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## Federal Standards in Unemployment Insurance

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# FEDERAL STANDARDS IN UNEMPLOYMENT INSURANCE

BY FRANK TRAYER DE VYVER\*

Some of the most vigorous arguments during meetings of the Federal Advisory Council of the Bureau of Employment Security have concerned federal standards.<sup>1</sup> "Federalizers" was the name attached by industry groups to those advocating change in existing standards, and labor groups strongly denounced industry members of the Council for insisting that existing federal standards are sufficient. Nor did industry members hesitate to condemn the Secretary of Labor, the Director of the Bureau of Employment Security and other Bureau employees for suggesting legislation to strengthen federal standards.

Discussions of the subject at Council meetings were never free from emotion. Yet an unemotional re-examination of the question of federal standards is certainly in order. This article will attempt such a re-examination. A discussion of the present standards and how they have been changed since the enactment of the Social Security Law will be followed by a history of the use of the present standards in enforcing federal will upon recalcitrant states. Some proposals for changing standards will then be considered. Finally, an attempt will be made to evaluate the arguments which are given both by advocates of change and by those who think the *status quo* is adequate.

In 1934, President Roosevelt appointed the Committee on Economic Security, which included on its staff the foremost students of social security.<sup>2</sup> The report of that organization printed in 1937 by the Social Security Board,<sup>3</sup> gives the reason for the present federal-state program of unemployment insurance. "The fact," says the report, "that only one state had passed a law[unemployment insurance law] in the face of the serious depression of the last years was deemed sufficient reason to warrant action by the Federal Government."<sup>4</sup> The Committee considered the best ways to attain federal action. A federal plan was thought unacceptable even though the Committee recognized the great advantages of pooling the risks of unemployment, of providing uniform protection for workers, and of furnishing an easy and uniform method of handling the problem of interstate employees.<sup>5</sup>

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1. The writer, as Vice-President of Erwin Mills, was a member of the Federal Advisory Council from July 1, 1948, to July 1, 1954.

2. Exec. Order No. 6757, June 29, 1934.

3. COMMITTEE ON ECONOMIC SECURITY, SOCIAL SECURITY IN AMERICA (Social Security Bd. Pub. No. 20, 1937).

4. *Id.* at 92.

5. *Id.* at 93.

The group, therefore, recommended a federal-state system because they thought an exclusively federal system would be cumbersome and "would result in centralization of administrative functions and bureaucratic methods which might paralyze action."<sup>6</sup> The reasons given for the decision concerned the need for experimentation best provided by state administration, and the need to have the states assume responsibility for administering the program.

Summarizing the failure of previous attempts to get state laws passed, the Committee concluded that the most important reason for the failure was "the fear of the states that passage of an unemployment compensation law would put their employers at a competitive disadvantage with employers in states which had no similar law."<sup>7</sup> The federal-state system, therefore, was designed to remove the disadvantages of interstate competition.

According to the report, a provision for federal grants would have made possible "the writing of definite standards into Federal legislation"<sup>8</sup> and "Federal standards would have resulted in more uniform State legislation and administration." Had the grant scheme been followed, the benefits of a federal system might have been attained without complete centralization. Yet a tax-offset plan was the type recommended by the Committee on Economic Security and enacted in the Social Security Act.

Details of the tax-offset plan need not be discussed here. It was a program to provide a federal tax offset to the employers of a state provided the state passed a compensation law which met certain minimum federal standards. Coupled with this device, the law provided that the costs of administering state laws would be borne by the Federal Government if the state met certain administrative standards. These two sets of "strings," the one to control the tax offset and the other to supervise administrative procedures, are still being used by the Federal Government. There has been comparatively little debate over the present "strings." Argument currently revolves around proposals to increase the number of federal "strings" or controls.

#### EXISTING FEDERAL STANDARDS

Actually federal standards for certification of state laws are mild and represent the broadest statements of public policy. To be approved a state law must provide first that all compensation be paid through public employment offices. At the time the Social Security Law was passed most of the states had already established such of-

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6. *Ibid.*

7. *Id.* at 91.

8. *Id.* at 95.

fices under the provisions of the Wagner-Peyser law or the National Reemployment Service. Requiring the use of these employment offices to aid in administering the unemployment compensation program was, therefore, logical.

The second requirement provided that no compensation shall "be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required."<sup>9</sup>

The third requirement is that funds collected by the state must be paid to the Secretary of the Treasury to the credit of the state's unemployment Trust Fund. The fourth section says that money collected must be used solely in the payment of unemployment compensation.

An amendment in 1946 made possible the use of employee contributions to the fund for the payment of cash benefits for disability. This change in the law was designed to aid the states in establishing disability insurance programs.<sup>10</sup>

These first four sections of the approval requirements may be classed as administrative regulations designed to see that state laws provide safe keeping of the funds and orderly payment to unemployed workers. In the fifth section, however, are found detailed standards for the state laws themselves, and some advocates today are demanding more standards of this latter type.

In the first place, no state law can receive federal approval if a worker can be denied compensation for refusing to accept new work if the position offered is vacant because of a labor dispute. Secondly, a state law must not deny compensation if an unemployed worker refuses a job if the wages, hours, or working conditions of the offered job are substantially less favorable than those prevailing for similar work in the locality. And, finally, a man cannot be denied compensation for refusing a job which would require him to sign a yellow-dog contract or to join a company union.

A sixth requirement is that all rights, privileges, or immunities conferred by the state law must exist subject to the power of the legislature to amend or repeal the law at any time.

The Bureau of Employment Security, when making its annual survey to test the conformity of state laws or to check proposed amendments with the above standards, must also see if the law or proposed amendment conforms with sections of the Internal Revenue Code having to do with experience rating and other procedural matters concerning the tax offset allowances.

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9. Federal Unemployment Tax Act, INT. REV. CODE OF 1954 §§ 3301-3308, formerly Title IX, Social Security Act.

10. 60 STAT. 978 (1946).

Another series of federal standards is found in Title III of the original Social Security Law which was entitled "Grants to States for Unemployment Compensation Administration." This section of the law provides that the Federal Government shall pay the entire costs of administration of state unemployment compensation laws.<sup>11</sup> There are, of course, certain minimum eligibility requirements which the states must meet.

The first such requirement is for administration, "as found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due." The 1939 amendments to the law specified that good administration meant among other things the "establishment and maintenance of personnel standards on a merit basis."

Three of the standards found in the tax section of the law are repeated in the section on administrative funds. Payments must be made through public employment offices, receipts of the states from their unemployment compensation taxes must be paid to the treasury trust fund, and with the exception noted above, money withdrawn must be used for paying unemployment compensation.

This section contains other standards designed to require fair laws and clarify the federal-state relationships. State laws have to provide fair hearings for those whose claims for unemployment benefits are denied. Furthermore, the Secretary is given the power to require reports and to supervise the expenditures of money for proper administration. In addition, state laws must provide for the return of money not spent in the manner the Secretary finds necessary for proper administration. Finally, each law must provide that records about claimants must be available to proper agencies of the United States.<sup>12</sup>

#### *The Administration of Standards.*

Immediately after the passage of the Social Security Act in 1935, the new Bureau of Unemployment Compensation was swamped with state requests for aid in preparing satisfactory laws. The states, of course, were free to determine most of the details of their laws, but the Bureau did prepare two draft bills for state unemployment compensation laws which met the minimum requirements of both titles of the Social Security Act, and presented various alternative proposals to the states. "They are in sense 'model' bills," added the

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11. Actually the Wagner-Peyser Act, passed in 1932, provided a state-federal sharing of the costs of public employment offices. To the extent the states contributed to the costs of employment offices, Title III did not provide for the entire cost of the new program. The Wagner-Peyser Act was repealed in 1950. 64 STAT. 822 (1950).

12. Social Security Act.

Board.<sup>13</sup> Apparently the states were anxious to have their employers receive tax offset advantages and there were, therefore, no arguments about federal standards.

In its same first report the Board set forth its policy regarding administrative grants to states. "Control," they said, "must be kept to the minimum in order that the State agencies will not be unduly burdened in their administrative activities." They concluded, "if the administrative authority were hedged in too tightly by restrictions from the Federal and State governments, progress would be difficult and the prime purpose of Federal grants — aid to the states — would be seriously curtailed."<sup>14</sup>

The prime purpose of federal grants may have been to aid the states, but Congress established some rather strict standards and gave the Board and later the Department of Labor<sup>15</sup> the responsibility for maintaining those standards. The Bureau charged with the duty of certifying funds has successfully developed procedures and standards.

The requirements of both the tax and administrative sections of the federal law necessitate close federal supervision of the interpretation of state laws, of any proposed amendments, and of the actual state administration of the laws. Needless to say, such supervision occasionally gives rise to differences of opinion between the state authorities and the staff of the Bureau of Employment Security. Yet since 1935 satisfactory working arrangements have developed both for testing the conformity of state laws and their proper administration.

Conformity issues today may arise over proposed amendments to the state laws. In most cases amendments drafted by the state agency are discussed with the Bureau staff or the staff of one of its regional offices and in some cases bills drafted by industry and labor are also discussed. If the federal staff think the proposal is out of conformity they do not make a ruling but merely indicate that a question of conformity may be involved. Usually the Bureau is able to show the state administrator how he can revise the amendments so that conformity issues will not be involved.<sup>16</sup>

A statement of the Executive Director of the New York State program summarizes the working arrangements which have been so successful that no state law has ever been held out of conformity at the time of the annual certification. "The Bureau," says the Director of

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13. Soc. Sec. Bd. ANN. REP. 41 (1936).

14. *Id.* at 42.

15. The Bureau of Unemployment Compensation was renamed the Bureau of Employment Security and transferred to the Labor Department in 1949 by Executive Order. As used in this paper, "Bureau" means either the old or new name as the context indicates.

16. Letter to author from R. C. Goodwin, Director of the Bureau of Employment Security, Dec. 20, 1954.

the New York program, "has not refused to approve any amendment to the New York State Unemployment Insurance Law; has not refused to certify funds because of non-conformity; and has not threatened to refuse funds or to withhold approval of a law." "The record," he continues, "may be due to two factors: (a) We discuss legislative proposals with the Regional Office of the Bureau of Employment Security when they are still in the formative stage. When the Bureau can demonstrate to us that a proposal is clearly contrary to the Social Security Act or the Federal Unemployment Tax Act, we do not pursue it. (b) We are usually able to convince the Bureau's technicians that our legislative proposals are in harmony with Federal standards." The Director gave examples of each type of situation.<sup>17</sup>

Although there has never been a year-end refusal by the Bureau to certify the conformity of a state law with federal standards, there have been several close calls and a number of interesting arguments both over matters of general principle and over specific questions of tax reductions provided in the state's experience rating procedures. At least two times the Bureau's stand has led to amendments of federal legislation and in other instances a state governor has vetoed the proposed state legislation because the Bureau indicated that a conformity issue might be raised. Usually, however, although the arguments may get heated, issues have been settled to the mutual satisfaction of the state and the Bureau.

In December, 1949, a difference of opinion between the Bureau and the States of Washington and California nearly led to a refusal to certify those state laws for tax offset purposes. Furthermore, the action of the Secretary of Labor in enforcing the existing federal requirements led to the passage of the controversial Knowland Amendment which places limitations upon the Secretary's authority.

The dispute involved the interpretation of the states' laws rather than any proposed amendments. Federal standards require, among other things, that the state law must not deny benefits to a worker solely on the ground that the worker has refused to accept *new* work vacant because of a strike, lockout, or other labor dispute. In 1948 certain west coast maritime unions were engaged in a labor dispute and in Washington there was also a dispute involving members of the carpenter's union. The question was "whether under this provision a state could disqualify for unemployment compensation benefits workers who were members of a union engaged in a labor dispute, even though such workers had become unemployed before the dispute for reasons unconnected with it, some of whom were even receiving

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17. Letter to author from Richard C. Brockway, Ex. Director, N. Y. State Dep't of Labor, Div. of Empl. Sec., Dec. 21, 1954.

unemployment compensation benefits prior to the dispute." The state administrators had disqualified all the union members involved and the Bureau maintained that such an interpretation did not conform with federal laws and standards, since the struck work was "new work" for them.

Following preliminary wrangling, the case finally came in December, 1949, before Secretary Tobin who found the state's ruling violated the federal standard. The Bureau was adamant. Washington brought itself into conformity before the end of the year by changing its interpretation of the law. California retracted its decisions during the Secretary of Labor's hearing and the case was, therefore, dropped.

During the 1950 session, Congress was considering amendments to the Federal Old Age and Survivors Insurance System. In June, Senator Knowland of California introduced an amendment to the bill then being considered which would limit the authority of the Secretary of Labor. The amendment can well be called a rider because no hearings were held on it and it was to be attached to a bill containing no other references to the unemployment insurance parts of the social security laws. State administrators, however, were aroused, and despite the strong protests of the Secretary of Labor and many others, including members of the Federal Advisory Council, the amendment was passed. Primarily the amendment (1) permits calling conformity issues only on amendments to state law, not changes through interpretation except with respect to the "labor" standard in Section 1603 (a) (5) (Now § 3305 (a) (5) of the INT. REV. CODE OF 1954), and (2) provides that the Secretary's power to determine a non-conformity issue arising from interpretation of state laws with respect to the "labor standard" must be postponed until the highest state court has spoken on the issue.<sup>18</sup> There is no doubt that the Knowland Amendment weakened the Bureau's authority on conformity issues. It remains to be seen whether the law will lead to the dire consequences prophesied by the Bureau or the emancipation from federal domination prophesied by some state administrators.

Many interesting cases about conformity arise each year but no definite record is kept of the number of informal conferences during which the issues are settled. One unsettled one at the end of 1954 involved a procedure used in Louisiana to implement its fraud procedure in the checking of claims filed by longshoremen in the New Orleans river front area. "The procedure," states the administrator,

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18. Material for discussion of the Knowland amendment [Pub. L. 734, § 405, 64 STAT. 560 (1950)] was supplied by the Bureau in the form of memoranda which had been prepared at the time the amendment was under consideration. On the California issue the author has also used a letter to him from M. P. McCaffrey, Principal Counsel, Cal. Dep't of Employment, Jan. 10, 1955.

"requires that these individuals, when not employed shall check in daily at a check point set up by the Agency. The Bureau feels that this requirement is much more stringent than that required of the other claimants. At the present time, a compromise is in the making, and we feel certain that it will all be straightened out in the near future."<sup>19</sup>

A few other recent cases involving conformity on general matters will indicate the type of problem which may arise. New Jersey, for example, apparently attempting to expedite appeals procedures, established a plan under which appeals tribunals decided numerous appeals on the basis of a review of the record, but without giving claimants an opportunity to appear to present testimony and arguments in their own behalf. The Bureau questioned this procedure, feeling that it did not guarantee all claimants an "opportunity" for a fair hearing as required by Section 303(a) (3) of the Social Security Act. After an exchange of correspondence and some conferences, New Jersey agreed to give all claimants an opportunity for a hearing before a referee.<sup>20</sup>

Of particular significance was a problem of the interpretation of the Wyoming law. The Commission of that state held that a claimant would be conclusively presumed to be unavailable for work during any week in which he received a pension from his most recent employer. The Bureau, protesting this interpretation, said that such a presumption would deny a fair hearing to such claimants, as required by federal standards. The state eventually adopted a policy that a claimant who is able and available for work and is actively seeking work shall not be considered ineligible to receive benefits merely because he is receiving a private pension or retirement payment.<sup>21</sup>

The state treasurer of Virginia, under section 2-158 of the Code of Virginia, maintained a benefit surplus account in which he held the funds derived from all cancelled unemployment compensation checks. No money was ever returned to the benefit payment account or to the Secretary of the Treasury of the United States. To the Bureau this practice seemed inconsistent with the Virginia Unemployment Compensation law as well as with the Internal Revenue Code, which requires that all money withdrawn from the unemployment fund of the state shall be used solely in the payment of unemployment compensation. The state treasurer agreed with the Bureau and the money was re-deposited in the unemployment trust fund.<sup>22</sup>

There have also been some interesting conformity issues raised with

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19. Letter to author from J. H. Heard, Adm. Div. of Empl. Sec., Louisiana, Dec. 21, 1954.

20. Goodwin letter, *supra* note 16.

21. Goodwin letter, *supra* note 16.

22. Goodwin letter, *supra* note 16.

respect to experience-rating provisions, since the federal laws have relatively clear standards on this subject.

One of the earlier cases involving experience rating was in Minnesota. In 1947 that state passed an amendment permitting employers to make voluntary contributions which were applied to previous years so as to lower their experience rating. After a hearing, this amendment was called out of conformity with the experience-rating provisions of the federal unemployment tax law. An amendment to the federal law was passed making such a practice legal. Since all this happened at the beginning of the year, no matter of conformity was raised in December of 1947 when the annual certification was made.<sup>23</sup>

The State of Michigan has had several problems involving experience rating. In 1952 Governor Williams vetoed a bill because a question had been raised on the way initial employer balances would be figured under a proposed revised experience-rating plan. In 1954 a similar legislative proposal was introduced with changes in the formula to meet the Bureau's former objections, and the legislation became law on May 27, 1954.<sup>24</sup> On the advice of the Bureau, however, another 1954 amendment was changed prior to adoption. The matter was technical, involving the length of time during which voluntary contributions could be made.

In 1947 the State of Connecticut was amending the experience rating section of its law. The Bureau objected to the rate table because it provided very low rates for practically all tax-payers and was, in essence, a horizontal tax reduction which was prohibited by the Social Security Act. After a number of conferences the matter was clarified to the Bureau's satisfaction. "Meanwhile," reports the Executive Director of the Connecticut Employment Security Division, "The Rhode Island Legislature, on the very last day of its session, passed a merit rating tax structure which was even worse, from the federal point of view, than the Connecticut bill. By the time the Bureau of Employment Security found out about it, the Rhode Island Legislature had adjourned. The Social Security Board promptly reversed its field, OK'd the Rhode Island law, and, somewhat sheepishly, notified Connecticut that its original bill would be approved. Fortunately, we were able to solve the problem here by having the Governor veto the second bill we passed and the particular table of rates remains in our law to this date."<sup>25</sup>

Connecticut reports several other minor instances about which the

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23. Annual Report, Div. of Empl. Sec., Minnesota, 1948.

24. Letter to author from M. M. Horton, Dir., Empl. Sec. Comm'n., Michigan, Dec. 22, 1954.

25. Letter to author from H. E. Hausman, Ex. Dir., Empl. Sec. Div., Connecticut, Dec. 20, 1954.

state and the Bureau disagreed, but as usual, these were settled by negotiation.

A bill was introduced into the Alabama Legislature in 1953 which in substance provided that an employer whose business was damaged or destroyed by disaster would not have his experience rating affected by the payment of unemployment benefits to the workers who became unemployed as a result thereof. The Bureau claimed the proposed amendment did not meet the requirements of Section 1602(a) (1) of the Internal Revenue Code governing tax credits under a state experience-rating plan. The Administrator of the Alabama department thought otherwise, but upon advice of the Bureau, however, he secured an amendment to the proposed law to the effect that it would not go into effect if the Bureau or the Secretary of Labor found the act not in conformity. After due hearing the Secretary of Labor decided the act was not in conformity with the Internal Revenue Code. The Administrator, therefore, made written declaration that the new section of the law was not a part of the Unemployment Compensation Law of the State.<sup>26</sup>

In addition to the annual review of each state law to determine conformity with federal standards, the Bureau is required to supervise the general administration of the laws. To carry out this function the Bureau has established rather strict rules on expenditures and certain standards and procedures on which to judge performance of state administration.

Administrative standards are designed to give specific effect to the general requirements set forth in the federal statutes. For example, federal law makes it a prerequisite for grants-in-aid for administration that the methods of administration must be "reasonably calculated to insure full payment of unemployment compensation when due." Such general terminology must be translated into specific standards and procedures by which a state administration of a law may be judged.

Standards are prepared both for employment service administration and for the administration of unemployment compensation. Employment service standards have been prepared for such areas as registration, classification, placement, clearance, etc. In unemployment compensation administration the standards cover such areas as frequency of tax collections, registration of claimants with the employment service, in-person reporting to file claims, retroactive filing of partial unemployment claims, and investigation of improper payments.<sup>27</sup>

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26. Letter to author from J. L. Coleman, Dir. Ind. Rel., Alabama, Dec. 17, 1954.

27. Goodwin letter, *supra* note 16.

In addition to such standards about programs, the Bureau has had to develop financial standards. Each state is required to prepare detailed budget submissions in accordance with federal instructions as to economic policies and content. Furthermore, the Federal Government has issued rather detailed fiscal management standards. For example, before a state director of employment security or any of his staff can travel outside the state on official business, he must receive prior approval from the Bureau of Employment Security, and if an electric typewriter is wanted instead of the standard machine which happened to be on the list of approved equipment, a detailed justification would be required by the Bureau.<sup>28</sup> There are many other such detailed financial standards and the federal auditors ferret out and take exception to expenditures not made according to these standards.

Difficult though some of these administrative standards may seem as they appear in official documents or letters, the real test is the practical administration of them in the day-to-day relations between the Bureau and the several states. As a matter of fact, there have been very few cases where sanctions or threat of sanctions have been used to compel compliance with the Bureau's requirements regarding proper state administration. Apparently the states and the Bureau have developed working agreements for consultation on problem areas so that actual test cases over conformity have been very rare. Probably the fact that the states know the Bureau's "big stick" exists, helps smooth over areas of disagreement. On the other hand, state administrators have a powerful organization of their own [The Interstate Conference of Employment Security Administrators] to present their side of issues to the Bureau, or even to Congress.

The Bureau frankly says that "The standards serve as guides rather than specifications which must be followed to the letter; provision is made for consideration of alternative methods which a State may develop for accomplishing the stated objective. A deviation from a standard is not an automatic signal for a sanction. It is considered in the light of its effects on the total program, and the question is usually resolved through negotiations."<sup>29</sup>

In fact, there has actually been only one case since the Social Security laws have been in effect where administrative funds have been withheld pending the bringing of state administrative practices into line with the Bureau's requirements. In 1939 South Dakota proposed that benefits be paid through the state welfare offices, instead of the state employment offices as is required by federal standards.

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28. Goodwin letter, *supra* note 16.

29. Goodwin letter, *supra* note 16.

Funds were withheld and the state soon got back into line.<sup>30</sup>

In the same year the State of Kentucky found itself in difficulty and according to the state administrator, the "Bureau did refuse to grant to our Agency funds for administrative purposes." The issue involved the payment to the Railroad Retirement Board under the new Railroad Unemployment Insurance Law of worker contributions paid prior to July 1, 1939, to the state unemployment compensation fund. Kentucky was one of the few states which required employee contributions, and the agency and the Kentucky legislature felt that it was not fair to the workers for the state to pay the Railroad Retirement Board approximately \$1,000,000 of workers' contributions, particularly since workers in other states were making no such contribution to the Retirement Board. Numerous attempts were made to keep these funds in the unemployment compensation program or to return them to the workers who had made the payments in the first place, but the Kentucky courts held implementing legislation unconstitutional. Kentucky then amended its law to divert three-tenths of one per cent of the employer contributions to the state's administrative fund until such fund equalled \$1,260,000, and on July 1, 1944 the Bureau began diverting Kentucky's administrative grants to the Railroad Retirement Board to compensate them for the funds which the unemployment compensation agency was unable to transfer to them. This diversion continued for approximately two and one-half years, during which time Kentucky administrative expenses were paid from the employer contributions which had been diverted to the state's administrative fund.<sup>31</sup>

A third instance which might be classed as denial of administrative funds occurred in Arizona in 1941. Claiming that the administration of the employment service was not satisfactory, the Bureau turned over the administration of that part of the program to its own United States Employment Service. The legal basis for the action was that a full-time Employment Service Director was required and the state director had other duties. The Arizona State Employment Service was operated by the federal agency for four or five months at the end of which time the service was returned to state administration but with a federal man as state administrator. The federal man retained the post until the state had given merit examinations for the job and a

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30. Goodwin letter, *supra* note 16.

31. Letter to author from O. B. Hannah, Dir. Div. Unempl. Ins., Kentucky Dec. 20, 1954. Actually this incident appears to be an arrangement for Kentucky to overcome its constitutional difficulties rather than a conformity issue. At any rate, it is not counted as a conformity issue by the Bureau. Letter to author from R. C. Goodwin, Jan. 6, 1955.

new director had been appointed from the merit system's list of eligibles.<sup>32</sup>

As was true about conformity issues, there have been a number of other interesting cases which illustrate the type of problem which arises in the requirements of administrative standards. No list can be complete because most issues are settled by letter or conference before any real problem arises.

Michigan, for example, has been debating with the Bureau ever since 1947 regarding the Commission's occupancy of its state headquarters. The issue is the amount of allowable rent for a state-owned building. The Bureau holds that prevailing rent should be paid only until such time as the cost of the building has been amortized; the state holds that the Bureau should pay prevailing rent continuously just as they do when the state agency uses privately-owned quarters. The issue came to a head in 1954 when the Bureau reduced the rental allowance in the budget from \$3.00 per square foot (the prevailing rental rate) to \$1.49 per square foot, which is the Bureau's estimate of the state's cost for maintenance and operation of the building. The state is presently running a charge account against the Bureau, but the Commission is recommending legislation to the Legislature at the 1955 session which would allow the Commission's occupancy under the terms of the Federal Government.<sup>33</sup>

The State of South Dakota had a minor disagreement with the Bureau over the salary for the Commissioner of the Employment Security Department. The legislature set the salary at \$8,000, giving the Commissioner a \$1700 a year raise. After considerable writing back and forth the Bureau said they would raise no further question about that salary but did reserve the right to question should the legislature again increase the salary. The Bureau here operated on the theory that the salary of the Commissioner was not comparable with other state salaries.<sup>34</sup>

Numerous administrative details or principles besides budget items are also discussed by the states and the Bureau. Georgia, for example, once denied the use of its facilities to a Veteran's Employment Representative. A question was raised by the Bureau, but as the Employment Security Agency Director says, "when the facts were clearly presented to the top officials of the Bureau of Employment Security, they cooperated in clearing up the situation with the minimum of confusion."<sup>35</sup>

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32. Goodwin letter, *supra* note 16.

33. Horton letter, *supra* note 24.

34. Letter to author from Alan Williamson, Comm'r Empl. Sec., South Dakota, Dec. 17, 1954.

35. Letter to author from Marion Williamson, Dir., Empl. Sec. Agency, Georgia, Dec. 21, 1954.

Idaho once was required to discontinue a practice of taking claims in a number of its small employment offices on an itinerant basis rather than staffing the office to take claims on a full-time basis. This happened during the period when the employment service and the insurance division were operated as separate divisions.<sup>36</sup>

New Hampshire has recently completed an argument with the Bureau over the state director's interpretation of the law. The problem had to do with the appeals procedure. The Bureau felt that under the procedure the state administrator had set up, the appeal tribunals might feel coerced in their decisions. The director revised his policy memorandum and no question is now being raised.<sup>37</sup>

Iowa and Missouri have also recently been negotiating with the Bureau with respect to the administration of their laws. Iowa workers who failed to furnish a social security number within thirty days would have their claims destroyed and no appeal was allowed from such a refusal to process a claim. Missouri provided that any claimant filing a claim without furnishing his social security account number would have his claim held in suspense until such information was provided. The Bureau has maintained that such policies precluded a finding that the state law provides for such methods of administration as are reasonably calculated to insure the full payment of unemployment compensation when due. The states have revised their procedures.<sup>38</sup>

Indiana reports that they have had several discussions with the Bureau about administrative matters. Perhaps the most interesting of these concerned a decision denying compensation to a group of supervisory employees who refused to do the work necessary for closing down a steel mill during a strike of production employees. Holding that these supervisors had quit voluntarily without good cause, the Indiana Board of Review assigned the usual penalty. The Bureau's Regional Attorney claimed this violated the standard regarding the offer of work vacant because of a labor dispute. After considerable discussion and correspondence, the state held to its original determination and no funds were withheld. In other instances the state administrator has bowed to the Bureau's decisions.<sup>39</sup>

Information about experience with federal standards has been assembled from the Bureau and from the forty replies received from forty-eight letters sent to the state administrators. Most of the states

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36. Letter to author from H. F. Garrett, Ex. Dir., Empl. Sec. Agency, Idaho, Dec. 23, 1954.

37. Letter to author from Newell Brown, Dir., Dep't of Empl., Sec., New Hampshire, Dec. 28, 1954.

38. Goodwin letter, *supra* note 16.

39. Letter to author from W. C. Stalnaker, Dir., Empl. Sec. Div., Indiana, Dec. 23, 1954.

reported that since 1945 the Bureau of Employment Security has never refused to approve an amendment to the state law, has never refused to certify funds for administrative purposes because of non-conformity, and has never threatened to refuse administrative funds or threatened to withhold approval of a law. The examples given in this section of the paper, however, do not cover all of the cases where disputes have arisen. They do indicate some of the problems of federal-state cooperation in working out federal standards.

A state administrator who has been president of the Inter-State Conference of Employment Security Administrators, has summarized a state viewpoint on the subject of federal standards operation. "Lately," he says, "there has been a tendency of the Bureau to control state administration through purse-string control. Money is granted on work-load items . . . Purse-string control and specific earmarking of funds threaten state administration more than existing Federal standards. . . ."<sup>40</sup>

Apparently, however, Mr. Williamson's views are not entirely shared by the Interstate Conference of Employment Security Administrators. At their October, 1954 meeting, that group expressed themselves as being satisfied that the Reed Bill, passed in 1954, should materially improve federal-state relations in the employment security field. They further resolved that although they favored adequate study of proposals for further improvement, they doubted the "desirability of action on any proposal which falls within the general area covered by the Reed Bill, pending adequate operating experience under the recent enactment." Furthermore it is only fair to say that none of the other state administrators who answered the above mentioned questionnaires indicated as negative a position on federal-state relations as did Mr. Williamson.

It is true that many of these standards are of necessity financial and involve the preparation of budgets for what the Bureau considers proper administration. "Naturally," as the authors of an article on the subject put it, "some of the State concepts of sound administration differ from the concept of the Federal Government concerning what is 'necessary' and what can actually be provided from available funds."<sup>41</sup> In his annual report for 1950-1951, the Director of the Bureau of Employment Security reported that the new Unemployment Cost Criteria which had been developed in cooperation with the state agencies had been used for the second time with considerable success.<sup>42</sup>

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40. Williamson letter, *supra* note 35.

41. Friedman and Kinsinger, *Federal Responsibility for Payment of State Unemployment Insurance Administrative Expenses*, 11 Soc. Sec. BULL. 24 (June, 1948).

42. BUR. OF EMPL. SEC. ANN. REP. (1951).

In fact, the procedures developed through the years for federal-state cooperation in getting good administration appear to have worked reasonably well despite fears on the part of the federal administrators that the federal grants would destroy state interest in economical expenditure of such grants and the fear of state administrators of too much federal interference. The previously cited authors writing in 1948 concluded that "without question, it is the consensus that the present provision for financing State Administrative costs has assured more adequate administrative machinery in all states than any other provision including more conventional grant-in-aid procedures."<sup>43</sup>

#### CHANGING FEDERAL STANDARDS

Since the passage of the Social Security law various proposals have been made for changing the federal standards to improve the unemployment compensation program of the United States. The official federal view has vacillated from urging a federal system, to attempting to add new standards, to urging the states to improve their own laws. Spokesmen for industry and for the state administrators have generally opposed changes in standards. Labor spokesmen have held to a federal system, or that being impossible, to strong federal standards.

Perhaps the position of the Social Security Board is most clearly stated in its annual reports, of which the 1946 report is typical. After suggesting that if the state-federal system is to be continued certain improvements in federal standards should be made, the Board continues as follows: "The war economy, like the depression of the 1930's, has shown forcibly how closely the course of employment in the Nation is bound to forces over which neither workers nor employers can exercise control. Nor are such forces limited by State or even national boundaries. The Board continues in the belief that it would be simpler, cheaper, and safer to cope with the national problem of wage loss from unemployment by means of a national social insurance program . . . . Further study of the risk of unemployment and of experience designed to cope with this risk," concluded the Board, "has confirmed the Board's conviction that national provision for meeting a national problem offers the course best suited to the development of adequate and equitable provisions for unemployment insurance in the United States."<sup>44</sup>

By 1948 the Board had reluctantly recognized the permanency of the federal-state system, and recommended improvements in existing federal standards. The Board report reads as follows: "Therefore, if reliance continues to be placed in a Federal-State system, the Social

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43. Friedman and Kinsinger, *supra* note 41.

44. Soc. Sec. Bd. ANN. REP. 487 (1946).

Security Administration recommends the adoption of Federal minimum standards applicable to the potential duration of benefits, to the proportion of wage loss to be compensated, including provision for dependents, and to eligibility and disqualification provisions. Federal benefit standards, coupled with a reinsurance fund, would also enable the individual State systems to provide adequate benefits without the fear of having to meet burdensome costs in an emergency. Benefit standards and reinsurance can be incorporated under either a tax-offset system or a grant-in-aid plan."<sup>45</sup>

In April, 1950, the President in a special message recommended to the Congress a program for strengthening and improving the unemployment insurance program. A bill (H.R. 8095) was introduced by Representative McCormack of Massachusetts and representatives of the Department of Labor testified on the President's recommendations. In the 1951 annual report of the Bureau of Employment Security, which had been transferred to the Labor Department, these recommendations were summarized as follows: "In general, these recommendations include extension of coverage to workers not now covered, establishment of Nation-wide minimum levels for amounts and duration of benefits, establishment of adequate methods to provide benefits for workers who move from one State to another, revision and improvement of laws covering fraud and disqualification, improvements in the financing arrangements for unemployment insurance, and repeal of the Knowland amendment."<sup>46</sup> The bill was not passed nor was a somewhat revised bill (H.R. 525) introduced in 1951 by Congressman McCormack. In fact, no hearings were actually held on this second bill.

Meanwhile, industry spokesmen and leaders among the state administrators have made it abundantly clear they want no changes in the present federal standards, and in fact, would like to see existing federal control over state law administration weakened or abolished.

Writing on the amendments proposed in 1950 to establish federal standards in certain areas, Mr. William J. Baroody of the Chamber of Commerce of the United States, viewed with alarm the possibility that such a law would pass. He wrote: "An effective threat to the continuance of a State-Federal unemployment system is contained in the proposed Federal standards for state unemployment insurance laws recently advanced by the Department of Labor. The adoption of these standards by Federal legislation, shortly to be introduced, would be in the opinion of many an immediate prelude to the nationalization of the system." Mr. Baroody then discusses the Labor Department's proposals. He concludes his article with these words,

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45. SOC. SEC. BD. ANN. REP. 154 (1948).

46. BUR. OF EMPL. SEC. ANN. REP. 47 (1951).

"Justification for Federal action in any area of social insurance has always been attributed either to (1) the magnitude of the problem and the inability of voluntary groups or state and local governments to cope with it, or (2) the failure of state and local governments to assume responsibility and initiate action." Such reasons were probably valid in 1935, says the author, but "There exists no unemployment problem today beyond the capacity of the present systems to meet; nor have the states demonstrated either an unwillingness or an inability to improve and adapt their programs. In these circumstances, further Federal controls necessarily represent another major stride toward centralization—a tendency always to be resisted unless there are overriding considerations of hardship and emergency which cannot be handled *in any other way*."<sup>47</sup>

When a House of Representatives subcommittee had concluded its hearings on the 1950 proposals for increasing federal standards, they found the bill so controversial that they referred the benefit standards part of the bill back to the main committee without recommendation.<sup>48</sup> Since 1951 no further attempt has been made to have federal standards introduced into the social security laws.

In the field of administrative grants, however, considerable discussion has taken place. Here some confusion has been generated because it is not always clear whether various advocates of change wish to do away with what are called "purse-string" controls or whether they simply want the states or at least the unemployment insurance program to have the benefit of all the money collected by the Federal Government for the 0.3% tax paid by American employers to the Collector of Internal Revenue. It is generally conceded that in 1935 the sponsors of the social security laws expected this 0.3% tax would be used to pay for administrative costs of unemployment compensation. During the years, however, the tax has found its way into the general monies in the treasury, out of which Congress has made appropriations to the states for the administration of their insurance laws solely on the basis of need as developed in the budgets prepared by the Bureau and the state agency. When Congress has been in an economy mood, state administrative funds have been slashed and, in fact, deficiency appropriations have become commonplace. Both the Bureau and the states have considered those funds as rightly belonging to the unemployment insurance program and countless resolutions have been passed urging Congress to recognize its moral responsibility to use those funds for unemployment insurance.

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47. Baroody, *More Federal Standards for State U.C. Laws*, 7 AM. EC. SECURITY 8 (1950).

48. Goodwin letter, *supra* note 16.

Although administrators and students of the subject seem to agree that the funds should be earmarked, the real issue of federal standards arises in the discussion of the disposition of the earmarked funds. In general, federal administrators have felt that federal control over administrative procedures and expenditures would be jeopardized if all the funds were paid into the state treasuries even though the states were limited in using the funds for administration of their insurance laws or payment of benefits. Some state administrators, on the other hand, have seen the possibility of escaping the "purse-string" control by getting control of the funds within the states, thus making unnecessary the annual budget argument with the Bureau. Other state administrators have been willing to compromise. As Stanley Rector put it, "Federal-State relations continue as before, with the States, *perhaps*, being kept in a more sumptuous style."<sup>49</sup>

The issue of what to do with the excess money came to a head in the testimony on the Mills Bill (H.R. 4133) in May, 1952. Representatives of the state administrators urged that funds over and above those used for normal administrative costs and for a loan fund for needy states should "be used by the states, for the purposes of the employment security program."<sup>50</sup> Employer representatives appearing at the same hearing were strong in their support of the Mills bill as a first step toward releasing the states from the bonds of federal control over administration. This view was well presented by Mr. Ralph Miner of the Goodyear Tire and Rubber Company, on behalf of the Ohio Manufacturers Association and the Ohio Chamber of Commerce. He said, "We believe that the administration of the State unemployment insurance laws is the responsibility and business of the State governments. So long as the State laws conform to the requirements of Federal law, then the States should be allowed to manage their own affairs. The Federal Government should not have the power, through control of administrative funds, to coerce State administrations into applying interpretations and procedures which the Federal people favor and promote but which in many cases were not contemplated or intended when the State laws were enacted."<sup>51</sup>

The Bureau of Employment Security, on the other hand, and the Federal Advisory Council of the Bureau felt that federal control over administration should not be given up. Robert C. Goodwin, the Director of the Bureau, pointed out that under the provisions of the Mills bill excess funds would be paid over to the state administrators to be used for employment security purposes without even the check of their own legislatures on the expenditure of the funds. He

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49. *The Advisor*, # 164, Sept. 22, 1948.

50. *Hearings Before a Subcommittee of the House Ways and Means Committee*, 82nd Cong. 2d Sess. 205-28 (1952).

51. *Id.* at 302.

maintained further that Congress had certainly meant to keep the costs of administration under its own control and he saw great danger in doing away with Congressional supervision. He also quoted a resolution passed unanimously at the May 20, 1952, meeting of the Federal Advisory Council. The Council resolved, "That we favor earmarking in the Federal Treasury of all the income of the Federal Unemployment tax. At this time we oppose any distribution of excess income to the States."<sup>52</sup>

This particular problem of control was partially settled in 1954 by the passage of amendments to the tax laws. All of the 0.3% is now to be used for unemployment insurance purposes; a loan fund of \$200,000,000.00 is to be established; and excess funds eventually will be distributed to the states for the payment of benefits or for administrative purposes as the state legislature directs. The Bureau, however, is still charged with granting funds for administration and supervising the administration of the state employment security laws.<sup>53</sup>

The battle to relieve the states of supervision of their administration of state laws is not, however, entirely over. The Commission on Intergovernmental Relations now headed by Meyer Kasterbaum (formerly called the Manion Commission after its first chairman, the ex-dean of Notre Dame Law School) has the matter under discussion. Recently a committee of the Commission has made a 6 to 5 recommendation that the amount of money retained by the federal government be reduced nine-tenths, that is, to a payroll tax of .03%. The states then would finance their own administrative costs and Bureau control over state administration would disappear.<sup>54</sup>

Before attempting to draw any conclusions about federal standards in general some discussion should be given to the proposed changes in those standards. It is true that the present administration is apparently committed to a program of urging the states to act. Nevertheless, as William J. Baroody of the Chamber of Commerce of the United States wrote several years ago, federal action may be justified by "the failure of state and local governments to assume responsibility and initiate action."<sup>55</sup> There are probably those who think that state action in the past has been unsatisfactory and see no particular reason to believe that future state action will bring state laws into conformity with standards urged by the administration. Others are more sanguine about the possibility of state action.

There are three areas in which many students of social insurance think some action must be taken, either by improving federal standards or by state action. These have to do with coverage, the amount and

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52. *Id.* at 543.

53. Pub. L. 567, 83d Cong., 2d Sess. (Aug. 5, 1954).

54. John Herling's Labor Letter, Nov. 27, 1954.

55. Baroody, *supra* note 47.

duration of benefits, and the standards for disqualification of unemployed workers.

In his economic report to Congress in January, 1954, President Eisenhower made recommendations on two of these matters. He suggested "that Congress amend the present law to cover employees of businesses with fewer than eight employees." He also asked the states to "raise these dollar maximums so that the payments to the great majority of the beneficiaries may equal at least half their regular earnings." Finally, he urged "that all of the States raise the potential duration of unemployment benefits to 26 weeks, and that they make the benefits available to all persons who had had a specified amount of covered employment or earnings."<sup>56</sup> No mention was made of the problem of disqualification of applicants.

The President's request that the federal standard on coverage be changed was approved in part by Congress. Under the new law beginning in 1956 employers of four or more are required to pay the tax.<sup>57</sup> Presumably all of the states now following the federal standard of eight or more will amend their laws to extend coverage to the smaller establishments.

It is, of course, too early to say whether his request to the states to increase amount and duration of benefits will be acted upon. Even the suggestion, however, to increase benefits has already brought considerable discussion and letter writing. Just what did the President mean when he talked about raising the dollar maximums so that the payments to the great majority of the beneficiaries may equal at least half their regular earnings?

Shortly after the Secretary of Labor sent out his first letter dated February 16, 1954, he was called to task by one of the employer members of the Federal Advisory Council for saying in his letter that "At its most recent meeting in January, the Federal Advisory Council on Employment Security took action supporting the President's recommendations on improving weekly benefits."<sup>58</sup> Since the President made his report to Congress two days after the meeting of the Council, the Secretary was improperly stating the case. The Council did, however, support increased benefits even though they did not have a chance to support the exact words the President was going to utter two days later.

The real issue concerns the meaning of the President's words. Did he mean that the great majority of unemployed workers should get benefits equal to one-half of their regular earnings? Or should the

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56. Economic Report of the President, transmitted to the Congress Jan. 28, 1954.

57. INT. REV. CODE of 1954, § 3306(a) as amended by Act of Sept. 1, 1954.

58. Letter from George Jacoby to secretary of Labor Mitchell, April 22, 1954.

maximum amounts be increased so that if they become unemployed the great majority of all covered workers would get one-half of the average earnings? In other words, as Mr. Rector puts it in an issue of *The Advisor*, should the benefit formula "be related to the position of actual claimants (their net earnings, etc.) rather than the entire composition of the covered labor force."<sup>59</sup>

This is indeed a real issue in the principles of unemployment compensation, but not one to be discussed at length in a paper on Federal Standards. It is mentioned here only to indicate the difficulty even of recommending state action, if that recommendation is to be made by any federal official or agency.

The third area where advocates of change think some federal action should be taken concerns disqualifications. In 1950 after months of effort, a subcommittee of the Federal Advisory Council submitted a summary of its conclusions on unemployment compensation to the whole Council, which approved them. Speaking of disqualifications, the committee, after briefly examining the problem, concluded, "Disqualification provisions now in existence in many States which deny benefits to workers who are genuinely unemployed should be corrected."<sup>60</sup>

Later (1952-53) a subcommittee headed by the Chairman of the Council was appointed to study the problem further. A committee of three prepared a report setting forth some basic principles which included the suggestion that disqualifications should be applied only to the unemployment which immediately follows the disqualifying act and that there should be no cancellation of benefit rights or wage credits in connection with any disqualification for benefits, other than fraud. The committee also felt that after a reasonable time workers who had voluntarily quit or had been discharged should be eligible to receive compensation.

Some of the employer members of the Council took exception to these principles. In fact, after looking over the first tentative report, the United States Chamber of Commerce is reported as having written as follows: "Brief review of the 'recommended principles' [of the report] leaves . . . a very definite impression that if these were adopted, then the concept of unemployment insurance, as we know it, would be distorted completely. . . . [It is] difficult to understand how any employer representative could have agreed to a report with such obviously slanted language."<sup>61</sup>

At its October, 1953, meeting, the Council adopted the report of

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59. *The Advisor*, #22-'54, Dec. 8, 1954.

60. FED. ADV. COUNCIL, CONCLUSIONS OF REPORT (1950).

61. FED. ADV. COUNCIL, COMM. ON DISQUALIFICATIONS, MINORITY REPORT, (Oct. 1953).

the majority of its subcommittee and approved a motion to<sup>1</sup> add to the report a minority statement filed for several employer members by one of their number. The minority claims that insufficient facts are known about disqualifications, a point of view to which no exception can be taken. Furthermore, "Determination of policy in reference to such matters as eligibility requirements and disqualification provisions is the right and the responsibility of the state Legislatures."

Perhaps a comment in this minority report really points to one of the basic issues to be discussed briefly in the conclusions of this article and throws considerable light on the whole question of federal standards: "We regard the unemployment compensation program," says the report, "as a measure to impose on the individual employer primarily and, secondarily, on employers in general, the responsibility to provide limited support for workers who become unemployed because their employers fail to provide work. Only on the basis of this public policy can we account for the decision to finance the program entirely out of employer contributions based on payrolls."<sup>62</sup>

This is certainly a basic philosophy and to one holding it there is obviously no need for any federal standards except the barest minimum. Certainly, to one holding this belief the Federal Government has no responsibility to force the states to amend their laws to accept any other basic philosophy of unemployment insurance.

#### CONCLUSIONS

Federal standards which in actual practice have been workable have, nevertheless, caused heated discussions. Why, it may be asked, is not the principle of federal standards recognized as a permanent part of our federal-state unemployment insurance program and amendments made in those standards as the need seems apparent? An answer to that question must be sought in a brief examination of the philosophy which seems to be back of many of the arguments.

Federal standards are a part of our law because the founders of our unemployment compensation system felt that a federal-state system would work best. The state governments, with one exception, had not in 1935 been willing to act in this area. In other words, state governments had failed to assume responsibility and initiate action. Apparently the states had failed because they feared the competition of other states for new industry. Federal action decreased this fear. Thus the Social Security Law represented federal action in an area where the states had failed to assume responsibility and the failure was probably because of fear of getting ahead of other states.

Why, then, should anyone think there should be changes in federal

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62. *Ibid.*

standards? In the first place, of course, we know more about unemployment insurance today than we did twenty years ago and we might want to get the standards up to date. The original standards were, however, stated in general terms, and perhaps being based on general principles alone they might still remain satisfactory.

Considerable study has been made of standards and, as has been mentioned previously, as high an authority as the President of the United States has urged that the state laws be improved. If the states fail to act, perhaps federal standards will have to be changed because of the "failure of the state and local governments to assume responsibility and initiate action."<sup>63</sup>

Seldom mentioned in discussing the problem is the possible increase in interstate competition as an effective reason for changing federal standards. Space does not permit a full examination of this problem, but obviously, it costs the employer more to provide compensation for twenty-six weeks than for twenty, or to provide dependents allowances than payment merely for the worker. And surely a state which provides for cancellation of benefit rights if a worker leaves his job without good cause attributable to the employer can charge a lower tax rate than a state which penalizes a worker who quits but eventually pays him something. Thus interstate competition can be accelerated by changing laws to provide lower benefits, and therefore, possibly lower taxes.

Notwithstanding these three possible reasons for changing federal standards, the opposition to change is strong. Its argument is: "Such matters should be returned to the states." "There is too much federal power now and states rights must be protected."

Considerable can be said for this argument. State legislatures manage to tax and spend vast sums of money without the benevolent supervision of the Federal Government, and it does seem rather silly that a responsible state official must get prior permission from a Washington Bureau before he can travel outside his home state on official business connected with his job. Such matters are irksome, but the real issues of federal administrative control as described in this article have not been over the spending of money, but rather, over some fundamental problems of what is right in unemployment compensation. Michigan has argued about the amount of rent to be allowed, but the important problem between Michigan and the Bureau of Employment Security was over a matter of experience rating for employers. A state has argued over the salary of its director, but more fundamental and more difficult have been arguments, for example, over a worker's right to appeal or a worker's right to refuse

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63. Barody, *supra* note 47.

new employment when a strike was going on in an area.

The CIO maintains that "it will not be easy to win gains in the state legislatures, as sad experience has shown in the past."<sup>64</sup> The CIO, therefore, wants federal standards. Perhaps other groups recognize as a fact this frank statement of the CIO, and therefore, do not want federal standards.

More fundamental, however, than the political theory of advocates of change or *status quo* seems to be the concept of the meaning of unemployment compensation itself. Is unemployment insurance a payment to a worker because he cannot find a job, or is it a payment to a worker whom a company had to lay off for business reasons. If it is a payment to a worker who can't find a job, then even a worker who quits should get compensation after he once again shows the proper desire to return to the labor market. On the other hand, if the payment is to a worker whom the company has had to lay off for business reasons, then the worker who quits without cause has no rights to insurance whatever. An examination of Congressional hearings indicates that advocates of stronger federal standards have generally stressed what may be called the social aspects of unemployment insurance. "The unemployed man who is really looking for a job but can't find one, should get compensation provided he has worked sufficiently in the immediate past." Those who would retain only the most mild federal controls are generally advocates of what may be called the business aspects of unemployment compensation. "If a business has to lay off a person because of a business reason, then that person should receive compensation provided he starts looking for another job right away."

Here is the fundamental difference of opinion. Since the federal administrators of unemployment compensation have consistently shown that they are believers in the social aspect of insurance, those who advocate the business concept have fought against any increase in federal control. Actually, unemployment compensation, like other types of social insurance, is bound to be part social and part business rather than being clearly one or the other. Under such circumstances and in the light of the other factors involved, such as interstate competition and lack of state action in certain areas, it seems reasonable to expect some strengthening of federal standards in the several areas mentioned.

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64. 15 ECONOMIC OUTLOOK (Aug. 1954).