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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

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“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.

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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:

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

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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.

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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.

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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

PART I
THE EXTENT AND BURDEN OF UNEMPLOYMENT

PART I

THE EXTENT AND BURDEN OF UNEMPLOYMENT

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.

A. THE NATURE OF UNEMPLOYMENT

A growing burden of unemployment has been characteristic of the United States as of all western countries.

Unemployment has its roots in the irregularity of industrial activity and growth. Modern economic life is characterized by an elaborate division of economic functions, leading both to complexity of organization and to great sensitivity and interdependence throughout the industrial structure. Under simple conditions, production meets the day-to-day needs of the social group in a direct relationship between producer and consumer, and these needs are few and measurable. In a highly prolific economy the gap between productive forces and consumers widens, a chain of productive processes appears in place of one transaction, and more energy is devoted to producing things for which demand is not regular and imperative. Thus interdependence of productive processes is created.

The nature of the things produced also has a bearing on the stability of the economy in which they are produced. Long-lasting goods, such as machines for further

production, and non-essential goods, such as those which go to raise the standard of living, are subject to particularly violent ups and downs of demand.¹

Technological, geographic, seasonal and cyclical fluctuations run steadily through the business economy. These waves of change are not separable and distinct, but are compounded in their impact on employers and workers. Instability in industry and the consequent insecurity of work are among the costs of economic progress. The burdensomeness of these costs depends largely on their allocation. Taken with the increasing proportion of workers dependent on wages or salaries in our gainfully employed population,² this inherent instability of industry carries with it an increasing risk of unemployment and its frequent concomitant for wage earners, destitution.

Industrialization has brought with it another aspect of maladjustment which has severe repercussions on the employable population, the *labor reserve*. The demand for and supply of labor never coincide exactly and it has been to the apparent advantage of industry that this should be so. Hence a pool of labor power lies waiting at all times, although its size and composition are continually changing. Our working population drifts into and out of this pool in response to the ever-shifting demands of industry. A persuasive analysis of the nature of this labor reserve as a social cost is found in the outstanding study of the *Economics of overhead costs*, by Professor J. M. Clark of Columbia University. Speaking of industry's mobilization of industrial energy in a dynamic industrial society, Professor Clark says:

"In this connection one fact needs to be faced which is too often slighted, both by business men

¹ For a discussion of the unstable elements in our economy, see Mills, F. C., A summary; some attributes of the post-war decade, *Economic tendencies in the United States* (National Bureau of Economic Research, Inc., 1932) pp. 529-536

² King, W. I., *The national income and its purchasing power* (National Bureau of Economic Research, Inc., 1930) pp. 48-52; and Leven, M., Moulton, H. G., and Warburton, C., *America's capacity to consume* (The Brookings Institution, 1934) p. 29

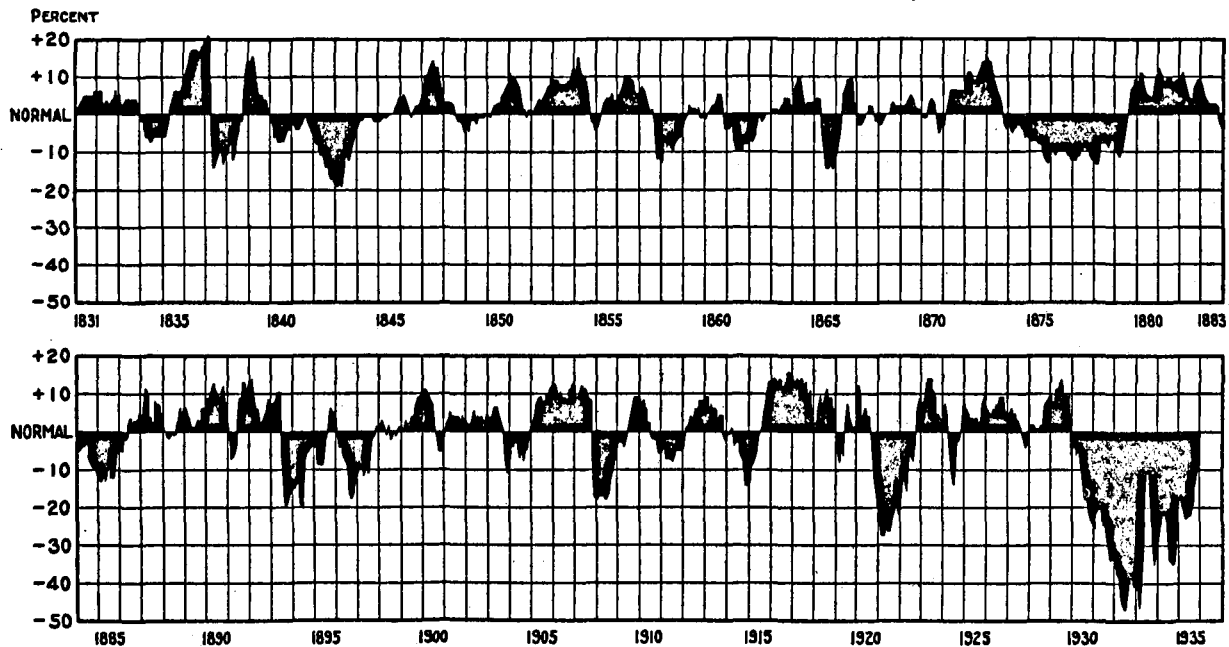
and economic theorists, namely, the fact that mobilization [of industry's labor force] itself implies and requires some unemployment. It calls for an 'industrial reserve army', both of capital and of labor, though not to the extent nor for the reasons which the Marxian theory supposes. To the extent that this is really inevitable and essential to industry, it is not a waste, though the question still remains how to reduce the loss of power to the smallest possible proportions. Therefore, we must raise the question how much unemployment is really necessary for industry; not because there is any immediate danger of having too little unemployment, but *because this question will help toward setting a reasonable goal and toward determining who benefits by unemployment and who should bear the burden of the irreducible remainder.*" (pp. 366-367; Italics ours)

While on the one hand, industry may wish to keep a portion of its trained labor force always available (as it attempts to do through various incentives, such as welfare plans), on the other hand it actually requires an unattached labor force, often relatively large, which is neither clearly defined nor adequately provided for as our methods of handling the labor market now stand. The forces of competition, which may operate successfully in the case of material goods or the supply of capital, are an inadequate safeguard to care for this temporarily unused labor supply. Since human labor, unlike other economic goods, cannot be stored until needed, society is beginning to take cognizance of its responsibility for a temporary lack of demand for its working force.

The fluctuations of business in the United States during the past century are demonstrated in Chart I developed by Colonel Leonard P. Ayres of the Cleveland Trust Company.³ Long-term comparisons of this sort enable us

³ For explanation of the construction of this Chart, see Appendix VI, p. 210.

CHART 1
BUSINESS ACTIVITY IN THE UNITED STATES, 1831-1935



SOURCE: CLEVELAND TRUST COMPANY

to visualize the irregular fluctuations in business activity which accompanied our rapid economic expansion. The jagged outlines of the periods of expansion above "normal" reveal the business recessions which are experienced within each year. The increasing amplitude of the periodic oscillations since 1900 is evident on casual inspection.

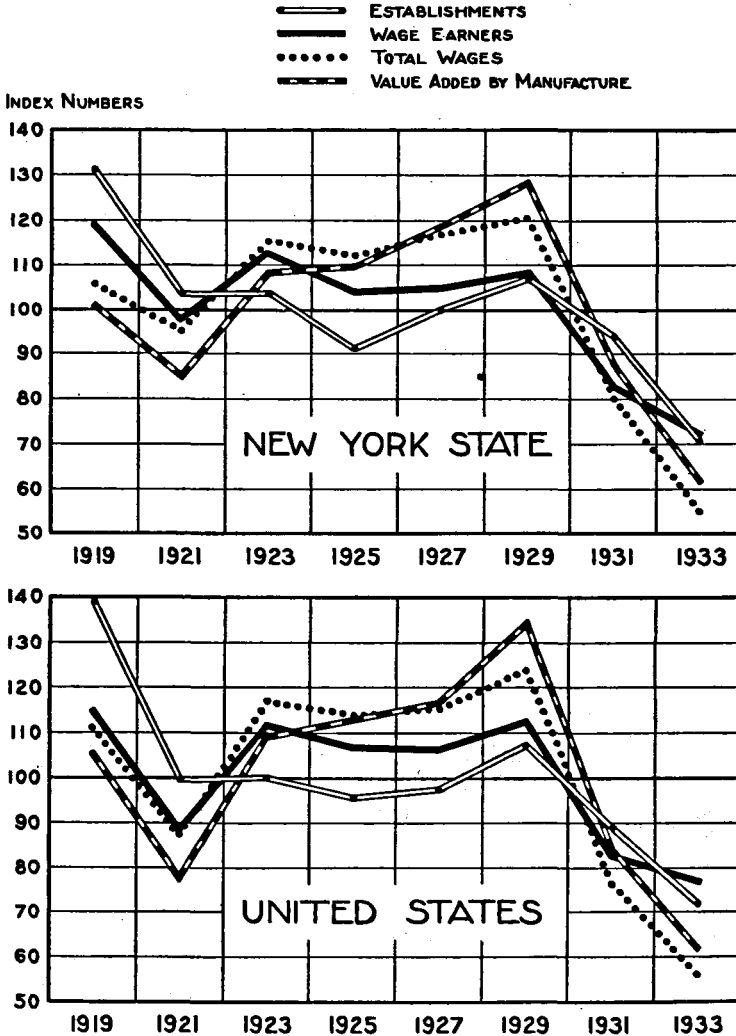
New York, as the leading manufacturing state, of course shares in this national experience. During the period 1919 to 1933, from 17.6 to 19.7 per cent of all manufacturing establishments were located in New York State. One out of every eight factory workers was employed in New York State in 1933. Chart 2, based on census data, shows the striking similarity in the pattern of activity of manufacturing in the State as compared with the nation as a whole. Thus, although New York manufacturing showed an absolute decline from 1919 to 1933 in the items illustrated in the charts, similar decreases in manufacturing activity were occurring all over the country. Gains in the nation were coincident with gains in the State, and lessened activity in the State was accompanied by declining activity in the entire country.⁴ A similar parallelism for the construction industries is shown in Chart 3.⁵

The variety of industries and occupations in the nation at large is also reproduced (except of course for agriculture) in the industrial pattern of New York State. Table 1 shows the percentage distribution of manufacturing workers in the State and the nation, ranked in order of their importance in New York; there is an evident similarity in the distribution. The dispersion of workers among various occupations (as shown in Table 2)—includ-

⁴ *Trend of manufactures in New York State from 1919 to 1933*, an analysis of census data presented in a forthcoming Special Bulletin, Division of Statistics and Information, New York State Department of Labor. The industries of the State gained relative to the country as a whole in value of products, value added by manufacture, wages paid and number of establishments, although their proportion of the nation's manufacturing wage earners decreased during these years.

⁵ Includes all contracts for both new construction and alterations on old construction, for 27 Northern states, 1919-1922; for 36 Eastern states, 1923 and 1924; and for 37 Eastern states, 1925-1935. States not covered are: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming (see Appendix VI, Table 41).

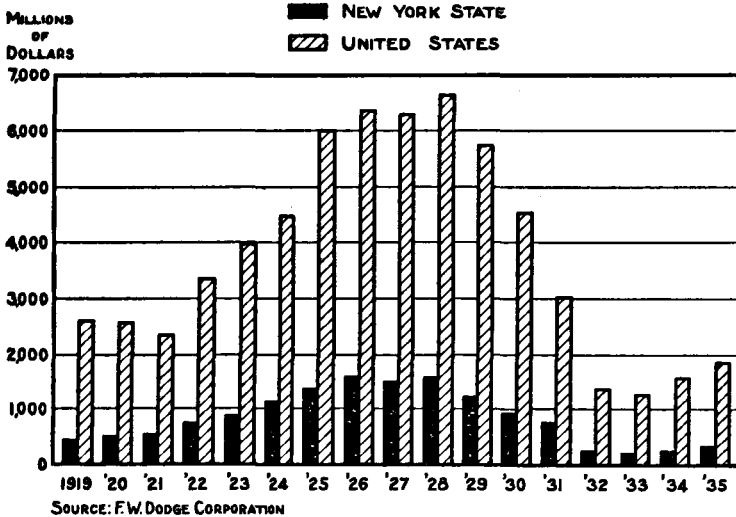
CHART 2
TREND OF MANUFACTURING OPERATIONS
1919 - 1933
1919-33=100



SOURCE N.Y. STATE DEPT. OF LABOR, FORTHCOMING SPECIAL BULLETIN,
TREND OF MANUFACTURES IN N.Y. STATE FROM 1919 TO 1933
(RECOMPUTED FROM 1929 BASE)

(See also Table 42, p. 205)

CHART 3
TREND OF CONSTRUCTION ACTIVITY, 1919-1935
TOTAL CONSTRUCTION CONTRACTS AWARDED



(See also Table 41, p. 205)

Table 1

**NUMBER AND PERCENTAGE DISTRIBUTION OF WAGE EARNERS IN
 MANUFACTURING INDUSTRIES, 1933**

INDUSTRY GROUP	NEW YORK STATE		UNITED STATES	
	NUMBER	PER CENT	NUMBER	PER CENT
All groups	733,457	100.0	6,055,736	100.0
Textiles and their products	222,135	30.3	1,474,325	24.3
Food and kindred products	77,918	10.6	666,237	11.0
Printing, publishing and allied industries	56,782	7.7	264,106	4.4
Leather and its manufactures	51,545	7.0	282,000	4.7
Machinery, not including transportation equipment	48,777	6.7	538,593	8.9
Iron and steel and their products, not including machinery	32,241	4.4	554,108	9.2
Chemicals and allied products	31,795	4.3	237,480	3.9
Paper and allied products	31,498	4.3	196,380	3.2
Transportation equipment, air, land and water	25,737	3.5	307,373	5.1
Forest products	24,606	3.4	454,171	7.5
Non-ferrous metals and their products	23,444	3.2	188,271	3.1
Railroad repair shops	19,661	2.7	241,875	4.0
Products of petroleum and coal	13,593	1.9	110,453	1.8
Stone, clay and glass products	12,657	1.7	173,000	2.9
The rubber industries	4,943	0.7	106,283	1.7
Miscellaneous industries	56,125	7.6	261,081	4.3

source: U. S. Department of Commerce, Bureau of the Census, *Biennial census of manufactures, 1933*

Table 2

NUMBER AND PERCENTAGE DISTRIBUTION OF GAINFUL WORKERS, TEN YEARS OLD AND OVER, BY OCCUPATION, NEW YORK STATE AND UNITED STATES, 1930

GENERAL DIVISION OF OCCUPATIONS	NEW YORK STATE		UNITED STATES	
	NUMBER	PER CENT	NUMBER	PER CENT
All occupations	5,523,337	100.0	48,829,920	100.0
Manufacturing and mechanical industries	1,866,374	33.8	14,110,652	28.9
Trade	860,123	15.6	6,081,467	12.5
Clerical occupations	753,160	13.6	4,025,324	8.2
Domestic and personal service	691,047	12.5	4,952,451	10.1
Transportation and communication	507,031	9.2	3,843,147	7.9
Professional service	446,071	8.1	3,253,884	6.7
Agriculture	267,373	4.8	10,471,998	21.4
Public service (not elsewhere classified)	117,727	2.1	856,205	1.8
Extraction of minerals	9,229	0.2	984,323	2.0
Forestry and fishing	5,202	0.1	250,469	0.5

SOURCE: U. S. Department of Commerce, Bureau of the Census, *Fifteenth census of the United States, 1930, Population*, Vol. IV, pp. 6, 1085

ing trade, transportation, etc., as well as manufacturing—indicates again the resemblance of the State's economic organization to that of the nation.⁶

Broadly speaking, the industrial problems as well as the prosperity of the nation are clearly also those of the State of New York.

⁶ The ranking of occupations, according to the numbers in each, is as follows:

OCCUPATION	RANK			
	INCLUDING AGRICULTURE		EXCLUDING AGRICULTURE	
	NEW YORK STATE	UNITED STATES	NEW YORK STATE	UNITED STATES
Manufacturing and mechanical	1	1	1	1
Trade	2	3	2	2
Clerical	3	5	3	4
Domestic and personal service	4	4	4	3
Transportation and communication	5	6	5	5
Professional service	6	7	6	6
Agriculture	7	2	-	-
Public service (not elsewhere classified)	8	8	7	7
Extraction of minerals	9	9	8	8
Forestry and fishing	10	10	9	9

SOURCE: See Table 2

B. THE VOLUME OF UNEMPLOYMENT IN THE UNITED STATES AND IN NEW YORK STATE

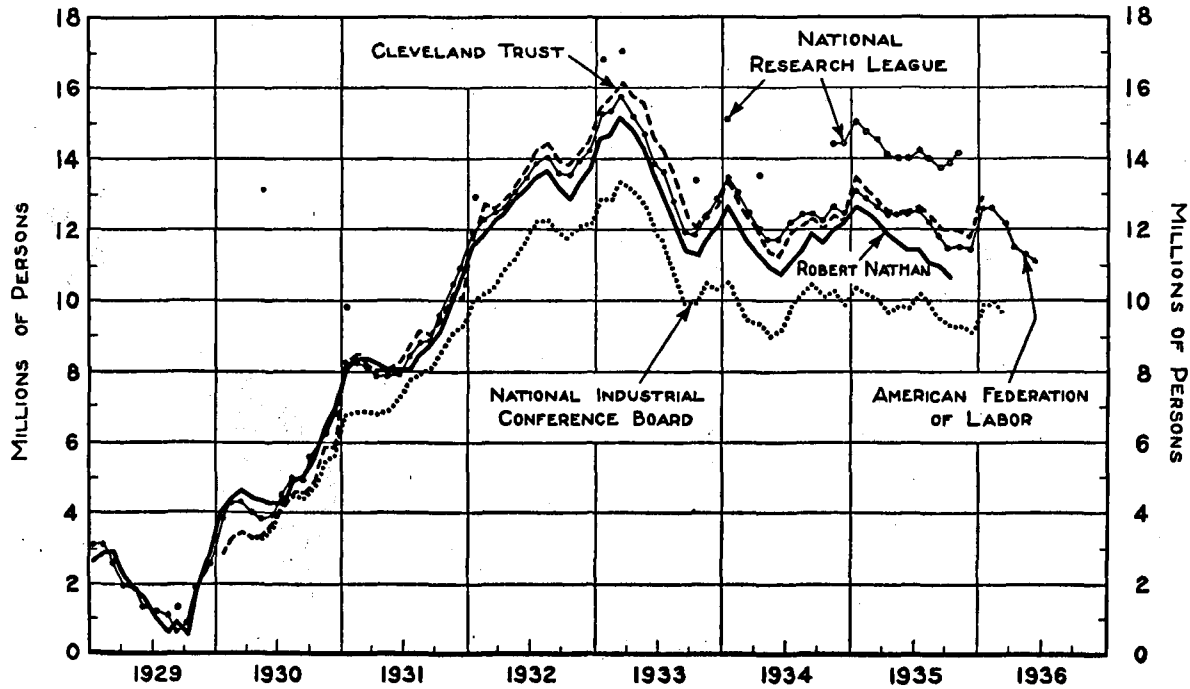
The steady growth of American industry has obscured ever-present business fluctuations and their effects, temporary or permanent, on the employment status of American wage earners. The rapid expansion of the country is partly responsible for the fact that the volume of unemployment in the United States formerly received little attention and has not been measured directly, except on a few specific dates in conjunction with census enumerations. Accurate records of unemployment can be obtained only by means of current registration of the unemployed, as under a system of unemployment insurance. In lieu of such records, however, careful estimates of unemployment have been made by competent statisticians. The results of these studies; made on the basis of available data, are indicative of the approximate totals and fluctuations in the numbers of the unemployed in successive years.

Chart 4 shows several estimates of the volume of unemployment, developed independently by different agencies and students of the problem, covering different periods from 1929 to 1936.⁷ The chart presents the only continuous series available for this period.⁸ A close cor-

⁷ Sources of data used in this chart are the following: Cleveland Trust Company, *Business Bulletin*, March 15, 1936; American Federation of Labor, monthly releases of the Official Information and Publishing Service; Nathan, Robert R., Estimates of unemployment in the United States, 1929-1935, *International Labour Review*, Vol. XXXIII, No. 1, January 1936; National Industrial Conference Board, Inc., *Conference Board Service Letter*, monthly; National Research League, *Unemployment in the United States*, May 1935, and monthly releases.

⁸ The estimate of the *New York Sun* for 1929 and 1935 only, based on a survey of conditions in a number of specific concerns, is cited by those who discount the higher figures of other estimates. The *Sun's* total for unemployment in 1935, 3,593,000, is the lowest figure available. Professor Sumner H. Slichter of Harvard University comments as follows: "The actual volume of unemployment in the United States today is, I suspect, less than 9,000,000. This is a rough figure and it is somewhat less than most estimates. It is considerably above the much-publicized estimate of the *New York Sun*. The *Sun's* estimate, however, does not pretend to be complete and there are serious objections to the sample upon which it is based and the methods by which it is derived. Apparently the *Sun* would have us believe that unemployment is scarcely any greater now than at the time of the unemployment census of 1930, although building construction is far less, railroad employment 500,000 less, industrial production no greater, and the job-seeking population about 2,500,000 larger." Selling more labor, *Atlantic Monthly*, September 1936, p. 322

CHART 4
ESTIMATES OF UNEMPLOYMENT IN THE UNITED STATES



SOURCE: See Table 22, pp. 191, 192 and 193

responsiveness in the directions of movement of the four principal series is notable. A fifth estimate shows much higher levels than the others, but its movements reveal a similar pattern. Differences in the estimates are attributable to the different methods of adjustment for changes in the composition of the total labor force, such as the annual increment of young persons seeking jobs, and to various differences in definition and methodology.

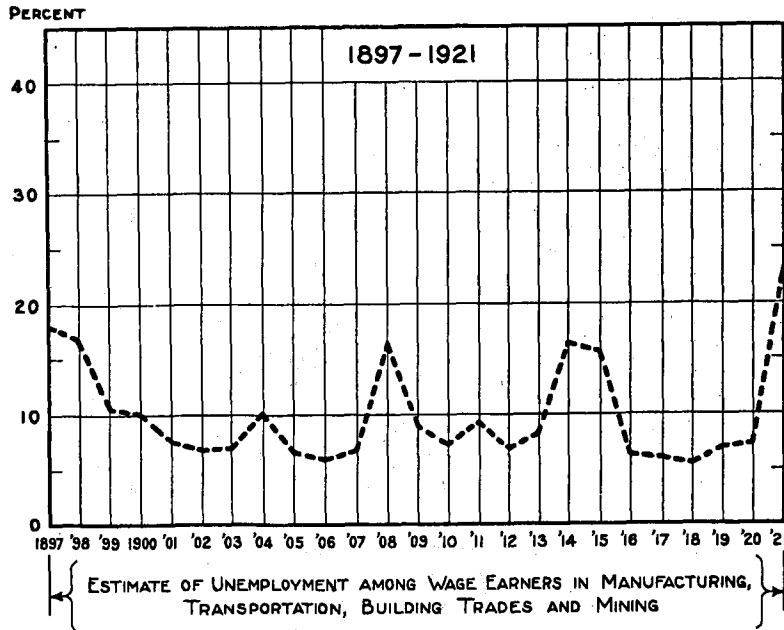
Estimates of average unemployment in earlier years have been derived by computing the difference between the number of gainfully occupied—the working population available for employment—and the number of those actually employed. The coverage of the employment data available for such estimates has been steadily improved in recent years. For earlier years a large amount of inference is unavoidable, especially for non-manufacturing employments. Average figures understate the total number affected by unemployment because the peak of unemployment during a given year is necessarily in excess of the average for that year. Further, there is a continual turnover of both the employed and the unemployed; that

Table 3
ESTIMATED UNEMPLOYMENT, INSURABLE LABOR FORCE
UNITED STATES, 1922-1933

Year	INSURABLE LABOR FORCE		
	Number	Number Unemployed	Percentage Unemployed
1922	18,789,145	2,733,856	14.55
1923	19,225,240	1,579,246	8.21
1924	19,661,335	1,975,798	10.05
1925	20,097,430	1,680,058	8.37
1926	20,533,525	1,571,336	7.65
1927	20,969,620	1,694,333	8.08
1928	21,405,715	1,776,641	8.30
1929	21,841,810	1,181,748	5.41
1930	22,277,905	3,534,445	15.87
1931	22,714,000	6,328,421	27.86
1932	23,150,096	9,366,532	40.46
1933	23,586,190	9,803,582	41.56

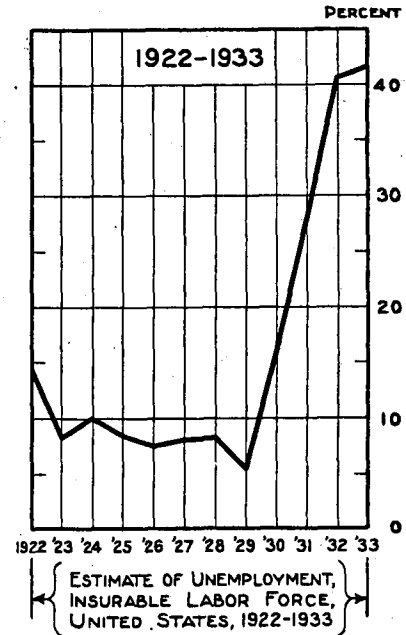
SOURCE: Estimates of Robert R. Nathan, Consultant, Committee on Economic Security

CHART 5
PERCENTAGE OF UNEMPLOYMENT IN THE UNITED STATES



SOURCE: PAUL H. DOUGLAS, REAL WAGES IN THE UNITED STATES, 1897-1926

(See also Table 3, p. 11 and Table 20, p. 190)



SOURCE: ROBERT R. NATHAN, CONSULTANT,
 COMMITTEE ON ECONOMIC SECURITY

is, the identity of the unemployed continually shifts, and over a given period of time many more individuals are subject to unemployment than the statistical averages indicate. Part-time unemployment is entirely excluded from the estimates.

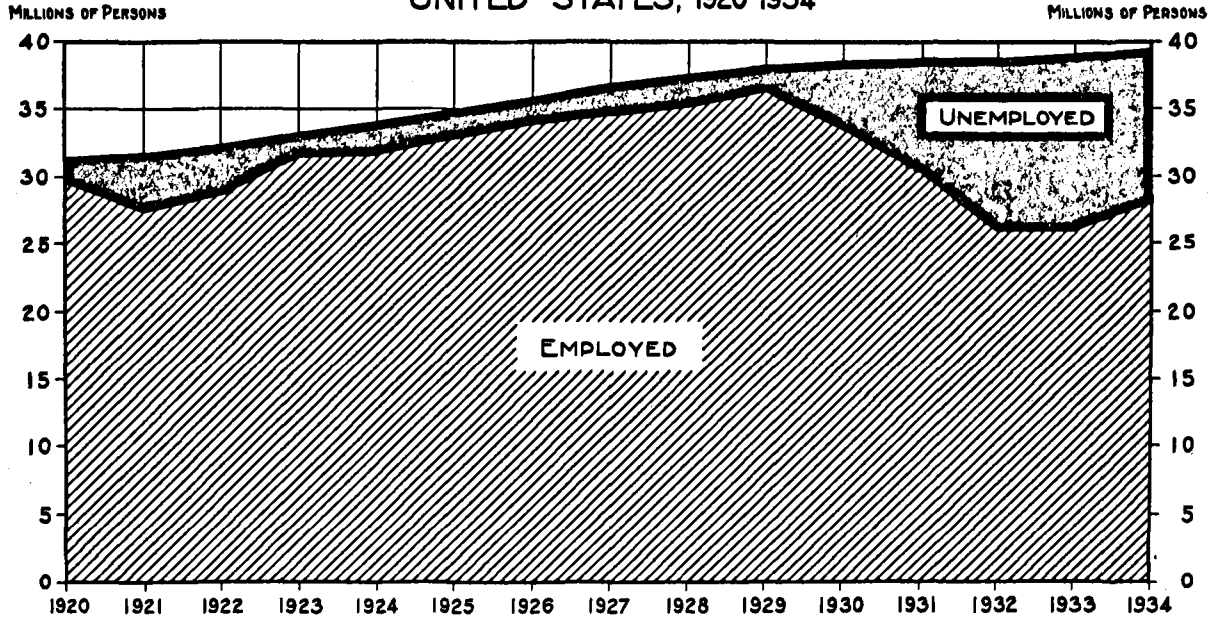
With these qualifications, Charts 4, 5, 6, 7 and Tables 3 to 6, inclusive, can be interpreted properly as approximate indicators of unemployment. Chart 5 shows percentages of unemployment by years since 1897, estimated by Professor Paul H. Douglas of the University of Chicago for the earlier years, and by the Committee on Economic Security for the later years. These figures indicate that there has been a substantial percentage of unemployment during prosperous as well as dull years. Chart 6 translates this story into absolute numbers for the period since 1920 and shows a persistently large number of persons seeking but unable to find employment during the expanding years of the 1920's, as well as during the relatively severe times of the last two depressions. Chart 7 presents

Table 4
UNEMPLOYMENT IN SELECTED INDUSTRIES, UNITED STATES
JANUARY 1929, JANUARY 1933 AND JANUARY 1935

INDUSTRY	January 1929 Number (000)	January 1933 Number (000)	January 1935 Number (000)
All industries	2,631	14,492	12,561
Selected industries	1,949	9,689	7,593
Manufacturing	1,062	4,935	3,256
Independent hand trade	16	43	32
Building industry	260	1,997	2,020
Telephone and telegraph	50	160	183
Banking, brokerage, insurance and real estate	9	260	211
Wholesale and retail trade	381	1,360	1,035
Professional service other than public	62	238	177
Steam railroads	109	696	679
Other industries	682	4,803	4,968

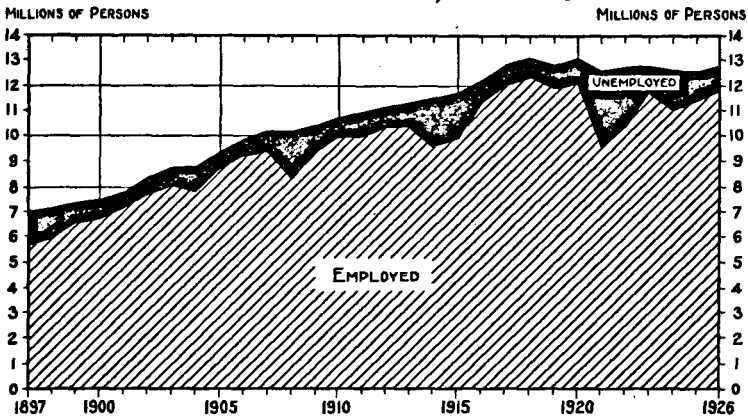
SOURCE: Nathan, Robert R., *Estimates of unemployment in the United States, 1929-1935*, *International Labour Review*, Vol. XXXIII, No. 1, January 1936

CHART 6
UNEMPLOYMENT IN NON-AGRICULTURAL INDUSTRIES
UNITED STATES, 1920-1934



SOURCE: COMMITTEE ON ECONOMIC SECURITY
(See also Table 21, p. 190)

CHART 7
**UNEMPLOYMENT IN MANUFACTURING,
 TRANSPORTATION, BUILDING TRADES & MINING**
UNITED STATES, 1897-1926



SOURCE: PAUL H. DOUGLAS, *REAL WAGES IN THE UNITED STATES, 1897-1926*

(See also Table 20, p. 190)

Professor Douglas' estimates alone, for the manufacturing, building, mining and transportation industries. Especially significant are the ups and downs from year to year, indicating the seriousness of short-term unemployment in the national economy as estimated from available data on known changes in employment and in the available labor supply. According to this series the probable average unemployment in manufacturing, transportation, construction and mining, from 1897 to 1926, was more than 10 per cent of the total number of wage earners in these industries, varying from a low of 569,000 in 1902 to more than 2,900,000 in 1921. In non-agricultural industry as a whole since 1920, according to President Hoover's Committee on Recent Economic Changes, unemployment never dropped below a minimum estimate of 1.4 million in 1920, reaching a high average of 3.5 million in the recovery year of 1922.⁹ For the more recent period the figures of

⁹ Wolman, Leo, *Labor, Recent economic changes in the United States* (National Bureau of Economic Research, Inc., 1929) II, p. 498. "Actual unemployment during any year has doubtless exceeded the figure shown" (p. 469).

Table 5

AVERAGE NON-AGRICULTURAL UNEMPLOYMENT IN THE UNITED STATES, BY LEADING INDUSTRIAL STATES, 1930-1933

STATE	AVERAGE NUMBER, IN THOUSANDS				1930-33	AVERAGE PER CENT			
	1930	1931	1932	1933		1930	1931	1932	1933
UNITED STATES	4,668	8,975	13,335	12,856	25.8	12.1	23.3	34.6	33.2
California	277	527	666	658	24.0	12.7	23.9	29.9	29.2
Connecticut	78	157	244	208	26.4	12.0	24.3	37.5	31.7
Illinois	393	710	1,076	1,030	28.0	13.8	24.8	37.5	35.7
Massachusetts	232	439	622	622	27.0	13.2	24.7	35.0	34.8
Michigan	305	508	742	798	34.3	18.0	29.7	43.1	45.9
New Jersey	219	428	627	664	28.8	13.2	25.5	37.1	38.8
NEW YORK	656	1,277	1,952	2,061	27.8	12.4	24.0	36.4	38.1
North Carolina	76	144	205	116	21.3	11.8	22.6	32.3	18.4
Ohio	307	576	869	753	26.9	13.3	24.8	37.3	32.2
Pennsylvania	411	822	1,307	1,445	28.3	11.8	23.5	37.3	40.2
Wisconsin	97	193	269	239	23.8	11.6	22.9	32.2	28.8

SOURCE: Committee on Economic Security

the Committee on Economic Security show an increase of those unemployed to a high average figure of 12.8 million in 1933. During the first quarter of 1933 unemployment reached a much higher figure (see Chart 4). A more recent estimate, computed by methods comparable to those of the Committee on Economic Security, indicates an average total of 11.4 million persons unemployed in 1935.¹⁰

The estimated percentage of unemployment in American industries subject to unemployment insurance coverage is shown in Table 3. New York's share during the recent depression period is revealed in Tables 5 and 6; the proportion unemployed is similar to that for the nation as a whole. *These statistical exhibits demonstrate that a substantial burden of unemployment persists even in good times because a large number of persons are forced to move into and out of employment in response to the recurring fluctuations in the rate of business activity.*

Information regarding the volume of unemployment in New York State is still incomplete. Nevertheless, the State has often been seriously concerned with the problem in the past. The ill effects of unemployment on its welfare have for some time been recognized.¹¹ In February 1928, at the request of the Governor, the Industrial Commissioner undertook a brief survey of unemployment conditions.¹² He prefaced his findings as follows:

"In the beginning, it may be pointed out that the evidence at hand indicates an extensive amount of unemployment, and that serious distress has been caused. * * * One has to go back to 1921 to find an employment situation rivaling the present."

This brief canvass in a year supposedly marked by the prosperity of the post-war period presents conclusive evi-

¹⁰ Average figure derived by the method of Robert R. Nathan in *Estimates of unemployment in the United States, 1929-1935, International Labour Review*, January 1936

¹¹See, for example, the periodic reports on unemployment in the Special Bulletins of the New York State Department of Labor from 1914 onward, and the four reports of the Mayor's Committees on Unemployment in 1914-16.

¹² Hamilton, James A., Report to Hon. Alfred E. Smith on *Unemployment conditions in New York State*, February 1928

Table 6

ESTIMATED UNEMPLOYMENT, INSURABLE LABOR FORCE, BY STATES, 1930-1933

APRIL 1930			1933 AVERAGE			1930-1933 AVERAGE		
STATE	Percentage of compensable labor force unemployed	Ratio to average of all States (per cent)	STATE	Percentage of compensable labor force unemployed	Ratio to average of all States (per cent)	STATE	Percentage of compensable labor force unemployed	Ratio to average of all States (per cent)
UNITED STATES	14.3	100.0	UNITED STATES	34.8	100.0	UNITED STATES	27.5	100.0
Michigan	19.9	139.2	Michigan	47.2	135.6	Michigan	35.9	130.5
Illinois	15.9	111.2	Pennsylvania	41.5	119.3	New Jersey	30.5	110.9
Ohio	15.4	107.7	New Jersey	40.3	115.8	Pennsylvania	30.0	109.1
New Jersey	15.3	107.0	NEW YORK	39.5	113.5	Illinois	29.7	108.0
Massachusetts	15.2	106.2	Illinois	37.2	106.9	NEW YORK	29.5	107.3
California	14.8	103.5	Massachusetts	36.4	104.6	Ohio	28.7	104.4
NEW YORK	14.6	102.1	Ohio	33.9	97.4	Massachusetts	28.7	104.4
Connecticut	14.2	99.3	Connecticut	33.2	95.4	Connecticut	28.2	102.5
Pennsylvania	14.0	97.9	California	30.9	88.8	California	25.8	93.8
Wisconsin	13.8	96.5	Wisconsin	30.5	87.6	Wisconsin	25.7	93.5
North Carolina	13.7	95.8	North Carolina	22.1	58.9	North Carolina	23.2	84.4

SOURCE: Social Security Board

dence of the persistence of the problem of unemployment.¹³ Its results may be compared with the charts on pages 37-40 of this Brief, which show that the employment declines of the winter of 1927-28 were calling forth corresponding increases in poor relief. We are now better informed as to the facts than previously,¹⁴ but the facts are brought to light, rather than created, by severe depression.

¹³ Samples of the reports from New York State cities in February 1928 bear out the Commissioner's statement.

New York City The six family-service agencies which had records showing the influence of unemployment on the destitution of their clients reported an increase of 57.7 per cent in the number of cases due to lack of work in December 1927 as compared with December 1926.

Buffalo (Population 538,000) This city had 35,000 to 40,000 unemployed workers. Payroll records for about one-third of the factory workers had declined 15 per cent since February 1925. "Retail conditions are not encouraging, although [they] do not indicate a bad condition. [They are], however, unsatisfactory, reflecting the result of unemployment. * * * Relief agencies' figures show that for the first time since 1921 the City Mission has organized a bread line."

Rochester (Population 316,000) The Chamber of Commerce estimated 10,000 out of work in February 1928. Trade Union figures for clothing workers, bricklayers, masons and carpenters showed 50 per cent out of work. The retail stores reported a decrease of 3 per cent from their peak employment. "The City Manager states that he realizes there is an acute unemployment problem. * * * The Chief of Police reports that not since 1922 have there been so many applicants for relief as within the last three months."

Syracuse (Population 182,000) The employers' associations reported the unemployed as between 5,000 and 7,000; the charitable organizations report that the number is more than this, possibly because of the inadequacy of part-time wages resulting from a spread-the-work policy. The unemployment exists among the building trades, casual laborers and clerical help. (Clerical work ranked third in Syracuse occupations in the 1930 census.) "In the immediate territory of Syracuse comes the report that conditions are worse than in Syracuse."

Albion (Population 5,206) "The Chief of Police reports that their Police Department is filled night after night with men applying for work. They are not human derelicts, but factory workers out of employment."

Geneva (Population 15,908) It is estimated that 70 per cent of the unskilled and 10 per cent of the skilled workers are out of work.

Utica (Population 101,604) The employers' association estimates 4,500 unemployed as against 2,500 at this time last year. The Associated Charities were formerly asked only to supplement men's wages; now they are asked to assume responsibility for the family.

Elmira (Population 48,359) Railroad men and the unskilled composed the great majority of the unemployed.

Dunkirk (Population 19,912) "Of three of the largest employing firms canvassed, one company reports 2,000 out of employment; two others are operating with 75 per cent of their normal working force."

¹⁴ See: *Preliminary report of the Joint Legislative Committee on Unemployment*, State of New York, Legislative Document No. 69 (1932) February 15, 1932. Employment fluctuations in New York State will be discussed in Part II of this Brief.

C. WIDESPREAD INCIDENCE OF UNEMPLOYMENT

Unemployment is widely scattered among all groups. It is no respecter of persons or classes. In upstate New York (where 79 per cent of the 1935 relief load was attributable to unemployment) the total urban load was distributed among cities of all sizes, with 26 per cent of the total in cities over 100,000, 14 per cent in cities between 25,000 and 100,000, and 24 per cent in smaller cities.¹⁵

An analysis of the occupational characteristics of persons eligible for employment by the Works Progress Administration in New York State in 1936, presented in Table 7, shows that unemployment pervades a striking variety of occupations. Moreover, Chart 8 shows that the occupations affected in the State and in five of its industrial counties are very similar to those affected in the country at large. The figures for five industrial counties in New York show that the inactivity of industry in a given region is reflected in general loss of employment in commerce, service trades and other non-industrial employments. These figures, by definition, eliminate all but the able-bodied, employable part of the population. They represent, not the problem of dependency among an unemployable minority, but society's failure to provide work for its permanent, able-bodied labor force.

Special investigations in Syracuse and Buffalo show how unemployment penetrates into all occupations and groups. In November 1931 a special employment census was taken in Syracuse under the supervision of the New York State Department of Labor. Syracuse was chosen because it afforded diversity both as to size and type of industry, so that widely different conditions of employment could be taken into account¹⁶ (see Table 8). Although the per-

¹⁵ Lundberg, E. O., Cross-section of the relief load in upstate New York, *Social Service Review*, September 1935, p. 490

¹⁶ State of New York, Department of Labor, Special Bulletin No. 173, *Unemployment in Syracuse, November 1931*. Seven representative areas were studied.

Table 7

DISTRIBUTION OF WORKERS AMONG INSURABLE OCCUPATIONAL GROUPS, MARCH 1936
(Persons Eligible for W. P. A. Employment)

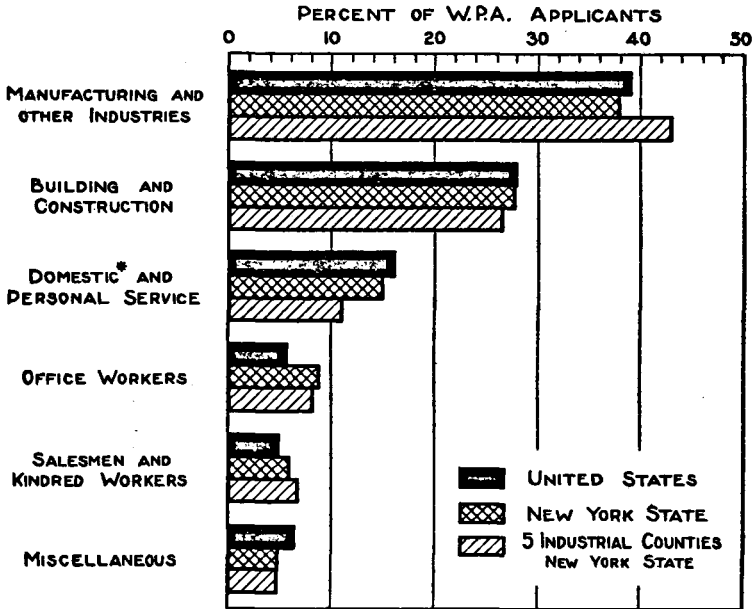
OCCUPATIONAL GROUPS	UNITED STATES		NEW YORK STATE		FIVE INDUSTRIAL COUNTIES ¹	
	Number	Per Cent	Number	Per Cent	Number	Per Cent
Total—All Groups	3,829,479	100.0	499,090	100.0	94,035	100.0
Manufacturing and other industries	1,499,498	39.2	188,937	37.9	40,444	43.0
Building and construction	1,073,045	28.0	138,529	27.8	25,032	26.6
Domestic and personal service ²	616,764	16.1	74,121	14.8	10,453	11.1
Office workers	215,427	5.6	44,391	8.9	7,620	8.1
Salesmen and kindred workers	180,981	4.7	29,663	5.9	6,168	6.6
Miscellaneous	243,764	6.4	23,449	4.7	4,318	4.6

¹ Counties: Albany, Oneida, Onondaga, Monroe, Erie; data adjusted from May 1936 to March 1936

² Domestic servants not insurable under Federal Act

SOURCE: Works Progress Administration, Division of Social Research

CHART 8
DISTRIBUTION OF WORKERS AMONG
INSURABLE OCCUPATIONAL GROUPS, MARCH 1936
(PERSONS ELIGIBLE FOR W.P.A. EMPLOYMENT)



(See also Table 7, p. 21)

centages unemployed in each occupational group naturally varied, by November 1931 one out of every eight workers in trade and transportation was totally without work, while even in the relatively stable public utilities and food-supplying industries more than one out of every ten was jobless. The severe effect of declining demand in those industries which sold either durable goods or necessities was already evident.

Special censuses of representative areas in Buffalo were taken in November of each year from 1929 to 1933, under the supervision of the New York State Department of

Table 8

UNEMPLOYMENT OF MALES ABLE AND WILLING TO WORK, BY INDUSTRY GROUP, SYRACUSE, NOVEMBER 1931

INDUSTRY GROUP	UNEMPLOYED		EMPLOYED
	Totally	Partly	
	(percentage)		
Domestic and personal service	18.9	12.4	68.7
Trade and transportation	12.7	13.8	73.5
Retail and wholesale trade	14.7	8.4	76.9
Telephone and telegraph	11.3	9.4	79.3
Railway express, gas, electric light	10.8	26.7	62.5
Water transportation	(a)	(a)	(a)
Bank and brokerage	4.8	6.3	88.9
Insurance and real estate	8.5	2.1	89.4
Other	18.9	13.7	67.4
Manufacturing and mechanical pursuits	28.3	30.4	41.3
Building trades, contractors	42.3	27.0	30.7
Building trades, wage earners	51.9	19.5	28.6
Clay, glass and stone products	13.8	35.4	50.8
Food and kindred products	11.5	12.7	75.8
Iron, steel and their products	22.2	43.1	34.7
Metal products, other than iron and steel	(a)	(a)	(a)
Paper, printing and publishing	10.8	19.4	69.8
Wearing apparel and textiles	31.5	38.1	30.4
Automobiles, parts and tires	35.6	24.6	39.8
Lumber and furniture	37.3	24.3	28.4
Chemicals	13.2	35.6	51.2
Other	22.3	30.3	47.4
Total, all industries	19.9	20.7	59.4

(a) Too small to be significant

SOURCE: State of New York, Department of Labor

Labor and the Buffalo Foundation. Results of these surveys indicate that all "insurable groups" are affected by unemployment, even in a relatively prosperous year such as 1929. For the most part the enumerators visited the same areas and the same houses each year. Consequently, the results may be regarded to a considerable extent as a "motion picture" of the employment status of the same individuals¹⁷ (see Table 9).

¹⁷ State of New York, Department of Labor, Special Bulletin No. 179, *Unemployment in Buffalo, 1932*, p. 41; and Swayzee, Cleon O., *Unemployment in Buffalo and Lincoln, 1932-1933*, *Personnel Journal*, June 1934, p. 31

Table 9

UNEMPLOYMENT STATUS OF MALES, BY INDUSTRY GROUP, BUFFALO, 1929-1933

INDUSTRY GROUP	1929		1930		1931		1932		1933						
	UNEMPLOYED To-tally ¹	EM-LOYED Partly	UNEMPLOYED To-tally ¹	EM-LOYED Partly	UNEMPLOYED To-tally ¹	EM-LOYED Partly	UNEMPLOYED To-tally ¹	EM-LOYED Partly	UNEMPLOYED To-tally ¹	EM-LOYED Partly					
Total, all industries	10.9	6.7	82.4	17.2	18.6	64.2	24.3	23.2	52.5	32.6	23.4	44.0	28.7	13.9	57.4
Domestic and personal service	10.3	3.2	86.5	16.2	8.6	75.2	19.0	17.2	63.8	26.5	14.7	58.8	26.5	10.5	63.0
Trade and transportation	6.9	2.9	90.2	12.8	11.4	75.8	18.4	18.1	63.5	25.5	21.2	53.3	22.1	12.7	65.2
Manufacturing and mechanical	12.4	10.3	77.3	22.2	28.2	49.6	31.9	31.8	36.3	41.6	29.9	28.5	34.2	17.0	48.8

¹ For 1929 includes all persons unemployed for whatever reason; for 1930-33 only those able and willing to work

SOURCE: State of New York, Department of Labor

The story told by these data is obvious. A considerable amount of unemployment among insurable groups existed even in November 1929. Almost one out of every fourteen persons in such relatively stable groups as trade and transportation was even then out of work. By 1932, one out of every four in these occupations was out of work. The repercussions on trade and transportation of the more severe decline in manufacturing and mechanical industries are clearly indicated. In Part II of this Brief, the reasons for this permeation of job insecurity throughout the economic system will be fully discussed.

D. THE WORKERS' READJUSTMENT—THE LAG IN REEMPLOYMENT

The shifting composition of the unemployed population has been pointed out above. A crucial element in the work history of this mass of individuals is the duration of their unemployment. Compared with depression experience, the majority of jobless workers suffer relatively short periods of unemployment in normal times, yet an interval occurs between layoff and reemployment which is of the utmost social significance. This lag, which is due to a poorly organized labor market, carries a cost now borne almost wholly by the working population, since it is only after they become destitute that aid is extended to them, and then often intermittently and in an uncertain fashion.

The history of displaced workers has been explored in several important studies. In a survey made for the Brookings Institution, conducted among a representative group of workers laid off in various industries in the prosperous year 1929, Dr. Lubin (now United States Commissioner of Labor Statistics) reports, among other findings, that:

- (1) The displaced workers did not easily find new employment. Forty-five per cent of those interviewed had not found employment when seen (from one to twelve months after separation from employment).
- (2) Of the 55 per cent who had secured new employment, 11 per cent were unemployed for less than one month, 32 per cent were unemployed from one to three months, 25 per cent from three to five months, 20 per cent from five to eight months, 9 per cent from eight months to a year, and 1.5 per cent for longer than one year.
- (3) Workers discharged from industry moved in large numbers to plants which produce products different from those made in the industries with which they were formerly associated. Less than 10 per cent of those surveyed were reemployed at their own jobs. Two-thirds went into entirely different industries.¹⁸

Other studies support these findings. Displaced rubber workers in New Haven found reemployment with difficulty. One-third of them were unemployed from one to four months, and another third were still without work ten months after layoff. Further, "the total losses * * * were not fully measured by the amount of unemployment. The vast majority * * * suffered sharp cuts in earnings as a result of the change in jobs. * * * The figures show that the total loss in income of the workers in a period of about one year after the shutdown amounted to about 50 per cent of their income during the preceding year * * *." ¹⁹ The displaced employee must often choose be-

¹⁸ Lubin, Isador, *The absorption of the unemployed by American industry* (The Brookings Institution, July 1929) pp. 15, 18

¹⁹ Clague, E., Couper, W. J., and Bakke, E. W., *After the shutdown* (1934) pp. 75-76

tween the discard of his skill and starvation, since he has no real waiting power and little opportunity "to find his best market." A similar study was made in Hartford where although unusual efforts were made by city officials and the general public to place the workers, "the final results * * * were not especially different from those in New Haven. * * *" ²⁰ An illustration of the results of the displacement of skilled workers by machines is offered in the well known case of the 370 Chicago clothing cutters, described in the *Preliminary report of the New York Joint Legislative Committee on Unemployment*:

"After two years 278 of the total number were employed in trades or callings not at all similar to cutting cloth; 42 were unemployed. * * * It was estimated that 25 per cent of the men had better paying jobs than before the change, 40 per cent were in worse jobs, and 35 per cent had jobs approximately as good. * * * The weighted average time lost was five and two-tenths months." ²¹

These are not "depression studies." ²² Although they provide only fragmentary evidence, they lend credence to the testimony of labor experts—and the conviction of the working population—that a heavy burden is continually being placed on the labor force through loss of time between jobs.

²⁰ Clague, et al., *op. cit.*, p. 133

²¹ State of New York, Legislative document (1932) No. 69, *Preliminary report of the Joint Legislative Committee on Unemployment* (1932) p. 156

²² Similar conclusions from other investigations could be cited. See, for example: Hogg, Margaret, *The incidence of work shortage* (1932); Hansen, A. H., Petrowski, N. M., and Graves, R. A., *An analysis of three unemployment surveys* (1932); Lumpkin, Katharine, *Shutdowns in the Connecticut Valley, Smith College Studies in History*, April-July 1934.

E. GROWING BURDEN OF UNEMPLOYMENT RELIEF BORNE
INCREASINGLY BY PUBLIC FUNDS

The history of public welfare in the United States reflects a steadily growing sense of public responsibility for the relief of unemployment. Just as public approval has been given to the protection of employees against overwork, physical danger, and other evils which took a new form in an industrialized society, so the State has come to recognize a responsibility for those left dependent by unemployment.

Private social work can not cope with mass unemployment, nor can it bear the cost of industry's idle labor reserve.²³ Unemployment inundates the regular services of private and public welfare organizations, swamps their facilities and interferes with regular provision for chronic dependency on a case work basis. Monsignor Robert F. Keegan, President of the National Conference of Social Work, recently expressed the convictions of the social workers as follows:

“Governmental programs protecting large social groups are imperative. They shall not restrict our inherent personal liberty, but they shall surround it with a self-respecting security.”²⁴

The trend toward State protection in New York is clearly set forth in the 1936 Report of the Governor's Commission on Unemployment Relief:

“It would be entirely fallacious to assume that the problem of public relief is a new sphere of in-

²³ The energetic and public-spirited 1931-32 drive of the private Emergency Unemployment Relief Committee in New York City raised approximately \$19,635,000, enough to carry the city's 1934 relief load for scarcely more than a month (Temporary Emergency Relief Administration, *Three years of public unemployment relief in New York State*, October 1934). There are no reliable figures on the extent to which private sources were supplying relief funds in the United States at the beginning of 1933, but it has been estimated unofficially by a relief finance expert at less than 10 per cent of all funds at that time.

²⁴ Keegan, Robert F., Presidential address, 1936, reported in *Survey*, June 1936, p. 164

terest or activity on the part of the State government. * * * The major changes which have been made in the State's welfare structure during the past sixty-five years, as above described, indicate quite definitely that the State government has been assuming an increased responsibility for the supervision and control of the public welfare services in the State. As is true with so many of our social and political problems, the past few years have brought with them an increased tempo to many movements which had been proceeding more gradually in the years immediately preceding."²⁵

Unemployment should be sharply differentiated from dependency, of course, for unemployment by definition affects only the employables, the productive workers of the nation. Nevertheless, unemployment aggravates all forms of want, and hence relief figures provide for the present our best index of the burden imposed by unemployment.

The public burden of emergency relief, excluding the CWA, is indicated in Table 10, which shows national, state and local expenditures. The fluctuations over the three-year period 1933-1935 indicate the unplanned and emergency nature of the program, and a more or less sporadic shifting in the adequacy of relief payments. The increasing proportion carried by the Federal government reflects the incapacity of state and local governments to carry the unforeseen load of emergency relief.

The steady rise in public expenditures for relief and welfare in New York State is shown in Charts 9 and 10.²⁶ It should be noted that these charts show only the minimum relief loads, since local outlays not reimbursable

²⁵ State of New York, Legislative document (1936) No. 56, Governor's Commission on Unemployment Relief, Allen Wardwell, Chairman, *State and local welfare organization in the State of New York* (1936) pp. 30, 37

²⁶ The figures for 1932-34 relate only to expenditures reimbursable by the Temporary Emergency Relief Administration. The extent of local expenditures which were not reimbursable is not known; undoubtedly, a large amount should be added for such emergency payments. To reveal the entire situation, CWA expenditures should also be included in the total. The active assumption of national responsibility for relief of unemployment began in 1932. Total CWA grants to New York State were \$88,700,000.

Table 10

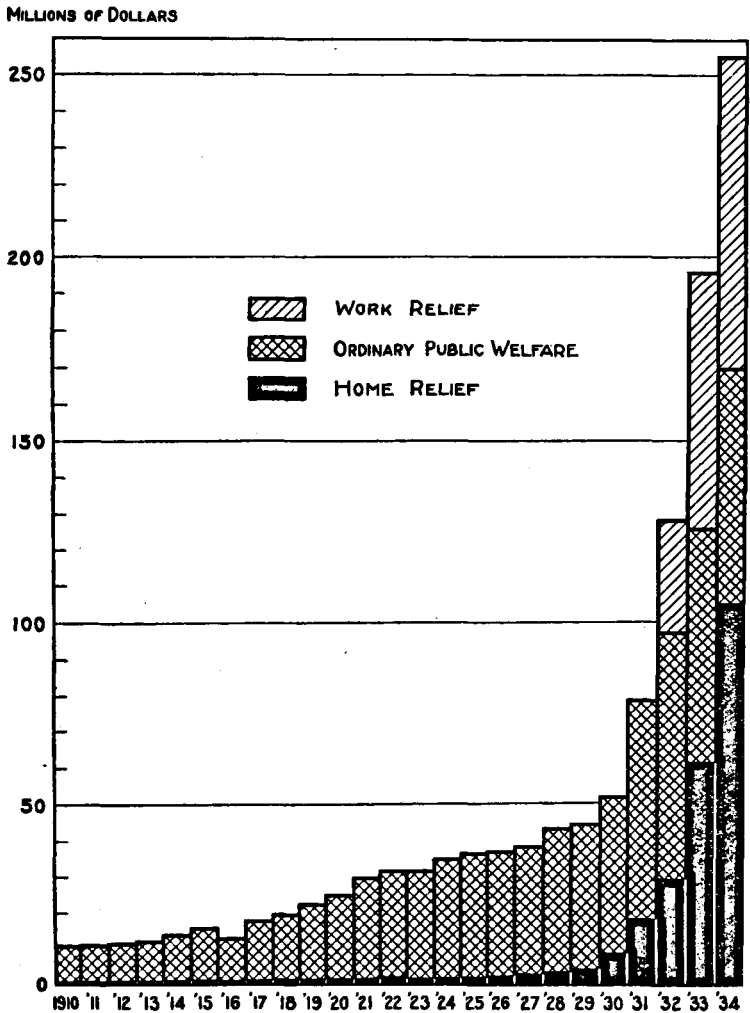
PUBLIC EMERGENCY RELIEF EXPENDITURES, CLASSIFIED BY SOURCE OF FUNDS, UNITED STATES, 1933-1935

(in thousands of dollars)

YEAR AND QUARTER	TOTAL FUNDS	FEDERAL FUNDS		STATE FUNDS		LOCAL FUNDS	
	All public sources	Amount	Percentage of total funds	Amount	Percentage of total funds	Amount	Percentage of total funds
1933, TOTAL	\$ 792,763	\$ 480,601	60	\$ 116,257	15	\$ 195,905	25
First	209,408	122,380	58	20,032	10	66,996	32
Second	210,156	136,701	65	21,239	10	52,216	25
Third	180,973	113,553	63	27,397	15	40,023	22
Fourth	192,226	107,967	56	47,589	25	36,670	19
1934, TOTAL	1,480,460	1,070,528	72	188,708	13	221,223	15
First	181,344	88,051	49	63,573	35	29,720	16
Second	367,556	271,125	74	42,067	11	54,364	15
Third	423,606	317,014	75	36,695	9	69,896	16
Fourth	507,954	394,338	78	46,373	9	67,243	13
1935, TOTAL	715,128	503,541	70	108,143	15	103,442	15
First	565,829	440,215	78	53,959	9	71,656	13
Second	546,043	417,568	76	61,280	11	68,196	13
Third	429,441	324,537	75	47,934	11	56,969	14
Fourth	285,687	179,004	60	60,209	23	46,473	17

SOURCE: Federal Emergency Relief Administration

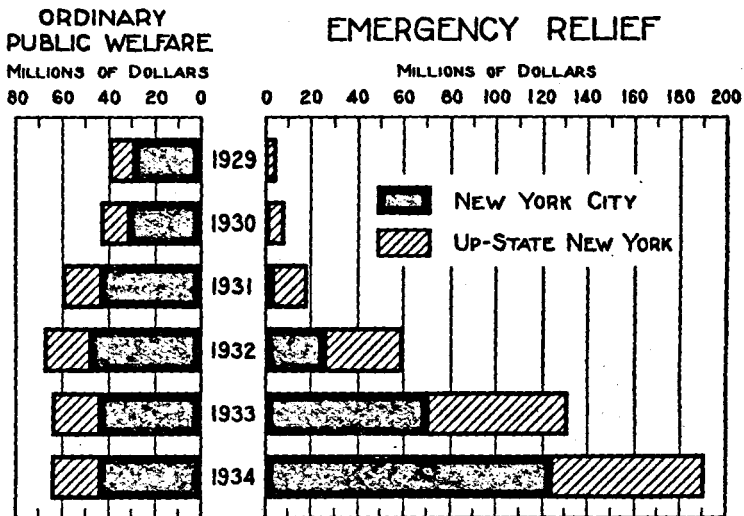
CHART 9
EXPENDITURES FROM PUBLIC FUNDS FOR RELIEF
NEW YORK STATE
1910-1934



from state funds are not included, CWA expenditures are omitted, and some general welfare expenditures are imperfectly covered in the earlier years. The broad and dramatic movement indicated would be emphasized by these inclusions.

Chart 9 shows how public expenditures in the whole State for home relief purposes (*i.e.*, excluding child welfare, institutional care and other regular welfare services for dependents) have responded to unemployment crises since 1910, and how steadily they have increased from 1923 onward. In 1923 about 5 cents in every relief dollar were spent for home relief; in 1929, 10 cents were spent.

CHART 10
RELIEF AND WELFARE EXPENDITURES
NEW YORK STATE, 1929-1934



SOURCE: NEW YORK STATE DEPARTMENT OF SOCIAL WELFARE

(See also Table 30, p. 199)

The period 1929-1934 was so exceptional that public expenditures for those years are presented separately in Chart 10. This chart shows both ordinary public assistance (child and institutional care, old age assistance, aid to the blind, etc.) and emergency relief in New York's

largest city and in the upstate district. Welfare expenditures increased steadily as the State took over more and more responsibility for aid to dependents. The cost of permanent welfare services established before 1929 is now estimated at \$67,000,000 annually.²⁷ But the direct effect of unemployment is most strikingly displayed in emergency relief expenditures. A region of intensive economic development, such as metropolitan New York, reflects its sensitiveness to unemployment by a sharp increase in public relief. But even in the upstate area relief expenditures increased 730 per cent between 1929 and 1934.²⁸

Relief expenditures in New York City from 1910 to date, including the contributions of private agencies, are shown in Chart 11. As early as 1917 public care began to be of marked importance as compared with private relief work, and finally the private agencies, although straining every resource, fell far behind in the struggle to meet the needs created by unemployment.

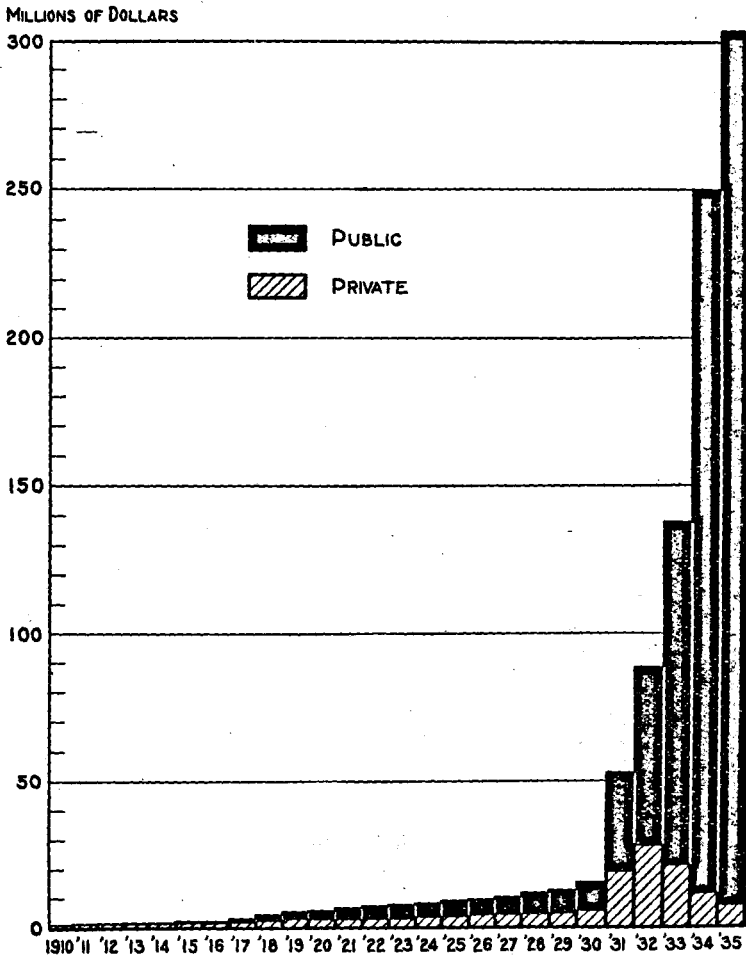
In spite of large total expenditures the average home relief granted per case was not high. The needs of large numbers, rather than generosity, called forth the large expenditures. The monthly allowance per family for work and home relief in New York City was 1932, \$51.36; 1933, \$39.37; 1934, \$42.15; 1935 (6 months), \$46.53. The average cost per family on home relief alone in 1935 was only \$39.75 per month. In upstate cities, weekly home relief grants for a family of three in the last quarter of 1934 were: Buffalo, \$8.86; Oswego, \$9.58; Binghamton, \$8.09; Syracuse, \$8.69. Work relief wages, if home relief was not being given, for the same sized family were \$14.11; \$9.70; \$12.05 and \$9.12 respectively.²⁹

²⁷ State of New York, Legislative document (1936) No. 56, *State and local welfare organization in the State of New York* (1936) p. 29

²⁸ Bond issues voted by large popular majorities for unemployment relief in the three years from November 1932 to November 1935 in New York State totalled \$185,000,000. These issues covered only State relief expenditures; local and emergency construction outlays made would greatly increase the figures as would the inclusion of Federal funds.

²⁹ *Work relief in the State of New York*, Governor's Commission on Unemployment Relief, 1936, pp. 49-50; and *City relief and city finance*, City Affairs Committee Bulletin, June 1936, p. 4

CHART 11
 PUBLIC AND PRIVATE EXPENDITURES
 FOR
 RELIEF
 AND ITS ADMINISTRATION
 NEW YORK CITY, 1910-1935



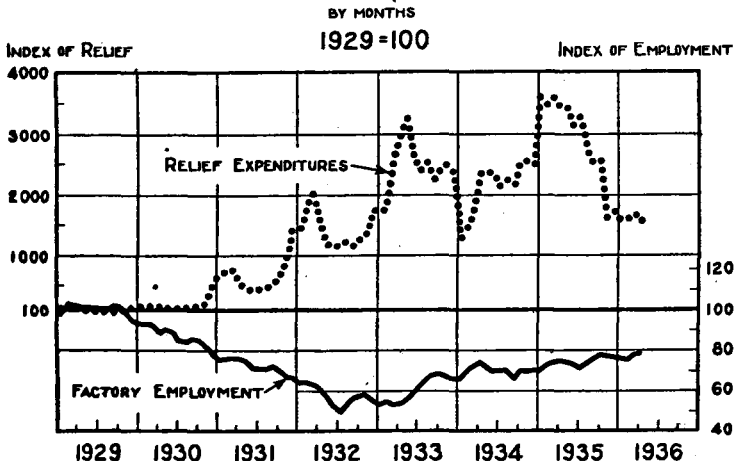
SOURCE: KATE HUNTLEY, FINANCIAL TRENDS IN ORGANIZED SOCIAL WORK IN NEW YORK CITY;
 UNPUBLISHED DATA FROM THE WELFARE COUNCIL OF NEW YORK CITY

(See also Table 26, p. 195)

Relief expenditures in the form of annual figures, as presented in Charts 9, 10 and 11, obscure the short-time fluctuations in the amount of employment and relief during both ordinary times and periods of emergency. For a considerable number of American cities materials are available for testing the relationship between fluctuations in employment and local relief.³⁰ During the years studied the relief costs in each locality reflected the fluctuations in employment promptly and directly.

Chart 12 covers five New York State cities in the period

CHART 12
EMPLOYMENT AND RELIEF, FIVE CITIES
NEW YORK STATE, JAN. 1929 - APR. 1936



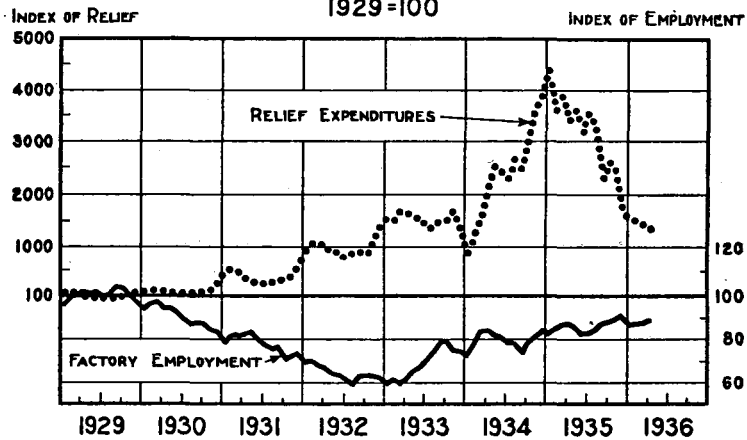
SOURCE: See footnote 30, p. 35 and Table 27, p. 196

³⁰ Composite of five New York cities, Chart 12 (Buffalo, New York, Rochester, Syracuse and Utica). The sources of employment and relief statistics are indicated on the individual city charts. The monthly composite index numbers of factory employment from which the employment curve is drawn are simple, unweighted, arithmetic averages of the monthly index numbers of employment for the individual cities. Similarly, the relief curve is drawn from simple, unweighted, arithmetic averages of monthly index numbers of relief expenditures for the individual cities.

Sixteen city composite, Chart 14 (Akron, Boston, Buffalo, Chicago, Cincinnati, Cleveland, Detroit, Erie, Milwaukee, New York, Philadelphia, Pittsburgh, Rochester, Scranton, Toledo and Worcester). The sources of employment data are published reports of the Labor Departments of New York, Pennsylvania, Illinois and Wisconsin, of the Ohio State University

from 1929 onward. The downward slump of factory employment was matched by the upward trend of relief expenditures. In Chart 13, the same story is told for 30 American cities.

CHART 13
EMPLOYMENT AND RELIEF, THIRTY CITIES
UNITED STATES, JAN. 1929 - APR. 1936
BY MONTHS
1929=100



SOURCE: See footnote 30, p. 35 and Table 29, p. 198 .

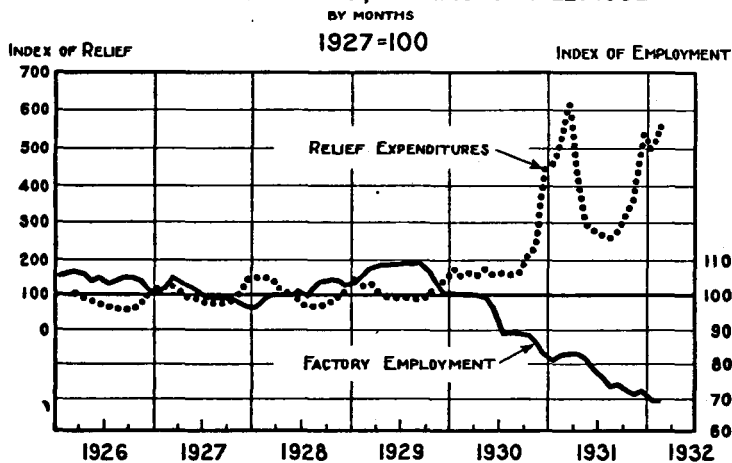
and of the Detroit Employers' Association and Board of Commerce; relief data were compiled from Russell Sage Foundation reports and correspondence with the relief agencies of the cities. The employment curve is drawn as for the five-city composite; the relief curve is drawn from the medians of the arrays of monthly index numbers of relief expenditures for each city.

Thirty city composite, Chart 13 (In addition to the 16 cities in Chart 14 the following 14 are included: Altoona, Bridgeport, Canton, Columbus, Dayton, Des Moines, Lancaster, Lawrence, Minneapolis, New Bedford, Saint Paul, Sioux City, Syracuse and Utica). Additional sources of employment statistics are published reports of the Labor Departments of the United States and Massachusetts, the Business Research Bureau of the Metropolitan Life Insurance Company, Bridgeport Manufacturers' Association, Federal Reserve Bank of Philadelphia, Iowa Bureau of Labor and the University of Minnesota. All relief data were compiled from the special tabulations of the Children's Bureau of the United States Department of Labor. Monthly composite index numbers of both employment and relief, from which the curves are drawn, are computed by the same methods as those used for the sixteen city composite, Chart 14.

For Detroit, the relief data represent the comprehensive coverage of a consolidated public welfare agency; for the New York cities they are drawn from the records of a representative private agency in each instance.

Chart 14, however, showing factory employment and relief expenditures for a "normal period", provides more striking evidence, since the relief expenditures for the earlier years were not so much affected by changes in appropriations and sources of funds, and by use of work programs, as were the expenditures for the depression years. The loss of factory employment in the latter part of 1927 is answered by a rise in the amount of relief expenditures; and again, in 1928 and 1929, as employment went downward at the end of each year, there was a corresponding upward movement in money spent for relief of the destitute.

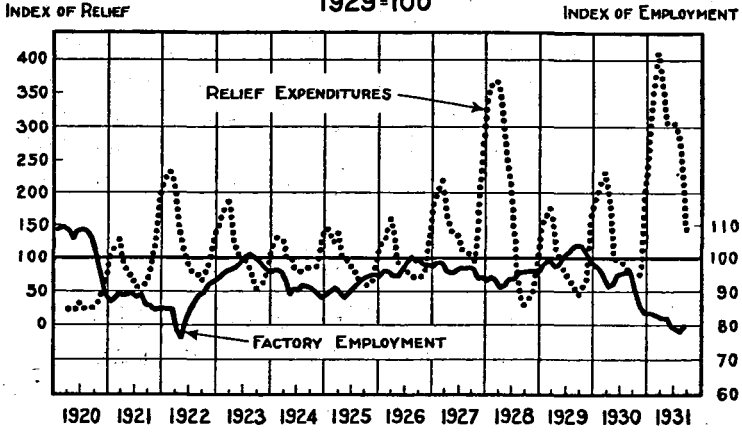
CHART 14
EMPLOYMENT AND RELIEF, SIXTEEN CITIES
UNITED STATES, JAN. 1926 - FEB. 1932
BY MONTHS



SOURCE: See footnote 30, p. 35 and Table 28, p. 197

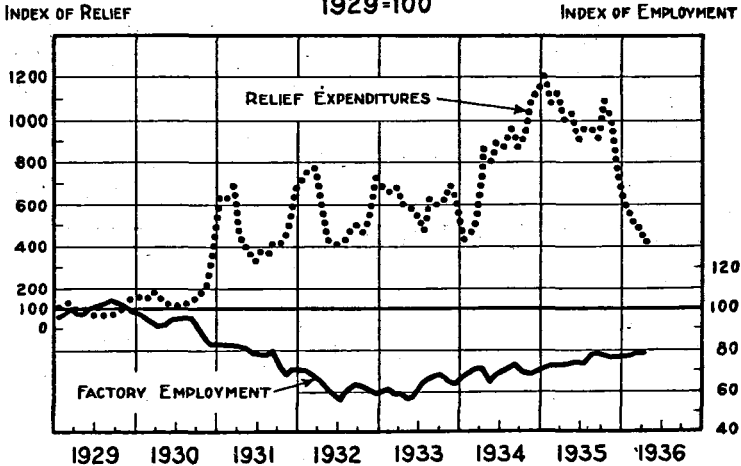
In Rochester (Chart 15) the effects of the 1921 and 1927 depressions are clearly marked; in Detroit (Chart 16) the employment slump at the end of each year began to be reflected in increased relief expenditures from the beginning of the post-war period. In New York, as in the other cities, even monthly changes in factory employment required corresponding changes in the activity of relief

CHART 15
EMPLOYMENT AND RELIEF, ROCHESTER, N.Y.
1920 - 1931
 BY MONTHS
 1929=100



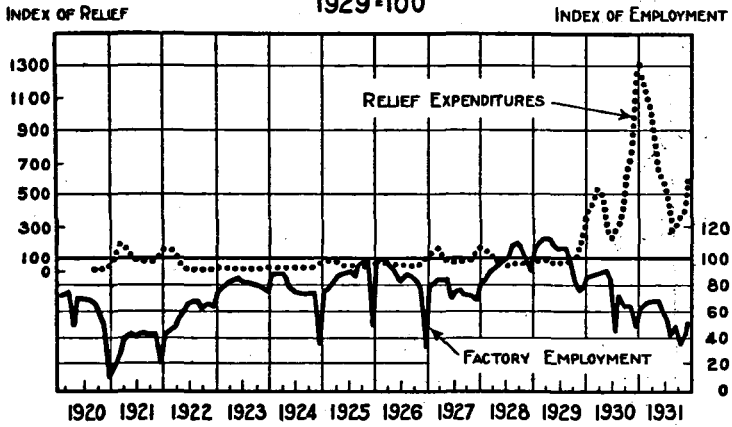
SOURCES: RELIEF-ROCHESTER SOCIAL WELFARE LEAGUE
 EMPLOYMENT-N.Y.STATE DEPT. OF LABOR

JAN. 1929 - APR. 1936
 BY MONTHS
 1929=100



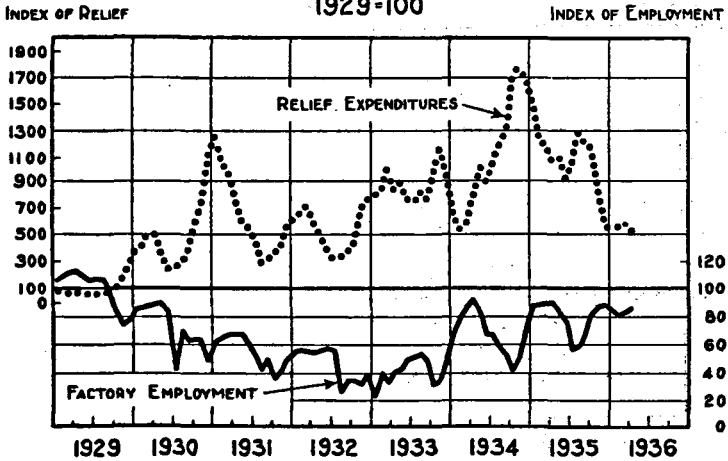
SOURCES: RELIEF-U.S.CHILDREN'S BUREAU
 EMPLOYMENT-N.Y.STATE DEPT. OF LABOR

CHART 16
EMPLOYMENT AND RELIEF, DETROIT, MICH.
 1920 - 1931
 BY MONTHS
 1929=100



SOURCES: RELIEF - DETROIT DEPT. OF PUBLIC WELFARE
 EMPLOYMENT - EMPLOYERS' ASSN. AND BOARD OF COMMERCE

JAN. 1929 - APR. 1936
 BY MONTHS
 1929=100



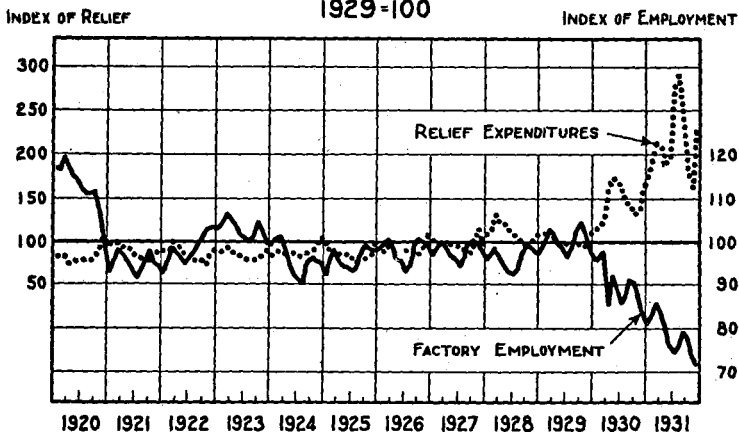
SOURCES: RELIEF - U.S. CHILDREN'S BUREAU
 EMPLOYMENT - EMPLOYERS' ASSN. AND BOARD OF COMMERCE

CHART 17 EMPLOYMENT AND RELIEF, NEW YORK, N.Y.

1920 - 1931

BY MONTHS

1929=100

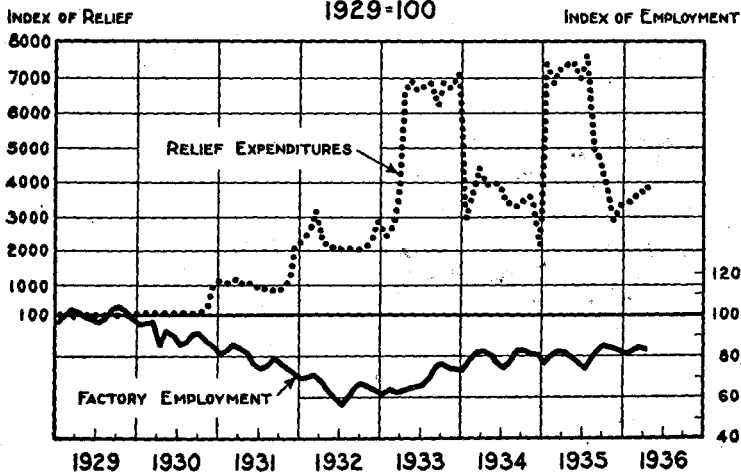


SOURCES: RELIEF-CHARITY ORGANIZATION SOCIETY; ASSN. FOR IMPROVING CONDITION OF THE POOR; JEWISH SOCIAL SERVICE ASSN.
EMPLOYMENT-METROPOLITAN LIFE INS. CO., BUSINESS RESEARCH BUREAU

JAN. 1929 - APR. 1936

BY MONTHS

1929=100



SOURCES: RELIEF-U.S.CHILDRENS BUREAU
EMPLOYMENT-METROPOLITAN LIFE INS. CO., BUSINESS RESEARCH BUREAU

CHART 18
EMPLOYMENT AND RELIEF, BUFFALO, N.Y.
 JAN. 1929 - APR. 1936
 BY MONTHS
 1929=100

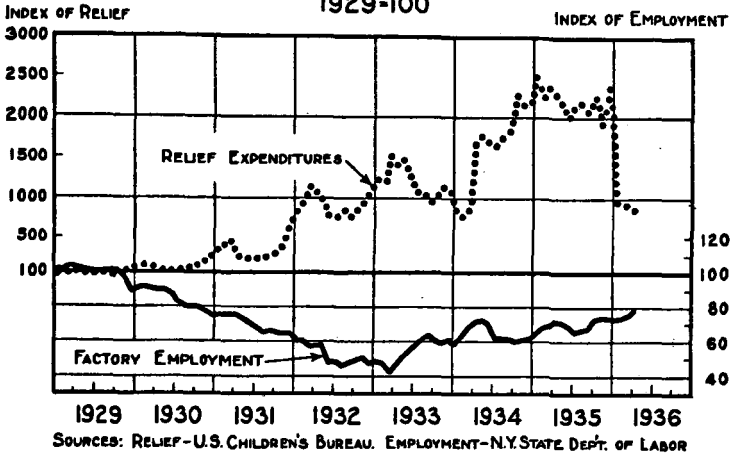


CHART 19
EMPLOYMENT AND RELIEF, SYRACUSE, N.Y.
 JAN. 1929 - APR. 1936
 BY MONTHS
 1929=100

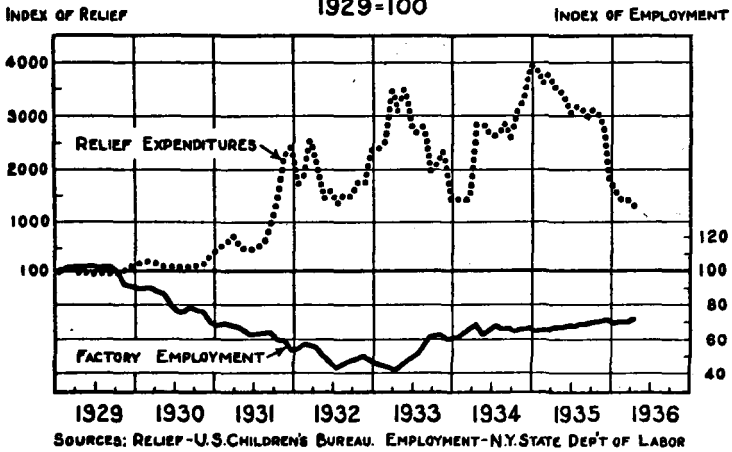
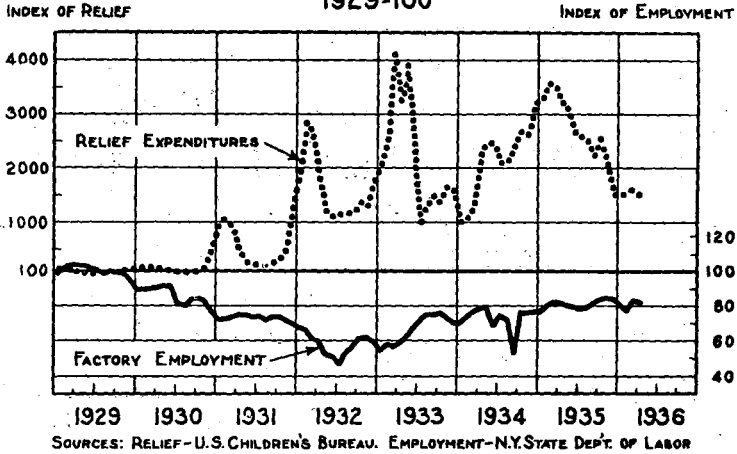


CHART 20
 EMPLOYMENT AND RELIEF, UTICA, N.Y.
 JAN. 1929 - APR. 1936
 BY MONTHS
 1929=100

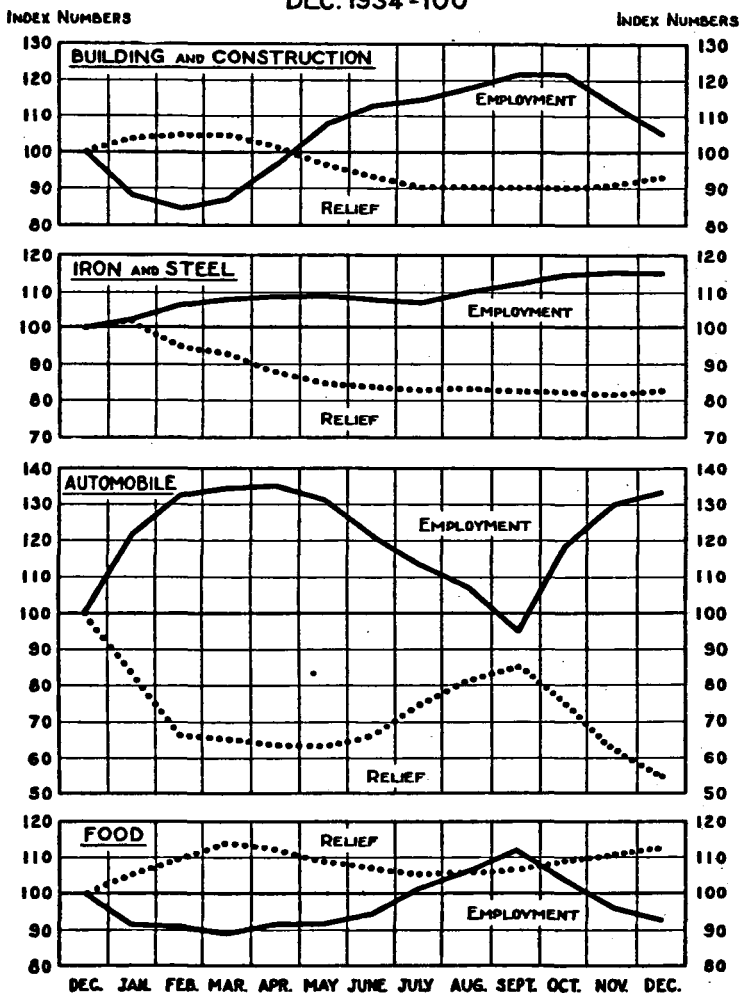


agencies. The pressure on the resources of both public and private agencies caused by depression unemployment beginning in 1930 is too well known to require mention. These charts portray this pressure in dramatic form.

The close relation between employment in industry and the need for direct relief is also indicated in Chart 21 which shows how employment changes in building and construction, iron and steel, automobiles, and food products in 1935 were reflected at once in the number of persons on relief who reported their usual occupation to be in these four industries.

Study of these data reveals a close and immediate relationship between employment fluctuations and the relief burden in both good times and bad. It demonstrates that the burden of relief in normal times is by no means confined to the unemployables or near-unemployables, but that many workers are employed so irregularly that a short period of joblessness sends them over the relief line.

CHART 21
 EMPLOYMENT IN THE UNITED STATES
 AND
 EMPLOYABLES ON RELIEF IN 13 CITIES
 BY SELECTED INDUSTRIES
 DEC. 1934 - DEC. 1935
 DEC. 1934 = 100



SOURCE: WORKS PROGRESS ADMINISTRATION,
 DIVISION OF SOCIAL RESEARCH

F. EFFECTS OF DEPRESSION ON NATIONAL INCOME

The shrinkage of the national income from 1929 to 1934 is shown in Table 11. It will be noted that labor's income by 1933 had declined to a low of 57 per cent of that of 1929. In the most severely depressed industries the shrinkage reached a low of 42 per cent of 1929 levels. Wages shrank, on the whole, more than property income, although both declined greatly from the level of 1929. Returns to capital must inevitably fall when labor's purchasing power disappears, and thus the owners of industry have a stake in the maintenance of employment almost as direct as that of labor.

Chart 22 shows the predominance of labor's income in the total purchasing power of the community. Labor's share declined during the depression until it was reinforced by relief payments in 1933 and 1934. The decline in wages paid out in manufacturing and other heavy industries, not shown separately on the Chart, was especially

Table 11

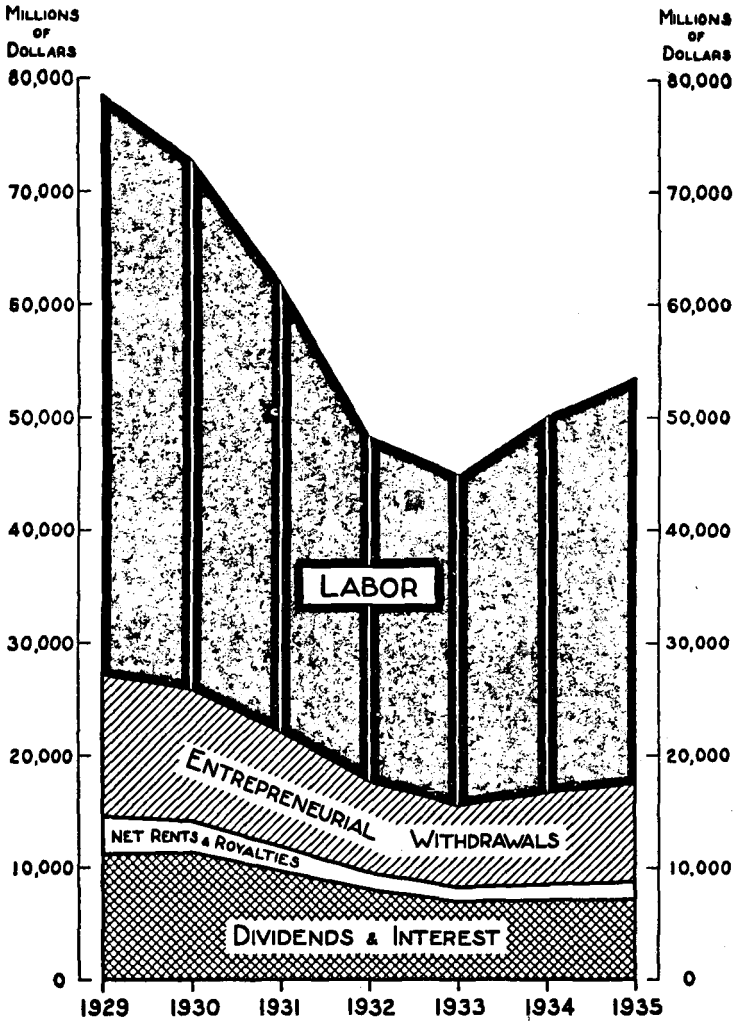
TYPE OF PAYMENT	NATIONAL INCOME PAID OUT, BY TYPE OF PAYMENT, 1929-1935						
	1929	1930	1931	1932	1933	1934	1935
	(Percentages of 1929)						
Total income paid out	100.0	92.8	78.5	61.5	57.2	63.8	68.1
Labor income	100.0	91.7	77.2	60.1	57.1	65.1	70.0
Salaries (selected industries) ¹	100.0	98.0	81.3	59.8	53.8	57.4	60.3
Wages (selected industries) ¹	100.0	82.9	61.7	40.8	41.8	52.0	59.0
Salaries and wages (all other industries)	100.0	95.4	84.7	70.1	63.5	68.8	72.9
Other labor income	100.0	105.7	115.6	117.3	103.8	95.9	107.3
Property income ²	100.0	100.7	87.0	71.1	62.1	64.3	65.1
Dividends	100.0	97.2	72.3	46.2	37.0	42.7	47.5
Interest	100.0	103.9	101.3	97.5	90.0	89.5	86.6
Net rents and royalties	100.0	80.8	61.2	42.9	36.4	40.4	44.6
Entrepreneurial withdrawals	100.0	93.3	80.7	63.9	58.4	64.4	69.6

¹ Includes mining, manufacturing, construction, steam railroads, Pullman, railway express, and water transportation

² Includes also net balance of international flow of property incomes

SOURCE: U. S. Department of Commerce, *Survey of Current Business*, July 1936

CHART 22
 NATIONAL INCOME PAID OUT
 BY TYPES OF PAYMENT
 1929-1935



SOURCE: UNITED STATES DEPARTMENT OF COMMERCE,
 SURVEY OF CURRENT BUSINESS, JULY 1936
 (See also Table 47, p. 208)

marked. The millions of persons whose purchasing power was thus cut off promptly at the beginning of the depression provided the market for the products of capital as well as the labor it required; when their purchases were cut off, markets shrivelled. An effective device for sustaining purchasing power at the beginnings of business decline, such as unemployment insurance, would help "over short periods to keep buying in its accustomed channels. In a [community where] there have been extensive layoffs, it [would help] to prevent a sudden contraction in the business or income of local tradesmen or landlords; it [would reduce] economic dislocations."³¹

G. SOCIAL WASTAGE DUE TO UNEMPLOYMENT

The social consequences of unemployment, both for the community and for the individual, are no less disastrous than the economic consequences. Lack of work deprives of their livelihood the industrious and thrifty as well as the indolent and careless. It breaks the morale of the worker, shatters family life, undermines physical well-being, delays entrance into marriage, depresses the birth rate, promotes sex irregularity, vagrancy, suicide and crime. With its paradox of starvation amidst plenty, unemployment presents the most compelling and the most tragic challenge to the existing social order.³²

The heaviest burden of unemployment falls upon those least able to bear it. The individuals most subject to unemployment are those earning the smallest incomes when employed; they are also those having the largest

³¹ Aldrich, Winthrop, W., *The Monitor* (official publication of Associated Industries of New York State, Inc.) August 1936. See also Churchill, Winston, *Saturday Evening Post*, March, April, 1930; and *Final report* of Royal Commission on Unemployment Insurance, Great Britain, 1932.

³² Epstein, Abraham, *Insecurity, a challenge to America* (Third Ed., 1936) p. 198. In the words of ex-President Hoover, "There is no economic failure so terrible in its import as that of a country possessing a surplus of every necessity of life in which members willing and anxious to work are deprived of these necessities."

families.³³ And in addition their incomes have been so low, even during periods of employment, that they have been unable to accumulate any substantial savings. A recent study by the Brookings Institution shows that even in the pre-depression period, non-farm families with annual incomes up to \$1,000 had to draw upon past savings, if any existed, or had to borrow to the extent of \$60, in order to meet current expenses. Average annual savings of the group with incomes from \$1,000-\$1,500 were \$10; even in the highest-paid group within the scope of unemployment insurance, the group with an average income of \$2,000 to \$2,500, savings were only \$180 annually in prosperous periods. The Brookings Institution found that in 1929-1930 71 per cent of all families had less than \$2,500 income, and more than 42 per cent had less than \$1,500.³⁴ Obviously, these sums are inadequate to maintain a family for any but a very short period. Consequently when the worker loses his job, his family soon faces destitution. In the 9,591 families which contained unemployed workers at the time of a Philadelphia survey, made in 1932, the average decrease of income was 71.6 per cent. The income of those families actually suffering from insufficient food, clothing and heat had been reduced 88 per cent.³⁵ Of 235 families studied by

³³ For example, see Dewhurst, J. F., and Nathan, R. R., *Social and economic character of unemployment in Philadelphia, April 1930*, U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 555, 1932. This study classified the inhabitants of 171 city blocks according to economic status and correlated economic status with unemployment. 13 blocks whose population had a "high to medium" economic status had 6.5 per cent of the wage earners totally unemployed. 67 blocks in the "medium" group reported 13.1 per cent unemployment. 91 blocks classed as "medium to low" revealed 18.5 per cent unemployment. On the relationship between size of family and unemployment, see *Ibid.*, pp. 30-31.

³⁴ Leven, M., Moulton, H. G., and Warburton, C., *op. cit.*, pp. 80 (chart); 257 (table b); 94, 257

³⁵ Conditions in the families of the unemployed in Philadelphia, May, 1932, *Monthly Labor Review*, April 1932, pp. 774-778. A study of 8,000 wage-earners' families in Baltimore, Cleveland, Syracuse, Brooklyn and Manhattan, made by the U. S. Public Health Service in collaboration with the Milbank Fund, pointed out that 32.7 per cent of the families in Baltimore, Cleveland and Syracuse had incomes under \$1,200 in 1929. In 1932 no less than 76.1 per cent of the families in those cities reported such incomes. In Brooklyn and Manhattan 17 per cent of the families had incomes under \$1,200 in 1929 as compared with 45.1 per cent in 1932. The

the U. S. Children's Bureau in Atlanta, Memphis, Racine, Terre Haute and Washington, D. C., 49 per cent were living on half or less than half of their former incomes. Of 251 families, 59 per cent had a six-month income of less than \$400, and 26 per cent had a six-month income of only \$200. At the time of this study, only 10 of 252 families had any cash resources. Three-fifths had never had a bank account, and 76 per cent were in debt for food, shelter and medical care.³⁶

Even the better paid workers who have been able to accumulate a small reserve against old age or "a rainy day" eventually lose their independence. Without adequate income they are forced to draw upon *family savings* to meet current needs. In most cases, these savings are inadequate to span a prolonged period of idleness; consequently, even this narrow margin between security and destitution is rapidly wiped out. About one-third of 252 families in the Atlanta, Memphis, Racine, Terre Haute and Washington, D. C. study had built up savings accounts during periods of employment, but had exhausted these savings during the depression years. In New York State, in the period between 1931 and 1933, the number of savings bank depositors decreased by 280,000 and the amount of deposits by \$1,200,000,000.³⁷ Depletion of savings accounts is soon followed by a long and humiliating train of other financial stop-gaps. Friends and relatives are approached for aid. Insurance protection is first threatened by borrowing on policies and is finally lost when policies are surrendered or permitted to lapse. Be-

mean income of the families in Baltimore, Cleveland and Syracuse dropped from \$1,660 in 1929 to \$895 in 1932 and in Brooklyn and Manhattan during the same period from \$2,150 to \$1,440. Sydenstricker, E., and Perrott, G. St. J., Changes in family income and rental during the economic depression, *Journal of the American Statistical Association*, March 1934, Supplement, pp. 43-46

³⁶ Lenroot, Katharine, Children of the depression, *Social Service Review*, June 1935, pp. 219-222

³⁷ *Statistical abstract of the United States*, 1935, p. 249; 1934, p. 243. There was a similar decrease in savings and depositors throughout the country during these years. Between 1931-1933 there was a decrease in savings bank deposits of about \$7,000,000,000 and a loss of about 12,000,000 depositors.

longings are sold or pawned to raise money. Furniture and other articles bought on the instalment plan are lost to the instalment collector. Unpaid bills are run up with the butcher, the baker and the grocer. When all financial resources are exhausted the unemployed worker must apply to public and private relief agencies for assistance in meeting current needs. The number of cases of direct and work relief in New York State rose from 41,234 in the first quarter of 1929 to 171,302 in June 1932, and to 551,544 in June 1935.³⁸

Long continued unemployment inevitably brings a lower standard of living for the unemployed worker and his family. But the effects go further, leading to a vast increase in the number of complex families, including various relatives in addition to husband, wife and children, and often creating attendant problems of psychological and emotional stress. "Relatives of all degrees gather round an income like flies around honey—anyone who has a job and an income will find himself swamped either with appeals for help or with non-paying guests."³⁹

Drastic economies are made in food.⁴⁰ Five-sixths of the 1,096 families studied by the U. S. Women's Bureau had had to cut down the cost of their food.⁴¹ The diet

³⁸ New York (State) T. E. R. A., *Monthly bulletin on public relief statistics*, June 1935, Table III, p. 9; U. S. Department of Commerce, Bureau of Census, *Special report, relief expenditures by governmental and private organizations, 1929 and 1931* (1932)

³⁹ Givens, M. B., *Statistical measures of social aspects of unemployment*, *Journal of American Statistical Association*, September 1931, p. 311

⁴⁰ The following comments from Hall, Helen, *Case studies of unemployment* (edited by Marion Elderton, 1931) are illuminating on this point: "And as the assault on everyday living presses more and more inexorably the families dig themselves in deeper. As Mrs. Cardani in New York put it to Mrs. Nelson, 'You know what we do? * * * If we're going to live honest you know what we do? We eat little—that's what we do.' * * * The Tiorsis 'pulled in their belts', the Giámos of Madison fed their children all the time on potatoes and bread with beans for meat. The Monterey children picked up scraps of meat and vegetables cast aside in the market. One winter the Bentleys of Atlanta with their four children managed on less than \$5 a week for groceries. This meant that the family ate only two meals a day, consisting of corn bread, salt meat and dried beans."

⁴¹ U. S. Department of Labor, Women's Bureau, Bulletin No. 108, *The effects of the depression on wage earners' families*, p. 9

of nine-tenths of the families in the Atlanta, Memphis, Racine, Terre Haute and Washington, D. C. study who were on relief was insufficient. Forty-three per cent of the 504 children of these families were receiving no milk either at home or in school.⁴²

Sacrifices must also be made by the unemployed worker in the quality of his housing. This is clearly brought out by the comments of Miss Brandt on the depression winter of 1930-31:

“There was a great deal of moving last winter, and frequent moving by many families; to smaller apartments; to poorer neighborhoods; to old-law tenements without heat or hot water or private toilets; to basements; to furnished rooms; from Queens back to run-down districts along the middle and upper East Side; to the homes of relatives or friends. ‘Doubling up’ of families was common, and instances were found of three families living together. Mention is made of many families of eight or ten in three rooms; of three, four, five, even six persons living in one small furnished room; of families in cellars, where the landlord had allowed them to move from their former apartments above; and of others in unheated garages. Many who did not move gave up much-needed rooms to lodgers. The usual results of increased congestion were in evidence; improper sleeping arrangements, slack housekeeping, dirt and disorder, friction and frazzled nerves, less home life.”⁴³

If the unemployed worker refuses to move voluntarily and is unable to pay rent, he lives under the continual

⁴² Lenroot, Katharine, *op. cit.*, pp. 212-242:

An Agency of public health nurses in one city reported in the fall of 1931 that “many of the [expectant] mothers coming to the agency are unable to provide themselves with even one glass of milk a day. Our calls for free milk have increased 41 per cent since 1929, and these from much higher types of families than we have ever had before.”

Williams, J. M., *Human aspects of unemployment and relief* (1933) p. 49

⁴³ Brandt, Lilian, *An impressionistic view of the winter of 1930-31 in New York City* (1932) pp. 9-10

threat of eviction. In New York Municipal Court, summary proceedings to evict tenants rose from 104,048 cases in 1928 to 334,171 in 1933.⁴⁴ Hundreds of families, however, are evicted by landlords without resort to court action, by the simple expedient of cutting off light, heat, gas and water, and thus compelling a non-paying tenant to move.

In a special study of the standard of living of 1,000 railway employees the direct effects of unemployment on family living have been traced in detail.⁴⁵ This group, "the aristocracy of labor," suffered reductions in income from part-time as well as total unemployment. In 1932, two-thirds of the employees received less than \$1,500, and one-tenth received less than \$500. In the majority of cases this was the only family income, and even where other members of the family still had work, the amounts added were very small. Counting all sources of income (except boarders and lodgers) nearly three-fifths of the families failed to secure as much as \$1,500. Nearly one-fifth were supporting friends or relatives who had lost all other means of support. Few had yet turned to relief agencies; indeed, the social services which they were accustomed to use had been curtailed rather than expanded. The case histories tell stories of "educational opportunities abandoned and health needs neglected and of lives stripped bare of even the most inexpensive forms of recreation and social life." The families frequently crowded into poorer homes, and most of them resorted to shabby clothing and a meager diet. With all their economies, this unusually stable group of workers could not maintain solvency. More than one-half had been buying their homes; by 1932, two-fifths of these were in arrears and 44 had lost their homes. One-half had sacrificed their life insurance policies, and no less than 60 per cent had gone seriously into debt.

⁴⁴ *Reports of the Municipal Court of New York City, 1928, 1933.* A similar rise in eviction proceedings was observable in other cities.

⁴⁵ Goodrich, Carter, *Earnings and standard of living of 1,000 railway employees during the depression* (U. S. Department of Labor, 1934) pp. 1-2

Poor housing, inadequate diet, insufficient clothing, strain and worry resulting from unemployment have their inevitable repercussions upon *health*. This is clearly demonstrated by a study of income, employment and illness among 11,511 families in ten cities.⁴⁶ With the exception of two cities "the disabling illness rate of families having no employed workers is consistently higher in each city than that of families having part-time or full-time workers." * * * "The data are striking evidence of the association between a relatively high rate of disabling illness and loss of employment during the depression with accompanying loss of income and reduced standards of living." This study also correlated illness with change of income during unemployment and concluded that the families that suffered the greatest change in economic status exhibited the highest illness rate. The relief members of the group who were "comfortable" in 1929 and "poor" in 1932 had an illness rate which was 73 per cent higher than the group that was "comfortable" in both 1929 and 1932.

The decline in the health of the unemployed accounts in large measure for the increasing strain on the public hospital facilities in New York. Despite a 25 per cent increase in the number of hospital beds available between 1920 and 1934, the utilization of New York hospitals rose from 80 per cent to 91.3 per cent. The average daily number of patients treated rose 43 per cent during this period. The vast majority of these patients did not pay for the treatment received.⁴⁷

The health, vitality and physique of children are particularly affected by the lowered *standards of living* result-

⁴⁶ Perrott, G. St. J., and Collins, S. D., Relation of sickness to income and income change, *Public Health Reports*, May 3, 1935, pp. 595-622. The 10 cities studied were Baltimore, Birmingham, Brooklyn, Cleveland, Detroit, Manhattan, Pittsburgh, Syracuse, Morgantown (W. Va.), and Greenville (S. C.). About 1,200 families were studied in each city. On the relation between unemployment and health, see also The economic depression and public health, *International Labour Review*, December 1932, pp. 841-846.

⁴⁷ Days of care were 5,358,667 in 1928 and 7,638,436 in 1934. Paying patients in days of care were 381,188 in 1928 and 456,510 in 1934. Public patients in days of care were 4,977,479 in 1928 and 7,182,926 in 1934. *Annual reports of the New York State Department of Social Welfare*, 1928-29, pp. 32 and 202; and 1934-35, pp. 99 and 116

ing from unemployment. It is the opinion of competent observers that cases of *malnutrition* among children definitely increase with unemployment. The Director of the Child Hygiene Division of the Children's Bureau estimates that "one-fifth of all preschool and school children are showing the effects of poor nutrition, of inadequate housing, of lack of medical care, and many, too, the effect of the anxiety and sense of insecurity that prevails in families when the father has no work."⁴⁸

A study made by the U. S. Department of Public Health indicated that the height and weight of the children of the unemployed poor "exhibits a definite downward trend during the five-year depression period."⁴⁹

Although recent economic conditions have undoubtedly caused a great deal of nervous strain, it is probable that they have not resulted in a very marked rise in serious mental diseases. At the same time the number of persons admitted to State hospitals for the insane has increased from 222.2 per 100,000 in 1928 to 263.6 per 100,000 in 1934,⁵⁰ while first admissions to mental hospitals in New York State increased from 5,011 in 1928 to 11,284 in 1933.⁵¹ A recent survey of the National Committee for Mental Hygiene concludes that the depression "has been an important contributing factor in causing additional admissions to hospitals and may become an increasingly important one if present economic conditions continue."⁵²

One type of abnormal behavior, *suicide*, clearly shows the effect of unemployment and depression. It has long been observed that the suicide rate, particularly among males, declines during years of prosperity and rises dur-

⁴⁸ Eliot, Martha M., Some effects of the depression on the nutrition of children, *Hospital Social Service*, December 1933, p. 585

⁴⁹ Palmer, Carroll E., Height and weight of children of the depression poor, *Public Health Reports*, August 16, 1935, p. 1106

⁵⁰ *Statistical abstract of the United States*, 1935, p. 70

⁵¹ U. S. Census Bureau, *Patients in hospitals for mental diseases*, 1933, p. 19; 1928, p. 70

⁵² Komora, Paul O., and Clark, Mary A., Mental disease in the crisis, *Mental Hygiene*, April 1935, p. 301

ing years of depression.⁵³ Prior to the present depression, the greatest increases in suicide came in 1907, 1908 and 1921, years of acute economic distress. In 1932 the suicide rate reached its highest point since 1908, 21.3 per hundred thousand population.⁵⁴ A study of 1,000 cases of attempted suicide demonstrated that "the percentage of unemployment * * * was significantly greater than in the general population."⁵⁵ Such data lend force to the conclusion of an excellent recent study, that "economic insecurity is conducive to suicide."⁵⁶

In addition to its effect upon the family as a group of individuals, unemployment critically affects the family as an institution. One of the most evident of such effects is the decline of the *marriage rate*. English and American statistics clearly demonstrate that the marriage rate closely follows the index of business conditions, increasing with prosperity and decreasing with economic depression.⁵⁷ In 1932, 250,000 fewer marriages were reported to the U. S. Census Bureau than in 1929, a decline of 2.27 marriages per 1,000 population.⁵⁸ In New York State, the number of marriages declined from 121,535 in 1929 to 104,665 in 1932.⁵⁹

⁵³ Hurlburt, Walter C., Prosperity, depression and the suicide rate, *American Journal of Sociology*, March 1932. Dublin, L. I., and Bunzel, B., *To be or not to be* (1933) p. 100 et seq.

⁵⁴ Hoffman, F. L., Suicide record for 1932, *Spectator*, June 8, 1933, pp. 6-7; 10-11

⁵⁵ Hoffman, F. L., *Ibid.*

⁵⁶ Dublin, L. I., and Bunzel, B., *op. cit.*, p. 109

⁵⁷ Beveridge, W. H., *Unemployment* (1930) p. 46; and Thomas, Dorothy S., *Social aspects of the business cycle* (1927) pp. 62-66, 81-84, 155-56

The following tabulation shows the number of marriages in the United States, 1922-34, per 1,000 population:

1922	10.3	1927	10.1	1931	8.5
1923	11.0	1928	9.9	1932	7.9
1924	10.4	1929	10.1	1933	8.4*
1925	10.3	1930	9.1	1934	9.7*
1926	10.3				

* Estimates based on reports from 26 states

SOURCES: *Statistical abstracts of the United States, 1922-1932*; and Metropolitan Life Insurance Company, *The rise in marriages here and abroad, Statistical Bulletin*, December 1935

⁵⁸ There were 1,232,559 marriages in 1929 and 981,903 in 1932. *Statistical abstract of the United States, 1935*, p. 93

⁵⁹ U. S. Census Bureau, *Marriage and divorce, 1929, 1932*. The rate, which had been 10.1 per 1,000 population, declined to 8.1 per 1,000,

Birth rates, too, are affected by economic insecurity and unemployment. The greatest number of births in the United States occur "one year after the peak of prosperity."⁶⁰ The New York birth rate, which was 18.2 per thousand population in 1932, dropped to 14.1 in 1933.⁶¹ Since there were fewer marriages during the depression period, fewer births were to be expected. However, economic insecurity and unemployment undoubtedly have contributed to a deliberate restriction of births.

Delayed marriages also undermine family institutions by encouraging *sexual irregularity*. The growth or decline of such irregularity is, of course, extremely difficult to measure, but the data on illegitimacy throw some light on this subject. In New York City illegitimate births rose from 10.9 per one thousand live births in 1928 to 15.7 per thousand in 1933.⁶² Cases of rape, also, appear to have increased during the depression years. In sixty-nine cities of over 100,000 population cases known to the police increased from a daily average of 580 in 1931 to 937 in 1934.⁶³

Unemployment has also caused a tremendous increase in *vagrancy*. During years of severe unemployment thousands of individuals leave their homes in a fruitless search for better economic opportunities. According to the Welfare Council of New York City, the daily average of homeless individuals under care in New York City in January 1933 had increased ten-fold over the daily average for

⁶⁰ Thomas, Dorothy S., *op. cit.*, p. 157

⁶¹ It is true that the trend of the birth rate in New York as in other states has been downward for many years. But the present depression accelerated this downward trend. In the six years between 1920-25 the birth rate fell off 2.6 per thousand. In the six years between 1928-33, however, the rate fell off 4.1 per thousand. State of New York, Department of Health, *Annual report*, 1934, p. 2

⁶² State of New York, Department of Health, *Annual reports*, 1929-1934

⁶³ U. S. Department of Justice, Federal Bureau of Investigation, *Uniform crime reports*, 1936, p. 50

January 1929.⁶⁴ A most disturbing feature of this increase in vagrancy during the depression is the large number of boys and girls who have taken to the road. Boys and girls become vagrants primarily because of the insufficiency of the home. That the unemployment of the father is one of the principal reasons for this insufficiency is clearly indicated by Minehan's study, which points out that the father was unemployed in about 60 per cent of the 466 homes of boy and girl vagrants studied.⁶⁵

Periods of unemployment and economic distress are closely associated with an increase in *crimes against property*. This increase is not the work of professional criminals who operate in good years as well as bad. It is due largely to otherwise law-abiding individuals, who hope to relieve their economic distress temporarily through the commission of a crime. Hunger is a bad counselor and there are many people who would rather steal than starve. This was clearly demonstrated by the tremendous rise in property crimes occurring in Germany during the period of acute economic dislocation resulting from the inflation. There were 286,000 convictions for larceny at the height of the inflation as compared with 79,000 in

⁶⁴ Governor's Commission on Unemployment Relief, *Public relief for transients and non-settled persons in the State of New York*, 1936, p. 42

HOMELESS INDIVIDUALS UNDER CARE—NEW YORK CITY

Date	Number under Care
January 1929	985
" 1930	1,350
" 1931	3,203
" 1932	7,053
" 1933	9,736

In Buffalo the total yearly registration at the Erie County Lodging House showed a similar upward tendency (*Ibid.*, p. 43).

Year	Registrations
1928	74,020
1929	65,493
1930	121,117
1931	293,975
1932	414,310
1933	750,732
1934	643,248

⁶⁵ Minehan, Thomas, Youth and the depression, *The Social Studies*, March 1935, p. 147

1913. In 1925 when the mark was stabilized and economic life returned to normalcy, the number of convictions for larceny fell to the pre-war figure.⁶⁶ Every point that the mark fell during the inflation period increased the number of larcenies. In the United States the study sponsored by the National Commission on Law Observance and Enforcement (Wickersham Commission) on the relation between unemployment and crime reveals a similar correlation between economic distress, as measured by unemployment, and the increase in crimes against property.⁶⁷ The study of Massachusetts statistics, for example, concludes:

“Unemployment is revealed as an important causative factor in vagrancy and crimes against property. * * * The relative importance of offenses against property in the total of criminality is such as to establish industrial stabilization as a significant element in any program of crime prevention. The conclusion seems inescapable that the assurance of economic security might be expected to bring with it an appreciable reduction in the amount of crime.”

⁶⁶ Liepmann, Moritz, *Krieg und Kriminalität in Deutschland* (Yale University Press, 1930) p. 72

CONVICTIONS FOR SIMPLE LARCENY, GERMANY	
Year	Number of Convictions
1913	79,554
1921	179,075
1922	193,818
1923	286,178
1924	162,693
1925	79,465

Compare the similar situation in Austria described by Exner, F., *Krieg und Kriminalität in Oesterreich—war and criminality in Austria* (Yale University Press, 1927)

⁶⁷ National Commission on Law Observance and Enforcement, report No. 13, *Report on the causes of crime* (1931) Vol. I, p. 312. Mary Van Kleeck, who studied crime fluctuations in New York, reached a conclusion similar to that of the Massachusetts study. She asked the question, “If a nation or a community wishes to approach more and more closely toward law observance and enforcement, what conditions will it seek to establish for the occupational life of the individual and the economic life of the community?” Her answer to this question is, “Security of Employment. * * * This means removing the fluctuations which cause recurring unemployment, and meanwhile, since that task is a momentous one, establishing provisions to prevent the burden of present conditions from falling with crushing weight upon those members of society whose other defenses are already weakened.”

One of the most tragic of all aspects of prolonged unemployment is the gradual, but inevitable, *isolation* of unemployed workers from the community institutions of which they were previously an integral part. Membership in neighborhood clubs, trade unions, lodges, political organizations, recreational organizations, and even churches requires financial outlay of some sort. As soon as income is cut off, the first reaction of the worker is to withdraw from those group activities which appear to be luxuries. The withdrawal from all may not take place immediately, but recreational and social activities are apt to be relinquished first; gradually others are dropped, until at last even union membership must go and the worker is left without even the dignity of his normal occupational associations and the hope which they hold for reemployment. Withdrawn from the group contacts which have given them a sense of social status and integrity, unemployed workers and their families finally come to be completely separate from society both in physical reality and in spiritual attitude. If this condition persists over an extended period, they are likely to become active enemies of a social order which has deprived them not only of an income but, consequently, of all the other relationships which have made their lives valuable. To prolong the period in which normal community relationships can be maintained is one of the great advantages of unemployment insurance, whereby aid by right is given almost immediately upon loss of employment.

It is unnecessary to extend further this discussion of the economic and social wastage due to unemployment. The devastating results are apparent. To visualize them in terms of the mass situation sketched by the statistical materials summarized in the preceding pages is to appreciate imperfectly but vividly the real significance of unemployment in the life of the State. The persistence of unemployment without some alleviation of its evils constitutes a critically serious menace to the stability of the social order.

Summary

The growing problem of unemployment is attributable to the complex, interdependent character of the economic structure we have developed to satisfy our wants. A substantial amount of unemployment persists even in good times since a large number of persons are forced to move into and out of employment in response to recurring fluctuations in the rate of business activity. The ill effects of unemployment on the common welfare have long been recognized. Unemployment is like an uncontrollable contagious disease; in its direct and indirect effects on human welfare it is no respecter of persons or classes. Although in prosperous times its duration may be limited, it still imposes directly on the wage-earner and indirectly on the community a burden which is of the utmost economic and social importance. The individual now bears the entire brunt of recessions in his trade and is not equipped with the personal savings or expert knowledge of employment opportunity which would make the adjustment easy. The efficient transfer of workers from one job to another is prevented by the prevalent defective organization of the labor market. The steadily growing pressure on the State to ameliorate the economic and social wastage due to unemployment is evidenced by the continuous extension of public relief activities during the past six decades. The State has come to recognize the necessity for positive action to offset the evils created by uncontrollable fluctuations in economic activity.

PART II
INTERDEPENDENCE AND INSTABILITY OF
INDUSTRY THE SOURCE OF
UNEMPLOYMENT

PART II

**INTERDEPENDENCE AND INSTABILITY OF
INDUSTRY THE SOURCE OF
UNEMPLOYMENT**

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.

A. THE TANGLED ROOTS OF UNEMPLOYMENT

**I. INSTABILITY AN INEVITABLE RESULT OF HIGHLY DEVELOPED
DIVISION OF LABOR**

Instability and irregularity are inherent in modern business organization. It is unnecessary to dwell on the highly intricate character and complex interdependence of the processes of production and distribution in this age of economic specialization. The cardinal aspect of this complexity is the obvious sensitivity of each individual enterprise to the behavior of all the others with which it deals; these others, in turn, are likewise involved in innumerable transactions and business relations with many buyers and sellers, and the whole presents a tangled skein of relationships in which the well-being of any individual enterprise is quickly affected by changes elsewhere in the business structure.

Recurring maladjustments and the growing insecurity consequent upon them have become more serious as the business structure has expanded. The nature of the tensions and unequal rates of change which bring about this instability is described at length in the *Report* (pp. xii-xv) of President Hoover's Committee on Recent Social Trends:

"Modern life is everywhere complicated, but especially so in the United States, where immigration from many lands, rapid mobility within the country itself, the lack of established classes or castes to act as a brake on social changes, the tendency to seize upon new types of machines, rich natural resources and vast driving power, have hurried us dizzily away from the days of the frontier into a whirl of modernisms which almost passes belief.

"Along with this amazing mobility and complexity there has run a marked indifference to the interrelation among the parts of our huge social system. Powerful individuals and groups have gone their own way without realizing the meaning of the old phrase, 'No man liveth unto himself'.

"The result has been that astonishing contrasts in organization and disorganization are to be found side by side in American life: splendid technical proficiency in some incredible skyscraper and monstrous backwardness in some equally incredible slum. The outstanding problem might be stated as that of bringing about a realization of the interdependence of the factors of our complicated social structure, and of interrelating the advancing sections of our forward movement so that agriculture, labor, industry, government, education, religion and science may develop a higher degree of coordination in the next phase of national growth. * * *

"A nation advances not only by dynamic power, but by and through the maintenance of some degree of equilibrium among the moving forces. * * * Not

all parts of our organization are changing at the same speed or at the same time. Some are rapidly moving forward and others are lagging. These unequal rates of change in economic life, in government, in education, in science and religion, make zones of danger and points of tension. It is almost as if the various functions of the body or the parts of an automobile were operating at unsynchronized speeds. Our capacity to produce goods changes faster than our capacity to purchase; employment does not keep pace with improvement in the machinery of production; inter-oceanic communication changes more quickly than the reorganization of international relations; the factory takes occupations away from the home before the home can adjust itself to the new conditions. The automobile affects the railroads, the family, size of cities, types of crime, manners and morals. * * *

* * * * the economic organization, in part at least, has been progressively adjusted to mechanical invention as is shown by the remarkable gains in the records of productivity per worker. Engineers hold out visions of still greater productivity, with consequent increases in the standards of living. But there are many adjustments to be made within other parts of the economic organization. The flow of credit is not synchronized with the flow of production. There are recurring disasters in the business cycle. * * *

“Effective coordination of the factors of our evolving society means, where possible and desirable, slowing up the changes which occur too rapidly and speeding up the changes which lag * * * social invention has to be stimulated to keep pace with mechanical invention.”

The Committee found that the maladjustments and distortions in American economic life require new forms of treatment, and unemployment insurance—a “social invention”—is foreshadowed in its *Report*.

In a recent article Mr. Harper Sibley, President of the United States Chamber of Commerce, succinctly characterizes the inescapable interdependence of industry and trade:

“Business is not something which stands apart. It is not a particular group or class which can be segregated or isolated as a detached segment of society. On the contrary, it is the sum total of all those activities involved in the production of goods and commodities and the performance of services which have to do with the material side of human existence. As such it is the concern not only of corporations or industrialists but of all those who work for a living, whether employer or wage-earner, producer or consumer, farmer or manufacturer. It is the source of tangible wealth in which we all hope to share. * * * the well-being of the largest of corporations runs parallel with the well-being of the public upon which it relies to purchase its goods or services. Neither large nor small business enterprise can prosper in an impoverished country.”¹

The individual business concern operates in the midst of a maze of forces outside the scope of its immediate influence. As a New York employer puts it: “* * * the individual employer has virtually no control over the markets to which he sells his products. His output, and hence the number of men he can employ, is controlled by conditions almost entirely beyond his control. * * * No one is more eager than he to employ a maximum of workers, but in this respect he has no arbitrary power.”²

Occupations as well as business concerns and industries are caught in the complexities and instabilities that are

¹ *New York Times*, section 7, pp. 1, 21, February 2, 1936

² Hall, Joseph T. (of the John R. Hall Corporation), *Unemployment insurance handbook* (National Association of Manufacturers, 1933) p. 51

characteristic of modern industry, and the workers' vocations and skills are jeopardized by causes beyond their control. Census figures reveal that a continually increasing number of highly differentiated occupations is a leading feature of the shifting work pattern of the population. "These changes bring a continual increase in the interdependence of tasks and in turn the security of occupations is affected by the ease with which the economic machine can be put out of gear. Just as an intricate mechanical contrivance stops working when any important single part ceases to perform its task, so in the modern economic system a delicate working balance between the interdependent parts is necessary if continuity of employment and relative security for the worker are to be maintained."³

The controlling influence of the level of activity in one industry over that of another is well illustrated by the close correlation between man hours worked in the steel industry and the production of automobiles, as shown by the correspondence of the curves in Chart 23. According to a well-known trade journal of the steel industry, "In recent years automobiles have consumed about 20 per cent of the finished steel produced, and have been the largest single steel outlet."⁴ Similarly, 12 per cent of the railroad industry's freight is traceable to the steel industry's activity. According to calculations by the American Iron and Steel Institute, approximately one out of every eight tons of the freight hauled by Class I railroads in the first half of 1935 was derived from the steel industry.

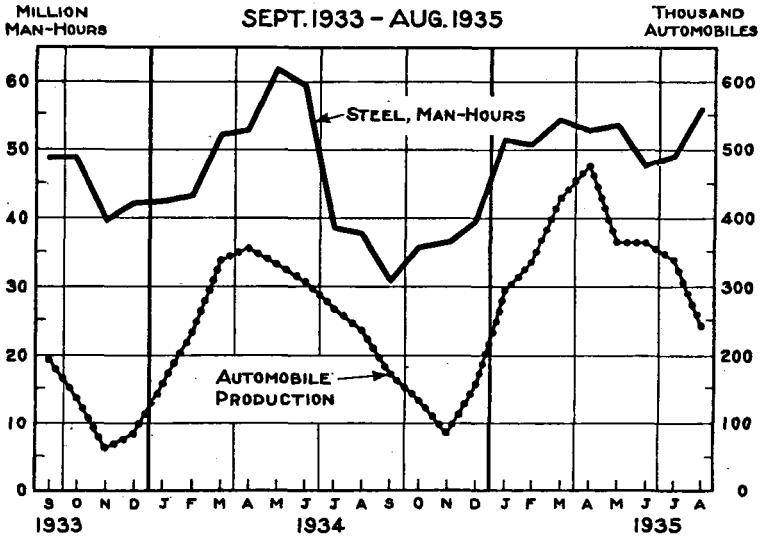
These illustrations could be multiplied *ad infinitum* if it were necessary to pile up further evidence of the interdependence of industry and of the instabilities which arise

³ Hurlin, Ralph G., and Givens, Meredith B., Shifting occupational patterns, *Recent social trends* (1934) Vol. I, p. 308

⁴ *Steel Facts* (American Iron and Steel Institute) October 1935, p. 7

CHART 23

AUTOMOBILE PRODUCTION AND STEEL MILL EMPLOYMENT IN THE UNITED STATES



(See also Table 35, p. 202)

from the present high degree of industrial specialization.⁵ If whole industries are dependent on the activity of others, then how much more dependent is the individual firm, caught in a maelstrom of forces to which it must adapt itself, but which, alone, it can not control.

⁵ A typical example of interdependence is the obvious case of the stationers' trade which is highly sensitive to changes in demand for paper, office supplies and printing services. Trade association journals emphasize the ways in which this business affects and depends upon others.

People will send greeting cards when they cannot afford more expensive gifts. *Geyer's Stationer*, March 1933, p. 5

"All of the reports indicate that there will be more boys and girls, and men and women, going to school this year than ever before in our history. * * * Now that jobs are scarce, children are being kept in school longer, and many older persons who would ordinarily be engaged in work of various kinds, are now turning back to high school and college. * * * The great development, in the popularity of home study courses continues steadily. * * * All of these students * * * need those tools and accessories of study that the stationer provides." *Ibid.*, August 1932, p. 7

"The radio is creating printing business." *Printing*, January 1, 1933, p. 27

"Since the stationery and office outfitting business is so closely allied with every form of commercial enterprise, retailers in this field may expect to be among the first to share the good times coming." *Geyer's Stationer*, September 1932, p. 8

2. THERE ARE NO SHELTERED TRADES; EVERY INDUSTRY AND TRADE EXPOSED TO THE HAZARDS OF INSTABILITY

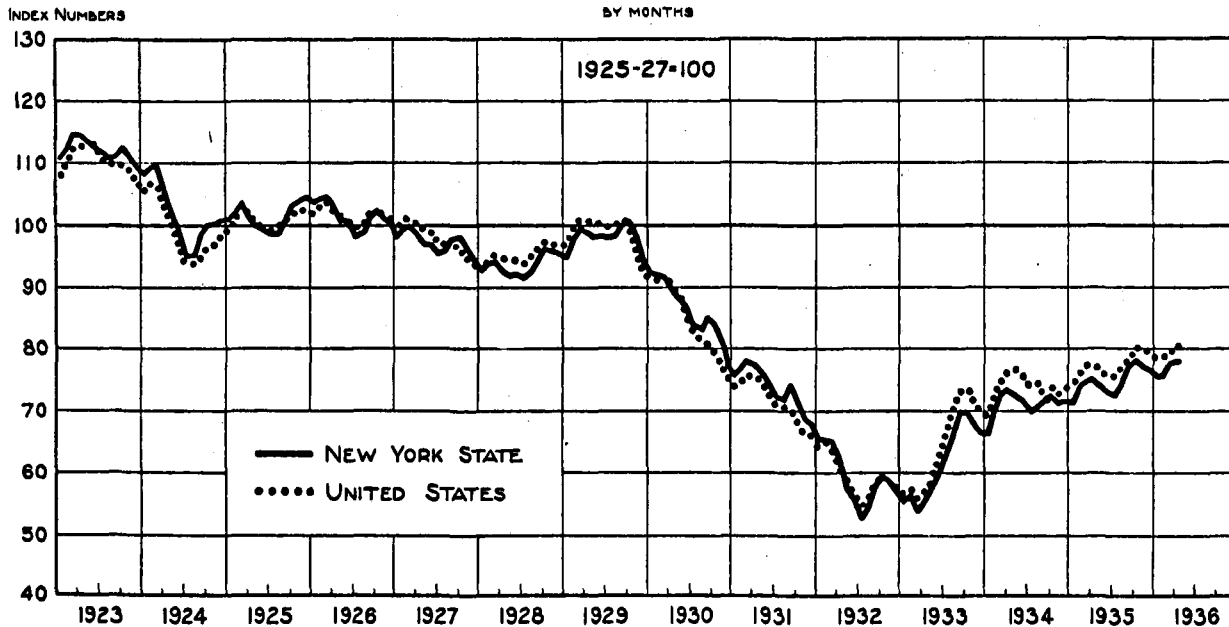
It is obvious that employment in various industries is affected unequally by business fluctuations. The least irregular industries are sometimes described as "sheltered." Industries making perishable consumers' goods, for instance, are less severely affected than those making producers' goods and durable consumers' goods; likewise industries producing necessities are less susceptible to declines in demand than those producing luxuries. Moreover, innumerable chance factors—inventions, custom, seasonality—affect the rate of operation of individual industries. To assume that the resulting differences in the degree of employment fluctuations as between one industry and another are attributable to deliberate control by individual employers is, however, an inversion of the facts.⁶

The notion that certain trades are "sheltered" is clearly only a half-truth. Not only are these trades dependent on the nature of the product and on the preservation of the *status quo* in industrial technique (illuminating gas and street car transportation were once "sheltered industries"), but their stability is only relative. The aggregate of declines in employment in such industries from time to time may have been pronounced, but it has attracted little attention because of our lack of information on the distribution of unemployment by industry.

The penetration of unemployment into many industries and trades was evident as early in the recent depression as April 1930. At the time of the Federal census of 1930,

⁶ "It is a mistake to assume that any system of unemployment insurance that is likely to be devised, is likely to bring about regularization of employment. I don't think any system of unemployment insurance we know anything about can achieve regularization of industry, because my feeling is that these great business disruptions are due to such fundamental forces, so affecting all industries without their knowing anything about it, that they cannot be brought under control by any type of machinery or by any form of organization which involves the use of the skill or judgment or foresight of the managers of given industries." Wolman, Leo, State of New York, Joint Legislative Committee on Unemployment, *Hearings*, November 5-6, 1931, Vol. I, p. 245

CHART 24
EMPLOYMENT IN ALL MANUFACTURING INDUSTRIES
JAN. 1923 - APR. 1936



SOURCES: NEW YORK STATE DEPT. OF LABOR & UNITED STATES DEPT. OF LABOR

(See also Table 34, p. 201)

the only source of information about unemployment by industry for New York State as a whole, large numbers of persons were unemployed in all industries, including the so-called sheltered trades (see Table 12). Although this total represents only 8.6 per cent of the number employed in insurable industries, it indicates the economic instability of approximately 400,000 families, or one and a half million people in this State.

Table 12

UNEMPLOYED ABLE AND WILLING TO WORK, INDUSTRIES LARGELY INSURABLE
STATE OF NEW YORK, APRIL 1930

INDUSTRY	NUMBER UNEMPLOYED
Extraction of minerals	1,113
Manufacturing and mechanical	255,377
Transportation and communication	41,446
Trade	33,947
Domestic and personal service	33,663
Clerical occupations	35,860
Total	401,406

SOURCE: U. S. Department of Commerce, Bureau of the Census, *Census of unemployment*, Vol. II

From the shrinkage in employment one may obtain some indirect information concerning probable unemployment. Chart 24 presents the course of employment in manufacturing as a whole in New York State and in the nation since 1923.⁷ This chart shows the mirrorlike reflection within the State of employment changes in the country at large. A pronounced sag in factory employment, with minor seasonal recoveries, is a marked characteristic of the years from 1925 through 1928.

⁷ The curves shown on Chart 24 are based on the *original, unadjusted employment indexes* of the U. S. Bureau of Labor Statistics and of the New York State Department of Labor. The index for the United States is now published in revised form, adjusted to conform with the more inclusive data of the *Census of manufactures* (see Table 34, p. 201). No adjusted indexes for New York State are available; hence this chart shows the original data of both series, presenting the only statistically valid comparison between New York State and the United States on the basis of available published series.

It has been pointed out that although New York lost in manufacturing employment in the post-war period, relative to the whole country, it did not lose in value of products, value added by the manufacturing process, wages paid, and number of establishments (p. 5, footnote 4).

The general decline of employment through the post-war years prior to the major break in 1929 is discussed below in this Brief.

It is commonly assumed that public utilities, as a class, are virtually immune to business irregularity. Employment figures for the Bell Telephone System, comprising about 80 per cent of all employees in the telephone industry, are surprisingly uneven (see Table 13). Forty thousand employees were dropped between 1929 and 1930, and there were also significant recessions in 1914, 1918, 1921, 1931, 1932 and 1933. Over a long period and over a wide geographic area, the expansion of employment in the industry as a whole is hardly consoling to the individual operators displaced by the introduction of the dial system, unless they can readily change their skills or their location.

Table 13
BELL TELEPHONE SYSTEM, EMPLOYEES, 1913-1935
(as of December 31)

1913	156,928	1921	224,288	1929	364,045
1914	142,527	1922	243,053	1930	324,343
1915	156,294	1923	271,987	1931	294,766
1916	179,032	1924	279,659	1932	266,357
1917	192,364	1925	293,095	1933	248,497
1918	187,458	1926	300,628	1934	248,957
1919	209,860	1927	308,911	1935	247,512
1920	231,316	1928	334,335		

SOURCE: Moody, *Public utilities*

Figures for the electric light and power industry in the United States (see Table 14) likewise show the impact of general business decline upon employment in a so-called sheltered industry. In the case of the Consolidated Gas

Table 14
ELECTRIC LIGHT AND POWER INDUSTRY EMPLOYEES
UNITED STATES, 1926-1934

		(estimated averages)			
1926	224,587	1929	271,796	1932	225,557
1927	234,747	1930	279,916	1933	214,054
1928	250,604	1931	258,842	1934	227,813

SOURCE: National Bureau of Economic Research, Inc.

Company (New York City), employment expanded from 30,000 in 1926 to 51,000 in 1930, then fell off to 45,000 in 1933 and 1934. Employment provided by manufactured-gas companies as a whole dropped from 106,000 in 1925 to less than 70,000 in 1933.

Industries protected from one type of fluctuation may suffer from another type. When we compare fluctuations in employment in New York State for several industry groups that are relatively unaffected by seasonal changes (Table 15), we find that year to year changes in employment in important industry groups are clearly marked. Moreover, the use of averages conceals still greater displacements within individual firms and industries in a given group. The index of employment for food and tobacco among the staples, for which demand is relatively constant, sagged from 115.0 in 1922, to 92.4 in 1929, a good year, and to 68.9 in 1932; tobacco, by itself, has a much worse record. The employment index for water, light and power companies reveals the displacement of a very substantial portion of employees during the years between 1921 and 1935, despite relative stability over the entire period.

Table 15
EMPLOYMENT, STATE OF NEW YORK, 1921-1935
1925-27 = 100

YEAR	PRINTING AND PAPER GOODS	FOOD AND TOBACCO	TOBACCO	WATER, LIGHT AND POWER
1921	102.7	111.4	160.4	86.1
1922	104.3	115.0	156.1	85.2
1923	106.4	114.1	146.4	93.2
1924	100.5	110.7	140.3	94.0
1925	99.2	105.1	123.3	97.2
1926	101.0	99.4	92.9	101.1
1927	99.8	95.4	83.8	101.7
1928	98.6	94.1	89.0	95.6
1929	101.4	92.4	86.8	90.1
1930	99.0	83.4	57.4	90.5
1931	90.3	75.1	56.2	85.0
1932	78.0	68.9	53.1	79.0
1933	76.0	72.4	37.8	79.5
1934	83.2	81.7	35.8	85.3
1935	86.4	76.9	35.9	85.2

SOURCE: State of New York, Department of Labor

Employment in printing and paper goods is decidedly irregular from year to year (see Table 15). The book and job branch of the printing industry is expanding and the numbers of workers is increasing. Yet "employment opportunities in the pressroom are definitely shrinking."⁸ Transfers to other jobs may be made, but unless the industry continues to expand this will not be possible; in any case it is not always as smooth a process as is often assumed. The average plant in New York is larger than elsewhere, and the productivity per worker, as measured by value added, increased 39.2 per cent in New York from 1921 to 1929, compared with an increase of 25.7 per cent in the United States as a whole.⁹ The boot and shoe industry, which ranks in the fifth group among New York State manufactures, shows the same persistent irregularity of employment, although its position in relation to the country as a whole remains constant. At the same time, it gained in importance as an industry in New York State throughout the post-war period.

⁸ Baker, E. F., *Displacement of men by machines* (1933) p. 182

⁹ In 1928, machine-fed cylinder presses were used in 84.8 per cent of New York City plants; in 72 per cent of Chicago plants, and in 75.5 per cent of plants elsewhere. Wage costs and value added by manufacture per worker may be contrasted as follows:

AREA	WAGE COST PER \$ OF VALUE ADDED BY MANUFACTURE (a)			VALUE ADDED PER WORKER		
	1921	1927	1929	1921	1927	1929
New York City	\$ 0.366	\$ 0.316	\$ 0.281	\$ 3,340	\$ 4,465	\$ 5,020
Chicago	0.350	0.373	0.343	3,065	3,461	3,548
Rest of U. S.	0.398	0.386	0.365	2,390	2,752	2,914

(a) Wages corrected for changes in value of the dollar.

SOURCE: Baker, E. F., *Displacement of men by machines* (1933) p. 220

Index numbers of productivity in book and job printing in New York State increased more rapidly than in the United States as a whole (including New York):

	VALUE ADDED PER WORKER	
	UNITED STATES	NEW YORK STATE
1921	100.0	100.0
1923	103.3	
1925	112.4	
1927	120.1	128.0
1929	125.7	139.2
1931	110.5	123.6
1933	91.4	105.0

SOURCE: Compiled from data in *Census of manufactures*

In seven New York industrial centers with a wide diversity of industries and representative American urban populations, a full share of prosperity was enjoyed in the post-war period prior to the depression. Yet factory wage earners were decreasing in number in those same cities over the same period.¹⁰ No one knows whether these displaced workers were immediately or even eventually reemployed in any capacity.

The significance of the employment statistics presented above is clear: irrespective of the total opportunities for employment over a long period, the worker as an individual is subject to the risk of persistent irregularity in his own trade, to displacement from flourishing industries, and consequently, to a pressing need for maintenance while he searches for a job in new fields.

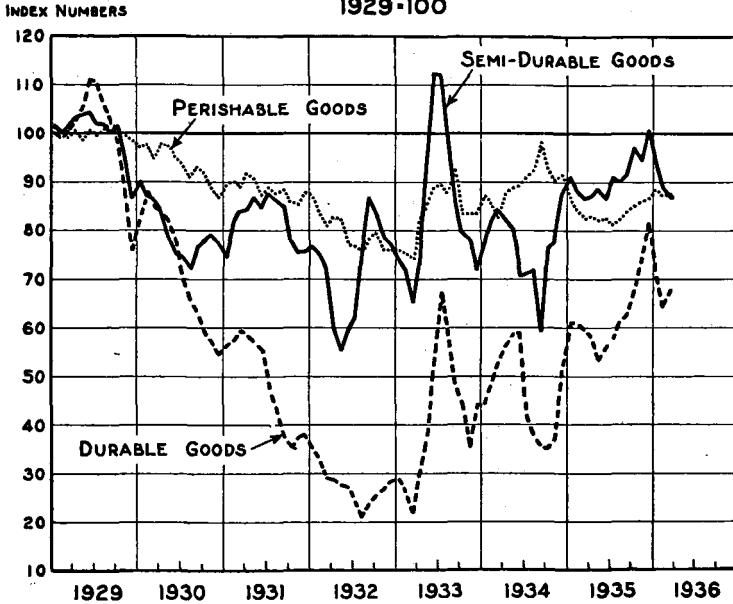
3. STABLE INDUSTRIES CONTRIBUTE TO INSTABILITY AND UNEMPLOYMENT IN OTHER INDUSTRIES

It is common knowledge that unemployment is more severe in the semi-durable and durable goods industries than in the non-durable or perishable goods industries. Generally speaking, demand for non-durable goods is less subject to fluctuation than demand for durables. Things that need frequent replacement are in the most steady demand. As suggested above, however, it must not be thought that the non-durable goods industries are "sheltered." In 1933 production of perishable and semi-durable goods had dropped about 17 per cent from 1929 (Chart 25), and the average conceals much greater fluctuation in individual lines.

¹⁰ State of New York, Legislative Document (1931) No. 112, *Report of Joint Legislative Committee on Unemployment*, pp. 1-2

CITY	1929	1929
	VALUE OF PRODUCTS PER CENT INCREASE OVER 1919	NUMBER OF FACTORY WORKERS PER CENT DECREASE OVER 1919
New York	+ 13.8	— 11.5
Buffalo	+ 13.4	— 9.2
Rochester	+ 8.2	— 8.5
Syracuse	+ 20.7	— 6.2
Albany	+ 15.7	— 27.8
Poughkeepsie	+ 4.2	— 12.5
Watertown	+ 5.8	— 22.6

CHART 25
 MANUFACTURING OUTPUT IN THE UNITED STATES
 PERISHABLE, SEMI-DURABLE & DURABLE GOODS
 JAN. 1929 - MAR. 1936
 BY MONTHS
 1929=100



SOURCE: FEDERAL RESERVE BULLETIN, JUNE 1936 & COURTESY OF
 NATIONAL BUREAU OF ECONOMIC RESEARCH
 (See also Table 43, p. 206)

More important, consumers' goods industries, which produce many of the non-durable types of material that need frequent replacement, share in the direct responsibility for unemployment in more unstable lines. As soon as business slackens, such industries promptly withdraw orders and cut down on current replacement of equipment and machinery. This is reflected by the curves in Chart 25 which reveal the exaggerated response of the semi-durable and durable goods industries to the lesser changes in the production of perishable goods.

Mechanized industries with low labor costs and relatively few employees often create unemployment in less mechanized lines by withdrawing from the market in

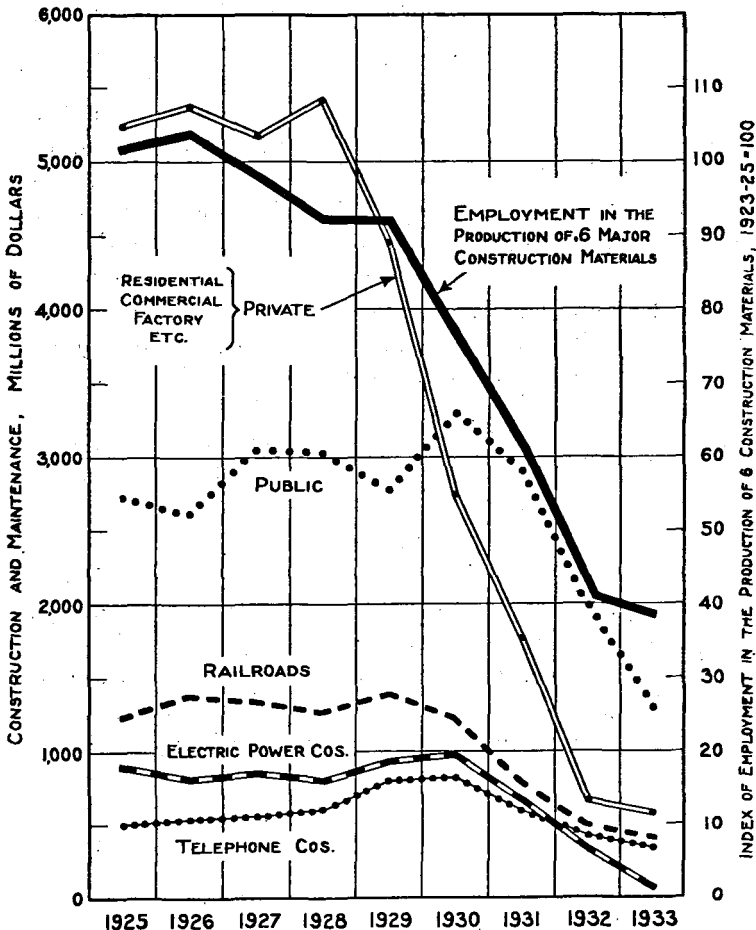
times of business uncertainty. Such industries or concerns contribute directly to general unemployment. Among the many illustrations at hand, we choose a few. Statistics of construction activity in "sheltered" trades indicate that electric light and power and telephone companies contribute to the unemployment burden in other industries even though their own employment remains fairly stable. In Chart 26, lines showing the amount of expenditure for construction in five types of enterprise using construction materials are compared with a superimposed line showing the course of employment in six industries making construction materials. Rail construction declined from 1926 to 1928; electric power companies cut their construction expenditures in 1926 and 1928. These retrenchments in prosperous years offset the increase in private construction in the early part of 1928. There was a steady downward trend of employment for makers of construction materials from 1926 onward. In each year, and particularly after 1929, the sensitivity of the index of employment to changes in the amount spent for construction by "stable" as well as by "unstable" industries is clearly marked.

The machine tool industry also illustrates the extreme dependence of an unstable durable-goods industry on the irregular demands of the more stable manufacturing industry as a whole (Chart 27).

Effort by management to regularize employment is conditioned by the nature of the business and other circumstances beyond its control. The General Electric Company, for example, can forecast the annual production of electric light bulbs with a high degree of accuracy, and regular production can be scheduled accordingly.¹¹ In the

¹¹ "The first and most important thing [in the question of unemployment] is stabilization in industry, which varies with the class of product that is being made—whether it is standardized or whether it is subject to obsolescence or is perishable. * * * We make [the incandescent lamp] in five styles, and the styles do not change unless we change them. Of course this is much easier to standardize [than products whose standardization is not under one firm's control]." Swope, G., President of the General Electric Company, Management cooperation with workers for economic welfare, *The insecurity of industry*, The Annals of the American Academy of Political and Social Science, Vol. 154, March 1931, p. 135

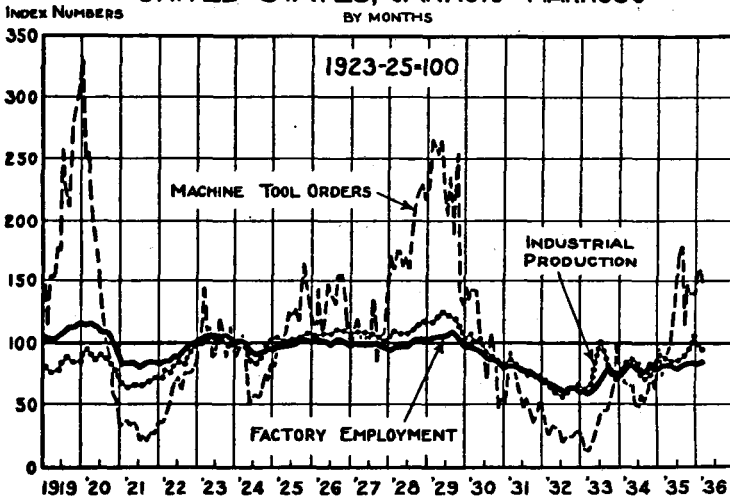
CHART 26
CONSTRUCTION EXPENDITURES
AND
EMPLOYMENT IN THE PRODUCTION OF 6 MAJOR
CONSTRUCTION MATERIALS
UNITED STATES, 1925-1933



SOURCES: A.D.GAYER, PUBLIC WORKS IN PROSPERITY AND DEPRESSION, P. 65;
 NATIONAL BUREAU OF ECONOMIC RESEARCH, 1935;
 FEDERAL EMPLOYMENT STABILIZATION BOARD

(See also Table 40, p. 204)

CHART 27
MACHINE TOOL ORDERS
 COMPARED WITH
INDUSTRIAL PRODUCTION & FACTORY EMPLOYMENT
 UNITED STATES, JAN. 1919 - MAR. 1936



SOURCES: FEDERAL RESERVE BULLETIN, JULY 1936;
 NATIONAL MACHINE TOOL BUILDERS' ASSOCIATION

(See also Tables 37, 38 and 39, pp. 203, 204)

manufacture of turbines, however, the company must wait on specifications and make up each turbine to order; hence, employment fluctuates with the number and volume of orders. Many other such instances of inability to hedge against fluctuations are to be found in the business world.

A degree of stabilization in one industry may accentuate irregularity in another. The manufacture of radios affords an example. Orders for home radios are concentrated in the autumn causing highly irregular employment in the industry. With the use of radios in automobiles as well as in homes, employment in the industry became more regular because orders for automobile radios came in the early spring. Recently, however, the automobile industry has been trying, with some success, to spread its own em-

ployment more evenly over the year. Already radio manufacturers are realizing that with more steady production of cars, and hence a less concentrated demand for radios at one season, a new factor of instability obstructs their own attempts to stabilize.

No more effective generalization of the problem of the results of partial stabilization can be found than the following, from Kuznets, *Seasonal variations in industry and trade*:¹²

“* * * at the stages intermediate between the supply of raw materials and the flow of finished products to final consumers there is sometimes an appearance of a reduction of the seasonal burden. This reduction of the burden is real enough as far as the stage at which it occurs is concerned, but it is accompanied by an increase of the seasonal burden at some other stage. In other words, what is taking place from the point of view of society as a whole is not a reduction of the seasonal burden but a shifting of it from one economic group to another. The most notable instance was the hand-to-mouth buying policy that characterized many distributive trades after 1921. * * * The diminution of seasonal variation in the distributive trades was accompanied by a growth of seasonal instability in manufacturers' activity and in employment. * * * The waste involved has perhaps increased rather than diminished as a result of the partial escape which the distributive trades have made from sharing in the burdens involved.”

In discussing how the burden of seasonal instability is borne, the same author points out that—

“* * * in the New York garment industry the seasonal burden on labor was not compensated for by a shift of workers to other industries. Such a condition is typical, rather than exceptional, of seasonal industries.”

¹² Kuznets, Simon, *Seasonal variations in industry and trade* (National Bureau of Economic Research, Inc., 1933) pp. 365-366

B. PERSISTENCE OF THE SOURCES OF UNEMPLOYMENT

I. UNEMPLOYMENT DUE TO SEASONAL VARIATIONS

We are most likely to become callous to familiar and chronic ills. An epidemic of influenza attracts nation-wide attention but the common cold goes on from year to year, stealthily taking its toll of the nation's vitality. Similarly, the entire community is periodically aroused by the menace of depression unemployment, but the recurrent unemployment resulting from seasonal variations and affecting tens of thousands of workers month after month and year after year receives no headline notice.

The persistent recurrence of seasonal unemployment, even in good times, has been shown by the employment and unemployment data given in Part I of this Brief and by the charts and tables showing employment fluctuations within each year in New York State industries and communities. Changes in the weather affect to a greater or lesser extent businesses such as building, coal mining and brick-making, but they also affect indirectly such indoor industries as clothing, transportation, recreation and automobile manufacture.

More difficult to segregate but at least of equal importance in creating seasonal unemployment are the forces of custom and style. Many industries, such as motor car and ladies' garment manufacture, are seasonal not so much because of weather as because of artificial habits cultivated actively by business men to speed up obsolescence. Irregularity of production is frequently preferred because, to the individual employer, a change in style carries the hope of increased sales.

These natural and artificial causes of irregularity present problems as fundamental as any in our entire industrial order.

*The Nature and Importance
of Seasonal Unemployment*

The causes of seasonal unemployment are not only persistent; they are so pervasive that they penetrate into and are intertwined with other causes of unemployment and with every aspect of the business structure. A pronounced seasonal fluctuation in one industry or trade radiates throughout the entire system, leaving its marks to a greater or lesser degree on every other industry or trade. Its various causes are so numerous, fugitive, variable and complex that they cannot be weighted effectively. A leading student of the American economic scene, Wesley C. Mitchell, has described this pervasive process thus:¹³

“From the activities directly affected by climatic or conventional seasons, acting separately or in unison, seasonal influences radiate to all other activities, probably without exception. In part these radiations are due to the conscious efforts already spoken of to counteract seasonal changes in demand or supply; in part they are unplanned consequences of these changes. For example, the fact that American crops are harvested largely in the autumn gives rise to a seasonal demand for currency in the farming districts, to seasonal changes in interest rates (and sometimes stock prices) in the financial centers, to seasonal changes in railway traffic, to seasonal changes in farmers’ receipts, to seasonal changes in their payments to creditors, to seasonal changes in the business of country merchants, and to seasonal changes in wage disbursements. So, too, the expectations of heavy buying by consumers in the holiday season leads retailers to increase their stocks at earlier dates. In turn, the prospect of these large orders injects still earlier seasonal variations into manufacturing, into the demand for raw materials, into employment, and into wage payments, thus tending to produce

¹³ Mitchell, Wesley C., *Business cycles* (National Bureau of Economic Research, Inc., 1927) pp. 237-238

secondary seasonal variations in retail buying itself."

There is evidence also that an intimate relationship exists between seasonal swings and the timing of turning points in the business cycle. Upward seasonal swings in the spring and autumn give the impetus which leads business men to expect an upward cyclical movement and they act accordingly. When the seasonal low point of employment coincides with the cyclical low, the effects of both are mutually intensified.

Seasonal industries must have also an amount of equipment beyond ordinary needs in order to meet the demand during the seasonal peak. Their consequent ability to postpone the buying of additional equipment intensifies the falling off of demand for capital goods during business recessions and, in turn, at the upturn of the cycle their anticipation of an expanded market leads to an exaggerated demand for equipment.

A recent authoritative study reveals that "*the intensification of seasonal variations in productive activity has resulted in increasing the instability of employment and payrolls and has in some degree stimulated additions to equipment beyond any ordinary requirements.* Plans for economic control and stabilization that derive their impetus from the acute disturbances of recent years will eventually have to face a seasonal problem which will be more considerable than that of the past."¹⁴ In nineteen important industries employing over two million persons, the number of workers attached to industries showing an increased amplitude of seasonal swings in employment from 1919 to 1930 is almost three times the number of those engaged in industries showing decreased swings.¹⁵ Very significantly this increased seasonality persists apparently without relation to size of plant.

In the United States, *more than a million men and women, on the average, are unemployed every month*

¹⁴ Kuznets, Simon, *op. cit.*, pp. 1-2 (Italics ours)

¹⁵ Kuznets, Simon, *Ibid.*, p. 311

owing to seasonal slackness. This is a substantial part of the total of 27 million wage earners, and it is, if anything, an understatement.¹⁶ Workers in the State of New York suffer particularly because of the importance of the highly seasonal construction and garment industries. The average number of persons seasonally out of work, excluding agriculture, domestic service and public service, is not less than 150,000 distributed as follows: trade, 30,000;¹⁷ manufacturing, 50,000;¹⁸ construction, 30,000;¹⁹ transportation, 25,000;²⁰ and miscellaneous (domestic service, laundries, mining, etc.), 15,000. It is not generally realized that transportation and most branches of wholesale and retail trade are more subject to large seasonal disturbances than is manufacturing.²¹

The easy assumption that these employees are paid wages sufficient to carry them through the dull season is quite unfounded in fact. Where such wages are adequate, it is due to causes other than the "automatic" compensation for lost time often assumed. The New York Unemployment Insurance Law provides for special study of seasonal trades to determine the need of seasonal workers for benefits when their unemployment is abnormally prolonged. It thus recognizes that this class of workers is inadequately protected from this type of business fluctuation.

¹⁶ Kuznets, Simon, *Ibid.*, p. 354; and Bursk, J. P., *Seasonal variations in employment in manufacturing industries* (1931)

¹⁷ Based on Kuznets, Simon, *op. cit.*; and State of New York, Department of Labor, *Industrial Bulletin*, February 1933

¹⁸ Based on State of New York, Department of Labor, Special Bulletin No. 171 (1931)

¹⁹ Based on Kuznets, Simon, *op. cit.*; and State of New York, Department of Labor, *Industrial Bulletin*, December 1932

²⁰ Based on Kuznets, Simon, *op. cit.*

²¹ Kuznets, Simon, *op. cit.*, p. 352

2. FUNDAMENTAL CHANGES IN THE INDUSTRIAL STRUCTURE AS SOURCES OF UNEMPLOYMENT

In our system of free enterprise there are certain dynamic features which give rise to a persistent instability as the price of progress. Among these are technological improvements in the methods of producing and distributing goods, geographical shifts in industries, and changes in population and markets. All of these create employment hazards, both continuous and heavy in their burden upon society.

Technological changes cause unemployment, in brief, because "machinery was invented and is used extensively in order to reduce the amount of labor necessary to produce a given amount of goods and services."²² It is often argued that *in the long run* the number of job seekers will not exceed the total number of jobs available because increased production and the rise of new industries will absorb those displaced. Changes in technique have frequently been stimulated by expanding markets, and themselves have led to mounting production in response to lowered costs and prices. If this occurs, increased employment follows temporary displacement. But this point of view takes no account of the interval between jobs nor of the increasing number of employees subject to displacement and temporary unemployment due to the advance of mechanization. It is the *short run* that is the nub of the unemployment risk. Only if new industries immediately absorb the displaced employees can we say that there is no problem of displacement. Nor do the increased production and the greater variety of goods and services, resulting from technological change, always compensate exactly for the losses incurred. Displaced employees, or towns declining in economic strength, gain little comfort

²² National Industrial Conference Board, Inc., *Machinery, employment and purchasing power* (1935) p. 1

from the suggestion that their condition is temporary, or is counterbalanced elsewhere.²³

The dependence of a growing economic system on new products and new markets is closely related to technological change. In fact, much of the data published on the subject bears less on the effect of machinery than on the shift of buyers' demands from one industry to another.

²³ The impact of technological change may be illustrated by the following instances. Since the early days in Wales *steel sheets* have been produced by a highly athletic process whereby the workers passed the sheet bar to and fro between rollers until the desired thickness was obtained. In 1927 a process of continuous stripsheet rolling was introduced. One of the new continuous mills has a yearly capacity equivalent to the capacity of forty or fifty old-style sheet or tin mills. The "hot mills" are now almost as obsolete as the puddling furnace, the bloomery and the forge. The work which formerly required more than 10,000 workers, directly and indirectly, can now be done by a mere handful.

The introduction of a continuous process in making *plate glass* eliminates most of the casting crew; a continuous plant has shown a 60 per cent advantage in the utilization of human labor as compared with a discontinuous operation.

In the assembly of *electric lamps* the productivity of labor is estimated to have increased over four times from 1920 to 1931, and the decline in employment in the same plants is estimated at 68.3 per cent.(a)

The manufacture of *glass bottles and jars* gave employment to 28,370 wage earners in 1899, but in 1927, to only 21,704, despite an increase in output from less than 8 to over 26 million gross.(b)

The introduction of *sound pictures*, or "talkies", in New York City was accompanied by a reduction in the number of musicians employed in the theatres from 3,200 in 1928 to 1,500 in 1931.(c) At the same time, the number of qualified sound picture machine operators was increased from one to two per machine. But the displaced musicians did not find jobs as machine operators.

The *lumber and timber products* industry employed 496,000 wage earners in 1923 and only 419,000 in 1929.(d)

Illustrations of technological displacement could be multiplied indefinitely.(e)

(a) U. S. Department of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, June 1933

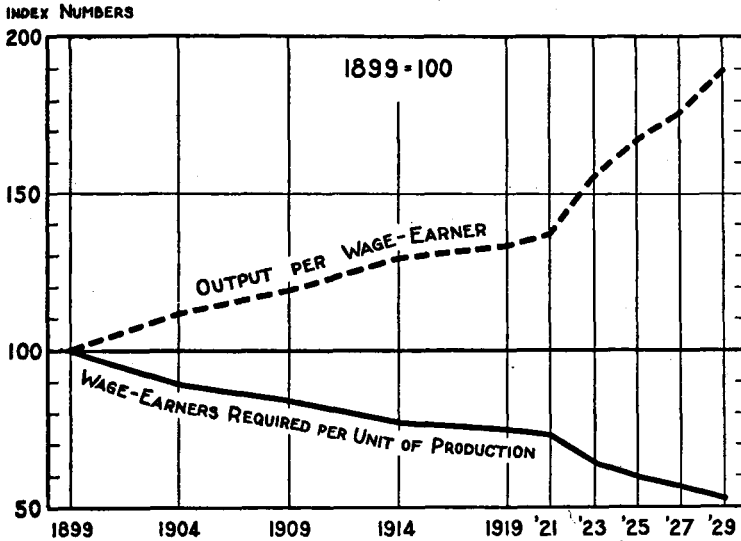
(b) Jerome, Harry, *Mechanization in industry* (National Bureau of Economic Research, Inc., 1934) p. 103

(c) State of New York, *Preliminary report of the Joint Legislative Committee on Unemployment*, 1932, p. 147

(d) Goodrich, C., et al., *Migration and economic opportunity* (1936) pp. 455-456

(e) Many others may be found in the New York State *Preliminary report of the Joint Legislative Committee on Unemployment*, 1932

CHART 28
PRODUCTIVITY IN MANUFACTURING INDUSTRIES
UNITED STATES, 1899-1929



SOURCE: F.C. MILLS, *ECONOMIC TENDENCIES IN THE UNITED STATES*
 (RECOMPUTED FROM TABLES ON PP. 26, 192, 290)

(See also Table 36, p. 202)

Shifts in consumption habits and changes in population or markets may have a dislocating effect on employment similar to that of increased productivity.

One whole field of activity—manufacturing—has shown a decline in the volume of available employment. Chart 28 illustrates the effect of increased output per wage earner on unit labor requirements in manufacturing industries during the last thirty years. As the output of each worker increases, owing to the increased use of machinery and other devices for efficiency, there is obviously a decline in the number of wage earners required to produce each unit.

A retarded rate of industrial expansion forces more emphasis on the reduction of unit costs. In this connection,

the figures of employment for manufacturing industries and steam railroads are revealing. The effect of retarded expansion of markets on the one hand, and of concurrently increased productivity on the other, is clearly evident in the story of employment changes in manufacturing industries and steam railroads from 1920 up to the recession of 1929-30. *Between 1919 and 1932 both factory and steam railroad employment actually declined, for the first time in our history* (Table 16). This failure of factory and railroad employment to advance is especially significant in view of the increase of the total working population from 41,600,000 in 1920 to 48,800,000 in 1930. For the same

Table 16
TREND OF FACTORY AND OF STEAM RAILROAD EMPLOYMENT, 1919-1935

YEAR	FACTORIES		STEAM RAILROADS	
	Average number of wage earners employed	Index of number of workers employed	Average number of employees ¹	Index of number of workers employed
1919	9,000,059 ²	99.0	1,913,000	95.0
1920	9,094,000	100.0	2,013,000	100.0
1921	6,946,570 ²	76.4	1,661,000	82.5
1922	7,600,000	83.6	1,645,000	81.7
1923	8,778,156 ²	96.5	1,880,000	93.4
1924	8,115,000	89.2	1,777,000	88.3
1925	8,384,261 ²	92.2	1,769,000	87.9
1926	8,553,000	94.1	1,806,000	89.7
1927	8,334,184 ²	91.6	1,761,000	87.5
1928	8,288,000	91.1	1,680,000	83.5
1929	8,821,757 ²	97.0	1,686,000	83.8
1930	7,441,000	81.8	1,511,000	75.1
1931	6,506,701 ²	71.5	1,278,000	63.5
1932	5,213,000	57.3	1,049,000	52.1
1933	6,055,736 ²	66.6	987,000	49.0
1934	6,933,000	76.2	1,025,000	50.9
1935	7,196,000	79.1	1,011,000	50.2

¹ From U. S. Interstate Commerce Commission report for Class I railroads

² From U. S. Department of Commerce, Bureau of the Census, *Census of manufactures* (biennial). Figures in this column not from census are estimated from Federal Reserve Board index of factory employment

period occupation statistics show an actual increase in the number of workers depending on factory employment and

regarding themselves as part of the factory labor supply. A growing labor reserve accompanied by a smaller average employment must result in an increasing amount of partial or total unemployment.²⁴

Frederick C. Mills, in a study for the National Bureau of Economic Research, presents additional evidence on the situation in the manufacturing industries. He points out that there was a marked reduction in the number of workers hired in the post-war period, as compared with the 1899-1914 period. From 1923 to 1929, the number of workers who withdrew or were forced out of industries was more than three times as great during an average two-year period as during an average five-year period before the war. Not only did hirings decline and separations increase, but the rate of separations exceeded that of hirings. Moreover, these figures do not include hirings and separations within each industry, but include only movements from one industry to another. Dr. Mills interprets this situation as follows:²⁵

“An increasing volume of unemployment during an era of economic expansion was, considering its magnitude, a new phenomenon in our history. Equally striking are the related statistics of industrial displacement. The human incidence of industrial change is to be traced in such statistics, which measure the shifting of labor among manufacturing industries * * *

“Separations measure the burden placed upon wage-earners by industrial change. That it was a heavy burden during the prosperous period from 1923 to 1929 is indicated by these figures. Not only was the rate of separation much higher than it had been over longer pre-war periods; it was higher than the accession rate, which may be taken as an index of employment opportunities in manufacturing industries. *Between 1923 and 1929 men were*

²⁴ Hurlin, R. G., and Givens, M. B., *op. cit.*, Vol. I, p. 312

²⁵ Mills, F. C., *Economic tendencies in the United States* (National Bureau of Economic Research, Inc., 1932) pp. 421-423 and 531-533

being turned out of manufacturing industries in greater numbers than in pre-war years, while the numbers of new men taken on were relatively much smaller. High productivity and rapidly expanding production brought instability of employment and uncertainty of income to many, during this era of business prosperity." (Italics ours)

It is true that over this same period, as measured by the *Census of occupations* for 1920 and 1930, the increases in the number of persons normally engaged in the distributive, professional and service trades appear to offset statistically the decline in manufacturing and railroad employment. But the increases in the number attached to these occupations do not eliminate the burden of temporary unemployment borne by displaced employees, and through them, by society at large. Consumers have gained from the greater profusion of goods and services in recent years, but, as the New York State *Preliminary report on unemployment* points out:²⁶

"* * * the workers adversely affected by the technological changes may be paying heavily in the miseries of unemployment for their advance. Society gains. The displaced workmen make a vicarious sacrifice. * * * All the evidence available suggests that the burdens imposed on the workers by technological unemployment are heavy. Since the benefits to society at large are great it is obviously the duty of those benefited to share their gains with those penalized. * * * John Stuart Mill argued for a legislative indemnity for those displaced by new processes. 'And since improvements,' said he, 'which do not diminish employment on the whole, almost always throw some particular class of laborers out of it, there cannot be a more legitimate object of the legislator's care than the interest of those who are thus sacrificed to the gains of their fellow citizens and posterity.' This epitomizes an unanswerable argument."

²⁶ *Op. cit.*, pp. 156-158

3. MIGRATION OF INDUSTRY

Another factor causing dislocation of employment is the migration of plants and even entire industries.

“Instability in the location of industry is a condition one might expect to find under conditions now existing in the United States. Changing economic conditions, such as growth of population, new techniques in manufacture, new products, new methods of transportation, and altered trade relations between nations, all militate against stable locations of manufactures. So long as instability exists, certain districts or cities will be losing industrial plants and others will be acquiring such plants.”²⁷

These shifts, gradual or abrupt, are inevitable in a dynamic industrial society, and are controlled by the search for lower unit costs. But their results in human costs may be tragic. As industrial shifts occur, the labor force which has grown up near the old site of the industry faces the necessity of adjusting itself to unfamiliar means of livelihood. Although no information exists as to the total number affected by such shifts, a recent study of industrial migration showed that in 1928-29 the relocation of 655 plants affected 30,284 wage jobs; in 1930-31 a shift in 490 plants affected 25,305 wage jobs; and in 1932-33, 22,013 workers attached to 421 relocated plants faced the necessity for readjustment.²⁸

The case of the International Paper Company in New York State illustrates the way in which technical considerations may require an industry to migrate, leaving stranded communities in its wake. This company had plants for manufacturing paper from timber at Fort Ti-

²⁷ Garver, F. B., Boddy, F. M., and Nixon, A. J., *Location of manufactures in the United States, 1899-1929* (Employment Stabilization Research Institute, University of Minnesota, 1933) p. 105

²⁸ Creamer, Daniel B., *Is industry decentralizing?* (1935) p. 53

conderoga, Katyville and Pierceville, N. Y. By 1931 suitable timber in this region was becoming scarce. Meanwhile a new process had been found by which Southern cut-over pine could be used for paper manufacture. New plants were therefore erected in the South, and the plants in New York were abandoned. Thus the accident of a profitable invention left the lumber workers and their communities stranded in the backwash of industrial efficiency. The American Locomotive Company furnishes another example of such dislocation. In 1932, in accordance with a plan of concentration developed before 1926, its locomotive plant at Dunkirk, N. Y., was shifted to Schenectady. The probable number of men who were unabsorbed by other types of operations at the Dunkirk plant was estimated at 900. In 1936, "as a matter of further economy and efficiency," the manufacture of forgings was transferred from Dunkirk to Schenectady, affecting still more workers. If an average family of four can be assumed for the 900 men originally displaced, it follows that one fifth of the population of Dunkirk must have been directly affected by this one transfer. The indirect effects on local business and trade are incalculable but obvious.

Similar in effect is the importation of workers for a project whose future is unforeseeable. The Bethlehem Steel Corporation, at Lackawanna, N. Y., imported workers and later abandoned them to public relief in a community totally unprepared for the burden of supporting them.

The free movement of industry, in good times and bad, may be essential to efficient production, but the cost to the employees and to the community of which they are a part has been regarded as a purely individual matter. Industry in such instances forces upon the workers a burden which they are unprepared to assume and unable to bear.²⁹

²⁹ If after the migration of an industry from a community, the period required for the reabsorption of discharged workers into other occupations is short, a system of unemployment insurance will help to distribute more

4. THE RISE AND FALL OF CONCERNS

The instability of business is mirrored in the statistics of business failures. A high degree of mortality among business concerns in the State of New York is shown in Chart 29.

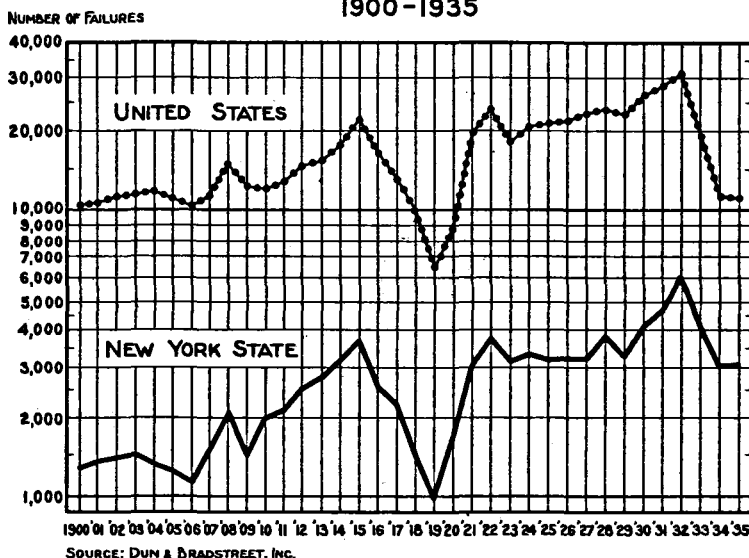
Business failure often means the disappearance of the firm and the direct displacement of workers.³⁰ Of course, direct displacement may not follow when insolvent enterprises are at once relaunched under new auspices. Nonetheless the stringencies that are climaxed in business failures press continuously upon business and employment,

equitably the cost of this readjustment. The compulsory use of employment exchanges by those claiming benefits will provide accurate information as to the numbers displaced and the adequacy of their qualifications for new employment. If a fundamental long-time reorganization of the labor market in the locality is required, the unemployment insurance system will not only provide some "breathing space" for the workers affected, but will also supply the necessary data as to the trends of employment opportunity in the area and will contribute toward the achievement of a purposeful program of retraining and relocation.

³⁰ An illustration of how unemployment insurance would function in a given instance of business failure is found in the case of the City of Manchester and the collapse of the Amoskeag Manufacturing Company, once the largest cotton textile mill in the world. At one time, 18,000 workers found employment there, and at least half the population of the city was dependent, in one way or another, upon this one industrial enterprise. After several years of declining activity, however, the plant has finally shut down completely. Faced by the spectre of economic stagnation, the City of Manchester is making efforts to rehabilitate the plant and to induce new industries to move in. A group of citizens has bought the mill for \$5,000,000, the Public Service Company of New Hampshire has agreed to buy the water power rights for \$2,500,000; and the Amoskeag Company winds up its affairs with \$13,700,000, enough to pay all costs and claims including bonds amounting to \$11,379,000. (*Business Week*, July 25, Sept. 19 and Oct. 3, 1936)

Thus the Amoskeag stockholders have found a substantial measure of protection; the bondholders suffered no loss; and the citizens of Manchester who took over the empty plant will hold it for profitable disposal at an opportune time. When this happens some of the displaced labor supply may be reabsorbed, but meanwhile *the workers and their families are the real sufferers from industrial failure*. Under a system of unemployment insurance, these people would receive a certain percentage of their former wages, enabling them to maintain themselves until the mill could be reoccupied and full time jobs be restored to them. The payment of unemployment benefits would not only save the workers themselves from destitution or from the stigma of relief, but it would sustain the economic activity of the entire community as well. At the same time, by calling the employment exchanges into action, the qualifications of the workers for other types of jobs would be discovered promptly, as would also the possibilities of reemploying them in the immediate region. Equitable, controlled assistance would take the place of panic and chaos.

CHART 29
BUSINESS FAILURES
1900-1935



(See also Table 32, p. 200)

either directly or indirectly. Business failures themselves present an incomplete picture, for most concerns in financial difficulty anticipate bankruptcy by voluntarily going out of business and thus avoiding the stigma of forced liquidation. "For every business enterprise which fails," says Roy A. Foulke of Dun and Bradstreet, "the managements of a far greater number close up shop, lock the windows, turn out the lights, pay the rent, liquidate their bills, and then voluntarily move on to try their fortune at some other location, or to become employees until they can husband sufficient resources to become entrepreneurs once again."³¹

The effect of business failure on employment needs special recognition in any comparison of the rates of unem-

³¹ Foulke, Roy A., *Business conditions and the business man* (Dun and Bradstreet, Inc., 1936) pp. 6-7

ployment in large and small concerns. For while large concerns give evidence of more instability throughout the year than do small ones,³² the small firms have a worse record of failure, and this increases their responsibility as contributors to the unemployment problem.

In their effect on employment, the disappearance of old firms and the rise of new ones are closely related to the other fundamental changes and shifts in the business structure that have been described above.

These processes of industrial change including, as they do, both expansion and recession, growth and decline, may tend to cancel one another in the long run when all economic activity is lumped together. But again it must be emphasized that this can not be true of individual industries or persons. A careful statistical study shows that, *owing to improvements in technological and managerial efficiency, over three million wage earners were displaced in the United States between 1920 and 1931, an annual average of about a quarter of a million.* The reabsorption of these workers in new jobs "took one and one-half years or thereabout to work itself out * * *" and the average time lost per displaced worker was approximately three-quarters of a year.³³

5. CYCLICAL UNEMPLOYMENT

Unemployment resulting from the swings of business through arcs of boom and recession is even less susceptible to prevision and prevention than that attributable to the causes discussed above. Such fluctuations may be relatively mild, as in 1921, 1924 and 1927, or they may be severe, as in 1930-36.

³² See: National Industrial Conference Board, Inc., *Mergers in industry* (1929); King, W. I., *Employment, hours and earnings in prosperity and depression, United States 1920-1922* (1923); Hansen, A. H., Bjornaraa, D., and Sogge, T. M., *Decline of employment in the 1930-1931 depression . . .* (1932)

³³ Weintraub, David, Displacement of workers, etc., *Journal of the American Statistical Association*, December 1932, p. 399

The story of depressional unemployment is told indirectly in the fluctuations of general business activity (Chart 1), of business failures (Chart 29) and of the gigantic costs of unemployment relief (Chart 11). It is shown more directly by the drop from the 20.5 million employed in 1929 to the less than 14 million three years later. Conversely the number of the unemployed rose nearly ninefold during the same period (Table 3).

Cyclical unemployment has been a phenomenon of the economic system since the world has been on an industrial basis; its swings are becoming no less wide and deep, and perhaps are increasing in intensity; its manifestations are "shrouded by the veil of other movements, a mixed fabric woven in varying proportions" of seasonal, random and fundamental changes. Its causes are obscure in detail, rooted in the complex and interdependent pattern of industry and trade. Our knowledge of its history, indefatigably studied, has as yet been put to remarkably little use in helping us to prepare for its shocks and wastage.³⁴

C. INEFFECTIVENESS OF INDIVIDUAL EFFORT TO MEET THE PROBLEM OF UNEMPLOYMENT

1. INDIVIDUAL EFFORTS TO STABILIZE PLANT OPERATIONS

The facts presented above clearly sustain the view that the possibility for success of individual firms or industries in achieving stability of employment is of necessity narrowly limited. Evidence of the difficulties involved in regularization is found in the results of an investigation made in New York State in 1930 when nineteen hundred firms

³⁴ Even in the presence of a cyclical swing the *protection* extended by unemployment insurance in short recessions and in the early part of longer ones would be of tangible value to the workers and communities affected. A first defense against destitution would be provided, complete knowledge of the extent of unemployment would be promptly gained, and both purchasing power and morale would be sustained by the payment, as a right, of the sum set aside for benefit purposes. The shock-absorbing protection of such first-line defenses would be no small contribution to the welfare of society at such crucial times.

were questioned as to their regularization programs.³⁵ Replies were received from 598 companies and of these only 292 reported any effort to stabilize employment. Of this number 117 had made no effort toward regularization of operations; in the dull season, they had merely used a part-time or stagger system of employment instead of lay-offs. Less than 100,000 workers were employed by firms which had adopted genuine regularization methods which actually stabilized employment. About 2 per cent of the wage earners in the State were employed in establishments that were making some effort to regularize, but even these firms had not succeeded in eliminating seasonal unemployment.

Stabilization plans, when attempted, are generally directed against seasonal fluctuations. While a few firms which experience such fluctuations have succeeded in stabilizing parts of their operations, as we have seen, nevertheless seasonal swings have become more pronounced in many industries during the past fifteen years. Despite the gains made by a few employers in regularizing employment in their own plants, they have not been able to exercise any substantial influence on seasonal unemployment as a whole.

What are the methods commonly suggested for smoothing out seasonal fluctuations, and how are they limited in practice? The first is the *stimulation of demand in off seasons*. This may be adopted if the necessary advertising campaigns are not too costly (as they have been found to be in the case of small firms), or if the price reductions to encourage purchase do not threaten to break the price structure permanently or cause dealers to overstock. *Advance ordering by dealers* is a second device, but it is limited by the ability of the dealer to take the market risks of a declining price or of a change in style,

³⁵ State of New York, Department of Labor, *Industrial Bulletin*, June 1930

risks which the manufacturer passes on to the dealer by requiring advance ordering. *Budgeting production and sales* by forecasting sales is a method adopted by a large automobile concern, but its financial success is aided by two facts. The spread between the cost and selling price is greater than in other automobile companies and the car manufactured is a high-priced model little changed from year to year. Hence if forecasting fails, the price may be reduced without too great a loss to the company, and since the style is fairly standard, the public is not disinclined to buy a "last year's model." *Manufacturing for stock* may be successfully practiced if the product is not subject to style change and is not perishable and if the storage space required does not involve costly rents. *Simplifying and standardizing* the product is another possible method, but it is obviously unpopular in such trades as clothing manufacture and other forms of business whose activity depends on variety and improvement to win consumer interest. It is also impracticable in cases where the product is made to order, as is the case in certain forms of steel, machines, tools and so on.

Diversifying production by introducing side lines and fillers has been ingeniously practiced, but is found by many firms not worth the cost of training new selling forces, contacting new dealers, or employing different types of workers. The development of an even sharper seasonal peak for the side line than for the original product has sometimes resulted. A similar solution is the *dovetailing of operations* by adding to one process another which is subject to different seasonal changes. This solution assumes a mobility of all the factors of production while in actuality this mobility is limited. The increasing specialization of machinery has made it less and less possible to adapt it to different uses. The intensive and expert cultivation of markets by management is also usually confined to one field of activity. To launch a new operation and expand into a new market therefore fre-

Successful stabilization may be dependent on the demand from some other temporarily "dovetailing" industry, as in the case of radios sold for use in automobiles, cited above. Especially in periods of declining business activity the competition of other products may make variety in styles and lines more attractive financially than standardization of product. Unexpected or unconquerable weather conditions are always limiting factors in regularization efforts. Hand-to-mouth buying habits offset efforts to rely on advance ordering and manufacture for stock in all industries which do not produce for a steady demand. The powerful force of tradition, to say nothing of investment in existing equipment, may act as a deterrent to changes which would make possible year-round production. In view of these many impersonal forces, it is not strange that methods of stabilizing employment are found more often in books than in practice.

The degree of stabilization achieved will ultimately depend not so much upon the meritorious efforts of the employer as upon the nature of his product, his process, his market and the economic conditions which surround his enterprise.

Stabilization of cyclical fluctuations can scarcely be attempted by individual employers, since monetary policy, international trade, and investment trends are important factors in such fluctuations. With reference to displacement occasioned by technological changes and by the migration of industries, it is sufficient to say that there is no available evidence that individual employers, in an expanding economy, will forego an increase in plant productivity, in the face of competition, simply in order to retain employees whose services could be permanently eliminated by the use of machinery.

2. PRIVATE UNEMPLOYMENT BENEFIT PLANS

The number of workers covered by private plans of unemployment compensation constituted less than one-half of one per cent of those gainfully employed in the country in 1931. Two-thirds of this small number were covered by trade union unemployment insurance schemes, or by joint compensation plans provided by employers and trade unions. The remaining one-third were covered by plans established and operated by plant management.³⁷

Company interest in the protection of workers against unemployment is a post-war development. Up to 1933 thirty-eight companies had from time to time initiated voluntary unemployment compensation plans—nineteen in number—to care for seasonally unemployed members of their labor force (see Table 17). It is important to note that in every respect these nineteen plans operated under advantages that the average firm does not enjoy. Because the plans were voluntary, each originated at a time when the company was well able to finance payments. Many of the companies involved enjoyed a monopoly or controlled a large percentage of the competitive business.

In spite of the advantages under which they have operated these plans clearly indicate, upon analysis, the limited effectiveness of the employer reserve type of unemployment compensation:

1. The benefit plans were generally introduced only *if* and *after* stabilization of operations was effected, and only in that part of the plant where stability had been achieved. If operations could not be stabilized, no plan was adopted. Thus the plans are less a spur

³⁷ Stewart, Bryce, *Unemployment benefits in the United States* (1930); Bureau of Labor Statistics, Bulletin No. 544, and Supplements for 1933 and 1934. See also State of New York, *Joint Hearing* before Senate and Assembly Committees on Labor and Industries, March 6, 1935, p. 284

to stabilization than a means of keeping a trained labor force attached to semi-stabilized concerns. Experience has shown that the plans were usually modified to fit the exigencies of the operating conditions confronting the business, rather than to provide genuinely reliable protection for the worker in times of stress.

2. Benefit payments have not been provided for those permanently dismissed, no matter what the cause for dismissal.³⁸ Hence permanent loss of a job though technological innovations, relocation of plant or other changes is not compensated under these company plans. This policy is consistent with the object of such plans, which is not primarily to relieve unemployment but to maintain an experienced, available labor force to be drawn upon in time of need.³⁹

3. Under these plans restricted definitions of "unemployment" have been adopted. In addition, the long periods of employment required for membership in the plans have enabled some of the companies to concentrate layoffs among ineligible workers and thus keep down benefit payments.⁴⁰ Even with a restricted class of beneficiaries company reserve plans have proved uncertain. As soon as business recession re-

³⁸ A few of the plans provided for benefits after permanent dismissal, in exceptional cases, but such a policy has not generally been followed. Several firms gave dismissal pay or two weeks' notice, but this practice had nothing to do with the unemployment insurance plan. Stewart, Bryce, *Unemployment benefits in the United States* (1930) p. 205

³⁹ At Procter & Gamble transfer to another department, *at the same wage*, is the first adjustment attempted to avoid benefit payment, but this wage protection is abandoned when transfer is occasioned by the permanent elimination of a department. Further evidence of the lack of interest of employers in those workers who are *permanently* detached from their plants may be found in *Hearings on unemployment insurance*, United States House of Representatives, Committee on Ways and Means, H. R. 7659, March 21-30, 1934, p. 74, testimony of Marion B. Folsom of the Eastman Kodak Co.; also *Hearings on economic security act*, United States Senate, Committee on Finance, S. 1130, January 22-February 20, 1935, p. 562, testimony of Marion B. Folsom.

⁴⁰ Stewart, Bryce, *op. cit.*, p. 205

quired the layoff of eligible workers in large numbers, the funds in many cases proved inadequate. The financial base—the resources of a single company—was too narrow. No company has been able to claim that its plan meets the unemployment problem even of its own workers, because the plans have not been devised to meet unemployment but to retain a nucleus of loyal, skilled workers during slack periods.

These plans furnish no evidence that the company reserve scheme is adequate to meet the burden laid upon society by unemployment in its various forms. The only lesson they teach is that society must undertake for its labor force at large what a few individual business men have found it profitable to attempt for their own permanent employees, the maintenance of their health, morale and livelihood during periods when their labor is not needed. According to a recent study by two authorities on American labor legislation, "Neither union, joint nor company plans did more up to 1932 than to prove the necessity for state or federal legislation on the subject."⁴¹ A similar view has been reached by Industrial Relations Counselors, Inc. in a study which concludes that "a wide coverage of unemployment insurance, even in so far as it is an advantage to the individual business, will come only through legislation."⁴²

A compact summary of the main provisions and history of company benefit plans is given in Table 17, pp. 102-107.

⁴¹ Lescquier, D. D., and Brandeis, Elizabeth, *History of labor in the United States*, Vol. III, p. 268

⁴² Stewart, Bryce, *op. cit.*, p. 221

Table 17

Main Provisions of Company Unemployment Benefit Plans

COMPANY AND INDUSTRY	NUMBER OF REGULAR EMPLOYEES	PER CENT COVERED BY PLAN	ELIGIBILITY REQUIREMENTS FOR INCLUSION IN PLAN	TYPE OF UNEMPLOYMENT COVERED BY PLAN	STABILIZATION OF OPERATIONS PRIOR TO ADOPTION OF PLAN	DATE PLAN ESTABLISHED	DATE PLAN DISCONTINUED	REASON FOR ABANDONING PLAN
American Cast Iron Pipe Co. (Manufacturers of cast iron pipe and fittings)	1,300 (1924)	77	Factory workers, 1 year's service, "temporary" and construction workers excluded	Temporary layoff, without transfer to other work	Yes	1924	1926	Technological changes
Behr-Manning Corp. (Manufacturer of abrasive paper and cloth)	252 (1933)	87	Production department workers, 1 year's service and members of welfare association; no clerks or salesmen	Temporary layoff ¹	Yes	1922		
Brown and Bailey Co. (Manufacturers of paper boxes, cartons)	114 (1931)	88	Wage-earners; no clerks, foremen or salesmen	Temporary layoff ¹	Yes	1927	1931	Reserves insufficient to meet continuous unemployment
J. I. Case Co. (Manufacturers of farm machinery)	1,530 (1933)	79	Wage-earners with satisfactory service records; salaried workers promoted from wage-earners; 6 months' service	Temporary layoff	No	1931		
Consolidated Water Power and Paper Co. (Manufacturers of wood pulp, paper and water-power)	900 (1929)	78	All employees on hourly wage, employed for one year	Temporary layoff	No	1929	1930	Non-financial reasons for abandonment

¹ This company also pays dismissal wage.

COMPANY AND INDUSTRY	NUMBER OF REGULAR EMPLOYEES	PER CENT COVERED BY PLAN	ELIGIBILITY REQUIREMENTS FOR INCLUSION IN PLAN	TYPE OF UNEMPLOYMENT COVERED BY PLAN	STABILIZATION OF OPERATIONS PRIOR TO ADOPTION OF PLAN	DATE PLAN ESTABLISHED	DATE PLAN DISCONTINUED	REASON FOR ABANDONING PLAN
Dennison Manufacturing Co. (Manufacturers of boxes, tags and novelties)	1,576 (1932)	99	Permanent wage-earners, 6 months' continuous service	Temporary layoff ¹	Yes	1916	1932	Lack of funds
Dutchess Bleachery, Inc. (Bleachery and dye works)	407 (1933)	74	All wage-earners, 12 consecutive months' service	Temporary layoff	No	1919		
Fond du Lac Plan ²	264 (1933)	79	Wage-earners and clerical workers; 1 continuous year of service	Temporary and permanent layoff	Yes	1930	1934	(Cut benefits by reducing hours of work) Wisconsin State Unemployment Reserves and Compensation Act
General Electric Co. (Manufacturers of electrical apparatus)	35,139 (1933)	86	Employees earning less than \$50 a week and not previously insured, 1 continuous year of service	Temporary layoff	Yes	1930	1936	(Adopted \$15 limit after having originally proposed to pay 50% of wages up to \$20 maximum) Plan discontinued due to passage of New York State Unemployment Insurance Law

¹ This company also pays dismissal wage.

² Includes Demountable Typewriter Co., Northern Casket Co., and Sanitary Refrigerator Co.

MAIN PROVISIONS OF COMPANY UNEMPLOYMENT BENEFIT PLANS (continued)

COMPANY AND INDUSTRY	NUMBER OF REGULAR EMPLOYEES	PER CENT COVERED BY PLAN	ELIGIBILITY REQUIREMENTS FOR INCLUSION IN PLAN	TYPE OF UNEMPLOYMENT COVERED BY PLAN	STABILIZATION OF OPERATIONS PRIOR TO ADOPTION OF PLAN	DATE PLAN ESTABLISHED	DATE PLAN DISCONTINUED	REASON FOR ABANDONING PLAN
Hill Brothers Co. (Manufacturers of men's shoes)	*	*	Seasonal unemployment plan, wage-earners; permanent unemployment plan, wage-earners, clerical workers and foremen	Temporary layoff	No (Except for use of flexible working day)	1931 (seasonal plan) 1934 (permanent plan)		
S. J. Johnson and Son (Manufacturers of floor wax, dyes and varnishes)	336 (1933)	100	All employee members of Mutual Benefit Association	Temporary layoff	Yes	1922	1934	Passage of Wisconsin State Unemployment Reserves and Compensation Act
Leeds and Northrup Co. (Manufacturers of electrical measuring instruments and pyrometers)	603 (1932)	88	Permanent employees earning less than \$2600 per year, 3 months' service	Temporary and permanent layoff	Yes	1923	1932	Continued unemployment consumed reserves
J. A. Manning Paper Co. (Manufacturers of paper and cardboard)	162 (1933)	98	Production department workers, members of Welfare Association, 1 continuous year of service	Temporary layoff ¹	Yes	1922		(Originally paid flat benefits; altered to provide at least 3½ days' pay per week)
Minnesota Mining and Manufacturing Co. (Manufacturers of abrasive cloth and paper)	700 (1933)	47	Employees earning less than \$45 a week, participating in group life insurance and pension plan, 3 years of service	Temporary layoff	No	1932		
Package Machinery Co. (Manufacturers of package lining and wrapping machinery)	300 (1935)	*	All employees earning less than \$2500 per year	Temporary and permanent layoff	*	*	*	*

¹ This company also pays dismissal wage.

* Information not available

COMPANY AND INDUSTRY	NUMBER OF REGULAR EMPLOYEES	PER CENT COVERED BY PLAN	ELIGIBILITY REQUIREMENTS FOR INCLUSION IN PLAN	TYPE OF UNEMPLOYMENT COVERED BY PLAN	STABILIZATION OF OPERATIONS PRIOR TO ADOPTION OF PLAN	DATE PLAN ESTABLISHED	DATE PLAN DISCONTINUED	REASON FOR ABANDONING PLAN
Rochester Plan ¹	13,380 (1933)	91	Permanent employees earning less than \$50 a week; 1 continuous year of service (6 months' service for Stromberg and Carlson Co.)	Temporary and permanent layoff	Yes	1931		(Reduced rate of benefit from 60% to 50% of wages and weekly maximum from \$22.50 to \$18.75) 11 of original 19 companies had no reserves or could not pay benefits
Rockland Finishing Co. (Print and dye works)	804 (1923)	89	Wage-earners, 1 continuous year of service	Temporary layoff	No	1920	1923	Money exhausted
United Diamond Works, Inc. (Diamond cutting and polishing)	43 (1931)	100	Wage-earners, clerical workers and foremen, 6 months' service or shorter for promising employees at company's option	Temporary layoff	No	1921	1931	Company dissolved
Western Clock Co. (Manufacturers of clocks)	2,300 (1936)	97	Employees contributing to Income and Pension Plan; 10 years' continuous service and 500 hours' layoff; 5 years' continuous service and 750 hours' layoff, if married; 2 years' continuous service and 1000 hours' layoff, if married	Temporary layoff	*	1931	1935	No benefits paid due to steady work

¹ Includes Bausch and Lomb Optical Co., Eastman Kodak Co., Gleason Works, J. H. Smith Co., The Pflauser Co., Stromberg & Carlson Co., and Taylor Instrument Cos.

* Information not available

MAIN PROVISIONS OF COMPANY UNEMPLOYMENT BENEFIT PLANS (continued)

COMPANY AND INDUSTRY	NUMBER OF REGULAR EMPLOYEES	PER CENT COVERED BY PLAN	ELIGIBILITY REQUIREMENTS FOR INCLUSION IN PLAN	TYPE OF UNEMPLOYMENT COVERED BY PLAN	STABILIZATION OF OPERATIONS PRIOR TO ADOPTION OF PLAN	DATE PLAN ESTABLISHED	DATE PLAN DISCONTINUED	REASON FOR ABANDONING PLAN
COMPANY GUARANTEED EMPLOYMENT PLANS								
Columbia Conserve (Canners of food products)	112 (1933)	79	Permanent salaried clerical and factory wage-earners elected to group by fellow-workers	Temporary layoff. Yearly guarantee of 52 weeks' full salary to salaried employees; wage-earners guaranteed 35 hours (50 hours before fall of 1933) a week at fixed hourly rate	No	1917		
Crocker-McElwain-Chemical Paper Manufacturing Company (Manufacturers of paper and paper products)	473 (1933)	62	Wage-earners recommended by foremen and department managers, 5 years' continuous service	Temporary layoff. Guaranteed 52 weeks' full pay reduced to 80% and then to 50% of wages for 44 weeks to workers with 5 years' service	Yes	1920		
General Electric Co. (Manufacturers of incandescent lamps)	6,421 (1933)	47	Wage-earners voluntarily establishing savings fund, 2 years' service	Temporary layoff. Guarantee of 1250 hours of employment	Yes	1930		

COMPANY AND INDUSTRY	NUMBER OF REGULAR EMPLOYEES	PER CENT COVERED BY PLAN	ELIGIBILITY REQUIREMENTS FOR INCLUSION IN PLAN	TYPE OF UNEMPLOYMENT COVERED BY PLAN	STABILIZATION OF OPERATIONS PRIOR TO ADOPTION OF PLAN	DATE PLAN ESTABLISHED	DATE PLAN DISCONTINUED	REASON FOR ABANDONING PLAN
Nunn-Bush Weldon Shoe Co. (Manufacturers of shoes)	*	*	*	Guarantee of 48 weeks' income in 52 payments	*	1935		
Procter and Gamble Co. (Manufacturers of soap, cooking oil, etc.) (Port Ivory and Ivorydale plants)	3,139 (1933)	77	Wage-earners on hourly basis with 1 year of continuous service	Temporary layoff. Guarantee of 48 weeks of employment	Yes	1923		(Reduced hours 25%; and adopted 5-day week in 1932; adopted 8-hour day in 1933, total of 40 hours per week)
Quaker Oats Co. (Manufacturers of cereals)	33,231 (1934)	72	Wage-earners, 6 months' service in preceding 12 months	Temporary layoff	No	1934		
Samarkand Co. (Manufacturers of ice cream)	48 (1933)	89	Permanent wage-earners, clerical workers, foremen and salesmen, 1 continuous year of service	Temporary layoff. Guarantee of 11½ months of employment	Yes	1929		
William Wrigley, Jr. Co. (Manufacturers of chewing gum)	1,257 (1934)	91	Permanent employees earning less than \$6000 a year, 6 months' service	Temporary layoff	No	1934		

* Information not available

SOURCES: Stewart, B. M., *Unemployment benefits in the United States*, Industrial Relations Counselors, Inc., 1930; Kiehel, C. A., *The stabilization of employment and unemployment compensation*, unpublished manuscript for Committee on Economic Security, January 1935; Industrial Relations Counselors, Inc., *Historical basis for unemployment insurance*, University of Minnesota Press, 1934; *Executive Service Bulletin*, June 1935; Western Clock Co., *Tick Talk*, August 1932, pp. 3-5; February 1933, pp. 4-5; May 1933, p. 4; December 1934, pp. 1-4; *Factory Management and Maintenance*, August 1935, pp. 331-332; and information furnished by Industrial Relations Counselors, Inc.

Summary

The necessity for community effort to ameliorate the effects of unemployment arises from the fact that persistent and recurring work shortage is a consequence of modern social organization and of chronic instability in business activity as a whole. New social mechanisms are required to meet a problem whose origins are traceable to the rapidity and uncontrolled character of technological and economic progress. The causes of unemployment can not be laid exclusively at the door of any particular form of business enterprise in which it occurs. No one recognizes more than the business man his dependence upon other parts of the economic structure.

The incidence of unemployment varies in different industries. But it must be emphasized that this is not due to the deliberate exertion of control over employment fluctuations. Industries protected from one type of fluctuation may be subject to another. These differences arise from the nature of the process, the product or the market. By their own business behavior, the more stable industries contribute directly to the irregular operations of the less stable industries with which they deal.

The major sources of unemployment are persistently present as the natural outcome of normal business activity. Seasonal irregularity in business is an answer to the consumer's demand for variety in food, clothing and recreation. On the side of supply this irregularity is often controlled by natural forces. On the side of demand it is accentuated by consumer caprice. At times seasonality lends to the employer an actual advantage since it permits variety and novelty in the appeal for trade. Technological and commercial changes are indispensable to economic progress, yet they carry in their wake a serious problem of readjustment. The mechanization of manufac-

turing alone, which is so largely responsible for our rising standards of living, has resulted in a steady displacement of labor. The immediate dislocation and the lag in reemployment is left as an unduly heavy cost on the displaced worker. Business failures and cyclical depressions add to the risks borne by the wage earner.

Voluntary attempts by business enterprise to reduce the hazards of unemployment have met with meager success. Regularization efforts and company benefit plans have been pitched primarily toward maintaining a steady, available labor force (just as idle machinery is kept ready for use when needed) with no provision for temporary workers or for those permanently separated from the payroll. The most constructive lesson to be learned from these plans is that society should undertake for its labor force what a few individual business men have sometimes found it profitable to attempt for certain of their own permanent employees—the protection of their income, morale and health during periods when their labor is not needed.

If individual effort is impotent to deal with the growing problem of unemployment and if existing community methods are inadequate, then some new device for coping with the problem is imperative.

PART III

**UNEMPLOYMENT INSURANCE AS A MEANS OF
MEETING THE UNEMPLOYMENT RISK**

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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.

Parts I and II have shown that ours is an economic society in which industrial change is an ever present and increasingly important factor. Thus the attention given today to the problem of unemployment is a reflection of an industrial evolution which has brought about a far greater interdependence of individuals and business concerns than ever existed before, making the whole system particularly sensitive to factors disturbing any part of it.

On the one hand, unemployment is a *result* of general economic maladjustments; on the other, it is a *source* of economic waste and an impediment to community welfare. For these reasons the attitude of the great majority of our people toward this problem, whatever their political philosophy, has been greatly modified within the past few years. The social significance of unemployment has been brought to light by its dramatization. Unemployment and its concomitants are now generally recognized as a collective rather than as an individual responsibility.

The New York State Unemployment Insurance Law offers an *orderly first defense* for employed workers

against involuntary unemployment, and also promises to aid in prevention of unemployment through better organization of the labor market and sustaining of purchasing power. The law provides for the accumulation of a reserve in advance of need through the use of a pooled fund, a device which involves community sharing of risk and extends the greatest protection at the least cost.

A. THE NATURE OF UNEMPLOYMENT INSURANCE

The New York State Unemployment Insurance Law provides a system of unemployment protection which is based on *the principles of insurance, not public relief*. The characteristic feature of this type of insurance is the participation of government in providing systematic, organized protection against a persistent social hazard which affects the welfare of a large fraction of its population.¹ The State has assumed responsibility only for proper administration of the insurance plan. All revenues will be raised by contributions from employers and will be based on a uniform percentage of their payrolls.² Other important features of unemployment insurance are brought out by comparing it with the theory of private insurance.

The basic requirements of an insurance institution are that it satisfy the following conditions:

- a. It must cover a large number of individuals exposed to risk of the same general kind but in varying degree at any one time.
- b. It must not attempt to cover losses likely to be experienced by a relatively large proportion of these individuals at the same time.

¹ State social insurance may be defined as all forms of insurance covering certain groups of the population, generally wage earners, and insuring against the common risks of society, such as death, sickness, invalidity, accident, unemployment, etc., such forms of insurance being instituted, administered, or specifically encouraged by governments.

² Justification of this method of financing the cost of insurance benefits will be found in Part IV.

- c. The loss resulting from the risk covered must be one that is easily and definitely verifiable.
- d. Payments to individuals for reimbursement of losses sustained are theirs by right.

These general principles are fundamental to all insurance. Not all insurance mechanisms, however, adhere to these principles in the same degree. For many risks it is not possible to determine mathematically how large must be the number of individuals necessary to secure maximum advantage of the law of large numbers. In practice the number of persons grouped for insurance coverage is usually a matter of expediency and experience. The amount of risk that can safely be insured is likewise a matter of judgment and experience. The third condition is relatively easy to meet in cases of death, but even here there are problems of identification, and to determine the extent to which income is lost through physical disability is as difficult an administrative problem as exists in insurance underwriting.³

Unemployment insurance, as do the other insurances, meets these four tests in varying degree. As for the first, the trade union or the private company fund falls far short; industry reserves might come closer, and the state-wide pool qualifies most completely. As for the second test, the catastrophic hazard of depression unemployment confronts all unemployment funds, but offers least danger to the funds having the broadest base. This hazard is comparable with the war risk for life insurance, and to a

³ As indicated, all insurance institutions must qualify under these broad tests, but there are wide differences in the degree to which they qualify, depending partly on the nature of the risk and partly on the purpose of the insurance institution designed to meet it. For example, there is a wide difference between the insurance status of a nation-wide fire insurance company and of a small company organized merely to sell assessment disability insurance in a state with little or no public regulation of insurance. The first may be and often is an example of sound insurance provision. The second, particularly by force of its peculiar underwriting problems, is likely to be the precise opposite. But catastrophe may overtake even the fire insurance company, and the activities of professional arsonists and the human tendency of honest persons to inflate damage claims for legitimate fires create real if not insurmountable problems for fire underwriters.

lesser degree with the earthquake risk for property underwriters.

In meeting the third test, that is, determining whether there is compensable loss, the unemployment insurance administrator must decide between the spurious and the honest claim; he has, however, an objective fact on which to base his decision. Is the claimant involuntarily unemployed? Is he willing and able to accept an offer of work? Indeed in certain respects the administrator of unemployment insurance has here certain advantages over other insurance officials: there are few chances for the person applying for benefit to frame up a claim or to exaggerate a loss legitimately suffered. And finally, like other insurances, unemployment insurance meets absolutely the fourth test: it pays indemnity as a matter of right. When the insured claimant satisfies the conditions laid down in the law and regulations, he receives money regularly, promptly and without the taint of charity.⁴

⁴ It is true also that private insurance institutions may possess certain other characteristics, but none that is indispensable to the idea of insurance. Usually the insured persons pay part or the entire cost of providing benefits, but this is not a fundamental prerequisite of insurance. In this country most state laws prohibit worker contributions to workmen's compensation funds and many private old age pension plans are financed exclusively by the employer.

The insurance idea will permit payments to be made either from premiums collected after a loss, or out of a fund collected in advance. Every assessment society and—within limits—every assessment mutual insurance company dispenses with the fund and *retains the insurance idea in its earliest and fundamental aspect: community sharing of risk*. Unemployment insurance ordinarily provides a fund, but since the essential idea of insurance is planned risk-sharing, it could not be said to fail as insurance if, when the fund was drained by depression, premiums were raised or benefits reduced for a time, or loans were incurred. (Note: The British unemployment insurance fund, with surplus funds of £6,500,000, has recently reduced the weekly premiums [Unemployment fund, *Ministry of Labour Gazette*, March 1936, p. 84].) This flexibility of the insurance fund is an advantage rather than a hindrance to sound administration: the eligible unemployed worker still receives benefit by right and not by sufferance; if benefits are reduced or premiums increased it is by provision in the law covering such contingencies. And if loans are needed to tide over an emergency there is hardly superior security to that offered by a state-wide fund financed by compulsory contributions. It is often insurance practice to charge a fixed tariff of rates but it is a practice departed from frequently, widely and successfully. For most companies even the surface stability of life insurance premiums applies only to deposit payments, and the policy holder expects and the salesman assumes regular return payments called dividends. Fire insurance rates are stable only for the term

Pertinent to the success of the insurance institution is its basis on a body of risk statistics adequate in quantity and quality. Insurance can and does exist without a statistical basis mathematically perfect, but the sounder this basis the stronger the chances of success for the insurance institution.⁵ Unemployment insurance premiums, like many of the others, can not be grounded on a perfect statistical basis. Unemployment data are, as yet, scattered, non-uniform and insufficient.⁶ Statistics never fit ready made; as in the case of early life and fire insurance, unemployment insurance at the outset must make use of the materials that lie at hand. "In the beginning," says an eminent actuary of the Metropolitan Life Insurance Company, "just as was done in life, health and other

of the contract, and most casualty insurance policies are sold for a year at a time because the underwriters cannot forecast safely for longer periods.

Moreover the surface stability of rates is not fundamentally an insurance feature. A rigidity of rates that hides excessive charges or continual deficits is unsound both in private and public insurance; it represents, however, bad business practice rather than violated insurance principle. On the other hand, too frequent changes in premiums are unwise administratively, psychologically and actuarially. For example, it is generally agreed that, in an attempt to keep premiums in step with industrial conditions, workmen's compensation rates in the last decade have been changed too often rather than too infrequently.

⁵ In practice there are defects both in the quantity and quality of the underlying data of even the oldest insurances. The crudeness of the statistical basis of fire insurance has been the subject of official investigation; rate-making for workmen's compensation is still the unsolved problem of the casualty actuaries; our system of making private passenger automobile liability insurance premiums without reference to factors other than territory and type of car has been seriously questioned by the actuaries themselves. Even more important for the latter two lines, where underlying risk conditions change rapidly, is the fact that data good and bad get rapidly out of date and even statistics adequate when collected lose much of their usefulness for setting rate levels for the near future.

⁶ The statistical base for unemployment insurance rates will be built up from the records required for administration. Until these records are accumulated, a foundation does not exist for a differentiation between industries in the allocation of employer contributions. Hence, none of the states which have enacted laws providing for pooled funds (16 out of 17) require merit rating from the outset. Three (New York, Rhode Island and Mississippi) provide for study and reports on the practicability of rating risks; one (Indiana) uses both individual employer reserves and a pool, requiring revision of rates after three years; the remaining 12 provide for rating of risks about five years after enactment of the laws.

ture is motivated by the need for intervention on behalf of a class of people whose welfare is of particular importance to the community as a whole.⁹

The basic element in all types of insurance is the pooling, the sharing, the diffusion of risks. The advantages of a pooled reserve, accumulated in advance for use in the future, have long been recognized in both public and private financial practice. This is the one element which is essential to the very definition of insurance, and it was fully recognized by the Legislature in framing the New York unemployment insurance law.

The general advantages of pooled funds, with their application to the amelioration of the evils of unemployment, may be set forth as follows:

a. A pool has a broad, sound *economic* base. All of the economic data now available go to support the belief that a pool is logical. Moreover, the present lack of accurate knowledge of the rates of unemployment in different industries (to say nothing of our ignorance of any specific industries which might be "blamed" for unemployment) would in any case require legislative provision for a pooled fund with a small uniform tax, for no fair rates can be established for individual industries or plants until comprehensive records are available as to their comparative experience.

b. A pool has a broad, sound *financial* base. If *manifold* risks are not pooled, there is a failure of internal balance within the insurance system. The whole advantage of insurance is lost if a crisis in one industry is not met through a broad financial incidence. Only the broadest sort of financial base can ensure adequate public protec-

⁹ It may be pointed out that experience has shown that without the element of compulsion, the state can make little headway toward providing an adequate plan. The history of private unemployment benefit schemes in the United States (see Part II of this Brief) provides conclusive evidence on this point, as do the circumstances leading to the introduction of other types of social legislation. Compare also the experience of Wisconsin in the period from 1932 to 1933, when the establishment of unemployment funds was left to voluntary action by employers.

tion. If special rates of contribution were established for industries experiencing heavy unemployment for a given period of time, the rates would have to be made unduly high on those industries, in order to yield even the moderate protection afforded to employees by the New York pooled fund; and these higher rates would of necessity be imposed at the very time when the industries concerned would find it least desirable to increase their costs or raise their prices. The more the rates are varied in unemployment insurance, the farther is the plan removed from the principle from which it derives its great advantage.¹⁰

Shifting factors of demand or supply, with their correlative effects on employment, make the "blue chip" business of yesterday the declining business of today, *e.g.*, Pennsylvania anthracite, steam railroads. All busi-

¹⁰ In this respect unemployment insurance differs from workmen's compensation. The nature of the accident hazard is in no way related to the degree of business fluctuation suffered by the firm concerned, and has nothing to do with its price policy. The amount of unemployment, on the other hand, is a *reflection* of the amount of business fluctuation, which in turn must be closely connected with price policy. If the moderate protection determined upon in the New York Unemployment Insurance Law is to be extended equally to all workers, the high tax on some industries which would be necessary to achieve this for their employees, *if a pool is not used*, would interfere substantially with general economic activity.

This point is most succinctly made by Walter A. Morton, Professor of Banking at the University of Wisconsin, in speaking of the individual reserve plan:

"Because of the factors already making for stability, it seems reasonable to conclude that a 2 per cent tax on the payroll will not lead employers to alter their methods of business. This tax is insufficient to overcome other obstacles to continuous operation. If, on the other hand, unemployment is not due to lack of incentive but to lack of managerial knowledge or ability, neither the law nor its administration can supply this deficiency. The law imposes an additional charge upon employers due to instability. Like overhead, this charge induces them to operate when they would not otherwise have done so only if operation still entails smaller 'forfeitures' than the tax. The employer must balance the depletion of his individual reserve fund and the prospective resumption of premium contributions from ceasing to operate against the risk of diversification or of price and style change and the inescapable 'carrying charges' if he does operate. A tax high enough radically to alter the mode of industrial operations and to compel employment when and where it would not otherwise exist will probably be high enough to cause migration—a tax which is not high enough to alter operations will not prevent unemployment." The aims of unemployment insurance with especial reference to the Wisconsin Act, *American Economic Review*, Vol. XXIII, No. 3, September 1933, p. 404

ness is not equally bad at the same time. A pool makes it easy, relative to what could be achieved with individual reserves, for growing and prosperous trades to help in the financing, without strain, of unemployment in other trades that are experiencing downward trends of activity. Moreover, it is frequently true that the decline of one firm or industry is due to a shift of demand which produces a simultaneous expansion elsewhere. When the prosperity of one industry is at the expense of the decline of another, there is a clear economic case for charging part of the costs of unemployment in the declining industry against the prosperous one. In this way, the costs can be readily passed on to the public (which is the gainer from the growing production) with less burdensomeness than if the costs were concentrated largely in one industry.

c. The pool *lasts longer and is more mobile* than a reserve fund collected on any other basis. Individual funds show, when compared with the pool, a decided inferiority in lasting power. If there is no logical or economic basis for rejecting the pool, as was indicated in Part II of this Brief, there is still less reason for neglecting the advantages in the way of longer protection for *all* employees afforded by the pool device.

d. The pooled fund is much simpler and thus *more economical* to administer than other types of fund. The fewer the elaborations in technique, the less burdensome is the administrative machinery and the load of overhead cost.

e. The pool *protects adequately* the interests of workers transferring from employer to employer or from industry to industry. Under other reserve methods, a worker covered by an employer or industry fund suffers a direct penalty when he transfers from an employer or industry which is strong financially to one which is weak.

f. The pooled fund procedure is the *most equitable* for financing the cost of maintaining the labor reserve. All industry has an interest in seeing that labor which it can

not employ for the time being is kept as fit as possible for reemployment when required. Employers releasing workers temporarily should provide at least in part for their maintenance until there is again need for their services. Employers whose businesses are expanding or are expected to expand are equally dependent on this labor reserve on which they will eventually draw. They should regard themselves as equally responsible to help maintain it while on call.

2. ADVANTAGES TO THE COMMUNITY AS A WHOLE

Unemployment insurance is compulsory on the businesses in which the bulk of the unemployment risk is concentrated, and provides for the bulk of the employees who have need of protection during periods of idleness.

a. As a statewide plan the compulsory system has two advantages: (i) It reduces administrative expense. The plan is *administered economically by civil service personnel*. The wastes of hurried organization of administrative machinery are prevented. (ii) It makes the *labor force more mobile* throughout the State and thus is a means of reducing unnecessary unemployment. A considerable amount of unemployment is created by the continual change in the volume and quality of labor needed, while the labor supply is tied more or less permanently to particular localities or industries irrespective of their degree of demand for labor. Registration at a public employment office is a condition of eligibility for benefit, and a complete and accurate running record of unemployed workers, classified by occupation, is thus obtained, and notice of need for new employment is automatically received. Industries in need of workers will be encouraged to draw from this pool of labor registered at the employment offices.

b. The compulsory system is a *prearranged, non-emergency method* that reduces the wastes inevitable under

noncontinuous and unreliable voluntary methods. (i) Funds are collected by a central authority rather than by independent local groups. The financial basis of unemployment insurance is certain and continuous. It requires no special action by the legislature and reduces or eliminates the necessity of hasty improvisation of new sources of revenue, and thus achieves greater equity in the distribution of the financial burden. It has the enormous advantage, moreover, that it collects the bulk of its funds during periods when industry can most easily handle the cost—when business is good. (ii) Administration of unemployment insurance is *less complicated* and consequently *less costly* than the administration of public relief. The expense arising from recurrent changes in the principles and policies governing relief is avoided in the unemployment insurance plan. Unemployment insurance does not involve the selection and planning of special projects for the creation of employment; it does not require the administrators to devise special jobs suited to the training and abilities of the individual worker. Unlike work relief, insurance does not interfere with private enterprise by setting up competing forms of employment.

In place of the test of need, a costly administrative device for one purpose only, there is substituted the *test of willingness to work*, which not only provides a check upon need, but in addition makes a positive economic contribution in the conservation of workers' morale and in securing information about available workers and their various skills.

Moreover, the New York law goes even further than do European systems in guarding against the grant of benefits in excess of need: the worker receives benefit in a *specified proportion to his usual standard of living*, as measured by his usual wages. By establishing benefits at only one-half the rate of wages, the Legislature avoided the personal and social danger of paying benefits too nearly equivalent to wages, even for those workers nor-

mally receiving a wage as little as \$10 per week. Any tendency toward malingering is thus discouraged.¹¹

c. Statutory limitations attached to the New York plan provide other *means of verifying the validity of claims* to benefit for involuntary unemployment: (i) No person can receive benefit unless he has worked at least 90 days in the preceding insurance year or 130 days in the preceding two insurance years. (ii) The unemployed worker receives not more than one week of benefit for each 15 days of employment in the preceding insurance year. (iii) The unemployed worker must wait three weeks before receiving benefits. This protects the fund from minor drainages for very brief unemployment, and ordinarily will give the employment exchanges time to verify claims and place applicants in available positions *before* a call on the fund is required. In case of loss of work due to misconduct or labor controversy, there is a punitive waiting period of two and one-half months (10 weeks). This device is a compromise which makes it possible to avoid a multitude of administrative definitions of "misconduct" and "labor controversy." The limitation of benefits to 16 weeks in any insurance year was arrived at in order to protect the fund from catastrophic losses through invasion for purposes for which it is not intended, such as general relief during long depressions.

d. The law provides for the payment of contributions and benefits *at the most economical times*. The law provides for the accumulation of a reserve fund by means of

¹¹ In most European countries, flat rates of benefit are used. Since these are not generally fixed in relation to wages, they may from time to time approach the lower levels of going wages. It may be mentioned, however, that unemployment insurance administrators abroad from time to time have made sample checks on the economic condition of recipients of benefits. It was invariably found that the numbers whose benefit was over-generous in terms of need were comparatively insignificant.

In Part I of this Brief the most recent figures on savings of American families in different income groups are presented, together with figures showing the per cent of families receiving incomes of various sizes. Reference to this section (pp. 46-48) at this point will indicate how limited is the danger that unemployment insurance benefits may add luxury to the lives of unemployed wage earners.

a uniform rate of contribution on the payrolls of all employers in the covered industries. Consequently, the amount of contributions collected from individual employers depends on the volume of their respective payrolls. Thus when business is good, employment fullest, and profits for most concerns are largest, the volume of contributions collected will be greatest. Conversely, the amount will decrease with the advent of adverse business conditions which are usually accompanied by shrinking payrolls. In this way, most of the funds necessary to finance the insurance scheme will be supplied at those times when the additional burden can most easily be carried.

e. *Business and the community profit directly* from the payment of unemployment benefits. Since unemployment usually accompanies recessions in the volume of business, it is obvious that the amount of benefit payments will be largest during slack times. In this way, the plan may be said to act as a business stabilizer, for the funds released will be used to bolster up the demand for goods. Moreover, workers will be less concerned over the menace of insecurity, which impels them to economize drastically when threatened with loss of work.

f. The law assures *an improved organization of the labor market*. In a dynamic economic society it is possible for unemployment to exist when there are jobs available for those who are willing to work. The failure of workers to find these jobs readily is mainly attributable to the fact that the kind and quantity of labor demanded by employers continually changes from time to time, from place to place, and from industry to industry while the supply of labor tends to be immobile. A part of this lack of balance in the labor market can be corrected by a system of public employment offices which will bring jobs and workers together. Such a system is already functioning in New York State and will be materially expanded to aid in the administration of unemployment insurance. The requirement that unemployment insurance benefits

be administered through these offices means that a complete, accurate, up-to-date record of unemployed workers, classified by occupation, will be obtained. An applicant for insurance benefits must immediately register at an employment office and will be required to accept available employment for which he may be fitted. Employers are encouraged to fill their labor needs through these offices. The effect will be, therefore, to reduce unnecessary and prolonged unemployment.

3. ADVANTAGES TO THE WORKER

Although it is evident that there can be no sharp line of demarcation between the social and the individual advantages of unemployment insurance, there are certain aspects of this method of protection which are of particular importance to the insured worker.

A system of unemployment insurance aids powerfully in preserving the *morale* of the insured worker, inasmuch as he receives *benefits as right* and not as a humiliating favor or charity. It concentrates its effects on the most vital sector of the unemployment front: conserving the economic position and morale of the regular labor force. It establishes a first defense against the ravages of unemployment. The insurance system does not attempt the protection of society's permanent dependents, or of vast masses of unemployed during long periods of deep depression. These aspects of the problem of poverty need treatment more fundamental than can be supplied by simple monetary assistance.

The payment of unemployment benefits is *timed* to be of most use to the unemployed worker as well as to business and the community. The worker gets an all-important extra breathing spell during the critical period when he must readjust himself either within or without the industry of which he has been a part. The unemployment insurance system yields him benefits for a period sufficiently long for ordinary readjustments. This timing of

benefits is of first importance in an industrial society such as ours in which changes are so frequent and so abrupt. The availability of benefits during the inevitable transition periods caused by changing processes may be relied upon to reduce workers' opposition to technological improvements.

4. THE SCOPE OF THE NEW YORK UNEMPLOYMENT INSURANCE LAW

The Legislature accepted the recommendation of its advisers that certain exclusions of coverage would be administratively wise, especially at the beginning. Following the dictum in a Supreme Court decision on an earlier piece of social legislation that "it was necessary to begin somewhere,"¹² it limited the coverage to firms employing four or more persons in each of thirteen weeks in a given year. The problem of enforcing a law covering a multitude of small concerns would considerably hinder the operation of the system when it was just being launched. The minor inequities which may result from these exclusions are of less significance than the necessity for providing an efficient and sound system at the start.¹³ Non-manual workers earning over \$50 a week or \$2600 a year are also excluded, both from consideration in making up the payroll for contributions and from benefits. The data available indicate that these "white-collar workers", because of their higher earnings, may be assumed to be in a position to provide for themselves in case of unemploy-

¹² *Ward & Gow v. Krinsky*, 259 U. S. 503, June 5, 1922

¹³ It is generally believed that large firms experience more severe fluctuations in employment than small ones. The three available studies of this subject classify firms as: employing 20 or less, employing 21 to 100, and employing over 100. All the evidence of these studies sustains the belief that the most irregularity occurs in large firms. (National Industrial Conference Board, Inc., *Mergers in industry*, 1929; King, Willford I., *Employment, hours and earnings in prosperity and depression*, 1923; Hansen, A. H., Bjornaraa, D., and Sogge, T. M., *Decline in employment in the 1930-31 depression in St. Paul, Minneapolis and Duluth*, 1932). See also Hansen, A. H. et al., *A program for unemployment insurance and relief in the United States* (1934) pp. 33-37, which supplies similar evidence as to employment fluctuations in large and small firms.

ment. Moreover, their employment is more likely to be stable. Agricultural workers are also excluded because of the administrative difficulties involved in providing insurance for these workers at the outset. These three types of exclusion were the outcome of a deliberate effort to provide a plan which would be reasonable and workable both administratively and financially.

Summary

Unemployment insurance is an organized, systematic method of protection based upon insurance principles. Spreading of the unemployment risk by means of a broad pooled reserve is the soundest device for providing protection to the unemployed in a changing and interdependent industrial system. Payment of benefits as a matter of right supports the workers' morale and waiting power during the critical first shock of unemployment and attempted readjustment. The efficient operation of an adequate statewide employment service, and the application of the employment test prior to benefit payment will aid in bringing jobs and men together and in economizing reserve funds. The community-wide approach by means of unemployment insurance is the most practicable and effective means of protecting the workers against the employment dislocations which result from industrial instability.

NOTE: Further material relating to Unemployment Insurance is given in Appendices I-V. A selected list of references on this subject is given in the Bibliography.

ADDENDUM: Since this Brief went to press the states of Texas and Colorado have enacted unemployment insurance laws of the pooled fund type, providing for deferred merit rating in 1941 and 1942. Of the 17 states with unemployment insurance laws as of November 30, 1936, 16 now provide for pooling of funds. Three of these (New York, Rhode Island and Mississippi) provide for study of the practicability of merit rating several years after the beginning of the operation of the law. Of the remaining 13 states with pooled funds, none establishes merit rating from the outset. In Oregon, merit rating does not go into effect until 1938; in Indiana, in 1939; in the case of the other 11 states, those whose law was passed in 1935 postpone merit rating until 1940, and those whose law was passed in 1936 postpone it until 1941 and 1942.

PART IV
REASONABLENESS OF THE PAYROLL TAX

PART IV

REASONABLENESS OF THE PAYROLL TAX

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.

A. APPROPRIATENESS OF THE TAX

Unemployment is a problem of industry as a whole, as the preceding pages have shown. No person, community or industry is immune. Consequently, it is important not only that the method of financing unemployment insurance relate directly to the probable cost of benefits, but that it should also secure a wide distribution of the cost of maintaining our idle labor reserves. These criteria can be satisfied by a uniform tax on payrolls which, as will be shown below, falls usually on wage earners or consumers or both.

The Law provides that qualified workers be paid benefits in proportion to the length of their previous employment and amounting to a fraction of their earnings while in such employment. From the standpoint of the community, this basis of payment is advantageous because it avoids the danger of paying individual benefits which too closely approximate the usual earnings of workers. Since benefits will be paid in proportion to the previous earn-

ings of a defined group of workers, it is necessary that the gross amount of revenue collected shall be related closely to the potential drain on the fund. It is appropriate that the method of financing unemployment insurance, as in the case of private insurance, should be closely related to the condition precedent to the occurrence of the contingency against which protection is given. Thus, the necessity for automobile liability insurance follows from the *operation of an automobile*, not from the occurrence of an accident. Insurance against fire is needed because of the *ownership of property exposed to a fire hazard*. Life insurance would obviously be unnecessary if there were no danger of the *loss of life*. So, likewise, the need of insurance against lack of employment arises from the possibility of loss which always accompanies the acceptance of employment. The desired relationship is accurately established by a tax on the aggregate of wages paid to workers covered by the law.

The payroll tax, however, is not only an appropriate means of raising revenue; it also affords a reasonable method of distributing the cost of unemployment insurance.

The nature and causes of unemployment are such that it would be unfair to assume that individual employers, industries or even groups of industries can be held responsible for their failure to furnish stable employment. Those business men who have tried to stabilize their employment and production against the current of adverse economic conditions realize fully the limitations of individual effort. Ironically enough, employers in times of depression often find that they can best promote their own interests only by making the condition of their fellow business men worse; thus, when an employer finds the sales for his product declining, he reduces or cancels orders for additional stock, cuts expenditures for equipment and lays off employees whose services are not immediately necessary. These are common practices and the right to engage in them is fundamental under our

economic and legal system. The exercise of every right, however, is matched by a correlative obligation. Accordingly, it is reasonable that part of the cost of maintaining unemployed workers should be borne by employers since unemployment is a by-product of their right to hire and fire.

Though placing the initial cost on industry the Legislature deliberately chose a method of so doing which would enable most employers ultimately to shift the expense onto the shoulders of others. The Law, to be sure, requires that employers alone make direct payments; payments based on a uniform percentage of their payrolls. Furthermore, the deduction of any part of the payroll tax from the wages of their employees who are already under a contract of employment is prohibited. Nevertheless, according to expert opinion the ultimate burden of the payroll tax will rest primarily on wage earners and consumers rather than on employers. If this is the case, when the employer makes the required payments he will be acting merely as an intermediary since the ultimate cost will be translated either into higher prices to consumers or lower wages to workers. A brief summary of the reasoning behind the statement will be sufficient to establish here the validity of this general conclusion.

B. THE INCIDENCE OF THE PAYROLL TAX

The economic effect of a tax on payrolls to be paid by employers is obviously to increase their costs of production. An increase in wage or interest rates, higher prices for raw materials, or any other increase in costs of production would have the same immediate effect. Other changes in costs, approaching or even exceeding in size the maximum immediate cost of this payroll tax, continually take place in the different stages of the business cycle. In general, the reaction of employers to increased costs of doing business is always the same; they try to pass on the

increase to consumers through higher prices or they attempt to recoup by reducing their other expenses. Consequently, it is to be expected that the payroll tax will immediately induce employers to try either one or both of these methods of adjustment. When employers find that prices can be increased without a proportionate decline in the volume of sales, the increased cost will usually be passed on to consumers in the form of higher prices. If this course is not open, adjustments in expenses will be attempted which may take the direction of the elimination of uneconomical practices, the introduction of technological improvements, which would require less expenditure for labor in the future, or a reduction in the wage which is offered to applicants for jobs. In some cases, employers may find it more economical to absorb all or part of the additional cost rather than to attempt to pass it on, but it is reasonable to suppose that they will adopt this course only as a last resort. It is unlikely that a small uniform levy on payrolls alone will offer more of an obstacle to business men than they are in the habit of meeting in the every day struggle to remain in business.¹ The exact procedure by which the adjustment is made and the length of time required to make it will vary with the economic conditions in each industry. Since cost and market conditions are subject to continual change, it is impossible to predict accurately what the precise outcome will be in each particular case, but it is the consensus of expert opinion that in most cases the cost will ultimately be shifted.

A hypothetical argument is sometimes advanced that the payroll tax will be paid by employers out of their profits and that a contribution rate of only three (3) per cent of payrolls will amount to a much larger sum in terms of net earnings. Such comparisons are invalid. Of necessity, they relate the estimated amount of contributions to the past profits of concerns *before* the in-

¹ Adjustment to the added cost is facilitated by reason of the fact that the rate of contribution is stepped up gradually from 1 per cent in 1936 to 2 per cent in 1937 and 3 per cent in 1938.

position of the tax (although profits, being a residuum, are the net outcome of a given *past* combination of income and cost factors) and *assume that none of the cost would have been shifted*. We are then led to believe that the payroll tax is really confiscatory because it will amount to a large proportion of profits. The fallacy of such an argument is apparent.

These conclusions regarding the incidence of a tax on payrolls are substantiated by the opinions of experts, some of which are cited below.

C. OPINIONS OF EXPERTS

1. H. G. Brown, Professor of Economics at the University of Missouri, an authority on taxation, in *The incidence of compulsory insurance of workmen*, *Journal of Political Economy* (30; 76, February 1922):

“There is no intention to assert that the adoption of compulsory workmen’s insurance must immediately decrease wages enough to cover the cost. The point is that the premiums required of the employers enter as a new element into every wage contract, upset whatever conditions of equilibrium between wages and product had been previously arrived at, and so affect the demand for labor and tend toward reduced average wages.”

2. F. W. Taussig, Professor of Economics at Harvard University, author of numerous standard treatises on economics and taxation, in *Principles of economics* (1911) p. 327, speaking of the incidence of a similar tax, that for workmen’s compensation, says:

“Direct and immediate reductions of wages are highly improbable. . . . But when such a system is in steady operation and has been for some time in operation, every employer knows that . . . the act of employment involves not only wages, but these additional charges also. His calculations must be correspondingly affected.”

3. Gerhard Colm, Professor of Economics in the Graduate School of Social Science, New School for Social Research, in *Methods of financing unemployment compensation*, *Social Research* (2:2, May 1935), shows that if the first collection of the employer's contribution is financed out of credit, prices may go up and the tax may be shifted to the consumer.

4. From *A program for unemployment insurance and relief* (Employment Stabilization Research Institute, University of Minnesota, 1934) by Alvin A. Hansen, Professor of Economics, University of Minnesota, author of many books on unemployment problems, and until recently economic adviser to the Department of State; Merrill G. Murray, late of the University of Minnesota, now of the Social Security Board; Bryce M. Stewart, author and editor of a series of works on unemployment insurance, Research Director of Industrial Relations Counselors, Inc., and Russell R. Stevenson, Dean of the School of Business Administration, University of Minnesota:

"It is evident, then, that whether unemployment insurance is operated on a state, industry, or national basis, the cost of the employer's contribution in most cases will be passed on to the wage earner in reduced wages. * * * It must be emphasized that the final result indicated by this theoretical analysis is often delayed or modified. During a transitional period, which might in some cases last for years, the insurance cost might not be absorbed by labor. * * * We live in a highly dynamic world and the analysis just presented is essentially static. All we say is that the general tendency will be to pass the incidence of the cost on to the employee. The precise way in which it will work out cannot be forecast."

5. A. C. Pigou, Professor of Political Economy at Cambridge University, author of numerous treatises on unemployment problems, in *Insurance against unemployment*, *Industrial fluctuations* (Second Edition, Macmillan, Lon-

don, 1929), Ch. XVIII, pp. 372-373. In discussing the allocation of the cost of unemployment insurance, Professor Pigon says:

"To collect premiums from the insured persons themselves and to collect them from employers comes to very much the same thing. From the point of view of a short period, this is, of course, not so. * * * But the final incidence of insurance charges as between employers and work people is not determined by the accident of who actually makes the payment. Ultimately, just as with taxes and rates, the incidence is determined by general causes, and is the same whichever party is made the immediate subject of it. For the employers' demand for labour varies with the burden directly put upon them, in such wise that, when they are called upon to provide premiums, wages tend to be less by the amount of these premiums than they would have been if work people had provided them."

6. Professor Leo Wolman, Columbia University, before the New York State Joint Legislative Committee on Unemployment, *Hearings on the proposal for a bill for compulsory unemployment reserves*, December 1, 2, 1932, p. 1895. In discussing before the Committee the effect of the additional cost of a payroll tax on New York employers for the purpose of financing unemployment benefits, Professor Wolman said:

"I do not think we will be put to any competitive disadvantage. I do not think it will be a question in reaching a conclusion * * * about how these costs can be shifted. And they undoubtedly do shift."

7. R. S. Meriam, Harvard Graduate School of Business Administration, in *Unemployment reserves: some questions of principle*, *Quarterly Journal of Economics* (46:312, February 1933):

"* * * Economists who have made a theoretical analysis of the problem have reached, with prac-

tical unanimity, the conclusion that the burden is shifted to the wage-earners, or that the ultimate incidence of the burden is the same whether the contributions are levied upon the employers or the wage-earners. * * * The contributions to unemployment reserves are not analogous to a commodity tax because the tax is the same, whatever be the method of production; its amount is not tied to the labor factor. * * * The economic theorist commonly means by a reduction of wage-rates, either an actual reduction of money wage-rates or an actual rise smaller than would otherwise take place."

It will be observed that although there is no unanimity of opinion as to the exact manner in which contributions assessed on employers are shifted to the community, all agree that the ultimate burden will usually not fall on profits.

D. COST OF THE TAX

Further evidence of the reasonableness of the contribution of 3 per cent of payrolls levied directly on employers is furnished by a comparison of the amount of this tax with the value of the products of industry. If this additional cost amounts to only a small per cent of the value of products, it will obviously be easier for employers to shift the burden.

It is clear that the actual cost of a 3 per cent payroll tax will depend on the proportion of labor costs in the price of a product. This proportion varies from industry to industry (see Table 18). In 1933 a 3 per cent payroll tax, on the average, would have been equivalent to \$.0029 per dollar of the *aggregate value of goods sold* by the principal manufacturing industries and \$.0021 of the *total net sales* in wholesale and retail trade in the State of New York (column 7). Expressed in these terms, the additional cost attributable to the payroll tax imposed on the manufacturing and trading industries would have varied from

Table 18

THREE PER CENT PAYROLL TAX COMPARED WITH VALUE OF PRODUCTS OF LEADING MANUFACTURING AND TRADING INDUSTRIES
NEW YORK STATE, 1933

INDUSTRY	(1) Total payroll <i>(in thousands of dollars)</i>	(2) Value added by manu- facturing	(3) Total value of product	(4) Percentage total payroll of value added by manu- facturing	(5) Percentage total payroll of total value of products	(6) Cost of 3% tax on total pay- rolls per dollar of value added	(7) Cost of 3% tax on total pay- rolls per dollar of total value
TOTAL: ALL INDUSTRIES	\$1,358,014	\$	\$14,332,320		9.5	\$	\$.0029
Rubber and shoes, other than rubber	34,435	48,963	99,401	70.3	34.6	.0211	.0104
Bread and other bakery products	44,052	106,009	189,470	41.5	23.3	.0125	.0070
Chemicals	14,661	56,828	96,496	25.8	15.2	.0077	.0046
Clothing (except wash clothing), men's, youths', boys'	34,365	99,637	195,144	34.5	17.6	.0104	.0053
Clothing, women's	92,658	283,845	619,073	32.6	15.0	.0098	.0045
Electrical machinery, apparatus and supplies	23,569	36,762	61,735	64.1	37.0	.0192	.0111
Powdery and machine shop products	28,130	52,184	77,643	53.9	36.2	.0162	.0109
Furniture, including store and office supplies	15,137	26,263	50,363	57.6	30.1	.0173	.0090
Gas, manufactured, illuminating and heating	29,569	74,264	102,876	39.8	28.7	.0119	.0086
Knit goods	20,002	39,100	79,882	51.2	25.0	.0154	.0075
Meat packing	10,429	24,599	115,255	42.4	9.0	.0127	.0027
Millinery	13,801	26,574	47,009	51.9	29.4	.0156	.0088
Motor vehicles	9,177	18,256	46,174	50.3	19.9	.0151	.0060
Printing and publishing, book, music and job	41,714	107,500	138,410	38.8	30.1	.0116	.0090
Printing and publishing, news- papers and periodicals	80,650	224,453	266,412	35.9	30.3	.0108	.0091
Railroad repair shop, steam	21,178	21,700	31,540	97.6	63.1	.0293	.0189
Steel works and rolling mill products	11,788	16,323	38,412	72.2	30.7	.0217	.0092
TOTAL: MANUFACTURING	525,315	1,263,320	2,259,295	41.6	23.3	.0125	.0070
Retail trade	464,707		3,739,992 ¹		12.4		.0037
Wholesale trade	367,992		8,333,033 ¹		4.4		.0013
TOTAL: TRADE	832,699		12,073,025¹		6.9		.0021

¹ Net salesSOURCE: U. S. Department of Commerce, Bureau of Census, *Census of manufactures and Census of distribution*

\$.0013 per dollar in wholesale trade, where labor costs constitute only 4.4 per cent of the aggregate selling value of the product, to \$.0189 per dollar in railroad repair shops where labor costs were 63.1 per cent (column 5).

To these estimates should be added, however, the further costs that a payroll tax would have added to commodities before they reached the manufacturing and trading stages. Data for these stages, unfortunately, are not available and hence they are not included in the estimates.² But it is obvious that the tax would never be more than 3 per cent of the total *labor* costs incurred in all production.

The best measure of the importance of the payroll tax by industry groups is its ratio to the total sales value of products. The relative importance of the tax for different producing industries or for given stages of manufacture, however, is best shown by its ratio to the value added in the process of manufacture. This ratio is shown in Table 18 (columns 4 and 6). The figures show that a 3 per cent tax on total payrolls would have increased costs \$.0293 per dollar of value added in the case of railroad repair shops, where the total payrolls were 97.6 per cent of value added, and \$.0077 per dollar in chemical industries, where total labor costs were 25.8 per cent of value added (columns 4 and 6). The average cost per dollar in terms of value added by all manufacturing industries covered by Table 18 is \$.0125 (column 6). In other words, the addition of one and a quarter cents to each dollar of value contributed by manufacturing industries to the products they sell would have covered the cost of unemployment insurance. Surely this is not an unreasonable rate of contribution.

² This deficiency is partly offset by other factors which would somewhat reduce the amount added by the payroll tax. The labor cost of goods produced by industries and employers not subject to the tax, and salary payments to non-manual workers earning more than \$50 per week or \$2600 per year, should be eliminated from payrolls on which the tax is calculated. The inadequacies of existing information, however, make such a calculation impossible.

E. PAYROLL TAX CONTRASTED WITH SALES TAX

When the payroll tax is contrasted with the sales tax, additional evidence of the reasonableness of this method of financing the cost of unemployment benefits is apparent. The sales tax, or turnover tax, is levied on the selling price of a commodity or service each time an exchange is made between buyer and seller. It has the effect, if it is added to the price, of requiring each successive purchaser to pay a tax on each preceding tax so shifted.

For example, a product that costs \$100 without a 3 per cent sales tax, will cost \$103 if a tax is imposed and is shifted to the purchaser. If it passes through several hands before reaching the ultimate consumer, the price in the second stage will be \$103 plus 3 per cent (\$106.09), in the third stage, \$106.09 plus 3 per cent, and so on. It is obvious that this tax pyramids with each additional sale, just as a snowball increases in size while rolling down hill.

On the other hand, a 3 per cent payroll tax is not pyramided and, because of its very nature, can not be. It can never increase the price of a commodity by more than *3 per cent of the total expenditure for labor embodied in its production.*³

For purposes of illustration, let us assume that the labor cost of a product selling for \$100 is \$50. If a 3 per cent payroll tax is shifted to the buyer of the product, its price will be increased by \$1.50. There will be no further increase in the price of the commodity as a result of this tax, no matter how many times it changes hands, unless additional expenditures for labor are required before the commodity is ready for the final consumer. If a buyer who pays \$101.50 for the commodity finds it necessary to spend an additional \$100 (one-half of which goes to labor) before marketing the product, the price to the second

³ Where goods are sold at a fixed percentage mark-up, a fraction of the 3 per cent payroll tax is added in each transaction whenever the tax is shifted.

buyer, if the tax is shifted, will be \$203, *i.e.*, the purchase price of \$101.50 plus \$100, plus another \$1.50 tax. Additional labor expenditures on the commodity by successive producers will raise the price similarly. At each stage the payroll tax is paid, not on the entire cost of a product but *only on the labor utilized in that specific stage or process.*

In the final analysis, then, the payroll tax amounts to nothing more than an addition of 3 per cent to the total cost of the *insurable labor utilized in the preparation of a product.* If the cost of the commodity were entirely composed of expenditures for labor, the maximum addition to the final selling price by reason of this tax would amount to 3 per cent; but since the cost of commodities always contains other elements in addition to labor costs, the final selling price can never be raised by as much as 3 per cent.

Summary

In view of the close connection between the unemployment hazard and industrial operations the funds for unemployment benefits are appropriately collected by means of a tax on payrolls. Generally speaking, employers will find it possible to shift part or all of the amount of the tax by reducing the prices paid for labor or by increasing selling prices. Shifting of the cost is facilitated by the smallness of the burden in relation to the prices of industry's products. Unlike the sales tax, a payroll tax is not pyramided, and even if completely shifted it will not raise the price of goods to the consumer by more than 3 per cent of total labor costs.

Wherever its incidence ultimately lies, it should not be assumed that the cost of providing unemployment insurance is in any sense an additional cost imposed on industry or on the purchasers of industry's product. *Under any conceivable condition, unemployment is a liability and a cost both to the employer and to the community. Its relief has been a heavy burden on the public treasury. Without unemployment insurance the immediate and direct cost of unemployment is primarily borne by those least prepared to carry it; and, indirectly, industry and the community are saddled with the further social costs of demoralization, increased pauperization and social unrest. By means of a reasonable tax on payrolls for unemployment insurance, as provided under the present law, these other direct and indirect costs will be substantially reduced.*

APPENDICES

- I Statements by American Business Men in Favor of
Unemployment Insurance**
- II Operation of the British Unemployment System**
- III Summary of Unemployment Insurance Laws, United
States, November 11, 1936**
- IV Unemployment Insurance Laws in Foreign Countries**
- V The Background for Unemployment Insurance in
New York State**
- VI Statistical Appendix**
- VII Text of New York State Unemployment Insurance
Law**

APPENDIX I

**Statements by American Business Men in Favor
of Unemployment Insurance**

Chamber of Commerce of the United States:

“Experience has so far indicated that insurance might properly be used in the case of persons who are normally in employment, *for protection against loss from certain seasonal unemployments, and, for a limited period, from cyclical and technological unemployment.*”¹

Marion B. Folsom, Assistant Treasurer of Eastman Kodak, one of America’s leading students of personnel problems:

“The four principal types of unemployment are cyclical, seasonal, technological and personal (inaptitude, poor training, limited physical, moral or mental qualifications). * * * Cyclical and technological unemployment cannot be predicated with any degree of accuracy, but insurance could cover a limited period of unemployment due to these two causes.”²

Owen D. Young, Chairman of the Board, General Electric Company:

“Recovery should be aided by an unemployment insurance plan, because in effect the plan means that reserves accumulated during good times will be available for expenditure by workers during bad times.”³

¹ Chamber of Commerce of the United States of America, *Referendum No. 58, on the report of the Special Committee on Continuity of Business and Employment* (1932). Appendix C: Report of the Sub-Committee, Unemployment Insurance, p. 32

² *Proceedings of the Academy of Political Science*, January 1932, p. 19

³ *American Labor Legislation Review*, March 1931, p. 52

Edward A. Filene, President of Wm. Filene's Sons Company, Boston, speaking at the 19th annual meeting of the Chamber of Commerce of the United States, Atlantic City, May 1, 1931:

"I have come out a convert to state unemployment insurance, although all my life, and even now, I want the state or the National Government to do as little as possible, because after all they are governed by politics * * *." ⁴

Ernest G. Draper, Vice-President of Hills Brothers Company:

"So far, I have stressed the gains to industry which an intelligent plan of unemployment insurance will bring about. The gains to labor and to society at large are apparent. These gains will be incalculable." ⁵

John G. Lonsdale, speaking in 1930 as President of American Bankers Association:

"Well-managed industry long ago learned the wisdom of insuring regular payments of dividends by holding back a part of its earnings as surplus * * *. The establishment and maintenance of an *unemployment fund* would not be a radical change in policy, but rather an enlargement of the old policy." ⁶

John P. Troxell, Administrator of the Shoe Manufacturers' Board of Trade, wrote to Professor Herman A. Gray, New York University School of Law, March 5, 1936, as follows:

"Unemployment Compensation is coming to be viewed by an increasing number of employers as a

⁴ Hall, T. H., Ed., *Current conflicting views on unemployment insurance* (distributed by National Research Bureau, Chicago [1931]), p. 76

⁵ *American Labor Legislation Review*, March 1931, p. 26

⁶ *Ibid.*, p. 39

necessary method of distributing a part of the cost of unemployment, rather than letting it fall with crushing weight on the class least able to bear it, the working people. Our experience with workmen's compensation has contributed to our understanding of this new legislation; those whose memories are good will recall that very similar arguments were advanced against the former laws, as are now being raised in connection with unemployment compensation; for example, the lack of actuarially established rates, and the possibility that the cost might be unfairly levied as between ably managed and poorly managed concerns.

"I think that New York has chosen very wisely in establishing one state-wide pool. This depression has shown how far-reaching the forces are which make for instability of industry, and how little the efforts of the individual employer can accomplish in regularizing employment. Accordingly, the chief emphasis in Unemployment Compensation should be placed upon establishing the broadest possible base for the fund from which payments are to be made.

"The New York law's provision for a uniform rate of contribution by all employers included under the law, and one common fund into which contributions are to be deposited and from which benefits are to be paid, fits the realities of the problem as I see it."

Mr. Draper, quoted above, has this to say about the incidence of the cost of unemployment insurance taxes:

"In the last analysis, unemployment insurance may not mean higher costs and less profits. It may actually result in lower costs and higher profits.

* * * As in the case of workmen's compensation, after years of fighting and rancor, we may wake up to the fact, first, that unemployment insurance will make money for industry instead of losing it and, second, that even the final cost of it will not

be borne by industry at all. As an expense of manufacture, it will in most cases and in the long run be added to the cost of the product and in that form passed on to the consumers. The public, not the manufacturer, will pay the bill. There is nothing sinister in this procedure. The public should ultimately pay the cost of a measure that aids materially in safeguarding the welfare of society. But when criticizing the 'cost' of unemployment insurance, the manufacturer often overlooks the pertinent facts."⁷

Henry S. Dennison, President of Dennison Manufacturing Company, emphasizes the stimulus to management's efforts to stabilize operations:

"Again, I must emphasize that while the actual funds withheld from use during prosperous times and put into circulation in slack times are of value in relieving distress, and of still more value in helping to keep our economic blood pressure from running too high and falling too low, they are of the greatest value of all in their psychological effects upon management. Unemployment funds set up in action and re-action. Their direct action is to help in any present period of unemployment; their re-action is to sting employers into a healthy irritation and make them think of putting the screens on. Through them we get that positive spur which cold cash outlays exert,—which is direct and actual and not to be argued away as easily as estimates of possible future indirect losses can be. They offer very practical arguments against undue expansions at the peak of the cycle, and for the toughest kind of thinking as to what can be done to keep things moving in the cycle's trough."⁸

⁷ *Ibid.*, p. 26

⁸ *Ibid.*, p. 32

W. Randolph Burgess, Deputy Governor of the Federal Reserve Bank of New York, shares Mr. Dennison's expectations:

"I predict that just as certainly there is a moral to be drawn from the new attitude toward unemployment. Once we accept the principle that the bearing or sharing of the cost is not voluntary and optional, but compulsory and obligatory, we are on the way toward the prevention of unemployment
• • •"

APPENDIX II

The Operation of the British Unemployment Insurance System

GENERAL COMMENTS

The two government commissions appointed to investigate unemployment insurance in Great Britain reported their entire accord with the principles underlying the system. A brief summary of the facts that led to their conclusions is essential to an understanding of the full significance of their reports.

The British unemployment insurance system was inaugurated in 1911. Until 1920 it ran smoothly and efficiently. Indeed, this method of handling the unemployed was considered so advantageous that it was expanded to cover practically the entire industrial working population. In the following years England was in the throes of post-war unemployment and the insurance fund proved inadequate to meet the demands placed upon it. One of the most serious problems was the permanent decline of some of the most important British industries, a phenomenon that was recognized only at a late stage. The rate and duration of unemployment rose to levels entirely unanticipated in the pre-war actuarial calculations.

The British were faced with a choice between *improvising an emergency machine* for administering unemployment relief and *expanding an existing institution* to take over the additional load. The decision in favor of the latter, carefully considered, was based on two convictions. In the early stages of depression, the British believed that the large-scale unemployment was temporary, and that it would be possible to make up current deficits on the next upswing of business. Believing their difficulties were short-lived, and unaware at first of the necessity of taking additional action to meet the problem of perma-

nently declining world markets, they were all the more inclined to entrust the extra load to the trained personnel of their insurance administration. But in a desperate attempt to stretch the insurance system to feed the hungry unemployed and to prevent violence the government made frequent alterations in the law. It was the attempt to adjust unemployment insurance to the pressure of this excessive unemployment for which it had not been designed that brought the system into difficulties.¹

To suggest ways to overcome the financial difficulties government commissions were appointed in 1926 and again in 1931 to investigate the system thoroughly. *Both commissions left no doubt whatever that they favored the principle of unemployment insurance. They concerned themselves not with the question whether unemployment insurance should be continued, but with the modification of certain details of the system in order to bring it back to an insurance basis.*

The Blanesburgh Committee, representative of every political viewpoint of 1926, made a thorough survey of the functioning of the British system up to that time and canvassed all interested groups for their opinions. In view of the political complexities and financial problems confronting the insurance system, it is significant that the Blanesburgh Committee reported unequivocally in favor of its continuance:

“We have found in all quarters a general agreement that the risk of unemployment should be insured. Nobody has suggested to us that the principle of unemployment insurance should be abandoned. It has been recognized by all who have appeared before us, and we ourselves share the

¹ Mrs. Sidney Webb pointed out in 1931 that the plan had been “wrecked” by three changes after 1920: the inclusion of part time and casual workers on the same terms as regularly employed workers, the unlimited duration of benefits and the use of transitional (extended) benefits or “dole”, beginning in 1927, and the neglect of a strict “willingness-to-work” test. All these loopholes were closed when the plan was brought back to its original basis, and none of them, of course, is to be found in the New York Unemployment Insurance Law.

view, that an unemployment insurance scheme must now be regarded as a permanent feature of our code of social legislation.”²

The Royal Commission of 1931, headed by Judge Holman Gregory, and of which Henry Clay, the distinguished English economist, was a member was equally emphatic in its confirmation of the insurance principle. The commission made detailed recommendations for changes in rules and procedures but the question of abandoning insurance was never considered. Its reports are based entirely on the assumption that unemployment insurance is an indispensable social service.

“ . . . in spite of difficulties and in spite of criticism that may fairly be made against the present position [1930-31] and against some of the features of the Unemployment Insurance Scheme, it has prevented serious distress in a period of unprecedented unemployment. . . . We are convinced that the principle of insurance against industrial unemployment has an important part to play in the adaptation of our industrial structure to changing needs.”³

The *Final report* of the Commission, published in 1932, gives additional evidence of adherence to the insurance principle. It is perhaps particularly significant that the members signing the minority report of this Commission who offered separate specific recommendations were as certain as the majority that unemployment insurance should be a permanent part of British social legislation. The minority report points out the advantages accruing to the English people during the depression compared with the people of other countries:

“ . . . other countries have suffered more than our own both from unemployment itself and also

² Blanesburgh Unemployment Insurance Committee, *Report* (1927) Vol. I, p. 28

³ Royal Commission on Unemployment Insurance, *First report* (1931) pp. 51-52

from the results of it. In Great Britain the storm has been weathered with less hardship, less demoralisation, less bodily and mental degeneration than in any other industrialised country at all comparable with our own. The great majority of the unemployed in this country through all these black years have had some weekly sum on which they could to some extent rely. There is no need to stress the advantage of this provision, to the nation as well as to the individual beneficiary. And . . . if we compare the amount of unemployment here and in other countries, we can see nothing to justify the belief that the trouble has been intensified here by too high taxation or too rigid wage rates, or that other countries have gained anything by dealing with the problem at less cost to the community or by providing less security for the unemployed.”⁴

From time to time other governmental bodies have conducted inquiries which involved consideration of the unemployment insurance plan. For example, the Committee on Industry and Trade, appointed to inquire into conditions and prospects of British industry and commerce, of which Sir Arthur Balfour, a leading British industrialist, was chairman stressed the social and economic value of the insurance system in the years of severe unemployment:⁵

“On the broad question of the merits and value of the Unemployment Insurance scheme as a whole, both from the point of view of general social welfare and also from that of industrial and commercial efficiency, our opinion is that the scheme has amply justified its establishment.”⁶

“How the country would have fared had not the insurance machinery been available in its time of

⁴ Royal Commission on Unemployment Insurance, *Final report*, pp. 487-488

⁵ For statement by the Industrial Transference Board see below.

⁶ Committee on Industry and Trade, *Final report* (1929) p. 133

need, we find it difficult to imagine. Throughout the last few years, it has been a matter of constant comment that so deep and prolonged a trade depression has produced so little actual suffering in comparison with the experience of far slighter and more transient periods of depression before the war. There has been practically no decline in the consumption of the essential necessities of life in spite of the fact that a million or more workers have been earning no wages at their trades. For this happy result, a large part of the responsibility undoubtedly rests with the Unemployment Insurance scheme."⁷

Sir William Beveridge, who has been closely related to the British unemployment insurance scheme throughout its history, is as strong a proponent today as when he helped to establish it. The *Minutes of evidence* of the Royal Commission on Unemployment Insurance contain Beveridge's criticisms of the system as it operated in 1931 and his recommendations for modified procedure, but both rest on a firm basic acceptance of the principle of unemployment insurance. Implicit in all his thinking is the view that unemployment insurance is necessary. Sir William summarizes his attitude as follows:

"This system [unemployment insurance] has gone through a great deal of criticism and a variety of changes. I think I can say that now there is no serious person in England who would seriously propose to abandon it."⁸

Another well-known English economist, Ronald C. Davison, who has been in close touch with the insurance scheme since its inception and has carefully considered its defects, points out the merits of unemployment insurance as follows:

⁷ *Ibid.*, p. 134

⁸ *Proceedings of the Academy of Political Science*, January 1934, pp. 11-12

“ . . . To pay insurance benefit to unemployed contributors as a legal right is obviously an advance on the old pre-war methods of poor relief, paltry relief works, or sporadic out-breaks of charity. . . . For ten years it [unemployment insurance] has assured nearly the whole of the wage-earning class against the worst privations and miseries which are inseparable from serious unemployment, and has tided them over the lesser interruptions of income. . . . It has helped those millions of families who are in the middle ranges of working-class income to maintain their standard of life, or, at any rate, to prevent its reduction to a dangerously low level. They are the people who form the backbone of their class; they have a status to keep up, both socially and industrially. In their spells of unemployment, public relief works are utterly useless for them, and they never trouble the Poor Law. For them, one of the grim anxieties of their lives has been allayed.”⁹

Stanley Baldwin also recognizes the significant social changes that the unemployment insurance scheme has brought about:

“The diffused destitution with which we used to be familiar, the chronic uncertainty, the pauper stigma—these things have been greatly reduced, even where they are not abolished, by the State’s having taken on the responsibility under the Insurance Acts.”¹⁰

The opinion of Sir William Dampier, Secretary of the Agricultural Research Council, on the merits of the British scheme is cited in the report of the Metropolitan Life In-

⁹ Davison, Ronald C., *What’s wrong with unemployment insurance* (1930) pp. 1-2

¹⁰ Gilson, M. B., *Unemployment insurance in Great Britain* (1931) p. 391

urance Company, which conducted an extensive survey on the subject:

“From the human side the balance of gain is immense. The bulk of the unemployment from which the country is now suffering is due to no fault of those out of work, and, though it may be impossible to prevent some difficulties and anomalies, and some destruction of independence and self-respect, yet as long as it is economically possible, unemployment must be relieved, and insurance is better than resort to the Poor Law, with its unequal burden on the rates of different localities. Whether the present loans from public funds have destroyed the basis of insurance, and really created a supplementary Poor Law, is another question. But, at any rate, the present system of unemployment relief, whatever it may be called, and with all its faults, has undoubtedly helped us through a crisis, which, without it, would have involved intolerable hardship to many of the people, hardship which the conscience of the nation could not allow.”¹¹

The National Confederation of Employers' Organisations was asked by the Royal Commission to submit its views on the matters in hand. The Confederation submitted constructive proposals, the main features of which were summarized by the Commission as follows:

“(i) A national compulsory contributory system of unemployment insurance should form part of the industrial organisation of the country provided it adheres to the fundamental conception and principles of the 1920 Act.”

(ii, iii and iv were detailed recommendations regarding the reestablishment of the insurance principles of 1920.)

¹¹ Metropolitan Life Insurance Company, *British experience with unemployment insurance*, Part 6, pp. 50-51

“(v) No change was recommended in the scope of the existing scheme.”¹²

Outside England, no less an authority than the Director of the International Labour Office, in direct contact with international economic affairs, attests to the necessity of national unemployment insurance:

“The best evidence of the acceptance of this view (the value of public assistance of unemployment) is to be found in the steady expansion of the principle of unemployment insurance and relief. It is, for instance, worthy of note that Great Britain, which has the longest experience in this field, so far from restricting or abandoning its system, has taken steps to reorganize and extend it [to reduce the age of admission and to include agricultural workers].¹³

“The progress of unemployment and social insurance and the general adoption of unemployment relief as a national duty are indications of the growing sentiment in favour of social security. The search for the means of guaranteeing this to every willing and competent workman or workwoman is more imperative at the present time than at any previous period. The higher the standard of life achieved, the swifter and bitterer is the fall which unemployment entails. The skilled craftsman accustomed to good and regular wages suffers keenly in his self-esteem and in the esteem of his family when his income suddenly ceases. From reasonable comfort he is quickly brought within sight of beggary. His decline is far more painful and demoralising than in the old days when the normal margin between him and destitution was narrower, and that at a time when the unremitting substitution of machinery for manual skill has already made his prospects in

¹² Royal Commission on Unemployment Insurance, *Final report* (1932) p. 106

¹³ International Labour Conference, *Report of the director, 1935*, p. 38

life less secure than they were even a generation ago. To this source of insecurity must be added another—the rapid changes of taste and fashion, which affect large sections of industrial production, as the consumer's range of choice is broadened by the constant application of science and inventiveness to the provision of new or different articles.”¹⁴

Particularly interesting and significant for Americans perhaps is the comment of one of our most eminent economists, Dr. O. M. W. Sprague, who, as expert adviser to the Bank of England, had an exceptional opportunity to observe the operations of the British unemployment insurance scheme:

“I am unqualifiedly in favor of that means of providing some measure of social security. I was at the Bank of England for three years—a position which gave me opportunities for meeting many different groups of Englishmen in a somewhat intimate way. So far as I can recall, I never encountered a single Englishman who favored discontinuing unemployment insurance. There were, of course, many who felt that the system was susceptible of material improvement and that there were certain definite abuses which demanded correction. Many of these abuses were in fact remedied by legislation in 1932.”¹⁵

Following the Royal Commission's *Final report* changes were made in the law, as Dr. Sprague states, to bring the insurance plan back to the original basis. The relief system for those who had exhausted their rights to benefits (“transitional payments”, or the dole) was revised. So successful financially was the reversion to the principles of unemployment insurance that from June 1933 to the present the debt of the Fund to the Treasury has been steadily reduced. From 1933 onward, income has exceeded expen-

¹⁴ *Ibid.*, pp. 40-41

¹⁵ Letter from Dr. Sprague, February 28, 1936

diture; in February 1936 the rates of contribution were reduced.¹⁶

Effect on Purchasing Power

The Royal Commission of 1932 attests to the value of unemployment insurance in helping to sustain purchasing power during depressions:

“ . . . The income that is taxed or borrowed in order to provide unemployment benefit might have been left idle, the owners of it neither desiring to use it for current consumption nor being willing to invest it in new industrial and commercial enterprise. In such a case the transfer of income to the unemployed, who will spend it on current needs, will provide an increased demand for labour to meet these needs. High authorities are of opinion that ‘hoarding’ of this nature is an element in the causation of unemployment in all trade depressions and an important element in the present depression. While these factors make for the persistence of unemployment, a system of unemployment insurance and relief maintains the efficiency of the working population during unemployment, and tends to check the accentuation of unemployment in periods of general trade depression. . . .

“One of the advantages of a self supporting insurance scheme is that if properly controlled it accumulates reserves when spending is active and employment is good, to disburse them automatically at the time when trade is depressed and spending needs to be stimulated in order to give employment.”¹⁷

Winston Churchill also points out the income-spreading aspect of unemployment insurance:

“Undoubtedly this system of unemployment insurance constitutes the finest example of wage spread-

¹⁶ For a complete account of the financial rehabilitation of the fund, see Great Britain, *Unemployment fund accounts, 1933*, pp. 5-6; *Unemployment Insurance Act, 1934*, p. 3 and 1935, p. 34; *Monthly Labour Gazette*, August 1936, Vol. XLIV, No. 8, p. 297

¹⁷ Royal Commission, *Final report* (1932) p. 103

ing, both as regards the individual and for industries, that has ever been brought into existence. Unquestionably it affords a bulwark to the solid, trustworthy workman—outnumbering as he does the others by more than ten to one—against the inevitable fluctuations in modern industrial employment.”¹⁸

Effect on Workers

The salutary effect of the British unemployment insurance legislation on the worker in aiding him to maintain his productive capacity is emphasized by the Royal Commission:

“Seasonal influences and the discontinuity of many branches of production made some fluctuation in industrial activity inevitable; and some change in the direction of industry, and therefore in the character of the demand for labour, is always taking place. Industry as a whole, therefore, and most industries taken by themselves, require a reserve of labour, that cannot be continuously employed. It is important that this reserve should be as small as possible; but a reserve there must be, and it is essential to the efficient conduct of industry that the workers constituting this reserve should retain their skill, physical powers and morale in the intervals between spells of work. This the unemployment insurance scheme has done more to ensure than any other agency.

“Again, in industry as a whole there are general changes from activity to depression, exaggerated since the war, which involve the idleness for months at a time of a considerable proportion of fit and efficient workers. In the interest of mere economic efficiency, even if no other values were brought into account, it is important to preserve the economic capacities of these workers during their unemployment.”¹⁹

¹⁸ Churchill, Winston, *Saturday Evening Post*, March 29, 1930, p. 7

¹⁹ Royal Commission, *Final report* (1932) p. 102

The Committee on Industry and Trade of 1929 also stresses the beneficial effect of insurance on the worker's morale and efficiency:

“ . . . In normal times it provides a much needed method of enabling a worker to safeguard himself against the worst evils of industrial fluctuations. For the individual to provide such a safeguard by means of his own thrift is of course impossible in view of the incalculable character of the risks to which industry is exposed. Nor do we think that any basis of insurance is really satisfactory, short of one which covers the whole field of industry, or at least the principal industrial groups, inasmuch as any narrower scheme would effectively check mobility as between insured and uninsured occupations. That workpeople should by some method of insurance be safeguarded against the worst risks of involuntary unemployment is in our opinion a very great advantage, not only to themselves, but to the trades which they follow. For nothing is so detrimental to industrial capacity and morale as long continued idleness without sufficient means of sustenance.”²⁰

Many men in public life in England have stated at various times that insurance payments to the unemployed have warded off general social discontent. The Archbishop of Canterbury made the following comment:

“There is . . . general agreement among clergy and Christian social workers that whether they regard the results of Unemployment Insurance as good or evil, it was quite inevitable. Undoubtedly it has saved many from the worst physical results of unemployment. Unemployment to-day is not attended by the same amount of physical hardship as was the case in the past, *e.g.*, after the Boer War. Moreover, there is a large measure of agreement that if there had been no Unemployment Insurance, there would have been a great increase of social

²⁰ Committee on Industry and Trade, *Final report* (1929) p. 133

discontent, attended probably by rioting on a large and dangerous scale. . . . The strongest critics of Unemployment Insurance, even those who hold it accountable for many evils probably due to the fact of unemployment, admit that it would be folly to attempt to abolish it unless there is substituted for it some scheme which will provide either work and wages or payment for the unemployed.”²¹

Allegations have been made that unemployment insurance is paid many persons unwilling to work and that it tends to weaken the desire to work. Direct answer is presented by the Blanesburgh Committee:

“Throughout the inquiry we have constantly had brought to our notice the conviction held by many that the system of unemployment insurance is subject to widespread abuses. It has accordingly been one of our principal preoccupations to ascertain how far this belief is justified. . . . The question whether we could recommend any continuance of the system at all might turn upon it. . . .

“It is convenient to state at once the conclusion we have reached in this matter. It is true that a certain number out of the 11 $\frac{3}{4}$ millions of insured persons have received relief to which they had no claim. But it is equally true that these cases are relatively few.”²²

The Industrial Transference Board is equally decided that the charge of general malingering is absolutely unfounded.

“At this stage we think it necessary to comment on a calumny which has gained some currency both

²¹ Blanesburgh Unemployment Insurance Committee, *Report*, Vol. II, p. 231

²² *Ibid.*, Vol. I, p. 20. It is of course true that *any* amount of relief, received from *any* source, will lessen the desire to work for wages that are little if any higher than the relief given. The alternative method of handling the unemployed would be to give them no relief whatever and thus bring them to the starvation point in order to persuade them to work for the insignificant sum that would keep them alive. No government attempts to do this.

here and overseas about the quality of the unemployed. A misunderstanding, so obstinate in certain quarters as to appear deliberate, of our whole system of unemployment insurance, an attitude summed up in the word 'dole', has created an impression that the unemployed are unemployable, that they could easily find work if they wished, but that they prefer to live in idleness on money derived from the State. . . . Every impartial body that has examined this scheme, notably the Committee under the Chairmanship of Lord Blanesburgh which reported in 1927, has found that the allegations of general abuse are wholly without foundation. The body of unemployed is not a standing army of vagrants and loafers, but a number of genuine industrial workers whose composition is constantly changing. There are, of course, 'work-shy' among them, as there are in every section of society, and in every country, but for the most part the unemployed are, at any time, a fair sample of the whole body of the industrial workpeople of this country. There is no country which would not be fortunate, and should not be glad, to receive into its boundaries many of the men with whom our enquiries have brought us into contact."²³

The Committee on Industry and Trade, examining the charge that removal of the fear of unemployment relaxes the will to work, stated:

"We have examined this contention with great care in the light of the results of the four sample inquiries made by the Ministry of Labour into the personal circumstances of individuals insured against unemployment, and also in the light of such information as is in our possession with regard to industrial unemployment in the United States.

"The latest sample inquiry of the Ministry of Labour shewed that the proportion of the unem-

²³ Great Britain, Ministry of Labour, Industrial Transference Board, *Report* (1928) pp. 36-37

ployed who might be considered as 'verging on the unemployable' was extremely small, being only about 2 per cent of the total, and including a majority of elderly persons, and that the nucleus of individuals who had remained on benefit for long periods was only 6 per cent of the whole number."²⁴

Winston Churchill indicated that he believed unemployment insurance had no ill effects on the desire to work:

"I do not sympathize with those who think that this process of compulsory mass saving will sap the virility and self-reliance of our race. There will be quite enough grindstone in human life to keep us keen. We need not worry about that. But certainly the British social legislation in the twentieth century has already evolved a far more sociable, urbane and instructed people than we have known before."²⁵

Sir William Beveridge points out that control of the worker through the requirements that he register at an employment exchange and accept suitable work has made the malingering charge meaningless. Such controls are an essential part of any effective insurance scheme.

"Through all the transformations of insurance one element endures; one weapon has been added since 1911 to the permanent armoury for dealing with distress. Administration of benefit in all its forms—standard, extended donation—has shown the possibility through a labour-exchange system of controlling direct money assistance of the unemployed sufficiently to prevent any serious abuse. Charges that the 'dole' was helping men to live in idleness when they could get work have been made incessantly in the press, by local authorities, by public men. Whenever they have been investigated,

²⁴ Committee on Industry and Trade, *Report* (1929) p. 134

²⁵ Churchill, Winston, *The dole*, *Saturday Evening Post*, March-April 1930, pp. 11-12

they have been shown to be idle and irresponsible talk.”²⁶

Elsewhere Beveridge says on the same point:

“The essence of the insurance system with us is its connection with a nation-wide system of employment exchanges. Insurance benefit for unemployment is not and should not be paid merely because a man is not working; one must be satisfied also that he could not work if he wanted to—that there is no job for him, not only in his own town but elsewhere, which he can reasonably be expected to take. . . . The employment exchange both certifies that the client really needs benefit because there is no job anywhere that he ought to take and helps him to any job there is. . . .

“The great bulk of people in our country, as in yours, would much prefer work to benefit. The few who would not, can be prevented from abusing the insurance system by the employment exchange system. Fear of individual malingering is an imaginary danger.”²⁷

In a recent address (September 1936) at Blackpool, England, Sir William again reiterated:

“Frictional, seasonal and cyclical unemployment form the natural field for unemployment insurance—a spreading of wages over good times and bad. For long-period unemployment, whether due mainly to structural or mainly to personal causes, something other and more than money payments in idleness is required.”

It was this last issue that was concerning the authorities—that “something more than money payments” was

²⁶ Beveridge, William, *The past and present of unemployment insurance* (1930) p. 41

²⁷ *Proceedings of the Academy of Political Science*, January 1934, pp. 11-12

needed for the long-period unemployment then characteristic of certain English industries.

Effect on Local Authorities

One of the premier advantages of unemployment insurance is that it eases the burden of unemployment relief in the local community. Without insurance local Poor Relief authorities would in many cases have been altogether helpless. The Royal Commission of 1931 reports:

“ . . . Unemployment has been so unevenly distributed that, in areas which were severely hit by the decline of local industries, the burden upon Local Authorities would have been intolerable if all unemployed workers who had exhausted their title to insurance benefit had been relieved out of local funds unaided by the Exchequer.”²⁸

Thus, although as Mr. G. D. H. Cole pointed out, it was impossible to cover the cost of maintaining all the unemployed at that time in England by the ordinary contribution from employers and employees,²⁹ a part of this cost was effectively met.

²⁸ Royal Commission on Unemployment Insurance, *Final report* (1932) p. 117

²⁹ *Minutes of evidence*, p. 743

APPENDIX III

**Summary of Unemployment Compensation Laws,
United States, November 11, 1936**

Summary of Unemployment Compensation Laws, United States, November 11, 1936

STATE CITATION	TYPE OF FUND	COVERAGE	CONTRIBUTIONS		STATE	MERIT RATING
			EMPLOYER	EMPLOYEE		
ALABAMA Ch. 447, Laws 1935 amended by Chs. 156, 194, 195, Laws Special Session 1936	Pooled fund with merit rating	Employer of 8 or more within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, and 1940; merit rating thereafter	1% beginning May 1, 1936 and after date on which conditions deter- mining whether employer is subject to law have been fulfilled	None	After 1940, Commission determines merit rating on employer's contribution and benefit experience; minimum, 1½%; maximum, 4%; average approxi- mately 3%
CALIFORNIA Ch. 352, Laws 1935	Pooled fund with separate employer accounts for merit rating only Exempted plans Guaranteed employment accounts	Employer of 8 or more on any day within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, and 1940; merit rating thereafter	0.45%, 1936, 0.90%, 1937; 1% thereafter; not to exceed 50% of general employer rate	None	After 1940, if reserve during preceding 3 or 5 years is 8-10%, contribution rate 2½%; 10-12%, rate 2%; 12-15%, rate 1½%; 15% or more, rate 1%. Minimum 1%; maximum 2.7%
DISTRICT OF COLUMBIA Pub. Law No. 386, amended by Nos. 446 and 762, 74th Congress (1935-1936)	Pooled fund with merit rating	Employer of 1 or more	1%, 1936; 2%, 1937; 3%, 1938, 1939, and 1940; merit rating thereafter	None	1936, \$100,000; 1937, \$125,000; 1938, \$175,000	After 1940, Board deter- mines rate by employer's unemployment hazard; minimum, 1½%; maximum, 4%; total rate all employers, not less than 3%
IDAHO Ch. 12, Laws Extraordinary Session 1936	Pooled fund with separate employer accounts for merit rating only Exempted plans Guaranteed employment accounts	1936: Employer of 8 or more on any day within each of 20 weeks; thereafter employer of 1 or more within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, 1940 and Jan. 1 to Aug. 31, 1941; merit rating thereafter	None, 1936; thereafter an amount equal to ½ his employer's contributions	None	After Sept. 1, 1941, if reserve is 10-12½%, con- tribution rate 1.8%; re- serve 12½-15%, rate 0.9%; reserve more than 15%, no contribution. No mini- mum; maximum 2.7%

STATE CITATION	TYPE OF FUND	COVERAGE	CONTRIBUTIONS		STATE	MERIT RATING
			EMPLOYER	EMPLOYEE		
INDIANA Ch. 4, Acts Special Session 1936	Employer reserve accounts; 1/6 of all contributions to pooled account Guaranteed employment accounts to begin Jan. 1, 1939	Employer of 8 or more on any day within each of 20 weeks	1.2%, April 1, 1936-Dec. 31, 1936; 1.8%, 1937; 2.7%, 1938 and first quarter of 1939; merit rating thereafter	None, 1936; thereafter 50% of employer's contributions, not to exceed 1%	None	After Mar. 31, 1939, if reserve account "normal" and 10.3-13.7%, rate 2%; 13.7-17.1%, 1%; 17.1% or more, no contribution. If not "normal", rate 2.7%. If pool pays benefits when reserve exhausted, 3.7%. No minimum; maximum 3.7%
LOUISIANA Act No. 97, Acts 1936	Pooled fund with separate employer accounts for merit rating only	Employer of 8 or more on any day within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, 1940 and 1941; merit rating thereafter	None, 1936; 0.5% thereafter	None	After 1941, if reserve 7½-10%, contribution rate 1.8%; reserve 10% or more, rate 0.9%. If benefits exceed contributions for 60 preceding months or all past periods, whichever is more advantageous to employer, contribution rate 3.6%. Maximum rate 3.6%; minimum 0.9%
MASSACHUSETTS Ch. 479, Acts 1935, amended by Chs. 12 and 249, Acts 1936	Pooled fund with separate employer accounts for bookkeeping purposes and classification of employers Exempted plans	Employer of 8 or more on any day within each of 20 weeks	Normal: 1%, 1936; 2%, 1937; 3%, 1938 and thereafter, plus or minus amount to equal 90% of Federal tax	None, 1936; 1%, 1937; thereafter 50% of normal contribution by employer	None	After 1940, Commission determines merit rating on employer's contribution and benefit experience. Commission to determine rating according to legislative rules
MISSISSIPPI Ch. 176, Laws 1936, amended by Ch. 3, Laws Extraordinary Session 1936	Pooled fund with separate employer accounts for bookkeeping purposes only	Employer of 8 or more on any day within each of 20 weeks	1.2% from April 1, 1936 through Dec. 31, 1936, but must equal 0.9% for entire year 1936; 1.8%, 1937; 2.7% thereafter	None	None	None. Commission to study and report on advisability of establishing merit rating system

SUMMARY OF UNEMPLOYMENT COMPENSATION LAWS (continued)

STATE CITATION	TYPE OF FUND	COVERAGE	CONTRIBUTIONS		STATE	MERIT RATING
			EMPLOYER	EMPLOYEE		
NEW HAMPSHIRE Ch. 99, Laws 1935, amended by Ch. 142, Laws 1935, and Ch. 3, Laws Special Session 1936	Pooled fund with separate employer accounts for merit rating only	Employer of 4 or more on any day within each of 13 weeks; all other em- ployers, not otherwise sub- ject, who are liable for the Federal tax	1%, 1936; 2%, 1937; 3%, 1938, 1939, and 1940; merit rating thereafter	0.5%, 1936; 1% thereafter; not to exceed 50% of general employer rate	None	After 1940, if reserve 8-10%, contribution rate 2½%; 10-12%, rate 2%; 12-15%, rate 1½%; 15% or more, rate 1%; maximum 3%; minimum 1%
NEW YORK Ch. 468, Laws 1935, amended by Chs. 117 and 697, Laws 1936	Pooled fund	Employer of 4 or more within each of 13 weeks	1%, 1936; 2%, 1937; 3% thereafter	None	None	Advisory Council to study advisability of establishing merit rating system. Report by March 1, 1939. No rate to be less than 1% of payroll
OREGON Ch. 70, Laws Special Session 1935	Pooled fund with separate employer reserve and guaranteed employment accounts for merit rating only	Employer of 4 or more on any day within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, 1940; merit rating thereafter	None Employee contributions included in en- rolled law by clerical error	None	After 1938, Commission to determine merit rating for reserve or guaranteed em- ployment account adequate to maintain at amount equal to provisions of law. After 1940, Commission determines rating on em- ployer's experience; mini- mum 0.7%; maximum 4.7%; average for all employers, 2.7%
RHODE ISLAND Ch. 2333, Laws Regular Session 1936	Pooled fund with separate employer accounts for bookkeeping purposes only	Employer of 4 or more on any day within each of 20 weeks; all employers not otherwise subject who are liable for Federal tax	0.9%, 1936 but shall not be less than 90% of Federal tax; 1.8%, 1937; 2.7%, thereafter	1% after Jan. 4, 1937 and em- ployer becomes subject to Act, on salary up to \$3,000 per year; during 1938 and thereafter 1.5% on salary up to \$3,000 per year	None	None. Board to study feasibility and sufficiency of contributions of merit rating

STATE CITATION	TYPE OF FUND	COVERAGE	CONTRIBUTIONS		MERIT RATING	
			EMPLOYER	EMPLOYEE STATE		
SOUTH CAROLINA Act No. 768, Acts 1936	Pooled fund with separate employer accounts for merit rating only	Employer of 8 or more within each of 20 weeks	1.8% from July 1, 1936 through Dec. 31, 1936, but must equal 0.9% for entire year 1936; 1.8%, 1937; 2.7%, 1938, 1939, 1940 and first 6 months of 1941; merit rating thereafter	None	None	After July 1, 1941, if reserve is 7½-10%, contribution rate 1.8%; reserve 10% or more, rate 0.9%. If benefits paid exceed contributions for all past periods, or past 60 months, whichever is more advantageous to employer, rate is 3.6%. Maximum 3.6%; minimum 0.9%
TEXAS Senate Bill 5, Third Special Session 1936	Pooled fund with separate employer accounts for merit rating only	Employer of 8 or more on any day within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, and 1940; merit rating thereafter	None	None	After 1940 if reserve 7½-10%, con- tribution rate 1.8%; reserve 10% or more, rate 0.9%. If benefits paid exceed contributions for all past periods, or past 60 months, whichever is more advantageous to employer, rate 3.6%. Maximum 3.6%; minimum 0.9%
UTAH Ch. 1, Laws Special Session 1936	Pooled fund with separate employer accounts for merit rating only	Employer of 4 or more on any day within each of 20 weeks	0.9%, 1936; 1.8%, 1937; 2.7%, 1938, 1939, and 1940; merit rating thereafter	None	None	After Dec. 31, 1940, if reserve is 7½-10%, contribution rate 1.8%; reserve 10-12½%, rate 0.9%; reserve 12½% or more, no contribution re- quired. If benefits paid exceed con- tributions for 60 preceding months or all past periods, whichever is more advantageous to employer, contribution rate 3.6%. No minimum; maximum 3.6%
WISCONSIN Ch. 20, Laws Special Session 1931-32, amended by Chs. 186 and 383, Laws 1933, and Chs. 192, 272, and 446, Laws 1935	Employer reserve accounts Exempted plans Guaranteed employment accounts	Employer of 8 or more within each of 18 weeks; out of State contractor, not otherwise sub- ject, with no established place of busi- ness in State who employs 20 or more within any one week	2% from July 1, 1934 through 1937; thereafter standard rate 2.7%; merit rating provided	None	None	After 1937, reserve 7½-10%, con- tribution 1%; 10% or more, no con- tribution. Such merit rating based on other specified requirements in the law. No minimum; maximum rates based on employer's reserve as provided in law: 1939, 3.2%; 1940, 3.7%; 1941 and thereafter, 4%

SUMMARY OF UNEMPLOYMENT COMPENSATION LAWS (*continued*)

STATE CITATION	BENEFITS			PARTIAL UNEMPLOYMENT	BENEFITS BEGIN	QUALIFICATION PERIOD
	TOTAL RATE	UNEMPLOYMENT MAXIMUM	MINIMUM			
ALABAMA Ch. 447, Laws 1935 amended by Chs. 156, 194, 195, Laws Special Session 1936	50% of wages	\$15 per week	None	Wages plus partial benefits to equal \$2 more than weekly total unemploy- ment benefits	January 1, 1938	40 weeks' employ- ment in 104 weeks or 26 in 52 weeks
CALIFORNIA Ch. 352, Laws 1935	50% of wages	\$15 per week	\$7 per week	Wages plus partial benefits to equal weekly total unem- ployment benefits	January 1, 1938	26 weeks' employ- ment within year
DISTRICT OF COLUMBIA Pub. Law No. 386, amended by Nos. 446 and 762, 74th Congress (1935-1936)	40% of wages plus 10% for de- pendent spouse plus 5% for each dependent relative; 65% maximum	\$15 per week	None	Wages plus partial benefits to equal \$2 more than weekly total unemploy- ment benefits	January 2, 1938	13 weeks' employ- ment in 52 weeks

STATE CITATION	BENEFITS			PARTIAL UNEMPLOYMENT	BENEFITS BEGIN	QUALIFICATION PERIOD
	TOTAL RATE	UNEMPLOYMENT MAXIMUM	MINIMUM			
IDAHO Ch. 12, Laws Extraordinary Session 1936	50% of wages	\$15 per week	\$5 per week or $\frac{3}{4}$ of wages, whichever is less	Wages plus partial benefits to exceed weekly total unem- ployment benefits by \$2	September 1, 1938	26 weeks' employ- ment in 52 weeks, or 40 in 104 weeks
INDIANA Ch. 4, Acts Special Session 1936	50% of wages	\$15 per week	\$5 per week or $\frac{3}{4}$ of wages, whichever is less	Wages plus partial benefits to equal weekly total unem- ployment benefits	April 1, 1938	20 weeks' employ- ment in 52 weeks
LOUISIANA Act No. 97, Acts 1936	50% of wages	\$15 per week	\$5 per week or $\frac{3}{4}$ of wages, whichever is less	Wages plus partial benefits to equal total unemploy- ment benefits plus $\frac{1}{6}$ of wages	January 1, 1938	13 weeks' employ- ment in 52 weeks
MASSACHUSETTS Ch. 479, Acts 1935, amended by Chs. 12 and 249, Acts 1936	50% of wages	\$15 per week	\$5 per week	No provision	January 1, 1938	90 days' or 13 weeks' employ- ment in 52 weeks, or 130 days or 19 weeks in 104 weeks

SUMMARY OF UNEMPLOYMENT COMPENSATION LAWS (continued)

STATE CITATION	TOTAL RATE	BENEFITS UNEMPLOYMENT		PARTIAL UNEMPLOYMENT	BENEFITS BEGIN	QUALIFICATION PERIOD
		MAXIMUM	MINIMUM			
MISSISSIPPI Ch. 176, Laws 1936, amended by Ch. 3, Laws Extraordinary Session 1936	50% of wages	\$15 per week	None	Wages plus partial benefits to equal weekly total unem- ployment benefits plus 1/6 of wages	April 1, 1938	13 weeks' employ- ment in 52 weeks
NEW HAMPSHIRE Ch. 99, Laws 1935, amended by Ch. 142, Laws 1935, and Ch. 3, Laws Special Session 1936	50% of wages	\$15 per week	If wages \$10 a week or less, 70% of wages. Not to exceed \$5 per week	Wages plus partial benefits to equal \$2 more than weekly total unemployment benefits, but not to exceed 60% of full-time earnings	January 1, 1938	60 days' employ- ment in 52 weeks
NEW YORK Ch. 468, Laws 1935, amended by Chs. 117 and 697, Laws 1936	50% of wages	\$15 per week	\$5 per week	No provision, but Industrial Commis- sioner to appoint committee to study problem and report by Feb. 1, 1937	January 1, 1938	90 days' employ- ment in 12 months or 130 days in 24 months
OREGON Ch. 70, Laws Special Session 1935	50% of wages	\$15 per week	\$7 per week	Wages plus partial benefits to equal weekly total unem- ployment benefits ; but no partial benefits less than \$2 paid	January 2, 1938	40 weeks' employ- ment within 104 weeks or 26 weeks in 52 weeks

STATE CITATION	BENEFITS			PARTIAL UNEMPLOYMENT	BENEFITS BEGIN	QUALIFICATION PERIOD
	TOTAL RATE	UNEMPLOYMENT MAXIMUM	MINIMUM			
RHODE ISLAND Ch. 2333, Laws Regular Session 1936	50% of wages	\$15 per week	\$7.50 per week	Wages plus partial benefits to equal \$1 more than weekly total unemployment benefits	January 1, 1938	26 weeks' employ- ment in 52 weeks or 40 in 104 weeks
SOUTH CAROLINA Act No. 768, Acts 1936	50% of wages	\$15 per week	\$5 per week or $\frac{3}{4}$ of wages, whichever is less	Wages plus partial benefits to equal amount to exceed weekly unemploy- ment benefits by the amount of wages received or \$2, whichever is less	July 1, 1938	13 weeks' employ- ment in 52 weeks
TEXAS Senate Bill 5, Third Special Session 1936	50% of wages	\$15 per week	\$5 per week or $\frac{3}{4}$ of wages, whichever is less	Wages plus partial benefits to equal weekly total unemployment benefits plus $\frac{1}{6}$ of wages	January 1, 1938	13 weeks' employ- ment within 52 weeks
UTAH Ch. 1, Laws Special Session 1936	50% of wages	\$15 per week	\$7 per week or $\frac{3}{4}$ of wages, whichever is less	Wages plus partial benefits to equal total unemploy- ment benefits plus $\frac{1}{6}$ of wages	January 1, 1938	16 weeks' employ- ment in 52 weeks
WISCONSIN Ch. 20, Laws Special Session 1931-32, amended by Chs. 186 and 383, Laws 1933, and Chs. 192, 272, and 446, Laws 1935	50% of wages	\$10 if wages less than \$25; \$12.50 if wages between \$25 and \$30; \$15 if wages \$30 or more	\$5 per week	Wages plus partial benefits to equal or exceed weekly total unemployment benefits so that his partial benefit will be multiple of benefit chargeable against 1 week of employment	July 1, 1936 em- ployer's benefit liability begins, based on ensu- ing employment	4 weeks' employ- ment by given employer

SUMMARY OF UNEMPLOYMENT COMPENSATION LAWS (continued)

STATE CITATION	WAITING PERIOD	RATIO OF BENEFIT WEEK TO DURATION OF PREVIOUS EMPLOYMENT		MAXIMUM DURATION OF ORDINARY BENEFITS	STATE ADMINISTRATIVE AGENCY
		ORDINARY	ADDITIONAL		
ALABAMA Ch. 447, Laws 1935 amended by Chs. 156, 194, 195, Laws Special Session 1936	Total or partial benefits : 3 weeks in 52 weeks ; 2 weeks partial unemployment counted as 1 week total unemployment	1 to 4 within 104 weeks	1 to 20 within 260 weeks	16 weeks in 52 weeks	ALABAMA Unemployment Compensation Commission
CALIFORNIA Ch. 352, Laws 1935	Total benefits : 4 weeks per em- ployer in 12 months through 1938-39 ; there- after 3 weeks per employer in 12 months Partial benefits : no waiting period	1 to 4	No ratio provision	For 52, not exceeding 103 weeks of con- tributions, 13 weeks of benefits within 12 months	CALIFORNIA Unemployment Reserves Commission
DISTRICT OF COLUMBIA Pub. Law No. 386, amended by Nos. 446 and 762, 74th Congress (1935-1936)	Total or partial benefits : 3 weeks within 52 weeks ; 2 weeks partial unemployment counted as one week total unemployment	1 to 3 within 104 weeks	1 to 20 within 260 weeks	16 weeks in 52 weeks	DISTRICT OF COLUMBIA Unemployment Compensation Board

STATE CITATION	WAITING PERIOD	RATIO OF BENEFIT WEEK TO DURATION OF PREVIOUS EMPLOYMENT		MAXIMUM DURATION OF ORDINARY BENEFITS	STATE ADMINISTRATIVE AGENCY
		ORDINARY	ADDITIONAL		
IDAHO Ch. 12, Laws Extraordinary Session 1936	Total benefits : 3 weeks in 52 weeks. Partial benefits : No waiting period	1 to 4 within 104 weeks	1 to 20 within 260 weeks	18 weeks in 52 weeks	IDAHO Industrial Accident Board
INDIANA Ch. 4, Acts Special Session 1936	Total or partial benefits : 2 weeks total or partial unemployment in 13 weeks	1 to 4 within 104 weeks	No provision	15 weeks in 52 weeks	INDIANA Unemployment Compensation Board
LOUISIANA Act No. 97, Acts 1936	Total benefits : 4 weeks in 52 weeks. Partial benefits : No waiting period	1 to 4 within 104 weeks	1 to 20 within 260 weeks	15 weeks in 52 weeks	LOUISIANA Department of Labor
MASSACHUSETTS Ch. 479, Acts 1935, amended by Chs. 12 and 249, Acts 1936	Total benefits : 4 successive weeks in 52 weeks ; 1 week partial unemployment counted as ½ week of total unemployment	1 to 4 within 104 weeks	1 to 18 within 6 years ; after these exhausted, 1 to 26 for which employee contributed	16 weeks in 52 weeks	MASSACHUSETTS Unemployment Compensation Commission
MISSISSIPPI Ch. 176, Laws 1936, amended by Ch. 3, Laws Extraordinary Session 1936	Total benefits : 2 weeks total unemployment in 13 weeks. Partial benefits : No waiting period	1 to 4 within 104 weeks	1 to 20 within 260 weeks	12 weeks in 52 weeks	MISSISSIPPI Unemployment Compensation Commission

SUMMARY OF UNEMPLOYMENT COMPENSATION LAWS (continued)

STATE CITATION	WAITING PERIOD	RATIO OF BENEFIT WEEK TO DURATION OF PREVIOUS EMPLOYMENT		MAXIMUM DURATION OF ORDINARY BENEFITS	STATE ADMINISTRATIVE AGENCY
		ORDINARY	ADDITIONAL		
NEW HAMPSHIRE Ch. 99, Laws 1935, amended by Ch. 142, Laws 1935, and Ch. 3, Laws Special Session 1936	Total or partial benefits: 3 weeks, further require- ments provided in law	1 to 4 within 104 weeks	1 to 24 for which employee con- tribution paid within 6 years to maximum of 10 weeks	16 weeks in 52 weeks	NEW HAMPSHIRE Unemployment Compensation Division, Commissioner of Labor
NEW YORK Ch. 468, Laws 1935, amended by Chs. 117 and 697, Laws 1936	Total benefits: 3 weeks, but not more than 5 weeks in calendar year	1 to 15 days within 52 weeks	No provision	16 weeks in 52 weeks	NEW YORK Industrial Commissioner, Department of Labor
OREGON Ch. 70, Laws Special Session 1935	Total or partial benefits: 3 weeks in 52 weeks; 1 week partial unemployment counted as ½ week of total unemployment	1 to 4 within 104 weeks	No provision	15 weeks in 52 weeks	OREGON Unemployment Compensation Commission

STATE CITATION	WAITING PERIOD	RATIO OF BENEFIT WEEK TO DURATION OF PREVIOUS EMPLOYMENT		MAXIMUM DURATION OF ORDINARY BENEFITS	STATE ADMINISTRATIVE AGENCY
		ORDINARY	ADDITIONAL		
RHODE ISLAND Ch. 2333, Laws Regular Session 1936	Total or partial benefits: 3 weeks within 52; 2 weeks partial unemployment counted as 1 week of total unemployment	1 to 4 within 104 weeks	1 to 20 within 260 weeks	20 weeks in 52 weeks	RHODE ISLAND Unemployment Compensation Board
SOUTH CAROLINA Act No. 768, Acts 1936	Total benefits: 2 weeks total unemployment within 13 weeks. Partial benefits: No waiting period	1 to 4 within 104 weeks	1 to 20 within 260 weeks	12 weeks in 52 weeks	SOUTH CAROLINA Unemployment Compensation Commission
TEXAS Senate Bill 5, Third Special Session 1936	Total benefits: 2 weeks total unemployment within 13 weeks. Partial benefits: No waiting period	1 to 4 within 104 weeks	1 to 20 within 260 weeks	15 weeks in 52 weeks	TEXAS Unemployment Compensation Commission
UTAH Ch. 1, Laws Special Session 1936	Total or partial benefits: 2 weeks total unemployment within 13 weeks	1 to 4 within 104 weeks	1 to 20 within 260 weeks	14 weeks in 52 weeks	UTAH Industrial Commission
WISCONSIN Ch. 20, Laws Special Session 1931-32, amended by Chs. 186 and 383, Laws 1933, and Chs. 192, 272, and 446, Laws 1935	Total benefits: 3 weeks total un- employment per employer in 52 weeks. Partial benefits: 1 week partial unemployment per employer in 52 weeks	1 to 4 within 52 weeks when benefit rate is \$10 a week; 1 to 5 when benefit rate is \$12.50; 1 to 6 when benefit rate is \$15 a week	No provision	8 $\frac{3}{4}$, 10.4, or 13 weeks for consecutive unemployment based on applicable ratio provisions (but between 14 and 20 weeks within 52 weeks as com- puted under the ratio provision)	WISCONSIN Industrial Commission

APPENDIX IV

Table 19

Unemployment Insurance Laws in Foreign Countries

Table A

COMPULSORY UNEMPLOYMENT INSURANCE LAWS AND
NUMBER OF WORKERS COVERED

COUNTRY (a)	DATE OF ENACTMENT	NUMBER INSURED (b)
Australia (Queensland)	October 18, 1922	175,000
Austria	March 24, 1920	1,012,000
Bulgaria	April 12, 1925	280,000
Canada	June 28, 1935	1,784,000
Germany	July 15, 1927	13,188,000 (c)
Great Britain and Northern Ireland	December 16, 1911	14,753,000
Irish Free State	August 9, 1920	380,000
Italy	October 19, 1919	4,500,000
Poland	July 18, 1924	957,000
Switzerland (13 cantons)	October 17, 1924	245,000
Yugoslavia	December 15, 1935	(d)
Total number insured		37,274,000

(a) A compulsory law was passed in the U. S. S. R. in 1922, but benefit payments were suspended in 1930.

(b) These are the most recent figures available.

(c) The number covered preceding the depression of 1929 was 17,920,000. The difference is due not to any limitation of coverage but to the fact that those unemployed workers who had exhausted their right to insurance benefits and had thus come within the scope of the communal relief were not included in the figures for the members covered by unemployment insurance.

(d) Data not yet available

SOURCE: Social Security Board

Table B
VOLUNTARY UNEMPLOYMENT INSURANCE LAWS AND
NUMBER OF WORKERS COVERED

COUNTRY	DATE OF ENACTMENT	NUMBER INSURED (a)
Belgium	December 30, 1920	899,000
Czechoslovakia	July 19, 1921	1,407,000
Denmark	April 9, 1907	375,000
Finland	November 2, 1917	15,000
France	September 9, 1905	192,000
Greece	(b)	46,000
Netherlands	December 2, 1916	564,000
Norway	August 6, 1915	54,000
Spain	May 25, 1931	62,000
Sweden	June 15, 1934	240,000
Switzerland (12 cantons) (c)	October 17, 1924 (d)	307,000
Total number insured		4,161,000

- (a) These are the most recent figures available.
- (b) There is no information available on the date of the law. Data from *Industrial and Labor Information*, November 18, 1935, Vol. 56, No. 7, indicate that insurance funds were in existence in the tobacco, milling, and baking industries and the Athens newspaper staffs.
- (c) Nine of these cantons specify that communes may enforce compulsory insurance within their borders.
- (d) Date of the national measure; the first of the cantonal acts was passed in 1925.

SOURCE: Social Security Board

APPENDIX V

**The Background for Unemployment Insurance
in New York State**

Unemployment insurance has been under discussion in New York State for more than fifteen years. An unemployment insurance bill was first introduced in the New York State Legislature in 1921. Between 1921 and 1935 no fewer than seventy-seven bills for the establishment of some form of unemployment insurance were introduced by thirty-six different members of the Legislature (see List of Bills, pp. 182-189, below).

In March 1930, the Governor of New York appointed a Commission on Unemployment Problems, which reported in 1930 and 1931 and recommended, in addition to employer efforts at stabilization, fuller investigation of ways to protect the working people of the State against the effects of unemployment which are too burdensome for the individual resources of employers and employees to offset. Because of the active general interest in the problem a *Commission on Unemployment Insurance* was created by an interstate conference of governors early in 1931. This Commission, representing New York and five other industrial states, Massachusetts, Rhode Island, Connecticut, Pennsylvania and Ohio, met at Albany in January 1931. The proceedings of the conference contain important materials on unemployment insurance.¹ The Commission itself recommended the establishment of compulsory statewide systems of unemployment reserves.²

On April 9, 1931, a *Joint Legislative Committee on Unemployment* was created in New York "to investigate the cause of unemployment in its every aspect" to the end that a State policy might be devised for dealing with it.

¹ Conference of Governors on Unemployment, etc., *Proceedings* (Albany) January 23-25, 1931

² For the text of the report of the Commission, see Douglas, Paul H., *Standards of unemployment insurance*, Appendix B, pp. 219-225

Extensive hearings were held in which representatives of employers and employees and experts in the field of unemployment insurance testified. The preliminary report of this Joint Committee was transmitted to the Legislature on February 15, 1932, and the final report on February 20, 1933.³

The Committee's *Preliminary report* embodied an analysis of the causes of unemployment, with particular examination of New York State data. In its "Summary and Conclusions,"⁴ the *Report* stated:

"1. We can no longer rely on the moralists' rugged individualism, translated by the cynic into ragged individualism. Unemployment by wholesale, now in its third winter, must exhaust the reserves of the most prudent wage earner. For hundreds of thousands in New York State no employment is available. The choice is not between measures for unemployment insurance and continuance of policies of individual self support eked out by private charity. Those happier days passed with our dependence on agricultural pursuits. *In caring for the unemployed workmen today we have three choices: they may be allowed to starve wholesale; they may be supported by large social organizations eked out by public charity; or we may provide machinery to care for a portion of the lost incomes through some system of unemployment reserves.*

"2. *The responsibility for unemployment must be understood to be within the organization evolved as a result of the continuous industrial evolution.* Casual labor conditions, seasonal industries, technological displacements, and cyclical depressions are within the complete control of neither the workers, the employers, nor yet the State and federal governments. Wisdom derived from our past three

³ State of New York, Joint Legislative Committee on Unemployment (Leg. Doc. No. 69, 1932), *Preliminary report* (1932) and (Leg. Doc. No. 66, 1933) *Report* (1933)

⁴ p. 192

years of bewilderment and suffering approves that conclusion. Each may do something to palliate the miseries of unemployment and each should do its utmost to that end. But all together at their highest possible pitch of achievement cannot meet the full need." (*Italics ours*)

In its preliminary report the Joint Committee approved unemployment insurance in principle, but recommended delay because it was felt that certain "conditions precedent to the enactment of unemployment reserve plans" had not yet been met in New York. These conditions were *the acquisition of further facts concerning unemployment and unemployment insurance* (it was pointed out that the *Final report* of the British Royal Commission, when published, should be extremely enlightening), and a *revival of business conditions* so that industry might be better prepared to meet the cost of insurance. A year later in its final report the Committee wrote:

"No evidence has been presented to us to change our belief in the soundness of the principle that industry should, in times of business activity and prosperity, set up reasonable reserves against the involuntary unemployment of its workers in less prosperous times and that the establishment of such reserves should be under State supervision and should be made compulsory upon employers by the State. The necessity of establishing a State-wide system of employment exchanges to function in connection with a compulsory system of unemployment reserves is recognized by all students of the subject, as is the necessity for the collection of more adequate statistics on employment, unemployment and industrial trends." (pp. 11-12)

Delay in passing an unemployment insurance law was again recommended, on the grounds that the index of employment in New York State was still falling and that emergency relief remained the principal need.

In pursuance of the Joint Committee's recommendations, the Industrial Commissioner, at the request of the Governor, in 1933 and 1934 appointed committees consisting of experts and representatives of employers and employees to investigate further the question of unemployment insurance.⁵

Meanwhile the Legislature had constantly before it the problem of unemployment. Extensive further hearings on unemployment insurance bills were therefore held in 1934 and 1936.⁶ Much valuable new information became available,⁷ and one American state had launched an unemployment insurance act. By 1935-1936 the improvement in business conditions gave evidence that the depression was lifting. The recommendations of the two committees appointed in 1933 and 1934 by the Industrial Commissioner were made available to the Legislature in the form of draft bills. The Unemployment Insurance Law was passed on April 25, 1935.⁸

⁵ Among the members of the two committees were: Ernest G. Draper, Vice-President, Hills Brothers Company, now Assistant Secretary of Commerce; Howard S. Cullman, Vice-President, Cullman Brothers, Inc., and New York Port Commissioner; John M. O'Hanlon and George Meany of the New York State Federation of Labor; Professor Joseph P. Chamberlain, Director Legislative Drafting Research Fund, Columbia University; Dr. John B. Andrews, Secretary, American Association for Labor Legislation; Abraham Epstein, Executive Secretary, American Association for Social Security; Professor Herman A. Gray, New York University Law School (now Chairman of New York State Advisory Council on Unemployment Insurance).

⁶ State of New York, Legislature, Senate Finance Committee and Senate Committee on Labor and Industry and Assembly Committee on Labor and Industries, April 4, 1934 and March 6, 1935

⁷ The Ohio Commission on Unemployment Insurance published its report containing actuarial estimates for unemployment insurance data; the quality and quantity of both unemployment and employment statistics was vastly improved by 1934 (cf. Joy, Aryness, Recent progress in employment statistics, *Journal of American Statistical Association*, Vol. XXIV, No. 188, December 1934); the British Royal Commission and the German Commission appointed to study the operation of unemployment insurance published their reports, reiterating their confidence in the value of insurance; and the Technical Staff of the Committee on Economic Security made available the most comprehensive reports on the subject yet issued in the United States.

⁸ Note: A complete list of the official State publications relating to unemployment insurance in New York State is given in the Bibliography of this Brief.

LIST OF UNEMPLOYMENT INSURANCE BILLS 1921-1936

New York State Legislature

1921

ORR (A. 796)—*Enacting the Social Insurance Law, establishing a system of compulsory insurance for benefit of employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Labor and Industries Committee (Pr. No. 849, February 21, 1921)

1922

SEIDEL (S. 584)—*Establishing a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident not covered by workmen's compensation . . .* Labor and Industry Committee (Pr. No. 621, February 8, 1922)

1923

(No bills introduced)

1924

PHELPS (A. 1133)—Same as S. 958

HASTINGS (S. 958)—*Amends section 70, adds new section 101-e, Insurance Law, authorizing unemployment insurance.* Insurance Committee, Mar. 19 Rept., Mar. 20 3rd rdg., Apr. 2 Passed, Apr. 7 Assembly Insurance Committee (Pr. No. 1046, February 28, 1924)

1925

(No bills introduced)

1926

CUVILLIER (A. 21)—*Amends section 70, adds new section 101-e, Insurance Law, authorizing group unemployment insurance for not less than fifty employees after continuous service of not less than one year.* Insurance Committee (Pr. No. 21, January 11, 1926)

1926

CUVILLIER (A. 22)—*Establishing system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by Workmen's Compensation Law . . .* Labor and Industries Committee (Pr. No. 22, January 11, 1926)

1927

CUVILLIER (A. 212)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Labor and Industries Committee (Pr. No. 212, January 18, 1927)

CUVILLIER (A. 384)—*An act to amend the insurance law, in relation to unemployment insurance.* Insurance Committee (Pr. No. 390, January 24, 1927)

CUVILLIER (A. 528)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Labor and Industries Committee (Pr. No. 535, January 26, 1927)

1928

CUVILLIER (A. 220)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Labor and Industries Committee (Pr. No. 220, January 12, 1928)

DOYLE (A. 1345)—*An act to amend the labor law, in relation to unemployed persons, creating the unemployment commission . . .* Ways and Means Committee (Pr. No. 1466, February 22, 1928)

1929

CUVILLIER (A. 41)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Labor and Industries Committee, amend, recommit (Pr. Nos. 41, 286, January 7, 1929)

1930

CUVILLIER (A. 9)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Ways and Means Committee (Pr. Nos. 9, 471, January 6, 1930)

1931

CUVILLIER (A. 5)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Ways and Means Committee (Pr. No. 5, January 12, 1931)

STREIT (A. 47)—Same as S. 93

COHEN (A. 513)—*An act to amend the labor law, in relation to unemployment insurance.* Labor and Industries Committee (Pr. No. 523, January 28, 1931)

CUVILLIER (A. 627)—*An act for unemployment reserve funds . . .* Judiciary Committee (Pr. No. 640, February 2, 1931)

STEINGUT (A. 1619)—Same as S. 1163

BREITENBACH (A. 1733)—Same as S. 96

STEINGUT (A. 1837)—Same as S. 1334

WEMPLE (A. 1842)—Same as S. 1383

PACK (A. 2085)—Same as S. 26

DUNMORE (A. 2096)—Same as S. 1610

HASTINGS (S. 26)—*An act to amend the labor law, in relation to unemployment insurance . . .* Labor and Industry Committee, amend, recommit (Pr. Nos. 26, 721, January 7, 1931)

SCHACKNO (S. 93)—*An act to create a temporary state commission to investigate and study in order to ascertain and report to the legislature the most practical and efficient method providing security against unemployment . . .* Finance Committee (Pr. No. 93, January 14, 1931)

FELD (S. 96)—*An act to create a temporary state commission to investigate and study in order to ascertain and report to the legislature the most practical and efficient method of providing unemployment insurance . . .* Finance Committee (Pr. No. 96, January 14, 1931)

BURCHILL (S. 252)—*An act to amend the labor law, in relation to unemployment insurance . . .* Labor and Industry Committee (Pr. No. 252, January 22, 1931)

HASTINGS (S. 644)—*An act to amend the insurance law, in relation to unemployment insurance corporations . . .* Insurance Committee (Pr. No. 669, February 9, 1931)

MASTICK (S. 1039)—*An act to provide for the appointment of a temporary commission to investigate and study, in order to ascertain and report to the legislature the most practical and efficient method of providing security against unemployment, relief in old age, and security against sickness and disability . . .* Finance Committee (Pr. No. 1133, February 25, 1931)

MASTICK (S. 1163)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee (Pr. No. 1279, March 2, 1931)

DOWNING (S. 1334)—*An act to create a temporary state commission to study the subject of the best method of providing unemployment insurance in this state . . .* Finance Committee (Pr. No. 1497, March 6, 1931)

HASTINGS (S. 1323)—*An act to create a temporary state commission to make a study and survey of certain subjects relating to unemployment . . .* Finance Committee (Pr. No. 1486, March 6, 1931)

BAXTER (S. 1383)—*New article 17-a, Labor Law, providing for unemployment insurance indemnity at rate of 50 per cent of employees' weekly wages and appropriating \$125,000.* Labor Commission (Pr. No. 1547, March 9, 1931)

CILANO (S. 1610)—*An act to amend the insurance law, in relation to unemployment insurance corporations.* Insurance Committee (Pr. No. 1846, March 17, 1931)

SCHANZER (S. 2113)—*An act to create sections of the statutes, relating to the prevention of unemployment by compensating workmen while temporarily unemployed . . .* Ways and Means Committee (Pr. No. 2470, March 18, 1931)

1932

COHEN (A. 393)—Same as S. 1025

PACK (A. 759)—Same as S. 1025

POST (A. 854)—Same as S. 672

CUVILLIER (A. 1167)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Ways and Means Committee (Pr. No. 1253, February 15, 1932)

MARCY (A. 1210)—*An act to amend the insurance law, in relation to unemployment benefit reserve systems.* Insurance Committee, amend, recommit (Pr. Nos. 1312, 2225, February 16, 1932)

HECK (A. 1253)—Same as S. 448

BREITENBACH (A. 1300)—*An act to create a temporary state commission to study the subject of unemployment and report to the legislature of nineteen hundred thirty-three the feasibility and practicability of establishment of a permissive or mandatory unemployment insurance system . . .* Ways and Means Committee (Pr. No. 1428, February 18, 1932)

STEINGUT (A. 1681)—Same as S. 1373

MASTICK (S. 95)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee (Pr. No. 98, January 14, 1932)

BURCHILL (S. 266)—*An act to amend the labor law, in relation to unemployment insurance . . .* Labor and Industry Committee (Pr. No. 273, January 20, 1932)

BAXTER (S. 448)—*An act to amend the labor law, in relation to unemployment insurance . . .* Labor and Industry Committee (Pr. No. 462, January 27, 1932)

BERG (S. 672)—*An act to provide for the appointment of a temporary commission to investigate and study, in order to ascertain and report to the legislature the most practical and efficient method of providing security against unemployment . . .* Finance Committee (Pr. No. 709, February 3, 1932)

CILANO (S. 1031)—*An act to amend the insurance law, in relation to unemployment benefit reserve systems.* Insurance Committee (Pr. No. 1112, February 15, 1932)

HASTINGS (S. 1025)—*An act to amend the labor law, in relation to unemployment insurance.* Labor and Industry Committee (Pr. No. 1106, February 15, 1932)

MASTICK (S. 1373)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Labor and Industry Committee (Pr. No. 1559, February 26, 1932)

1933

COHEN (A. 186)—Companion bill A. 729

CONDON (A. 533)—Same as S. 208

PACK (A. 729)—*An act to amend the labor law, in relation to unemployment insurance.* Labor and Industries Committee (Pr. No. 757, January 31, 1933)

CUVILLIER (A. 1322)—*An act to establish a system of compulsory insurance to furnish benefits for employees in case of old age, unemployment, death, sickness and accident, not covered by workmen's compensation . . .* Ways and Means Committee (Pr. No. 1437, February 16, 1933)

SAMBERG (A. 1428)—Same as S. 1

STEINGUT (A. 2137)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Ways and Means Committee, amend, recommit (Pr. Nos. 2420, 2987, March 16, 1933)

BUNGARD (A. 2225)—Same as S. 1407

MASTICK (S. 30)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee, amend, recommit (Pr. Nos. 30, 1349, January 4, 1933)

FELD (S. 1)—*An act in relation to unemployment reserves and compensation . . .* Labor and Industry Committee (Pr. No. 1, January 4, 1933)

BYRNE (S. 208)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee, amend, recommit, amend, recommit, reported favorably with amendments (Pr. Nos. 211, 446, 1195, 2128, 2385, January 7, 1933)

WALD (S. 1407)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee (Pr. No. 1513, March 6, 1933)

WALD (S. 1982)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee (Pr. No. 2391, April 8, 1933)

1934

COHEN (A. 263)—Companion bill A. 1361

STEINGUT (A. 414)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Ways and Means Committee, amend, recommit (Pr. Nos. 414, 2701, January 29, 1934)

PACK (A. 655)—Companion bill A. 1361

CONDON (A. 826)—Same as S. 630

EHRlich (A. 1241)—Same as S. 1184

BERLEY (A. 1361)—*An act to amend the labor law, in relation to unemployment insurance.* Labor and Industries Committee (Pr. No. 1457, March 1, 1934)

SCHWARTZ (A. 2106)—*An act to amend the labor law, in relation to unemployment insurance . . .* Ways and Means Committee (Pr. No. 2430, March 30, 1934)

INSELBUCH (A. 2305)—*An act to amend the labor law, in relation to providing for the establishment and administration of a system of unemployment insurance.* Labor and Industries Committee (Pr. No. 2836, April 18, 1934)

MASTICK (S. 353)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Labor and Industry Committee (Pr. No. 360, January 29, 1934)

BYRNE (S. 630)—*An act to amend the labor law, in relation to creating an unemployment reserve fund . . .* Finance Committee, amend, recommit, reported favorably, committed to Committee of the Whole, recommitted to Finance Committee, amended (Pr. Nos. 661, 1315, 2162, February 9, 1934)

HANLEY (S. 1184)—*An act to amend the labor law, generally, in relation to providing reserves for the payment of unemployment benefits and creating an unemployment reserve fund . . .* Labor and Industry Committee, amend, recommitted to Finance Committee, amend, recommit (Pr. Nos. 1323, 1514, 2070, 2230, March 8, 1934)

1935

EHRlich (A. 53)—*An act to amend the labor law, generally, in relation to providing reserves for the payment of unemployment benefits and creating an unemployment reserve fund . . .* Labor and Industry Committee (Pr. No. 53, January 3, 1935)

BYRNE (S. 1)—*An act to amend the labor law, in relation to creating an unemployment insurance fund . . .* Read twice. Labor and Industry Committee, amend, recommit, amend, recommit, reported favorably, 3rd rdg. (Pr. Nos. 1, 1673, 2189, 2651, 2652, January 2, 1935) Became Ch. 468, Laws of 1935 and amended by Chapters 117 and 697 of the Laws of 1936

HANLEY (S. 98)—*An act to amend the labor law, generally, in relation to providing reserves for the payment of unemployment benefits and creating an unemployment reserve fund . . .* Labor and Industry Committee, amend, recommit (Pr. Nos. 98, 2143, January 3, 1935)

BALDWIN (S. 1637)—*An act to create a temporary state commission to investigate and study unemployment insurance . . .* Finance Committee (Pr. No. 1928, March 8, 1935)

APPENDIX VI
Statistical Appendix

Table 20

UNEMPLOYMENT IN MANUFACTURING, TRANSPORTATION, BUILDING TRADES,
AND MINING, UNITED STATES, 1897-1926

YEAR	TOTAL LABOR SUPPLY	TOTAL UNEM- PLOYED	TOTAL EM- PLOYED	PER- CENT- AGE UNEM-	YEAR	TOTAL LABOR SUPPLY	TOTAL UNEM- PLOYED	TOTAL EM- PLOYED	PER- CENT- AGE UNEM-
				PLOYED					PLOYED
1897	7,015	1,266	5,749	18.0	1912	11,124	775	10,349	7.0
1898	7,164	1,214	5,950	16.9	1913	11,357	936	10,421	8.2
1899	7,327	766	6,561	10.5	1914	11,570	1,899	9,671	16.4
1900	7,527	755	6,772	10.0	1915	11,725	1,822	9,903	15.5
1901	7,805	584	7,221	7.5	1916	12,189	774	11,415	6.3
1902	8,347	569	7,778	6.8	1917	12,841	774	12,067	6.0
1903	8,702	609	8,093	7.0	1918	13,081	719	12,362	5.5
1904	8,748	883	7,865	10.1	1919	12,841	880	11,961	6.9
1905	9,349	622	8,727	6.7	1920	13,006	938	12,068	7.2
1906	9,817	577	9,240	5.9	1921	12,599	2,913	9,686	23.1
1907	10,129	695	9,434	6.9	1922	12,777	2,338	10,439	18.3
1908	10,103	1,654	8,449	16.4	1923	12,837	1,010	11,827	7.9
1909	10,394	925	9,469	8.9	1924	12,573	1,506	11,067	12.0
1910	10,726	774	9,952	7.2	1925	12,552	1,120	11,432	8.9
1911	10,921	1,025	9,896	9.4	1926	12,793	962	11,831	7.5

See charts 5 and 7, pp. 12, 15

SOURCE: Douglas, Paul H., *Real wages in the United States, 1897-1926*

Table 21

ESTIMATED TOTAL GAINFUL WORKERS, EMPLOYMENT AND UNEMPLOYMENT IN
NON-AGRICULTURAL INDUSTRIES, UNITED STATES, 1920-1934

(in thousands)

YEAR	TOTAL	AVERAGE	AVERAGE
	GAINFUL WORKERS	NUMBER EMPLOYED	NUMBER UNEMPLOYED
1920	31,137	29,736	1,401
1921	31,681	27,411	4,270
1922	32,150	28,709	3,441
1923	33,087	31,555	1,532
1924	33,939	31,624	2,315
1925	34,708	32,933	1,775
1926	35,576	33,907	1,669
1927	36,522	34,467	2,055
1928	37,295	35,099	2,196
1929	38,023	36,176	1,847
1930	38,411	33,654	4,757
1931	38,615	30,208	8,407
1932	38,718	26,232	12,486
1933	38,946	26,108	12,838
1934	39,303	28,172	11,131

See chart 6, p. 14

SOURCE: Committee on Economic Security

Table 22

ESTIMATES OF UNEMPLOYMENT IN THE UNITED STATES
(thousands of persons)

YEAR AND MONTH	ROBERT NATHAN	AMERICAN FEDERATION OF LABOR	CLEVELAND TRUST COMPANY	NATIONAL INDUSTRIAL CONFERENCE BOARD	NATIONAL RESEARCH LEAGUE	
1929	Jan.	2,631	3,060			
	Feb.	2,913	3,119			
	Mar.	2,860	2,560			
	Apr.	2,217	2,043			
	May	1,817	1,754			
	June	1,520	1,447			
	July	1,042	1,214			
	Aug.	649	1,064			
	Sept.	907	614		1,250	
	Oct.	492	910			
	Nov.	1,853	1,949			
	Dec.	2,831	2,629			
1930	Jan.	4,065	3,919	2,839		
	Feb.	4,424	4,286	3,293		
	Mar.	4,644	4,323	3,447		
	Apr.	4,386	4,049	3,188	3,188	
	May	4,299	3,756	3,315	3,245	
	June	4,161	3,905	3,681	3,678	
	July	4,196	4,441	4,138	4,321	
	Aug.	4,782	4,919	4,633	4,590	
	Sept.	5,040	4,983	4,518	4,502	
	Oct.	5,481	5,525	4,911	4,777	
	Nov.	6,507	6,293	5,789	5,404	
	Dec.	6,956	6,841	5,732	5,674	
1931	Jan.	8,049	8,169	8,111	6,667	9,800
	Feb.	8,334	8,274	8,354	6,794	
	Mar.	8,280	8,133	8,301	6,799	
	Apr.	8,075	7,815	8,059	6,661	
	May	8,024	7,811	7,982	6,842	
	June	8,026	7,894	8,186	7,165	
	July	7,971	8,367	8,672	7,673	
	Aug.	8,434	8,760	9,090	7,939	
	Sept.	8,743	8,846	8,964	8,044	
	Oct.	9,138	9,484	9,396	8,473	
	Nov.	9,925	10,410	10,212	9,001	
	Dec.	10,614	10,889	9,999	9,182	

ESTIMATES OF UNEMPLOYMENT IN THE UNITED STATES (continued)

YEAR AND MONTH	ROBERT NATHAN	AMERICAN FEDERATION OF LABOR	CLEVELAND TRUST COMPANY	NATIONAL INDUSTRIAL CONFERENCE BOARD	NATIONAL RESEARCH LEAGUE
1932 Jan.	11,462	11,926	11,798	9,996	12,880
Feb.	11,834	12,168	12,714	10,103	
Mar.	12,180	12,387	12,468	10,293	
Apr.	12,420	12,519	12,729	10,754	
May	12,837	13,004	13,080	11,090	
June	13,119	13,373	13,553	11,596	
July	13,425	13,793	14,243	12,152	
Aug.	13,608	13,968	14,378	12,207	
Sept.	13,118	13,458	13,819	11,850	
Oct.	12,834	13,415	13,693	11,691	
Nov.	13,204	13,925	14,119	11,996	
Dec.	13,587	14,240	14,392	12,113	
1933 Jan.	14,492	15,166	15,355	12,755	16,750
Feb.	14,597	15,319	15,585	12,782	
Mar.	15,071	15,653	16,119	13,300	17,000
Apr.	14,714	15,125	15,628	12,993	
May	14,341	14,615	15,337	12,699	
June	13,528	13,843	14,548	12,034	
July	12,839	13,458	14,189	11,584	
Aug.	12,111	12,662	13,251	10,731	
Sept.	11,448	11,854	12,238	9,920	
Oct.	11,176	11,842	11,976	9,924	13,330
Nov.	11,738	12,374	12,391	10,398	
Dec.	12,046	12,760	12,554	10,334	
1934 Jan.	12,599	13,382	13,253	10,538	15,110
Feb.	12,072	12,964	12,744	9,873	
Mar.	11,577	12,420	12,194	9,394	
Apr.	11,161	12,004	11,824	9,318	13,480
May	10,897	11,711	11,330	9,201	
June	10,743	11,714	11,227	9,252	
July	10,967	12,222	11,919	9,826	
Aug.	11,382	12,362	12,117	10,223	
Sept.	11,908	12,429	12,276	10,393	
Oct.	11,597	12,213	12,011	10,057	
Nov.	11,996	12,581	12,391	10,209	14,410
Dec.	12,085	12,359	12,269	9,895	14,380

ESTIMATES OF UNEMPLOYMENT IN THE UNITED STATES (continued)

YEAR AND MONTH	ROBERT NATHAN	AMERICAN FEDERATION OF LABOR	CLEVELAND TRUST COMPANY	NATIONAL INDUSTRIAL CONFERENCE BOARD	NATIONAL RESEARCH LEAGUE
1935 Jan.	12,561	13,058	13,183	10,340	14,950
Feb.	12,358	12,764	12,987	10,172	14,690
Mar.	12,183	12,608	12,848	10,039	14,525
Apr.	11,807	12,379	12,409	9,621	14,075
May	11,618	12,382	12,400	9,709	14,035
June	11,446	12,389	12,370	9,749	14,025
July	11,373	12,475	12,638	10,121	14,210
Aug.	11,103	12,218	12,428	9,852	13,965
Sept.	10,915	11,789	11,998	9,432	13,720
Oct.	10,606	11,449	11,671	9,188	13,875
Nov.		11,672	11,899	9,197	14,175
Dec.		11,397	11,700	8,992	
1936 Jan.		12,646	12,900	9,801	
Feb.		12,570		9,850	
Mar.		12,183		9,649	
Apr.		11,503			
May		11,259			
June		11,126			

See chart 4, p. 10

SOURCES: Cleveland Trust Company, *Business Bulletin*, March 15, 1936; American Federation of Labor, monthly releases of the Official Information and Publishing Service; Nathan, Robert R., Estimates of unemployment in the United States, 1929-1935, *International Labour Review*, Vol. XXXIII, No. 1, January 1936; National Industrial Conference Board, *Conference Board Service Letter*, monthly; National Research League, *Unemployment in the United States*, May 1935, and monthly releases

Table 23

UNEMPLOYMENT DURING PROSPEROUS YEARS, UNITED STATES
1920-1929

YEAR	VOLUME OF UNEMPLOYMENT (thousands)
1920	1,401
1921	4,270
1922	3,441
1923	1,532
1924	2,315
1925	1,775
1926	1,669
1927	2,055

SOURCE: Committee of the President's Conference on Unemployment, *Recent economic changes*, Vol. II (Figures represent the minimum volume of unemployment.)

Table 24

TREND OF RELIEF, UNITED STATES, 1929-1935

MARCH	NUMBER OF RELIEF CASES
1929	93,700
1931	426,500
1933	1,987,500
1935	2,326,555 (a)

(a) The 1935 figure is actual, as reported to FERA by the several state ERAs; other figures are estimated on basis of figures for 143 urban areas submitted by the Children's Bureau of the U. S. Department of Labor.

SOURCE: Federal Emergency Relief Administration, Division of Reports, Statistics and Records

Table 25

EXPENDITURES FROM PUBLIC FUNDS FOR RELIEF
NEW YORK STATE, 1910-1934

(dollars)

YEAR	ORDINARY PUBLIC WELFARE	HOME RELIEF	WORK RELIEF	TOTAL
1910	9,858,924	829,920		10,688,844
1911	9,944,590	866,346		10,810,936
1912	10,691,106	889,943		11,581,049
1913	11,106,494	901,129		12,007,623
1914	12,574,715	1,028,505		13,603,220
1915	14,504,264	1,221,678		15,725,942
1916	11,915,081	942,553		12,857,634
1917	16,138,359	1,117,331		17,255,690
1918	18,110,649	1,226,543		19,337,192
1919	20,849,715	1,264,483		22,114,198
1920	23,489,904	1,456,807		24,946,711
1921	27,797,306	1,650,888		29,448,194
1922	29,390,257	2,163,045		31,553,302
1923	29,611,463	1,668,482		31,279,945
1924	32,781,643	1,815,894		34,597,537
1925	33,845,834	2,183,701		36,029,535
1926	34,224,634	2,342,577		36,567,211
1927	35,323,500	2,994,672		38,318,172
1928	39,479,762	3,723,206		43,202,968
1929	39,680,348	4,643,156		44,323,504
1930	43,449,608	8,516,519		51,966,127
1931	60,030,669	18,442,496		78,473,165 (a)
1932	68,192,152	29,070,958	30,630,239	127,893,349 (a)
1933	64,765,801	61,211,470	69,482,546	195,459,817 (a)
1934	64,614,039	104,920,965	85,637,638	255,172,642 (a)

(a) Includes expenditures for old age security

See chart 9, p. 31

SOURCE: State of New York, Department of Social Welfare

Table 26

PUBLIC AND PRIVATE EXPENDITURES FOR RELIEF AND ITS ADMINISTRATION
NEW YORK CITY, 1910-1935

(thousands of dollars)

YEAR	TOTAL AMOUNTS EXPENDED FOR OUTDOOR RELIEF, SERVICE AND ADMINISTRATION	TOTAL EXPENDED FROM PUBLIC RESOURCES	TOTAL EXPENDED FROM PRIVATE RESOURCES ALL RELIEF AGENCIES
1910	1,246	241	1,005
1911	1,273	252	1,021
1912	1,398	260	1,138
1913	1,452	271	1,181
1914	1,621	239	1,382
1915	1,899	268	1,631
1916	2,111 *	686	1,424
1917	2,994 *	1,526	1,467
1918	4,246 *	2,164	2,081
1919	5,444	2,485	2,959
1920	6,033	3,098	2,935
1921	7,214	4,287	2,927
1922	8,051 *	5,106	2,944
1923	8,140	5,155	2,985
1924	8,626	5,495	3,131
1925	9,177	5,861	3,316
1926	9,774	6,140	3,634
1927	10,430 *	6,587	3,842
1928	11,756	7,607	4,149
1929	12,413 *	8,107	4,307
1930	15,427	9,873	5,554
1931	52,878	33,500	19,378
1932	88,962	60,987	27,974
1933	138,216	117,199 (a)	21,017
1934	250,115	238,916 (a)	11,199
1935	303,773	296,472 (b)	7,301

* Derived from data carried to more places, therefore differs slightly from total of items recorded in thousands

(a) Includes CWA wages; student aid included in 1934

(b) Includes WPA wages and student aid

See chart 11, p. 34

SOURCE: Huntley, Kate, *Financial trends in organized social work in New York City*, p. 70, and additional unpublished data from Welfare Council

Table 27

INDEX NUMBERS OF FACTORY EMPLOYMENT AND OF RELIEF EXPENDITURES
FIVE CITIES, NEW YORK STATE, 1929-1936

1929 = 100

MONTH	EMPLOYMENT								RELIEF							
	1929	1930	1931	1932	1933	1934	1935	1936	1929	1930	1931	1932	1933	1934	1935	1936
Jan.	97.3	93.0	75.7	64.5	53.8	66.1	70.4	75.8	118.6	167.4	712.1	1495.0	1756.3	1326.0	3656.9	1593.6
Feb.	100.9	93.0	76.7	64.6	54.5	69.9	73.2	75.5	166.4	173.4	747.2	1837.3	1943.3	1481.8	3472.1	1607.1
Mar.	102.5	92.5	76.9	63.0	52.4	72.8	74.2	78.0	122.1	180.0	780.8	2040.3	2657.5	1711.8	3622.7	1632.4
Apr.	101.5	89.0	76.3	61.1	53.2	74.4	74.8	78.7	99.8	156.9	559.1	1514.1	2970.9	2355.7	3467.1	1590.0
May	100.8	90.6	74.8	56.8	55.5	71.9	73.9		91.5	131.6	469.9	1216.4	3278.3	2366.0	3426.1	
June	100.8	88.4	72.1	52.9	58.3	69.8	73.0		79.2	127.4	446.9	1197.6	2647.0	2328.3	3101.1	
July	100.2	84.0	71.4	49.7	62.0	69.7	71.8		77.4	128.7	464.3	1132.5	2400.9	2123.1	3319.9	
Aug.	100.3	83.9	70.8	53.1	65.7	69.9	74.0		77.5	131.2	480.2	1222.7	2551.9	2221.0	2715.0	
Sept.	101.9	86.0	72.7	56.3	68.6	67.0	76.0		77.8	141.8	566.3	1183.1	2247.2	2193.0	2563.3	
Oct.	101.3	84.5	70.1	57.6	68.7	70.5	77.8		85.4	159.5	686.0	1297.7	2408.2	2511.0	2577.4	
Nov.	98.2	81.7	67.3	57.9	66.7	70.0	77.5		108.2	223.3	977.1	1351.8	2507.5	2541.8	1608.7	
Dec.	94.2	77.8	66.4	55.3	65.4	71.0	77.3		144.9	548.9	1473.0	1756.8	2338.7	2523.6	1719.4	

See Chart 12, p. 35

SOURCE: See footnote 30, p. 35

Table 28

INDEX NUMBERS OF FACTORY EMPLOYMENT AND OF RELIEF EXPENDITURES
SIXTEEN CITIES, UNITED STATES, 1926-1932

1927 = 100

MONTH	1926		1927		1928		1929		1930		1931		1932	
	EMPLOY- MENT	RELIEF	EMPLOY- MENT	RELIEF	EMPLOY- MENT	RELIEF	EMPLOY- MENT	RELIEF	EMPLOY- MENT	RELIEF	EMPLOY- MENT	RELIEF	EMPLOY- MENT	RELIEF
January	105.3		100.6	118.7	95.8	146.4	103.5	141.1	100.2	170.5	80.9	462.3	69.5	490.0
February	106.2		102.6	120.4	98.4	147.9	106.4	122.0	100.0	152.4	87.7	514.4	69.5	554.9
March	106.4	103.2	104.8	126.8	99.7	143.4	107.7	125.5	100.1	163.1	82.4	611.1		
April	105.4	93.0	102.7	103.2	99.7	118.5	108.4	102.9	99.7	162.7	82.2	408.8		
May	103.5	81.9	101.8	91.6	100.0	106.8	108.3	99.5	98.5	176.8	81.0	297.9		
June	104.7	77.1	100.6	90.5	100.7	93.1	108.5	94.9	96.0	156.7	78.0	280.4		
July	102.5	69.3	98.7	75.9	99.7	75.7	108.9	92.8	89.0	161.7	75.2	261.8		
August	103.9	64.3	99.0	73.9	102.0	75.4	108.8	97.9	89.0	156.6	73.5	254.4		
September	105.1	60.8	98.9	78.8	103.5	76.4	109.0	91.0	89.1	160.2	74.2	282.9		
October	104.9	67.8	98.7	82.3	104.0	85.6	107.1	105.1	88.3	218.3	71.7	332.9		
November	103.6	82.9	97.2	99.0	103.4	92.0	103.5	127.7	86.3	242.2	71.0	364.4		
December	100.9	106.9	96.2	141.8	102.6	117.8	100.1	139.8	83.0	449.4	71.8	536.4		

See chart 14, p. 37

SOURCE: See footnote 30, p. 35

Table 29

INDEX NUMBERS OF FACTORY EMPLOYMENT AND OF RELIEF EXPENDITURES
THIRTY CITIES, UNITED STATES, 1929-1936
1929 = 100

MONTH	EMPLOYMENT								RELIEF							
	1929	1930	1931	1932	1933	1934	1935	1936	1929	1930	1931	1932	1933	1934	1935	1936
Jan.	95.9	93.6	78.6	69.6	59.4	72.2	82.2	86.4	114.7	155.3	512.3	936.0	1520.1	926.9	4398.9	1544.3
Feb.	98.6	96.1	82.2	69.7	61.5	77.4	84.2	86.7	115.7	165.1	602.7	1021.0	1500.4	1272.0	3595.8	1495.6
Mar.	99.3	96.6	82.0	67.9	59.8	83.4	85.9	86.9	114.3	172.9	583.0	1078.9	1684.6	1553.0	3886.8	1435.0
Apr.	101.8	94.1	82.6	66.9	61.4	83.2	86.6	88.8	101.6	156.0	453.9	988.0	1664.0	2210.8	3400.0	1362.4
May	101.1	93.9	83.1	63.7	64.9	81.4	84.8		88.1	135.9	342.6	956.8	1569.5	2558.4	3580.3	
June	101.3	91.9	79.7	62.3	66.7	80.5	81.8		76.5	129.0	304.1	836.4	1507.7	2426.6	3173.9	
July	99.3	88.4	76.4	60.8	70.8	78.3	82.0		79.9	133.6	325.3	781.2	1376.0	2297.7	3529.4	
Aug.	101.0	86.1	75.0	59.3	74.2	77.2	83.7		76.7	131.1	334.7	868.9	1436.5	2664.0	3132.1	
Sept.	103.5	87.2	76.6	63.1	78.1	73.6	86.7		77.4	142.2	356.2	883.3	1484.4	2465.1	2299.6	
Oct.	102.9	86.9	70.8	63.0	78.5	77.9	87.8		90.0	170.7	391.2	898.0	1510.5	3007.3	2620.7	
Nov.	99.0	83.5	71.3	62.7	74.3	80.5	88.5		102.4	194.7	468.9	1089.6	1683.9	3622.8	2460.9	
Dec.	96.2	82.2	72.3	61.4	73.6	83.0	90.1		135.2	333.8	707.2	1415.9	1340.3	3908.7	1679.2	

109

See chart 13, p. 36

SOURCE: See footnote 30, p. 35

Table 30

RELIEF AND WELFARE EXPENDITURES
NEW YORK STATE, 1929-1934

YEAR	EMERGENCY RELIEF (a)			ORDINARY PUBLIC WELFARE (b)		
	NEW YORK CITY	UPSTATE NEW YORK	TOTAL	NEW YORK CITY	UPSTATE NEW YORK	TOTAL
1929	\$ 822,382	\$ 3,820,774	\$ 4,643,156	\$30,191,584	\$ 9,488,764	\$39,680,348
1930	1,711,168	6,805,351	8,516,519	32,058,126	11,391,482	43,449,608
1931	3,905,720	14,536,776	18,442,496	44,204,245	15,826,424	60,030,669
1932	26,619,332	33,081,865	59,701,197	48,648,412	19,543,740	68,192,152
1933	71,149,699	59,544,317	130,694,016	44,962,697	19,803,104	64,765,801
1934	125,236,452	65,321,701	190,558,153	44,884,107	19,729,922	64,614,029

(a) Includes both cash and work relief, 1932-1934; does not include Civil Works Administration expenditures or local relief expenditures that were not reported to the Federal Emergency Relief Administration

(b) Includes expenditures for child welfare, old age assistance, relief for the needy blind, public homes, and hospitalization

See chart 10, p. 32

SOURCE: State of New York, Department of Social Welfare

Table 31

INDEX NUMBERS OF EMPLOYMENT IN THE UNITED STATES AND EMPLOYABLES
ON RELIEF IN 13 CITIES,¹ BY SELECTED INDUSTRIES
DECEMBER 1934-DECEMBER 1935

December 1934 = 100

MONTH	BUILDING		IRON & STEEL		AUTOMOBILE		FOOD	
	EMPL.	RELIEF	EMPL.	RELIEF	EMPL.	RELIEF	EMPL.	RELIEF
December 1934	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
January 1935	88.0	103.4	101.8	101.4	121.6	84.0	90.9	105.6
February	84.5	103.9	106.2	94.5	132.2	66.6	90.4	109.7
March	87.2	104.6	107.8	92.6	134.4	65.9	89.3	114.3
April	96.8	100.4	108.4	87.5	134.9	64.2	91.2	112.0
May	107.6	96.6	108.7	84.5	130.9	63.3	91.6	109.0
June	112.5	93.1	107.8	83.4	120.6	66.3	94.4	107.4
July	114.1	89.9	107.1	82.2	113.2	75.0	100.5	105.2
August	118.2	89.8	109.9	83.0	107.0	81.2	105.9	105.8
September	121.4	89.8	112.2	82.4	94.5	85.3	111.8	106.6
October	121.4	90.0	114.7	82.0	118.1	74.9	103.3	109.5
November	112.7	90.9	115.3	81.3	129.9	61.9	96.1	110.6
December	105.1	92.8	115.0	82.6	133.0	54.4	92.7	112.7

¹ Cities covered by chart: Atlanta, Baltimore, Bridgeport, Butte, Chicago, Detroit, Houston, Manchester, Omaha, Paterson, St. Louis, San Francisco and Wilkes-Barre

See chart 21, p. 43

SOURCE: Works Progress Administration, Division of Social Research

Table 32

BUSINESS FAILURES IN NEW YORK STATE AND IN THE
UNITED STATES, 1900-1935

YEAR	NUMBER		YEAR	NUMBER	
	NEW YORK	UNITED STATES		NEW YORK	UNITED STATES
1900	1,321	10,774	1918	1,502	9,982
1901	1,400	11,002	1919	967	6,451
1902	1,455	11,615	1920	1,764	8,881
1903	1,481	12,069	1921	3,045	19,652
1904	1,385	12,199	1922	3,786	23,676
1905	1,290	11,520	1923	3,177	18,718
1906	1,144	10,682	1924	3,362	20,615
1907	1,553	11,725	1925	3,206	21,214
1908	2,092	15,690	1926	3,245	21,773
1909	1,464	12,924	1927	3,248	23,146
1910	2,018	12,652	1928	3,832	23,842
1911	2,119	13,411	1929	3,298	22,909
1912	2,497	15,452	1930	4,079	26,355
1913	2,728	16,037	1931	4,706	28,285
1914	3,227	18,280	1932	5,941	31,822
1915	3,742	22,156	1933	4,131	19,859
1916	2,494	16,993	1934	2,995	11,724
1917	2,200	13,855	1935	3,117	11,510

See chart 29, p. 92

SOURCE: Dun & Bradstreet, Inc.

Table 33

ESTIMATED NUMBER OF RURAL AND TOWN FAMILIES RECEIVING RELIEF
BY FARM TENURE, FEBRUARY 1935

	RURAL AND TOWN FAMILIES—U. S.		RURAL AND TOWN FAMILIES ON RELIEF—U. S.	
	NUMBER (1930)	PER CENT	NUMBER (Feb. 1935)	PER CENT
Total rural	13,742,333	100.0	2,066,000	100.0
Farm operators	6,288,648	45.8	598,000	28.9
Owners	3,624,283	26.4	225,000	10.9
Tenants	1,888,078	13.7	289,000	14.0
Croppers	776,287	5.7	84,000	4.0
Non-farmers	7,453,685	54.2	1,468,000	71.1

SOURCE: Works Progress Administration, Division of Social Research

Table 34
INDEX NUMBERS OF EMPLOYMENT IN ALL MANUFACTURING
INDUSTRIES, 1923-1936

1925-27 = 100

NEW YORK STATE

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1923	110.7	112.0	114.6	114.3	113.3	112.3	111.4	110.4	110.9	112.4	110.7	109.4
1924	108.1	109.2	109.6	106.0	101.7	98.9	95.1	95.2	98.9	100.1	100.1	100.9
1925	100.4	102.2	103.3	101.3	100.0	99.3	98.2	98.5	101.1	103.1	103.7	104.3
1926	103.4	104.1	104.4	103.0	100.8	100.4	98.0	98.8	101.2	102.3	101.0	100.0
1927	98.2	99.3	99.9	98.5	97.1	96.8	95.2	95.9	97.9	98.0	96.1	94.4
1928	92.4	93.4	93.8	92.7	91.7	92.0	91.2	92.3	94.3	96.2	96.0	95.4
1929	94.8	97.4	99.2	98.7	97.9	98.0	97.7	98.1	99.9	100.4	98.1	94.2
1930	92.1	91.6	91.4	89.9	88.3	86.7	83.4	82.7	84.6	83.2	80.6	77.5
1931	75.4	76.6	77.8	77.2	75.6	73.4	71.9	71.5	73.6	71.3	68.8	67.7
1932	65.0	65.0	64.6	62.2	57.6	55.6	52.4	54.3	57.8	59.5	58.9	57.1
1933	55.3	56.3	53.7	55.3	57.1	59.5	62.1	65.7	69.6	69.6	67.4	66.2
1934	65.8	69.6	72.2	73.2	72.1	71.1	69.7	70.4	71.4	72.0	70.9	71.1
1935	70.6	73.1	74.3	74.8	73.7	72.5	72.1	73.8	76.8	77.8	76.9	76.2
1936	75.2	75.3	77.2	77.4								

UNITED STATES (ORIGINAL SERIES)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1923	108.2	110.0	112.5	112.5	112.5	112.6	110.8	110.1	110.2	109.7	109.0	107.0
1924	105.4	106.7	106.5	104.3	100.3	97.0	93.7	93.9	95.7	97.0	96.9	98.8
1925	99.4	101.2	101.9	101.7	100.4	99.5	98.7	99.3	100.4	101.9	102.2	102.3
1926	101.9	103.0	103.5	102.5	101.3	100.8	99.2	100.2	101.8	102.2	101.0	100.4
1927	98.8	100.5	101.0	100.1	99.1	98.5	96.4	96.5	97.2	96.7	94.9	94.0
1928	93.0	94.4	95.1	94.7	94.4	94.5	93.6	95.0	96.4	97.3	96.8	96.9
1929	96.6	98.9	101.1	100.6	100.7	100.3	99.7	100.1	100.8	99.8	96.2	93.3
1930	91.6	91.7	91.1	90.4	89.0	86.8	82.8	81.1	80.9	79.8	77.6	76.2
1931	74.1	75.1	75.8	75.5	75.1	73.1	71.3	70.9	70.5	68.2	66.3	66.2
1932	64.3	65.1	64.0	61.7	59.2	57.0	54.7	55.5	58.0	59.4	58.9	57.8
1933	56.1	57.0	54.6	55.5	58.2	62.3	66.8	71.1	73.4	73.5	70.9	69.6
1934	68.8	73.0	75.9	77.3	77.4	76.2	73.9	74.7	71.2	73.9	72.5	73.7
1935	74.4	76.8	78.0	78.0	76.8	75.4	75.3	77.4	79.0	80.6	80.3	79.9
1936	78.4	78.6	79.5	80.5								

UNITED STATES (ADJUSTED SERIES)¹

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1923	100.9	102.7	104.8	105.2	105.5	106.2	105.1	105.4	105.9	104.7	103.4	101.6
1924	100.4	101.7	101.9	100.1	97.0	94.0	91.2	92.3	94.6	95.5	95.0	96.3
1925	96.5	98.3	99.0	98.9	98.3	98.2	98.0	99.7	101.7	102.4	102.0	101.7
1926	100.7	101.7	102.3	101.6	100.6	100.5	99.6	101.6	103.6	103.3	101.6	100.2
1927	98.4	99.9	100.4	99.8	99.3	99.3	98.3	99.5	100.7	99.8	97.6	96.3
1928	95.2	96.7	97.8	97.3	97.2	98.0	97.9	100.3	102.4	102.8	101.0	101.4
1929	101.0	103.1	104.3	105.5	105.5	105.8	106.3	108.1	109.2	107.9	103.8	100.0
1930	97.5	97.6	97.1	96.5	95.0	93.1	89.7	89.0	89.8	87.9	84.8	82.5
1931	79.8	80.5	80.9	80.9	80.3	78.6	77.2	77.3	77.6	74.5	71.9	71.1
1932	68.8	69.6	68.5	66.2	63.5	61.3	59.0	60.2	63.4	64.5	63.5	62.2
1933	60.3	61.2	58.9	60.0	62.7	67.0	71.6	76.6	80.2	79.8	76.4	74.5
1934	73.4	77.9	81.0	82.6	82.7	81.3	78.9	79.7	76.0	78.6	77.0	78.2
1935	79.0	81.6	82.7	82.8	81.4	79.9	79.9	82.2	83.9	85.5	85.2	84.8
1936	83.1	83.8	84.3	85.3								

¹ Adjusted to conform with trends shown by 1931 and prior censuses of manufactures

See chart 24, p. 68

SOURCE: *Monthly Labor Review and Industrial Bulletin*

Table 35
 AUTOMOBILE PRODUCTION AND STEEL MILL EMPLOYMENT IN THE
 UNITED STATES, 1933-1935

YEAR AND MONTH	AUTOMOBILE PRODUCTION	MAN-HOURS IN STEEL INDUSTRY (millions)
<i>1933</i>		
September	191,800	48.8
October	134,683	48.8
November	60,683	39.8
December	80,565	42.0
<i>1934</i>		
January	155,666	42.1
February	230,256	43.3
March	338,434	52.2
April	352,975	52.8
May	330,455	61.9
June	306,477	59.4
July	264,933	38.4
August	234,811	37.6
September	170,007	30.7
October	131,991	35.8
November	83,482	36.1
December	153,624	39.4
<i>1935</i>		
January	292,817	51.4
February	335,700	50.9
March	429,834	54.2
April	477,746	52.7
May	364,727	53.5
June	361,320	47.4
July	337,000	49.0
August	239,662	55.8

See chart 23, p. 66

SOURCE: American Iron and Steel Institute

Table 36
 INDEX NUMBERS OF PRODUCTIVITY IN MANUFACTURING INDUSTRIES
 UNITED STATES, 1899-1929

1899 = 100

CENSUS YEAR	PHYSICAL VOLUME OF PRODUCTION	NUMBER OF WAGE EARNERS	OUTPUT PER WAGE EARNER	WAGE EARNERS REQUIRED PER UNIT OF PRODUCTION
1899	100.0	100.0	100.0	100.0
1904	120.2	108.1	111.2	89.9
1909	154.5	130.0	118.9	84.1
1914	176.3	136.1	129.6	77.2
1919	225.1	169.4	133.0	75.3
1921	186.3	136.2	136.9	73.1
1923	275.6	177.3	155.5	64.3
1925	282.6	169.1	166.9	59.8
1927	287.2	163.6	175.7	57.0
1929	311.4	164.2	189.7	52.7

See chart 28, p. 85

SOURCE: Mills, F. C., *Economic tendencies in the United States* (Recomputed from tables on pp. 26, 192, 290)

Table 37

INDEX NUMBERS OF FACTORY EMPLOYMENT IN THE UNITED STATES, 1919-1936

1923-25 = 100

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1919	108	103	102	103	103	104	107	108	109	109	112	115
1920	117	115	116	114	112	111	109	107	105	102	96	90
1921	82	83	83	82	82	81	80	81	82	83	83	83
1922	84	85	86	86	88	90	89	91	93	96	98	101
1923	103	103	104	105	105	106	106	105	104	103	103	102
1924	102	102	101	100	97	94	92	92	93	94	95	97
1925	98	98	98	99	98	99	99	99	100	101	102	102
1926	102	102	102	101	101	101	101	101	101	102	101	101
1927	100	100	100	100	99	100	99	99	98	98	97	97
1928	97	97	97	97	97	98	98	99	100	101	102	102
1929	103	104	104	105	105	106	107	106	106	106	104	101
1930	99	98	97	96	95	93	90	88	87	86	85	83
1931	82	81	81	81	80	79	78	77	75	73	72	72
1932	70	70	68	66	64	62	60	60	62	63	63	62
1933	61	62	59	60	63	67	73	76	78	78	76	75
1934	75	78	81	82	83	82	80	79	74	77	77	79
1935	81	82	83	82	81	80	81	82	82	84	85	86
1936	85	84	84									

See chart 27, p. 77

SOURCE: Federal Reserve Board, *Twenty-first Annual Report, 1934* and *Federal Reserve Bulletin, July 1936*

Table 38

INDEX NUMBERS OF MACHINE TOOL ORDERS IN THE UNITED STATES, 1919-1936

1923-25 = 100

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1919	147.7	114.4	155.0	152.9	177.7	177.0	257.1	226.4	209.9	279.4	281.7	301.7
1920	330.6	252.0	255.3	197.0	186.3	168.9	135.6	109.0	98.4	84.0	55.6	52.1
1921	32.7	33.9	36.6	32.9	35.1	33.4	20.6	25.0	20.0	28.0	27.7	33.0
1922	35.6	35.3	38.1	49.4	59.7	68.6	71.4	62.3	76.1	74.3	75.4	82.4
1923	100.4	101.7	146.1	109.4	111.9	89.7	92.7	119.2	109.9	89.9	111.9	94.6
1924	88.9	96.6	104.0	84.4	69.9	50.7	57.9	56.3	58.3	75.3	70.3	82.6
1925	82.6	90.1	106.1	103.7	107.3	125.9	121.6	127.7	118.4	164.6	149.7	128.7
1926	115.1	115.3	145.1	106.0	89.0	147.4	137.3	132.3	154.0	154.9	138.4	106.4
1927	97.1	113.1	120.1	99.9	100.9	109.9	102.6	135.0	84.1	105.7	106.3	133.9
1928	172.4	159.0	175.7	174.3	162.7	170.0	161.6	191.0	210.1	225.1	230.1	217.4
1929	231.3	266.1	265.0	253.3	264.9	231.0	204.9	236.1	190.9	255.3	141.6	131.1
1930	144.1	134.9	143.6	141.9	107.0	99.7	72.1	90.1	107.7	71.4	47.9	54.6
1931	53.0	66.3	93.1	83.3	69.1	58.3	48.7	56.9	44.4	35.3	40.3	53.6
1932	46.9	29.7	25.9	32.6	30.9	29.4	20.0	22.4	23.3	21.7	25.3	28.3
1933	25.0	12.0	10.6	12.9	21.9	31.6	42.7	45.4	44.1	53.1	65.6	100.0
1934	76.7	72.7	68.7	66.4	65.6	50.4	49.6	59.1	51.7	62.7	74.9	64.4
1935	93.6	75.7	89.0	93.7	104.7	130.1	171.1	179.7	114.3	147.0	140.9	140.4
1936	158.3	160.1	150.4									

See chart 27, p. 77

SOURCE: National Machine Tool Builders' Association

Table 39

INDEX NUMBERS OF INDUSTRIAL PRODUCTION IN THE UNITED STATES, 1919-1936
1923-25 = 100

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1919	82	79	76	78	78	83	87	89	87	86	85	86
1920	95	95	93	88	90	91	89	89	86	83	76	72
1921	67	66	64	64	66	65	65	67	68	71	71	70
1922	73	76	80	77	81	85	85	83	88	93	97	100
1923	99	100	103	106	106	106	104	103	100	99	98	97
1924	100	102	100	95	89	85	84	89	94	95	97	101
1925	105	104	103	102	102	102	103	103	101	104	107	109
1926	106	105	106	107	106	108	108	110	111	111	110	107
1927	107	108	110	108	109	107	106	106	104	102	101	102
1928	107	109	108	108	108	108	109	110	113	115	117	118
1929	119	118	118	121	122	125	124	121	121	118	110	103
1930	106	107	103	104	102	98	93	90	90	88	86	84
1931	83	86	87	88	87	83	82	78	76	73	73	74
1932	72	69	67	63	60	59	58	60	66	67	65	66
1933	65	63	59	66	78	91	100	91	84	76	72	75
1934	78	81	84	86	86	84	76	73	71	74	75	86
1935	91	89	88	86	85	86	86	87	90	95	97	104
1936	98	94	93									

See chart 27, p. 77

SOURCE: Federal Reserve Board, *Twenty-first Annual Report, 1934* and *Federal Reserve Bulletin*, July 1936

Table 40

CONSTRUCTION EXPENDITURES AND EMPLOYMENT IN THE PRODUCTION OF SIX
MAJOR CONSTRUCTION MATERIALS(a), UNITED STATES, 1925-1933

YEAR	CONSTRUCTION AND MAINTENANCE EXPENDITURES (millions of dollars)					INDEX OF EMPLOYMENT 1923-25=100
	PRIVATE (b)	RAIL- ROADS	POWER COMPANIES	TELEPHONE COMPANIES	PUBLIC(c)	
1925	5,237	1,223	884	502	2,717	101.8
1926	5,365	1,371	823	534	2,612	103.5
1927	5,175	1,339	844	545	3,045	97.9
1928	5,416	1,280	813	613	3,023	92.2
1929	4,451	1,370	906	795	2,776	91.8
1930	2,746	1,230	968	817	3,300	76.7
1931	1,761	787	654	604	2,927	60.7
1932	667	478	322	434	2,065	40.7
1933 (d)	575	395	75	352	1,300	38.5

(a) The six construction materials are: (1) brick, tile and terra cotta, (2) cast iron pipe, (3) cement, (4) steam fittings, (5) millwork, and (6) structural steel.

(b) Includes residential, commercial, factory, theatre, club, lodge, religious and memorial, and farm construction

(c) Includes city, county, state (excluding Federal aid), and Federal (including Federal aid but excluding D. C.)

(d) Construction partly estimated

See chart 26, p. 76

SOURCE: Gayer, A. D., *Public works in prosperity and depression*, p. 65

Table 41
NUMBER AND VALUE OF CONSTRUCTION CONTRACTS AWARDED
NEW YORK STATE AND UNITED STATES, 1919-1935

YEAR	NEW YORK STATE		UNITED STATES ¹	
	NUMBER OF PROJECTS	VALUATION (dollars)	NUMBER OF PROJECTS	VALUATION (dollars)
1919	11,789	434,812,100	82,342	2,579,880,500
1920	7,088	488,634,000	57,856	2,564,522,000
1921	12,241	524,590,000	78,208	2,355,244,000
1922	15,004	747,104,800	107,635	3,343,821,800
1923	16,312	885,947,200	120,085	3,990,483,400
1924	15,996	1,125,213,400	133,156	4,479,307,000
1925	16,315	1,359,763,400	173,720	6,006,426,300
1926	19,142	1,545,510,000	170,723	6,380,914,700
1927	19,129	1,401,006,000	184,604	6,303,055,100
1928	20,091	1,523,534,100	200,255	6,628,286,100
1929	14,884	1,217,307,200	172,171	5,750,790,500
1930	14,937	933,812,400	135,269	4,523,114,600
1931	14,748	759,639,700	110,203	3,092,849,500
1932	10,042	214,184,000	76,129	1,351,158,700
1933	11,239	209,682,000	85,217	1,255,708,400
1934	10,471	225,572,300	92,528	1,543,101,300
1935	11,081	304,035,100	113,491	1,844,544,900

¹ See footnote 5, p. 5

See chart 3, p. 7

SOURCE: F. W. Dodge Corporation

Table 42

INDEX NUMBERS OF THE TRENDS OF MANUFACTURING OPERATIONS, 1919-1933
 1919-1933 = 100

	NEW YORK STATE							
	1919	1921	1923	1925	1927	1929	1931	1933
Number of establishments	130.9	103.5	103.7	90.8	99.6	107.1	94.0	70.6
Number of wage-earners	119.2	97.6	112.2	104.0	104.6	107.9	82.7	71.5
Total wages	105.5	95.0	115.1	111.7	116.9	120.2	80.5	54.9
Value added by manufacture	100.8	84.7	108.2	109.9	118.5	128.2	87.9	61.8
	UNITED STATES							
	1919	1921	1923	1925	1927	1929	1931	1933
Number of establishments	139.1	99.7	99.9	95.3	97.5	107.3	89.2	72.1
Number of wage-earners	114.9	88.3	111.6	106.6	106.2	112.4	82.9	77.0
Total wages	111.1	87.2	116.9	114.0	115.3	123.5	76.3	55.9
Value added by manufacture	105.0	77.3	109.0	112.9	116.3	134.4	83.7	61.6

See chart 2, p. 6

SOURCE: State of New York, Department of Labor, forthcoming Special Bulletin, *Trend of manufactures in New York State from 1919 to 1933* (an analysis of census data, recomputed from 1929 base)

Table 43

INDEX NUMBERS OF MANUFACTURING OUTPUT IN THE UNITED STATES, 1929-1936
PERISHABLE, SEMI-DURABLE AND DURABLE GOODS

1929 = 100

	PERISHABLE											
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1929	100.9	100.0	98.9	100.6	98.4	100.4	99.5	100.8	102.1	101.0	99.0	98.3
1930	97.1	97.6	95.0	98.2	97.4	95.1	93.7	91.1	92.9	91.7	88.8	86.8
1931	89.8	89.9	89.1	92.0	90.5	87.3	89.1	87.4	88.6	86.0	85.5	88.0
1932	87.2	83.7	81.0	83.0	82.4	77.3	77.0	75.2	78.6	79.5	76.2	76.2
1933	76.2	75.2	74.1	82.2	85.3	88.8	89.5	87.6	92.7	83.3	83.4	83.3
1934	87.2	85.5	82.6	87.8	89.1	89.4	91.2	92.5	98.3	92.4	90.4	91.7
1935	86.4	83.9	82.5	82.9	82.1	82.6	81.3	82.5	83.9	85.0	86.1	86.8
1936	88.8	87.0	87.6									

	SEMI-DURABLE											
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1929	101.5	99.8	101.8	103.3	103.9	104.5	101.8	101.6	99.8	101.4	94.0	86.5
1930	90.2	87.2	86.6	84.6	79.2	75.2	74.5	72.3	76.7	77.9	79.1	77.4
1931	74.6	81.7	84.0	84.3	86.8	84.6	87.6	86.1	84.9	78.1	75.5	75.7
1932	77.1	75.2	72.1	60.0	55.3	59.7	62.1	76.0	86.7	83.8	78.7	77.2
1933	74.1	71.9	65.3	74.1	93.7	112.5	112.3	97.7	85.7	79.7	78.5	72.0
1934	78.0	82.2	84.5	82.6	80.4	70.8	71.1	72.0	59.3	76.7	77.8	87.7
1935	91.1	88.4	86.6	87.2	89.0	86.6	90.8	90.2	91.9	97.0	94.5	100.5
1936	94.0	89.0	86.9									

	DURABLE											
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1929	100.0	99.1	101.2	102.4	105.9	111.2	110.6	105.3	102.6	98.2	87.9	75.9
1930	82.4	88.2	85.0	84.4	82.4	78.8	70.6	66.8	63.5	59.1	57.1	54.7
1931	56.5	57.6	59.4	58.2	56.2	50.9	47.9	42.4	37.6	35.6	37.6	38.2
1932	35.3	32.9	29.1	28.8	27.6	27.1	23.8	20.9	24.1	25.6	26.8	28.5
1933	29.1	26.8	22.1	29.4	37.9	52.4	67.1	58.2	49.1	43.8	35.3	44.1
1934	44.1	48.5	52.9	56.5	58.8	58.8	41.8	37.4	35.6	35.0	37.4	51.5
1935	61.5	60.9	59.4	58.2	53.5	55.9	57.9	61.5	62.9	68.2	74.7	81.5
1936	70.6	64.4	67.6									

See chart 25, p. 74

SOURCE: *Federal Reserve Bulletin*, June 1936, and Courtesy of National Bureau of Economic Research

Table 44

SAVINGS OF NON-FARM FAMILIES, UNITED STATES, 1929

INCOME CLASS	NUMBER OF FAMILIES	AMOUNT OF SAVINGS
	(thousands)	(millions)
All classes	21,628	\$15,563
Over \$10,000	631	10,120
\$5,000-10,000	1,551	2,267
2,500-5,000	5,107	2,258
1,500-2,500	6,905	918
Under 1,500	7,434	0

SOURCE: *America's capacity to consume*, The Institute of Economics of The Brookings Institution

Table 45

USUAL OCCUPATION OF WORKERS, MARCH 1935

Percentage distribution of the estimated number of workers(a), 16 to 64 years of age, in the United States, working or seeking work, on relief, classified by socio-economic type of usual occupation(b)

SOCIO-ECONOMIC TYPE	WORKERS ON RELIEF (per cent)	ALL WORKERS (per cent)
All types	100.0	100.0
Professional	1.6 } 12.4	6.0 } 25.8
Proprietary		
Clerical	7.9	16.3
Skilled	14.9	12.9
Semi-skilled	24.0	16.3
Unskilled	40.8	28.7

(a) Eligibles for WPA employment, excluding inexperienced persons

(b) "Unknown occupations" distributed

SOURCE: Works Progress Administration, Division of Social Research

Table 46

DISTRIBUTION OF INCOME, UNITED STATES, 1929

INCOME CLASS	NUMBER OF FAMILIES (thousands)	AMOUNT OF INCOME (millions)
All classes	36,323	\$93,685
Over \$10,000	747	25,723
\$5,000-10,000	1,816	12,123
3,000-5,000	4,045	15,266
2,000-3,000	6,059	14,637
1,500-2,000	5,993	10,399
1,000-1,500	7,782	9,693
Under 1,000 (a)	9,881	5,844

(a) Those in the income class below \$0. omitted

SOURCE: *America's capacity to consume*, The Institute of Economics of The Brookings Institution

Table 47

NATIONAL INCOME PAID OUT, BY TYPE OF PAYMENT, 1929-1935
(millions of dollars)

ITEM	1929	1930	1931	1932	1933	1934	1935
Total income paid out	78,632	72,932	61,704	48,362	44,940	50,173	53,587
Labor income	51,487	47,198	39,758	30,920	29,420	33,528	36,057
Salaries (selected industries) ¹	5,663	5,548	4,606	3,387	3,048	3,250	3,417
Wages (selected industries) ¹	17,197	14,251	10,608	7,017	7,189	8,944	10,149
Salaries and wages (all other industries)	27,690	26,409	23,461	19,417	17,591	19,046	20,173
Work relief wages ²					619	1,389	1,313
Other labor income	937	990	1,083	1,099	973	899	1,005
Property income ³	11,218	11,302	9,764	7,980	6,969	7,211	7,303
Dividends	5,964	5,795	4,312	2,754	2,208	2,549	2,830
Interest	5,104	5,305	5,169	4,975	4,592	4,569	4,422
Net rents and royalties	3,424	2,766	2,096	1,470	1,245	1,382	1,526
Entrepreneurial withdrawals	12,503	11,666	10,086	7,992	7,306	8,052	8,701

¹ Includes mining, manufacturing, construction, steam railroads, Pullman, railway express, and water transportation

² Includes payrolls and maintenance of Civilian Conservation Corps enrollees and payrolls of Civil Works Administration, Federal Emergency Relief Administration and Works Progress Administration work projects plus administrative payrolls outside of Washington

³ Includes also net balance of international flow of property incomes

See chart 22, p. 45

SOURCE: U. S. Department of Commerce, *Survey of Current Business*, July 1936

Table 48

AVERAGE PERCENTAGE OF UNEMPLOYMENT IN NEW YORK TRADE UNIONS
IN MANUFACTURING, TRANSPORTATION, THE BUILDING TRADES,
AND OTHER OCCUPATIONS
1897-1916

YEAR	PERCENTAGE UNEMPLOYED	YEAR	PERCENTAGE UNEMPLOYED
1897	25.3	1907	16.2
1898	24.1	1908	29.7
1899	15.8	1909	18.5
1900	20.0	1910	19.1
1901	15.1	1911	21.1
1902	14.8	1912	17.3
1903	17.5	1913	25.3
1904	16.9	1914	28.9
1905	11.2	1915	24.7
1906	9.3	1916	18.8(a)

(a) First six months only; series discontinued thereafter

SOURCES: State of New York, Bureau of Labor Statistics, *Annual reports*, 1898-1912; State of New York, Department of Labor, *Bulletins* 58, 69, 73 and 85

EXPLANATION OF THE CONSTRUCTION OF CHART 1 (Part I, pp. 3-5)

"The index is composed of one set of 10 series of annual data from 1790 to 1855, and of another set of 10 series of annual data from 1855 to 1901. The fluctuations above and below normal were computed for each series separately, and the 10 were then combined in one. Normal values for each series were means between one set of lines running from one prosperity peak to the next, and another similar set of lines running from each depression bottom to the next. The annual figures from 1901 to 1919 are those of the Thomas index of manufacturing production with mineral production added, and from 1919 to date the monthly figures of the Federal Reserve (Thomas) index of industrial production have been used. All the data were reduced to a per capita basis.

The computations of the fluctuations of each of the 10 series constituting the index from 1855 to 1901 were carried through to include 1930, and the coefficient of correlation between each of them and the production series running from 1901 through 1930 was computed. Their deviations were then multiplied through by constants so as to equate their amplitudes of cyclical fluctuation. Each of the 10 series was then given a weight based on its degree of correlation with the production series, and with these weightings they were combined into a single index. The 10 series with these weights are pig iron consumption 15, railroad freight ton miles 15, cotton consumption 14, canal freight (New York and Sault Ste. Marie) 12, coal production 12, construction of miles of new railroads 12, blast furnace activity 10, rail production 6, locomotive production 2, and ship construction 2. The 10 series combined give results closely similar to those of the production series for the overlap period from 1901 through 1930. The heights of prosperities, and the depths of depressions, are closely alike in the two series. The coefficient of correlation for the period is .95. Their average deviations for the period are equal.

In a similar way the computations of the fluctuations of each of the 10 series constituting the index from 1790 to 1855 were carried through to include 1882, and the coefficient of correlation between each of them and the first 28 years of the index running from 1855 to 1901 was computed. Their deviations were then multiplied through by constants so as to equate their amplitudes of cyclical fluctuation. Each of the 10 series was then given a weight based on its degree of correlation with the first 28 years of the index from 1855 to 1901, and with these weightings they were combined into a single index. The 10 series with these weights are commodity prices 20, imports 18, imports retained for consumption 16, government receipts 14, ship construction 12, government expenditures 6, coal production 6, exports 5, iron exports 2, and tons of registered shipping in service 1. The 10 series combined give results closely similar to those of the other index for the overlap period from 1855 through 1882. The heights of prosperities, and the depths of depressions, are closely alike in the two series. The coefficient of correlation for the period is .90. Their average deviations for the period are equal.

When the annual data were determined the monthly data were fitted to them. These monthly data were based on the figures of the business index of the American Telephone and Telegraph Company and on data for blast furnace activity from 1877 to 1919. Monthly data for bank clearings and for stock prices were used from 1861 to 1877, and those for security and commodity prices from 1815 to 1861. From 1790 to 1815 the monthly data are based on commodity prices. . . ."

Diagrams of *American business activity since 1790* (Tenth Edition) and *Business activity and four price series* (Sixth Edition), January 1936
The Cleveland Trust Company, Cleveland, Ohio

APPENDIX VII

New York State Unemployment Insurance Law

NEW YORK STATE UNEMPLOYMENT INSURANCE LAW

ARTICLE 18 OF THE NEW YORK STATE LABOR LAW, AS INSERTED BY CHAPTER 468 OF THE LAWS OF 1935, AND AMENDED BY CHAPTER 117 OF THE LAWS OF 1936, EFFECTIVE MARCH 18, 1936, AND BY CHAPTER 697 OF THE LAWS OF 1936, EFFECTIVE MAY 23, 1936.

ARTICLE 18

UNEMPLOYMENT INSURANCE FUND

- Section 500. Declaration of public policy of state.
- 501. Short title.
 - 502. Definitions.
 - 503. Liability for payment of benefits.
 - 504. Waiting period.
 - 505. Amount of benefits.
 - 506. Disqualification for benefits.
 - 507. Limitation of amount of benefits.
 - 508. Seasonal employment.
 - 509. Part time employment.
 - 510. Adjudication and payment of claims.
 - 511. Fees and compensation of attorneys.
 - 512. Waiver agreement void.
 - 513. Assignment of benefits; exemption.
 - 514. Unemployment insurance fund.
 - 515. Payment of contributions.
 - 516. Contributions to the unemployment insurance fund.
 - 517. Agreement to contributions by employees void.
 - 518. Administration.

- 519. State commissioner of taxation and finance
custodian of funds.
- 520. Unemployment administration fund.
- 521. Record and audit of payrolls.
- 522. Collection of contributions in case of default.
- 523. Provisions governing assessment and collec-
tion of contributions.
- 524. Disclosures prohibited.
- 525. Expenses of administration.
- 526. Expenses of hearings.
- 527. Study of partial unemployment.
- 528. Penalties.
- 529. Fund to be sole source of benefits under
article; non-liability of state.
- 530. Separability of provisions.
- 531. Saving clause.

§ 500. DECLARATION OF PUBLIC POLICY OF STATE. As a guide to the interpretation and application of this article, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, welfare and morals of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. After searching examination of the effects of widespread unemployment within the state, the joint legislative committee on unemployment appointed pursuant to a joint resolution adopted April ninth, nineteen hundred thirty-one, has reported to the legislature that "the problem of unemployment can better be met by the so-called compulsory unemployment insurance plan than it is now handled by the barren actualities of poor relief assistance backed by compulsory contribution through taxation. Once the facts are apprehended this conclusion is precipitated

with the certainty of a chemical reaction." Taking into account the report of its own committee, together with facts tending to support it which are matters of common knowledge, the legislature therefore declares that in its considered judgment the public good and the well-being of the wage earners of this state require the enactment of this measure for the compulsory setting aside of financial reserves for the benefit of persons unemployed through no fault of their own.

§ 501. **SHORT TITLE.** This article shall be known and may be cited as the "unemployment insurance law."

§ 502. **DEFINITIONS.** As used in this article: 1. "Employment," except where the context shows otherwise, means any employment under any contract of hire, express or implied, written or oral, including all contracts entered into by helpers and assistants of employees, whether paid by employer or employee, if employed with the knowledge actual or constructive of the employer, in which¹ all or the greater part of the work is to be performed within this state.²

But for the purposes of this article, "employment" shall not include:

- (1) Employment as a farm laborer;³ or
- (2) Employment by an employer of his spouse or minor child.⁴

¹ Words "either: (a)" eliminated by L. 1936, ch. 117.

² Paragraph "or (b) The contract of employment is entered into within, and the work is in any part to be performed within this state. For purposes of this article, contracts entered into by employers, subject to this article, with persons residing in the state of New York, shall be considered to be contracts entered into within this state" eliminated by L. 1936, ch. 117.

³ Word "or" inserted by L. 1936, ch. 117.

⁴ Paragraph "or (3) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual" eliminated by L. 1936, ch. 117, from this Subd. 1, and inserted with appropriate modification in Subd. 3 of this § 502.

2. "Employee" means any person, including aliens and minors, employed for hire by an employer in an employment subject to this article, except any person employed at other than manual labor at a rate of wages of more than ¹ twenty-six hundred dollars a year or of more than fifty dollars a week.

¹ Word "twenty-six" substituted for word "twenty-five" by L. 1936, ch. 117.

3. "Employer" means any person, partnership, firm, association, public or private, domestic or foreign corporation, the legal representatives of a deceased person, or the receiver, trustee or successor of a person, partnership, firm, association, public or private, domestic or foreign corporation (excluding the state of New York municipal corporations and other governmental subdivisions ¹ and excluding any corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual), who or whose agent or predecessor in interest has employed at least four persons in any employment subject to this article within each of thirteen or more calendar weeks in the year nineteen hundred thirty-five or any subsequent calendar year; provided that such employment in nineteen hundred thirty-five shall make an employer subject on January first, nineteen hundred thirty-six, and such employment in any subsequent calendar year shall make a newly-subject employer subject for all purposes as of January first of the calendar year in which such employment occurs. Whenever any helper, assistant or employee of an employer engages any other person in the work which said helper, assistant or employee is doing for the employer, such employer shall for all purposes hereof be deemed the employer of such other person, whether such person is paid by the said helper, assistant or employee, or by the

employer, provided the employment has been with the knowledge, actual, constructive or implied, of the employer. In determining whether an employer employs enough persons to be an employer, subject hereto, and in determining for what contributions he is liable hereunder, he shall, whenever he contracts with any subcontractor for any work which is part of his usual trade, occupation, profession or business, be deemed to employ all persons employed by such subcontractor² for such work, and he alone shall be liable for the contribution measured by wages paid to such persons for such work; except as any such subcontractor, who would in the absence of the foregoing provision be liable for the payment of contributions herein, accepts exclusive liability for said contributions under an agreement with such employer made pursuant to regulations promulgated by the commissioner. All persons thus employed by an employer (of any person) within the state, in all of his several places of employment maintained within the state, shall be treated as employed by a single employer for the purposes of this article³ excepting, however, persons employed in personal or domestic service in private homes, and with respect to such persons, an employer shall not be subject to this article unless he has employed a total in all the several places of such personal or domestic service maintained by him within the state of at least four such persons within each of thirteen or more calendar weeks in the year nineteen hundred thirty-five or any subsequent calendar year. Any employer subject to this article shall cease to be subject hereto only upon a written application by him and after a finding by the commissioner that he has not within any calendar week within the last completed calendar year employed four or more persons in employment subject hereto. Any employer (of any person within the state) not otherwise subject to this article shall become fully subject hereto, upon filing by such employer with the commissioner of his election to become fully subject hereto

for not less than two calendar years, subject to written approval of such election by the commissioner.

¹ Words "and excluding . . . shareholder or individual" inserted by L. 1936, ch. 117.

² Word "for" substituted for word "or" by L. 1936, ch. 117.

³ Clause "; provided, moreover, that where any person, partnership, association, corporation, whether domestic or foreign, or the legal representative, trustee in bankruptcy, receiver, or trustee thereof, or the legal representative of a deceased person, either directly or through a holding company or otherwise, has a majority control or ownership of otherwise separate business enterprises employing persons in the state, all such enterprises shall be treated as a single employer for the purposes of this article" eliminated, and words "excepting, however, persons . . . calendar year" inserted at this point by L. 1936, ch. 117.

4. "Fund" means the unemployment insurance fund created by this article.

5. "Benefit" means the money allowance payable to an employee as provided in this article.

6. "Wages" shall mean every form of remuneration for employment received by an employee from his employer, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging or similar advantage received. Where gratuities are received by the employee in the course of his employment from a person other than his employer, the value of such gratuities shall be determined by the commissioner and be deemed and included as part of his wages received from his employer.

7. "Payroll" shall mean all wages received by employees as defined in subdivision two of section five hundred and two herein from their employer.

8. "Full-time weekly wages" means the weekly wages that an employee would receive at current rates if he were employed the full number of scheduled or customary working hours per week in the employment in which he is usually engaged, provided he has been so engaged for the

greater portion of his working time within the twelve months preceding the day on which benefits are to commence. If he has not been so engaged in his usual employment within the said twelve months period, then "full-time weekly wages" means the weekly wages that he would receive at current rates if he were employed the full number of scheduled or customary working hours per week in that employment most similar to his usual employment and in which he has had the longest period of employment within the said preceding one-year period. The commissioner shall make such rules and adopt such methods of calculating full-time weekly wages as may be suitable and reasonable under this article.

9. "A day of employment" means any day in which an employee has had employment for all or any part of the day with an employer and in an employment subject to this article.

10. "Total unemployment" means the total lack of any employment, including employment not subject to this article, together with the total lack of all wages both of which are caused by the inability of an employee who is capable of and available for employment to obtain any employment in his usual employment or in any other employment for which he is reasonably fitted by training and experience, including employments not subject to this article.

§ 503. LIABILITY FOR PAYMENT OF BENEFITS. 1. Benefits shall be paid from the fund to each unemployed employee entitled thereto.

2. Benefits shall become payable two years from the date on which contributions by employers become payable under this article.

3. No employee shall be entitled to any benefits unless he
(a) is suffering total unemployment as defined in this article; and

(b) has, as provided in this article, registered as totally unemployed and reported for work or otherwise given notice of the continuance of his unemployment; and

(c) has had not less than ninety days of employment as defined in this article within the twelve months preceding the day on which benefits are to commence, or (in the alternative) unless he has had not less than one hundred and thirty days of employment during the twenty-four months preceding the day on which benefits are to commence, ¹ except that days of employment occurring prior to January first, nineteen hundred thirty-seven shall not be included; and

(d) in no case shall the fund be liable to pay benefits to an employee for any unemployment occurring more than twelve months after the date on which such employee was in employment, and in no case in which the claim for benefit has not been filed in the local state employment office as provided in section five hundred and ten, subdivision three, within two years of the last day of employment preceding the period for which such claim is made.

(e) The fund shall pay benefits to employees in the ratio of one week of benefit for each fifteen days of employment within the fifty-two weeks preceding the beginning of the payment of benefits.

¹ Words "except that . . . not be included" inserted by L. 1936, ch. 117. National banks are not subject to the Unemployment Insurance Law: Opinion of Attorney-General, January 27, 1936; nor are owners and operators of vessels in admiralty as concerns vessel officers and crews: Opinion of Attorney-General, January 27, 1936; but owners and operators of dry docks and marine railways are subject: Opinion of Attorney-General, February 26, 1936.

§ 504. WAITING PERIOD. 1. An employee shall be entitled to benefits on account of unemployment which continues subsequent to a waiting period of three weeks after notification of unemployment: Provided that not more than five weeks of unemployment for which no benefit is paid shall be required as a waiting period within any calendar

year (except as otherwise provided under subdivision two of this section). No week of unemployment shall count as a waiting period in any case except weeks of unemployment as to which notification of unemployment has been given.

2. An employee shall not be entitled to benefits except for unemployment which continues subsequent to a waiting period of ten weeks:

(a) if he has lost his employment through misconduct in connection with his employment; or

(b) if he has lost his employment because of a strike, lockout or other industrial controversy in the establishment in which he was employed.

§ 505. AMOUNT OF BENEFITS. 1. Benefits shall be payable on account of total unemployment after the specified waiting period at the rate of fifty per centum of the employee's full-time weekly wages, but not to exceed a maximum of fifteen dollars per week, nor to be less than a minimum of five dollars per week.

2. Jurisdiction over benefits shall be continuous. Upon his own initiative, or upon application of any party in interest, on the ground of a change in conditions, or because of a mistake as to fact, the commissioner may at any time review an award of benefits or the denial of a claim therefor, in accordance with the procedure prescribed in respect to claims; and in accordance with same, issue a new decision which may terminate, continue, increase, or decrease such benefits. Such new order shall not affect any benefits paid under authority of the prior order.

§ 506. DISQUALIFICATION FOR BENEFITS. ¹ No benefits shall be payable to any employee who refuses to accept an offer of employment for which he is reasonably fitted by training and experience, including employments not subject to

this article; provided, however, that no employee otherwise qualified to receive benefits shall lose the right to benefits by reason of a refusal to accept ² employment if

(a) acceptance of such employment would either require the employee to join a company union or would interfere with his joining or retaining membership in any labor organization; or

(b) there is a strike, lockout or other industrial controversy in the establishment in which the employment is offered; or

(c) the employment is ³ at an unreasonable distance from his residence, or travel to and from the place of employment involves expense substantially greater than that required in his former employment unless the expense be provided for; or

(d) the wages, hours ⁴ or conditions offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or are such as tend to depress wages or working conditions.

¹ Subdivision number "1" eliminated by L. 1936, ch. 117.

² Spelling "employment" substituted for spelling "imployment" by L. 1936, ch. 117.

³ Words "either not within the state or" eliminated by L. 1936, ch. 117.

⁴ Word "or" substituted for word "and" by L. 1936, ch. 117.

For interpretation of par. (d) of this § 506 prior to the amendment substituting "or" for "and", see Opinion of Attorney-General, January 9, 1936.

§ 507. LIMITATION OF AMOUNT OF BENEFITS. The total amount of benefits to which an employee shall be entitled in any consecutive fifty-two weeks shall not exceed sixteen times his benefit for one week of total unemployment.

§ 508. SEASONAL EMPLOYMENT. An employee who is ordinarily engaged in an occupation or industry in which, because of the seasonal nature thereof it is customary to operate only during a regularly recurring period or

periods of less than a year in length and who, during the portion or portions of the year when such occupation or industry is not in operation, is not ordinarily engaged in any other employment (whether it be an employment subject to this article or not) shall be deemed a seasonal employee. A seasonal employee shall be entitled to benefits only if he suffers unemployment within the longest seasonal period or periods during which, by the best practice of the occupation or industry in which he is engaged, operations are conducted. The number of days of employment required to qualify for benefits (as provided for by paragraph e of subdivision three of section five hundred three) and the duration of benefits (as provided for by paragraph e of subdivision three of section five hundred three and by section five hundred seven hereof) shall be modified for seasonal employees in proportion to such longest seasonal period or periods of their respective occupations or industries.

The commissioner shall determine and may at any time, after investigation and hearing, re-determine such longest seasonal period or periods for each seasonal occupation or industry and when he has made this determination he shall also fix the proportionate number of days of employment required to qualify for benefits and the proportionate duration of benefits for the seasonal employees engaged in the several seasonal occupations or industries. Until such determination by the commissioner, no occupation or industry shall be deemed seasonal.

Original § 508 relative to seasonal employment repealed and this new § 508 substituted therefor by L. 1936, ch. 117. The original section limited seasonal employment to "any branch of any occupation or industry" in which "it is customary to operate only during a period of not more than eighteen weeks in any year."

§ 509. **PART-TIME EMPLOYMENT.** An employee who for reasons personal to himself is unable or unwilling to work usual full-time and who customarily works less than the full-time prevailing in his place of employment shall register as a short-time worker in such manner as the commis-

sioner shall prescribe. The time which such employee normally works in any calendar week shall be deemed his week of full-time employment and the wages which he earns in such week shall be deemed his full-time weekly wages. The commissioner shall fix the proportionate number of days of employment required to qualify for benefits in place of the provisions contained in paragraph (c) ¹ of subdivision three of section five hundred ² three, and proportionate maximum and minimum benefits in lieu of the maximum and minimum amounts provided in subdivision one of section five hundred ³ five.

¹ Words "of subdivision three" inserted by L. 1936, ch. 117.

² Word "three" substituted for words "and two" by L. 1936, ch. 117.

³ Word "five" substituted for words "and four" by L. 1936, ch. 117.

§ 510. ADJUDICATION AND PAYMENT OF CLAIMS. 1. Any employee claiming benefits shall register as totally unemployed at a local state employment office in the district in which he was last employed or in which he resides in accordance with such rules as the commissioner shall prescribe. After so registering an employee claiming benefits shall report for work at the same local state employment office or otherwise give notice of the continuance of his unemployment as often and in such manner as the commissioner shall prescribe.

2. In claiming benefits hereunder an employee shall for each week of his unemployment correctly report any wage-earning employment he had in such week and any wages he received for such employment, including employments not subject to this article, and shall make such reports in accordance with such rules as the commissioner shall prescribe.

3. Claims for benefits shall be filed at the local state employment office at which the employee has registered as unemployed within such time and in such manner as the commissioner shall prescribe. Notice of the filing of the claim shall be sent to the employee's last employer. The

manager of such office ¹ or his duly authorized deputy shall, in accordance with the rules and procedure established by the commissioner, determine the validity of the claim and the amount of benefits payable to the employee thereunder. Any benefits found payable thereunder shall be paid by the commissioner to the employee at such time and in such manner as the commissioner shall prescribe. The employee, if dissatisfied with the finding of the manager ² or of his duly authorized deputy, or any other party affected by such finding may within ten days of such finding request to have the case reopened, and shall be heard by the manager ¹ or his duly authorized deputy. The manager ¹ or his duly authorized deputy shall render his decision within five days, and shall notify the employee and any other party affected who appeared at the hearing.

¹ Words "or his duly authorized deputy" inserted by L. 1936, ch. 117.

² Words "or of his duly authorized deputy" inserted by L. 1936, ch. 117.

4. Within ten days after the decision of the manager ¹ or of his duly authorized deputy, an appeal to the appeal board may be taken by the employee or by any other party affected who appeared at the hearing before the manager ² or his duly authorized deputy, by filing a notice of appeal with the manager ² or his duly authorized deputy. The appeal board shall fix a time for hearing and shall notify the employee and any other party affected who appeared at the hearing before the manager ² or his duly authorized deputy. At the hearing the manager ² or his duly authorized deputy, the employee and such other parties may be represented by an agent. The appeal board may decide any case appealed to it on the basis of the record and of evidence previously submitted in such case, or it may, in its discretion, hold a further hearing to secure additional evidence. The appeal board shall render its decision within ten days and shall notify the employee and such other parties. Where the appeal board affirms a decision of a manager ¹ or of his duly authorized deputy allowing benefits, such benefits shall be paid regardless of

any appeal which may thereafter be taken to the courts as hereinafter provided, but if the said decision is finally reversed by the courts, the commissioner shall have a right of action for the recovery of the moneys paid pursuant to said decision.

¹ Words "or of his duly authorized deputy" inserted by L. 1936, ch. 117.

² Words "or his duly authorized deputy" inserted by L. 1936, ch. 117.

5. The manner in which disputed claims shall be presented and the conduct of hearings before managers of the local employment offices ¹ or their duly authorized deputies and of appeals before the appeal board shall be governed by suitable rules and regulations established by the commissioner. The managers of the local employment offices and the appeal board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, but may conduct the hearings and appeals in such manner as to ascertain the substantial rights of the parties.

¹ Words "or their duly authorized deputies" inserted by L. 1936, ch. 117.

6. A decision of a manager ¹ or of his duly authorized deputy, if not appealed from, shall be final on all questions of fact and of law. A decision of the appeal board shall be final on all questions of fact, and, unless appealed from, shall be final on all questions of law.

¹ Words "or of his duly authorized deputy" inserted by L. 1936, ch. 117.

7. Within thirty days after notification of a decision by the appeal board the employee or any other party affected who appeared at the appeal before the appeal board may appeal questions of law involved in such decision to the appellate division of the supreme court, third department. The appeal board may also, in its discretion, certify to such court questions of law involved in its decisions. Such appeals and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court except cases arising under the

workmen's compensation law. The appeal board shall be represented in court by the attorney-general without additional compensation. An appeal may be taken from the decision of such court to the court of appeals in the same manner and subject to the same limitations, not inconsistent herewith, as is provided for in civil actions. It shall not be necessary to file exceptions to the rulings of the appeal board and no bond shall be required to be filed upon an appeal to the court of appeals. Upon final determination of an appeal, the appeal board shall enter an order in accordance with such determination.

§ 511. FEES AND COMPENSATION OF ATTORNEYS. 1. No fee shall be charged in any proceeding under this article by the commissioner or his agents, or by any court or the clerks thereof.

2. In any proceeding under this article a party may be represented by an agent, but no fees for services rendered by such agent shall be allowable or payable unless such agent is an attorney and counselor-at-law.

3. Claims of attorneys and counselors-at-law for services in connection with any claim arising under this article shall not be enforceable unless approved by the commissioner, and shall in no event exceed ten per cent of the benefit allowed. If so approved, such claim or claims shall become a lien upon the benefits allowed, but shall be paid therefrom only in the manner fixed by the commissioner. Any person, firm or corporation who shall exact or receive any remuneration or gratuity for any services rendered on behalf of a claimant except as allowed by this section and in an amount approved by the commissioner shall be guilty of a misdemeanor. Any person, firm or corporation who shall solicit the business of appearing on behalf of a claimant or who shall make it a business to solicit employment for another in connection with any claim for benefits under this article shall be guilty of a misdemeanor.

§ 512. **WAIVER AGREEMENT VOID.** No agreement by an employee to waive his rights under this article shall be valid.

§ 513. **ASSIGNMENT OF BENEFITS; EXEMPTION.** Benefits due under this article shall not be assigned, pledged, encumbered, released or commuted and shall, except as otherwise provided in section five hundred and eleven, subdivision three, be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

§ 514. **UNEMPLOYMENT INSURANCE FUND.** There is hereby created a fund to be known as "the unemployment insurance fund." Such fund shall consist of all contributions received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund and of interest earned upon moneys belonging to the fund and deposited or invested. The fund shall be administered in trust and be used solely to pay benefits, upon vouchers drawn on the fund by the commissioner pursuant to the rules established by him.

§ 515. **PAYMENT OF CONTRIBUTIONS.** 1. On and after the first day of January, nineteen hundred thirty-six, contributions shall be payable by each employer then subject to this article. Contributions shall become payable by any other employer on and after the date on which he becomes subject to this article.

2. All contributions from employers shall be paid at such times and in such manner as the commissioner may prescribe, but in no event shall any contribution be paid prior to March first, nineteen hundred thirty-six.

3. All contributions paid under this article shall upon collection be deposited in or invested in the obligations of

the "Unemployment Trust Fund" of the United States government or its authorized agent, so long as said trust fund exists, notwithstanding any other statutory provision to the contrary. The commissioner shall requisition from the unemployment trust fund necessary amounts from time to time.

§ 516. CONTRIBUTIONS TO THE UNEMPLOYMENT INSURANCE FUND. The contribution regularly payable by each employer shall be an amount equal to three per centum of the payroll of employees, as herein defined, except that the contribution payable by each employer for the calendar year nineteen hundred thirty-six shall be an amount equal to one per centum of such payroll and for the year nineteen hundred thirty-seven shall be an amount equal to two per centum of such payroll.

§ 517. AGREEMENT TO CONTRIBUTIONS BY EMPLOYEES VOID. No agreement by an employee to pay any portion of the payment made by his employer for the purpose of providing benefits required by this article, shall be valid and no employer shall make a deduction for such purpose from the wages or salary of any employee.

§ 518. ADMINISTRATION. 1. This article shall be administered by the commissioner and for such purpose he shall have power to make all rules and regulations and, subject to the regulations of the civil service, to appoint such officers and employees as may be necessary in the administration of this article.

2. The commissioner may create as many employment districts and may establish and maintain as many state employment offices as he deems necessary to carry out the provisions of this article.

3. It shall be one of the purposes of this article to promote the regularization of employment in enterprises.

localities, industries, and the state. The commissioner shall take such steps as are within his means for the reduction and prevention of unemployment. To this end the commissioner may employ experts, and may carry on and publish the results of any investigations and research which he deems relevant, whether or not directly related to the other purposes and specific provisions of this article.

4. There is hereby created a state advisory council of nine members to be appointed by the governor. Three of the appointees to this council shall be persons who, on account of their previous vocations, employments or affiliations, can be classed as representatives of employers; three appointees, shall be persons who, on account of their previous vocations, employments or affiliations, can be classed as representatives of employees; and three appointees, shall be persons representative of the public. The members of said council shall be appointed within thirty days after the enactment of this article. One representative of the employers, one representative of the employees and one representative of the public shall be appointed for a term of two years; one representative of the employers, one representative of the employees and one representative of the public shall be appointed for a term of four years; and one representative of the employers, one representative of the employees and one representative of the public shall be appointed for a term of six years; and thereafter as their terms expire the governor shall appoint or reappoint members for the term of six years. The governor at any time may remove a member of the state advisory council for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office. Vacancies shall be filled by appointment by the governor for the unexpired term. The members of the state advisory council shall serve without salary, but shall be allowed actual and necessary traveling and other incidental expenses. The state advisory council shall consider and shall advise the commissioner upon all matters connected with this article sub

mitted to it by the commissioner and may recommend upon its own initiative such changes in the administration of this article as it deems necessary. It shall have full investigatory powers, and shall have direct access to all sources of information.

The council shall investigate and study the operation of this article upon the basis of the actual contribution and benefit experience hereunder with a view to classifying or grouping employers, employments, occupations or industries with respect to the frequency and severity of unemployment of each, taking due account of any relevant and measurable factors relating thereto, and to report on the practicability of the establishment of a rating system which would most equitably operate to rate the unemployment risk and fix the contribution to such fund for each employer, group of employers, employment, occupation or industry and to encourage the stabilization of employment therein. In determining the establishment of such rating system it is hereby declared to be the public policy that no rate of contribution on payrolls required from any individual employer shall be less than one per centum. The council shall report its findings and recommendations to the governor and the legislature not later than March first, nineteen hundred thirty-nine.

5. The commissioner shall divide the state into such number of employment districts as he finds necessary and shall maintain a district office in each of said districts. Each district office shall be in charge of a district superintendent. In each district the commissioner shall establish such number of local employment offices as he finds necessary. which offices, in addition to the other duties prescribed herein and by the commissioner, shall act as free public employment exchanges. Each local employment office shall be in charge of a local manager.

6. There shall be an appeal board of three members appointed by the governor to serve on a salary basis.

The first appointment of the appeal board members shall be made for terms of two, four and six years respectively, and thereafter as their terms expire the governor shall appoint or reappoint members for terms of six years. A member of an appeal board may be removed by the governor for cause, after a hearing. Vacancies shall be filled by appointment by the governor for the unexpired term. Any hearing, inquiry or investigation required or authorized to be conducted or made by the appeal board may be conducted or made by any individual member thereof, and the order, decision or determination of such member shall be deemed the order, decision or determination of the board from the date of filing thereof in the department, unless the board on its own motion or an application duly made to it modify or rescind such order, decision or determination.

§ 519. STATE COMMISSIONER OF TAXATION AND FINANCE CUSTODIAN OF FUNDS. The state commissioner of taxation and finance shall be the custodian of the funds received upon requisition by the commissioner from the unemployment trust fund and the industrial commissioner shall direct the distribution thereof. The state commissioner of taxation and finance shall give a separate and additional bond in an amount to be fixed by the industrial commissioner and with sureties approved by the state comptroller conditioned for the faithful performance of his duty as custodian of such funds. The state commissioner of taxation and finance may deposit any portion of such funds not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other state funds by him. Interest earned by such portion of such funds deposited by the state commissioner of taxation and finance shall be collected by him and placed to the credit of the fund.

§ 520. UNEMPLOYMENT ADMINISTRATION FUND. There is hereby created the unemployment administration fund to

consist of all moneys received by the state or the commissioner for the administration of this article. Such fund shall be handled by the commissioner of taxation and finance and state comptroller as other state moneys are handled; but it shall be expended solely for the purposes herein specified, and its balances shall not lapse at any time but shall remain continuously available to the commissioner for expenditure consistent herewith. All federal moneys allotted or apportioned to the state by the federal social ¹security board, or other agency, for the administration of this article, shall be paid into the unemployment administration fund. A special "employment service account" of funds received by the state in accordance with the provisions of section twenty-one-b of the labor law, shall be maintained as a part of such fund.

¹ Word "security" substituted for word "insurance" by L. 1936, ch. 117.

§ 521. RECORD AND AUDIT OF PAYROLLS. Every employer including ¹employers not subject to this article shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish to the commissioner, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as may be necessary to verify the number of employees and the amount of the payroll. Any employer who shall fail to keep such record or who shall wilfully falsify any such record, shall be guilty of a misdemeanor.

¹ Word "employers" substituted for word "employees" by L. 1936, ch. 117.

§ 522. COLLECTION OF CONTRIBUTIONS IN CASE OF DEFAULT.
1. If an employer shall default in any payments required to be made by him to the fund, after due notice, the amount due from him shall be collected by civil action against him brought in the name of the commissioner, and the same when collected, shall be paid into the fund, and such employer's compliance with the provisions of this article requiring payments to be made to the fund, shall

date from the time of the payment of said money so collected.

2. Interest upon the amount determined to be due from the employer shall be paid upon notice and demand from the commissioner, and shall be collected as a part of the payment required to be made by the employer to the fund at the rate of six percentum per annum from the date prescribed for the payment to the fund.

3. If any part of any deficiency in payment of the employer's contribution to the fund is due to negligence or intentional disregard of rules and regulations, but without intention to defraud, five percentum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

4. If any part of any deficiency is due to fraud with intent to avoid payment of contributions to the fund, then fifty percentum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

5. Civil actions brought in the name of the commissioner under this section to collect contributions, interest, or penalties from an employer, shall be entitled to preference upon the calendar of all courts conferred by law to actions brought by any state officer as such.

§ 523.¹ PROVISIONS GOVERNING ASSESSMENT AND COLLECTION OF CONTRIBUTIONS. 1. (a) If an employer fails to file a report for the purpose of determining the amount of his contribution due under this article, or if such report when filed is incorrect or insufficient and the employer fails to file a corrected or sufficient report within twenty days after the commissioner requires the same by written notice, the commissioner shall determine the amount of contribution due from such employer on the basis of such information

as he may be able to obtain and he shall give written notice of such determination to the employer. Such determination shall finally and irrevocably fix the amount of contribution unless the employer shall within twenty days after the giving of notice of such determination apply to the commissioner for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give written notice of his decision to the employer.

(b) Within twenty days after the giving of notice of the decision by the commissioner, the employer may take an appeal to the appeal board by filing a notice of appeal with the commissioner. The appeal board shall fix a time for hearing and shall notify the employer and the commissioner. The appeal board may decide the appeal on the basis of the record and of the evidence previously submitted, or it may, in its discretion, hold a further hearing to secure additional evidence. The appeal board may affirm or reverse, wholly or in part, or may modify, the decision appealed from and it shall give written notice of its own decision to the employer and the commissioner.

(c) The conduct of hearings and appeals shall be governed by suitable rules and regulations established by the commissioner. The commissioner and the appeal board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, but shall conduct the hearings and appeals in such manner as to ascertain the substantial rights of employers.

(d) A decision of the commissioner, if not appealed from, shall be final on all questions of fact and law. A decision of the appeal board shall be final on all questions of fact, and, unless appealed from, shall be final on all questions of law.

(e) Within twenty days after the giving of notice of a decision by the appeal board the employer or the commissioner may appeal questions of law involved in such decision to the appellate division of the supreme court, third department. The appeal board may also, in its discretion, certify to such court questions of law involved in its decisions. An appeal may be taken from the decision of such court to the court of appeals in the same manner and subject to the same limitations, not inconsistent herewith, as is provided for in civil actions. Upon final determination of an appeal, the appeal board shall enter an order in accordance with such determination.

(f) No appeal shall be taken by an employer from a decision of the appeal board pursuant to the provisions of this section unless the amount of the contribution sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the commissioner and an undertaking filed with the commissioner, in such amount and with such sureties as a justice of the supreme court shall approve, to the effect that the employer will pay all costs and charges which may be adjudged against him in the prosecution of such appeal, or, at the option of the employer, such undertaking may be in a sum sufficient to cover the contribution, interest, penalties, costs and charges as aforesaid, in which event the employer shall not be required to pay such contributions, interest and penalties as a condition precedent to the taking of the appeal.

2. In addition and as an alternative to any other remedy provided by this article, and provided that no appeal or other proceeding for review provided by this section shall then be pending and the time for the taking thereof shall have expired, the commissioner may issue a warrant under his official seal, directed to the sheriff of any county, commanding him to levy upon and sell the real and personal property of an employer who has defaulted

in the payment of any sum determined to be due from such employer, which may be found within his county, for the payment of the amount thereof, together with interest, penalties and the cost of executing the warrant, and to return such warrant to the commissioner and to pay into the fund the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall within five days after the receipt of the warrant file with the clerk of his county a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the employer mentioned in the warrant and the amount of the contribution, interest and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real property and chattels real of the employer against whom the warrant is issued in the same manner as a judgment duly docketed in the office of such clerk. The sheriff shall then proceed upon the warrant in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record, and for his services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the commissioner a warrant of like terms, force and effect may be issued and directed to any officer or employee of the department of labor, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but he shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the commissioner shall have the same remedies to enforce the amount thereof as if the commissioner had recovered judgment for the same.

3. Refunds. If not later than one year from the payment of any contribution, interest or penalty an employer shall make application for a refund thereof and the com-

missioner shall determine that such contribution, interest or penalty, or any portion thereof, was erroneously collected, the commissioner shall refund said amount, without interest, out of the fund unless the employer shall have deducted said amount by way of credit against contributions payable by him. For like cause and within the same period a refund may be so made on the initiative of the commissioner. ² If at any time prior to the date when benefits shall become payable this article shall become void, the commissioner shall requisition from the unemployment trust fund all moneys standing to the credit of the state of New York and refund, without interest, to each employer by whom contributions have been paid his pro rata share of all moneys so requisitioned and received, notwithstanding any provision of this chapter or any other law to the contrary.

¹ Original § 523 repealed and this new § 523 substituted therefor by L. 1936, ch. 117. The original, very brief section read: "The amount due for contribution to the fund, with interest thereon, shall be a lien against the assets of the employer subordinate, however, to claims for unpaid wages and prior recorded liens."

² Sentence "If at any time prior . . . or any other law to the contrary" added by L. 1936, ch. 697.

§ 524. DISCLOSURES PROHIBITED. Information acquired from employers or employees pursuant to this article shall be for the exclusive use and information of the commissioner in the discharge of his duties hereunder, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the commissioner is a party to such action or proceeding. Any officer or employee of the state, who, without authority of the commissioner or pursuant to his regulations, or as otherwise required by law, shall disclose the same, shall be guilty of a misdemeanor. Nothing herein, however, shall operate to prevent the commissioner from making, upon request, full and complete reports to the federal social¹ security board relating to the effect and administration of this article, on forms to be prescribed by the board, and from making available, upon request, to any agency

of the United States charged with the administration of public works or other assistance through public employment, the ² name, address, ordinary occupation ³ and employment status of each recipient of unemployment ⁴ insurance benefits and ⁵ a statement of such recipient's right to further benefit under this article.

¹ Word "security" substituted for word "insurance" by L. 1936, ch. 117.

² Words "name, address," substituted for words "names and addresses and" by L. 1936, ch. 117.

³ Words "and employment" inserted by L. 1936, ch. 117.

⁴ Word "insurance" inserted by L. 1936, ch. 117.

⁵ Words "a statement of such recipient's right to further benefit" substituted by L. 1936, ch. 117, for words "the date when such recipient received the last regular payment of benefits to which he was entitled."

§525. EXPENSES OF ADMINISTRATION. The total amount of expenses incurred by the commissioner in connection with the administration of this article, and such proportion of the total expenses of maintaining the public employment offices as established under the labor law and for the purposes of this article, as shall be determined to be necessary and required by the provisions of this article and so certified to by the commissioner, shall, upon audit by the comptroller, be disbursed from the unemployment administration fund as a charge upon it. The commissioner and department of audit and control annually, as soon as practicable after July first shall ascertain the total amount of such expenses so incurred by the department during the preceding fiscal year. An itemized statement of the total expenses so ascertained shall be open to public inspection in the office of the commissioner after notice published in the industrial bulletin. All disbursements from such fund shall be made by the commissioner of taxation and finance only on the warrant of the comptroller.

§ 526. EXPENSES OF HEARINGS. Fees of witnesses and other expenses, except legal services, involved in hearings and appeals under this article shall be paid at a rate to

be established by regulation of the commissioner and shall be treated as expenses under this article.

§ 527. STUDY OF PARTIAL UNEMPLOYMENT. The commissioner shall appoint a committee of not more than three persons who shall make a study of partial unemployment, and shall make recommendations to the commissioner in respect to provision for the inclusion of benefits for partial unemployment under this article. The commissioner shall transmit the report and recommendations of the committee, with his comments thereon and recommendations to the legislature, not later than the first of February, nineteen hundred thirty-seven.

§ 528. PENALTIES. In addition to any penalties otherwise prescribed in this article. 1. Any person who wilfully makes a false statement or representation:

(a) To obtain any benefit or payment under the provisions of this article, either for himself or for any other person; or

(b) To lower contributions paid to the fund; or

2. Any person who wilfully refuses or fails to pay a contribution to the fund; or

3. Any person who refuses to allow the state industrial commissioner or his authorized representative to inspect his payroll or other records or documents relative to the enforcement of this article; or

4. Any employer who shall make a deduction from the wages or salary of any employee to pay any portion of the contribution which the employer is required to make shall be guilty of a misdemeanor. If a corporation is convicted of any such violation, the president, secretary, treasurer or officers exercising corresponding functions, shall each be guilty of a misdemeanor.

§ 529. **FUND TO BE SOLE SOURCE OF BENEFITS UNDER ARTICLE; NON-LIABILITY OF STATE.** The unemployment insurance fund established by this article shall be the sole and exclusive source for the payment of benefits payable hereunder, and such benefits shall be deemed to be due and payable only to the extent that contributions, with increments thereon, actually collected and credited to the fund and not otherwise appropriated and/or allocated, are available therefor. The state of New York undertakes the administration of such fund without any liability on the part of the state beyond the amount of moneys received through allotment from the federal * social insurance board or other federal agency.

§ 530. **SEPARABILITY OF PROVISIONS.** If any provision of this article or the application thereof to any person or circumstance, is held invalid, the remainder of the article and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 531. **SAVING CLAUSE.** The legislature reserves the right to amend, alter or repeal any provision of this article; and no person shall be or be deemed to be vested with any property or other right by virtue of the enactment or operation of this article.

NOTE: The New York State Unemployment Insurance Law as printed here is the law as it stood when the cases were argued. On March 31, 1937, some months after the decision of the Supreme Court, the law was amended in important respects. Major changes effected by these amendments pertain to employers' liability and to the basis for the calculation of benefits.

* So in original; should read "social security board"

LEGAL BRIEF FOR APPELLEES

“But neither the amendment—broad and comprehensive as it is—nor any other amendment was designed to interfere with the power of the State, sometimes termed its police power, to prescribe regulations to promote the health, peace, morals, education and good order of the people, and to legislate so as to increase the industries of the State, develop its resources, and add to its wealth and prosperity.”

Barbier v. Connelly, 113 U. S. 27, 31.

IN THE

Supreme Court of the United States

<p>W. H. H. CHAMBERLIN, INC., Appellant,</p> <p>vs.</p> <p>ELMER F. ANDREWS, Industrial Commis- sioner of the State of New York, et al.</p>	No. 49
<p>E. C. STEARNS & Co., Appellant,</p> <p>vs.</p> <p>ELMER F. ANDREWS, Industrial Commis- sioner of the State of New York, et al.</p>	No. 50
<p>ASSOCIATED INDUSTRIES OF NEW YORK STATE, INC., Appellant,</p> <p>vs.</p> <p>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.</p>	No. 64

BRIEF FOR APPELLEES**Opinions Below**

The opinion of the trial court in Nos. 49 and 50 (R. 43-99) is reported at 159 Misc. 124; in No. 64 (R. 26-34) at 158 Misc. 350. The opinion of the Court of Appeals (in Nos. 49 and 50, R. 117-33; in No. 64, R. 39-55), which considered the three cases together, is reported at 271 N. Y. 1.

Jurisdiction

The judgments of the court below were entered May 4, 1936 (in Nos. 49 and 50, R. 109-12; in No. 64, R. 37-8). Petitions for appeal were presented to the Chief Judge of the Court of Appeals of New York and allowed by him on May 6, 1936 (in Nos. 49 and 50, R. 134-5; in No. 64, R. 58-9). The jurisdiction of this Court is invoked under Section 237 of the Judicial Code, as amended (43 Stat. 936). This Court on May 25 and June 1, 1936, reserved further consideration of the question of jurisdiction until the argument on the merits.

Appellees are in accord with the argument of appellants that this Court has jurisdiction (*Chamberlin and Stearns* Br. pp. 77-85; *Associated Industries* Br. pp. 21-5), and therefore do not discuss the question of jurisdiction further.

Questions Presented

This case involves the constitutionality, under the due process and equal protection clauses of the Fourteenth Amendment, of the New York Unemployment Insurance Law (N. Y. Laws 1935, ch. 468; N. Y. Labor Law, Art. 18, §§ 500-531).¹

Statement

The proceedings in the *Chamberlin* and *Stearns* actions (Nos. 49 and 50) were instituted by a request for a declaratory judgment that the New York Unemployment Insurance Law is unconstitutional under both the Federal and State constitutions (R. 19-34). In the *Associated Industries* action (No. 64) appellant sought a declaratory judgment and injunctive relief against the enforcement of the alleged invalid statute (R. 7-25). In all three actions

¹ The statute is set forth in full in Appendix VII, pp. 211-239.

appellees answered praying that declaratory judgments be made that the statute is constitutional, and that the complaints be dismissed on the merits (in Nos. 49 and 50, R. 35-8; in No. 64, R. 25-6). Appellants in all cases thereupon moved for judgment on the pleadings, under Rule 112 of the New York Rules of Civil Practice (in Nos. 49 and 50, R. 39-40; in No. 64, R. 26).

No material allegations of facts in the several complaints are in issue. It is admitted that appellants in all cases are employers as defined in the Law and are subject to its provisions (in Nos. 49 and 50, R. 35, 37; in No. 64, R. 25). It is likewise admitted that appellees intend to administer and enforce the Law (*id.*). Appellants, unless they comply, will be subject to civil actions for collection of the required contributions to the Unemployment Insurance Fund, as well as to prosecution for wilfully refusing to obey the Law (in Nos. 49 and 50, R. 22-3, 31-2; in No. 64, R. 14-15).

In the *Chamberlin* and *Stearns* cases, Mr. Justice Dowling, at Special Term, sustained the validity of the Unemployment Insurance Law, except for one minor subsection which he held invalid as violative of the due process clauses of the State and Federal constitutions (R. 43-99).² In the *Associated Industries* case, Mr. Justice Russell, at Special Term, held the entire Act invalid as violative of the Fourteenth Amendment of the Federal Constitution (R. 26-34). Upon appeal to the Court of Appeals, that Court, with two judges dissenting, held the Act constitutional in every respect under both State and Federal constitutions (in Nos. 49 and 50, R. 117-33; in No. 64, R. 39-55).

² This provision is Section 504 which authorizes benefit payments to an unemployed worker after ten weeks waiting period when the worker has lost employment through misconduct, strike or industrial controversy. The validity of this provision is discussed *infra* p. 289.

The Statute

The New York Unemployment Insurance Law is set forth in full in Appendix VII of this volume (p. 211). The pertinent provisions of the statute may be summarized as follows:

The Law establishes an unemployment insurance fund, in the nature of a single reserve, out of which benefits are paid for a limited period of time to those who by reason of economic maladjustment or other causes are temporarily unemployed.

The unemployment insurance fund is created out of contributions paid by employers subject to the Act (§ 515, subd. 1). Employers are forbidden to deduct the amount of these contributions from the wages of their employees and are prohibited from making any agreement that their employees will pay any portion of such contributions (§ 528, subd. 4; § 517). The contributions are made through a payroll tax equal to three percent of wages paid to employees who are possible beneficiaries under the Act (§ 516). For the year 1936, however, the contribution is only one percent, and in 1937 two percent (*id.*).

Employers of certain classes of persons or engaged in certain kinds of work are exempted from payment of contributions to the extent that they come within the stated exceptions. These exceptions are:

- (1) Employers of farm laborers (§ 502, subd. 1).
- (2) Employers of a spouse or minor child (§ 502, subd. 1).
- (3) Employers operating on a non-profit basis for religious, charitable, scientific, literary or educational purposes (§ 502, subd. 3).
- (4) The State of New York, municipal corporations and other governmental subdivisions (§ 502, subd. 3).
- (5) Employers who do not employ four or more employees within each of thirteen or more calendar weeks of the year (§ 502, subd. 3).

Employers are not required to pay contributions on account of employees in non-manual occupations where the salary or wage is more than \$2600 a year, or \$50 a week (§ 502, subd. 2).

Benefits are payable out of the fund only to totally unemployed persons who register as such with the State employment offices and who are ready, able and willing to work but unable to find suitable employment (§ 502, subd. 10; §§ 506, 510). No individual is entitled to benefits unless he has been employed not less than 90 days in the year preceding the day on which benefits are to commence, or not less than 130 days in the two years prior to benefits (§ 503, subd. 3-c). No benefits are payable until 1938 and employment prior to 1937 is not considered in calculating the foregoing qualifying period of employment (*id.*).

Benefits are payable, during the continuance of total unemployment, in the ratio of one week of benefits for each fifteen days of employment in the preceding fifty-two weeks (§ 503, subd. 3-e), but are never payable in excess of a period of sixteen weeks within any consecutive fifty-two weeks (§ 507). Benefits are at the rate of fifty per cent of the employee's full-time weekly wage, but not to exceed \$15, nor to be less than a minimum of \$5 per week (§ 505, subd. 1).

Employment offices are set up in districts established by the Industrial Commissioner under Section 518 which act as employment exchanges. Employees must accept offers of employment for which they are reasonably fitted on pain of being disqualified from receiving benefits (§ 506). No person is, however, required to accept employment (a) which would interfere with his membership in a labor organization, or (b) where there is an industrial controversy in the establishment where the offer is made, or (c) at an unreasonable distance from his home, or (d) where wages, hours and conditions are substantially less favorable than those prevailing for similar work in the locality, or would tend to depress wages or working conditions (§ 506).

A waiting period of three weeks is compulsory after notification of unemployment before benefits may commence (§ 504). An employee who has lost his job through misconduct or because of an industrial dispute must wait ten weeks (§ 504, subd. 2). Thereafter, such an employee is treated as belonging to the class of involuntarily unemployed and is available for benefits.

All contributions paid under the Act are pooled in the Unemployment Insurance Fund (§ 514). Provision is made in the Act, however, for the creation of an advisory council charged to investigate and report on the practicability of establishing a rating system, if possible, which would operate equitably to rate the unemployment risk and fix the contribution to such fund for each employer, group of employers, employment, occupation or industry (§ 518, subd. 4).

Monies in the Fund are deposited in the Unemployment Trust Fund of the United States Government so long as that Fund exists (§ 515, subd. 3). As needed for benefit payments necessary amounts are requisitioned by the Industrial Commissioner, charged with the administration of the Law (§ 518).³

The New York Act is in no manner conditional upon any action or law of the United States, nor upon any grant therefrom, but stands as a complete and functioning Act within its own four corners. Such aid or advantage as is received from the Federal Social Security Act consists only of grants-in-aid for assistance in administration, contributed by the Federal Government under Title III of that Act (49 Stat. 619, 42 U. S. C., ch. 7).

This, then, represents the sum and substance of the plan. Other provisions are minor and subsidiary.

³ The manner of investment and withdrawal of monies in the Fund was subject to attack below under the State Constitution. The determination of the Court of Appeals removes such question from the instant appeal. No Federal constitutional issue arises therefrom.

The Underlying Issues and Summary of the Argument

It is beyond dispute that the Act in its immediate application does deprive employers subject to its provisions of property. The Act requires from employers certain contributions, dedicated in advance to the purpose of mitigating and preventing the social and economic evils of unemployment found by the Legislature to constitute a serious menace to the welfare of the people of the State. Whether the plan proposed will or will not entirely afford the relief expected; whether the mechanics devised will or will not wholly achieve the ends sought; whether the particular classification of beneficiaries is or is not the wisest; whether any particular section apart from the measure as a whole is or is not appropriate—*none of these* is the question at issue. But whether, in the light of all available facts, an act of the State Legislature, to provide unemployment compensation to those involuntarily unemployed out of funds derived from a levy upon employers, constitutes a reasonable exercise of the sovereign power of the State of New York—that is the question at issue.

The underlying issue in this case was stated by the Court, dealing with an analogous workmen's compensation statute, in the following language:

“Whether this legislation be regarded as a mere exercise of the power of regulation, or as a combination of regulation and taxation, the crucial inquiry under the Fourteenth Amendment is whether it clearly appears to be not a fair and reasonable exertion of governmental power, but so extravagant or arbitrary as to constitute an abuse of power.”
(*Mountain Timber Co. v. Washington*, 243 U. S. 219, 237.)

Appellants argue that the contributions required from employers by the Act are not taxes. There is no occasion

to consider whether they are or not. We do not contend that the exactions should be considered without reference to the purpose of the levy, but we do contend that as an integral part of the statute as a whole they may be sustained under the taxing power or the police power or both.

The burden of this brief, then, will be to establish that the Unemployment Insurance Law here under attack is a reasonable exercise of the sovereign power of the State. The argument that follows may be briefly summarized:

I

The adoption of an insurance plan to mitigate the economic and social evils of involuntary unemployment is a reasonable and proper means of accomplishing a legitimate legislative purpose.

With particular reference to certain features of this plan it will be shown:

II

The use of the sovereign power of the State to impose the cost upon a general group or class, whose activities are reasonably related to the conditions sought to be relieved, is well established.

III

The pooling of receipts in a single fund for the payment of unemployment insurance benefits is not in violation of any provisions of the Constitution. The case of *Railroad Retirement Board v. Alton Railroad Co.* (295 U. S. 330) not only is clearly distinguishable from the instant case, but actually points to the validity of the present Act.

IV

The New York Unemployment Insurance Law discloses no other feature not within the requirements of the Federal Constitution.

POINT I

The adoption of an insurance plan to mitigate the economic and social evils of involuntary unemployment is a reasonable and proper means of accomplishing a legitimate legislative purpose.

- A. The problem of unemployment is a matter of grave public concern and the objective of the Act—to mitigate the burdens of such unemployment—is a proper public purpose and appropriate for state legislative action.**

The present statute has as its declared object the furtherance of the public good by requiring the setting aside of financial reserves for the benefit of the unemployed (§ 500). To view the statute in proper perspective, an appreciation of the general facts upon which the Legislature determined its necessity becomes material. To that end there is submitted herewith a study, based on researches into authoritative sources, of the extent, causes and effects of unemployment, as well as the operation of the plan of the statute here in issue. That study will be referred to as the "Economic Brief". While some of the material therein contained is of a detailed character, the general outlines and conclusions were well known to the Legislature when it enacted the Unemployment Insurance Law (see Preliminary Report of the Joint Legislative Committee on Unemployment, Leg. Doc. 1932, No. 69; Report of the Joint Legislative Committee on Unemployment, Leg. Doc. 1933, No. 66; Ec. Br. Appendix V, p. 178 ff.).

The nature and extent of industrial unemployment as it exists today do not require detailed restatement here. As the Economic Brief makes clear, a widespread and growing burden of involuntary unemployment has been characteristic of industrial and commercial life in the United States as in all western countries. It has its roots

in the irregularity of industrial activity and growth and the number of persons affected has increased from decade to decade as our economic life has become more complex. Even in prosperous times an increasingly substantial volume of unemployment—constituting a permanent pool of idle labor—persists. In the inevitable periods of business depression, when unemployment approaches a climax, its volume reaches staggering proportions (see Ec. Br. pp. 1-27 and 79-93).

A glance at the material collected in the Economic Brief is sufficient to drive home the significance of the unemployment problem. In non-agricultural industry as a whole since 1920, according to President Hoover's Committee on Recent Economic Changes, unemployment in the United States never dropped below a minimum average estimated at 1,400,000 for the year 1920, reaching an average of 3,500,000 in the recovery year 1922 (Ec. Br. p. 15). For the more recent period, the figures of the Committee on Economic Security show an increase of those unemployed to approximately 4,700,000, or more than 12 per cent, in 1930; 9,000,000, or more than 23 per cent, in 1931; 13,000,000, or nearly 35 per cent, in 1932; 12,800,000, or over 33 per cent, in 1933 (Ec. Br. pp. 16, 17; see generally Ec. Br. pp. 9-17). At the height of the depression—the first quarter of 1933—the number of unemployed has been calculated at over 15,000,000 (Ec. Br. p. 10). Even in 1935—with industrial production returning to normal—unemployment was still estimated at an average for the year of 11,400,000 (*id.*).

In New York, owing to the advanced degree of industrial development in this State, unemployment has been proportionately even greater than in the country as a whole. During the years 1930 to 1933, for instance, the ratio of unemployed among the bulk of employments covered by the Act averaged 29.5 per cent, against 27.5 per cent for the country (Ec. Br. p. 18).

As the burden of unemployment has come to weigh more and more heavily upon all groups, classes and locali-

ties it has brought with it a train of pressing, even menacing, problems. Foremost among these are the social consequences of large scale, sustained unemployment. Numerous investigations have established the fact that the income of a substantial part of wage earners is inadequate to maintain even minimum standards of living (Ec. Br. pp. 46-51). Employees are thus unable, as a rule, to set aside from their current earnings sums sufficient to tide them over periods when income has been cut off through protracted absence of employment (Leven, Moulton and Warburton, *America's Capacity to Consume*, Brookings Institution [1934], pp. 65-112, 239-265; Ec. Br. p. 47). Unemployment thus quickly leads to destitution, loss of morale, ill health, vice and crime (Ec. Br. pp. 52-58). Without pursuing the matter further it is sufficient to say that no government can long ignore these social effects of unemployment upon any substantial number of its citizens, for chronic unemployment on a widespread scale undermines the political vitality of the state and threatens the stability of the form of government itself.

There are other aspects of the unemployment problem which it is unnecessary to dwell upon at any length. For one thing unemployment throws upon the government, particularly in periods of depression, an alarming relief burden (Ec. Br. pp. 28-43). Further, the lack of purchasing power among the unemployed reacts upon business conditions and, especially in periods of declining prosperity, contributes to the creation of still further unemployment (Ec. Br. pp. 20-25, 44-46).

Such are the problems with which the State of New York deals in the Act before the Court. Once this background of the Law is made clear it can hardly be contended that the purpose of the Act is not one that is appropriate for state legislative action. As Judge Crane said in the Court of Appeals (271 N. Y. at 9):

“ . . . it would be a strange kind of government, in fact no government at all, which could not give help in such trouble.”

B. The unemployment insurance plan adopted by the New York Legislature is a fair and reasonable method of meeting some of the problems of large scale industrial unemployment.

The New York Legislature found that a system of unemployment compensation would act as a partial solution of the unemployment problem just outlined.

The existence of facts which support the findings of the Legislature and the validity of its action, as this Court has often held, must be presumed in the absence of strong proof of their non-existence. The record of these cases is barren even of allegations of fact, let alone proof of fact, nor are there facts of which this Court must take judicial notice, tending to invalidate the legislative judgment. It is submitted, therefore, that this is a proper case for application of the presumption of reasonableness.

It is unnecessary, however, to rely upon that customary presumption here. For in this case, as the public records show, the New York Legislature acted only after thorough study of the background of the subject of the statute. It had before it extensive reports and recommendations of its own committees as well as the independent surveys and studies of other legislatures and other interested groups (see Ec. Br. Appendix V, p. 178 ff.). On the basis of all the information before it, the Legislature found that

“Economic insecurity due to unemployment is a serious menace to the health, welfare and morals of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. After searching examination of the effects of widespread unemployment within the state, the joint legislative committee on unemployment appointed pursuant to a joint resolution adopted April ninth, nineteen hun-

dred thirty-one, has reported to the legislature that 'the problem of unemployment can better be met by the so-called compulsory unemployment insurance plan than it is now handled by the barren actualities of poor relief assistance backed by compulsory contribution through taxation. Once the facts are apprehended this conclusion is precipitated with the certainty of a chemical reaction.' Taking into account the report of its own committee, together with facts tending to support it which are matters of common knowledge, the legislature therefore declares that in its considered judgment the public good and the well-being of the wage earners of this state require the enactment of this measure for the compulsory setting aside of financial reserves for the benefit of persons unemployed through no fault of their own" (§500).⁴

While legislative findings may not be regarded as conclusive, "a declaration by a legislature concerning public

⁴ Appellant in the *Associated Industries* case attempts to show that "the Joint Legislative Committee did not report to the Legislature in favor of a compulsory unemployment insurance plan" (*Associated Industries* Brief, pp. 43-5). Such is not the case. The Preliminary Report of the Joint Legislative Committee, prepared after 16 days of hearings, made an exhaustive survey of the causes of unemployment and the methods of preventing it and alleviating its hardships. In its letter of transmittal the Committee said: "The committee strongly recommends the establishment as soon as a plan can be perfected of a compulsory State-wide system of unemployment reserves" (Preliminary Report of the Joint Legislative Committee on Unemployment, Leg. Doc. [1932] No. 69, p. 4). It is true the Committee did not recommend immediate enactment of the plan for the reasons that (a) the details of such a plan would in its opinion require further study, and (b) it believed that business conditions at the time (February 1932) did not warrant inauguration of an insurance plan (pp. 4-5). In its final report, transmitted to the Legislature in February 1933, the Committee reiterated its position of the previous year (Report of the Joint Legislative Committee on Unemployment, Leg. Doc. [1933] No. 66, pp. 11-15). The Law was enacted by the Legislature in 1935, more than two years after the final report of the Committee. Meanwhile the problems of unemployment had been constantly before the Legislature. In addition to voting large bond issues for relief the Legislature held elaborate hearings in 1934 and 1935 on unemployment insurance measures (N. Y. Leg., Sen. Fin. Com., *Hearings on Unemployment Reserve Fund Legislation*, Apr. 4, 1934; N. Y. Leg., Sen. Com. on Lab. and Industry and Ass. Com. on Lab. and Ind., *Joint Hearing*, Mar. 6, 1935). In 1933 and 1934 representative commissions, appointed by the Industrial Commissioner at the request of the Governor, studied new information and made their recommendations available to the Legislature in the form of draft bills (Ec. Br. App. V, p. 178 ff.).

conditions that by necessity and duty it must know, is entitled at least to great respect." *Block v. Hirsh*, 256 U. S. 135, 154.

The facts underlying the determination of the Legislature are, as we have said, set forth in the Economic Brief. Without going into undue detail, we may summarize briefly the factors which demonstrate that a system of unemployment insurance, such as that established in the present Act, is a reasonable and proper method of meeting, in part at least, the serious menace of unemployment.

The unemployment insurance plan operates by building up a central reserve fund, out of which benefits are paid to those individuals who have been employed for a substantial period of time during the previous year or two years but who have become temporarily unable to find work through maladjustments in the economic system. With minor exceptions, benefits are payable regardless of the reason for the unemployment.⁵ But no benefits are payable except to those who are ready, able and willing to work if the opportunity is presented. In order to insure that the plan is thus limited to involuntary unemployment all claimants are required to register at designated employment offices and must accept suitable employment when offered, on pain of sacrificing benefits. The exceptions, of which appellants seek to make much, are both reasonable and necessary, and the studied attempt to indicate

⁵ The exceptions—where employees are discharged for misconduct or are not working by reason of an industrial dispute—are discussed *infra* pp. 289-291.

Appellants have laid great stress upon the fact that benefits are paid to employees who have voluntarily quit their jobs, and argue that the system is thereby not restricted to the relief of involuntary unemployment (*Chamberlin Br.* pp. 6, 21-2, 66; *Associated Industries Br.* pp. 15, 41, 70). It would indeed be a harsh rule that denied unemployment benefits regardless of the justification for leaving a particular employment. And it would be an impossible administrative rule that attempted to distinguish between good reasons and bad reasons for quitting a job. What the Law does do, as is pointed out above, is to restrict the payment of benefits to those who in good faith cannot obtain new employment. It is this feature of the Act—not the provisions dealing with the cause of unemployment—that makes it a system for the relief of *involuntary* unemployment.

that the Act will compensate the loafer (*Chamberlin* Brief, pp. 6-7, 22, 66) is wholly unjustified.⁶

Benefits paid amount to only 50 per cent of the normal weekly wage of the beneficiary. In no event are benefits greater than \$15 a week. These limitations are additional assurance against malingering.

No benefits are paid until a waiting period of three weeks after filing notice of unemployment has elapsed. In this way employees who quickly find or are offered other places in the industrial structure are not given benefits and the fund is conserved against multiple small and largely unnecessary claims. Furthermore, benefits are payable only for a limited period, not more than sixteen weeks. This eliminates from the plan those who remain permanently or semi-permanently unemployed.

The unemployment insurance plan, in short, is designed to cover only a specific period of involuntary unemployment during which the beneficiary must be seeking new employment. These limitations, however, do not mean that the plan is not of substantial assistance to the greater share of the unemployed covered by its provisions. On the contrary, the composition of the unemployed is constantly changing and the duration of individual unemployment in ordinary circumstances is relatively short (*Ec. Br.* pp. 11-13, 25). Hence, most of those eligible to receive unemployment insurance benefits will be tided over a period sufficiently long to make ordinary readjustment (*Ec. Br.*

⁶ Appellants in the *Chamberlin* and *Stearns* cases profess to believe that because the statute does not require an employee to accept employment under certain specified conditions—mainly where wages, hours and conditions are substantially less favorable than those prevailing in the locality and would tend to depress wages or working conditions—employees receiving benefits have virtually complete freedom to accept or decline new employment (*Chamberlin Br.* pp. 6-7, 22, 66). Appellants cite no evidence to support this assertion. Nor do they claim that the conditions under which employment may be refused are arbitrary. We believe the Court will agree that the conditions established by the Legislature are essential to preserve labor standards and, under normally careful administration (which must be presumed), would not open the door to any appreciable amount of malingering. If the funds should be misapplied in administration, the time to object will be when that happens.

p. 124).⁷ Thus the plan concentrates its effect on the most vital sector of the unemployment front: conserving the economic position and morale of the permanent labor forces of industry.

Primarily this unemployment insurance system is justified not only as direct relief of the destitute, but as a means of preventing, in part at least, the reduction of large numbers of citizens from their normal state of comparative poverty to that state of complete pauperism which so frequently accompanies the loss of earning power caused by unemployment. Under present conditions, loss of employment causes the unemployed first to become a burden upon relatives, friends, neighbors, and local tradesmen, and eventually, when such informal sources of assistance have been exhausted, to fall at last upon the public relief rolls. In the first steps of this progression the burden of supporting the unemployed falls directly upon that portion of the still employed population which is probably least able to bear it successfully without a serious lowering of its own living standards and without grave threats to its continued well-being. More important, before the unemployed worker can find sustenance through public relief administration, he must, in most cases, have become completely destitute, and have sacrificed whatever possessions he may have been able to acquire during prior periods of employment. This disruption of accustomed ways of living leads to demoralization and conduces to the creation of those conditions of abject poverty and misery which leading students of the day have described as one of the most fertile causes of vice, crime and social ill-health (Ec. Br. pp. 52-58).

Furnishing of support to the unemployed, in the form of direct relief, has come to be recognized as one of the major obligations of civilized governments (see Ec. Br.

⁷ Of course, even if an employee does not find new placement before the end of sixteen weeks (or rather nineteen weeks, counting the waiting period) he has received valuable assistance, from the standpoint of morale and efficiency, for a substantial period of time.

pp. 28-43). Yet it is widely believed that the granting of relief, though necessary in order to avoid actual physical suffering and the threat of unrest, is an imperfect social device. The creation of a system of unemployment insurance is not calculated to and will not completely remove the necessity for the dispensation of public relief in ways to which we are now accustomed. It should, however, substantially eliminate a large number of persons from the relief rolls and will substitute for demoralizing direct relief a temporary cash income, paid as a matter of right, which will avoid the dislocations that are now typical. In this way the State may hope to develop a safeguard against pauperism and its consequences, instead of attempting to conquer them after they have already made their appearance. Thus, the unemployment insurance law is, in keeping with the modern tradition, a preventive measure, rather than a cure.⁸

The justification of unemployment insurance in this respect is essentially the same as that accepted by this Court as underlying the workmen's compensation acts. In workmen's compensation laws the public interest was not, in the last analysis, in the disabled workman, but in guarding against the poverty likely to be caused by interrupted or diminished earning and against "its concomitants of vice and crime" (*New York Central R. Co. v. White*, 243 U. S. 188, 207; cf. *Mountain Timber Co. v. Washington*, 243 U. S. 219, 239-240). There the loss of earnings was caused by disability; here, by other circumstances. But from the community view the cause is of secondary importance; the loss is the source of the resulting evil.

Other considerations which support a system of unemployment insurance should not be ignored. In the first place, it budgets the cost of relief over fluctuating periods of prosperity and depression; instead of throwing the burden of greater increase in relief costs upon the com-

⁸ Appellants' argument that the absence of a "means test", or test of need as a condition to paying benefits, constitutes a violation of due process, is considered further *infra* pp. 291-295.

munity at times of economic crisis, the insurance plan permits accumulation of funds in boom times, when funds are most readily collected, for use in times of business recession, when funds are most necessary.

Furthermore, the system maintains consistency of purchasing power within a community by building up resources in periods of employment to offset the loss of wages in periods of depression. The unemployment benefits supplement the worker's income at the time most necessary, when his usual earnings are cut off. Thus the tempo of depression is not quickened as various portions of the population withdraw from the consumer market and thereby lessen the demand for goods produced by others who are still employed. Appellants' argument that the unemployment insurance system does nothing to prevent unemployment (*Chamberlin* Br. pp. 9, 13; *Associated Industriés* Br. pp. 41-2) overlooks entirely this significant feature of the plan. It should be added that, as the *Mountain Timber* case demonstrates, compensation to workers for loss of earnings, quite aside from issues of prevention, is in and of itself a sufficient constitutional basis for the legislation.

Other advantages of an unemployment insurance plan—such as the facilitation of technological changes, the increased mobility of labor, the absence of competition with private industry which is a feature of work relief—are set forth in the Economic Brief (pp. 111-126). The considerations we have advanced, however, are sufficient to warrant the conclusion that the State of New York did not act unreasonably or arbitrarily in attempting through the use of unemployment insurance to meet a part of the evils of unemployment.

The public policy embodied in this statute may perhaps be proved by the ultimate course of events to have been ill-advised. Possibly all the beneficial consequences may not develop in practice. But such uncertainties do not invalidate a legislative plan. Whether the law "will result in ultimate good or harm it is not within our province

to inquire" (*Green v. Frazier*, 253 U. S. 233, 240). Under the circumstances one cannot say that the New York Legislature, in placing faith in unemployment insurance as a useful social instrument, acted capriciously or upon a judgment clearly arbitrary.

C. A wealth of experience confirms the conclusion that a state plan of unemployment insurance is a reasonable measure.

A survey of unemployment insurance throughout the world reveals not only that the plan has been widely tested, but that it has become increasingly accepted by industrialized countries as an important contribution toward solution of the unemployment problem.

The first compulsory unemployment insurance law was instituted by Great Britain as long ago as 1911. At first applicable to only six industries, the plan has now been extended until it covers nearly fifteen million persons, virtually the entire wage earning population of Great Britain and Northern Ireland.⁹ In 1927 Germany instituted a similar system which now covers over thirteen million workers. All together ten nations—Australia (Queensland), Austria, Bulgaria, Germany, Great Britain and Northern Ireland, Irish Free State, Italy, Poland, Switzerland (13 Cantons) and Yugoslavia—now operate some form of compulsory unemployment insurance (Appendix IV, Ec. Br. p. 176).¹⁰

⁹ For a discussion of the English system see Appendix II, Economic Brief, pp. 146-162.

¹⁰ The first record of unemployment insurance appears in 1789 in the town of Basle, Switzerland, where a fund was set up on insurance principles for the benefit of lace and ribbon workers. This plan was terminated by the French Revolution. In 1824 the Journeymen's Steam Engine Makers Society in England made payments to unemployed workers. The Swiss Printers' Union in 1858 set up a fund on an insurance plan, but it proved unable to cope with serious depression without public aid. Trade union funds were subsidized by the cities of Dijon in 1896 and Limoges in 1897. Ghent, in Belgium, did the same in 1901. Eleven foreign countries—Belgium, Czechoslovakia, Denmark, Finland, France, Greece, Netherlands, Norway, Sweden, Switzerland (12 Cantons), Spain—now have voluntary unemployment insurance funds, covering over 4,000,000 workers. See Economic Brief, p. 177.

In the United States between 1916 and 1933 some 147 bills were introduced into various State legislatures to provide compulsory unemployment insurance. Six bills were introduced in Congress. In New York State alone seventy-seven measures have been introduced since 1921 (Ec. Br. pp. 182-189). The first State to enact compulsory insurance for unemployment was Wisconsin in 1932. In 1935 eight other States—Alabama, California, District of Columbia, Massachusetts, New Hampshire, New York, Oregon, Utah—adopted plans for such benefits. In 1936 six additional States—Idaho, Indiana, Mississippi, Rhode Island, South Carolina, Texas—were added to the list. (For summaries of these laws see Appendix III, Ec. Br. pp. 164-175).

Thus, when the New York Legislature, after exhaustive study, adopted a system of unemployment insurance, it was not entering a new and untried field. On the contrary, its action was in line with a growing movement in western industrial countries.

We have seen thus far that the unemployment insurance plan, taken as a whole, constitutes a reasonable means of achieving a legitimate legislative purpose. We now turn to a consideration of certain features of the plan which perhaps require more detailed discussion.

POINT II

The power of the State to impose the cost upon a general group or class, whose activities are reasonably related to the conditions sought to be relieved, is well established.

Having determined that a system of unemployment insurance would serve a useful public purpose, the Legislature had next to consider the method of raising the wherewithal to finance the plan. Annual appropriations from general revenues would complicate "balancing the budget" of governmental expense and income. A sales tax, open to many controversial objections, or employee contributions, operating to fix the burden on those least able to bear it, might have been chosen. Inheritance or income taxes, urged by many groups, were also in contemplation. Finally, however, the Legislature chose to place the levy upon employers as a class.

It cannot successfully be argued that the Act is a measure created for the purpose of bringing private advantage to the recipient of insurance awards; rather, as has been shown, it is reasonably planned as a means of assuring wide public benefit through individual benefit. The basic objective of the plan is not different from that underlying the taxation of real property owners to provide a system of free public education. Such a system is defensible on the ground that the general welfare is served by the spread of education among persons who, left to their own devices, would be forced to forego it. Ultimate public welfare also justifies levies for and expenditures upon hospitals, clinics, street and sewer extension, agricultural experiments and extermination of vermin and insects, despite private advantage to individual beneficiaries. The group immediately benefited is but an instrument through which a broader purpose is

attained. This Court, moreover, has had occasion to say, "What was or was not a public use was a question concerning which local authority, legislative and judicial, had especial means of securing information to enable them to form a judgment; and particularly, that the judgment of the highest court of the State, declaring a given use to be public in its nature, would be accepted by this court unless clearly unfounded" (*Green v. Frazier*, 253 U. S. 234, 242). In the instant case the Court of Appeals of New York expressly rejected the argument that the statute involves "taxation for the benefit of a special class, not the public at large" (271 N. Y. at p. 14).

The power of the State to raise money for appropriate governmental purposes is complete and the Legislature has a wide discretion in selecting the class of persons, property or pursuits upon which the cost shall fall (*Peo. ex rel. Hatch v. Reardon*, 184 N. Y. 431, 204 U. S. 152; *Alward v. Johnson*, 282 U. S. 509; *Ohio Oil Co. v. Conway*, 281 U. S. 146; *Hicklin v. Coney*, 290 U. S. 169). And strong proof is necessary to overcome the presumption that a classification chosen by the Legislature is founded upon a legitimate basis and hence is not violative of the Fourteenth Amendment (*Lawrence v. State Tax Commission*, 286 U. S. 276, 283; *Metropolitan Casualty Co. v. Brownell*, 294 U. S. 580, 584). Certainly no such proof has been produced here.

The question, however, need not be considered solely as an issue under the taxing power. The power of the State to place the levy upon employers falls plainly within the long line of cases which have upheld the use of a state's power to impose the cost upon a general group or class whose activities are reasonably related to the conditions sought to be relieved. The New York Court of Appeals held in this case that "employers generally are not so unrelated to the unemployment problem as to make a moderate tax upon their payrolls unreasonable or arbitrary" (271 N. Y. at p. 10). Let us, therefore, look more

closely at the relation of industry to the unemployment problem.

The problem of unemployment which confronts us today was unknown to other forms of economic organization. Our present industrial system has resulted in vast increases in the production of goods, in greatly improved standards of living, in numerous other benefits. But it has also brought with it, as one of its most ominous consequences, the problem of aggravated unemployment.

Present-day unemployment is an inevitable by-product of our industrial structure. As the Economic Brief demonstrates, the chief causes of unemployment are the seasonal variations in industry, the inevitable swing of the business cycle through periods of boom and depression, the fundamental technological changes that are constantly taking place in the industrial structure, the migration of plants and even industries from one section of the country to another, the rise and fall of individual concerns (Ec. Br. pp. 60-93). All these major sources of unemployment arise directly out of the operation of the industrial system itself; and more particularly, out of the very phases of that system which have most greatly increased its productive capacity.

Appellants have attempted to argue that industry is not "responsible" for unemployment since the major share of unemployment arises from causes over which employers have no control (*Chamberlin Br.* pp. 51-3, 67-70; *Associated Industries Br.* pp. 51-5). It is readily admitted that industry does not "create" or "cause" most unemployment in the sense that individual employers or industries are at fault or even that industry as a whole could control the amount of unemployment. The same thing is true of industrial accidents, which employers are often powerless to prevent. Our point is simply the obvious fact, which appellants have ignored, that industry and commerce are responsible for unemployment in the sense that such unemployment is inherent in our modern indus-

trial structure, and that it is the maladjustments in the techniques of specialized large-scale production and distribution which are chiefly responsible for the evil.

Furthermore, not only does widespread unemployment arise directly out of the operation of industry, but industry itself may secure certain very definite advantages through such unemployment. For one thing, a business enterprise frequently finds itself in a position where profits will be increased or losses decreased by discharging employees and curtailing operations. This occurs on a large scale during periods of business depression. Thus industry stands to gain by complete freedom to cast off employees at any time. The upshot is that industry transfers to the community the burden of maintaining those who have given their services to industry, who have become dependent upon it, but whom industry finds it more profitable to discharge as business conditions change.

More important is the fact that even in times of business prosperity industry finds it necessary to maintain a large reservoir of labor from which it may draw at will to meet its shifting requirements. This feature of the modern industrial system was described in the Preliminary Report of the Joint Legislative Committee on Unemployment to the New York Legislature as follows:

“Briefly stated there are reserves of labor in every industrial labor force whose function is analogous to the reserves attached to military armies. The industrial reserve serves by standing in waiting, ready to carry the peak of the industrial demand, or to perform promptly an emergency service. In so serving they justify their presence in industry. But unfortunately it frequently happens that the costs of waiting, which in justice should be passed on to the consumer, are put on the casual labor force. They are not paid while they ‘stand and wait’ but only when they work. Moreover, their numbers are unduly large because the reserve is not

pooled for an industry but attached to each of the competing units. Each competitor endeavors to have a sufficient force of workers at hand to fill his maximum need" (N. Y. Leg. Doc. [1932] No. 69, pp. 74-5).¹¹

The maintenance of this "industrial reserve army", necessary to the effective operation of industry, is plainly a legitimate cost of industry. Under present relief methods, however, this cost falls directly upon the general taxpaying public.

We must conclude, then, that the present day operation of industry and commerce creates substantial unemployment. This unemployment has given rise to social evils of such significance that it is impossible for the State to ignore them. Surely it is not unreasonable or arbitrary to require industry, through a system of unemployment reserves, to assume part of the initial cost of their abatement. Particularly is this so in view of the fact that, as we shall see, industry is in a position to pass on the greater share, if not all, of this cost to the employee and the consuming public (see *infra* pp. 273-274, 295).

In this connection it should be emphasized that the unemployment insurance system set up in the Act is limited to the relief of those persons whose unemployment

¹¹ To the same effect see the statement of Professor J. M. Clark of Columbia University:

"In this connection one fact needs to be faced which is too often slighted, both by business men and economic theorists, namely, the fact that mobilization (of industry's labor forces) itself implies and requires some unemployment. It calls for an 'industrial reserve army', both of capital and of labor, though not to the extent nor for the reasons which the Marxian theory supposes. To the extent that this is really inevitable and essential to industry, it is not a waste, though the question still remains how to reduce the loss of power to the smallest possible proportions. Therefore, we must raise the question how much unemployment is really necessary for industry; not because there is any immediate danger of having too little unemployment, but because this question will help toward setting a reasonable goal and toward determining who benefits by unemployment and who should bear the burden of the irreducible remainder" (*Economics of Overhead Costs* [1933] pp. 366-7).

See also Economic Brief, pp. 2-3.

may be traced directly to the operation of industry.¹² The Act provides, as we have seen, that no employee shall receive benefits who has not been employed for 90 days or more in the preceding year, or 130 days or more in the preceding two years, immediately prior to his unemployment (§ 503-3-c). Further, no employee receives benefits who refuses to accept substantially equivalent employment (§ 506). Finally, the benefits themselves are calculated upon the basis of past employment (§ 503-3-e). Thus, no benefits are paid to individuals who have never been absorbed by industry and who have had no connection, or only a brief connection, with it. The coverage of the Act, in other words, is limited to those persons who have once been a part of industry, for whose unemployment industry is directly responsible, and through whose unemployment industry stands to gain.¹³

The principle that the Legislature, in seeking to mitigate or eliminate certain recognized public evils, may allocate the cost of such relief to the group out of whose activi-

¹² It is true, as appellants stress, that certain non-commercial employing units—such as the employment of domestic servants—are included within the operation of the Act (see *Chamberlin* Br. pp. 43-4, 55-6; *Associated Industries* Br. pp. 45-8). In view of the limitation of the Act to employers of four or more, the number of employees within this category is undoubtedly insignificant. In any event the considerations advanced with respect to industry in the strict sense are in the main applicable to any form of employment. It should also be pointed out that appellants are scarcely in a position to raise objection to the application of the Act to non-industrial employment in the absence of a showing that the inclusion of such groups will impose any net drain upon the fund or that appellants are otherwise adversely affected thereby. In view of the nature of its operations appellant in the *Associated Industries* action must certainly be viewed as part of the industrial organization, to be treated on a parity with the enterprises it serves.

¹³ Appellant in the *Associated Industries* case argues that "industry" is not synonymous with "employers" and that even if industry were considered responsible for unemployment it would not justify a levy upon employers alone (*Associated Industries* Br. pp. 45-6). But appellant fails to consider the fact that it is the employer who directs, manages and controls industry and who stands to profit from the employment of labor. Further, the employer is in the best position to distribute the burden. It is therefore upon him that the tax should fall. See *Mountain Timber Co. v. Washington* and *Arizona Employers' Liability Cases*, *infra* p. 273.

In connection with the distribution of the burden of lost earnings caused by unemployment it should be noted that under the New York Act such loss is compensated only to the extent of 50 per cent (§ 505); the worker still bears directly the remainder of this burden.

ties the evil arises, or who stand to benefit thereby, is not novel in the law. An outstanding example of the application of this principle is found in the bank guaranty cases. In *Noble State Bank v. Haskell* (219 U. S. 104) an Oklahoma statute authorized the collection of a certain percentage of the daily average deposits of state banks for the purpose of creating a guaranty fund to pay losses caused to depositors by the insolvency of such banks. This Court upheld the statute, saying (pp. 110-111):

“The substance of the plaintiff’s argument is that the assessment takes private property for private use without compensation. And while we should assume that the plaintiff would retain a reversionary interest in its contribution to the fund so as to be entitled to a return of what remained of it if the purpose were given up (see *Receiver of Danby Bank v. State Treasurer*, 39 Vermont, 92, 98), still there is no denying that by this law a portion of its property might be taken without return to pay debts of a failing rival in business. Nevertheless, notwithstanding the logical form of the objection, there are more powerful considerations on the other side. In the first place it is established by a series of cases that an ulterior public advantage may justify a comparatively insignificant taking of private property for what, in its immediate purpose, is a private use. *Clark v. Nash*, 198 U. S. 361. *Strickley v. Highland Boy Mining Co.*, 200 U. S. 527, 531. *Offield v. New York, New Haven & Hartford R.R. Co.*, 203 U. S. 372. *Bacon v. Walker*, 204 U. S. 311, 315. And in the next, it would seem that there may be other cases beside the every day one of taxation, in which the share of each party in the benefit of a scheme of mutual protection is sufficient compensation for the correlative burden that it is compelled to assume. See *Ohio Oil Co. v. Indiana*, 177 U. S. 190. At least, if we have a case within the reasonable exercise of the police power as above explained, no more need be said.”

To the same effect is *Abie State Bank v. Bryan* (282 U. S. 765).

Numerous other examples can be cited. Thus, the courts have upheld statutes imposing a tax upon shipowners for aliens brought into the United States, the funds to be used for the care and relief of immigrants who might subsequently become indigent and therefore a public burden (*Head Money Cases*, 112 U. S. 580); statutes making railroads liable in damages for injuries sustained by a passenger regardless of negligence (*Chicago, R. I. & P. R. Co. v. Zerneck*, 183 U. S. 582); statutes providing that the salaries of a state railroad commission are to be paid by pro rata contributions from those railroads in the state subject to the commission's supervision, investigation and regulation (*Charlotte, C. & A. R. Co. v. Gibbes*, 142 U. S. 386); statutes requiring a railroad company to pay for the expense of compulsory examination of a locomotive engineer to determine whether he was free from color blindness (*Nashville, C. St. L. R. Co. v. Alabama*, 128 U. S. 96); statutes requiring owners of dogs to contribute to a fund for the compensation of sheep owners whose sheep have been killed or injured by dogs (*McGlone v. Womack*, 129 Ky. 274; *Cole v. Hall*, 103 Ill. 30); statutes requiring sellers of liquor to take out a special license, the receipts to go into a special fund in the state treasury devoted to defraying the expenses of a state asylum for inebriates (*State v. Cassidy*, 22 Minn. 312); statutes imposing a liability upon fire insurance agents based upon the amount of insurance effected by them, for the benefit of a fund to care for and cure sick and injured firemen (*Fire Department v. Noble*, 3 E. D. Smith [N. Y.] 440; *Exempt Firemen's Fund v. Roome*, 29 Hun [N. Y.] 391, 394; *Firemen's Benevolent Association v. Lounsbury*, 21 Ill. 511; *Fire Department v. Helfenstein*, 16 Wis. 136); statutes providing for a pilotage fee to the first pilot hailing a ship, the money to be placed

in a fund for the relief of indigent pilots and their dependents (*Cooley v. Board of Wardens*, 12 How. 299).¹⁴

In all these cases remedy for a clear public evil was sought, the relief of such evil required the raising of funds, and the cost of such relief was assessed against the group whose activities were found to be reasonably related to the evil sought to be regulated. The case at bar falls plainly within the authority of these cases.

The workmen's compensation cases, however, constitute an even closer analogy. Industrial accidents, like unemployment, result inevitably from the operation of the industrial system. Virtually every State in the United States has set up a workmen's compensation system which places the cost of the losses occasioned by such accidents upon industry, regardless of fault. The reasonableness of thus allocating this social cost has been uniformly upheld by this Court.

The Workmen's Compensation acts first came before the Court in *New York Central Railroad Co. v. White* (243 U. S. 188), *Hawkins v. Bleakly* (243 U. S. 210), and *Mountain Timber Company v. Washington* (243 U. S. 219). The *New York Central* case involved the New York Workmen's Compensation Act, which imposed liability upon employers in certain hazardous occupations for disability or death of employees arising in the course of their employment, without regard to fault. Addressing itself to the question whether the burden thus imposed upon employers could be considered arbitrary or unreasonable, the Court analyzed the issue in the following manner:

"The physical suffering must be borne by the employees alone; the laws of nature prevent this from being evaded or shifted to another, and the statute makes no attempt to afford an equivalent in compensation. But, besides, there is the loss of earning

¹⁴ See also *Dayton-Goose Creek Ry. Co. v. United States* (263 U. S. 456), in which this Court upheld the recapture clause of the Transportation Act of 1920 which required carriers to contribute earnings in excess of a certain amount for the purpose of providing a fund to be used by the Interstate Commerce Commission in making loans to other carriers.

power; a loss of that which stands to the employee as his capital in trade. This is a loss arising out of the business, and, however it may be charged up, is an expense of the operation, as truly as the cost of repairing broken machinery or any other expense that ordinarily is paid by the employer. Who is to bear the charge? It is plain that, on grounds of natural justice, it is not unreasonable for the State, while relieving the employer from responsibility for damages measured by common-law standards and payable in cases where he or those for whose conduct he is answerable are found to be at fault, to require him to contribute a reasonable amount, and according to a reasonable and definite scale, by way of compensation for the loss of earning power incurred in the common enterprise, irrespective of the question of negligence, instead of leaving the entire loss to rest where it may chance to fall—that is, upon the injured employee or his dependents” (pp. 203-4).

The Washington statute under consideration in the *Mountain Timber* case established a system of compensation to injured workmen and their dependents out of a public fund maintained by contributions required from employers engaged in certain industries. The Court, noting the difference between this statute and that involved in the *New York Central* case, nevertheless ruled that it could not be considered a violation of the Fourteenth Amendment “to impose the entire cost of accident loss upon the industries in which the losses arise” (p. 243). The Court said:

“We are unable to discern any ground in natural justice or fundamental right that prevents the State from imposing the entire burden upon the industries that occasion the losses. The act in effect puts these hazardous occupations in the category of dangerous agencies, and requires that the losses shall be reckoned as a part of the cost of the industry, just like the payroll, the repair account, or

any other item of cost. The plan of assessment insurance is closely followed, and none more just has been suggested as a means of distributing the risk and burden of losses that inevitably must occur, in spite of any care that may be taken to prevent them.

“We are clearly of the opinion that a State, in the exercise of its power to pass such legislation as reasonably is deemed to be necessary to promote the health, safety and general welfare of its people, may regulate the carrying on of industrial occupations that frequently and inevitably produce personal injuries and disability with consequent loss of earning power among the men and women employed, and, occasionally, loss of life of those who have wives and children or other relations dependent upon them for support, and may require that these human losses shall be charged against the industry, either directly, as is done in the case of the act sustained in *New York Central R.R. Co. v. White, supra*, or by publicly administering the compensation and distributing the cost among the industries affected by means of a reasonable system of occupational taxes” (pp. 243-4).¹⁵

Several years later the Court reiterated its position in the *Arizona Employers' Liability Cases* (250 U. S. 400), which, incidentally, dispose of any suggestion that relief from common-law liability is the constitutional justification of the workmen's compensation acts. There the Court upheld the reasonableness of placing the cost of industrial accidents upon employers in industry in the following language:

“The burden is due to the hazardous nature of the industry, and is inevitable if the work of the world is to go forward. What the act does is merely

¹⁵ The Court went on to cite in support of its position numerous cases upholding “special excise taxes for regulation and revenue proportioned to the special injury attributable to the activities taxed” (pp. 244-5). Many of the cases to which the Court referred are set forth *supra* p. 268.

to require that it shall be assumed, to the extent of pecuniary equivalent of the actual and proximate damage sustained by the workman or those near to him, by the employer—by him who organizes the enterprise, hires the workman, fixes the wages, sets a price upon the product, pays the costs, and takes for his reward the net profits, if any” (p. 424).

Appellants have attempted to distinguish the workmen's compensation cases on the ground that the liability imposed upon the employer in such acts is “in respect of an injury occurring in, and arising directly out of, the employment” (*Chamberlin Br.* p. 53). But compensable unemployment arises out of industry as truly as do industrial accidents. Those who are drawn into the service of our industrial mechanism live constantly in danger of being cast off by the unpredictable and largely fortuitous workings of that mechanism, just as they live in danger of physical injury or death. In both cases the loss falls upon the individual worker, and in both cases the social consequences—loss of earning power, pauperization, vice, crime—are largely the same. Both kinds of loss are occasioned by the failure of our industrial system to operate with perfect efficiency, and it is surely not unreasonable to charge them both as items in the cost of modern industrial production.

The peasant in primitive civilization entered upon his years of productive life with a reasonable assurance that as long as he was willing to work he could earn his living.¹⁶ The worker who enters industrial production

¹⁶ Compare the statement in Douglas, Hitchcock and Atkins, *The Worker in Modern Economic Society*:

“The basic difference between the present-day worker and the peasant and serf of the past is the difference between stability and instability, between security and insecurity, between regularity and irregularity. The common round of tasks which filled the lives of the peasant from day to day and year to year has no existence for the mass of wage earners. So many workers are drifting constantly, so many others have their regular habits and customary existence undermined by unemployment and lay-offs, that even those who remain stationary are infected with the restlessness characteristic of the less stable” (p. 393).

today has no such assurance. His chance to earn a living is always at the mercy of forces beyond his control and usually beyond the control of his employer. These forces are inherent in modern industry, and the Legislature has merely prescribed that industry should bear some part of their consequences.

Finally, it should be emphasized that the incidence of the tax falls upon the employer only in the first instance. As the Economic Brief demonstrates, ultimately the greater share of the cost will be shifted either to wage earners, in the form of lower wages, or to consumers, in the form of higher prices (Ec. Br. pp. 129-134). Thus, in the end the cost will be borne not by industry alone, but by the whole community. This was pointed out by Judge Crane, writing for the majority in the Court below:

“Instead of solely taxing all the people directly, it has passed a law whereby employers are taxed for the help of the unemployed, the sums thus paid being cast upon the public generally through the natural increase in the prices of commodities. Whether relief be under this new law of the Legislature or under the dole system the public at large pays the bill” (271 N. Y. at p. 9).

The significance of this fact was emphasized by Justice Holmes, concurring in the *Arizona Employers' Liability Cases*:

“If a business is unsuccessful it means that the public does not care enough for it to make it pay. If it is successful the public pays its expenses and something more. It is reasonable that the public should pay the whole cost of producing what it wants and a part of that cost is the pain and mutilation incident to production. By throwing that loss upon the employer in the first instance we throw it upon the public in the long run and that is just. If a legislature should reason in this way and act accordingly it seems to me that it is within

constitutional bounds. *Erickson v. Preuss*, 223 N. Y. 365" (250 U. S. at p. 433).

(See also *Hegeman Farms Corp. v. Baldwin*, 293 U. S. 163, 171.)

Thus, reduced to its essential elements, the unemployment compensation scheme embodied in the Act before the Court uses the device of a tax upon employers as a convenient method of collecting the funds required to maintain the system. In the end, the public pays "the whole cost of producing what it wants".¹⁷

Where, as here, the expenditure of funds is for a public purpose, and where, as here, there is a reasonably close relationship between the source from which the funds are derived and the occasion for their expenditure, there is no "expropriation of money from one group for the benefit of another" (*United States v. Butler*, 297 U. S. 1, 4).

¹⁷ The ultimate levy of three per cent on that part of payrolls affected by this Act will not have a considerable effect upon the final price of the goods produced. The tax is on labor costs (and on only a portion of these costs). Hence, no matter how many stages a product passes through there is added to its cost at each stage no more than three per cent of the labor cost, as distinguished from the total cost (including raw materials, interest, dividends, rent, etc.) at that stage. Thus the final price of the product can never be increased by as much as three per cent, since no product's final price is composed exclusively of labor costs. Total payrolls are 41.6 per cent of the value added by manufacture in the leading New York industries. These payrolls represent all wages and all salaries including those over \$50 per week, which are not covered by the Act. Even on this payroll basis a levy of three per cent would represent only \$.0125 in every dollar.

POINT III

The pooling of receipts in a single fund for the payment of unemployment insurance benefits is not in violation of any provision of the Constitution. The case of *Railroad Retirement Board v. Alton Railroad* (295 U. S. 330) not only is clearly distinguishable from the instant case but actually points to the validity of the present Act.

- A. The pooling provisions of the Act are fair and reasonable and are not in violation of any provision of the Constitution.

Both briefs of appellants place their main reliance upon the contention that the provisions of the New York Act imposing a flat rate upon all payrolls, the proceeds to go into a single pooled fund, are arbitrary and capricious and result in a denial of due process and equal protection of the laws. Although both briefs argue the point with great elaboration the principal objections of appellants may be reduced to two:

1. They object because employers are compelled to pay into a pooled fund contributions which may be paid out as benefits to the employees of other employers, with which the first employer is said to have no connection (*Chamberlin* Br. pp. 13-14, 19-21, 32-60, 67-70, 72; *Associated Industries* Br. pp. 9-10, 25-51, 63-6). This argument amounts to the contention that the only form of employer contributions which the New York Legislature could have constitutionally adopted is that form known as individual reserves, in which the contributions of each employer are segregated in individual funds.

2. Appellants also object because the New York Act does not set up a system by which contributions may be

rated according to the amount or percentage of employment found to prevail in each industry group, industry or plant (*id.*).¹⁸ It is not clear just how far down the scale appellants consider the Legislature should have gone in making such classification, but apparently they contend that any rating which did not account for individual differences between employers would be arbitrary and unreasonable. This argument amounts to the contention that any form of employer contributions which does not include a so-called "merit rating" plan is unconstitutional.

This Court has repeatedly held that the Legislature has broad discretion in classification for either tax or regulatory purposes, and that nothing short of a complete lack of rational foundation will invalidate legislation upon this ground (see cases cited *supra* p. 262). The present attack asserts that the Legislature has improperly refused to classify, and certainly the permissible discretion in this regard is no less broad than in making affirmative discrimination.

We have already seen that the pooling of the contributions of various persons who are jointly responsible for a public evil, and the use of the fund thus created in mitigation of that evil, is no novelty, and has frequently been sustained by this and other courts (*supra*, pp. 266 et seq.). Any such pooling, of course, means that some contributors will necessarily pay more and some will pay less than a strict individual accountability for the public evil might seem to warrant.

In the *Head Money* cases, the *Sheep Dog* cases and the *Bank Deposit Guaranty* cases, for instance, there was no attempt to classify contributors in accordance with relative risks (see *supra* p. 268). It would manifestly have been impracticable to attempt to appraise the viciousness of particular dogs or the financial soundness of particular banks.

¹⁸ As we have seen above, and as we shall consider in more detail later, the New York Act does make provision for a study and report upon the practicability of such a system of rating (*supra* p. 246; *infra* p. 283).

In *Mountain Timber Co. v. Washington* (243 U. S. 219) this Court upheld the Washington Workmen's Compensation Law which required all employers in an industry to contribute to a single fund from which was payable all compensation awards to employees within the industry. It is true that the Washington law classified the various industries, and funds were pooled only within an industry. In the case of workmen's compensation acts such a classification is plainly reasonable. The relative gravity of risks from industrial accidents, as between various industries, can be calculated, and the incidence of accidents allocated, with considerable precision. Such is not the case, as we shall show, in unemployment compensation. The significance of the *Mountain Timber* case is that the pooling principle was upheld, as applied within the various industries, in spite of the fact that it would have been possible, as many workmen's compensation laws in fact do, to establish a system of individual reserves. It was enough that the Washington Legislature had made a reasonable effort to set up the system upon an equitable basis.

Appellants' sole reliance in this connection is upon *Railroad Retirement Board v. Alton Railroad* (295 U. S. 330). Appellants place so much stress upon this case that we analyze it in detail in the following subsection. It is sufficient to point out here two facts with reference to that decision. First, the *Alton* case certainly did not condemn the pooling of funds *per se*; its objection to the application of the pooling principle rested upon certain specific features of the Railroad Retirement Act which, as we shall show, are not present in the case at bar. Second, the *Alton* case did not purport to overrule any of the previous decisions sustaining pooled funds; on the contrary the rule of law there laid down constitutes the complete justification for the pooled fund provisions of the Act now before the Court. Speaking of the *Mountain Timber* case the Court said (at pp. 359-360):

“In the first of these the Washington workmen’s compensation Act, which required employers in extra-hazardous employment, to pay into a state fund certain premiums based upon the percentage of estimated payroll of the workmen employed, was under attack. For the purpose of payments into the fund, accounts were to be kept *with each industry* in accordance with a statutory classification, and it was definitely provided that no class should be liable for the depletion of the accident fund by reason of accidents happening in any other class. The Act therefore clearly recognized the difference in drain or burden on the fund arising from different industries, and sought to equate the burden in accordance with the risk. The challenge of the employers was that the statute failed of equitable apportionment as between the constituted classes. *But no proof was furnished to that effect, and this court assumed that the classification was made in an effort at fairness and equity as between classes.* The Railroad Retirement Act, on the contrary, makes no classification, but, as above said, treats all of the carriers as a single employer, irrespective of their several conditions” (italics ours).

The question here, then, is whether the New York Legislature, in adopting the form of the pooling principle it did, has made “an effort at fairness and equity as between classes”.

We should make clear at the outset that two different, and perhaps inconsistent, approaches may be made to the determination of a fair distribution of the cost of unemployment insurance. One looks at the mere act of dismissing an employee, and seeks to appraise the merit of an employer solely by the number of workers he himself discharges. The other conceives that in discharging a worker the employer is merely the instrument of larger forces which he himself usually cannot control, and which have their roots in the basic structure of our industrial system. Each view has the support of careful and im-

partial students, and each has received the approval of some State Legislatures. Appellants take the former approach, while the New York State Legislature has chosen the latter.

This brings us to a consideration of the factors—overlooked by appellants—which influenced the Legislature in its judgment.

The facts are fully set forth in the Economic Brief (pp. 1-99). It is there shown, first, that unemployment is widely scattered among all groups. Although variation of course exists, virtually every industry and every employer is at one time or another affected (Ec. Br. pp. 20-25, 60-93).

Secondly, it is now impossible to forecast with any substantial accuracy the future volume of unemployment in any particular industry or establishment. Each industry as well as each individual unit is dependent for its growth and continued existence upon numerous complicated factors whose trend cannot be foreseen. All the major causes of unemployment—technological changes, cyclical changes, market shifts, trends in style, migrations of industry, the rise and fall of individual firms, even seasonal variations—are as to particular firms and industries largely unpredictable. An industry which is prosperous and stable one day may be dealt a death blow the next day by a single invention or the introduction of a single competing product. For these reasons past records are but little support for estimates of future probabilities (Ec. Br. pp. 61-94; 117).

Variations in unemployment between individuals and industries at a specified period of time do, of course, exist, as appellants have stressed (*Chamberlin* Br. pp. 32-41). But the important question is whether the same variations persist over a longer period of time. As to that question past records are of limited significance. Particularly is this true at the present time when we are emerging from the greatest economic disturbance in our history.

Thirdly, and most important, even if it were possible to forecast accurately the number of workers likely to be laid off in the future by a particular industry or individual, the gravest doubts arise whether it would be equitable to attempt an apportionment of contributions upon the basis of the volume of unemployment occurring in any one industry or enterprise. The actual unemployment prevailing in an industry or enterprise bears only a very limited relation to the responsibility of that industry or enterprise for the total volume of unemployment.

Upon analysis it is plain that seemingly stable industries, such as those producing "consumer goods", may in fact bear a substantial share of responsibility for unemployment in less stable occupations, such as the "durable goods" industries, by promptly withdrawing orders and cutting down on new equipment or replacements as soon as business begins to slacken (Ec. Br. pp. 72-74). Thus figures cited in the Economic Brief disclose the exaggerated response of the semi-durable and durable goods industries to lesser changes in the production of non-durables (Chart 25, Ec. Br. p. 73). Further, statistics of construction activity in the so-called "sheltered" trades indicate that, in periods of depression, electric light and power and telephone companies may contribute heavily to unemployment in other industries even though their own employment remains fairly stable (Chart 26, Ec. Br. p. 75). In addition, stabilization in one industry may actually increase irregularity in another (see Ec. Br. pp. 76-77). And, to cite a familiar situation, actual growth of one industry, such as the rayon industry, may create serious unemployment in another industry, such as the cotton or silk industry.

A few illustrations will suggest some of the difficulties involved in establishing a merit rating system in an unemployment insurance law:

A public utility company builds a dam and installs hydro-electric generating equipment and ceases its large

purchasing of coal. The coal mine operator, unable to find other markets, is forced to discharge workmen. Is the unemployment among the miners caused by the mine operator or by the public utility? Should the public utility be given a high merit rating merely because its employment experience with respect to its own employees is favorable?

The railroads have in recent years lost a great amount of business to motor vehicles. Do the equities of the case require that the resulting burden of unemployment among railroad employees be borne by the railroads alone or should it be divided between them and the motor vehicle industry? Should the oil companies be made to contribute because of the large consumption of gasoline involved?

In short, most unemployment cannot be said to "arise from" any particular industry or plant. Attempts to allocate responsibility for creating unemployment lead into realms of metaphysics. It is the operation of industry as a whole which produces unemployment, and it is industry as a whole which should contribute to its relief.

Appellants in the *Chamberlin* and *Stearns* actions have sought to compile statistics to prove the obvious point that unemployment at any particular period of time varies considerably among industries and individuals (*Chamberlin* Br. pp. 32-41). This extended argument is, as we have shown, completely beside the point. No one disputes that the proportion of employees laid off varies among industries and individuals. The issue is whether records showing the number of workers laid off by particular industries or employers in the past constitute a safe basis for predicting the future or a fair test of the responsibility of that industry or employer to the unemployment problem.

It is true that individual employers have a limited control over unemployment in their plants and that a system of merit rating may provide an added incentive to reduce this unemployment to a minimum. It should be noted,

however, that this justification for merit rating proceeds upon the principle, not that the absence of merit rating constitutes an arbitrary discrimination against certain employers, but that its presence constitutes a useful device to reduce unemployment. On the other hand, there are certain disadvantages to a merit rating plan which are not to be overlooked. Its value as an incentive to reduce unemployment has been questioned.¹⁹ In addition, it interferes with a fundamental advantage of pooled funds, that of providing a broad and financially sound base for the reserve fund and thus affording a greater protection to the beneficiary class (see Ec. Br. pp. 116-120).²⁰

¹⁹ See, for instance, the statement of Walter A. Morton, Professor of Banking at the University of Wisconsin, in his article, *The Aims of Unemployment Insurance, etc.*, American Economic Review (Sept. 1933):

"Because of the factors already making for stability, it seems reasonable to conclude that a 2 per cent tax on the payroll will not lead employers to alter their methods of business. This tax is insufficient to overcome other obstacles to continuous operation. If, on the other hand, unemployment is not due to lack of incentive but to lack of managerial knowledge or ability, neither the law nor its administration can supply this deficiency. The law imposes an additional charge upon employers due to instability. Like overhead, this charge induces them to operate when they would not otherwise have done so only if operation still entails smaller 'forfeitures' than the tax. The employer must balance the depletion of his individual reserve fund and the prospective resumption of premium contributions from ceasing to operate against the risk of diversification or of price and style change and the inescapable 'carrying charges' if he does operate. A tax high enough radically to alter the mode of industrial operations and to compel employment when and where it would not otherwise exist will probably be high enough to cause migration—a tax which is not high enough to alter operations will not prevent unemployment" (p. 404).

To the same effect see Abraham Epstein, *Insecurity—A Challenge to America* (3d ed. 1936), p. 311.

²⁰ See the Economic Brief, pp. 116-120. See also the statements of Eveline M. Burns in *Towards Social Security* (1936):

"Thus a merit rating system is likely to give workers less security than the simple pooled reserve, although they will obtain more than under the individual plant reserve" (p. 73).

"Of all these methods the simple pooled reserve which is adopted, for example, in New York offers the greatest amount of protection to unemployed workers" (p. 70).

We do not assert that the flat rate of the New York Act is necessarily fairer than a system of merit rating. We do assert that careful students of the subject are divided in their views with respect to the advisability of merit rating.²¹ Several state Legislatures have provided for merit rating at some stated future date (Ec. Br. pp. 110-1). The New York Legislature has provided that the subject be further studied. The Act sets up an advisory council expressly directed to investigate and report not later than March 1, 1939, upon the "practicability of the establishment of a rating system which would most equitably operate to rate the unemployment risk and fix the contribution to such fund for each employer, group of employers, employment, occupation, or industry" (§ 518-4). This position of the Legislature has been confirmed by the New York Court of Appeals (271 N. Y. at p. 10).

Where competent and impartial students of the subject, as well as state Legislatures, differ basically in regard to the practicability and fairness of one method or the other, the courts will not pass judgment. Where the competing methods are currently being tested in the "experimental workshops" of the several states, it cannot be said that either one method or the other is dictated by the requirements of the Fourteenth Amendment.

²¹ Appellants in a footnote on pages 41-42 of the *Chamberlin* Brief have cited a number of authorities who have expressed themselves in favor of individual reserves or a merit rating system. Other students of the problem, equally prominent, have argued for straight pooled funds such as the New York Law provides. See, for example, Abraham Epstein, *Insecurity—A Challenge to America* (3d ed. 1936), pp. 311-2, 317; Eveline M. Burns, *Toward Social Security* (1936), pp. 70-3; Paul Douglas, *Social Security in the United States* (1936), pp. 253-5; Hansen, Murray, Stevenson, and Stewart, *A Program for Unemployment Insurance and Relief in the United States* (1934), pp. 16, 65-73.

Two other states in addition to New York—Mississippi and Rhode Island—have adopted straight pooled funds (see Ec. Br. pp. 164-175).

With respect to European experience the Report to the President of the Committee on Economic Security (1935) sums up the situation as follows:

"* * * only in Belgium is a distinction made in the rate of contribution in different industries in accordance with their risk of unemployment. All European systems create pooled unemployment insurance funds for the entire state or nation, in which the contributions of all employers are commingled" (p. 10).

B. Railroad Retirement Board v. Alton Railroad (295 U. S. 300) not only is clearly distinguishable, but points to the validity of the present Act.

The *Alton* case laid down a line of demarcation between those situations where pooling is permissible and those where it is not, which, if applied to the facts of the present case, clearly demonstrates the validity of the Unemployment Insurance Law of New York State. That rule may be stated roughly as follows: Assuming the factors (discussed in Point II, above) which justify the imposition of a given burden upon a particular group, the Legislature may pool the contributions of the several individuals if and only if it makes reasonable use of available data in an honest effort to distribute the burden as fairly as may be practicable. We have already demonstrated that in the present limited state of our knowledge of the subject the decision of the New York Legislature to disregard the immediate in favor of the underlying causes of unemployment cannot be condemned.

That this is the law is made clear by an examination of the opinion in the *Alton* case.

Before we come to the portion of that opinion which dealt with the pooled fund, however, a few words should be said with respect to the other features of the Railroad Retirement Act which were found to be repugnant to the due process clause. The first objection was that the Act would pension employees laid off within a year before its passage. As there is nothing in the Unemployment Insurance Law even remotely resembling that provision, we may dismiss it from further consideration. The second objection, or group of objections, related likewise to provisions of the Railroad Retirement Act that find no parallel in a statute which is utterly devoid of retroactive feature in either the selection of beneficiaries or the measurement of benefits, and which expressly conditions benefits on employment within two years prior to the claim for compensation.

The only portion of the *Alton* case which bears at all upon the present question is the discussion (295 U. S. at pp. 355-60) of the pooling of contributions. Two general points stand out:

(1) The *Alton* case does not purport to invalidate all pooling, else it must have overruled instead of distinguishing the *Mountain Timber* and other cases. In the very language in which the *Mountain Timber* case was distinguished, indeed, we find the key to the problem.

(2) The features of the pooled fund to which this Court objected were features with respect to which Congress might readily, on the basis of known data, have made a more equitable distribution of the burden. It is one thing to compel a carrier to contribute *pro rata* to a fund where it is already known that, *on the basis of past events*, a large part of the fund will automatically go to persons for whom he has no conceivable responsibility. It is quite another to compel an employer to contribute to a fund under such circumstances that no one can foretell where the lightning will strike—that his own contribution to the evil may prove to be far less or far greater than his contribution to the fund. In social insurance as in private, the difference between hindsight and foresight is fundamental.

When we turn to the particular features of the pooled fund which the Court condemned, we find that every one of them either involved a failure to use very simple hindsight or for some other reason is obviously unlike anything in the Unemployment Insurance Law. In the former class we may group four of the seven objections: that the Act disregarded known differentials in the average ages of the personnel of the several carriers; that the compulsory retirement and pensioning of presently superannuated employees did not benefit at all 56 of the carriers who had no such employees; that presently insolvent

carriers could not contribute in fair proportion; and that presently defunct carriers could not be made to contribute at all. Of the other three objections, one, that the carriers were in effect compelled to guarantee the contributions of employees, finds no possible counterpart in the Unemployment Insurance Law.

The other two points, relating to carriers thereafter becoming insolvent and to carriers thereafter going out of business, do have a superficial resemblance to the present law, since these conditions will come to pass among the contributors to the Unemployment Insurance Fund. These objections must be considered in the light of the fact that the Railroad Retirement Act was framed on a "pay-as-you-go" basis. The reserve principle incorporated in the present law, however, minimizes if it does not entirely eliminate this source of inequity by assuring that the very employers in question will have contributed in advance substantial amounts to the fund, which may be either more or less than enough to pay any compensation due their employees until they can find other work. Compensation which can in no event exceed sixteen weeks in duration, moreover, is a very different thing from a life-long pension to one whose utility has passed.

It is therefore evident that nothing in the discussion of the pooled fund in the *Alton* case militates against the validity of the pooled fund in the present case. The decisive part of the opinion, however, for present purposes, is in its treatment of the *Mountain Timber* case, which we have quoted above (*supra* p. 278). The Court stated that the pooling involved in the Washington Workmen's Compensation Act was valid because, for aught that appeared, it represented a reasonable effort at fair classification. We have already seen that pooling here represents at least as reasonable an effort at fairness. What would constitute fair and reasonable pooling in workmen's compensation may be unfair or impracticable in unemployment compensation. Every industrial accident occurs in a particular plant or establishment, and the risks

are susceptible of relative appraisal. In New York State the premiums for such insurance vary from 9¢ to \$49.91 per \$100 of payroll, and it is not likely that employers would accept such enormous disparity of rates unless experience afforded convincing justification of them. These criteria are not presently available in the case of unemployment compensation, particularly if we look beyond the immediate cause and undertake an appraisal of the total causes of the evil.

The pooling principle as applied in the present cases is therefore valid within the four corners of the holding in the *Alton* case.

POINT IV

The New York Unemployment Insurance Law discloses no other feature not within the requirements of the Federal Constitution.

A. The classification of employers is fair and reasonable.

(1) Appellant in the *Associated Industries* action has argued that the classification of employers subject to the tax is discriminatory and arbitrary in that it exempts employers of less than four persons (*Associated Industries* Br. pp. 64-5).

It has been demonstrated, however, that such small employers are less likely to be severely affected, so far as their employment is concerned, by business fluctuations (Ec. Br. p. 91; footnote, p. 125). The small employer thus does not contribute substantially to the unemployment problem. Moreover, application of the unemployment insurance plan to large numbers of small employers might well present administrative problems so burdensome as perhaps to jeopardize successful administration of the law, especially at its inception. Furthermore, such employees are not entitled to receive any benefits upon becoming unemployed; nor may they count employment by such an employer as part of their qualifying period (§ 503-3-c); nor, if they have lost employment after having shifted from an excepted to an included employer, may the duration of their benefits be measured by reference to the period of their employment by the excepted employer (§ 503-3-c). Finally, the exemption of small employers finds counterpart in the workmen's compensation acts, where it has been expressly justified by this Court (*New York Central Railroad v. White*, 243 U. S. 188, 208).

No constitutional mandate exists that a law, least of all a tax or levy statute, must be extended beyond what the

Legislature believes susceptible of successful administration (*New York v. Latrobe*, 279 U. S. 421; *Hatch v. Reardon*, 204 U. S. 152). Classifications based on size or number within a generic group have repeatedly been sustained (*Bradley v. Richmond*, 227 U. S. 477; *Metropolis Theatre Co. v. Chicago*, 228 U. S. 61; *Quong Wing v. Kirkendall*, 223 U. S. 59). The matters complained of rest upon a legislative conclusion made only after thorough deliberation. If, as the present Chief Justice wrote in *Miller v. Wilson* (236 U. S. 373, 384), the law "presumably hits the evil where it is most felt, it is not to be overthrown because there are other instances to which it might have been applied." (See also *Dominion Hotel, Inc. v. Arizona*, 249 U. S. 265.)

(2) Appellant in the *Associated Industries* action also argues that the payroll tax discriminates arbitrarily against employers who keep employees on the payroll and in favor of those who reduce their force (*Associated Industries* Br. pp. 63-4; see also *Chamberlin* Br. pp. 50-1). The objection seems to be that the tax is on payrolls, rather than on the absence of payrolls. Logically, appellant's argument would imply that the heaviest taxes should be paid by those who had gone out of business entirely.²²

B. Benefits.

Argument is advanced that the Act arbitrarily, and contrary to its stated purpose, extends the protection of its benefits to persons other than those involuntarily unemployed. The contention that employees who voluntarily quit their jobs are eligible to benefits has already been treated (*supra* p. 254). In addition appellants in the *Chamberlin* action have attacked Section 504, subdivision 2, which provides that workers who have lost employ-

²² The argument of appellants is likewise illogical in claiming credit for steady employment and at the same time denying ability to control unemployment (see *Associated Industries* Br. pp. 63, 53).

ment by reason of alleged misconduct or industrial disputes are entitled to receive benefits after a waiting period of ten weeks instead of the normal three weeks (*Chamberlin Br. pp. 65-6*).

Contrary to appellants' suggestion, this section does not run counter to the general philosophy of the statute. For the statute contemplates that awards of benefits are to be made by reference to the *fact* of unemployment, rather than by reference to its *causation*. In like manner workmen's compensation laws seek not to assess blame, but to compensate for disability, however caused. The Legislature has concluded that some discouragement, in the form of postponement of benefits, should be provided against loss of employment due to the above causes. But it has also concluded that benefits should not permanently be withheld in cases of this kind. A rough sort of compromise may have seemed desirable for administrative and social reasons.

With respect to misconduct, it is not commonly denied that many discharges for "misconduct" really reflect nothing more blameworthy than personal incompatibilities between employer and employed. The administrative task of sifting the justified from the unjustified, serious from trivial misconduct, might well be deemed so onerous as to impair effective application of the statute. Legislatures must be allowed a certain play of judgment if they are to produce measures capable of practical administration (cf. *Powell v. Pennsylvania*, 127 U. S. 678; *Semler v. Oregon State Board*, 294 U. S. 608, 613).

The same considerations are applicable with respect to the provision concerning industrial controversies. It is undisputed that there are many wholly unjustified lock-outs and many wholly justified strikes against working conditions or low wages. Any attempt to distinguish between the justified and unjustified would again involve insuperable administrative difficulties. Further, statistics show that a very small proportion of industrial disputes

last longer than ten weeks.²³ Consequently the great majority of employees still without work ten weeks after a strike or lockout are fairly classed as at that time bona fide unemployed. In setting a simple administrative standard of ten weeks' waiting period in such situation it cannot be said the Legislature decided the matter arbitrarily.

It is submitted, therefore, that the section under discussion is immune against successful attack. Moreover, as was observed by Chief Judge Crane in discussion of this point in the court below: " * * * a full scheme or plan cannot be condemned because the courts may not approve of certain details" (271 N. Y. at 14).²⁴

C. The absence of a "means test".

We have already pointed out that the payment of unemployment benefits as a matter of right, rather than only to those already destitute, is of the essence of the plan for preventing that pauperization which typically accompanies unemployment (*supra* p. 257). Appellants in the *Chamberlin* and *Stearns* actions, however, contend there is a constitutional requirement that the State of New York administer a pauper's oath to any of its citizens who may be involuntarily unemployed before it can pay

²³ The figures of the Bureau of Labor Statistics of the United States Department of Labor reveal that the average duration of all industrial disputes of which duration is known in the years 1919 to 1933 was 26.8 days; in the period from 1926 to 1933 the average was 19 days; in 1934 19.5 days; in 1935 23.8 days (U. S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, July 1934, p. 81; January 1936, pp. 160-1; May 1936, p. 1309). Further, during the years 1919 to 1933 not more than 9.8 per cent of all disputes lasted more than 64 days; in the years 1934 and 1935 not more than 9.1 per cent lasted more than two months (*Monthly Labor Review*, July 1934, p. 82; January 1936, p. 161; May 1936, p. 1309).

²⁴ In any event, even were we mistaken in our view of this section, appellants' case would not be materially strengthened. The New York Law, in Section 530, contains a "separability clause", under the terms of which the whole of Section 504(2) could be stricken from the statute without impairing the force of the remaining sections. This Court has so recently had occasion to restate the law concerning the severability of statutes that we forego further discussion of the matter (see *Carter v. Carter Coal Co.*, 56 Sup. Ct. 855, 873).

to such citizens insurance benefits amounting to a few dollars a week for a few short weeks (*Chamberlin Br.* pp. 60-64). In addition to what has already been said the following considerations should be emphasized:

(1) A "means test" in an unemployment insurance system would penalize thrift, placing the worker who has lived improvidently in a better position than one who has lived providently. One well-known authority upon social security, speaking of the "means test", summed up the matter as follows:

"The last few years have revealed the unsatisfactoriness of this safeguard, especially as a way of providing for the millions who are unemployed through no fault of their own. The self-respecting worker who has accumulated savings can obtain no help until he has exhausted his resources and become a pauper, while his shiftless neighbor who never saved at all obtains assistance as soon as he is unemployed" (Burns, *Towards Social Security* (1936) p. 140).

(2) A "means test" creates resentment and dissatisfaction, and frequently denies help to those, often the most deserving, who are too proud to beg for charity.²⁵

(3) A "means test" invites fraud and perjury by applicants, since the temptation to conceal assets is well-nigh overwhelming.²⁶

(4) A "means test" is costly and difficult to administer. In England it was found that application of a "means test" to the payment of so-called transitional benefits (that is, benefits paid after the expiration of the regular unemployment compensation benefits) cut not more than

²⁵ See Kiehel, *Unemployment Insurance in Belgium* (1932) p. 193; Hohman, *British Social Insurance and Minimum Wage* (1932) p. 235.

²⁶ See Folks, *Making Relief Respectable*, *Annals of the American Academy of Political and Social Science* (Nov. 1934), pp. 158-9.

12 percent from the payments.²⁷ No reason has been suggested to think that the percentage of saving would be higher in New York State. Indeed, if the means of the recipient only were considered, rather than the means of his family as well (as was done in England), the percentage would obviously be reduced. Yet it will hardly be claimed that the Constitution requires a citizen to beg for the charity of his family and friends before the state can be permitted to help him.

It seems clear then, that a "means test" would be unnecessary, in that it would save but a small percentage of the total outlay, and would at the same time create evils too serious to be overlooked (see *Ec. Br.* pp. 114; 121; 124).

(5) Appellants seek to give the impression that numerous systems of unemployment insurance in other countries require a "means test" as a condition to the payment of ordinary benefits (*Chamberlin Br.* pp. 62-3). *Exactly the opposite is true.* With a single possible exception no system of contributory unemployment insurance, in this or any other country, imposes any form of general "means test".²⁸ The essence of unemployment insurance, as we

²⁷ Minority Report of the Royal Commission on Unemployment Insurance (1932) § 83. Although this statement of fact is taken from the Minority Report it is not controverted by anything in the Majority Report. German experience shows less than five per cent of beneficiaries not in need (Otto Nathan, *Some Considerations on Unemployment Insurance* [1934] 42 *J. Pol. Econ.* 289). See also Kiehel, *Unemployment Insurance in Belgium* (1932) p. 193; Hohman, *British Social Insurance and Minimum Wage* (1932) pp. 234-5.

²⁸ The footnote on pages 62-63 of the *Chamberlin* Brief confuses the payment of ordinary unemployment insurance benefits with expenditures of public funds for relief. Without considering separately the situation in each of the countries mentioned by appellants *it is sufficient to quote the summary made by the same report from which appellants have drawn their data:*

"Apart from one or two non-contributory relief schemes, such as that of France, for instance, and the Austrian insurance scheme, there is no system in force under which a means test is imposed as a general rule from the beginning of unemployment. Such a test, however, is sometimes applied to special classes of insured persons, such as married women, who, for instance, are subject to a means test in Germany from the beginning of their unemployment. On the other hand, where unemployment has lasted so long that the applicant has lost his right to standard benefit and has to make a claim for emergency benefit, a means test is frequently imposed" (International Labour Conference, 17th Session, Geneva, 1933, p. 121).

With regard to the Irish Free State a form of general "means test" is indeed employed. It is clear from the provisions, however, that pauperism is not a condition for receipt of benefits.

have said, is that involuntarily unemployed workers are entitled to benefits, for the limited period of time provided, as a matter of right. A "means test" in a system of unemployment insurance is a contradiction in terms. *Such a plan would not be unemployment insurance, but simply poor relief.*

(6) Appellants seek support of their argument from cases like *Loan Association v. Topeka* (20 Wall. 655) (*Chamberlin Br.* p. 60). Such reliance is in complete disregard of the basic factual situation involved in this case, which presents a situation not passed upon previously by any court. Further, appellants ignore the later cases in which this Court has shown a strong disposition to leave to the several states the determination of what are public purposes for which state funds may properly be expended (*Green v. Frazier*, 253 U. S. 233, 240; *Jones v. City of Portland*, 245 U. S. 217; *Standard Oil Co. v. City of Lincoln*, 114 Neb. 245, *affd.* 275 U. S. 504).

(7) The precise argument that appellants make was advanced in the workmen's compensation cases. This Court made short shrift of it:

"It is said that the compensation or pension under this law is not confined to those who are left without means of support. This is true. But is the State powerless to succor the wounded except they be reduced to the last extremity? Is it debarred from compensating an injured man until his own resources are first exhausted? This would be to discriminate against the thrifty and in favor of the improvident. The power and discretion of the State are not thus circumscribed by the Fourteenth Amendment" (*Mountain Timber Co. v. Washington*, 243 U. S. 219, 240).

One would think from appellants' brief that the State was proposing to distribute, at the expense of employers, a bounteous largess to all employees who ask it. Of course nothing could be further from the fact. The Legislature has decided that the public welfare of the State of New York is best served by conditioning the relatively

small benefits, not upon the willingness of the claimant to swear that he is a pauper, but upon his proved willingness to accept any suitable work that is offered.

D. Freedom of contract.

Because the employer is forbidden to deduct the amount of his contribution from the wage of the worker, it is argued that there is an unwarranted violation of "freedom of contract" (*Chamberlin Br.* pp. 70-1; *Associated Industries Br.* pp. 55-60). It must be obvious that this is a misstatement of the statute and that no such construction of the law is necessary. The operation of the restriction comes into play only after the contract of employment has been made, and therefore in no way impairs freedom in the making thereof. The prohibition against a deduction applies only after the wage has been agreed upon. All factors in the cost of operating his business may be considered by an employer in determining the wage he will pay. Such was the construction of a like provision in *Mountain Timber Co. v. Washington* (243 U. S. 219), and such construction here clearly bars any argument based upon an alleged invasion of freedom of contract.

E. Delegation of powers and affiliation with Federal Social Security Act.

The question of delegation of legislative power was not pressed below, but was before the Court of Appeals upon the briefs and must be deemed to have been determined favorably to the statute under the State Constitution. No such issue is therefore properly before this Court and no Federal question raised thereby.

Of the provisions involving relationship of the State Unemployment Insurance Fund with the Federal Social Security Act, much was said in argument below. The questions raised thereby, however, were only matters concerning validity under the State Constitution and must be deemed to have been determined favorably to the statute. No Federal questions were involved since the New

York statute stands as an act complete in itself and is not dependent on the Federal Social Security Act for its operation. Such issues are therefore not dealt with herein.

CONCLUSION

The social requirements of the future are demanding that "industrial employment and support in old age must be secured by a species of insurance. The premium for this insurance will be part of the cost of manufacture."²⁹

The New York 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 Court of Appeals of New York has applied to this enactment the approach of the philosophy of the humanities, reflected in sound principles of constitutional law. The theory and plan of this law are builded upon the foundation of this Court's decisions.

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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²⁹ Jos. H. Beale, *Social Justice and Business Costs* (1936) 49 Harv. L. Rev. 593, 609.

INDEX TO LEGAL BRIEF

<i>Subject</i>	PAGE
1. OPINIONS BELOW.....	241
2. JURISDICTION	242
3. QUESTIONS PRESENTED.....	242
4. STATEMENT	242
5. THE STATUTE.....	244
6. THE UNDERLYING ISSUES AND SUMMARY OF ARGUMENT	247
7. ARGUMENT—	
I. The adoption of an insurance plan to mitigate the economic and social evils of involuntary unemployment is a reasonable and proper means of accomplishing a legitimate legislative purpose.....	249
A. The problem of unemployment is a matter of grave public concern and the objective of the Act—to mitigate the burden of such unemployment—is a proper public purpose and appropriate for state legislative action	249
B. The unemployment insurance plan adopted by the New York Legislature is a fair and reasonable method of meeting some of the problems of large scale industrial unemployment	252
C. A wealth of experience confirms the conclusion that a state plan of unemployment insurance is a reasonable measure.....	259
II. The power of the State to impose the cost upon a general group or class, whose activities are reasonably related to the conditions sought to be relieved, is well established.....	261

	PAGE
III. The pooling of receipts in a single fund for the payment of unemployment insurance benefits is not in violation of any provision of the Constitution. The case of <i>Railroad Retirement Board v. Alton Railroad</i> (295 U. S. 330) not only is clearly distinguishable from the instant case but actually points to the validity of the present Act.....	275
A. The pooling provisions of the Act are fair and reasonable and are not in violation of any provision of the Constitution.....	275
B. <i>Railroad Retirement Board v. Alton Railroad</i> (295 U. S. 330) not only is clearly distinguishable, but points to the validity of the present Act.....	284
IV. The New York Unemployment Insurance Law discloses no other feature not within the requirements of the Federal Constitution.....	288
A. The classification of employers is fair and reasonable	288
B. Benefits	289
C. The absence of a "means test".....	291
D. Freedom of contract.....	295
E. Delegation of powers and affiliation with Federal Social Security Act.....	295
8. CONCLUSION	296

CITATIONS

CASES:	PAGE
<i>Abie State Bank v. Bryan</i> , 282 U. S. 765.....	268
<i>Alward v. Johnson</i> , 282 U. S. 509.....	262
<i>Arizona Employers' Liability Cases</i> , 250 U. S. 400	266, 271, 273
<i>Block v. Hirsh</i> , 256 U. S. 135.....	254
<i>Bradley v. Richmond</i> , 227 U. S. 477.....	289
<i>Carter v. Carter Coal Co.</i> , 56 Sup. Ct. 855.....	291
<i>Chamberlin, Inc. v. Andrews</i> , 271 N. Y. 1..... 251, 262, 273, 283,	291
<i>Charlotte, C. & A. R. Co. v. Gibbes</i> , 142 U. S. 386.....	268
<i>Chicago, R. I. & P. R. Co. v. Zerneck</i> , 183 U. S. 582....	268
<i>Cole v. Hall</i> , 103 Ill. 30.....	268
<i>Cooley v. Board of Wardens</i> , 12 How. 299.....	269
<i>Dayton-Goose Creek Ry. Co. v. United States</i> , 263 U. S. 456.....	269
<i>Dominion Hotel, Inc. v. Arizona</i> , 249 U. S. 265.....	289
<i>Exempt Firemen's Fund v. Roome</i> , 29 Hun (N. Y.) 391	268
<i>Fire Department v. Helfenstein</i> , 16 Wis. 136.....	268
<i>Fire Department v. Noble</i> , 3 E. D. Smith (N. Y.) 440	268
<i>Firemen's Benevolent Association v. Lounsbury</i> , 21 Ill. 511	268
<i>Green v. Frazier</i> , 253 U. S. 233.....	259, 262, 294
<i>Hatch v. Reardon</i> , 184 N. Y. 431, 204 U. S. 152.....	262, 289
<i>Hawkins v. Bleakly</i> , 243 U. S. 210.....	269
<i>Head Money Cases</i> , 112 U. S. 580.....	268
<i>Hegeman Farms Corp. v. Baldwin</i> , 293 U. S. 163.....	274
<i>Hicklin v. Coney</i> , 290 U. S. 169.....	262
<i>Jones v. City of Portland</i> , 245 U. S. 217.....	294
<i>Lawrence v. State Tax Commission</i> , 286 U. S. 276....	262
<i>Loan Association v. Topeka</i> , 20 Wall 655.....	294

	PAGE
<i>McGlone v. Womack</i> , 129 Ky. 274.....	268
<i>Metropolis Theatre Co. v. Chicago</i> , 228 U. S. 61.....	289
<i>Metropolitan Casualty Co. v. Brownell</i> , 294 U. S. 580....	262
<i>Miller v. Wilson</i> , 236 U. S. 373.....	289
<i>Mountain Timber Co. v. Washington</i> , 243 U. S. 219....	257, 266, 269, 270, 277, 285, 294, 295
<i>Nashville, C. St. L. R. Co. v. Alabama</i> , 128 U. S. 96....	268
<i>New York v. Latrobe</i> , 279 U. S. 421.....	289
<i>New York Central R. Co. v. White</i> , 243 U. S. 188.....	257, 269, 270, 288
<i>Noble State Bank v. Haskell</i> , 219 U. S. 104.....	267
<i>Ohio Oil Co. v. Conway</i> , 281 U. S. 146.....	262
<i>Powell v. Pennsylvania</i> , 127 U. S. 678.....	290
<i>Quong Wing v. Kirkendall</i> , 223 U. S. 59.....	289
<i>Railroad Retirement Board v. Alton Railroad</i> , 295 U. S. 330.....	275, 277, 284, 285, 286
<i>Semler v. Oregon State Board</i> , 294 U. S. 608.....	290
<i>Standard Oil Co. v. City of Lincoln</i> , 114 Neb. 245, <i>affd.</i> 275 U. S. 504.....	294
<i>State v. Cassidy</i> , 22 Minn. 312.....	268
<i>United States v. Butler</i> , 297 U. S. 1.....	274

STATUTE:

N. Y. Laws 1935, ch. 468	
Sec. 500.....	249, 252
Sec. 503 (3) (c).....	266, 288
Sec. 503 (3) (e).....	266
Sec. 504 (2).....	289, 291
Sec. 505.....	266
Sec. 506.....	266
Sec. 518 (4).....	283
Sec. 530.....	291

MISCELLANEOUS:	PAGE
Associated Industries Brief.....	
253, 254, 258, 263, 266, 275, 288, 289, 295	
Beale, <i>Social Justice and Business Costs</i>	296
Bureau of Labor Statistics, <i>Monthly Labor Review</i>	291
Burns, <i>Towards Social Security</i>	282, 283, 292
Chamberlin Brief.....	254, 255, 258, 263, 266, 272, 275, 279,
281, 283, 289, 290, 292, 293, 294, 295	
Clark, <i>Economics of Overhead Costs</i>	265
Committee on Economic Security, Report to the Presi- dent	283
Douglas, <i>Social Security in the United States</i>	283
Douglas, Hitchcock and Atkins, <i>The Worker in Modern Economic Society</i>	272
Economic Brief.....	249, 250, 251, 252, 255, 256, 257, 258, 259,
260, 263, 265, 273, 274, 279, 280, 282, 283, 288, 293	
Epstein, <i>Insecurity—A Challenge to America</i>	282, 283
Folks, <i>Making Relief Respectable</i>	292
Hansen, Murray, Stevenson, and Stewart, <i>A Program for Unemployment Insurance and Relief in the United States</i>	283
Hohman, <i>British Social Insurance and Minimum Wage</i>	292, 293
International Labour Conference, 17th Session, 1933	293
Joint Legislative Committee on Unemployment, Preliminary Report, Leg. Doc. 1932, No. 69.....	249, 253, 264
Final Report, Leg. Doc. 1933, No. 66.....	249, 253
Kiehel, <i>Unemployment Insurance in Belgium</i>	292, 293
Leven, Moulton and Warburton, <i>America's Capacity to Consume</i>	251
Morton, <i>The Aims of Unemployment Insurance</i>	282
Nathan, <i>Some Considerations on Unemployment In- surance</i>	293
N. Y. Leg., Sen. Fin. Comm., Hearings on Unemploy- ment Reserve Fund Legislation, Apr. 4, 1934.....	253
N. Y. Leg., Sen. Com. on Lab. and Industry and Ass. Com. on Lab. and Ind., Joint Hearing, Mar. 6, 1935	253
Royal Commission on Unemployment Insurance, Re- port	293

MAJORITY AND MINORITY OPINIONS
in
NEW YORK STATE COURT OF APPEALS

**Majority and Minority Opinions in the New York
State Court of Appeals**

DECISION RENDERED APRIL 15, 1936

W. H. H. CHAMBERLIN, INC.,
Plaintiff-Appellant-Respondent,

v.

ELMER F. ANDREWS, Industrial Commis-
sioner,
Defendants-Respondents-Appellants.

E. C. STEARNS & Co.,
Plaintiff-Appellant-Respondent,

v.

ELMER F. ANDREWS, Industrial Commis-
sioner,
Defendants-Respondents-Appellants.

No. 199

ASSOCIATED INDUSTRIES OF NEW YORK
STATE, INC.,
Plaintiff-Respondent,

v.

THE DEPARTMENT OF LABOR OF THE STATE
OF NEW YORK and ELMER F. ANDREWS,
Defendants-Appellants.

Cross-appeals in the first two cases from a judgment of the Special Term, Onondaga County, declaring unconstitutional, in part, Chapter 468 of the Laws of 1935.

Appeal in the third case by the State of New York from a judgment of the Special Term, Albany County, which declared Chapter 468 of the Laws of 1935 unconstitutional.

MAJORITY OPINION

CRANE, Ch. J.:

The complaint in each of the actions herein asks for a declaratory judgment that the New York Unemployment Insurance Law (L. of 1935, Ch. 468, Art. 18 of the Labor Law) is unconstitutional under both the Federal and the State Constitution.

The plaintiffs moved for judgment on the pleadings under rule 112 of the Rules of Civil Practice, and the court granted the motions to the extent of holding that subdivision 2 of section 504 of the statute violates section 6 of article I of the New York Constitution, and section 1 of the Fourteenth Amendment to the Federal Constitution. The court upheld the statute otherwise and granted judgment in favor of the defendants to that extent.

In a companion case, *Associated Industries of New York State, Inc. v. The Department of Labor of the State of New York, et als.*, the Special Term, after issue joined, adjudged the said act to be unconstitutional and void in its entirety as depriving the plaintiff of its property without due process of law, and denying to it the equal protection of the law. Both these cases come directly to this court, pursuant to subdivision 3 of section 588 of the Civil Practice Act, a constitutional question being solely presented for review. We do not share the doubts expressed by these Special Terms.

The courts can take judicial notice of the fact that unemployment for the last five or six years has been a very acute problem for State and Federal government. There have always been from earliest times the poor and the unfortunate whom the State has had to support by means of money raised by taxation. We have had our homes for the poor and the infirm, hospitals, infirmaries and many and various means for taking care of those who could not take care of themselves. The institutions housing our insane have grown to be an enormous ex-

pense, illustrating that the legality of the expenditure of public moneys for vast numbers of those who were without means of support or help has never been questioned.

Another problem has faced society which has been a source of study, discussion, agitation and planning. Unemployment, from whatever cause, has increased enormously in every part of the country, if not throughout the world. Is there any means possible to provide against unemployment, the loss of work, with its serious consequences to the family, to the children and to the public at large? When such a matter becomes general and affects the whole body politic, a situation has arisen which requires the exercise of the reserve power of the State, if there be a practical solution. Some have suggested that for the periodical recurrence of panics and hard times, the actuary might be able to work out a scheme of insurance. We need not pause to determine whether this can be done or not. The fact is that in the past few years enormous sums of State and Federal money have been spent to keep housed and alive the families of those out of work who could not get employment. Such help was absolutely necessary, and it would be a strange kind of government, in fact no government at all, which could not give help in such trouble.

The Legislature of the State, acting after investigation and study and upon the report of experts, has proposed what seems to it a better plan. Instead of solely taxing all the people directly it has passed a law whereby employers are taxed for the help of the unemployed, the sums thus paid being cast upon the public generally through the natural increase in the prices of commodities. Whether relief be under this new law of the Legislature or under the dole system the public at large pays the bill.

We may concede that much of unemployment is due to other factors than business depression. Just what does cause slumps in business, panics and unemployment has never been satisfactorily explained, but a very large percentage of those who are out of work have lost their

jobs or positions by reason of poor business conditions and hard times. I can see, therefore, nothing unreasonable or unconstitutional in the legislative act which seeks to meet the evils and dangers of unemployment in the future by raising a fund through taxation of employers generally.

This act in brief taxes a certain class of employers three per cent on their payrolls. This class of employer includes those who have employed at least four persons within each of thirteen or more calendar weeks in the year 1935, or any subsequent calendar year. The employment of farm labor, of one's spouse or minor child, or employment in certain charities are excluded.

Unequal protection of the laws and unfair classification are charged against this act because employers who have had no unemployment are obliged to contribute to a fund to help those who have lost positions in failing or bankrupt businesses; also because the line is drawn at four employees instead of including all and any employer. We do not think that this narrow view is required by any constitutional provision. People have to live and when they cannot support themselves someone has to look after them. When able-bodied, willing men cannot find work they may be treated as a class, irrespective of their particular calling or trade. The peril to the State arises from unemployment generally not from any particular class of workers. So, likewise, employers generally are not so unrelated to the unemployment problem as to make a moderate tax upon their pay-rolls unreasonable or arbitrary. As stated before, unemployment and business conditions generally are to a large extent linked together. Reasonable classification has been explained in *Truax v. Corrigan*, 257 U. S. 312, p. 337. Quoting from *Southern Ry. Co. v. Greene*, 216 U. S. 400, 417, the court said: "While reasonable classification is permitted, without doing violence to the equal protection of the laws, such classification must be based upon some real and substantial distinction, bearing a reasonable and just relation to the

things in respect to which such classification is imposed; and classification cannot be arbitrarily made without any substantial basis."

That the purpose of this law is to help those who have worked when they could get work,—the working class at present out of work,—is apparent from the limitation to the benefits. Section 503 of the act reads as follows:

"Liability for payment of benefits. 1. Benefits shall be paid from the fund to each unemployed employee entitled thereto.

"2. Benefits shall become payable two years from the date on which contributions by employers become payable under this article.

"3. No employee shall be entitled to any benefits unless he

"(a) is suffering total unemployment as defined in this article; and

"(b) has, as provided in this article, registered as totally unemployed and reported for work or otherwise given notice of the continuance of his unemployment; and

"(c) has had not less than ninety days of employment as defined in this article within the twelve months preceding the day on which benefits are to commence, or (in the alternative) unless he has had not less than one hundred and thirty days of employment during the twenty-four months preceding the day on which benefits are to commence; and

"(d) in no case shall the fund be liable to pay benefits to an employee for any unemployment occurring more than twelve months after the date on which such employee was in employment, and in no case in which the claim for benefit has not been filed in the local state employment office as provided in section five hundred and ten, subdivision three, within two years of the last day of employment preceding the period for which such claim is made.

“(e) The fund shall pay benefits to employees in the ratio of one week of benefit for each fifteen days of employment within the fifty-two weeks preceding the beginning of the payment of benefits.”

Further limitations are found in the sections following:

“§ 504. Waiting period. 1. An employee shall be entitled to benefits on account of unemployment which continues subsequent to a waiting period of three weeks after notification of unemployment: Provided that not more than five weeks of unemployment for which no benefit is paid shall be required as a waiting period within any calendar year (except as otherwise provided under subdivision two of this section). No week of unemployment shall count as a waiting period in any case except weeks of unemployment as to which notification of unemployment has been given.

“2. An employee shall not be entitled to benefits except for unemployment which continues subsequent to a waiting period of ten weeks:

“(a) if he has lost his employment through misconduct in connection with his employment; or

“(b) if he has lost his employment because of a strike, lockout or other industrial controversy in the establishment in which he was employed.

“§ 505. Amount of benefits. 1. Benefits shall be payable on account of total unemployment after the specified waiting period at the rate of fifty per centum of the employee’s fulltime weekly wages, but not to exceed a maximum of fifteen dollars per week, nor to be less than a minimum of five dollars per week. * * *

“§ 506. Disqualification for benefits. 1. No benefits shall be payable to any employee who refuses to accept an offer of employment for which he is reasonably fitted by training and experience, including employments not subject to this article; provided, however, that no employee otherwise qualified to receive benefits shall lose the right to benefits by reason of a refusal to accept employment if

“(a) acceptance of such employment would either require the employee to join a company union or would interfere with his joining or retaining membership in any labor organization; or

“(b) there is a strike, lockout or other industrial controversy in the establishment in which the employment is offered; or

“(c) the employment is either not within the state or at an unreasonable distance from his residence, or travel to and from the place of employment involves expense substantially greater than that required in his former employment unless the expense be provided for; or

“(d) the wages, hours and conditions offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or are such as tend to depress wages or working conditions.

“§ 507. Limitation of amount of benefits. The total amount of benefits to which an employee shall be entitled in any consecutive fifty-two weeks shall not exceed sixteen times his benefit for one week of total unemployment.”

Seasonal occupations are to be provided for by rules and regulations after further investigation.

What shall we say about this act? At least it is an attempt to solve a great and pressing problem in government. We have had such problems thrust upon our attention arising out of emergencies such as the rent laws (*People ex rel. Durham Realty Corp. v. La Fetra*, 230 N. Y. 429), the housing laws (*Adler v. Deegan*, 251 N. Y. 467), and the milk laws (*People v. Nebbia*, 262 N. Y. 259). The Legislature seeks to meet the future now without waiting for the emergency to arise. Can it do so? Unless there is something radically wrong, striking at the very fundamentals of constitutional government, courts should not interfere with these attempts in the exercise of the reserve power of the State to meet dangers which threaten the

entire commonweal and affect every home. No large body of men and women can be without work and the body politic be healthy.

The fund, known as the Unemployment Insurance Fund, created under this law, is to be deposited in or invested in the obligations of the unemployment trust fund of the United States government. This is merely a form of security, the moneys never leaving the power or control of the State authorities. Whether we consider such legislation as we have here a tax measure or an exercise of the police powers seems to me to be immaterial. Power in the State must exist to meet such situations, and it can only be met by raising funds to tide over the unemployment period. Money must be obtained and it does not seem at all arbitrary to confine the tax to a business and employment out of which the difficulty principally arises.

It is said that this is taxation for the benefit of a special class not the public at large and thus the purpose is essentially private. The Legislature, after investigation, has found the facts to be that those who are to receive benefits under the act are the ones most likely to be out of employment in times of depression. The courts cannot investigate these facts and should not attempt to do so. The briefs submitted show that the classification or selection made by the Legislature has followed investigation and has sought to reach the weakest spot. Experience may show this to be a mistake. No law can act with certainty; it measures reasonable probabilities. "Judicial inquiry does not concern itself with the accuracy of the legislative finding, but only with the question whether it so lacks any reasonable basis as to be arbitrary" (Mr. Justice Roberts in *Standard Oil Company v. Marysville*, 279 U. S. 582, 586-587).

Fault is also found, perhaps with some justification, with the benefit allowed, after a period of ten weeks' idleness, to those who have been discharged or left because of strikes. Here again the Legislature must exercise

its judgment, and a full scheme or plan cannot be condemned because the courts may not approve of certain details.

So, too, the right to refuse other work of a certain kind when offered has come in for criticism. There may be a diversity of views as to the wisdom of these provisions, but again, these are not matters for the courts to consider unless they become so extreme as to become arbitrary.

Whether or not the Legislature should pass such a law or whether it will afford the remedy or the relief predicted for it is a matter for fair argument but not for argument in a court of law. Here we are dealing simply with the power of the Legislature to meet a growing danger and peril to a large number of our fellow citizens, and we can find nothing in the act itself which is so arbitrary or unreasonable as to show that it deprives any employer of his property without due process of law or denies to him the equal protection of the laws.

I am of the opinion that the decision in *Railroad Retirement Board v. Alton R. Co.*, 295 U. S. 330, is not applicable here. The Railroad Retirement Act of June 27, 1934, held to be unconstitutional related to the pensioning of a certain class of employees. It could not be sustained as a police regulation or within the police power as no such power exists in the Federal Government and the Act failed to come within the field of interstate commerce as stated in the opinion. Even the police power of the state might fall far short of enabling the Legislatures of the states to provide for pensioning employees in favored industries or employment.

It therefore follows that the judgment below in plaintiff's favor must be reversed and the motions for judgment on the pleadings denied, without costs.

The Supreme Court of the United States affirmed this opinion on November 23, 1936.

COURT OF APPEALS

ASSOCIATED INDUSTRIES OF NEW YORK
STATE, INC.,
Plaintiff-Respondent,

v.

THE DEPARTMENT OF LABOR OF THE STATE
OF NEW YORK and ELMER F. ANDREWS,
as Industrial Commissioner of the
State of New York; MARK GRAVES, as
State Commissioner of Taxation and
Finance; JOHN J. BENNETT, JR., as
Attorney-General of the State of New
York; JOHN T. DELANEY, as District
Attorney of the County of Albany, in
the State of New York, and WALTER C.
NEWCOMB, as District Attorney of the
County of Erie, in the State of New
York,

No. 199

Defendants-Appellants.

MINORITY OPINION

HUBBS, J.:

It is asserted by the State that unemployment is a matter of public concern and that a system of insurance to relieve its burdens tends to promote the public welfare and that it is within the reserved police power of the State to enact statutes to accomplish that end. Based on that premise the State contends that The New York Unemployment Insurance Law, Chapter 468, Laws of 1935, is constitutional in all its parts. The statute covers employers and employees in every kind of industry excepting six classes: (a) agricultural employments; (b) family relationship; (c) religious, charitable and educational work; (d) non-manual or "white collar" occupations where the salary or wage is over \$50 per week; (e) employ-

ment by the state or governmental subdivisions; (f) employers employing less than four persons. The statute excludes from its operation all unemployed employees belonging to a class, other than manual laborers, employed at a rate of wages of more than twenty-five hundred dollars a year or more than fifty dollars a week.

All employers must pay annually 3% of the total annual payroll of those entitled to benefits to a State fund called the unemployment insurance fund, the payment for 1936 to be 1%, for 1937, 2%, and thereafter 3% annually, the entire fund to consist of such payments plus such grants as may be received for administration from the federal government.

Benefits from the fund thus established can only be paid to one who has first established total loss of employment as defined in the statute and who has been employed for a specified period in the year or two years just preceding his unemployment. The amount of benefits from the fund and their duration are limited to 50% of the prior wage but not less than five dollars a week nor more than fifteen dollars per week and for not longer than sixteen weeks. A waiting period of three weeks must intervene between the filing of a notice of unemployment and the commencement of benefits.

In cases of discharge for misconduct or on account of strikes or industrial disputes the waiting period is ten weeks. An unemployed person who refuses employment loses his right to benefits provided the offered employment is not objectionable on the specific grounds specified in the statute. Contributions from all employers covered by the statute are pooled by deposit in one fund. Administration is by the Industrial Commissioner with an advisory council. The commissioner is to set up local offices throughout the state to act as agencies for employment and for the distribution of benefits. Such in a general way is the plan which it is contended by the state will promote public welfare and prosperity.

It is well to have in mind some of the things which the

statute was not enacted to accomplish. The statute is not limited in its application to involuntary unemployment. One who voluntarily leaves employment or is discharged for valid cause may still be entitled to benefits.

The statute deals entirely with the effect of unemployment. It contains no provisions to prevent or limit its spread. It provides benefits for a defined class of unemployed employees. It does not deal with the causes of unemployment or cause more employment except it creates more offices which must be filled.

Neither the State nor employees contribute to the fund. A merit rating system under which an employer contributes to the fund with reference to unemployment in his business is not provided for as in all other statutes on the subject enacted by other states. One in whose business there is no unemployment pays into the fund on the same basis as one in whose business there exists an unusually large proportion of unemployment.

Benefits are not based upon need of financial assistance. One with an assured income is entitled to the same benefits as one without any income at all. The statute also permits the payment of benefits to one who quits a job without excuse or justification; to one discharged for misconduct; to one who went out on a strike; to one wrongfully discharged who may have a valid cause of action to recover damages for such wrongful discharge; to one to whom employment is available if such employment falls within the exceptions specified in the statute. The statute also requires payments into the fund by the employers of four or more persons in cases where the employers have no business whatever as in the case of domestic servants.

Broadly, the State contends that the statute will have the effect of alleviating the evils of unemployment, promote industrial security and the general welfare. To sustain such contention it has submitted to the court charts, documents and extra judicial opinions tending to sustain such contention. The respondent has also sub-

mitted literature of like nature, tending to establish exactly the opposite contention. Interesting as such literature is, I suppose it is only competent as tending to establish the fact that reasonable persons may entertain different views and that, therefore, the question was one for the determination of the legislature and not for the courts. See opinion of Justice Holmes in *Adkins v. Children's Hospital*, 261 U. S. 570, 571.

There can be no doubt about the general principles which govern courts in passing upon the constitutionality of statutes which depend upon the existence of facts which have been investigated by the legislature. There always exists a presumption in favor of the findings of the legislature and the validity of its acts. Courts must, however, be able to discern that there is a reasonable basis for the legislature's findings and that its action has a real and substantial relation to the public welfare.

Jacobson v. Mass., 197 U. S. 11.

O'Gorman and Young v. Hartford Fire Ins. Co.,
282 U. S. 251.

While the respondent questions the constitutionality of various separate provisions of the statute, its principal contention strikes at the very heart of the act and asserts that the act is unconstitutional as a whole because it constitutes a violation of section 1 of the fourteenth amendment of the constitution of the United States which provides that no state shall

“deprive any person of life, liberty or property,
without due process of law”

nor deny to any person the equal protection of the law. Also that it violates section 6 of Article 1 of the state constitution which provides that no person shall

“be deprived of life, liberty or property without
due process of law; nor shall private property be
taken for public use without just compensation.”

The court below has sustained the contention of the respondent upon those broad grounds. The questions presented are whether the statute deprives respondent of its property without due process of law, whether it denies to respondent the equal protection of the law, whether it deprives respondent of its liberty of contract without due process of law and whether it takes respondent's property for public use without just compensation.

If the statute violates the constitutional provisions in either respect, it cannot be sustained no matter how persuasive the arguments may be that it promotes the public welfare, and is, therefore, within the police power. "First the constitution and then the police power" is the test that courts are required to apply.

If the United States Supreme Court has in principle decided the questions involved, we should follow such decision without regard to our personal views.

People ex rel. Tipaldo v. Morehead, as Warden,
270 N. Y.

The statute contains a declaration of the policy of the state which is declared to be that

"economic insecurity due to unemployment is a serious menace to the health, welfare and morals of the people of the state;"

also

"involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burdens which now so often fall with crushing force upon the unemployed worker and his family."

The statute, however, is not limited in its application to involuntary unemployment and it does not contain any provision which tends to prevent its spread. It is limited to the effects of unemployment and provides benefits for a limited class of unemployed employees.

It does not by its provisions tend to prevent unemployment or to bring about greater employment. In fact, it is urged by respondent that the effect of the statute will necessarily be to increase unemployment because those employing four persons will get along with the assistance of three so as to avoid the necessity of contributing to the fund and that all employers subject to the statute will reduce the number of employees and the amount of the payroll as much as possible and thereby keep the amount of contributions to the fund as low as possible.

The statute recites that

“the well-being of the wage earners of this state requires the enactment of this measure for the compulsory setting aside of financial reserves for the benefits of persons unemployed through no fault of their own.”

Nevertheless, the statute provides for benefits to those who may be unemployed through their own fault.

Concededly, the act does not purport to have been enacted for the benefit of the wage earners of the State as a whole but its benefits are limited to a certain class of unemployed wage earners. Those not included in the act under the operation of well-settled economic laws will be injuriously affected as employers will, as far as possible, add the 3% of the wage roll which they are compelled to pay into the fund to the selling price of goods or services and a portion of the increased cost will be borne by the wage earners not covered by the act.

The 3% of the payroll which every employer is required to pay into the fund is not paid for the benefit of his own unemployed employees only. He may not have any unemployed employees and his entire contributions to the fund may be used for the unemployed employees of others even though such unemployed employees are not in need of financial assistance. It is, therefore, urged that general welfare cannot be promoted by the act; that only the limited class entitled to share in the fund are benefited,

but that even though there is some benefit to the general public, it is indirect. Finally, it is urged that there is no way that unemployment may be lessened or benefited by placing increased burdens on employers. It is pointed out that under the act, the employer who employs the most help and pays the highest wages and contributes most to the welfare of wage earners is penalized by being required to pay most into the fund.

It seems clear that the statute cannot be sustained as a tax law. The statute does not levy or assess a tax. It is a part of the labor law and it prescribes penalties contrary to the provisions of the tax law making it a misdemeanor for an employer to wilfully refuse to pay 3% of his payroll into the fund.

“A tax, in the general understanding of the term, and as used in the Constitution, signifies an exaction for the purpose of the Government. The word has never been thought to connote the expropriation of money from one group for the benefit of another.”

United States v. Butler, Advance Sheets, No. 401,
October Term.

If the statute is to be sustained, it must be because it is deemed to be within the police power of the State. That power, however, is limited by the constitution and it has always been held that the legislature could not, under the guise of the police power, enact a valid law, the effect of which would be to take the property of one class and give it to another class.

Louisville Joint Stock Land Bank v. Radford, 295
U. S. 555, 601.

*Lakeshore and Michigan Southern Ry. Co. v.
Smith*, 173 U. S. 684.

Railroad Retirement Board v. Alton Ry. Co., 295
U. S. 330.

The statute clearly indicates that the purpose of the legislature was not the relief of the poor and needy but

the benefit of a limited class of employees temporarily out of work.

The benefit to the general public, if any, would be indirect and incidental. Such benefit does not make the statute one for the general welfare.

I am unable to distinguish this case from the principle decided in the case of *Railroad Retirement Board v. Alton Ry. Co.*, supra, which decided that the act of Congress was in conflict with the due process clause of the fifth amendment which is the same as the due process clause of the fourteenth amendment applicable to state legislation.

Nebbia v. People of the State of New York, 291 U. S. 502, 525.

The decision in that case was placed upon two grounds: First, as above stated, and second, upon the ground that the statute did not constitute a regulation of interstate commerce. The decision on the first ground is as binding upon this court as the decision upon the second ground. I agree with Justice Russell, who presided at Special Term, that the principle decided is applicable and controlling in this case. The provisions of the Federal Act and the statute here involved are very similar. The Federal Act provides for compulsory contributions by railroads to a fund to be distributed as pensions to retired employees, the fund to be a single pooled fund, the fund to be made up of contributions of employers and employees. All interstate carriers are treated as a single employer and all employees as employees of a single employer; the benefits under the fund to be at a given rate; the contributions of individual carriers to the fund to be at a disparate rate. The Federal Act applies only to interstate carriers subject to Federal regulation. It requires each carrier to contribute a fixed amount annually without regard to the number of employees who become superannuated and, therefore, entitled to the benefits of the fund. It provides that former employees no longer in the service who may have been discharged for cause

shall be entitled to the benefits. It also provides that an employee shall be entitled to benefits without regard to his need for financial assistance. It will be observed that those provisions are in substance contained in the statute here in question. Mr. Justice Roberts, writing the opinion for a majority of the court, said:

“It is arbitrary in the last degree to place upon the carriers the burden of gratuities to thousands who have been unfaithful and for that cause have been separated from the service, or who have elected to pursue some other calling, or who have retired from the business, or who have been for other reasons lawfully dismissed. * * * Certain general features of the system violate the fifth amendment. Under the statutory plan, the draft upon the pension fund will be at a given rate, while the contributions of individual carriers to build up the fund will be at a disparate rate. This results from the underlying theory of the act, which is that all the railroads shall be treated as a single employer. * * * There is no warrant for taking the property or money of one and transferring it to another without compensation, whether the object of the transfer be to build up the equipment of the transferee or to pension its employees. * * * We conclude that the provisions of the act which disregard the private and separate ownership of the several respondents treat them all as a single employer, and pool all their assets regardless of their individual obligations and the varying conditions found in their respective enterprises cannot be justified as consistent with due process.”

The opinion also points out that the act is intended to furnish assurance of payments of pensions to employees of all the carriers so that solvent railroads are required to furnish the money necessary to meet the demands of the system upon insolvent carriers. The effect of the decision is to hold that the act is invalid because in conflict with the due process clause of the fifth amendment.

The State relies largely on the cases involving Work-

men's Compensation statutes to sustain the validity of the present act. I think those cases have no application. They are distinguished in the opinion of Justice Roberts, who also distinguishes the case of *Dayton-Goose Creek Ry. Co. v. United States*, 263 U. S. 456, and *Noble State Bank v. Haskell*, 219 U. S. 104.

The head money case, *Edye v. Robertson*, 112 U. S. 580, involved the regulation of foreign commerce involved in immigration, a subject of regulation by the Federal government. The sheep-dog cases are based upon the nature of the animals which makes it legal to regulate and limit their keeping and to encourage the raising of sheep.

Longyear v. Buck, 83 Mich. 236.

Nichia v. People, 254 U. S. 228, 30, 1.

The case of *Cooley v. Board of Wardens*, 12 How. 299, was decided upon the principle that the purpose of the statute was the regulation of navigation in the interest of public safety. The principles involved in those cases are not applicable in this case.

The tax or contribution is not against industry or employers. It is against a certain class of individuals and corporations who are engaged in employing wage earners. The term "industry" is a mere concept. The burden is placed not upon industry but on those of a certain class who are engaged in industry and upon others not so engaged. It is placed not alone upon those who have unemployed wage earners but also upon those who have no unemployed workers. No one questions the obligation and duty of the State. That question is not involved. The question here involved is whether the State may place that burden upon a certain class of individuals and corporations for the benefit of another class for whose condition they are in no way responsible.

If the statute is unconstitutional in its main features, no part of the act can be sustained. We cannot rewrite the statute.

I advise that the judgment be affirmed.

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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