

NEW JERSEY SOCIAL SECURITY COMMISSION.

Text of proposals, for State action
on Federal Payroll taxes.

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TEXT OF PROPOSALS

Drafted By The

New Jersey

n.g.
"Social Security Commission

For State Action On Federal Payroll Taxes;
 and a State System of Unemployment Reserve;
 and Old Age Annuities For Working People

*Together With Other Data From
 Records of the Commission*

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Call For Public Hearing on October 16, 1936

The New Jersey Social Security Commission calls public hearing to be held on the 16th day of October, 1936, at 10:00 o'clock (A. M.) at the State House, Trenton, N. J.

The purpose of the hearing is to receive specific suggestions concerning a proposed plan covering certain aspects of social security.

The proposed plan includes unemployment reserves, life insurance and old age annuities for working people to be financed by contributions from employers and employees. The plan is to be administered by specially authorized insurance organizations under strict supervision of the Commissioner of Banking and Insurance of New Jersey in cooperation with the Departments of Labor and Institutions and Agencies of this State. The plan does not conform to the Federal Social Security Act as to unemployment compensation and old age benefits.

The Commission has concluded that the unemployment compensation, old age benefit and tax provisions of the Federal Social Security Act are of such doubtful constitutional validity that the Commission would not be warranted in advising the New Jersey Legislature to enact any laws conforming to or based upon those provisions of the Federal Act. The Commission has further concluded that so long as Federal officials are seeking to enforce those provisions of the Federal Act in New Jersey it is not practical for the New Jersey Legislature to impose a plan which would be compulsory in its operation. Accordingly, the proposed plan includes provisions whereby it would not become compulsory before the Federal Act is repealed or held unconstitutional.

The Commission has concluded that an authoritative decision of the constitutional questions is necessary before New Jersey would be justified in adopting any compulsory legislation and that the sooner such decision can be reached the better for all concerned. Accordingly, the plan includes the institution in the Supreme Court of the United States by the State of New Jersey of a suit whereby the constitu-

tional questions may be promptly and authoritatively decided.

The following principles have been embodied in two tentative Bills, which together with a legal opinion may be inspected, prior to the meeting, at the office of Commissioner William J. Ellis, State Office Building, Trenton, New Jersey:

1. The Commission is in agreement that a sound New Jersey Unemployment Compensation Plan should be established which will provide for the setting up of reserves with which to meet the impact of unemployment.
2. It is agreed, in principle, that unemployment compensation is a partial substitute for relief, to the extent that the payment of unemployment compensation will defer the day when the persons receiving such benefit will have to be assisted by the relief agencies of the State.
3. It is agreed, in principle, that the source of funds for such a system of unemployment reserves in this State shall be in some part contributions by employers.
4. It is agreed, in principle, that the source of funds for such a system of unemployment reserves shall be in some part contributions by workers eligible for benefits.
5. It is further agreed that the State Government shall bear the cost of supervision of the system of unemployment reserves.
6. It is agreed, in principle, that a waiting period between layoff and the initiation of benefits shall be at least four weeks.
7. It is agreed, in principle, that a qualifying period of contributory employment should be required for eligibility to benefits.
8. It is agreed, in principle, that a provision for the reduction of the rate of contribution of employers and employees be made dependent upon a record of stable employment.

9. The majority of the Commission is in agreement that there should be no pooling of rights in a reserve fund whether in a general pool or in a company account or pool, and that the right of each individual employee be separate and independent of the right of any other person, and be recognized by separate account for each individual employee.
10. It is further agreed that based upon an individual reserve account the contributions of the employer and employee should be substantially equal.
11. It is agreed, in principle, that the maximum rate of weekly benefits payable to each employee be $7\frac{1}{2}$ times the weekly rate of contribution for that employee's account.
12. It is agreed, in principle, that the unemployment benefits payable to each employee be limited to 100% of the reserve accumulated and remaining in that employee's account.
13. It is agreed, in principle, that when an employee is totally unemployed or when his earnings are less than his rate of weekly benefits, the waiting period be fixed at four weeks.

The discussion at the hearing will be limited to the two tentative Bills and any matter in the Law Opinion and in Report No. 1 of the Commission which may appear to be relevant to the two tentatively proposed Bills.

Dated:

September 10, 1936.

(Signed) HARRY L. DERBY, *Chairman,*
New Jersey Social Security Commission.

**Press Release Issued By Commission for
September 11, 1936**

(FOR PRESS RELEASE ON SEPTEMBER 11, 1936.)

Harry L. Derby, Chairman of the State of New Jersey Social Security Commission issued the following statement today:

The Commission presents for consideration and discussion a plan for unemployment insurance which it believes warrants the thoughtful reflection of the people of the State.

During the past year the Commission has studied the various so-called unemployment insurance plans operating in the United States, as well as those in foreign countries, and the majority of the Commission have come to the belief that the Federal Law is not desirable for adoption in New Jersey for the reasons that it is:

1. Unconstitutional.
2. It unduly and unfairly taxes the industrious worker.
3. The Federal Plan is excessively expensive and removes the control of the plan's operation from the State and centralizes it in the hands of political bureaus in the Federal Government.

Having in mind that New Jersey pioneered in workmen's compensation, and feeling that there was a close relationship between that form of insurance and unemployment insurance, the Commission's plan removes from political control the handling of the insurance fund that the worker and his employer creates and seeks to minimize the expense of the plan's operation and at the same time safeguard the interests of the industrious workman. The majority of the Commission have a strong feeling that in the Federal Plan the interests of the industrious workers are lost sight of in the endeavor to compensate others out of employment.

The Commission has undertaken to work out the plan the majority favors on the basis of guaranteeing to each worker his full right to the future use of all money paid by him and his employer for his account into the insurance fund. In other words, the majority of the Commission feel that the tax paid by the individual worker should inure to his individual benefit alone, and that the same should be true of the premium paid by his employer on the policy of the individual.

The Commission recognizes that it is absolutely impossible to insure against unemployment. However, it is felt that it is possible to build up a reserve fund under some plan similar to that proposed for consideration which will protect the individual against the first shock of a depression resulting in unemployment. The reserve so created and not withdrawn becomes an asset of the dependents of the worker in the event of his death.

Inasmuch as at present the Federal Plan preempts the rights of the State to put into effect its own unemployment insurance plan independent of Federal control, the Commission proposes that the State institute suit to prevent the Federal Government from collecting payroll taxes in New Jersey for unemployment compensation and old age benefits.

The Commission invites the full consideration, criticisms and suggestions of the proposed plan and will hold public hearings at a place and date to be announced later to give those interested an opportunity of being heard. After the public hearings and full consideration of the suggestions from various sources, the Commission will make its recommendations to the Governor and Legislature for such action as they may wish to take.

(PROPOSED)

AN ACT FOR THE PROTECTION OF THE
SOVEREIGN POWERS OF THE STATE
OF NEW JERSEY

Be it enacted by the Senate and General Assembly of the State of New Jersey.

WHEREAS, The State of New Jersey, by joint resolution of its Senate and General Assembly in the legislative session of 1935, created a Commission and charged it with the duty of inquiring into the subjects of unemployment insurance, old age relief, compulsory retirement annuity legislation, aid to dependent or crippled children, maternal and child welfare, public health, and aid to the blind and of determining in what respects the State of New Jersey may most effectively cooperate with such Federal Legislation as should thereafter be enacted; and

WHEREAS, The Commission was directed and authorized to report to any regular or special session of the Legislature of one thousand nine hundred and thirty-five or one thousand nine hundred and thirty-six and to cause to be introduced such bill or bills as in its judgment may be required for the proper carrying out of its objects; and

WHEREAS, After the appointment of said Commission and on the 14th day of August, 1935, the President of the United States signed a certain bill known as the Social Security Act; and

WHEREAS, On or about the 20th day of January, 1936, said Commission rendered to the Legislature of New Jersey its Report No. 1 containing an analysis of the Federal Social Security Act and recommendations to the Legislature with respect to immediate assistance to the aged, aid to dependent and crippled children, public health, maternal and child health and aid to the blind; and

WHEREAS, Said commission caused to be introduced into the Legislature certain bills to carry out its aforesaid recommendations which bills have been passed without dis-

senting vote by the Legislature and are laws of this State; and

WHEREAS, Said Commission, in its Report No. 1, reserved for further consideration and later report the subjects of a permanent system of old age benefits and permanent system of unemployment insurance or reserves; and

WHEREAS, On the _____ day of _____, 1936, said Commission made its Report No. 2 to the Legislature wherein and whereby it concluded that the State of New Jersey cannot co-operate with the Federal legislation which has been enacted in respect of a permanent system of old age benefits nor in respect of a permanent system of unemployment compensation because, among other reasons, the Federal Social Security Act is, in respect of those provisions, unconstitutional and void; and

WHEREAS, Said Commission, by its said Report No. 2, found that it was not and is not in fact practical for the State of New Jersey to impose compulsory legislation recommended by the Commission in respect of a permanent system of old age benefits and a permanent system of unemployment insurance or reserves and that such impracticability results from the provisions of Titles II, III, VII, VIII, IX and XI of said Federal Social Security Act which, by Federal taxation, regulation and otherwise, invades and preempts the field against compulsory legislation by the State of New Jersey and trespasses upon the powers of the State of New Jersey reserved to it by the Constitution of the United States and the Tenth Amendment thereto; and

WHEREAS, Said Commission, by its Report No. 2, recommended the enactment of a New Jersey law in such form that compliance therewith would be voluntary at least until such time as the impediments caused by said titles of said Federal Social Security Act should be removed, whereupon the New Jersey law may become obligatory to the extent therein set forth; and

WHEREAS, The said bill recommended by the said Commission has been enacted and is the law of the State of New Jersey and is entitled:—

“AN ACT FOR THE PROTECTION OF THE STATE OF NEW JERSEY AGAINST FUTURE DEMANDS FOR RELIEF OF INDIGENCY BY REQUIRING EMPLOYERS AND EMPLOYEES TO ARRANGE FOR AND PROVIDE INSURANCE AND RESERVES AND BY OTHER MEANS.”

and

WHEREAS, Said New Jersey law cannot, for practical considerations found by the said commission and confirmed by legislative action of this State be made compulsory so long as officers of the United States threaten to or do invade or preempt the field in which such law is to operate, claiming such right of preemption by virtue of a supposed but unconstitutional exercise of power of Federal taxation, regulation or otherwise; and

WHEREAS, That field is within the quasi-sovereignty and exclusive legislative power of this State in that it involves

- (a) The relationship of employer and employee in productive processes and in trade, commerce and occupations local to this State; and
- (b) The power and primary duty of this State to provide relief for indigency of persons settled here; and
- (c) The regulation of insurance and annuities; and

WHEREAS, That field is not within the quasi-sovereignty nor within the legislative jurisdiction of the Government of the United States because

- (a) Not included within the powers granted to the Federal Government by the Constitution; and
- (b) The field is expressly reserved to the States by the Tenth Amendment to the Constitution of the United States; and

WHEREAS, The legislative powers of this State over and in the field expressly reserved to this State are being

interfered with and brought to a standstill by action and threats of action of persons purporting to act under authority of the United States for the purpose of assessing and collecting unconstitutional and void taxes, imposing regulations and otherwise; and

WHEREAS, It is the considered judgment of the Legislature of New Jersey that such actions and threats of action, being without constitutional warrant or authority, constitute an invasion and preemption of the quasi-sovereignty of this State and that this State is in duty bound to protect and defend itself by all lawful means against such actions and threats of action by any person or persons pretending to act with Constitutional authority but lacking such authority, now, therefore,

1. There is hereby appropriated the sum of \$25,000.00 for use by the Governor of this State to carry out the purposes of this enactment and the declared will of this State as above set forth by such legal proceedings as to him, as Chief Executive of the State of New Jersey, shall seem proper.

2. The Governor of this State be and he hereby is authorized to cause to be instituted in the name of the State of New Jersey in the Supreme Court of the United States, by such counsel as he may select, suits or actions to restrain any person purporting to act in pursuance of the said titles of said Federal Social Security Act from taking or threatening to take any steps, procedure or action whereby any one or more of the provisions of said titles of said Social Security Act shall be or become effective in the State of New Jersey in respect of the relationship of employer or employee in productive processes or in trade, commerce or occupations local to this State or in respect of a permanent system of old age benefits or in respect of a permanent system of unemployment compensation, initiated, prescribed or controlled by the Government of the United States.

3. The civil courts of the State of New Jersey be and they hereby are opened to any employer or employee who is or may be threatened with the collection from him or from whom is being collected any of the so-called taxes or excises purporting to be laid by the Federal Social Se-

curity Act. The Court of Chancery of New Jersey is empowered to hear and determine civil suits to enjoin the collection of said so-called taxes or excises and the common law courts of New Jersey are empowered to hear and determine actions for the recovery of any sums so collected against any person pretending to act under the alleged authority of said Federal Social Security Act. The proceedings in any such suit or action shall be in accordance with the jurisdiction and practice governing the court wherein the same is pending. If any defendant in any such suit or action pending in any such court of New Jersey shall attempt to remove, before final judgment, such suit or action to any Federal court, the Governor of this State is authorized and empowered, for the protection of the sovereign rights of this State, to apply on behalf of the State of New Jersey in manner aforesaid to the Supreme Court of the United States to prevent removal of such suit or action from the jurisdiction of such court of New Jersey, and if the same shall have been so removed, for order, writ or judgment, directing the removal thereof.

4. This act shall take effect immediately and all acts and parts of acts inconsistent herewith are hereby repealed.

(PROPOSED)

AN ACT FOR THE PROTECTION OF THE STATE OF NEW JERSEY AGAINST FUTURE DEMANDS FOR RELIEF OF INDIGENCY BY REQUIRING EMPLOYERS AND EMPLOYEES TO ARRANGE FOR AND PROVIDE INSURANCE AND RESERVES AND BY OTHER MEANS.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey.

Section 1. Definitions: As used in this act, the following words and phrases shall have the meaning defined in this section unless the context requires that a different meaning be attributed to them:

(a) The words "annuity contract" include **only** annuity contracts written in pursuance of and subject to **this Act**.

(b) The word "bureau" shall mean the **Employees Insurance and Reserve Bureau** to be organized **under this Act**.

(c) The word "Commissioner" shall mean the **Commissioner of Banking and Insurance of the State of New Jersey**.

(d) The phrase "contract of employment" shall include **only** contracts between employer and employee for employment, as defined and limited in and by **this Act**.

(e) The word "Deputy" shall mean the **Special Deputy Commissioner of Banking and Insurance** whose appointment and duties are prescribed by **this Act**.

(f) The word "employer" includes any **person, firm, partnership, association or corporation** entering **into** a contract for work, labor or services to be performed in the State of New Jersey by an employee whereby the employer retains control and determination not **only** of the result to be accomplished but also of the means **or** methods to be used in the course of such work, labor **or** services, except the following:

- (1) The United States of America and its officers, departments, agencies and governmental instrumentalities.
- (2) The representative of a foreign sovereignty enjoying diplomatic immunity but only to the extent to which that diplomatic immunity reaches.
- (3) Churches and religious organizations; but this exception shall not apply to the secular, charitable or eleemosynary activities of churches and religious organizations.
- (4) Any State of the United States not being the State of New Jersey and the counties, municipalities, officers, departments, agencies and governmental instrumentalities of such State of the United States.
- (5) The State of New Jersey and its counties, municipalities, officers, departments, agencies and governmental instrumentalities.

(g) The word "employee" includes only natural persons in employment in the State of New Jersey, and subject, in respect of such employment, to the governmental authority of this State.

(h) The word "employment" includes only the performance within the State of New Jersey, of work, labor or service, by an employee, as defined in this Act, for an employer, as defined in this Act, where the employer retains the control and determination, not only of the result to be accomplished, but also of the means or methods to be used in the course of such work, labor or services and such employment is subject to the governmental authority of this State.

(i) The word "insurance" means only the kind of insurance and annuity coverage prescribed by this Act or under its authority.

(j) The words "insurance carrier" mean only an authorized insurer which is a member of the bureau to be created as provided in this Act.

(k) The words "insurance policy" mean a document setting forth the terms of a contract of insurance which conforms to the requirements of this Act.

(l) The words "insured employee" mean an employee in respect of whom there is in force an insurance policy or annuity contract.

(m) The word "pay" means the amount of money paid directly or indirectly by an employer to an employee as compensation for work, labor or services.

(n) The words "pay roll" mean the total amount of money paid directly or indirectly by an employer to all of his employers engaged in the same undertaking or activity as compensation for their employment.

(o) The word "month" means the calendar month.

(p) The word "week" means the calendar week.

(q) The word "year" means the calendar year.

SECTION 2. Every contract of employment hereafter made between employer and employee and to be performed in whole or in part in the State of New Jersey shall be deemed, to the extent to which it is to be performed in this State, to contain provisions for the protection of the State of New Jersey against future demands for relief of indigency which provisions shall furnish insurance and reserves to the employer, if he be a natural person, or his beneficiaries and to the employee or his beneficiaries, against the financial hazards which may result from his death, old age or involuntary unemployment to the extent of, and subject to, the provisions and limitations of this Act.

SECTION 3. Each employer shall arrange, on behalf of each of his employees who shall have worked for a total of twenty hours in any week in his employment, with an insurance carrier to issue to such employee (or if the employee already be an insured employee to continue in force or transfer and continue in force) a separate and individual policy of insurance covering such employee and for keeping such policy in force and each employee shall assist in procuring such policy of insurance and in keeping it in force by giving such information (not including physical examination) as the insurance carrier may, subject to the approval of the Commissioner, require and in such other ways as may be required under this Act.

SECTION 4. Each employer, if he be a natural person, shall arrange with a insurance carrier to issue to him

(or if the employer already be an insured employer to continue in force) a policy of insurance covering such employer in such amount as a weekly sum equal to the total weekly premiums on his employees' policies will purchase but not in excess of a premium of \$5.00 per week. The employer shall give such information (not including physical examination) as the insurance carrier may, subject to the approval of the Commissioner, require and shall pay the total premiums on such policy at the same times and in the same manner as premiums are paid on policies issued to employees.

SECTION 5. In order to provide the premium for each policy of insurance issued to an employee the employer shall, in respect of the first three weekly premiums to be remitted by that employer in respect of such policy, set aside such total weekly premiums in a separate and identifiable fund. In respect of the weekly premiums subsequent to said first three weekly premiums, that employer shall deduct from the pay of the employee insured by such policy at the time when such pay becomes due to such employee an amount equal to one-half of each current weekly premium. The employer shall, at the time of making such deduction, contribute the other half of said premium and shall set aside such total premium (together with any other such premiums retained on behalf of himself or of other employees) in the aforementioned separate and identifiable fund. The employer shall, on or before the tenth day of each calendar month next following the deposit in such fund, remit from such fund the total premium accruing in such previous month in respect of each such policy with a statement of the policy number, the name of the insured, the weeks for which the premiums are being paid and the amount of pay of each employee (prior to deduction aforesaid, if any) for each of said weeks, to the insurance carrier which shall have issued each such policy of insurance.

SECTION 6. When an employer shall have been setting aside, deducting or segregating or paying over any part or the whole of any premium in respect of any insurance policy covering any employee and such employee shall, for any reason except the death of the employee, cease to be employed by that employer, that employer shall con-

tinue to set aside and pay in manner aforesaid to the insurance carrier the total weekly premiums thereafter accruing under the terms of such policy of insurance, not however to exceed four weekly premiums except to the extent that such weekly premiums shall already have been paid. If such employee shall have entered the employ of some other employer who shall have become obligated by the terms of this Act for the payment of any of said four weekly premiums the former employer's obligation shall to that extent be cancelled.

SECTION 7. The total weekly premium for each policy of insurance to be issued in respect of each employee shall in no event be less than one dollar and shall exceed that amount when the current weekly rate of pay, at issuance of the policy, exceeds twenty-two dollars as follows:

In excess of	\$22.00	weekly premium	\$1.50
"	"	"	2.00
"	32.00	"	2.50
"	40.00	"	3.00
"	45.00	"	3.50
"	50.00	"	4.00
"	55.00	"	4.50
"	60.00	"	5.00
"	65.00	"	

In case of occupations determined by the Commissioner to be intermittent the total weekly premium in excess of One Dollar shall be determined as in this section stated except that the base shall be, not the current weekly rate of pay, but the average weekly rate of pay averaged over the last preceding twelve calendar months as determined by the Commissioner on application made to him. In respect of policies issued in connection with intermittent occupations the amounts payable by the employer, the employee, or both, for any period of employment shall be as though the base were the current weekly rate of pay and any amount so paid in excess of the premium currently due upon a policy issued in connection with an intermittent occupation shall be credited against future premium payments.

No one or more policies issued to one person under the provisions of this Act shall at any one time call for the

payment of a total weekly premium in excess of five dollars.

SECTION 8. Whenever, during any twelve consecutive months, the weekly rate of pay of an employee, averaged over the last six consecutive calendar months of employment, shall be such that application of the last preceding section would call for either a higher or lower weekly premium and the employee shall not have become unemployed, it shall be the duty of the employee and of his then employer to report such fact to the bureau and to the insurance carrier and to surrender for alteration and re-issue to the employee his policy of insurance so that it shall call for the changed rate of premium and for such amount of insurance as will give the employee the full benefit of all accumulated reserves and dividend additions less all indebtedness to the insurance carrier on account of such policy of insurance; but such surrender, alteration and re-issue shall not be required nor made more than once in any twelve consecutive months.

SECTION 9. In event that all premiums required by a policy of insurance shall have been paid and the policy in accordance with its terms is subject to indebtedness and as long as the policy shall remain so subject to indebtedness the employer shall continue to collect and remit in like manner as premiums to the insurance carrier weekly sums equal to those payable had not all premiums then been paid.

SECTION 10. The insurance carrier shall accept, from anyone offering, payment of premium and of further sums provided in Section 9 at any time. If there is duplication of payment the payment for any week or weeks made by the current employer shall be retained and any other payment or payments shall be refunded except in the case of occupations determined by the Commissioner to be intermittent as provided in Section 7.

SECTION 11. The insurance carrier, upon receipt of application from a policy holder for borrowing on the policy, shall immediately transmit a copy to the bureau which in turn shall notify the Department of Labor giving the following information: The name and address of the applicant and the municipality and county where last em-

ployed; the name and address of the last employer, the age, experience and qualifications of the applicant and the then current or last rate of weekly premium on the policy.

SECTION 12. The Department of Labor, if it shall be advised of any opportunity for employment within this State which the applicant would be required, in pursuance of the terms of this Act, to accept as a condition of such borrowing or of continuing to borrow on his policy, shall immediately notify, by mail or otherwise, the applicant and the prospective employer and if the applicant shall fail to apply for such employment within sixty hours of receiving such notice, or having applied shall decline such employment, the Department of Labor shall so notify the bureau which shall prohibit further borrowing on the policy and notify the policy holder to appear at a day and place specified to show cause why such prohibition should not be continued during that period of unemployment. If notification or knowledge to like effect shall come to the bureau from a source other than the Department of Labor the bureau shall take similar action.

SECTION 13. Policies of insurance to be issued under the terms of this Act shall conform in substance to the form of policy set forth in Appendix A of this Act until such time as said form shall be altered by the Commissioner in pursuance of this Act. A policy of insurance once issued shall not be altered except as in such policy provided, or specifically authorized by this Act. The form of policy set forth in Appendix A of this Act may be altered by order of the Commissioner except in the following particulars: (a) The due day of the weekly premiums shall not be altered; (b) The grace period shall not be shortened; (c) The incontestability clause shall not be altered; (d) The lapse provisions shall not be altered; (e) The reinstatement period shall not be shortened; (f) The loan provisions shall not be altered; (g) The payment provisions shall not be altered; (h) Only the last sentence of the annuities provisions may be altered or eliminated and (i) The divided provisions shall not be altered.

SECTION 14. The amount of insurance to be stated in the policy of insurance at the time of issue shall be based upon the rate and number of weekly premiums and shall

vary according to the age of the insured employee in accordance with the tables set forth in Appendix B of this Act. If and when experience shall demonstrate to the Commissioner that the tables set forth in Appendix B operate so as to discriminate unfairly against any class or classes of insured or between insured of different ages he may, if he finds such discrimination to be substantial, alter said tables, as applicable to any policy thereafter to be issued or reinstated, so as to remove such discrimination. The amount of insurance to be stated in the policy of insurance at time of issue, or thereafter, may also vary according to the hazard of death of the insured employee due to the nature of his employment but such permissive variation shall not be permitted until the insurance carrier shall have filed with the bureau a schedule or schedules setting forth such proposed variations and the same shall have been approved by the Commissioner as in this Act provided. No employee who shall have been for the one week next preceding the application for issuance of a policy of insurance to him actively engaged in the performance of work, labor or services required by his employment, shall be refused insurance because of the hazard of his employment or his physical condition.

SECTION 15. No policy of insurance shall be issued in pursuance of this Act which does not provide for endowment maturity. If the age of the insured employee at next birthday is fifteen to thirty-nine, both inclusive, the maturity date shall be the sixtieth birthday and the policy shall call for weekly premiums for 1043 consecutive weeks; if the said age is forty to forty-nine, both inclusive, the maturity date shall be the sixty-fifth birthday and the policy shall call for weekly premiums for 783 consecutive weeks; and if the said age is fifty to sixty-one, both inclusive, the maturity date shall be the seventy-first birthday, and the policy shall call for weekly premiums for 522 consecutive weeks. No original policy shall be issued to any person who shall have passed his sixty-first birthday.

SECTION 16. No policy of insurance shall be issued in pursuance of this Act which does not provide that after the policy shall have been in force for one year and all premiums for that year shall have been paid the policy

shall, without further payment of premium, be continued in force at its face amount of death benefits for extended insurance for a period of six months (including the grace period) from the last week for which the premium shall have been paid, and thereafter as an endowment policy for less amount in accordance with the tables set forth in Appendix C of this Act. If and when experience shall demonstrate to the Commissioner that the tables set forth in Appendix C operate so as to discriminate unfairly against any class or classes of insured or between insured of different ages he may, if he finds such discrimination to be substantial, alter such tables as applicable to any policy thereafter to be issued or re-instated, so as to remove such discrimination.

SECTION 17. Appendixes B and C of this Act are computed on the basis of a weekly premium of \$2.00; if the weekly premium is some other sum the amount of insurance shall be increased or decreased proportionately.

SECTION 18. Subject to the approval of the Commissioner any insurance carrier may issue to any insured, in lieu of the policy of insurance, a duly executed copy of the schedule of the policy of such insurance which shall refer to and embody by reference a form of policy of insurance previously filed with the bureau and approved by the Commissioner.

SECTION 19. No assignment, pledge, transfer or contract to transfer, made by any policy holder, beneficiary or annuitant, of any right, title, or interest, present or future, in or to any policy of insurance or annuity contract or the proceeds thereof shall be valid or enforceable unless such assignment, pledge, transfer or contract to transfer shall have been approved by the Commissioner of Institutions and Agencies. He shall not give such approval unless he is satisfied that such assignment, pledge, transfer or contract to transfer is in the interest of the policy holder, beneficiary or annuitant and also of the State of New Jersey and is to a public institution or agency of the State or to a private charitable or eleemosynary organization, located in this State, and not operated for the profit of any private individual.

SECTION 20. No person who shall be settled in this

State and who shall have been insured under this Act for one year after this Act shall have become obligatory upon him shall be entitled to or shall receive any indigency or unemployment relief from this State or any of its counties, municipalities, officers, departments or agencies unless he shall assign, for the period during which he shall be receiving such relief, a part, but not in excess of one-half, of the monies due and to become due to him, during such period, by reason of such insurance, to such assignee and by such form of assignment as the Commissioner of Institutions and Agencies may approve.

SECTION 21. The Commissioner of Institutions and Agencies of New Jersey is given the following powers to be exercised only under the following circumstances in respect of any money to be disbursed in pursuance of the provisions of any policy of insurance or annuity contract issued in conformity with this act:

- (a) During the life of any such insured or annuitant if he shall be or become a public charge on the State of New Jersey or any of its counties, municipalities, officers, departments or agencies, the Commissioner of Institutions and Agencies shall have power to demand from the insurance carrier one half of such money as the insured or annuitant shall be entitled to receive from said insurance carrier and to apply the money as received to the liquidation of such public charge paying over the overplus of such money, if any, to the insured or annuitant.
- (b) At and for ten days after the death of any such insured or annuitant, if he shall have left him surviving any indigent person who then is or will probably become such public charge on account of whom the deceased was or might have been, immediately prior to his death, legally liable for support and if the beneficiary named in such policy of insurance or annuity contract is not so related to the deceased that if the beneficiary were indigent the deceased, at the time immediately prior to his death, might have been legally

liable for support of the beneficiary, the Commissioner of Institutions and Agencies shall have power to demand from the insurance carrier the whole of the money proceeds of such insurance or annuity contract in place of the named beneficiary and to hold and expend such money when received in liquidation of such public charge or in prevention of such indigent person becoming a public charge paying over the overplus of such money, if any, to the named beneficiary.

SECTION 22. The Commissioner of Institutions and Agencies in exercising any power conferred upon him by this Act is further authorized to act on behalf of or through any county, municipality, officer, department or agency of this State administering relief to any indigent or unemployed person in this State.

SECTION 23. Any insurance carrier, after receipt of demand from the Commissioner of Institutions and Agencies in respect of any specified policy of insurance or annuity contract, shall pay all sums as they fall due which otherwise would have become payable to the insured or beneficiary to the Employees Insurance and Reserve Bureau until that bureau or a court of competent jurisdiction shall otherwise order. Payments made in pursuance of such demand shall free the insurance carrier from further liability for sums so paid.

SECTION 24. The insurance obligations of an insurance carrier on a policy of insurance in force and not matured by death or time, or on an annuity contract, may be, and to the extent required by this Act shall be, transferred from one insurance carrier to another, or to an unemployment reserve organization of the United States or of some State other than New Jersey.

SECTION 25. When an insured employee shall have left the employ of one employer and have been for one week currently in the employment of another employer, as specified in Section 3, that current employer shall arrange for a continuance of that employee's insurance as follows:

- (a) If the insurance carrier of that employee is a life insurance company and a bureau member

then the insurance shall not be transferred and the current employer shall remit the premiums for that employee to that insurance carrier.

- (b) If the insurance carrier of that employee is a corporate employer other than a life insurance company then the insurance shall be transferred to such bureau member other than the former corporate employer as the current employer shall arrange with or, in the event that no arrangement is made, then to such bureau member as the bureau may designate and the current employer shall remit the premium for that employee to that insurance carrier.

SECTION 26. When the holder of any policy of insurance which has not matured and on which one full year's premiums have been paid shall not be in employment as defined in this Act and shall not be settled within this State and there is not within this State any indigent person who then is or will probably become a public charge on this State or any of its counties, municipalities, officers, departments or agencies in respect of whom the policy holder would, if settled in New Jersey, be legally liable for support, such policy holder may apply to the Commissioner for transfer of the insurance obligations of his policy to an unemployment reserve organization of the United States or of some State other than New Jersey. Such application may be made in person or in writing as the Commissioner shall from time to time prescribe in each case or by general rule and the applicant shall give such information as the Commissioner may require for the performance of his duties under this Act. The Commissioner shall notify the Commissioner of Institutions and Agencies of all such applications. The Commissioner, on being satisfied that the facts are such that transfer is authorized by this Act and that such unemployment reserve organization is the one under whose jurisdiction the applicant is, shall order transfer of the insurance to such organization.

SECTION 27. Transfer of the insurance obligations of a policy of insurance from any bureau member shall involve the following:

- (a) The surrender and cancellation of the policy.
- (b) The handing over (either in cash or securities at market value or both) by the transferring carrier of the gross loan value set forth in the schedule of the policy and any dividend additions thereto, less any indebtedness to the carrier on account of the policy.
- (c) The procuring of a receipt in duplicate for the cash and securities transferred and filing one of such receipts with the bureau.
- (d) The delivery to the bureau, or as the bureau may direct, of data and written information in the possession of the transferring bureau member concerning the policy of insurance.
- (e) In case the transfer is to a bureau member, the issuance by the receiving carrier of a new policy in terms similar to that surrendered and subject to similar indebtedness and effective at the exact time of cancellation of the cancelled policy.

SECTION 28. The Commissioner may on application of any bureau member and with the assent of any other bureau member or members involved, order the transfer from the applicant to such assenting member or members of any or all policy and annuity obligations of the applicant whenever he shall find such transfer to be in the interest of the policy holder or annuitant and conducive to economical administration. Notice by any bureau member of withdrawal from the bureau shall be deemed the equivalent of such application.

SECTION 29. An employer, other than a life insurance company, or an organization of employees, other than employees of a life insurance company, which has in operation any arrangement whereby employees, as defined in this Act, are guaranteed employment or they or their beneficiaries may receive benefits in case of death, old age or involuntary unemployment and who may desire to bring such arrangement into conformity with this Act so that the double burden of carrying on such arrangement and of conforming to this act may be lessened or avoided, may submit to the Commissioner the details of such arrange-

ment, as applicable to work, labor or services to be performed in whole or in part in this State, together with a plan for the alteration of such arrangement so as to conform to this Act. Such plan may or may not provide for the transfer of the whole or any part of the assets of the arrangement, or of other assets to a bureau member or members, the allocation of those assets as reserves for individual policies of insurance or annuity contracts in conformity with this Act except that the amount of insurance and gross loan values or annuity payments be increased commensurately on an actuarial basis with the assets so allocated to the individual policy of insurance or annuity contract.

SECTION 30. The Commissioner shall refer such application to the bureau which shall examine the details of such arrangement and the proposed plan. If it shall find that the plan does not contravene the purposes or provisions of this Act and does not involve any unfair discrimination between one employee and another, or one class of employees and another and that a bureau member or members have assented to the plan, it shall recommend to the Commissioner that he approve the plan. The Deputy may, with the assent of the applicant and bureau member, amend the proposed plan before the bureau recommends approval. The applicant may withdraw the plan or any bureau member may withdraw assent to the plan at any time before it is finally approved by the Commissioner. The Commissioner shall approve any proposed plan submitted to him and recommended to him by the bureau if he shall believe that the findings of the bureau are correct; otherwise he shall reject the plan.

SECTION 31. There is hereby created, under the supervision of the Commissioner, in order to carry out the purposes of this Act, a bureau to be known as the Employees Insurance and Reserve Bureau with the functions, organizations, powers, duties, immunities and sources of income prescribed by this Act.

SECTION 32. The functions of the bureau shall include aid in carrying out of the purposes of this Act by so operating and by making and enforcing, subject to the approval of the Commissioner, such rules and regulations:

- (a) That as many natural persons as practical, settled in this State or whose dependents are settled in this State, whether employees as defined in this Act or not, be induced to voluntarily become insured as provided in this Act and that, insofar as practical and consistent with this Act, such insurance be continued to the end that there be available to each insured, or to his dependents settled in this State, protection against the economic hazards of his death, old age and involuntary unemployment.
- (b) That means may be adopted, not inconsistent with the provisions of this Act, to the end that this State and its counties, municipalities, officers, departments and agencies be protected, insofar as is practical, against future demands for relief of indigency.
- (c) As will establish and maintain schedules for insurance of the character specified in this Act and equitably adjust the same as far as practical and consistent with this Act to the hazard of individual risks so that there shall be no discrimination against any insured or class of insured in favor of any other insured or class of insured except where such discrimination is based upon the hazard of the individual risk or on differences of efficiency in operation as between bureau members.
- (d) So that the bureau shall also function to aid and require each member to administer its insurance business coming under this Act so that as much of the premium income be held available for the individual insured or annuitant and as little thereof be diverted to costs of operation or otherwise as shall be consistent with the prompt, full and continuous performance by the member of its obligations pursuant to this Act.
- (e) Whenever the bureau shall receive any payment as the result of demand made on an insurance carrier by or on behalf of the Commissioner of Institutions and Agencies of this State, the bureau

as stakeholder shall send notice to the insured if living and if dead to the beneficiary by mail to the last known address, stating the monies actually received and the probable effect of the demand in respect of future payments. The notice shall also inform the insured or beneficiary that if he objects to the demand of the Commissioner of Institutions and Agencies he shall appear before the Deputy within fifteen days of the date of the notice or file with the Deputy within that time a written statement of his objection. If the insured or beneficiary shall not appear or file such objection the Deputy shall pay the money in hand over to the Commissioner of Institutions and Agencies. If the insured or beneficiary shall appear or file written objection the Deputy shall then fix a time for hearing and attempt, as stakeholder, to settle the dispute and, failing so to do within thirty days after the date of his notice, shall file interpleader in the Court of Chancery and deposit the funds therein to the end that the disputes may be adjudicated and the fund distributed according to law.

(f) The bureau shall procure from employers and from its members and from insured of its members such data as is available and material as to unemployment including information as to age, training, previous gainful occupation, location and other matters concerning each unemployed insured and also as to the industry and industrial unit where last employed and also as to current opportunities for employment and the bureau shall keep such data and information continuously up to date and available to any person or organization and to any public official, department or agency of this State or of its counties or municipalities.

(g) The bureau, within limits of its financial ability, shall cooperate with all persons and agencies, whether public or private, of this State, in such ways as the bureau may conclude are most likely

to reduce the incidence and duration of unemployment.

(h) The bureau shall receive and examine applications for transfer of insurance policies and annuities from one bureau member to another, or to an unemployment reserve organization of the United States or of some State other than New Jersey and shall advise the Commissioner whether such transfer should be permitted and upon what conditions, if any.

SECTION 33. The bureau shall consist of a Special Deputy Commissioner of Banking and Insurance and of its members.

SECTION 34. The Deputy shall be appointed by the Commissioner of Banking and Insurance for an initial term of one year, and if reappointed then for a term of seven years, at a salary of \$—— per year payable in equal monthly installments.

SECTION 35. The Deputy shall be presiding officer of the bureau and its chief executive. He shall, subject to the approval of the bureau and of the Commissioner, select, appoint and fix the compensation and remove all other officers, agents and employees of the bureau. He shall have a vote in the bureau, or in committees thereof, only in cases where, without his vote, a tie would result. He shall, from time to time, prepare a budget or budgets for the bureau and shall submit the same to the bureau for approval or reduction; provided, however, that no budget shall be reduced by the reduction or elimination of any item for which the bureau shall then have become obligated.

SECTION 36. No person, corporation or organization, not a bureau member, shall within this State engage in writing insurance or annuity contracts of the form or substance provided in this Act or be entitled to any privileges or immunities under this Act, nor shall such insurance or annuity contracts be accepted or recognized in this State as conforming to this Act, unless written by a bureau member. No individual, partnership, firm or unincorporated organization shall be a bureau member. No corporation,

other than a life insurance company authorized to transact that business in this State, or a corporate employer other than a life insurance company, authorized to transact business in this State, shall apply for membership in the bureau either on behalf of itself or on behalf of its Employees Insurance and Reserve Department. The members of the bureau shall be of three classes; class (a) life insurance companies not carrying on and agreeing not to carry on any business other than in pursuance of this Act; class (b) The Employees' Insurance and Reserve Departments of life insurance companies, carrying on or which are to carry on business other than in pursuance of this Act; and class (c) The Employees Insurance and Reserve Departments of corporate employers other than life insurance companies employing persons within the terms of this Act.

SECTION 37. Any qualified corporation may apply in writing to the Commissioner or Deputy for membership in the bureau for itself or for its Employees Insurance and Reserve Department. Such application shall state:

- (1) Name of the applicant.
- (2) Date and place of incorporation and that the applicant is there in good standing.
- (3) That the applicant is authorized to carry on business in this State, the nature of the business and the registered office of the corporation in this State.
- (4) Whether the applicant or its Employees Insurance and Reserve Department seeks to become a member of the bureau and the class of bureau membership sought.
- (5) Each applicant life insurance company shall submit with its application and in such detail as shall be required an extract from or copy of its statement made on application for authority to do business in this State or its last annual statement or the result of its last examination by the Department of Banking and Insurance of this State whichever statement or result is later.
- (6) Each applicant corporate employer, other than a life insurance company, shall submit with its

application and in such detail as shall be required, a copy of its last financial statement both as to assets and liabilities and as to profit and loss.

- (7) If the application is for a class (b) or class (c) bureau membership the applicant shall submit with its application a plan whereby the member proposes to comply with all the provisions of this Act applicable to such member. Such plan shall set forth the following in respect of the Employees Insurance and Reserve Department.
 - (a) The assets to be allocated to and segregated in the Department; the character of such assets which shall be the same as for investment by life insurance companies; the amount of such assets which for class (b) members shall be at least three hundred thousand dollars and for class (c) members shall be at least fifty thousand dollars. There shall not at any time be included among the assets any stocks, bonds, or securities issued or to be issued by the applicant.
 - (b) Estimates of the income, expenses and disbursements of the department and from what derived and for what and to whom to be paid, and a statement of the means and methods to be adopted whereby the same are to be allocated to and segregated in the department and kept separate from those of the applicant.
 - (c) The liabilities of the Department to be incurred in its organization and for starting expenses.
 - (d) Any further information which the Commissioner or Deputy may deem relevant or desirable.
- (8) If the application is for a class (c) membership the applicant shall also submit such further information as may be required as to the permanence and financial standing of the applicant and the probability that the company will continue to employ persons in this State.

- (9) Each applicant shall agree, by its application, either to submit such additional information and to enter into such agreements as the Commissioner may deem relevant or desirable for carrying out the purposes of this Act, before passing on such application or to withdraw its said application.

SECTION 38. Before issuing a certificate of bureau membership the Commissioner shall require the prospective bureau member to file with him a certificate agreeing as follows:

- (1) In respect of business to be done in pursuance of this Act and in respect only of such business and the income, disbursements and assets thereof, to comply with this Act and all other acts applicable to the writing of life insurance and annuities and with any and all orders, directions and rulings of the Commissioner, Deputy or bureau made in pursuance of law.
- (2) In respect of business to be done in pursuance of this Act and in respect only of such business and the income, disbursements and assets thereof to carry to completion all policy and annuity contracts to be issued by the member and not to withdraw from the bureau or the writing of new insurance of the character contemplated by this Act, without the consent of the Commissioner, until the expiration of a period of six months from the date of filing with the Commissioner of notice of intention so to withdraw; provided, however, that the Commissioner may order any bureau member to cease writing new business whenever in his judgment the safety of the holders of policies issued, or to be issued by that bureau member in pursuance of this Act, will be improved.
- (3) To segregate the business to be done in pursuance of this Act and the income, disbursements and assets involved in such business from its other

business, income, disbursements and assets in such manner that the Commissioner may be able, at any time or times, to determine whether such bureau member is complying in respect of the business done in pursuance of this Act with all the requirements of this Act and of any orders, directions or rulings of the Commissioner, Deputy or bureau made in pursuance of law.

SECTION 39. The Commissioner, or the Deputy if such there be, shall examine each application for membership in the bureau and make such investigation of the applicant and its affairs as he deems necessary and the Commissioner shall either reject said application or accept such application with or without conditions. The Commissioner shall notify the applicant of any proposed conditions and give the applicant an opportunity to be heard and thereafter shall either reject such application or accept such application with or without conditions. If the acceptance is with conditions the applicant, upon complying therewith, shall submit proof of such compliance to the Commissioner who shall examine into the matter and act thereon.

SECTION 40. When application for membership in the bureau has been accepted without conditions, or when such application has been accepted with conditions and the conditions are performed and the applicant shall have filed the certificate required by Section 38, the Commissioner shall issue his certificate to the applicant certifying that the applicant has become a member of said bureau.

SECTION 41. Each certificate of membership in the bureau shall state the class of the member. Subject to the provisions of this Act the holder of class (a) or class (b) certificates shall be authorized to issue insurance or annuity contracts to any person entitled to such protection in pursuance of this Act; holders of class (c) certificates shall be authorized to issue insurance or annuity contracts to any person entitled to such protection and who is employed by the corporate employer whose Employees Reserve and Insurance Department is issuing the contract.

SECTION 42. Each member of the bureau shall select and appoint one individual and an alternate for such in-

dividual, with full power, to represent it in the bureau and may alter or change such selection and appoint from time to time provided that each member shall, at all times, be so represented in the bureau.

SECTION 43. Each member shall at all times be entitled to at least one vote in the bureau. Any member who, in the preceding calendar year, shall have had a net premium income in excess of \$100,000 from insurance and annuity contracts written in pursuance of this Act, shall have an additional vote for each \$100,000 and part thereof of such income in excess of said first \$100,000 of income.

SECTION 44. When and as long as there shall be ten or more bureau members the bureau members shall elect a governing committee from among the representatives of the members. Such governing committee shall consist of four such members and of the Deputy. Such governing committee shall have such power and authority as the full membership of the bureau would have in respect of such matters as the bureau by vote may delegate to the governing committee.

SECTION 45. Any bureau member may file with the bureau notice of intention to withdraw from the bureau. On such notice shall contain an application for transfer, as provided in this Act, of the insurance and annuity obligations of the applying member. The Deputy shall notify the Commissioner and all members of the bureau of the filing of such notice and application. Withdrawal shall be complete when and not before transfer of insurance and annuity obligations has been completed and all obligations of the withdrawing member to the bureau or to any other obligee shall have been paid.

SECTION 46. Each bureau member shall be organized and operated primarily for the benefit of and in the interests of its policy holders and annuity holders and not for the interest of any other person or persons except only to the extent expressly authorized by this Act or rules or regulations made in pursuance of this Act. To that end the following powers, exemptions and limitations are granted and imposed:

(a) Each applicant and each bureau member shall

have and is hereby given, and by applying for or becoming such member accepts, all corporate powers requisite to apply for or become a bureau member and for carrying out in this State its functions as a bureau member, anything in any other law or in its charter, certificate of incorporation or by-laws to the contrary notwithstanding; provided, however, that no corporation nor department shall become a bureau member without the assent of the Board of Directors or other governing authority of the corporation. Specifically, but without limitation of the foregoing general powers, any corporation is authorized and empowered, subject to the approval of the Commissioner, to organize and operate an Employees Insurance and Reserve Department to carry on business in pursuance of this Act. Such department shall be separate and distinct from the corporation creating it in the sense that neither the department nor its assets shall be liable for the obligations of the corporation nor shall the corporation or its assets be liable for the obligations of the department except to the extent that the corporation may have made allocation to or investment in its department. Specifically, but without limitation of the foregoing general powers, any life insurance company applying for a class (b) membership in the bureau may, subject to the approval of the Commissioner, invest any part of the funds or assets of the corporation in stock or obligations of its own Employees Insurance and Reserve Department and such investment shall be a legal and authorized investment of such funds or assets. Specifically, but without limitation of the foregoing general powers, any life insurance company applying for a class (a) membership in the bureau may, subject to the approval of the Commissioner, create a trust of the whole or any part of its capital stock to last so long as the life insurance company shall remain a member of the bureau and containing such

terms as the Commissioner may approve as conducing to continuity of management and control in furtherance of the performance by the life insurance company of its functions as a bureau member.

- (b) No part of the principal amount of capital allocated to, expended for or invested in any bureau member, whether as capital stock, loan, advance or otherwise, shall be withdrawn or repaid until the member or department shall have applied to the Deputy and have received the approval of the Commissioner which he shall not give until he is satisfied that all policy and annuity obligations have been performed according to their terms or have been duly transferred to another bureau member or members and that all other obligations of the applying member have been paid or provision made for their payment or that such repayment is authorized by the following paragraphs.
- (c) The Commissioner shall, from time to time, determine in respect of each bureau member the amount of profits from investment or operation or both. He shall control the disposition and application of such profits in pursuance of this Act for the protection of policy holders, beneficiaries and annuitants of that bureau member. He may, subject to the provisions of this Act, direct the application of such profits or any part thereof to the establishment or increase of surplus or of special contingency reserves or to the repayment of capital obligations or for dividends on policy and annuity contracts of the bureau member.
- (d) The Commissioner shall have power to require that all or any part of the property, assets and investments of a bureau member, be segregated from all other property, assets and investments and be kept within this State subject at all times to examination by the Commissioner.
- (e) No interest or dividends shall be paid on capital invested in a bureau member except from invest-

ment or operating profits and subject to the following limitations: (1) No more than one-half of such profits shall be so paid; (2) No payment shall be made as interest or dividends which alone or with previous payments shall amount to more than 5% per annum on the invested capital or the balance or balances thereof for the time or times for which the same have been actually invested in the bureau member; (3) No payment shall be made until the amount of such operating profits shall have been determined and approved by the Commissioner; (4) No payments shall be made unless the Commissioner is satisfied that the member has been and is being operated primarily for the benefit of and in the interest of its policy holders or annuity holders. If at any time or times the amount available as aforesaid for the payment of interest and dividends on capital investment is in excess of what is necessary to pay such interest or dividends the member or department may apply to the Commissioner for and may procure his assent, or the Commissioner may, without application, require that the member apply such excess or any part thereof to repayment of or on account of the invested capital provided the Commissioner believes such repayment not to be prejudicial to the policy holders or annuity holders of that member.

- (f) No bureau member shall, from business done in pursuance of this Act, or from the income or assets of such business, return to any stockholders, investor or lender or on account of a policy of insurance issued by it different from that prescribed under authority of this Act, any sums of money in excess of the amount paid in as capital and as paid-in surplus or as investment or loan and interest thereon or on the remaining balances at the rate of 5% per annum simple interest for the time, during which such amount or any balances thereof shall have been segregated or applied to the carrying on of business in pursuance

of this act. The Commissioner may promulgate rules and regulations and may make such examinations as he deems advisable to assure that the provisions of this Act shall be complied with and, if he has knowledge that action contrary to the provisions of this section are contemplated or about to be taken, he may forbid the same. The Commissioner shall, if he finds that any plan for the payment of any amount and interest or dividends thereon mentioned in this section is in accordance with the terms of this Act, approve the same in advance and he shall not thereafter forbid the carrying out of such approved plan.

SECTION 47. The Commissioner, prior to the organization of the bureau, may refer any matter coming to him in pursuance of this Act for investigation and recommendation, to anyone connected with his department. After the organization of the bureau he shall refer all such matters to the bureau for investigation and recommendation and may also be advised by anyone connected with his department. The Commissioner shall not appoint the Deputy until he has received an application for bureau membership from an insurance company. The Commissioner shall not have power to add or increase any item of the bureau's budget except as necessary to meet obligations of the bureau incurred at the time; he shall have power to cancel or reduce any other item in the budget. The Commissioner shall, upon approving any budget of the bureau, order that the bureau members be assessed to meet such budget. Such assessment shall be based on the net premium income of the members for the previous calendar year for insurance authorized by this Act. Any sums expended or advanced by or under authority of the Commissioner out of any appropriation from the public funds (except the salary of the Deputy) to the bureau or for its account shall be a charge against the bureau and shall be repaid to the treasury of this State within five years of such advancement and the Commissioner shall, from time to time, require insertion in the budget of the bureau of items to accomplish such repayment.

SECTION 48. The premiums from the time when they are set aside in a separate and identifiable fund, and the personal property, whether tangible or intangible, being assets of or utilized by the bureau or by a bureau member in operating under this Act and the income therefrom and the rights of the policy holders, beneficiaries, and annuitants in or in respect of any such property and the receipt by any policy or annuity contract are declared to be instrumentalities of the State of New Jersey for the protection of the State against claims for the relief of indigency and such instrumentalities shall be free and immune, except as otherwise provided in this Act, from any and all taxes, excises, impositions, liens, charges or claims of whatsoever nature by or under authority of the United States or of this State and free and immune from attachment, judgment, order, decree, levy and execution at the suit of any person claiming right thereto because of claim or assignments or as a creditor of the bureau, the bureau member, the employer, the employee, the policy holder, the beneficiary or the annuitant, or otherwise. In case of the insolvency of an employer premiums set aside in a separate and identifiable fund shall be no part of the insolvent's estate and premiums which have accrued but have not been so set aside, shall be considered as unpaid wages and shall be entitled to the same preference as unpaid wages.

SECTION 49. Any employer and any officer, agent or employee acting on behalf of such employer or on his own behalf who shall have made any deposit in any fund or shall have made any deduction from the pay of any employee for the purpose of paying as prescribed in this Act a premium or premiums and who shall fail to segregate the sum in a separate and identifiable fund or who having done so shall divert or assist in or knowingly permit the diversion of any part of that fund from the payment of premiums in pursuance of this Act, shall be guilty of a misdemeanor.

SECTION 50. Any employer, in respect of whom this Act shall have become obligatory, who shall wilfully fail or knowingly omit to perform any duty imposed upon him by this Act shall be guilty of a misdemeanor. Any em-

ployer who shall knowingly employ or continue in his employment an employee upon whom this Act shall have become obligatory which employee shall refuse to perform his obligations under this Act shall be guilty of a misdemeanor. Upon complaint made to the Attorney General or to any Prosecutor of Pleas of this State that any employer or other person is guilty of a misdemeanor under this section or under section 49, the Attorney General or Prosecutor of the Pleas shall prosecute such employer or other person.

SECTION 51. When this Act shall become obligatory in respect of any particular occupation and an employer shall wilfully fail or knowingly omit to perform his obligations under this Act in respect of such occupation, the Attorney General shall apply for and the Court of Chancery of New Jersey is empowered to grant an injunction restraining such employer from employing any or any specified persons in such occupation in this State.

SECTION 52. The Commissioner shall report annually to the legislature as to the progress and condition of the bureau and of its members and as to any alterations in or additions to this Act which he may deem necessary or advisable. The Commissioner of Institutions and Agencies shall report annually to the Legislature as to the effect of this Act in protecting the State of New Jersey against demands for relief of indigency. The Commissioner of Labor shall report annually to the Legislature as to the effect of this Act upon employment in this State.

SECTION 53. If any of the provisions of this Act or the application thereof to any person or circumstance is held invalid on a ground not reaching other provisions, persons and circumstances, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby except to the extent that such ground reaches such other person or circumstances. If this State or any department or officer thereof is a party to any litigation wherein the constitutional validity of this Act is in any way questioned, neither the State, the department nor the officer shall interpose any objection, tending to delay or defeat the prompt and full determination of such constitutional question on its merits.

SECTION 54. There is hereby appropriated for the purposes of this Act the sum of \$25,000 to be withdrawn from the treasury from time to time only on certificate of the Commissioner that the same is currently needed for the salary of the Deputy or for the preparation to establish, the establishment or the operation of the bureau.

SECTION 55. This Act shall take effect immediately for the purposes of voluntary compliance and may take effect later as a compulsory Act requiring conformity. Voluntary compliance shall be deemed to take place where the employer and the individual employee agree to arrange for and procure insurance in conformity with this Act. Such insurance having been voluntarily arranged for and procured it shall be compulsory on that employer and that employee to keep such insurance in force to the extent provided in this Act.

SECTION 56. This Act shall become compulsory in respect of a particular occupation when all of the following conditions shall exist in respect of that occupation and the Governor shall have so proclaimed:

- (1) The Attorney General of this State shall have certified to the Governor that neither the pay of the employee nor the payroll of the employer nor employing nor being employed in that occupation is the object of taxation or imposition designated in an Act of the Congress of the United States which Act stands unrepealed by the Congress or which taxation has not been declared unconstitutional by the Supreme Court of the United States.
- (2) The Commissioner shall have certified to the Governor that the States of New York and Pennsylvania have each imposed by law on employment in that occupation a burden for the purpose of providing reserves or insurance against the hazards of natural persons, engaged in such occupation, caused by involuntary unemployment, death or old age or one or more of such hazards which burden is, in respect of employment in such occupation, at least as heavy as the burden con-

templated by this Act in respect of such occupation.

- (3) The Commissioner shall have certified to the Governor that the occupation is not of such an intermittent or seasonal character that in his opinion more than 50% of the policies issued to employees therein would lapse because of failure to pay the full premium for the first policy year.

SECTION 57. All acts and parts of acts inconsistent with this Act are, to the extent of such inconsistency, repealed.

APPENDIX "A"

LIFE

Insurance Company

REGISTERED OFFICE: New Jersey

Schedule

EMPLOYEES INSURANCE AND RESERVE POLICY NO. 193

INSURER: LIFE INSURANCE COMPANY
(Herein called the Company)

INSURED:

STATED AGE NEXT BIRTHDAY:

MATURITY: BIRTHDAY:

OCCUPATION:

CLASSIFICATION:

PREMIUM PER WEEK FOR CONSECUTIVE WEEKS

AMOUNT OF INSURANCE: DOLLARS
(Subject to change on change of occupational hazard)

BENEFICIARY:
(Conditioned and subject to change)

TABLE OF GROSS LOAN VALUES AT THE BEGINNING OF SECOND AND SUBSEQUENT POLICY YEARS IN WHICH POLICY MAY BE IN FORCE AND INSURED EMPLOYED AS STATED BELOW.

Such loan values during any policy year will rise from the beginning of that year to the beginning of the next year in the same proportion as the premiums payable in that year shall have been paid.

Policy Years	Gross Loan Values	Policy Years	Gross Loan Values
First	\$ 0.00	Seventeenth	
Second		Eighteenth	
Third		Nineteenth	
Fourth		Twentieth	
Fifth		Twenty-first	
Sixth		Twenty-second	
Seventh		Twenty-third	
Eighth		Twenty-fourth	
Ninth		Twenty-fifth	
Tenth		Twenty-sixth	
Eleventh		Twenty-seventh	
Twelfth		Twenty-eighth	
Thirteenth		Twenty-ninth	
Fourteenth		Thirtieth	
Fifteenth		Thirty-first	
Sixteenth		Sixtieth Birthday	

TABLE OF PAID UP ENDOWMENT INSURANCE GRANTED ON FAILURE OF PREMIUM PAYMENTS FOR PERIOD OF TWENTY-SIX WEEKS.

Policy Years	Amount	Policy Years	Amount
Second		Eleventh	
Third		Twelfth	
Fourth		Thirteenth	
Fifth		Fourteenth	
Sixth		Fifteenth	
Seventh		Sixteenth	
Eighth		Seventeenth	
Ninth		Eighteenth	
Tenth		Nineteenth	
		Twentieth	

Contract Clause: The Company insures the insured, subject to the provisions of this policy, in said amount of insurance, (which is subject to change for misstatement of age or if the insured changes to an occupation of different hazard) payable to the beneficiary, or otherwise as stated below, on or after receipt of due proof of death of the insured during the continuance of this policy and upon legal surrender of this policy, unless such surrender be waived by the company, at the Registered Office of the Company in _____, New Jersey.

Consideration: **CONSIDERATION:** This policy is issued in consideration of the application for it and in consideration of the payment of premium at the rate and for the number of weeks stated in the schedule of this policy, at the Registered Office of the Company at _____, N. J., on or before the dates when due, in exchange for official receipts signed by the President or Secretary and countersigned by an authorized agent of the company. The weekly premium shall be considered as being due on each and every Saturday following the date of issue of this policy until said total premium shall have been paid.

Grace: A grace in payment of premium of seven weeks from the due date, without interest, will be allowed, during which time the policy will remain in force but if this policy shall become a claim by death before the end of the grace period the unpaid premium up to and including the Saturday next following the day of such death shall be deducted from the amount of insurance payable.

Incontestability: After this policy has been in force during the life time of the insured for two years from its date it shall be incontestable except for non-payment of premium and or for violation of its express conditions relating to hazardous occupation, but if the age of the insured be misstated the amount payable under this policy shall be such as the premium would have purchased at the correct age, subject, however, to such deductions as are otherwise provided in this policy.

Indebtedness: Any indebtedness to the Company on account of this policy will be deducted from any payment or payments or in any settlement or adjustment under this policy. The company will accept payments on account of any such indebtedness at any time.

Lapse: If at any time the sum of the amounts charged against this policy for loans and interest on loans shall exceed the sum of the gross loan value stated in the schedule and any dividend additions and if at least one month shall have

elapsed after notice shall have been mailed by the Company to the last known address of the insured that said loan value and dividend additions have been so exhausted, then this policy shall lapse and all liability of the Company to the insured and/or to any other person shall end.

If during the first policy year referred to in the schedule premium shall not be paid before the end of the grace period this policy shall lapse and all liability of the company to the insured and/or to any other person shall end.

If during the second or any subsequent policy year any premium remain unpaid at the end of the grace period and the policy be not then lapsed as aforesaid then the Company shall continue this policy in force for the amount of insurance stated in the schedule for a period of twenty-six weeks from the due date of the first then unpaid premium and if all premiums due at the end of said twenty-six weeks be not then paid the Company shall then convert this policy into a policy of paid up insurance in accordance with the table contained in the schedule of this policy. Said policy of paid up insurance shall have the same maturity as this policy and shall give the insured the right to borrow subject to conditions similar to those stated in this policy and such paid up policy may be surrendered for an annuity in manner similar to this policy.

In case this policy shall have been converted into paid up insurance and if such paid up insurance shall remain in force this policy may be reinstated, within three years of the date of its conversion to paid up insurance upon the same evidence of insurability as then required for the issuance of a new policy and payment of arrears of premiums together with compound interest on such premiums and on all liens, if any. **Reinstatement:**

The insured shall have the privilege of borrowing from the Company on the sole security of this policy or of any policy into which this policy may be converted and without the consent of the beneficiary to meet the emergency which results from failure or insufficiency of income due to unemployment whether such failure or insufficiency results from the physical disability of the insured or the inability of the insured to find employment, any such borrowing shall, however, be subject to the following terms and conditions: **Loan Provisions:**

1. There shall be no borrowing at a time when the policy is not in force.
2. There shall be no borrowing until the completion of the first policy year referred to in the schedule and the payment of all premiums for that year.
3. There shall be no borrowing at a time when the total of the insured's weekly earnings and Workmen's Compensation payments is equal to or greater than seven and one-half times the weekly premium stated in the schedule.
4. There shall be no borrowing unless the total of insured's weekly earnings and Workmen's Compensation payments for the four weeks next preceding the borrowing has fallen below seven and one-half times the weekly premium stated in the schedule figured for the same four weeks.

5. There shall be no borrowing or no further borrowing during any particular period of unemployment if the insured shall have refused, during that period, to accept employment at a rate of pay equal to or greater than seven and one-half times the weekly premium stated in the schedule, provided the insured be physically capable of performing such employment and that the place of employment be in the county where the insured was last regularly employed or in an adjoining county and provided the employment offered is not with the insured's last previous employer and provided no strike is pending against the offering employer at the place where employment is to be performed.
6. The borrowing shall be by the week and each borrowing shall be equal to seven and one-half times the weekly premium stated in the schedule and such borrowings may be repeated only until (a) the insured receives from employment or under a Workmen's Compensation Law a weekly compensation equal to or greater than seven-and one-half times the weekly premium stated in the schedule or (b) the charges from such borrowing with interest at the rate of three per cent (3%) per annum (together with any other charges against this policy made in pursuance of the terms herein stated) shall have exhausted the gross loan value set forth in the schedule for the then current policy year and any dividend additions thereto.
7. Interest on borrowings shall be charged at the rate of three percent (3%) per annum and such charge shall be entered against such gross loan value annually at the end of each policy year.
8. The company will loan on the policy only after receipt of written application duly filled out and signed by the insured on forms which the Company will furnish on request.

Change of
Named
Beneficiary:

The insured may at any time or times while this policy, or any policy or annuity contract into which this policy may be converted, is in force, by written notice of the Company at its Registered Office at _____, New Jersey, change the beneficiary or beneficiaries named in this policy or any policy or annuity contract into which this policy may be converted, without the consent of the beneficiary or beneficiaries. Such change shall become effective only when noted or endorsed on the schedule by the Company, whereupon all rights of the former beneficiary or beneficiaries shall end.

Payment:

Money becoming payable under this policy, or any policy or annuity contract into which this policy may be converted, will be paid to the insured if living, and if he be dead then to the last named beneficiary if living and if he be dead then to the estate of the insured, provided, however, that if the Company shall receive written notice of demand from the Commissioner of Institutions and Agencies of New Jersey, the Company will make all subsequent payments demanded as they become due to the Employees Insurance and

Reserve Bureau until otherwise ordered by that Bureau or a court of competent jurisdiction. Payments made as above stated shall free the Company from further liability for the sums so paid.

The insured is rated in the Schedule of this policy in accordance with the Company's estimate of the insured's expectancy of life and the hazard of the occupation stated therein which occupation is classed by the Company as hazardous or liable to lead to hazardous employment. The classification of occupations in the order of increasing hazard is Standard, Special A, Special B, Special C and Special D. The hazard of the occupation does not change the amount of premium payable for this policy. An increase in hazard of occupation will effect a reduction in the amount of insurance payable at death.

Hazardous
Classifi-
cations:

The relation of the amounts of insurance payable in the first policy year on policies in the various classes for the same premium at the same age is as follows: Standard 100%, Special A 91%, Special B 85%, Special C 74%, Special D 62%. If the insured shall during the first policy year change his or her occupation to another then classified as more hazardous to the insured the amount of insurance payable at death shall thereby be reduced as above indicated; if the insured shall during the second or any subsequent policy year change his or her occupation to another then classified as more hazardous to the insured the amount of insurance payable at death shall thereby be reduced by applying the appropriate percentage as above indicated to the difference between the amount of insurance stated in the schedule and the full reserve therefor. If the insured shall at any time change his or her occupation to another then classified as less hazardous to the insured, and if the Company shall conclude that the extra hazards of the previous occupation or occupations have not in fact impaired the insured's expectancy of life then the Company will, on application by the insured, increase the amount of insurance payable at death to that called for by the then classification of the then changed occupation. Detailed classification of occupations and ratings of physical conditions are on file at the Registered Office of the Company and any classification and/or rating may be changed from time to time by the Company and any occupation is subject to be reclassified and/or re-rated at any time in accordance with the Company's experience and judgment. Such original or changed classification and/or rating shall not affect this policy until the insured changes to an occupation other than the one in which the insured was at the time of such change of classification and/or rating. On application by the insured the Company will furnish the then current classifications and ratings.

At any time after all premiums on this policy have been paid and the insured has reached the maturity age stated in the schedule or at any time when the insured shall become so physically disabled that in the opinion of the Company the insured will not in the future be able to earn at the rate of seven and one-half times the weekly premium referred to in the schedule and shall not be receiving workmen's compensation payments at that or a higher rate, the Company will on the request of the insured and without the consent of the beneficiary or beneficiaries accept surrender of this policy and issue in place thereof an annuity contract providing for monthly payments to the insured during his life

Annuities:

in such amounts as the net reserves and dividend additions (after deducting any indebtedness due the Company under this policy) will purchase at the then age of the insured on the basis of the annuity or disability tables adopted by the Company and in force at that time. Such annuity contract shall provide a minimum of at least one hundred monthly payments whether insured live or die.

Dividends: Annually, after the end of the second policy year referred to in the schedule and while this policy is in force and has not been surrendered, lapsed or converted, the Board of Directors of the Company shall determine what if any part of the divisible surplus of the Company may be apportioned as a dividend upon the policy and unless such apportionment is disapproved by the Commissioner of Banking and Insurance of the State of New Jersey within thirty days of notification thereof such dividend shall become effective. Such dividend shall not be paid in cash to the insured nor applied to the purchase of additional insurance but shall be applied, first, to the payment of premiums in default beyond the grace period, second, in reduction of any indebtedness due the Company on this policy, and third, to the extent not so applied such dividend shall be retained as an addition to the loan values and death benefits of this policy and accumulated at three per cent interest compounded annually.

Alterations: This policy shall not be effective until attested by the signature of an underwriter of the Company. This policy contains the entire contract between the parties and no condition, provision, term or privilege of this policy can be waived or modified in any case except by an endorsement hereon signed by the President, a Vice-President, the Secretary, an Assistant Secretary or an underwriter of the Company. No modification or change shall be made in this policy except such as is in accordance with the Laws of the State of New Jersey. No agent has power on behalf of the Company to make or modify this or any other contract of insurance, to extend the time for paying a premium to waive any forfeiture, or to bind the Company by making any promise, or by making or receiving any representation or information.

IN WITNESS WHEREOF the Life Insurance Company has caused this policy to be signed by its President and its Secretary and to be duly attested by an underwriter of the Company this day of One thousand, nine hundred and thirty-

(Facsimile Signature of)

(Facsimile Signature of)

.....
(Secretary)

.....
President

.....
Underwriter

APPENDIX B
ACTUARIAL TABLES

For Endowment Insurance Policy
Insurance Amounts Per \$2.00 Weekly Premium
and
Net Reserves at End of Each Policy Year

Policies Issued	Premiums For	Maturing At
at Ages 15-39	Twenty Years	60th Birthday
at Ages 40-49	Fifteen Years	65th Birthday
at Ages 50-61	Ten Years	71st Birthday

Note: The maturity of the policy as an endowment occurs one-half year, on the average, after the end of the last completed policy year shown in the tables for the age at issue.

Basis of Net Premiums and Reserves:

Standard Industrial Mortality Table 3% Interest

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 15 Unit Policy \$2410 Reserve	Age Next Birthday 16 Unit Policy \$2347 Reserve	Age Next Birthday 17 Unit Policy \$2287 Reserve	Age Next Birthday 18 Unit Policy \$2231 Reserve	Age Next Birthday 19 Unit Policy \$2179 Reserve
1	59.43	58.42	57.15	55.82	54.54
2	120.96	118.66	116.02	113.40	110.95
3	183.09	179.40	175.46	171.61	168.09
4	245.82	240.80	235.58	230.66	226.25
5	309.23	302.95	296.65	290.77	285.67
6	373.50	366.11	358.83	352.25	346.55
7	438.84	430.49	422.48	415.28	409.04
8	505.52	496.41	487.77	480.02	473.30
9	573.82	564.10	554.87	546.62	539.46
10	643.98	633.67	623.92	615.22	607.57
11	716.13	705.30	695.09	685.88	677.84
12	790.48	779.18	768.45	758.81	750.49
13	867.19	855.36	844.20	834.26	825.67
14	946.31	934.06	922.58	912.37	903.67
15	1,028.11	1,015.55	1,003.76	993.44	984.73
16	1,112.79	1,099.97	1,088.04	1,077.68	1,068.97
17	1,200.59	1,187.63	1,175.66	1,165.30	1,156.61
18	1,291.78	1,278.79	1,266.79	1,256.43	1,247.85
19	1,386.64	1,373.61	1,361.61	1,351.32	1,342.79
20	1,485.33	1,472.32	1,460.36	1,450.13	1,441.67
21	1,507.89	1,494.92	1,483.01	1,472.82	1,464.44
22	1,531.19	1,518.27	1,506.38	1,496.24	1,487.95
23	1,555.27	1,542.35	1,530.51	1,520.43	1,512.25
24	1,580.12	1,567.23	1,555.41	1,545.39	1,537.33
25	1,605.78	1,592.91	1,581.12	1,571.20	1,563.24
26	1,632.27	1,619.43	1,607.69	1,597.84	1,589.99
27	1,659.62	1,646.80	1,635.11	1,625.35	1,617.65
28	1,687.87	1,675.08	1,663.47	1,653.82	1,646.26
29	1,717.03	1,704.30	1,692.77	1,683.22	1,675.89
30	1,747.18	1,734.50	1,723.07	1,713.70	1,706.57
31	1,778.34	1,765.74	1,754.43	1,745.24	1,738.38
32	1,810.56	1,798.08	1,786.92	1,777.97	1,771.42
33	1,843.92	1,831.58	1,820.61	1,811.95	1,805.76
34	1,878.47	1,866.31	1,855.60	1,847.27	1,841.54
35	1,914.31	1,902.38	1,891.99	1,884.06	1,878.86
36	1,951.52	1,939.89	1,929.86	1,922.48	1,917.93
37	1,990.20	1,978.97	1,969.43	1,962.66	1,958.92
38	2,030.50	2,019.73	2,010.80	2,004.80	2,002.04
39	2,072.55	2,062.40	2,054.21	2,049.15	2,047.56
40	2,116.56	2,107.04	2,099.88	2,095.98	2,095.85
41	2,162.73	2,154.22	2,148.09	2,145.62	2,147.27
42	2,211.30	2,203.95	2,199.22	2,198.52	
43	2,262.58	2,256.66	2,253.70		
44	2,316.97	2,312.83			
45	2,374.91				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 20 Unit Policy \$2131 Reserve	Age Next Birthday 21 Unit Policy \$2085 Reserve	Age Next Birthday 22 Unit Policy \$2042 Reserve	Age Next Birthday 23 Unit Policy \$2001 Reserve	Age Next Birthday 24 Unit Policy \$1962 Reserve
1	53.40	52.33	51.48	50.83	50.27
2	108.74	106.81	105.29	104.07	103.02
3	165.02	162.42	160.32	158.60	157.12
4	222.52	219.30	216.70	214.53	212.64
5	281.36	277.64	274.59	272.00	269.66
6	341.75	337.54	334.09	331.03	328.28
7	403.78	399.17	395.23	391.78	388.77
8	467.65	462.54	458.20	454.47	451.22
9	533.35	527.82	523.22	519.24	515.89
10	601.07	595.27	590.42	586.33	583.01
11	671.07	665.01	660.08	655.99	652.66
12	743.51	737.32	732.38	728.28	725.02
13	818.60	812.42	807.49	803.42	800.24
14	896.64	890.44	885.55	881.56	878.41
15	977.72	971.55	966.72	962.78	959.67
16	1,062.03	1,055.93	1,051.16	1,047.24	1,044.20
17	1,149.78	1,143.71	1,139.01	1,135.15	1,132.15
18	1,241.07	1,235.05	1,230.43	1,226.63	1,223.74
19	1,336.12	1,330.17	1,325.63	1,321.96	1,319.21
20	1,435.12	1,429.27	1,424.87	1,421.33	1,418.76
21	1,458.03	1,452.31	1,448.06	1,444.72	1,442.34
22	1,481.66	1,476.10	1,472.04	1,468.87	1,466.73
23	1,506.08	1,500.66	1,496.79	1,493.85	1,491.94
24	1,531.32	1,526.05	1,522.39	1,519.68	1,518.06
25	1,557.36	1,552.30	1,548.86	1,546.41	1,545.09
26	1,584.31	1,579.43	1,576.26	1,574.11	1,573.13
27	1,612.17	1,607.54	1,604.62	1,602.82	1,602.25
28	1,641.00	1,636.62	1,634.05	1,632.64	1,632.50
29	1,670.87	1,666.81	1,664.62	1,663.65	1,664.03
30	1,701.86	1,698.15	1,696.39	1,695.93	1,696.93
31	1,734.02	1,730.72	1,729.47	1,729.64	1,731.37
32	1,767.45	1,764.66	1,764.02	1,764.90	1,767.47
33	1,802.29	1,800.06	1,800.15	1,801.88	1,805.47
34	1,838.65	1,837.14	1,838.07	1,840.80	1,845.59
35	1,876.69	1,876.00	1,877.95	1,881.88	1,888.13
36	1,916.58	1,916.89	1,920.05	1,925.46	1,933.43
37	1,958.56	1,960.09	1,964.71	1,971.87	
38	2,002.91	2,005.87	2,012.27		
39	2,049.92	2,054.64			
40	2,099.97				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 25 Unit Policy \$1925 Reserve	Age Next Birthday 26 Unit Policy \$1888 Reserve	Age Next Birthday 27 Unit Policy \$1853 Reserve	Age Next Birthday 28 Unit Policy \$1818 Reserve	Age Next Birthday 29 Unit Policy \$1785 Reserve
1	49.80	49.33	48.96	48.47	48.09
2	102.12	101.25	100.41	99.52	98.87
3	155.83	154.50	153.26	152.06	151.17
4	210.92	209.17	207.67	206.22	205.22
5	267.56	265.51	263.77	262.19	261.23
6	325.94	323.62	321.79	320.20	319.27
7	386.19	383.75	381.96	380.34	379.46
8	448.56	446.12	444.33	442.74	441.93
9	513.28	510.82	509.07	507.53	506.74
10	580.41	577.97	576.32	574.76	573.98
11	650.13	647.75	646.12	644.55	643.78
12	722.59	720.22	718.61	717.02	716.23
13	797.87	795.49	793.92	792.28	791.52
14	876.09	873.71	872.15	870.53	869.79
15	957.44	955.04	953.54	951.90	951.21
16	1,042.02	1,039.66	1,038.24	1,036.61	1,035.96
17	1,130.09	1,127.78	1,126.42	1,124.85	1,124.30
18	1,221.82	1,219.57	1,218.35	1,216.86	1,216.44
19	1,317.43	1,315.31	1,314.28	1,312.91	1,312.71
20	1,417.20	1,415.28	1,414.47	1,413.31	1,413.42
21	1,441.04	1,439.34	1,438.80	1,437.95	1,438.37
22	1,465.68	1,464.24	1,464.00	1,463.47	1,464.27
23	1,491.18	1,490.03	1,490.15	1,489.98	1,491.22
24	1,517.59	1,516.78	1,517.29	1,517.54	1,519.27
25	1,544.99	1,544.55	1,545.51	1,546.25	1,548.56
26	1,573.42	1,573.44	1,574.90	1,576.21	1,579.19
27	1,602.99	1,603.52	1,605.57	1,607.55	1,611.34
28	1,633.79	1,634.89	1,637.66	1,640.44	1,645.15
29	1,665.93	1,667.75	1,671.31	1,675.03	1,680.85
30	1,699.56	1,702.18	1,706.74	1,711.56	1,718.69
31	1,734.85	1,738.43	1,744.14	1,750.28	1,759.01
32	1,771.96	1,776.72	1,783.79	1,791.53	
33	1,811.16	1,817.29	1,826.02		
34	1,852.72	1,860.51			
35	1,896.97				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 30 Unit Policy \$1752 Reserve	Age Next Birthday 31 Unit Policy \$1720 Reserve	Age Next Birthday 32 Unit Policy \$1688 Reserve	Age Next Birthday 33 Unit Policy \$1657 Reserve	Age Next Birthday 34 Unit Policy \$1625 Reserve
1	47.79	47.54	47.43	47.46	47.45
2	98.32	97.97	97.85	97.90	97.89
3	150.51	150.17	150.05	150.14	150.18
4	204.56	204.23	204.13	204.29	204.31
5	260.56	260.25	260.21	260.38	260.34
6	318.62	318.37	318.31	318.46	318.37
7	378.85	378.62	378.52	378.66	378.46
8	441.33	441.08	440.92	441.01	440.73
9	506.10	505.83	505.62	505.67	505.28
10	573.32	573.00	572.72	572.73	572.24
11	643.07	642.73	642.39	642.34	641.71
12	715.50	715.12	714.72	714.69	713.86
13	790.75	790.36	789.87	789.71	788.86
14	868.99	868.57	868.04	867.84	866.91
15	950.39	949.97	949.40	949.21	948.22
16	1,035.17	1,034.79	1,034.22	1,034.07	1,033.06
17	1,123.54	1,123.25	1,122.74	1,122.68	1,121.72
18	1,215.82	1,215.64	1,215.26	1,215.38	1,214.56
19	1,312.25	1,312.29	1,312.13	1,312.53	1,311.96
20	1,413.22	1,413.60	1,413.75	1,414.58	1,414.42
21	1,438.53	1,439.31	1,439.91	1,441.26	1,441.64
22	1,464.86	1,466.09	1,467.23	1,469.15	1,470.17
23	1,492.27	1,494.06	1,495.79	1,498.41	1,500.00
24	1,520.88	1,523.30	1,525.75	1,529.20	1,531.92
25	1,550.82	1,553.99	1,557.26	1,561.71	1,565.54
26	1,582.21	1,586.25	1,590.55	1,596.17	1,601.34
27	1,615.24	1,620.34	1,625.85	1,632.87	
28	1,650.12	1,656.48	1,663.42		
29	1,687.11	1,694.96			
30	1,726.49				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 35 Unit Policy \$1593 Reserve	Age Next Birthday 36 Unit Policy \$1561 Reserve	Age Next Birthday 37 Unit Policy \$1528 Reserve	Age Next Birthday 38 Unit Policy \$1496 Reserve	Age Next Birthday 39 Unit Policy \$1463 Reserve
1	47.46	47.52	47.47	47.42	47.34
2	97.95	97.98	97.87	97.76	97.55
3	150.22	150.20	149.97	149.78	149.45
4	204.29	204.21	203.85	203.56	203.06
5	260.26	260.06	259.58	259.17	258.50
6	318.19	317.90	317.26	316.70	315.82
7	378.18	377.78	376.96	376.23	375.13
8	440.34	439.81	438.78	437.88	436.52
9	504.77	504.08	502.83	501.73	500.14
10	571.57	570.72	569.26	567.99	566.11
11	640.91	639.89	638.22	636.73	634.59
12	712.92	711.75	709.86	708.19	705.81
13	787.80	786.49	784.38	782.56	779.94
14	865.73	864.31	862.05	860.08	857.27
15	946.97	945.48	943.10	941.04	938.12
16	1,031.80	1,030.29	1,027.82	1,025.79	1,022.84
17	1,120.52	1,119.07	1,116.65	1,114.73	1,111.85
18	1,213.50	1,212.24	1,209.98	1,208.32	1,205.70
19	1,311.20	1,310.26	1,308.33	1,307.13	1,304.98
20	1,414.11	1,413.70	1,412.33	1,411.85	1,410.46
21	1,441.94	1,442.22	1,441.62	1,442.05	1,441.70
22	1,471.22	1,472.35	1,472.67	1,474.22	
23	1,502.14	1,504.27	1,505.75		
24	1,534.90	1,538.27			
25	1,569.81				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 40 Unit Policy \$1226 Reserve	Age Next Birthday 41 Unit Policy \$1203 Reserve	Age Next Birthday 42 Unit Policy \$1179 Reserve	Age Next Birthday 43 Unit Policy \$1156 Reserve	Age Next Birthday 44 Unit Policy \$1132 Reserve
1	50.24	50.07	49.84	49.62	49.31
2	103.60	103.22	102.71	102.23	101.60
3	158.84	158.24	157.42	156.65	155.67
4	216.09	215.22	214.07	212.99	211.65
5	275.41	274.27	272.77	271.39	269.63
6	336.95	335.52	333.67	331.93	329.75
7	400.83	399.12	396.87	394.79	392.18
8	467.23	465.20	462.57	460.13	457.08
9	536.29	533.95	530.95	528.16	524.67
10	608.22	605.61	602.23	599.11	595.22
11	683.27	680.40	676.69	673.29	669.02
12	761.73	758.64	754.64	751.01	746.43
13	843.87	840.64	836.44	832.66	827.88
14	930.12	926.85	922.53	918.73	913.87
15	1,020.90	1,017.71	1,013.44	1,009.79	1,005.06
16	1,035.82	1,032.80	1,028.71	1,025.30	1,020.84
17	1,051.32	1,048.51	1,044.66	1,041.57	1,037.46
18	1,067.45	1,064.93	1,061.41	1,058.70	1,055.05
19	1,084.31	1,082.15	1,079.03	1,076.85	1,073.78
20	1,102.00	1,100.29	1,097.70	1,096.14	1,093.85
21	1,120.64	1,119.49	1,117.56	1,116.83	1,115.52
22	1,140.35	1,139.93	1,138.86	1,139.17	
23	1,161.35	1,161.83	1,161.83		
24	1,183.86	1,185.48			
25	1,208.15				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 45 Unit Policy \$1108 Reserve	Age Next Birthday 46 Unit Policy \$1084 Reserve	Age Next Birthday 47 Unit Policy \$1060 Reserve	Age Next Birthday 48 Unit Policy \$1035 Reserve	Age Next Birthday 49 Unit Policy \$1010 Reserve
1	49.00	48.64	48.29	47.84	47.38
2	100.92	100.22	99.46	98.52	97.56
3	154.63	153.51	152.31	150.87	149.36
4	210.20	208.64	206.98	204.99	202.89
5	267.75	265.72	263.57	261.00	258.31
6	327.41	324.92	322.24	319.08	315.76
7	389.37	386.37	383.18	379.42	375.45
8	453.80	450.32	446.60	442.22	437.62
9	520.95	516.97	512.75	507.79	502.57
10	591.06	586.64	581.95	576.42	570.64
11	664.48	659.66	654.55	648.55	642.29
12	741.57	736.44	731.03	724.64	718.02
13	822.82	817.49	811.91	805.31	798.49
14	908.77	903.43	897.87	891.27	884.50
15	1,000.10	994.98	989.72	983.42	977.03
16	1,016.21	1,011.49	1,006.71	1,000.98	995.29
17	1,033.27	1,029.06	1,024.91	1,019.93	
18	1,051.43	1,047.89	1,044.57		
19	1,070.87	1,068.22			
20	1,091.87				

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday 50 Unit Pol'y \$748 Reserve	Age Next Birthday 51 Unit Pol'y \$735 Reserve	Age Next Birthday 52 Unit Pol'y \$722 Reserve	Age Next Birthday 53 Unit Pol'y \$708 Reserve	Age Next Birthday 54 Unit Pol'y \$694 Reserve	Age Next Birthday 55 Unit Pol'y \$680 Reserve
1	52.11	51.60	51.07	50.45	49.77	49.06
2	107.54	106.50	105.41	104.13	102.75	101.30
3	165.17	163.61	161.94	159.97	157.86	155.65
4	225.24	223.12	220.88	218.21	215.37	212.40
5	287.96	285.30	282.50	279.13	275.59	271.86
6	353.62	350.47	347.12	343.10	338.87	334.43
7	422.59	418.96	415.14	410.52	405.67	400.59
8	495.25	491.26	487.05	481.92	476.56	470.94
9	572.13	567.88	563.41	557.93	552.20	546.24
10	653.82	649.49	644.96	639.32	633.47	627.42
11	659.68	655.33	650.80	645.16	639.33	633.32
12	665.73	661.38	656.86	651.26	645.50	639.57
13	671.99	667.67	663.21	657.68	652.02	646.27
14	678.50	674.24	669.88	664.48	659.00	653.48
15	685.30	681.16	676.95	671.75	666.54	661.37
16	692.45	688.49	684.51	679.61	674.78	670.10
17	700.04	696.32	692.68	688.19	683.90	
18	708.15	704.79	701.60	697.69		
19	716.91	714.05	711.49			
20	726.50	724.30				
21	737.11					

BENEFITS AND RESERVES FOR UNIT POLICY

\$2.00 Weekly Premium

End of Year	Age Next Birthday					
	56	57	58	59	60	61
	Unit Pol'y					
	\$665	\$651	\$636	\$621	\$605	\$589
	Reserve	Reserve	Reserve	Reserve	Reserve	Reserve
1	48.25	47.46	46.59	45.67	44.64	43.56
2	99.63	98.04	96.24	94.35	92.24	90.05
3	153.12	150.70	147.95	145.07	141.84	138.50
4	208.98	205.72	202.00	198.12	193.78	189.27
5	267.57	263.48	258.81	253.95	248.49	242.83
6	329.29	324.43	318.85	313.06	306.53	299.76
7	394.68	389.13	382.74	376.11	368.61	360.86
8	464.39	458.29	451.24	443.93	435.64	427.08
9	539.24	532.80	525.31	517.58	508.77	499.72
10	620.23	613.78	606.20	598.43	589.52	580.42
11	626.20	619.86	612.42	604.85	596.19	
12	632.58	626.42	619.22	611.96		
13	639.47	633.59	626.74			
14	646.99	641.52				
15	655.32					

APPENDIX C

ACTUARIAL TABLES

For Endowment Insurance Policy

Paid-up Endowment Insurance
Granted on Lapse of Unit Policy

Explanation

From date of lapse the full Unit Insurance Amount is continued as Extended Insurance for six months, after which the reduced Paid-up Endowment Insurance becomes effective.

Example: \$2131 unit policy issued at Age 20 and lapsed after premiums paid for 5 years; continued as \$2131 extended insurance for 6 months (including the grace period) and thereafter for \$496 paid-up endowment insurance.

Paid-up Endowment Insurance
Granted on Lapse of Unit Policy

Effective after 6 Months
Extended Insurance of Unit Benefit

End of Year	Age Next Birthday 15 Unit Policy Paid-up	Age Next Birthday 16 Unit Policy Paid-up	Age Next Birthday 17 Unit Policy Paid-up	Age Next Birthday 18 Unit Policy Paid-up	Age Next Birthday 19 Unit Policy Paid-up
1	117	110	103	96	90
2	246	234	221	209	197
3	372	354	336	319	304
4	495	472	449	428	410
5	616	588	562	537	515
6	736	704	673	646	621
7	854	819	785	754	727
8	972	933	897	863	833
9	1,090	1,048	1,009	973	940
10	1,208	1,164	1,122	1,083	1,048
11	1,327	1,280	1,235	1,194	1,156
12	1,447	1,397	1,349	1,306	1,265
13	1,567	1,514	1,464	1,418	1,376
14	1,688	1,633	1,581	1,532	1,487
15	1,810	1,753	1,698	1,647	1,600
16	1,933	1,873	1,817	1,764	1,715
17	2,058	1,996	1,937	1,881	1,830
18	2,184	2,120	2,058	2,000	1,947
19	2,312	2,245	2,181	2,121	2,065

End of Year	Age Next Birthday 20 Unit Policy Paid-up	Age Next Birthday 21 Unit Policy Paid-up	Age Next Birthday 22 Unit Policy Paid-up	Age Next Birthday 23 Unit Policy Paid-up	Age Next Birthday 24 Unit Policy Paid-up
1	84	79	75	71	68
2	188	179	172	165	159
3	290	279	268	259	251
4	393	378	365	354	343
5	496	478	463	448	435
6	599	578	560	544	528
7	702	679	659	639	622
8	806	781	758	736	716
9	910	883	857	834	812
10	1,015	985	958	933	909
11	1,122	1,089	1,060	1,032	1,007
12	1,229	1,194	1,163	1,133	1,106
13	1,337	1,301	1,267	1,236	1,206
14	1,447	1,408	1,373	1,339	1,307
15	1,557	1,517	1,479	1,443	1,410
16	1,607	1,627	1,587	1,549	1,513
17	1,783	1,738	1,696	1,656	1,618
18	1,897	1,850	1,806	1,764	1,723
19	2,013	1,964	1,917	1,879	1,842

Paid-up Endowment Insurance
Granted on Lapse of Unit Policy

Effective after 6 Months
Extended Insurance of Unit Benefit

End of Year	Age Next Birthday 25 Unit Policy Paid-up	Age Next Birthday 26 Unit Policy Paid-up	Age Next Birthday 27 Unit Policy Paid-up	Age Next Birthday 28 Unit Policy Paid-up	Age Next Birthday 29 Unit Policy Paid-up
1	65	63	60	58	56
2	154	149	144	140	135
3	243	236	229	222	216
4	333	323	314	305	297
5	423	411	400	389	380
6	513	499	487	475	464
7	605	589	575	561	549
8	698	680	664	649	634
9	792	772	754	737	721
10	887	866	846	827	809
11	983	960	938	917	897
12	1,080	1,055	1,031	1,008	986
13	1,178	1,151	1,126	1,100	1,076
14	1,278	1,248	1,221	1,198	1,167
15	1,378	1,346	1,317	1,287	1,259
16	1,479	1,446	1,414	1,382	1,359
17	1,582	1,546	1,518	1,491	1,465
18	1,691	1,659	1,629	1,599	1,571
19	1,808	1,773	1,741	1,708	1,678

End of Year	Age Next Birthday 30 Unit Policy Paid-up	Age Next Birthday 31 Unit Policy Paid-up	Age Next Birthday 32 Unit Policy Paid-up	Age Next Birthday 33 Unit Policy Paid-up	Age Next Birthday 34 Unit Policy Paid-up
1	54	52	51	50	49
2	132	129	126	124	121
3	211	206	202	198	194
4	291	284	279	273	268
5	372	364	357	350	343
6	454	444	435	427	418
7	537	526	515	505	494
8	621	608	595	583	571
9	706	691	677	663	648
10	791	775	758	743	726
11	878	859	841	823	805
12	965	944	924	905	884
13	1,053	1,031	1,008	987	964
14	1,142	1,118	1,093	1,076	1,059
15	1,232	1,212	1,192	1,173	1,153
16	1,336	1,313	1,291	1,269	1,247
17	1,439	1,415	1,390	1,366	1,341
18	1,543	1,516	1,489	1,462	1,435
19	1,647	1,618	1,588	1,559	1,530

Paid-up Endowment Insurance

Granted on Lapse of Unit Policy

Effective after 6 Months

Extended Insurance of Unit Benefit

End of Year	Age Next Birthday 35 Unit Policy Paid-up	Age Next Birthday 36 Unit Policy Paid-up	Age Next Birthday 37 Unit Policy Paid-up	Age Next Birthday 38 Unit Policy Paid-up	Age Next Birthday 39 Unit Policy Paid-up
1	48	47	46	45	44
2	119	116	114	111	109
3	190	186	182	178	174
4	263	257	251	245	239
5	335	328	320	313	305
6	409	400	391	381	372
7	483	472	461	450	439
8	558	546	532	519	506
9	634	619	604	589	574
10	710	693	676	660	642
11	786	768	749	730	719
12	864	843	830	816	802
13	949	934	917	902	885
14	1,041	1,023	1,005	987	968
15	1,133	1,113	1,092	1,071	1,050
16	1,225	1,202	1,178	1,156	1,132
17	1,316	1,291	1,265	1,240	1,214
18	1,408	1,381	1,352	1,325	1,297
19	1,500	1,470	1,440	1,410	1,379
End of Year	Age Next Birthday 40 Unit Policy Paid-up	Age Next Birthday 41 Unit Policy Paid-up	Age Next Birthday 42 Unit Policy Paid-up	Age Next Birthday 43 Unit Policy Paid-up	Age Next Birthday 44 Unit Policy Paid-up
1	54	53	51	49	48
2	128	124	121	117	114
3	202	197	192	186	181
4	278	271	263	256	249
5	354	346	336	327	318
6	432	421	410	399	388
7	511	498	485	472	459
8	591	576	561	546	531
9	673	656	638	622	604
10	756	737	717	698	679
11	840	819	798	777	762
12	926	904	886	870	853
13	1,021	1,002	983	964	944
14	1,122	1,102	1,080	1,059	1,037

Paid-up Endowment Insurance

Granted on Lapse of Unit Policy

Effective after 6 Months

Extended Insurance of Unit Benefit

End of Year	Age Next Birthday 45 Unit Policy Paid-up	Age Next Birthday 46 Unit Policy Paid-up	Age Next Birthday 47 Unit Policy Paid-up	Age Next Birthday 48 Unit Policy Paid-up	Age Next Birthday 49 Unit Policy Paid-up
1	46	44	42	41	39
2	110	107	103	99	96
3	175	170	164	159	153
4	242	234	227	219	211
5	308	299	290	280	270
6	376	365	354	342	330
7	445	432	418	405	391
8	515	500	484	469	453
9	587	569	552	541	530
10	660	647	634	621	608
11	747	732	717	702	686
12	836	818	801	783	765
13	925	905	886	865	845
14	1,015	994	972	949	926
End of Year	Age Next Birthday 50 Unit Policy Paid-up	Age Next Birthday 51 Unit Policy Paid-up	Age Next Birthday 52 Unit Policy Paid-up	Age Next Birthday 53 Unit Policy Paid-up	Age Next Birthday 54 Unit Policy Paid-up
1	52	50	48	46	43
2	121	117	112	108	104
3	191	185	179	172	166
4	263	255	247	238	230
5	337	327	317	307	296
6	414	402	390	378	365
7	494	480	466	452	437
8	576	561	545	529	513
9	662	645	628	610	598

Paid-up Endowment Insurance

Granted on Lapse of Unit Policy

Effective after 6 Months

Extended Insurance of Unit Benefit

End of Year	Age Next Birthday 55 Unit Policy Paid-up	Age Next Birthday 56 Unit Policy Paid-up	Age Next Birthday 57 Unit Policy Paid-up	Age Next Birthday 58 Unit Policy Paid-up	Age Next Birthday 59 Unit Policy Paid-up
1	41	38	36	34	31
2	99	95	90	86	81
3	159	152	146	139	132
4	221	212	204	195	186
5	286	274	264	253	242
6	353	339	327	314	300
7	423	407	393	384	376
8	496	485	475	464	454
9	586	573	561	548	535

End of Year	Age Next Birthday 60 Unit Policy Paid-up	Age Next Birthday 61 Unit Policy Paid-up
1	29	26
2	76	71
3	125	118
4	176	167
5	230	218
6	293	287
7	366	357
8	442	431
9	521	507

NEW JERSEY SOCIAL SECURITY COMMISSION
LAW OPINION REPORT NO. 3

MR. H. L. DERBY, *Chairman,*
New Jersey Social Security Commission.

Dear Mr. Derby:

We submit to you and to the commission our **opinion** concerning the constitutionality of a **Bill proposed for** enactment by the Legislature of the State of New **Jersey** entitled

“AN ACT FOR THE PROTECTION OF THE STATE OF NEW JERSEY AGAINST FUTURE DEMANDS FOR RELIEF OF INDIGENCY BY REQUIRING EMPLOYERS AND EMPLOYEES TO ARRANGE FOR AND PROVIDE INSURANCE AND RESERVES AND BY OTHER MEANS.”

We likewise submit our opinion concerning the constitutionality of a companion Bill proposed for enactment by the Legislature of the State of New Jersey, entitled

“AN ACT FOR THE PROTECTION OF THE SOVEREIGN POWERS OF THE STATE OF NEW JERSEY.”

The statement of our reasons and conclusions in respect of these Bills will be made in the following order:

- I. The powers and duties of the Federal Government and of the State of New Jersey in respect of
 - (a) The prevention and relief of indigency in New Jersey.
 - (b) The regulation of the relation of employer and employee in productive processes and in trade, commerce and occupations local to the State of New Jersey.
- II. The authority of a State to delegate its powers to or abdicate its powers in favor of the Federal Government.
- III. In respect of the Bill first above mentioned, does it,

- (a) Contain the constitutional defects of the Federal Social Security Act?
 - (b) Contain any other constitutional defects?
- IV. In respect of the companion Bill, our order of presentation will be as follows:
- (a) What powers of the State of New Jersey are to be protected?
 - (b) Against what interference are those powers to be protected?
 - (c) By what means are those powers to be protected?
- V. After completing the discussion, as above outlined, we will state our conclusions.

I (a)

In respect of the prevention and relief of indigency in New Jersey the primary duty is on the State, not on the Federal Government. The Government of the United States is one of delegated and limited powers, obtaining its existence and authority altogether from the Constitution. It has no right to exercise any powers of government beyond those enumerated in the Constitution and reasonably incidental thereto. Those and those only are the powers delegated to it. The Tenth Amendment provides that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people. Powers and duties are co-relative. If there is no power there is no duty. Nowhere does the Constitution of the United States directly or indirectly, refer to indigency or poverty or the prevention or relief thereof. The power and duty to prevent and relieve indigency within a State was and is one of the powers not delegated to the United States by the Constitution nor prohibited by it to the States. Such powers and duties are reserved to the States respectively or to the people.

The government of the State of New Jersey is *not* one of enumerated powers. It possesses all powers not forbidden to it by the Constitution of the United States or by its own Constitution. There is nothing in either Constitution which forbids the State of New Jersey to exercise power for the prevention and relief of indigency in New

Jersey. The limitations of the Federal and State Constitution are upon the methods which the State of New Jersey may use and not upon the primary power and duty to prevent and relieve indigency in New Jersey.

In New Jersey the government, as a provincial government before the Revolution, an independent State from the time of the Revolution to the time of the adoption of the Constitution of the United States, and a State of the Union which was formed by that instrument, has continuously and without any question as to its powers and duties enacted and administered laws for the prevention and relief of indigency. At no time has New Jersey asserted that the power and duty to prevent and relieve indigency in New Jersey appertained to any other government, be it the British Crown, or a sister State, or the Federal Government.

The government of New Jersey has, in times past, felt obliged to protect itself and its inhabitants against claims for relief of indigency resulting from the bringing into New Jersey of indigent persons. On July 8, 1730, the Governor, Council and General Assembly of the Province of New Jersey passed a law "to prevent poor and impotent persons being imported into this Province of New Jersey." The law recited that "WHEREAS, Many persons trading into this Province have, for Lucre and private Gain, imported, * * * and daily do import Passengers * * * into this Province, who, by Reason of Age, Impotency or Idleness, have become a heavy Burden and Charge upon the Inhabitants thereof;"

By Section 2 that law provided that if any such passengers, "being poor and impotent Persons, are brought into the Province" the Magistrates were required to apprehend and examine them for the purpose of determining who brought them there and the person who improperly brought them in was subject to a fine of Twenty Pounds.

The third section contained provisions in respect of "any old Persons, Infants, Maimed, Lunatic or any Vagabond or Vagrant Persons." The Justices of the Peace were directed to cause such persons to be brought before them and "if upon examination they shall judge that such person or persons are likely to become chargeable to the City, Town or County where they are found, or were imported,"

the Justices were empowered to issue their Warrant for the person responsible for the importation who, upon proof, could be required to give security to return such persons to the place whence they came.

With the adoption of the Constitution the power to regulate the importation of persons was delegated to the Federal Government. Nevertheless, many States (as appears in the opinion in the Head Money Cases 112 U. S. 580; 28 L. Ed. 798) continued their attempts to impose charges and duties upon those importing indigent persons. Those impositions were resisted. The States had no power to tax (because taxation amounts to regulation) the importation of such persons and importation is a part of foreign commerce; that power is in Congress. Congress exercised the power of regulation not by total prohibition of importation of such persons but by placing a charge upon such importation. Since such importation threw on the States at seaboard the burden of relieving the indigency of such imported persons, the Congress appropriated the money charge to be handed over to the local agencies to meet this burden. This amounted to no more than the payment of the damage caused to the States by the failure of the Federal Government to totally prohibit the importation of such persons. The Head Money Case is authority for no more than the proposition that where, in respect of a matter within federal power, a course of action is deemed by Congress to be for the general welfare of the United States, such action may take the form of the levy of a charge, the proceeds of which are to be paid to the local State authorities where the failure of Congress to exercise its undoubted power of prohibition has produced direct and injurious results in the State. The Head Money Case is no authority for the proposition that where Congress has power to tax a relationship which it has not power otherwise to regulate it can use or require a State to use the proceeds of such taxation for the regulation of that relationship. The Supreme Court in the Head Money Cases recognized that the "tax" there imposed was in truth a regulation and not a tax. In its decision the Supreme Court said:

"But the true answer to all these objections is, that the power exercised in this instance is not the taxing

power. The burden imposed on the ship owner by this statute is the mere incident of the regulation of commerce, of that branch of foreign commerce which is involved in immigration. * * *

"If this is an expedient regulation of Commerce by Congress, and the end to be attained is one falling within that power, the Act is not void because, within a loose and more extended sense than was used in the Constitution, it is called a tax."

From the foregoing it is plain that the source of power in the Federal Government to deal with this matter was its control over immigration and not at all any power or duty to deal directly with indigency. The decision fully recognizes the primary duty of the State as distinguished from the Federal Government. In fact the Act there under consideration recognized this. The opinion of the court states:

"The Act further authorizes the Secretary to use the aid of any state organization or officer for carrying into effect the beneficent objects of this law, by distributing the fund in accordance with the purpose for which it was raised, not exceeding in any port the sum received from it, under rules and regulations to be prescribed by him."

The decision points out that the Federal Act is entitled "An Act to Regulate Immigration." The moneys to be distributed to the State authorities were for the relief of indigency. Indigency was not limited to those able to work. The term was extended to include those, who because of age or infancy or mental incapacity, are "unable to take care of himself or herself without becoming a public charge."

From Colonial days to the present the State has legislated for the relief of the indigent settled in New Jersey, Allinson, N. J. Laws, page 84, passed July 8, 1730; Allinson page 118, passed 1740; Allinson page 179, passed 1748; Allinson page 198, passed 1754; Allinson page 222, passed 1758; Allinson page 403, passed 1774. Since the Revolution there has been a continuous process of revision and amendment of these laws. In fact some of the most recent

have been recommended by this Social Security Commission and have been enacted by the Legislature in this year.

We conclude that there is no power or duty in the Federal Government to take charge of or to prescribe the methods for the prevention or relief of indigency in the State of New Jersey in respect of any persons who have acquired settlement in this State. We further conclude that the power to prevent and relieve indigency in New Jersey of persons settled in this State is exclusively that of the State of New Jersey and has been exercised by the Provincial Government and by the State for well over 200 years. We conclude that the State of New Jersey may accept or reject monetary assistance if offered by the Federal Government but that the State is under no obligation of acceptance and that the Federal Government has no power of regulation, *Massachusetts v. Mellon*, 262 U. S. 447; 67 L. Ed. 1078.

I (b)

The powers and duties of the Federal Government and of the State of New Jersey in respect of the regulation of the relation of employer and employee in productive processes and in trade, commerce and occupations local to the State of New Jersey were discussed in the law opinion submitted with Report No. 1. The conclusions there reached are that the Federal Government has no such power of regulation and that the State of New Jersey has full power of regulation limited only by the Fourteenth Amendment to the Constitution of the United States and by the provisions of the Constitution of the State of New Jersey.

Since our previous opinion, and on April 15th of this year, the New York Court of Appeals rendered opinions involving the constitutionality of the New York unemployment insurance statute. These opinions were in the cases of *Associated Industries and Chamberlain* against the Industrial Commissioner. The cases involved the question as to whether the New York statute violated the Fourteenth Amendment to the Constitution of the United States by depriving plaintiffs of property without due process of law and denying to them the equal protection of the laws. The opinion of the Court of Appeals upheld the

statute. The method by which this result **was** reached was, in brief, to decline to investigate as to **whether** the statute did in fact take plaintiff's property **without** due process of law and deny to plaintiffs the equal **protection** of the laws. The reason assigned for so declining was that the Legislature had investigated the facts and **had** come to the conclusion that the statute was constitutional and that, therefore, the Judges of the Court of Appeals were not bound to inquire whether or not the statute **would** operate to deprive the plaintiffs of property without **due** process of law or to deny to them the equal protection **of** the laws.

The Fourteenth Amendment is a part of the Constitution. The Constitution is the supreme law **of** the land and by Article VI, Section 2 " * * * the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary **notwithstanding.**" The opinion of the Court of Appeals is **essence** declined to pass upon the constitutionality of the New York statute because the Legislature had passed it. In so doing the New York Court of Appeals disregarded the provision of the Federal Constitution that "the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary **notwithstanding.**" The majority of the Court of Appeals **relied** upon legislative declarations and findings and not upon independent judicial review in determining whether the **statute** did or did not violate the Fourteenth Amendment. The dissenting Judges, performing their duty under the Constitution of the United States, examined the facts **notwithstanding** the Legislative declarations and findings and **concluded** that the statute violates the Fourteenth Amendment to the Constitution of the United States.

That the decision of the dissenting Judges **will be upheld** by the Supreme Court of the United States **seems** highly probable in view of the decision of that court **in** the case of *St. Joseph Stock Yards Co., v. United States*, 80 L. Ed. Adv. Op. 679. In that case decided 12 days after the New York decision the United States Supreme Court pointed out the distinction between the power **and** duty of the court when considering the reasonableness **of** legislation admittedly within the power of the legislature and the power and duty of the court when considering **whether** or

not the legislation is or is not within the power of the legislature. Where a subject matter is admittedly within the power of the Legislature and the question is one of reasonableness the courts cannot and will not disturb legislative action if there is any reasonable ground to support it. If, on the other hand, the question is whether or not the matter be within the legislative power the courts will investigate for themselves the facts of the situation giving due weight it is true to the legislative declarations but determining the facts independently. The Supreme Court said, in speaking of the limits fixed by the Constitution on the power of the Legislature:

“When the Legislature acts directly, its action is subject to judicial scrutiny and determination in order to prevent the transgression of these limits of power. The Legislature cannot preclude that scrutiny or determination by any declaration or legislative finding. Legislative declaration or finding is necessarily subject to independent judicial review upon the facts and the law by courts of competent jurisdiction to the end that the Constitution as the supreme law of the land may be maintained.”

It would seem to follow that the majority of the Court of Appeals in New York should have considered the facts (as did the minority) and should have determined whether, in fact, the New York statute deprived the plaintiffs of property without due process of law or denied to them the equal protection of the laws.

The United States Supreme Court has granted appeal in the New York cases but this does not necessarily mean that the Supreme Court will find it necessary, in deciding the New York cases, to decide anything as to the Federal Social Security Act nor even as to the New York State unemployment insurance law. The Supreme Court may merely refer the case back to the State courts with direction to determine for itself, by independent judicial review, and without being bound by legislative declaration or finding whether the State statute violates the due process and equal protection provisions of the Fourteenth Amendment. So it is perfectly possible, in fact it is probable, that the

New York cases will not lead in the near future to any determination of the question of the constitutionality of the Federal Act or of a pooled fund Act in the form enacted in New York.

The Majority of the New York Court of Appeals having declined to pass upon the merits of the constitutional question and the minority having found the New York Act unconstitutional, we continue to believe that we correctly stated the law in our opinion annexed to Report No. 1. We believe that a State statute involving a pooled fund would be unconstitutional as violating the due process and equal protection provisions of the Fourteenth Amendment. A pooled fund cannot operate otherwise than by taking one man's property and giving it to another for private purposes.

II.

The State of New Jersey has no authority to delegate its governmental power to, or to abdicate any of its powers in favor of, the Federal Government.

The people are the principal and source of all governmental power. They have delegated certain limited governmental powers to certain public officials of the United States and certain other powers to certain officials of the State of New Jersey. They have reserved to themselves all powers not delegated.

The delegations and reservations of governmental power are set forth in the Constitutions of the United States and of the State of New Jersey.

It is fundamental that no person, be he a private individual or public official, to whom either mandatory or discretionary power has been delegated, can in his turn re-delegate that power unless so authorized by the principal. The people are the principal. They have not authorized State officials to re-delegate State powers to Federal officials. The only way to give additional powers to public officials is by constitutional amendment.

The Constitution of the United States gives no authority to any official of the United States to accept a re-delegation of power from the State of New Jersey or from any official of this State. In truth, the Constitution, by the Ninth and Tenth Amendments, forbids such acceptance of

re-delegated power. The acceptance of such re-delegated power would disparage the rights retained by the people of the United States to determine the limits of power of Federal officials by permitting those officials and officials of New Jersey to vest in the Federal officials powers not given to them by the people of the United States. If Federal officials had such power the Constitution of the United States could be amended by action of these officials and of the officials of a single State independently of any action by the people of the United States.

No one or more of the public officials of the State of New Jersey has been given authority by the people of New Jersey to re-delegate any power which the people have given. Public offices are created, each with defined powers. Directly by election, or indirectly by appointment the people fill each office with a public official with the intent that he shall exercise the powers of that office and that his election to that office shall give him no other powers of government, that he shall not delegate to others the exercise of the powers of that office and that he shall not abdicate the exercise of those powers. It is absurd to suppose that the people having created offices, defined the powers thereof, selected and elected or appointed public officials to exercise those powers then impliedly (for they certainly have not done so expressly) authorized those officials to alter the entire arrangement by re-delegating powers or abdicating in favor of those over whom the people of this State have no control. In the recent case of *Carter v. Carter Coal Co.*, et. al., decided May 18th, 1936, the United States Supreme Court tersely says:

“State powers can neither be appropriated on the one hand nor abdicated on the other.”

The Supreme Court of the United States, on May 25th, 1936, considered these questions in a case in which the State of Texas attempted to abdicate its power and authority to regulate the financial affairs of its own local governmental units by delegating to the Federal Bankruptcy Courts under the Federal statute the power to administer the financial affairs of involent local governmental units of the State of Texas. The United States Supreme Court denied effect to a Texas statute purporting to

authorize such delegation. *Ashton v. Cameron County*, etc., 80 L. Ed. Adv. Op. 910.

It would seem that if a State may not abdicate its authority to regulate municipal corporations created by it that a State cannot abdicate and re-delegate its authority to regulate the relation of employer and employee under authority given it by the people of the State. It makes no difference what is the motive leading to the re-delegation and abdication; it is beyond the power of the State officials.

III.

The next matter for consideration is the Bill entitled:

“AN ACT FOR THE PROTECTION OF THE STATE OF NEW JERSEY AGAINST FUTURE DEMANDS FOR RELIEF OF INDIGENCY BY REQUIRING EMPLOYERS AND EMPLOYEES TO ARRANGE FOR AND PROVIDE INSURANCE AND RESERVES AND BY OTHER MEANS.”

III (a)

This Bill, proposed for enactment by the State of New Jersey, does not contain the constitutional defects of the Federal Social Security Act.

One defect of the Federal Act is that it attempts to legislate concerning matters which are not within the Federal power but are within the power of this State. The matters being within the power of this State, the State may legislate even though the Federal Government cannot. Furthermore, the proposed Bill carefully limits its operation to employments which are within the legislative power of this State. See Section 1 (f) (g) (h).

A second defect of the Federal Act is that it violates due process of law by taking the money of certain private individuals into governmental hands and paying out money (not for the support of government) to certain other private individuals and this without regard to the need of the recipients. The proposed Bill does not involve the taking of any money into governmental hands; it does not involve the paying out of governmental money to any private individual. The only public money to be irretrievably dis-

bursed is the salary of a Deputy Commissioner of Banking and Insurance. The Bill is a regulation of the relation of employer and employee. It takes into governmental hands no money from any employee—it requires the employee to save a part of his earnings in the form of insurance reserves. The employer's contribution is not taken into governmental hands and is no more than a charge against the wage fund for the benefit of the individual employee. The proposed Bill does not fix, control or regulate the wage to be received or the wage to be paid, as to the rate and amount of wage the employer and employee are left entire liberty of contract. The only regulation is as to the medium of payment—a part must be converted into insurance reserves for the individual employee.

The Supreme Court of the United States on June 1st, 1936, decided the case of *Morehead v. Tipaldo*, 80 L. Ed. Adv. Op. 921. The case involved the power of a State to enforce a minimum wage for adult women. The court decided that the State could not penalize a departure from the minimum wage which it fixes. The decision is confined to the question of minimum wage but the discussion in both the prevailing and dissenting opinions makes it perfectly plain that a State has power to fix the time of payment and the medium of payment of wages. The case, while not direct authority, is nevertheless persuasive of the constitutional validity of the proposed Bill now under consideration.

The justification of such regulation is the protection it will afford the State against future demands for relief of indigency. The proposed Bill does not deprive any person of liberty or property without due process of law; it is a reasonable regulation of the relation of employer and employee for the accomplishment of a lawful and desirable end within the constitutional power of this State.

A third defect in the Federal statute involved unconstitutional taxation. The proposed Bill does not involve taxation so cannot contain that defect.

III (b)

The proposed Bill does not deny equal protection of the laws. If any person consider the provisions of the Bill as

protective of his interests, the way is open to him to voluntarily comply with it. Sections 32 (a) and 55. If any person, upon whom the provisions of the Bill may become obligatory, shall consider himself burdened while others in their occupations are exempted from similar burden, the answer is that the exemptions are inevitable or if not inevitable are reasonable. The exemption of those engaged in occupations beyond the regulatory power of this State (though they be present in this State) is constitutionally inevitable. For example, this State cannot constitutionally regulate occupations of those engaged in interstate commerce. To fail to legislate in respect of a matter to which the legislative power does not extend cannot be discriminatory or unconstitutional.

The exemption of those engaged in occupations indirectly affected by interstate commerce, because of competitive conditions, is a reasonable classification based upon economic factors and under the terms of the proposed Bill to continue operative only so long as those factors continue to be effective. (Section 56).

The Constitution of the State of New Jersey (Article I, Section 1) provides that all men have certain unalienable rights "among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness." The proposed Bill interferes with none of these rights; in truth it fosters them. By Section 48 it protects the rights of the workman to the property involved from Federal and State taxation by declaring it to be an instrumentality of the State and exempting it from taxation. The same section exempts the property from attachment and execution. Furthermore, the Bill gives no right to any State official to take any part of the property until the owner or his dependents, of their own motion, demand or are about to demand that the State relieve his or their indigency. (Sections 19, 20, 21 and 22).

The proposed Bill, as to title and body, conforms to the requirements of the Constitution of New Jersey.

It is not thought that any other constitutional provisions than those discussed above have any relevancy to the present subject of inquiry.

IV.

The next matter for consideration is the companion Bill to that last considered. The Bill is entitled

“AN ACT FOR THE PROTECTION OF THE SOVEREIGN POWERS OF THE STATE OF NEW JERSEY.”

The purpose of this companion Bill is to expel the Federal officials from the field of old age benefits and unemployment reserves. As above stated, it is a field belonging to the State of New Jersey and not the Federal Government and the State can neither delegate nor abdicate its powers in respect of that field. The Federal Government in entering that field is seeking a forbidden end. As was said by the United States Supreme Court in *Carter v. Carter Coal Co.*, decided May 18th, 1936, 80 L. Ed. Adv. Op. page 749, 761:

“Every journey to a forbidden end begins with the first step; and the danger of such a step by the Federal Government in the direction of taking over the powers of the states is that the end of the journey may find the states so despoiled of their powers, or—what may amount to the same thing—so relieved of the responsibilities which possession of the powers necessarily enjoins, as to reduce them to little more than geographical subdivisions of the national domain.”

The New Jersey Legislature, by enacting this companion Bill will confirm the findings of our Commission that it is not in fact practical for the State of New Jersey to impose compulsory legislation as set forth in the first mentioned proposed Bill for the protection of this State against future demands for relief of indigency by providing a permanent system of old age benefits and a permanent system of unemployment insurance or reserves so long as officers of the Federal Government, by taxation, regulation and otherwise, invade and preempt the field against compulsory legislation by the State of New Jersey. The Federal Government is trespassing upon the powers of the State of New Jersey reserved to this State by the Constitution of

the United States and the Tenth Amendment thereto. The Federal Government is embarking on a journey to a forbidden end and is despoiling this State of its powers. The fact that the Federal Social Security Act does not directly take money from the State but takes it under the guise of so-called taxes from the citizens of the State does not leave the State without remedy. It is not necessary that the State shall show an impairment of its pecuniary interest; it is only necessary that the State show an invasion and interference with its quasi-sovereign powers. *Hopkins Federal S. & L. Ass'n. v. Cleary*, 80 L. Ed. Adv. Op. 210, decided December 9th, 1935. If, however, the State can show in addition to the invasion of its powers the damage to its pecuniary interests by so much the more is the State entitled to ask and receive relief at the hands of the Supreme Court of the United States. That is the fundamental legal basis for the enactment of the proposed Bill entitled

“AN ACT FOR THE PROTECTION OF THE SOVEREIGN POWERS OF THE STATE OF NEW JERSEY.”

IV (a)

The sovereign powers of the State of New Jersey which are being and are threatened to be invaded by Federal officials, claiming constitutional authority for their actions and threats are as follows:

1. Regulation of the relation of employer and employee in productive processes and in trade, commerce and occupations local to the State of New Jersey.
2. Determination as to the extent of and the manner of providing relief of indigency of those settled in New Jersey.
3. Protection of the sources of revenue of this State from depletion by unconstitutional levies of those purporting to act on behalf of the Federal Government.

1. The subject of regulation of employer and employee relations has been treated fully in the law opinion submitted with Report No. 1 of the Commission. It appears

thereby that regulation of that relationship is within the sovereign power of the State and that attempt by the Federal Government to engage in such regulation is unconstitutional and void.

To the authorities referred to in our first law opinion we would add the decisions of the Supreme Court rendered May 18th, 1936, in respect of what is commonly known as the Guffey Coal Act wherein Carter and others were plaintiffs. The Guffey Coal Act imposed an exaction of 15 per centum on the sale price of coal at the mine with a drawback allowance of 13½% of the sales price (90% of the tax) if the coal producer would conform to other provisions in the Act which seek to regulate the relation of employer and employee in the productive processes of mining coal. The court held the Act unconstitutional and void in its entirety because the so-called tax with the drawback provisions was not a truly revenue raising measure but was a regulatory device concerning matters that are beyond the Federal power of regulation. The matters so decided to be beyond the Federal power of regulation were the relations of employers and employees in productive processes and the regulation of price in local commerce. The question of regulation of price in interstate commerce was held open for later consideration.

The unemployment sections of the Federal Social Security Act contain the same coercive device as the Guffey Coal Act, namely, a so-called tax with a drawback provision of 90%. There is no such difference between the two Acts as should lead the court to hold the drawback device unconstitutional in the Guffey Coal Act and constitutional in the Federal Social Security Act. In each instance there is the endeavor to regulate the relation of employer and employee within the State in respect of a productive process. Such regulation seeks an unconstitutional end. The court said, (80 L. Ed. Adv. Op. 749, 759):

“Thus, it may be said that to a constitutional end many ways are open; but to an end not within the terms of the Constitution, all ways are closed.

“The proposition, often advanced and as often discredited, that the power of the federal government inherently extends to purposes affecting the nation as

a whole with which the states severally **cannot** deal or cannot adequately deal and the **related notion** that Congress, entirely apart from those **powers** delegated by the Constitution, may enact laws **to promote** the general welfare, have never been **accepted** but always definitely rejected by this court.”

In respect of a permanent system of **old age benefits** and in respect of a permanent system of **unemployment insurance** or reserves, there is nothing in the **past experience** in this State to show that it cannot severally **deal** or adequately deal with the problem. In fact, **the proposed Bill** first referred to in this law opinion, **when enacted** by the legislature, will constitute an answer that, **in the opinion** of the legislature, this State within its **constitutional** powers, can deal adequately with these problems.

Once it be conceded that the provision **of old age** benefits and unemployment reserves for the inhabitants of New Jersey is within the power of the legislature of New Jersey, and that the legislation has a rational **relation to** such subjects, no question can be raised by any court **as to** the legislative determination that the provisions **adequately** deal with the problem. *Lindsley v. Natural Carbonic Gas Co.*, 220 U. S. 61, 78-80; 55 L. Ed. 360, 377, 378; *Radice v. New York*, 264 U. S. 292, 294; 68 L. Ed. 690, 694; *Clarke v. Deckebach*, 274 U. S. 392, 397; 71 L. Ed. 1115, 1120; *O’Gorman & Young v. Hartford Ins. Co.*, 282 U. S. 251, 257, 258; 75 L. Ed. 324, 328; *Nebbia v. New York*, 291 U. S. 502, 530, 78 L. Ed. 940, 953; *Borden’s Farm Products Company v. Baldwin*, 293 U. S. 194, 209; 79 L. Ed. 281, 288.

In our first law opinion we pointed out **that the** so-called Federal taxes are not taxes but are **regulations of** matters not within the power of the Federal Government. We further pointed out that if we consider the **taxing** provisions alone there is substantial ground for **concluding** that they impose direct taxes and that direct taxes **must, if** levied by the Federal Government, be levied in **proportion** to the census. The State of New Jersey, as **distinguished** from its citizens, has a direct interest in **the question** as to whether the taxes, (considered as taxes) **imposed** by the Federal Social Security Act are valid or **invalid**. The ability of owners of property, subject to **taxation by** the State

of New Jersey, to pay taxes is not unlimited. By so much as the Federal Government imposes taxes upon persons also subject to taxation by the State of New Jersey it reduces the ability of those persons to pay taxes to the State of New Jersey. We recognize fully that the State of New Jersey cannot complain of the impairment of its sources of revenue by constitutionally valid tax imposed by the Federal Government. Conversely we assert that the State of New Jersey can and should protect its sources of revenue by resisting the imposition on those subjects to its taxing power of unconstitutional and void levies by officers purporting to act under Federal authority. Such action by the State is not taken on behalf of its citizens but as a protection to its own sources of revenue. The State of New Jersey has the right and the correlative duty to protect its sources of revenue against depletion or destruction from any source not warranted by constitutional authority. A Federal official, acting outside of his constitutional authority, has no greater rights than a private individual and certainly the State of New Jersey has the right to protect its sources of revenue by forbidding unlawful destruction or impairment thereof by unconstitutional levies. This leads us to the question as to whether the so-called taxes sought to be imposed by the Federal Social Security Act, even assuming them to be taxes and not mere regulations, constitute a valid and constitutional exercise of the Federal power of taxation. We suggest that they do not and offer the following reasons:

The taxes laid upon employers by the Federal Social Security Act are described in that statute as excises with respect to having persons in the employ of the employer. That description, however, does not make them excise taxes if in substance they are direct taxes. The character of a tax must be determined by its substance and not by the label placed upon it by the legislature. For this last proposition a multitude of cases could be cited. It is enough to refer to *Stewart Dry Goods Co. v. Lewis*, 294 U. S. 550, 554; 79 L. Ed. 1054, 1057 and the cases cited in Foot Note 5.

Since the taxes laid upon employers are not apportioned, if they are direct taxes instead of excises, they are invalid.

In *Bromley v. McCaughn*, 280 U. S. 124, 136; 74 L. Ed. 226, 229 the Supreme Court said in 1929:

“The meaning of the phrase “direct taxes” and the historical background of the constitutional requirement for their apportionment have been so often and exhaustively considered by this court (citing cases) that no useful purpose would be served by renewing the discussion here. Whatever may be the precise line which sets off direct taxes from others, we need not now determine. While taxes levied upon or collected from persons because of their general ownership of property may be taken to be direct (citing case), this court has consistently held, almost from the foundation of the government, that a tax imposed upon a particular use of property or the exercise of a single power over property *incidental to ownership*, is an excise which need not be apportioned, and it is enough for present purposes that this tax is of the latter class.” (citing cases). (Italics ours).

The case was one which sustained the Federal Gift Tax designed to prevent escape from the Federal Estate Tax by gifts inter vivos.

That case, and others like it, are claimed by some to signify that such taxes as the Social Security Act imposes upon employers are really excises. Those who so regard the case fail to grasp its full significance. As we read it and the cases it cites, we understand the rule to be that if there is no element of privilege over which a license or privilege tax can be laid and the so-called excise is based only upon a particular use or the exercise of a single power over property, no matter what the statute calls it, the question of whether it is really an excise or a direct tax upon property depends upon whether the use or power taxed is merely “incidental” to ownership or is an essential attribute of ownership. The words “incidental to ownership” in the above quotation must not be overlooked.

One could hardly deny that a tax upon all the uses incidental to ownership, or upon all the powers which an owner can exercise over property, is in substance based upon ownership. Nor do we find any reason to conclude that a tax upon a use of property without which use, it would have little or no value, is anything but a tax based upon ownership and so a direct tax.

As we see it the difference between the majority opinion and the dissenting opinion rests chiefly upon the fact that the majority considered that the use there taxed was incidental, while the dissenting Justices thought that the use taxed was not merely incidental, but was an essential element of ownership. Thus the dissenting opinion says:

“To give away property is not to exercise a separate element or incident to ownership, like the use of a carriage, but completely to sever the donor’s relation to the property and leave in him no element or incident of ownership whatsoever.”

None of the Justices said that a tax based upon an essential attribute of ownership, is not in reality a tax based on ownership and so a direct tax. It is to be noted that the majority opinion says:

“Even if we assume that a tax levied upon all the uses to which property may be put, or upon the exercise of a single power indispensable to the enjoyment of all others over it, would be in effect a tax upon property (see *Dawson v. Ky. Distilleries & Warehouse Co.*, 255 U. S. 288; 65 L. Ed. 638; 41 Sup. Ct. Rep. 272) and hence a direct tax requiring apportionment, that is not the case before us.”

Viewing the opinion as a whole we think that in any case, the decision must turn upon whether the particular use is incidental on the one hand, or vital, essential or indispensable on the other. If of the latter class, as we think is the case, in respect of the use or power of the employer taxed by the Social Security Act, the tax is a direct one requiring apportionment, and not an excise.

It is well settled that business is property. *Louis K. Liggett v. Baldrige*, 278 U. S. 105; 73 L. Ed. 204, and cases collected in U. S. Sup. Ct. Rep. Dig. Constitutional Law, Section 530, and it is impossible to see that a business of an employer could be carried on without pay-rolls and employees. The taxes which the Social Security Act would levy are in respect of an indispensable feature of carrying on the business. While the use of pay-roll money for the pay-rolls is but a single power over pay-roll money and

the payment of the pay-rolls is a single use of the money, it is not an incidental power or use but such a vital, essential and indispensable one, that we reach the conclusion that a tax based upon pay-rolls is a direct tax.

The distinction may be further illustrated as follows: The Constitution names only one direct tax, a capitation tax. It, however, recognizes that there are other kind of direct taxes than capitation taxes. A capitation tax is a head tax. A tax phrased as being a tax on each person in respect of having a head, would still be a direct tax and not an excise tax. Similarly a tax on each person in respect of having or owning money would be a direct tax and not an excise tax. A tax which is in substance based on the ownership is a direct tax.

On the other hand, a tax levied in each person in respect of having his hair artificially curled would be an excise tax and not a capitation or direct tax. It would be a tax on an incidental or unnecessary use of the hair of the head. It would be an excise tax, not because it taxed only part of the head, but because it taxed it in respect of an incidental, non-essential, and non-vital use, a use that could be dispensed with. The distinction is not as to whether the use is only one of the uses, but upon whether the use taxed is a vital and necessary use. Thus, a tax upon each person in respect of using a nose and mouth for breathing would not be an excise tax. It would be a capitation or a direct tax. It is true that the mouth and nose are only parts of the head just as the hair is only part of the head, but the distinction is that the use of the nose and mouth for breathing is a vital, indispensable use without which the entire head would be useless.

Turning now to the question of pay-roll money of an employer we make the following observations. The primary and vital use of money is to act as a medium for the exchange of goods and services. When it is not performing that function it is not a vital use. The use which may be made of money by giving it away performs no exchange of goods or services, but the use of money by an employer as pay-rolls is a vital and essential use of it, indispensable to the continuance of the employer’s business. It performs its function in aiding in the exchange of services. Without the use of pay-roll money there could be little division of

labor of the sort on which our civilization is founded. A tax upon the use of money for paying pay-rolls is a tax upon as vital and indispensable use by an employer of his pay-roll money as would be a tax in respect of using the nose and mouth for breathing, a tax on a vital and indispensable use of the head. A tax based on pay-rolls is a direct tax on the moneys used in paying the pay-rolls, because it is a tax on an inherent and vital function of that money. This cannot be disguised by calling it a tax in respect of having persons in employ measured by the amount of pay-roll paid to those persons. That which is a direct tax may not be converted into an excise by phraseology, nor is it any answer to say that the use of moneys to pay pay-rolls is only one use for it.

While the decisions of the Supreme Court are the criterion from which to make the determination of whether a tax is a direct tax in the constitutional sense, and there is some comment in the literature which seems to indicate that economists have some other views as to what is a direct tax than those expressed in the Supreme Court, we do not find any discrepancy in the present instance.

A contemporary writer of note says that modern authorities are in the main agreed in accepting the distinction suggested by Mill. Turning to the work of John Stuart Mill, on Political Economy, we find that he says:

“A direct tax is one which is demanded from the very persons who, it is intended or desired, should pay it. Indirect taxes are those which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another, such as the excise or customs.”

There is very little, if any, difference in a statement in the first decision in *Pollock v. Farmers' Loan & Trust Co.*, 157 U. S. at 558; 39 L. Ed. 811, that ordinarily, all taxes paid primarily by persons who can shift the burden onto someone else, or who are under no legal compulsion to pay them are considered indirect taxes. Such a test cannot be very satisfactory for even land taxes are in reality capable of being shifted from landlord to his tenant. Nevertheless, applying these tests it will be seen that by the taxes upon employers made by the Social Security Act, the employer

is under a legal compulsion to pay. There is **nothing** in the statute which indicates any intention or desire **that** anyone but the employer should pay them. **They are** inevitable charges upon the employer even if he has to **resort** to his capital to pay them. They are not contingent to any extent upon whether a business makes any gain or not or even whether it has any income whatever. **How then** is any intention manifested that he shall indemnify himself at the expense of another? Accordingly, under this **sort** of a test the taxes upon the employer would be considered direct taxes.

In the Social Security Act there is no element of special privilege involved for which a license fee could be charged, such as there was in cases involving the use of **the** privilege of doing business as a corporation, or the use of navigable waters of the United States and the like. The making of contracts of hire is one of the fundamental rights and is a part of the employer's right to carry on business. *Allgeyer v. Louisiana*, 165 U. S. 578; 41 L. Ed. 832; *Adair v. U. S.* 208 U. S. 161; 52 L. Ed. 436. So there is no ground to say that the taxes imposed by the Social Security Act are license or privilege taxes and as such excise taxes.

When the Constitution was adopted, there **were**, broadly speaking, four forms of division of labor, **namely**: The family; free labor to continue at the will of **either** party; indentured labor whereby a person was bound to service for a term of years; and slave labor. There was also trade and commerce whereby the products of the division of labor are distributed. Those relationships are fundamental and vital in character. Of necessity they were considered by those who formed the Constitution.

Some results of such consideration were that the Federal Government was given power to regulate interstate and foreign commerce and maritime matters **and** also certain territories not within the States, and by **implication**, a power was given to the Federal Government to regulate in interstate and foreign commerce and maritime matters and within its exclusive territorial jurisdiction those relationships whereby a division of labor becomes **effective**. In no other respect were the relationship arising from division of labor placed within the Federal power of regulation.

The Federal Government was given a power of taxation.

The framers of the Constitution realized that the power of taxation might be diverted from its purpose of raising revenue to a purpose of regulation and they sought to restrict such regulation by taxation to those fields within which a general power of regulation was given by the Constitution to the Federal Government. One means which they adopted to that end was to provide that direct taxes should be apportioned according to the census. In providing for the census they recognized the division of labor by providing in effect that the division of labor which took the form of slavery should only be taxed three-fifths as much as the other forms of division of labor. The framers of the Constitution evidently considered that any tax upon such a vital relationship would be a direct tax. It is well known that this problem was one of the most difficult which was encountered by the framers of the Constitution. They adopted a device which they thought would prevent the Federal Government from singling out any particular form of relationship of the division of labor as a subject of regulation by taxation. It would have been a matter of great surprise to any man who participated in the Constitutional Convention if he had been told that Congress was empowered to levy a special excise tax in respect of having slaves in employment or in respect of having indentured servants in employment or in respect of having free labor in employment. Those States in which the institution of slavery was prevalent would have pointed out that an excise tax on the relationship of slavery was plainly forbidden by the Constitution. Likewise those States in which free labor was dominant would have justly pointed out that an excise tax on the relationship of free labor to employer was forbidden by the Constitution. They would both have said that that tax was a direct tax and that they had settled that question by providing that direct taxes were to be apportioned according to the census. Likewise it must be said now that a tax upon the relation of employer and employee is a direct tax.

We conclude that the so-called excise taxes, if they be taxes at all, are in truth direct taxes. That consequently, because they are not apportioned according to the census they are unconstitutional when assessed upon out payments of employers. The same conclusion would apply to

the tax upon employees were it not for the Sixteenth Amendment to the Constitution which allows taxes on incomes without regard to the census. We further conclude that because the tax on employees is only one element of the entire plan that the court would hold all the taxes bad on the ground that it was not the intention of the Congress to tax employees without at the same time taxing employers.

It seems plain that the regulation of the employer-employee relation and the making of provision for relief of indigency are matters within the power of this State. Being within the power of the State the Legislature is free to declare the policy of the States untrammelled by Federal interference. This freedom from interference by Federal officials includes freedom from destruction of the State sources of revenue by the levying and collection of unconstitutional taxes by Federal officials. The only limitation upon this State is in essence that the State regulation shall not deprive any person of liberty or property without due process of law. In determining this question the court is guided by the principle that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be obtained, *Nebbia v. New York*, 291 U. S. 502, 525; 78 L. Ed. 940, 949; *Railroad Retirement Board v. Alton Railroad Co.*, 295 U. S. 330, 348, 79 L. Ed. 1468, 1475.

From what has been stated above it seems clear that no court could hold the proposed Bill for the protection of the State of New Jersey against future demands for relief of indigency to be either unreasonable, arbitrary or capricious or that it selects means which have no real or substantial relation to the object sought to be obtained.

Turning again to the question of the authority of the Federal Government to regulate matters local to a State, we refer to the further statement in the opinion in the Carter case. The court said:

“It is no longer open to question that the general government, unlike the states, *Hammer v. Dagenhart*, 247 U. S. 251, 275, possesses no *inherent* power in respect of the internal affairs of the states; and emphatically not with regard to legislation. * * *

“State powers can neither be appropriated on the one hand nor abdicated on the other. As this court said in *Texas v. White*, 7 Wall, 700, 725—‘the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.’ Every journey to a forbidden end begins with the first step; and the danger of such a step by the federal government in the direction of taking over the powers of the states is that the end of the journey may find the states so despoiled of their powers, or—what may amount to the same thing—so relieved of the responsibilities which possession of the powers necessarily enjoins, as to reduce them to little more than geographical subdivisions of the national domain.”

IV (b)

The next matter for consideration is as to the nature of the interference by the Federal Government with the sovereign powers of this State. In view of what has been heretofore said we may now briefly state the nature of the interference as follows:

(1) The Federal Government, without constitutional authority, is attempting to regulate the relation of employer and employee in productive process and in trade, commerce and occupations local to the State; and (2) is attempting to provide for the State a permanent system for the prevention of future indigency in New Jersey; and (3) is unconstitutionally depleting the sources of revenue from which the State might find the means of maintaining its own system of regulating the relation of employer and employee and providing for the prevention of future indigency in this State. The Federal Social Security Act constitutes a substantial invasion of and trespass upon the powers of the State of New Jersey to legislate and administer its own laws in respect of matters within its power and vitally concerning its welfare and the welfare of its inhabitants. Furthermore, it is beyond the power of the Federal Govern-

ment to attempt to take over the administration of a State law or to increase the penalties for violation of it by purporting to tax violators. *United States v. Constantine*, 80 L. Ed. Adv. Op. 195. At page 199 the court says:

“We think the suggestion has never been made—certainly never entertained by this Court—that the United States may impose cumulative penalties above and beyond those specified by State law for infractions of the State’s criminal code by its own citizens. The affirmation of such a proposition would obliterate the distinction between the delegated powers of the Federal Government and those reserved to the States and to their citizens. The implications from a decision sustaining such an imposition would be startling. The concession of such a power would open the door to unlimited regulation of matters of State concern by federal authority. The regulation of the conduct of its own citizens belongs to the State, not to the United States. The right to impose sanctions for violations of the State’s laws inheres in the body of its citizens speaking through their representatives.”

IV (c)

The means to be adopted for the protection of the State of New Jersey in the exercise of its quasi-sovereign powers are legitimate and proper means. They involve a declaration by the legislation of the State of New Jersey which has the power of determining the policy of the State, that suit be instituted in the Supreme Court of the United States. We have already shown that the State has cause to complain of the invasion of its powers, and, therefore, it has a “case.” The Constitution of the United States, ARTICLE II, Section 2, Clause 1, provides:

“The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution,
* * * ”

By Clause 2 of the same section it is provided:

“In all Cases * * * in which a State shall be Party, the Supreme Court shall have original Jurisdiction.”

It is, therefore, plain that the State may take its case directly to the Supreme Court of the United States. Furthermore, it may do so immediately because Federal officials, pretending to possess but not possessing power so to do, have trespassed upon the legislative and administrative functions reserved to the State of New Jersey and have brought them to a standstill. The case of Hopkins Federal S. & L. Association v. Cleary, 80 L. Ed. Adv. Op. page 210, came to the Supreme Court from the State of Wisconsin. Federal officials had embarked on a course of action under authority of a supposed Federal statute whereby the Federal Government would take over and run building and loan associations created by Wisconsin for the encouragement of thrift in that State. The unanimous opinion was delivered by Mr. Justice Cardozo. Among other things, the opinion states:

“ * * In this there is an invasion of the sovereignty or quasi-sovereignty of Wisconsin and an impairment of its public policy, which the State is privileged to redress as a suitor in the courts so long as the Tenth Amendment preserves a field of autonomy against federal encroachment.”

“ * * Given the encroachment, the standing of the State to seek redress as suitor is not to be gainsaid, unless protest without action is the only method of resistance. Analogy combines with reason in telling us that this is not the law.”

“ * * Indeed, there are many situations where no one other than the state will be held to be aggrieved, with the result that capacity to sue is either there or no where.”

“ * * It is of no moment in such conditions that the interest of the State in repelling the encroachment is other than pecuniary. Missouri v. Holland, 252 U. S. 416, 431, 64 L. ed. 641, 646, 40 S. Ct. 382, 11 A. L. R. 984. At least there is “a matter of grave public concern in which the state as the representative of the public has an interest apart from that of the individuals affected.” Pennsylvania v. West Virginia, 262 U. S. 553, 591, 592, 67 L. ed. 1117, 1129, 1130, 43 S. Ct.

658, 32 A. L. R. 300. Cf. North Dakota v. Minnesota, 263 U. S. 365, 374, 68 L. ed. 342, 345, 44 S. Ct. 128; New York v. New Jersey, 256 U. S. 296, 301, 302, 65 L. ed. 937, 940, 941, 41 S. Ct. 492; Heckman v. United States, 224 U. S. 413, 439, 440, 56 L. ed. 820, 830, 831, 32 S. Ct. 424; Kansas v. Colorado, 185 U. S. 125, 141, 142, 46 L. ed. 838, 844, 845, 22 S. Ct. 552; s. c. 206 U. S. 46, 99, 51 L. ed. 956, 975, 27 S. Ct. 655; Georgia v. Tennessee Cooper Co. 206 U. S. 230, 237, 51 L. ed. 1038, 1044, 27 S. Ct. 618, 11 Ann. Cas. 488; Re Debs, 158 U. S. 564, 584, 586; 39 L. ed. 1092, 1102, 1103; 15 S. Ct. 900; United States v. American Bell Teleph. Co. 128 U. S. 315, 357, 367, 32 L. ed. 450, 458, 461, 9 S. Ct. 90. In its capacity of quasi-sovereign, the state repulses an assault upon the quasi-public institutions that are the product and embodiment of its statutes and its policy.”

SUMMARY AND CONCLUSIONS

SUMMARY

I. The powers and duties of the Federal Government and the State of New Jersey in respect of

(a) The prevention and relief of indigency in New Jersey may be stated as follows:

The Federal Government has no power of regulation and has no duty for the relief of indigency in New Jersey beyond offering to the State financial assistance to that end. The State of New Jersey has full and complete power to prevent and relieve indigency in New Jersey. It may accept or reject tenders of monetary assistance from the Federal Government. It cannot delegate to the Federal Government or abdicate in favor of the Federal Government the power and duty to make laws and to administer those laws in the State of New Jersey.

(b) The power and duties of the Federal Government and of the State of New Jersey in respect of the regulation of the relation of employer and employee in productive processes and in trade, commerce and occupations local to New Jersey may be stated as follows:

The Federal Government has no power and the State of New Jersey has full power to regulate the relation of employer and employee in productive processes and in trade, commerce and occupations local to New Jersey. The only limitations on the power of the State of New Jersey in this regard are to be found in the Fourteenth Amendment to the Constitution of the United States and in the Constitution of the State of New Jersey.

· II. The authority of a State to delegate its powers to or abdicate its powers in favor of the Federal Government may be stated as follows:

There is no such power and any action to that end other than by amendment to the Constitution of the United States would be unconstitutional and void action.

III. In respect of the Bill to protect the State of New Jersey against future demands for relief of indigency we state our conclusions as follows:

(a) It does not contain the constitutional defects of the Federal Social Security Act because it does not (1) legislate concerning matters not within the legislative power of this State;

(2) It does not deprive persons of liberty or property without due process of law in that it does not involve the pooled fund idea. New Jersey Senate Bill No. 215, introduced February 10, 1936, would, if enacted, be unconstitutional and void and any Bill providing for an entirely or partially pooled fund would likewise be void;

(3) It does not impose unconstitutional taxation in that it imposes no taxation whatsoever. It is a regulatory and not a taxing Bill.

(b) The Bill to protect the State of New Jersey against future demands for relief of indigency does not contain constitutional defects in that it does not deprive any person of property without due process of law nor deny to any person the equal protection of the laws and it does conform to the requirements of the Constitution of the State of New Jersey.

IV. In respect of the companion Bill for the protection of the sovereign powers of the State of New Jersey our conclusions are:

(a) The powers of the State which are to be protected are: (1) The exclusive power to regulate the relation of employer and employee in productive processes and in trade, commerce and occupations local to the State of New Jersey; (2) the exclusive power to legislate and administer laws for the prevention and relief indigency of persons settled in New Jersey; (3) the power to protect the sources of revenue of New Jersey from depletion by unconstitutional levies of those purporting to act on behalf of the Federal Government.

(b) The interference with those powers originates Titles II, III, VII, VIII, IX and XI of the Federal Social Security Act.

(c) The means by which the powers of the State of New Jersey are to be protected are recourse to the Supreme Court of the United States for adjudication of the constitutionality of the last mentioned titles of the Federal Social Security Act and the opening of the New Jersey courts to the State and its citizens to protect the State sources of revenue and the citizens' property from unconstitutional levy by Federal officials.

CONCLUSIONS

Our conclusions based upon the considerations set forth in our previous law opinion, and in this opinion, are as follows:

1. The provisions contained in Titles II, III, VII, VIII, IX and XI of the Act of Congress, approved August 14, 1935, known as the "Social Security Act" in so far as those provisions deal with old age benefits or unemployment compensation are unconstitutional and void.

2. Any law to be enacted by the State of New Jersey which would provide for a partially or totally pooled fund would be unconstitutional and void and this whether the pooling be in a plant fund, an indus-

try fund or a statewide fund. New Jersey Senate Bill No. 215, introduced February 10th, 1936, would, if enacted, be unconstitutional and void.

3. The Bill recommended to this Commission entitled:

“AN ACT FOR THE PROTECTION OF THE STATE OF NEW JERSEY AGAINST FUTURE DEMANDS FOR RELIEF OF INDIGENCY BY REQUIRING EMPLOYERS AND EMPLOYEES TO ARRANGE FOR AND PROVIDE INSURANCE AND RESERVES AND BY OTHER MEANS.”

will, if enacted by the legislature of New Jersey, be constitutionally valid.

4. The Bill recommended to this Commission entitled:

“AN ACT FOR THE PROTECTION OF THE SOVEREIGN POWERS OF THE STATE OF NEW JERSEY”

will, if enacted, provide a constitutionally valid means of expeditiously restraining the Federal Government officials from further unconstitutional interference with the State of New Jersey in putting into operation a constitutionally valid system of old age and unemployment reserves.

(signed) ROBERT C. HENDRICKSON,
(signed) FREDERICK S. KELLOGG,
(signed) HENRY YOUNG, JR.