manufacturing Industries, Jan. 1923-Apr. 1936	201

35	Automobile Production and Steel Mill Employment in the United States, 1933-1935	202
36	Index Numbers of Productivity in Manufacturing Industries, United States, 1899-1929	202
37	Index Numbers of Factory Employment in the United States, 1919-1936	203
38	Index Numbers of Machine Tool Orders in the United States, 1919-1936	203
39	Index Numbers of Industrial Production in the United States, 1919-1936	204
40	Construction Expenditures and Employment in the Production of Six Major Construction Materials, United States, 1925-1933	204
41	Number and Value of Construction Contracts Awarded, New York State and United States, 1919-1935	205
42	Index Numbers of the Trends of Manufacturing Operations, 1919-1933	205
43	Index Numbers of Manufacturing Output in the United States—Perishable, Semi-Durable and Durable Goods, 1929-1936	206
44	Savings of Non-Farm Families, United States, 1929	206
45	Usual Occupations of Workers, March 1935	207
46	Distribution of Income, United States, 1929	207
47	National Income Paid Out, by Type of Payment, 1929-1935	203
48	Average Percentage of Unemployment in New York Trade Unions in Manufacturing, Transportation, Building Trades, and Other Occupations, 1897-1916	209

LIST OF CHARTS

PART I

1	Business Activity in the United States, 1831-1935	4
2	Trend of Manufacturing Operations, 1919-1933	6
3	Trend of Construction Activity, 1919-1935 (Total Construction Contracts Awarded)	7
4	Estimates of Unemployment in the United States	10
5	Percentage of Unemployment in the United States, 1897-1933	12
6	Unemployment in Non-Agricultural Industries, United States, 1920-1934	14
7	Unemployment in Manufacturing, Transportation, Building Trades and Mining, United States, 1897-1926	15
8	Distribution of Workers among Insurable Occupational Groups, March 1936 (Persons Eligible for W. P. A. Employment)	22
9	Expenditures from Public Funds for Relief, New York State, 1910-1934	31
10	Relief and Welfare Expenditures, New York State, 1929-1934	32
11	Public and Private Expenditures for Relief and Its Administration, New York City, 1910-1935	34
12	Employment and Relief, Five Cities, New York State, Jan. 1929-Apr. 1936	35
13	Employment and Relief, Thirty Cities, United States, Jan. 1929-Apr. 1936	36
14	Employment and Relief, Sixteen Cities, United States, Jan. 1926-Feb. 1932	37
15	Employment and Relief, Rochester, N. Y., 1920-1931 and Jan. 1929-Apr. 1936	38

16	Employment and Relief, Detroit, Mich., 1920-1931 and Jan. 1929-Apr. 1936	39
17	Employment and Relief, New York, N. Y., 1920-1931 and Jan. 1929-Apr. 1936	40
18	Employment and Relief, Buffalo, N. Y., Jan. 1929-Apr. 1936	41
19	Employment and Relief, Syracuse, N. Y., Jan. 1929-Apr. 1936	41
20	Employment and Relief, Utica, N. Y., Jan. 1929-Apr. 1936	42
21	Employment in the United States and Employables on Relief in 13 Cities, by Selected Industries, Dec. 1934-Dec. 1935	43
22	National Income Paid Out, by Types of Payment, 1929-1935	45

PART II

23	Automobile Production and Steel Mill Employment in the United States, Sept. 1933-Aug. 1935	66
24	Employment in All Manufacturing Industries, Jan. 1923-Apr. 1936	68
25	Manufacturing Output in the United States—Perishable, Semi-Durable and Durable Goods, Jan. 1929-Mar. 1936	74
26	Construction Expenditures and Employment in the Production of Six Major Construction Materials, United States, 1925-1933	76
27	Machine Tool Orders Compared with Industrial Production and Factory Employment, United States, Jan. 1919-Mar. 1936	77
28	Productivity in Manufacturing Industries, United States, 1899-1929	85
29	Business Failures, 1900-1935	92

INDEX

- Amoskeag Manufacturing Company, closing of Manchester plant, 91 (footnote)
- Automobile production, influence on man hours worked in steel industry, 65-66
- Bell Telephone System, employment in, 1913-1935, 70
- Bethlehem Steel Company, importation of labor to Lackawanna, N. Y., 90
- Blanesburgh Committee (Great Britain):
 —on malingering, 158
 —on value of unemployment insurance, 147-148
- Boot and shoe industry, employment in New York State irregular, 72
- Brookings Institution:
 —study of displaced workers, 25
 —study of incomes and savings of workers, 47
- Buffalo, N. Y.:
 —employment and relief in, 41
 —special investigation of unemployment in, 20, 22-24
 —unemployment conditions in, 19 (footnote)
- Business activity:
 —effect of workers' income upon, 44, 46
 —effect on employment of fluctuations in, 17, 70, 94
 —increasing amplitude of fluctuations in United States, 3-5
 —New York State's share in fluctuations, 5
- Business failures, in New York State and United States, 91-94
- Causes of unemployment, *see* Unemployment, sources of
- Chicago, study of displaced workers, 27
- Children's Bureau (U. S.), study of incomes of unemployed, 48
- Committee on Economic Security, unemployment estimates of, 13, 17
- Committee on Industry and Trade (Great Britain):
 —on effect of insurance on workers, 157
 —on value of unemployment insurance, 149
- Committee on Recent Economic Changes, unemployment estimates of, 15
- Consolidated Gas Company, employment in, 1926-1934, 70-71
- Construction:
 —activity, 5, 7
 —effect of construction programs on employment, 75-76
 —extent of seasonal unemployment in New York State, 82
- Cyclical unemployment:
 —nature and extent of, 93-94
 —uses of unemployment insurance in relation to, 94 (footnote)
- Displaced workers, *see* Workers
- Douglas, Paul H., unemployment estimates, 12, 13, 15

Electric light and power industry:

- effect of construction programs on employment, 75
- employment in, 1926-1934, 70

Employment:

- and changes in industrial structure, 83-88
- and interdependence of industry, 64-73
- and migration of industry, 89-90
- and relief, 19-25, 35-43
- in stable and unstable industries, 71, 73-78
- New York State and United States, 5-8
- see* Business activity, Business failures, Labor market, Labor reserve, Manufacturing, New York State, New York State Unemployment Insurance Law, Seasonality, Stable industries, Stabilization, Technological displacement, Unemployment, Workers

Employment offices:

- use in organizing labor market, 90-91 (footnotes), 120, 123-124, 180
- see* New York State Unemployment Insurance Law

Food and tobacco, employment in New York State, 1921-1935, 71**Gas, manufactured, employment in, 71****General Electric Company:**

- production of turbines dependent on individual orders, 77
- stabilization of production of electric light bulbs, 75

Hartford, Conn., study of displaced workers in, 27**Index to Legal Brief, 297-301****Insurance, general principles of, 112-116, 128****Interdependence of industry and trade, 61-78****Joint Legislative Committee on Unemployment (N. Y.):**

- created, 178
- final report of, on soundness of unemployment insurance principle, 180
- Preliminary report* of,
 - on causes of unemployment, 179-180
 - on skilled workers, 27
 - on enactment of unemployment insurance law, 180
 - submitted to legislature, 179

Kuznets, Simon, on incidence of burden of seasonality, 78**Labor market, 25, 90-91 (footnote), 112, 123-124**

- see* Employment offices

Labor reserve, 2-3:

- competition inadequate to care for, 3
- cost of maintaining, 119
- growing in manufacturing, 87
- private agencies inadequate to care for, 28 (and footnote)

Labor turnover, 87-88**Legal Brief, 240-296**

- see* Index to Legal Brief, 297-301

Legislation, *see* Unemployment insurance

Litigation:

- Note on, vii-xix
- Majority opinion, Court of Appeals, 304-311
- Minority opinion, Court of Appeals, 312-322

Lubin, Isador, study of displaced workers, 25-26

Malingering:

- avoided under New York law, 121-122
- in Great Britain, 158-161

Manufacturing:

- decline of employment in, 85-88
- decline of wages in manufacturing and other industries, 44-46
- distribution of wage earners in, 7
- effect of employment in, on relief expenditures, 36-43
- effect of unemployment in, 25
- increasing volume of unemployment in, 87-88
- irregularity of employment in, 72
- New York State compared with United States, 6, 7, 68-69
- patterns of manufacturing activity, 5
- unemployment estimates in, 15

Merit rating, 118-119, 126 (addendum)

- see* Pooled funds, New York State Unemployment Insurance Law

Migration of industry, 89-90, 98:

- uses of unemployment insurance in relation to, 90-91 (footnote)

National income, effects of depression on, 44-46

New Haven, Conn., study of displaced workers in, 26-27

New York City:

- effect of unemployment on social behavior, 55
- employment and relief in, 32-34, 37, 40
- unemployment conditions in, 19 (footnote)

New York State:

- background of unemployment insurance in, 178-189
- birth rates in, 55
- business failures in, 91-93
- concern with unemployment in past, 17
- construction industries in, 5, 7
- Court of Appeals, opinions of, 304-322
- decline in factory employment, 1919-1929, 73
- distribution of unemployment in upstate area, 20
- employment in relatively stable industries, 1921-1935, 71
- factory workers in, 5
- federal census of unemployment, 69
- information regarding volume of unemployment, 17
- Joint Legislative Committee, 27, 178-180
- manufacturing activity compared with United States, 5-7
- manufacturing employment, fluctuations in, 68-69
- manufacturing establishments, percentage in, 5
- marriage rate in, 54
- Preliminary report on unemployment*, on technological displacement, 88
- printing, productivity in, compared with rest of United States, 72
- protection of unemployed, 28-29
- public policy on unemployment insurance, as stated in law, 212-213 (§ 500)

New York State (cont.):

- relief expenditures in, 29-33, 38, 41, 42
- savings, 48
- seasonal burden on garment industry workers, 78
- seasonal unemployment estimate, 82
- share in national business fluctuations, 5
- study of regularization programs, 94-95
- unemployment in, 16-18, 69
- see New York State Unemployment Insurance Law

New York State Unemployment Insurance Law, 82, 111-112, 117-118, 121-122, 125-126, 129, 181, 211-239:

- administration of law:
 - appeal board, 223-225 (§ 510, 4-7), 229-230 (§ 518, 6)
 - by Industrial Commissioner, 227-228, 229 (§ 518, 1, 2, 3, 5)
 - disclosures prohibited, 236-237 (§ 524)
 - expenses of, 237 (§ 525)
 - expenses of hearings, 237-238 (§ 526)
 - funds for, 230-231 (§ 520)
 - state advisory council, 228-229 (§ 518, 4)
- advisory council:
 - defined, 228 (§ 518, 4)
 - duties, 228-229 (§ 518, 4)
- appeal board:
 - defined, 229-230 (§ 518, 6)
 - duties, 223-226 (§ 510, 4-7), 233-234 (§ 523, 1)
- attorneys, compensation of, 225 (§ 511)
- benefits:
 - adjudication and payment of, 222-225 (§ 510)
 - amount of, 218 (§ 503, 3e), 219 (§ 505, 1, 2), 220 (§ 507)
 - assignment of, forbidden, 226 (§ 513)
 - defined, 216 (§ 502, 5)
 - disqualification for, 218 (§ 503, 3d), 219-220 (§ 506)
 - duration of, 218 (§ 503, 3e)
 - for part-time employment, 221-222 (§ 509)
 - for seasonal unemployment, 220-221 (§ 508)
 - jurisdiction over, 219 (§ 505, 2)
 - liability (qualifications) for payment of, 217-218 (§ 503)
 - limitation of, 220 (§ 507)
 - qualifications for, 217-218 (§ 503, a, b, c, d)
 - waiting period prerequisite to payment of, 218-219 (§ 504, 1, 2)
- claims:
 - adjudication and payment of, 222-225 (§ 510)
 - of attorneys, 225 (§ 511, 2, 3)
 - of creditors, 226 (§ 513)
- Commissioner of Taxation and Finance, 230 (§ 519), 231 (§ 520), 237 (§ 525)
- contributions:
 - amount of, 227 (§ 516)
 - collection of, in case of default, 231-232 (§ 522)
 - employees not allowed to make, 227 (§ 517)
 - payment of, 214-215 (§ 502, 3), 226-227 (§ 515)
 - provisions governing assessment and collection of, 232-236 (§ 523)
 - refunds, 235-236 (§ 523, 3)
- employee:
 - agreement to contribute void, 227 (§ 517)
 - defined, 214 (§ 502, 2, 3)
 - disqualification for benefits, 218 (§ 503, 3d), 219-220 (§ 506)
 - part-time, defined, 221-222 (§ 509)
 - procedure in claiming benefits, 222-225 (§ 510)
 - qualifications for benefits, 217-218 (§ 503, a, b, c, d)

New York State Unemployment Insurance Law (cont.):

- employee (cont.):
 - seasonal, 220-221 (§ 508)
 - wages of, 216-217 (§ 502, 6)
 - waiting period, 218-219 (§ 504, 1, 2)
 - waiver agreement void, 226 (§ 512)
- employer:
 - defined, 214-216 (§ 502, 3)
 - liable for contributions, 215 (§ 502, 3), 226 (§ 515, 1, 2), 227 (§ 516)
 - must keep record and audit of payrolls, 231 (§ 521)
 - not allowed to make deductions from wages, 227 (§ 517)
 - penalties for delinquency in payment of contributions, 231-232 (§ 522), 232-235 (§ 523, 1, 2)
 - subcontractor, 215 (§ 502, 3)
- employment:
 - defined, 213 (§ 502, 1), 217 (§ 502, 9), 221-222 (§ 509)
 - regularization of, 227-228 (§ 518, 3)
 - seasonal, 220-221 (§ 508)
 - suitable, 219-220 (§ 506)
- employment offices:
 - duties of manager, 222-224 (§ 510, 3, 4, 5, 6), 229 (§ 518, 5)
 - provisions concerning, 218 (§ 503, 3d), 222-224 (§ 510), 227 (§ 518, 2), 229 (§ 518, 5)
- fund, *see* Unemployment Insurance Fund
- Industrial Commissioner:
 - administrative duties, 227-228, 229 (§ 518, 1, 2, 3, 5)
 - determination of benefits for part-time employment, 221-222 (§ 509); for seasonal unemployment, 221 (§ 508)
 - duties of, in connection with penalties, 231-236 (§ 522, § 523)
 - jurisdiction over benefits, 219 (§ 505, 2)
 - may not charge fees, 225 (§ 511, 1)
 - must report on expenses of administration, 237 (§ 525)
 - prescribes rules for payment of benefit claims, 222-224 (§ 510, 1-5)
 - requisitions funds from Unemployment Trust Fund, 227 (§ 515, 3), 230 (§ 519)
- merit rating, provision for study of, 229 (§ 518, 4)
- partial unemployment, study of, provided for, 238 (§ 527)
- payroll:
 - defined, 216 (§ 502, 7)
 - record and audit of, 231 (§ 521)
- penalties:
 - civil actions, 232 (§ 522, 5)
 - for default in payments, 231-232 (§ 522, 1-5), 234-235 (§ 523, 2), 238 (§ 528, 2)
 - for failure to file reports, 232-233, 234-235 (§ 523, 1a, 2)
 - for making deductions from wages, 238 (§ 528, 3)
 - for making false statements, 238 (§ 528, 1)
 - for refusing information to Commissioner, 238 (§ 528, 3)
- public policy, 212-213 (§ 500)
- records and audits, 231 (§ 521):
 - failure to file, 232-233 (§ 523, 1a)
 - reports to Social Security Board, 236 (§ 524)
- refunds, 235-236 (§ 523, 3)
- saving clause, 239 (§ 531)
- seasonal employment, 220-221 (§ 508)
- separability clause, 239 (§ 530)
- unemployment:
 - partial, study of, provided for, 238 (§ 527)
 - total, defined, 217 (§ 502, 10)
- unemployment administration fund, 230-231 (§ 520)

New York State Unemployment Insurance Law (cont.):

- unemployment insurance fund:
 - contributions to, by employers, 227 (§ 516)
 - defined, 226 (§ 514)
 - liability for benefit payments, 217, 218 (§ 503, 1, 3d)
 - New York State not a contributor to, 239 (§ 529)
 - purpose of, 226 (§ 514)
 - sole source of benefits, 239 (§ 529)
- unemployment trust fund (U. S.):
 - described, 226-227 (§ 515, 3)
 - State Commissioner of Taxation and Finance custodian of funds received from, 230 (§ 519)
- wages:
 - defined, 214, 216-217 (§ 502, 2, 6, 8)
 - no deduction allowed for contribution to insurance fund, 227 (§ 517)
- waiting period, 218-219 (§ 504, 1, 2)
- see Litigation, New York State

Occupations:

- growth of distributive, professional and service trades, 88
- increasing differentiation in, 65
- numbers dependent on factory employment, 86-87

Payroll tax:

- absorption of, by employers, 130
- and production costs, 134-138
- appropriateness of, 127-129
- contrasted with sales tax, 137-138
- cost of, 134-136
- effect of graduated, 118 (and footnote)
- effect on profits, 130-131, 134
- employers' ability to shift, 129, 130-134
- incidence of, 129-131
- opinions of experts, 131-134
- ratio to total sales value of products, 136
- uniformity of, 123, 127

Philadelphia, Pa., survey of unemployed workers in, 47

Pooled funds, use in unemployment insurance, 112, 116-120, 126 (addendum)

Printing:

- and paper goods, New York State, employment, 1921-1935, 71-72
- dependence on other trades, 66 (footnote)
- technological changes in New York State affect employment, 72

Private unemployment benefit plans, 99-107

Public utilities:

- contribution to the unemployment burden, 75
- employment in, 70-71

Radios, attempt to coordinate production, 77-78, 98

Railroad industry:

- decline in employment, 1919-1935, 86
- dependence on steel industry, 65
- effect on construction materials industries, 75
- standards of living among railway workers, 51

Recent economic changes, *Report* of President Hoover's committee, unemployment estimates of, 15

Recent social trends, *Report* of President Hoover's committee, causes of instability, 62-63

Reemployment, 25-27

—*see* Technological displacement, Unemployment

Regularization of employment, *see* Stabilization**Relief:**

- compared with unemployment insurance, 121
- effect upon, by unemployment in certain industries, 42-43
- expenditures in New York State, 29-33, 38, 41, 42
- growing burden borne by public funds, 28-43
- provides index to unemployment, 29

Rochester, N. Y.:

- employment and relief in, 37-38
- unemployment conditions in, 19 (footnote)

Royal Commission on Unemployment Insurance (Great Britain):

- on effects and value of unemployment insurance, 148-149, 155-156

Seasonality:

- attempt to control, in radio industry, 77-78
- burden on garment workers in New York State, 78
- causes of, 79
- effect on cyclical changes, 81
- incidence in United States, 81-82; in New York State, 82
- increase in, since 1919, 81
- persistence of, 79-82
- pervasiveness of, 80-82
- relation of regularization programs to, 95-98
- study prescribed in New York State Law, 82

"Sheltered" trades:

- causes of relative stability, 67-73
- changes in degree of stability, 67
- fluctuations in, 73-75
- relation to other industries, 67-69, 74-75
- see* Stable industries

Social insurance, defined, 112 (footnote)**Stabilization:**

- effect of partial, 78
- efforts of individual firms, 94-98, 128
- in General Electric Company, 75-77
- in radio industry, 77-78
- private unemployment benefit plans, 99-107
- statement by Gerard Swope, 75 (footnote)

Stable industries and unemployment, 25, 73-78

—*see* "Sheltered" trades

Standard of living, effects of unemployment on, 48-53**Stationers, *see* Printing****Steel industry:**

- dependence on automobile production, 65-66
- influence on railroad freight, 65
- stripsheet rolling, 84 (footnote)

Summaries:

- The Argument, xxi-xxii
- Part I, 59
- Part II, 108-109
- Part III, 126
- Part IV, 138-139

Syracuse, N. Y.:

- employment and relief in, 41
- special investigation of unemployment in, 20, 23
- unemployment conditions in, 19 (footnote)

Taxation, *see* Payroll tax

Technological displacement:

- and stabilization, 98
- in various industries and trades, 27, 70, 72, 84 (footnote), 85-88
- Mill, John Stuart, quoted on, 88
- nature of, 83-85
- numbers displaced in United States, 1920-1931, 93

Tobacco, employment in New York State, 1921-1935, 71

Unemployment:

- accurate records of, 9
- burden of, 1, 27, 46-47
- by size of firm, 92-93, 125 (footnote)
- cyclical, 93-94
- differentiated from dependency, 29
- distribution in New York State, 20-22
- due to industrial migration, 89-90
- duration of, 25-27
- effect of, upon
 - application for relief, 49
 - birth rate, 55
 - business activity, 46
 - crimes against property, 56-57
 - debt, 47, 51
 - health, 52-53
 - income, 46-48, 51
 - instalment buying, 49
 - insurance protection, 48, 51
 - marriage rate, 54
 - mental illness, 53
 - psychology of unemployed, 58
 - relief expenditures, 28
 - savings, 47-49, 51
 - sexual irregularity, 55
 - standard of living, 48-53
 - suicide, 53
 - vagrancy, 55-57
- estimates, 9-18, 82
- federal census of 1930, New York State, 69
- findings of James A. Hamilton, in New York State, 1928, 17
- impact of heaviest burden, 46-48
- incidence of, 20-25, 73
- in cities in New York State, 19 (footnote)
- individual effort inadequate to meet, 94-101
- in sheltered trades, 67, 69
- Joint Legislative Committee on, 27, 178-181
- lag between layoff and reemployment, 25
- menace to social order, 58
- non-agricultural industry, since 1920, 15
- percentage in United States, since 1897, 12
- persistence in prosperous years, 17, 19, 23, 25
- pervades variety of occupations and groups, 20-22
- private agencies unable to cope with, 28
- relief of, borne by public funds, 28-43
- roots of, 1-3, 61

Unemployment (cont.):

- seasonal, 78-82
- short-term fluctuations, 15, 35
- social wastage a result of, 46-58
- sources of, 3, 61-98, 111, 179-180
- special investigations of, 20, 22-24
- technological, 83-88
- types compensable under private plans, 99-107
- volume of, 9-19, 69
- see New York State, New York State Unemployment Insurance Law

Unemployment insurance:

- advantages of, 116-125
 - to community, 91 (footnote), 120-124
 - to worker, 124-125
- background of development in New York State, 178-189
- comparison with private insurance, 112-116
- costs of, 119, 127-129
- during cyclical unemployment, 94 (footnote)
- effect on business management, 144
- effect on purchasing power, 155-156
- efficiency of, 120-123
- foreshadowed in *Recent social trends*, 63
- in cases of business failure, 91 (footnote)
- in cases of industrial migration, 90-91 (footnote)
- in Great Britain, 146-162
- in various states, 115 (footnote), 126 (addendum), 164-175
- laws in foreign countries, 122 (footnote), 176-177
- list of bills introduced in New York State legislature, 1921-1936, 182-189
- nature of, 112-116
- need for, 73, 90-91 (footnote), 94 (footnote), 101
- New York State Law passed, 181
- number of workers covered in Europe by compulsory plans, 176; by voluntary plans, 177
- payroll tax, 127-138
- pooling of funds, 116-120
- private unemployment benefit plans, 99-107
- scope of New York State Law, 125-126
- statements of authorities, 141-145, 179-180
- Wolman, Leo, quoted, 67 (footnote), 133
- see New York State Unemployment Insurance Law

United States Supreme Court, 125

- see Litigation

Utica, N. Y.:

- employment and relief expenditures in, 42
- unemployment conditions in, 19 (footnote)

Wage earners, see Workers

Wages:

- decline in manufacturing and other industries, 44-46
- work relief, 33

Water, light and power, employment in New York State, 1921-1935, 71

Wickersham Commission, Report on the causes of crime, 57

Wolman, Leo, on effects of unemployment insurance, 67 (footnote), 133

Workers:

- burden of unemployment falls on, 25, 27, 88
- dispersion of, in New York State and United States, 5, 8
- displaced, 25-27, 73, 88, 91, 93
- effect of workers' income upon business activity, 44, 46
- factory, in New York State, 5
- labor reserve, 2-3
- lag in reemployment, 25
- lowest income groups, 46-48
- periods of unemployment, 25
- productivity of, *see* Technological displacement
- relation of employment and relief, 28-43
- seasonal unemployment in New York State, 82
- shifting composition of unemployed, 25; of employed, 88
- skilled, results of displacement of, 27
- social effects of unemployment on, 46-58
- studies of incomes of, 47-48, 51
- unemployment among, 20-25, 69
- unemployment insurance; numbers covered in Europe, 176-177
- see* Employment, Unemployment