UNEMPLOYMENT INSURANCE

by margaret s. gordon
and ralph w. amerson

INSTITUTE OF INDUSTRIAL RELATIONS • UNIVERSITY OF CALIFORNIA, BERKELEY

50¢

UNEMPLOYMENT INSURANCE

UNEMPLOYMENT INSURANCE

By
MARGARET S. GORDON and
RALPH W. AMERSON

Edited by Irving Bernstein

INSTITUTE OF INDUSTRIAL RELATIONS
UNIVERSITY OF CALIFORNIA, BERKELEY

POPULAR PAMPHLETS OF THE INSTITUTE OF INDUSTRIAL RELATIONS

Northern Division:

Pensions under Collective Bargaining, by William Goldner
Strikes, by William Goldner
Hours of Work, by William Goldner
Productivity, by Peter O. Steiner and William Goldner
Guaranteed Wages, by J. W. Garbarino
The Business Agent and His Union, by Wilma Rule Krauss and Van Dusen Kennedy
Local Employers' Associations, by William H. Smith
Unemployment Insurance, by Margaret S. Gordon and Ralph W. Amerson

Southern Division:

Collective Bargaining, by Edgar L. Warren and Irving Bernstein
Making Grievance Procedures Work, by Abbott Kaplan
Employing the Seriously Impaired, by Robert D. Melcher
Wages: An Introduction, by H. M. Douty
Union Security, by Orme W. Phelps
Wage Structures and Administration, by H. M. Douty
Health Insurance: Group Coverage in Industry, by Richard N. Baisden and John Hutchinson

Copies of these pamphlets may be purchased at the following rates:
1 to 9 copies—50c per copy
10 to 99 copies—40c per copy
100 or more copies—30c per copy

Order from the

INSTITUTE OF INDUSTRIAL RELATIONS

Northern Division:
201 California Hall
University of California
Berkeley 4, California

Southern Division:
Business Administration–Economics Building
University of California
Los Angeles 24, California

Foreword

THE INSTITUTE OF INDUSTRIAL RELATIONS of the University of California was created for the purpose, among others, of conducting research in industrial relations. A basic problem is to reach as large an audience as possible. Hence the Institute seeks through this series of popular pamphlets to disseminate research beyond the professional academic group. Pamphlets like this one are designed for the use of labor organizations, management, government officials, schools and universities, and the general public. Those pamphlets already published (a list appears on the preceding page) have achieved a wide distribution among these groups. The Institute research program includes, as well, a substantial number of monographs and journal articles, a list of which is available to interested persons upon request.

It is now nearly two decades since a federal-state system of unemployment insurance first became effective in the United States. Although the basic features of the program have remained largely unchanged since its adoption, there have been numerous and significant modifications in benefit levels, tax rates, and other important provisions. Proposals for additional changes are continually being made. Despite the widespread acceptance of the program as an essential part of our social

security system, there is extensive disagreement over many of its features. Large numbers of bills proposing amendments to the federal and state laws on the subject are introduced and heatedly debated in every legislative session.

In this confused situation, it is not an easy task to provide a readable, up-to-date account of our American unemployment insurance program. Yet many employers, labor spokesmen, public officials, students, and other citizens need a basic working knowledge of the system. In attempting to meet this need, the authors of the present pamphlet have sought to avoid excessive technical detail on the one hand, and oversimplification of an inherently complex subject, on the other. Their aim has been to provide the reader with an understanding of the main features of the existing program and of major issues associated with proposals for changing it. Dr. Margaret S. Gordon is Associate Director of the Northern Division of the Institute of Industrial Relations, and Ralph W. Amerson is a former member of the Institute research staff who is now affiliated with the legal staff of the California State Board of Equalization.

The Institute wishes to express its appreciation to the following persons for their review and constructive criticism of the manuscript: Dr. Walter Galenson, Dean E. T. Grether, Dr. R. A. Gordon, Dr. Emily H. Huntington, and Dr. George A. Pettitt of the University of California; Dr. Herman M. Somers, Visiting Professor of Political Science at the University of California, and his wife, Anne R. Somers, formerly an economist with the U. S.

Department of Labor; Dr. William Haber, University of Michigan; Mrs. Mary H. Hutchinson, San Francisco Regional Office, U. S. Bureau of Employment Security; George Roche, Nicolo Pino, and Phil Proto, California Department of Employment; and Mrs. Margaret Thal-Larsen, San Francisco Area Office, California Department of Employment.

The cover design was prepared by J. Chris Smith and Mrs. Floy Bracelin prepared the charts. Paul Hartman assisted with the research and Mrs. Anne P. Cook with the editing.

The viewpoint expressed is that of the authors and may not necessarily be that of the Institute of Industrial Relations or the University of California.

ARTHUR M. ROSS, *Director*
Northern Division
GEORGE H. HILDEBRAND, *Director*
Southern Division

Contents

I. Introduction

1. THE PROBLEM OF UNEMPLOYMENT

The American economy has escaped the experience of severe and prolonged unemployment since before World War II. In an environment of expanding employment and income levels, the great majority of those seeking work have succeeded in finding jobs. Yet unemployment has never altogether disappeared. During the war years unemployment dropped to unprecedentedly low levels, but since 1945 at least 1.5 to 2 million workers have been unemployed at most times. Furthermore, there have been three mild economic recessions—in 1945–1946, 1949–1950, and 1953–1954—when unemployment rose to considerably higher levels for short periods.

The most recent of these minor recessions followed the conclusion of the Armistice in Korea. As the economy shifted from a wartime to a peacetime basis, industrial activity went through a temporary period of contraction. In all probability, the decline would have been more serious if the government's continuing defense program had not maintained military spending at a comparatively high level. Unemployment rose from 1.2 million in August, 1953, to a peak of 3.7 million in March, 1954, after which it began to decline. Although part of this rise was

seasonal, the decline in industrial activity resulted in a much larger increase in unemployment than would normally have occurred for seasonal reasons.

There was one respect in which this short-lived recession, and its postwar predecessors, contrasted markedly with those that had occurred before 1938. The majority of men and women who lost their jobs were protected by unemployment insurance, so that their incomes were not cut off completely when their earnings ceased. During the year 1954, the number of workers receiving weekly unemployment benefits averaged 1.9 million, while a total of 6.6 million workers received benefits at some time during the year.

On the average, these unemployed workers received a weekly benefit of approximately $25 in 1954. In some states, average benefits were somewhat higher than this; in others, they were lower. Weekly earnings of all workers covered by unemployment insurance averaged about $73 in the same year. In other words, unemployed workers who were entitled to benefits received, on the average, a little more than a third of their former earnings. But they did not receive these benefits indefinitely. The maximum period for which benefits could be received varied from four to six months in most of the states. While many workers were reëmployed before the end of this maximum period, others remained unemployed after their benefit rights were exhausted.

2. HOW MUCH UNEMPLOYMENT IS THERE?

Prior to 1940, there was no regular program of collecting unemployment statistics in the United States. Since that time, the U. S. Bureau of the Census has been preparing monthly estimates of unemployment based on a nationwide sample survey of the population. These estimates are published regularly in the *Monthly Report on the Labor Force.*

In order to make possible comparisons between one period of time and another, or between one area and another, unemployment is usually expressed as a percentage of the civilian labor force (that part of the civilian population with jobs or looking for jobs). When we speak of the "unemployment rate," we ordinarily refer to this percentage. Chart 1 shows the percentage of the civilian labor force unemployed, on an annual average basis, in each year from 1900 to 1955. The estimates for the years from 1900 to 1939 are much less reliable than the later figures. The chart brings out clearly the fluctuations in the early years of the century, the sharp rise in unemployment in the early thirties, the slow and halting decline during the remainder of that decade, the marked drop during the early forties (reflecting the acute shortage of manpower during World War II), and the relatively low level of unemployment since 1945. It also shows the moderate increases in the unemployment rate during the brief recessions of 1945–1946, 1949–1950, and 1953–1954.

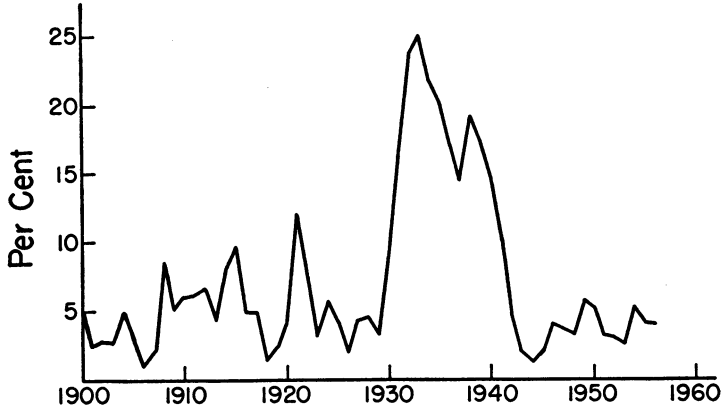

Chart 1. Per Cent of Civilian Labor Force Unemployed, United States, 1900–1956

SOURCES: 1900–1928, S. Lebergott, "Estimates of Unemployment in the United States, 1900–1952," in National Bureau of Economic Research, *The Measurement and Behavior of Unemployment* (Princeton: Princeton University Press, 1957), p. 215; 1929–1939, U. S. Bureau of Labor Statistics; 1940–1956, U. S. Bureau of the Census.

3. TYPES OF UNEMPLOYMENT

Unemployment is an inevitable accompaniment of the complex process of growth and change that is characteristic of an industrial economy. But not all unemployment is equally serious. How long an individual unemployed worker is likely to remain jobless depends, not only on his personal characteristics, but also to a large extent on the economic factors that gave rise to his unemployment.

For this reason, it is useful to distinguish at least four types of unemployment. They have already been de-

scribed in Garbarino's earlier pamphlet in this series on *Guaranteed Wages:*

a. *Frictional unemployment.* In a dynamic economy some part of the work force is always without a job at any given time. Businesses are born and die, change locations, adapt their operations to shifts in customers' wants; workers move from one area to another, enter and leave school and military service, switch from one job to another. The unemployment which results from the hundreds of thousands of such shifts is called "frictional" or "transitional" unemployment.

b. *Seasonal unemployment.* Many businesses such as canning, clothing, and construction have their production schedules determined in part by the seasons (or style changes) with some resulting fluctuations in employment.

c. *Technological unemployment.* One of the sources of the economic strength of the American economy is the effort we devote to finding new ways of doing things and our willingness to adapt ourselves to these changes. New methods and products often eliminate jobs in one area or industry while creating them in others. Unemployment existing during the process of adaptation to changes in technology is called "technological" unemployment.

d. *Cyclical unemployment.* More important than the shifts in business described above are the fluctuations or "cycles" in general business activity which seem to have occurred at irregular intervals for as long as we have economic records. The unemployment resulting from business depressions is a much more serious problem because it affects a larger proportion of workers and lasts for longer periods. The prevention and cure of "cyclical" unemployment has been in the past and is today one of our major long-run problems.

Although these distinctions are very useful, it is not always possible in practice to decide how a particular worker's unemployment should be classified. Further-

more, a worker who loses his job because of frictional, seasonal, or technological factors is likely to find another job much more easily in a prosperous period than in a business recession. Thus, in a period of declining business, there is some tendency for all unemployment to become cyclical in character.

4. EMPLOYMENT STABILIZATION

Because of the acute economic and social distress brought on by severe or prolonged unemployment, governments throughout the world have assumed some degree of responsibility for measures designed to stabilize employment. In most democratic, industrial nations, these measures are intended to promote economic stability while preserving the characteristics of a predominantly free, private enterprise economy.

Many of the programs aimed directly or indirectly at employment stabilization in the United States date from the 1930's. Unemployment insurance is just one of these measures. Among other policies introduced in the 1930's are programs directed toward the prevention of economic distress in old age, the stabilization of farm prices, the regulation of security issues, the insurance of bank deposits, and the elimination of unusually low wages and long hours. Each of these policies is concerned with a specific economic problem but at the same time is designed to contribute to stability throughout the economic system.

After World War II, Congress enacted the Employ-

ment Act of 1946, which declared that it was the "continuing policy and responsibility of the Federal Government to use all practicable means . . . to promote maximum employment and purchasing power." Under the provisions of this act, the President presents an annual economic report to Congress, prepared with the assistance of a three-member Council of Economic Advisors. This report is carefully reviewed by a joint congressional committee, which frames specific legislative proposals on economic policy.

Unemployment insurance fits into this broad pattern. It should not be considered as an isolated program but as part of a group of policies designed to promote a high level of employment in a free society.

II. The Federal-State System of Unemployment Insurance

UNEMPLOYMENT INSURANCE in this country dates from the 1930's. The Social Security Act of 1935 included, among other programs, provisions designed to induce the states to pass unemployment insurance laws. Subsequently, within less than two years, 51 political jurisdictions—the 48 states, Alaska, Hawaii, and the District of Columbia—had established unemployment insurance programs.

1. WHAT IS UNEMPLOYMENT INSURANCE?

Unemployment insurance is a method of maintaining workers' incomes when they are out of work; it is insurance against part of the wage loss they experience when they lose their jobs. Funds are accumulated while workers are employed so that weekly benefits can be paid to them during periods of unemployment.

In common with other types of insurance, unemployment insurance utilizes the principle of pooling resources to meet a widespread risk. It is difficult for the average worker to save enough to provide for the needs of him-

self and his family during a prolonged period of unemployment. And if he *is* able to rely on his own resources during such a period, he is likely to exhaust his savings, leaving his family unprotected against subsequent emergencies. The funds accumulated through an unemployment insurance system can be used to provide benefits to those workers who do become unemployed, thereby spreading the financial burden of unemployment.

Unemployment insurance thus serves the *humanitarian* purpose of helping to prevent serious economic deprivation to workers and their families, along with its accompanying burden of anxiety. It also performs the *economic* function of accumulating funds in prosperous periods in order to maintain purchasing power in periods of business recession.

One of the most important differences between unemployment insurance and many other types of insurance is that the amount of unemployment that will occur in any given period of time cannot easily be predicted in advance. In this respect, unemployment insurance differs markedly from, for example, life insurance. A life insurance company can predict with reasonable accuracy the number of deaths that are likely to occur next year, or ten years from now, through a careful study of past trends in mortality rates. The amount of unemployment, on the other hand, has fluctuated markedly from year to year, as we have seen. Furthermore, the workers most in need of protection could least afford to purchase unemployment insurance from a private company and would constitute the least desirable risks.

Largely for these reasons, unemployment has not been regarded as a suitable type of risk for private insurance companies. Trade unions or benevolent societies have in some instances accumulated funds for the payment of benefits to unemployed workers. There have also been instances of unemployment compensation plans instituted by business firms for the benefit of their employees. But these plans, whether administered by unions or employers, have not usually been very successful, chiefly because the risks were not spread widely enough. In most highly industrial countries, and in many less industrialized countries, the government has sooner or later assumed the responsibility for maintaining an unemployment compensation system as a form of "social" insurance.

In addition to those already mentioned, there are other considerations which make unemployment a more suitable subject for social, rather than private, insurance. Chief among these is the need for some degree of integration between the unemployment insurance system and other government programs to stabilize employment.

Within the last few years in the United States, unions and employers in certain industries have, through collective bargaining, negotiated plans for supplemental unemployment benefits to be paid from private funds accumulated by employers. How prevalent such plans are likely to become, and what their impact on the unemployment insurance system is likely to be, will be considered in a later section.

2. THE ORIGINS OF UNEMPLOYMENT INSURANCE IN THE UNITED STATES

Prior to the Great Depression of the 1930's, the movement for unemployment insurance in this country had gained very little support. Great Britain had adopted a system of compulsory unemployment insurance in 1911. By 1931, eight other countries had compulsory unemployment insurance systems, while nine had some sort of voluntary or semipublic system. But many people in the United States were convinced that the relief of unemployment should remain largely the responsibility of private charitable agencies. In fact, there was some tendency to look upon the unemployed as improvident people whose joblessness was chiefly attributable to indolence or lack of ambition.

In the years from 1929 to 1933, as prices, employment and production declined precipitously, and unemployment steadily mounted, public opinion rapidly changed. By 1932, with unemployment variously estimated at from 12 to 16 million, it had become abundantly clear to most people that unemployment on this scale could not be attributed to the indolence of individual workers or to the irresponsibility of individual employers, but was the result of a complex set of economic forces of nationwide and indeed worldwide scope.

As the depression deepened, the efforts of private charitable agencies to cope with the unemployment sit-

uation were increasingly augmented by emergency relief measures adopted by federal, state, and local government agencies. But there was growing recognition of the fact that, although these emergency measures were essential under the circumstances, a sound long-range program would have to include policies directed toward the prevention as well as the relief of unemployment.

The first unemployment insurance law in this country was enacted by the Wisconsin state legislature in 1931 and approved in 1932. Bills were introduced in other state legislatures at about the same time but failed to pass.

In June, 1934, President Roosevelt appointed a Committee on Economic Security, headed by Secretary of Labor Frances Perkins. This Committee's final report was transmitted to Congress the following January and, with minor modifications, became the basis of the Social Security Act of 1935, which provided for (1) a federal program of old-age insurance, (2) a federal-state program of public assistance to the needy aged, the blind, and dependent children, and (3) a federal unemployment insurance tax program designed to induce the states to enact their own unemployment insurance laws.

3. FEDERAL-STATE RELATIONSHIPS

Although the American unemployment insurance program is unique in certain respects, its planning was influenced by European systems, as well as by certain features of state workmen's compensation laws, vol-

untary unemployment compensation plans, and the Wisconsin unemployment insurance act.

The program adopted in the United States in 1935 provided for a type of federal-state cooperation unlike any that had been attempted before. The states had been reluctant to burden their employers with special taxes to finance unemployment insurance systems when competing industries in other states were not similarly burdened. Therefore it was decided to offer the states a federal inducement to establish their own unemployment insurance programs through a "tax-offset" device.

The unemployment insurance features of the Social Security Act imposed a payroll tax of 3 per cent on employers in all the states. (Later this provision was incorporated in the Federal Unemployment Tax Act.) The tax was to be fully paid by employers in states that did not enact unemployment insurance laws but could be offset up to 90 per cent through taxes paid to support an approved state unemployment insurance system. (For example, if the federal tax amounted to $100 and the employer had contributed $90 to a state unemployment insurance fund, he would be required to pay only $10 into the federal treasury.)

The proceeds of the federal tax have been used for grants to the states to meet the costs of administering their unemployment insurance and employment service programs. To be eligible for these grants, a state must adopt and carry out administrative procedures designed to ensure prompt and full payment of unemployment insurance benefits when due and must select and maintain

its personnel on a merit basis. The Secretary of Labor may withhold grants from noncomplying states.

The federal law also sets up certain requirements which must be met under the state laws in order for employers to be eligible for the 90 per cent offset against the federal tax. These relate to

1) the payment of benefits through a public employment office,
2) the deposit of state funds in an unemployment insurance fund managed by the federal treasury,
3) the right of unemployed workers to refuse jobs which do not meet prescribed standards without having their benefits withheld, and
4) the right of an unemployed worker to a hearing before an impartial tribunal if his claim for benefits is denied.

Some of these provisions will be discussed more fully in later sections.

In addition, the federal law influences the state laws in certain other ways. The federal unemployment insurance tax, for example, exempts certain types of employment and applies only to firms with four or more employees. These provisions tend to establish minimum standards for coverage under state laws but do not prevent the states from extending coverage beyond those limits. There are also other provisions of state laws, to be discussed in later sections, that have been influenced by the federal law.

Many of the basic provisions of the state laws, moreover, have been strongly influenced by the model bills that have been prepared from time to time by the U. S.

Bureau of Employment Security for the guidance of the states. Yet the states are by no means bound to be guided by these bills, and in many respects have wide latitude in framing their own provisions. As a result there are substantial variations from state to state in benefit levels, eligibility provisions, and other important features.

4. UNIFORMITIES AND DIFFERENCES AMONG THE STATE SYSTEMS

Thus, our unique federal-state unemployment insurance system displays elements of nationwide uniformity and elements of disparity. There are certain general principles which have influenced all the state laws, and it would be well for us to have these in mind at the outset. The more important of these broad principles are:

1) Unemployment compensation is limited in amount and duration. It provides a partial offset to the loss of wages experienced by unemployed workers for a limited period but is not intended to offer complete protection against the prolonged unemployment that might develop in a severe depression.
2) Benefits are payable as a matter of right to eligible workers; they do not have to submit to a means test, as they would if applying for public assistance.
3) Benefit levels are in principle related to a worker's previous earnings in covered employment, but in practice low-income workers receive a larger proportion of previous earnings than do workers with higher incomes. Furthermore, there is a fixed upper limit on the benefit amounts received by higher-income workers under the maximum weekly benefit provisions in effect in the various states.

4) The system is designed to provide compensation to those workers who are unemployed through no fault of their own and who have a genuine intention of working again as soon as they can find other suitable jobs. It is not designed to provide benefits to workers who have withdrawn from the labor market or who might wish to draw unemployment insurance for the purpose of financing a "vacation" from work.
5) Funds are built up through payroll taxes levied on employers. Only three states require any contributions from employees, and no American jurisdiction has adopted the system of tripartite contributions—from employers, employees, and government—frequently found in Europe. As an inducement to employers to take steps to stabilize employment in their own firms, the actual tax rates paid by employers vary in accordance with "experience rating." Employers with a record of relatively little unemployment are entitled to lower tax rates.

These broad principles allow room, in practice, for wide variations from state to state in matters of detail. They also allow room for a wide area of disagreement as to objectives, particularly over such questions as what constitutes an adequate benefit level and how long is a "limited period." Furthermore, even the broad principles that have been outlined above are by no means universally accepted as desirable, and some of them have been substantially modified in practice.

It is small wonder that Edwin E. Witte, who served as Executive Director of the Committee on Economic Security which drafted the recommendations for the social security program, has characterized our unemployment compensation system as a "historical product rather than a logical conception."

III. Coverage

ABOUT THREE out of every five workers in the labor force in the United States are covered by unemployment insurance. Although coverage provisions have been liberalized during the last twenty years, the trend toward expansion of coverage has been less pronounced than under the federal old-age insurance program, which now covers about nine out of every ten employed workers.

1. SIZE-OF-FIRM PROVISIONS

The federal unemployment insurance tax applies only to firms with four or more employees. Originally it had applied to firms with eight or more workers, but a 1954 amendment reduced the size-of-firm limitation.

All the state laws are at least as inclusive as the federal law in this respect, while more than a third of the states have extended coverage to smaller firms not taxed under the federal act. At the end of 1956, 18 states covered firms with one or more workers. (Here, as in subsequent discussion of provisions of state laws, Alaska, Hawaii, and the District of Columbia are treated as "states," for the sake of simplicity.) Some of the states had included

smaller firms than those covered by the federal act from the beginning of the program or soon thereafter.

It should be explained that under the federal law, an employer is subject to the tax if he employs four or more workers on "each of some 20 days during the taxable year, each day being in a different calendar week. . . ." In some of the states, the minimum period of employment specified is even less than this.

A problem arises in connection with employers who have workers performing services in more than one state. To avoid dual taxation or gaps in coverage in these cases, all of the states have adopted uniform standards for ascribing such services to a particular state.

2. EXEMPT TYPES OF EMPLOYMENT

Not all types of employment are covered by the unemployment insurance laws. The federal unemployment insurance tax does not apply to agricultural labor, domestic service in private homes, services performed for state or local governments, employment in most nonprofit organizations, family employment, and self-employment. With a few exceptions, the state laws follow the federal law in excluding these same types of employment.

The District of Columbia (primarily an urban community) covers agricultural workers; New York covers domestic servants in private homes, but only in households which employ four or more such workers; while Alaska and Hawaii cover workers in nonprofit organizations.

In addition, a few of the states have covered their own governmental workers. The most inclusive coverage is found in Connecticut, New York, Rhode Island and Wisconsin, where all state government workers are covered and elective coverage by municipal governments is permitted. (In Wisconsin, employees of first-class cities are included under the compulsory provisions of the state law.) Other states have more limited coverage provisions for certain groups of civil servants. At the end of 1955, 14 states in all provided for either mandatory or elective coverage of at least some of their civil servants; others had authorized studies of the problem.

An important change brought about by the 1954 amendments to the Social Security Act was the inclusion of civilian employees of the Federal Government in the unemployment insurance system. Unemployment benefits to a federal worker will in most cases be paid by the state in which he had his last federal employment. The benefits will be payable in the same amount, on the same terms, and under the same conditions as are the benefits for other covered workers in the state. The Federal Government will reimburse the states for benefits paid.

Somewhat similar in its method of operation is the special program of unemployment benefits for Korean War veterans, which was modeled after the earlier program for World War II veterans. Under this program, however, the Federal Government stipulates the amount and duration of benefits—$26 for 26 weeks. If the claimant is eligible for less than this amount under the relevant state law, the Federal Government provides the

difference; if he is eligible for more than $26 a week under the state law, no payments can be made under the federal program until the other benefits are exhausted.

There is also a special federal program for railroad workers. Originally covered by the federal-state unemployment insurance system, railroad workers have been covered since 1939 by their own unemployment insurance program administered by the federal Railroad Retirement Board.

Maritime workers were originally excluded under the federal act and most state acts, chiefly because it was thought that their inclusion might be unconstitutional, but a 1943 Supreme Court decision was interpreted as eliminating any such barrier. The federal act and most state acts have since been amended to cover maritime service on American vessels.

Most of the states permit elective coverage by private employers of services excluded from the compulsory provisions of the law. Under these provisions an employer may make voluntary contributions so that his workers will be eligible for benefits. In California, a small number of agricultural workers are covered in this manner, but for the most part very little use is made of these elective provisions.

3. TRENDS IN COVERAGE, 1939–1956

Clearly, the most important changes in coverage since the early years of unemployment insurance have been the extension to smaller firms, the inclusion

of civilian employees of the Federal Government and of state government workers in a few states, and the coverage of maritime workers.

The number of workers covered has risen from 19.9 million in 1938 to 41.6 million in 1956 (on an annual average basis). Not all of this increase has been attributable to the liberalization of coverage provisions. The marked expansion of industrial employment has played an important role. Perhaps the most significant measure of the change is the rise in the proportion of the civilian labor force covered—from 36 per cent in 1938 to 63 per cent in 1956.

IV. Eligibility for Benefits

THE FACT that a worker has been employed in a covered industry does not necessarily mean that he is eligible for unemployment insurance. To be eligible, he must have a record of a minimum amount of earnings or a minimum number of weeks of work in covered employment, or both, in a recent period (the "base" period). In addition, he must be unemployed through no fault of his own. When he files his claim for unemployment insurance, he must register for work at a public employment office or agency specified in the state law. Finally, he must have a genuine intention of accepting suitable employment when it is offered. In other words, he must be able to work and available for work at suitable employment. Some states go beyond this and impose a specific requirement that he must actively seek work.

1. EARNINGS IN THE BASE PERIOD

Every state requires a minimum amount of earnings or a minimum number of weeks of work in covered employment in the base period for eligibility. These requirements are designed to test past attachment to the labor force and to ensure that benefits will be paid only to those workers against whose earnings at

least a minimum amount has been paid into the unemployment insurance fund. The New York and California provisions will serve as illustrations of two rather different types of requirements in effect at the end of 1956.

Under the New York law, a worker must have worked at least 20 weeks in the base period, with an average wage of at least $15 a week. The base period is defined as the 52 weeks preceding the filing of a valid claim.

The California law requires base-period earnings of at least $600. But if more than 75 per cent of a claimant's base-period earnings were paid during a single quarter, his total earnings in the base period must amount to at least 30 times his weekly benefit amount, or $750, whichever is lower. The base period is defined as the four calendar quarters ending approximately two quarters before the filing of a valid claim.

The New York provision would clearly rule out a seasonal worker whose employment in the base period had been confined to a few months of work during the period of peak employment in a seasonal industry. But such a worker might be able to qualify under the California law if he had worked full time in a seasonal industry throughout the period of peak employment.

All the state laws define the base period as, essentially, a very recent period of a year, but the definitions differ in detail. Most of the states simply require a minimum amount of wages in the base period, but a substantial minority of states call for some distribution of earnings over several quarters of the base period.

The most striking differences are in the minimum amounts of earnings required. At the end of 1956, these ranged all the way from Mississippi's $90 minimum amount to the $800 required in the state of Washington. The majority of states required less than $300, while only three required $600 or more. There was a tendency for these differences to be related, though not strictly proportionally, to interstate differences in wage levels.

As wages have risen, there has been a tendency to raise base-period earnings requirements. In addition, as the states have gained experience with the program, there has been a tendency to add requirements calling for some distribution of earnings over several quarters. Such provisions are clearly designed to make it more difficult for seasonal and other short-period workers to qualify.

There is considerable disagreement over the relative advantages and disadvantages of requirements stated in terms of minimum earnings or minimum weeks of employment. As wage levels rise, minimum earnings requirements become less restrictive unless they are revised upwards. Requirements stated in terms of weeks of employment are free of this disadvantage but are less easily administered in a system geared to the furnishing of quarterly earnings reports by employers. Where a weeks-of-employment criterion is used, it is necessary to require employers to furnish, on request, records of time actually worked as well as of earnings.

2. DISQUALIFICATION

Even though a claimant has met the requirement of minimum earnings in covered employment during the base period, he may be disqualified on other grounds. There has been a distinct tendency during the last two decades for the states to tighten the provisions relating to disqualifying acts, particularly through extending the length of time during which benefits will be denied as a penalty for such acts.

In 1954, according to data published by the U. S. Bureau of Employment Security, approximately 1.6 million claims resulted in disqualification. This was about 11 per cent of all new claims in that year—a percentage which has not varied markedly from year to year. Not included in total disqualifications are those based upon labor disputes.

The most common grounds for disqualification are findings that the claimant is unable to work or is unavailable for work. About 39 per cent of all disqualifications in 1954 were on one of these two grounds. This type of disqualification differs from most others in that it lasts until the claimant's status has changed—that is, until he *is* able to work or available for work—rather than for a stipulated period. The issues posed by the availability requirement will be discussed in the next section. The remainder of the present section will be devoted to other grounds for disqualification.

a. *Quitting work without good cause.* All the state laws treat voluntarily leaving a job without good cause as a ground for disqualification, and in most states the provision applies to the claimant's most recent job. There has been a tendency to tighten the definition of what constitutes a "good cause" for quitting. By 1955, 21 state laws disqualified a claimant unless his reason for quitting was not only "good" but also "attributable to the employer" or "connected with the work."

There are wide differences among the states in the prescribed periods of disqualification. In 1955, it was a specified number of weeks in 14 states, a variable number (depending on the circumstances of the case) in 22, and in the remaining 17 states the claimant was disqualified for the duration of unemployment or longer. The maximum was six weeks or less in 15 states and longer than this in all others.

In addition, nearly half of the states canceled or reduced benefit rights, usually to the extent of the disqualification imposed. Thus, if the claimant would have been eligible for 26 weeks of benefits, and was disqualified for six weeks, he would remain eligible for only 20 weeks. In the other states benefit rights were merely deferred, not canceled.

Those who are in favor of a short period of disqualification argue that, after a period of four or five weeks, an individual's unemployment is likely to be attributable to the state of the labor market rather than to the original disqualifying act. But there is strong support for long periods of disqualification by others who feel that the

system is not intended to provide benefits for those who quit a job without good cause.

In terms of frequency of occurrence, voluntary quits are the second most important basis for disqualification, accounting for 31 per cent of all disqualifications in 1954.

b. *Discharge for misconduct.* The provisions applicable to a discharge for misconduct are quite similar to those for voluntary quits, except that the laws are more likely to provide for a variable period of disqualification, that is, a period which depends on the seriousness of the misconduct. About 13 per cent of all disqualifications in 1954 resulted from this cause.

c. *Refusal of suitable work.* Although this is one of the more difficult issues in unemployment insurance—to be discussed more fully in the next section because of its close relation to availability for work—it accounts for relatively few disqualifications (only 5 per cent in 1954). The prescribed periods of disqualification are similar to those for voluntary quits, although there are substantial differences in some of the states.

d. *Labor disputes.* A worker who is unemployed because of a labor dispute in the firm in which he was last employed is disqualified under all the state laws, with a view to placing the unemployment insurance system in a position of neutrality in labor disputes. This type of disqualification differs from all others in that it applies to groups of claimants, sometimes running into the thousands. The provisions attempt to confine the disqualification to the workers actually concerned in the dispute and to protect other workers from loss of benefits due to a dispute which affects their work indirectly.

Most states establish no fixed period of disqualification for a labor dispute; it usually lasts as long as the dispute remains unsettled. In Rhode Island, however, a worker who is unemployed because of a labor dispute in the firm where he was employed is eligible for benefits after a six-week disqualification period and a one-week waiting period. New York has a somewhat similar provision, and there are a few states which terminate the disqualification if the worker can show that the labor dispute is no longer the cause of his unemployment.

e. *Other grounds for disqualification.* Students who are not available for work while attending school, women who are unable to work because of pregnancy, and women who quit their jobs because of marital obligations which make them unavailable for work, are ineligible for benefits under the able and available provisions. But many difficult questions arise as to whether such persons are in fact unavailable in particular instances, and many of the states have statutory provisions specifically disqualifying these groups. Claimants are also disqualified in some states for weeks when they are in receipt of "other remuneration," such as old-age insurance, a pension, vacation pay, or a separation allowance.

3. THE PROBLEM OF FRAUD

The states tend to reserve their most severe penalties for cases of fraud. The California law includes a good definition of what is usually meant by fraud in connection with unemployment insurance:

It is a misdemeanor to wilfully make a false statement or representation or knowingly fail to disclose a material fact to obtain, increase, reduce, or defeat any benefit or payment under the provisions of this division. . . .

All the state laws provide for periods of disqualification from benefits in cases of fraud. The penalties are usually considerably more severe than for other disqualifying acts. At the end of 1955, 12 of the state laws provided for disqualification for at least a year, while the remaining laws called for even longer periods under some circumstances. But these relatively severe penalties frequently applied only to those cases in which benefits were actually *received* as a result of a fraudulent claim or to cases in which the claimant was *convicted* of fraud. In California, for example, a claimant who wilfully made a false statement or failed to report a material fact was subject to disqualification for 2 to 18 weeks, but if convicted in a court, the period of disqualification was a year. In addition, all the state laws include a provision for recovery of benefits in cases of fraud, and most of them provide for a fine or imprisonment or both.

There are penalties, too, for employers who violate the law as well as for workers who make fraudulent claims.

4. THE EXTENT OF ABUSE OF THE SYSTEM

Not all cases of abuse of the unemployment insurance system involve outright fraud. Abuse may range all the way from the case of a worker who deliberately

lies in order to receive both wages and benefits at the same time to the case of an individual who honestly thinks he should continue to draw benefits until the "right job" turns up, even though he has almost no prospect of obtaining the type of job he is seeking. Scarcely to be considered "abuse," but occasionally erroneously classified as "fraud," is the case of the claimant who makes an unintentional and trivial error in supplying the information required when he files a claim.

For these reasons, and because there have not been enough careful studies of the extent of abuse, it is difficult to reach an authoritative answer to the question of how much abuse there actually is.

Even so, certain generalizations can be made on the basis of the studies that are available. There is some evidence that the extent of abuse varies with changes in labor market conditions. Furthermore, some groups in the population are more likely to abuse the system than others. Married women who do not follow continuous work careers but move into and out of the labor force as their personal or family situations change account for more than their share of violations. In addition, violators tend to be relatively numerous among lower-income and less educated workers, among intermittent workers, and among certain other groups. But one investigator reached the conclusion that, in "normal" times, in New York at least, not more than 1 or 2 per cent of all benefits went to violators.

More recently, the U. S. Bureau of Employment Security has reported that payments made on fraudulent

claims during the 1955 fiscal year amounted to only 3/10 of 1 per cent of all benefits. What this figure does not tell us, of course, is how much fraud or abuse goes undetected. For information on this point, it is necessary to rely on more intensive studies.

The best protection against abuse is efficient administration. But there is need, also, for continuing studies of the problem, not only as a guide to administrators but also as a means of providing the public with accurate information. To a large extent, the attitude of the public toward proposed changes in the system depends on its evaluation of the extent of abuse.

V. Availability for Work

1. INTRODUCTION

When the unemployment insurance system was originally adopted, it was generally assumed that most unemployed workers were attached fully and continuously to the labor force and thus available for work. But experience with enforcement of the program uncovered many exceptions to this rule. A great deal of movement into and out of the labor force, especially on the part of women, young workers, and other special groups has meant that the issue of availability for work arises more frequently than was anticipated. Furthermore, there was originally little realization of the extent to which workers shifted from one occupation to another during the course of their work careers. Shifts of this kind play an important role in permitting the economy to adjust to changing industrial conditions, but they also create problems of availability, for they involve the question of the type of job for which the claimant should be required to be available.

To be considered available for work, a claimant must be willing, able, and ready to accept suitable employment. In other words, he must be "attached" to the labor force. This is the broad principle which underlies all

decisions as to availability, but it leaves unanswered many of the questions which arise in particular cases.

Must a claimant be physically able to perform his customary type of work, or merely *some* type of work? Must he be willing and ready to accept any type of employment considered suitable by the administering agency, or may he restrict his availability to a particular type of job? Must he be prepared to commute many miles to work, or move to another labor market area, if no suitable work is available in his locality? If he has been employed in a seasonal industry, must he seek work in some other industry during the off season? May he restrict his availability to part-time work? What constitutes an adequate search for work?

These are some of the more important questions that arise in availability cases. What are the general principles that are applied when these, and closely related questions, arise in the administration of unemployment insurance? To a large extent, the general principles are based on precedent-setting decisions that have been reached in appeals cases. But no two cases are exactly alike, and the facts of each individual case must be carefully considered. Sometimes a case represents a combination of circumstances to which apparently conflicting principles apply. Administrative judgment is required to determine which principle will govern, and the actual decision may be influenced by the individual administrator's bent toward restrictive or liberal decisions, or by the general attitude prevailing throughout an entire state administration.

In view of these considerations, it is obvious that the general principles to be discussed will not necessarily indicate what the administrative decision might be in a particular case. They will merely illustrate some of the broad guide-lines that are used.

2. ABILITY TO WORK

Although ability to work is implied in the term availability for work, many state laws make it a separate eligibility requirement.

A claimant is considered "able to work" if he has some degree of physical and mental capacity to perform remunerative work. He need not be able to pursue his usual occupation, or to meet the requirements of a particular job. But he must be able to do suitable work, and what will be considered suitable work will depend on his physical condition as well as on his other job qualifications. Many physically handicapped persons are capable of performing some type of work.

On the other hand, the type of work an individual is able to do must not be so restricted that he has removed himself from the commercial labor market. If his physical capabilities are so limited that no one would employ him except "out of motives of charity," he is not able to work. In other words, an individual is considered able to work, *even though* his employment opportunities are quite limited, if there is a market for services which he is able to perform.

Temporarily disabled workers are protected from wage loss in four states under temporary disability insurance programs that are closely geared to the unemployment insurance system. These four states are California, New Jersey, New York, and Rhode Island. Railroad workers are also similarly protected under a federal program. Cash benefits, determined in accordance with benefit formulas that are very similar to those used in the unemployment insurance program, are paid to workers who are out of work because of disability. The California law also provides for limited hospital benefits.

3. AVAILABILITY FOR SUITABLE WORK

Many of the difficulties arising in availability cases have to do with the type of job the claimant is prepared to accept. He must be available for suitable work. But that does not mean that he must be available for *all* types of suitable work. He will have satisfied the availability requirement if he is available for a *substantial amount* of suitable work. This means that he must not impose *unreasonable restrictions* on the type of employment he will accept.

If a claimant refuses a particular job deemed suitable by the employment office, he may be disqualified for receipt of unemployment benefits for the period specified in the state law, but he will not necessarily be declared unavailable. He may still be available for a substantial amount of suitable work. Thus he would be-

come eligible for benefits once the period of disqualification had ended.

Suppose, however, that a claimant restricted his availability to a type of job that was rarely, if ever, to be found in his locality or in any locality in which he was willing to work. In this case, he would undoubtedly be declared unavailable on the ground that he had imposed an unreasonable restriction on the type of work he would accept. For one of the most important and generally accepted principles of availability is that a claimant must be willing to perform services for which there is a market in the locality in which he is seeking employment. If a New York garment cutter, for example, moved to a small town in the Middle West and limited his availability to garment cutting, he would probably be declared unavailable on the ground that he had removed himself to a place where there were no employment opportunities for garment cutters.

Does this mean that a claimant would be declared unavailable if there were no job vacancies in his line of work because of unfavorable labor market conditions? The answer is clearly no, since this is the type of situation for which the unemployment insurance system is designed to provide protection. If our New York garment cutter had remained in New York and had been laid off because of a temporary recession in the garment industry, he probably would not have been declared unavailable for seeking employment only as a garment cutter. To have made himself available for other types of work (except, perhaps, on a temporary basis) would have

meant risking his future career as a garment cutter, which represented his highest skill. In other words, the requirement that there must be substantial employment opportunities in the area for the type of work the claimant seeks means that these job opportunities must *normally* exist in the area, even though at the time there may be no job openings because of labor market conditions.

4. WHAT IS SUITABLE WORK?

It is time to consider more carefully the meaning of "suitable work." If suitable work were defined so broadly as to include almost any kind of work, however poorly paid or out of line with a claimant's previous employment experience, the unemployment system could be used to depress wages and destroy established labor standards. On the other hand, if a narrow definition were adopted, and the worker were permitted to reject any job that did not meet his precise specifications, the system might encourage unduly long spells of unemployment and interfere with necessary adjustments to changing labor market conditions.

The Federal Unemployment Tax Act provides that benefits shall not be denied to an otherwise eligible claimant who refuses to accept a job under the following conditions:

1) if the job is vacant because of a strike, lockout, or other labor dispute,

2) if the wages, hours, or other conditions of work are substantially less favorable than those prevailing for similar work in the locality, or
3) if as a condition of employment the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

In addition to these mandatory minimum standards, most of the state laws list certain criteria to be considered in determining whether or not work is suitable. The California law, for example, provides that:

'Suitable employment' means work in the individual's usual occupation or for which he is reasonably fitted, . . .
In determining whether the work is work for which the individual is reasonably fitted, the director shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence. Any work offered under such conditions is suitable if it gives to the individual wages at least equal to his weekly benefit amount for total unemployment.
In any particular case in which the director finds it impracticable to apply any of the foregoing standards he may apply any standard which is reasonably calculated to determine what is suitable employment.

The clear intent of the law, and of most of the state laws, is to permit a worker to refuse a job involving a substantial downgrading of his usual skill or pay level or one involving inferior working conditions. But as his period of unemployment lengthens, he may be expected

to lower his standards. Under such circumstances, the administrator may consider that the circumstances justify referring him to a somewhat less desirable type of job.

5. THE LABOR MARKET AREA

The free movement of workers from place to place is desirable in a changing industrial economy. Areas in which job opportunities are expanding need to attract workers from areas in which job opportunities are less favorable or are chronically depressed.

Ideally, the unemployment insurance system should encourage but not compel such movement, and this seems to be essentially the principle that is applied. A claimant is not ordinarily required to be available for work in any *particular* labor market area, such as the one in which he last worked (except under specific statutory requirements in a few states). He may even seek work in a different state, since the system is equipped to handle interstate claims. But he may be declared unavailable if he (1) moves to an area in which jobs in his customary line of work are scarce or nonexistent, and (2) restricts his availability to this type of work (e.g., our New York garment cutter). There have been many cases involving married women who have moved with their husbands to small labor market areas in which job opportunities in their customary occupations were extremely limited. If, under such circumstances, a woman restricts her availability to her usual occupation, or to types of work which

are very scarce in the area, she is likely to be declared unavailable. In fact, as has been indicated in an earlier section, many state laws specifically disqualify married women who leave their jobs because of domestic responsibilities, for example, to accompany their husbands to new localities.

Although a claimant may move to a different area in search of employment, he is likely to be declared unavailable if he travels to a distant area purely for pleasure or for other personal reasons.

An individual who is unwilling to move to a different locality is not required to do so, even though job opportunities may be currently unfavorable in his present labor market area. He will be considered available so long as the area is one in which there are normally substantial employment opportunities for services he is willing to perform and so long as he has a means of transportation to work. He must, however, be willing to commute a "reasonable" distance to work, particularly if suitable employment opportunities within a short distance from his home are limited. A trip requiring an hour of commuting time has not been considered unreasonably long in cases involving workers in large metropolitan areas.

6. SEASONAL WORKERS

Seasonal workers clearly pose a special set of problems in connection with availability provisions. The chief difficulties arise in industries such as fruit and vegetable canning which have a short season of peak

employment, during which substantial numbers of housewives, students, or other temporary workers are employed. Many of these temporary workers do not accumulate enough wage credits or weeks of employment to qualify for unemployment insurance under the eligibility provisions.

For those seasonal workers who do qualify, the basic principle seems to be that, to be considered available for work, a seasonal worker must be willing to accept employment outside his seasonal occupation during the off season. The principle is frequently difficult to apply, particularly in small localities in which job opportunities during the off season are extremely limited. A number of states have imposed specific statutory provisions which in effect prevent the use of wage credits accumulated in a seasonal industry as a basis for the payment of benefits in the off season. Since such provisions have proved difficult to administer, however, many states prefer a policy of case-by-case determination of the availability of seasonal workers. For special groups, such as students, there are frequently statutory provisions which apply more generally, as has already been indicated.

7. PART-TIME WORK

Many housewives, students, partially disabled, or older workers find it difficult or inconvenient to work full time and are available for part-time work only. Such workers occupy a dubious position in relation to the

unemployment insurance system. In many appeal cases, the availability requirement has been interpreted to mean availability for full-time work. Other decisions have upheld the eligibility of claimants who have had a previous record of part-time work and restrict their availability to substantially those hours previously worked. But there has been a strong tendency to deny benefits to claimants who were previously full-time workers but who sought, under altered circumstances, to restrict their availability to part-time work.

The principle underlying this distinction appears to be that the claimant should be considered eligible if he is available on substantially the same basis as the one on which his wage credits were earned. But the question may well be raised as to whether this reasoning is consistent with the notion that the unemployment insurance system should encourage desirable labor market adjustments. With growing recognition of the need to encourage part-time employment for older and handicapped workers, it may well be that this line of reasoning will be modified.

8. THE SEARCH FOR WORK

Every claimant is required to register for work at a public employment office or other agency specified in the state law. In addition, he will frequently be expected to take other steps to find suitable employment. There has been a tendency, in the availability decisions of recent years, to hold that an active search for work is required to establish availability.

If all job vacancies were listed with the public employment service, there would be no reason to expect a claimant to undertake an independent search for work. But in many labor market areas, only a minority of all job openings are filled through the public employment service. Employers frequently use other channels of recruitment—private agencies, newspaper ads, or contacts with schools and colleges—particularly in connection with the hiring of white-collar and professional workers. Manual workers are often hired "at the gate" or, in strongly organized labor market areas, through unions. Hence, what constitutes an adequate search for work will depend on the customary recruiting and job-seeking methods in the claimant's occupation. This is the test that is generally applied in availability determinations.

About half of the states impose a specific statutory requirement that the claimant must actively seek work. In addition, administrative regulations frequently specify what constitutes an adequate search for work. But such requirements are difficult to administer if they are couched in rigid terms. Whether it is reasonable to require a claimant to seek work by systematically calling on the employers in his area will depend, not only on his occupation, but also on the state of the labor market. During a business recession, when job vacancies are few and far between, this type of search may be fruitless. Some of the states have recognized these difficulties by avoiding rigid requirements.

9. AN EVOLVING SET OF PRINCIPLES

For two decades, a body of doctrine has been developing on issues of availability. Some of the major principles seem clear, equitable, and relatively well established. On other matters, decisions have not followed an entirely consistent pattern, and there is considerable room for modification. As court decisions multiply, there will undoubtedly be a tendency for more detailed principles to evolve, but administrative discretion is likely to remain an important element in availability determinations.

VI. Benefits and Their Duration

1. BENEFIT FORMULAS

The weekly benefit amount which an eligible claimant receives depends, at least in principle, on his earnings in the base period. All the state laws include a basic benefit formula which defines the weekly benefit amount as a specified fraction of base-period earnings. But the fact that the laws also provide for minimum and maximum weekly benefits results in a significant departure from the principle of strict proportionality to previous earnings.

Originally, most of the state laws provided for weekly benefits amounting to 50 per cent of each claimant's full-time weekly wage in the base period. But these early laws also established a small minimum weekly benefit and a maximum benefit which was usually set at $15. Thus, a claimant who had been earning $20 a week would be entitled to a weekly benefit of $10, but a claimant who had been earning $30 or more a week would receive the maximum benefit of $15.

It was soon discovered that this type of formula was difficult to administer, since it was not easy to determine what a claimant's normal full-time weekly wage had

been, particularly if he had been paid on a piecework basis or had been working on reduced hours. As a result, most of the states went over to a basic formula under which the weekly benefit amount depended on the claimant's highest quarterly earnings in the base period. In other words, if his earnings had varied from quarter to quarter in his base period, the quarter in which his earnings had been highest would be used as the basis for determining his weekly benefit. In order to arrive at a weekly benefit equaling 50 per cent of a claimant's weekly earnings, the benefit amount was usually defined as 1/26 of highest quarterly earnings—there being, of course, 13 weeks in a quarter. Because workers frequently experience unemployment even during the quarter of highest earnings, many of the states have raised this fraction to, say, 1/23 or 1/20 in an attempt to reflect full-time weekly earnings more accurately.

All the state laws continue to provide for minimum and maximum weekly benefit amounts. Since the majority of eligible claimants qualify for the maximum amount, it is necessary to compare maximum benefit provisions in the various states to arrive at an adequate picture of benefit levels.

2. MAXIMUM AND MINIMUM WEEKLY BENEFITS

Originally, maximum weekly benefits were set at well above 50 per cent of average weekly earnings of covered workers in most states. As wage levels rose, the

maxima were revised upward from time to time, but the upward adjustments usually lagged well behind the increase in wage levels. As a result, maximum benefits have tended to be less than 50 per cent of average weekly earnings in covered employment. In 1955 they amounted to between 35 and 45 per cent of average weekly wages in most states.

In terms of dollar amounts maximum weekly benefits varied from $24 to $40 (disregarding dependents' allowances) under the state benefit schedules in effect at the end of 1955. Not included in this comparison is Alaska, which had a maximum of $45 for intrastate claimants and of $25 for interstate claimants. Roughly a third of the states had maxima somewhat over $30 a week; another third had set their maxima at $30; and the remaining states paid a maximum benefit of less than $30. Maximum benefit levels (like base-period earnings requirements) tended to vary with interstate differences in wage levels, but not strictly proportionally.

Although most claimants qualify for maximum benefits, the actual proportion who receive the maximum varies substantially from state to state, and there are some states in which considerably less than half of all claimants are entitled to the maximum.

All the state laws provide for minimum weekly benefits. For the most part, workers qualifying for these minimum benefits are casual, intermittent, or part-time workers. Under the state schedules in effect at the end of 1955, minimum benefits ranged from 50 cents to $17 a week (disregarding dependents' allowances), but the

majority of states fell within the group providing for minima between $7 and $10.

The effect of both the minimum and maximum provisions is to weight benefit schedules in favor of those with low previous earnings. It is recognized that a low-income worker will require a larger percentage of his

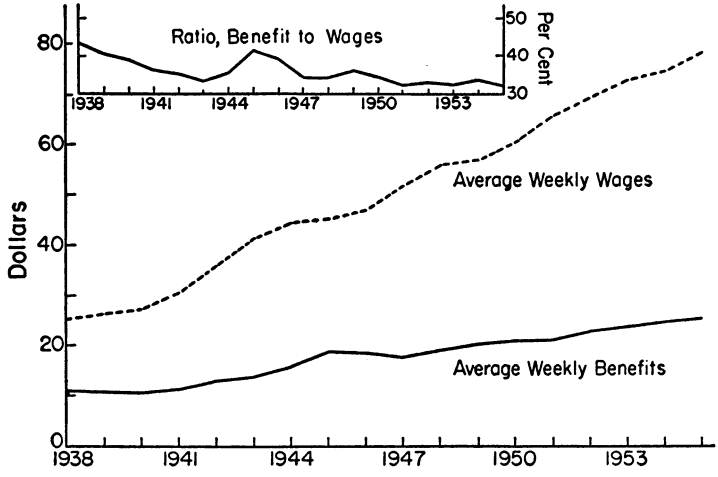

Chart 2. Average Weekly Benefits and Average Weekly Wages, United States, 1938–1955

SOURCE: U. S. Bureau of Employment Security.

wage loss just to meet minimum family needs during a period of unemployment than will a worker with a higher income. Thus the benefit formulas to some extent recognize the principle of *need* as well as the principle of relating benefits to previous earnings.

Because increases in benefit provisions have lagged behind rising wage levels, average weekly benefits in

recent years have represented a substantially smaller proportion of average weekly wages in covered employment than was true in the early years of unemployment insurance (see Chart 2). Over the nation as a whole, they declined from 43 per cent of average weekly wages in 1938 to 32 per cent in 1955.

3. DEPENDENTS' ALLOWANCES

The dependents' allowances granted under some state laws—like the minimum and maximum provisions—also reflect a concern with family need. At the end of 1955, there were 11 states that provided for dependents' allowances. The extra amounts ranged from 50 cents to $5 per dependent, and there was usually an upper limit on the total amount payable for dependents. Furthermore, some of the states restricted the payment of dependents' allowances to claimants with somewhat more than minimal base-period earnings or varied the amounts allowed in accordance with base-period earnings.

4. BENEFITS FOR PARTIAL UNEMPLOYMENT

All the state laws make some provision for weekly benefit payments to workers who are partially unemployed. (The Montana law, which makes no specific provision for partial unemployment, accomplishes the same purpose through a definition of total unemployment that permits certain minimum earnings.)

Under most of the state laws a covered worker is considered partially unemployed if he is earning less than his weekly benefit amount. Provided such a worker has satisfied all the eligibility requirements, he is entitled to receive partial benefits. These typically represent the difference between (1) his weekly benefit amount and (2) his actual earnings over and above a certain minimum amount. In California, for example, he would receive his weekly benefit amount less his actual earnings over and above $3. Thus a worker who would qualify for a weekly benefit amount of $20 and was actually earning $15 would receive $8 a week in benefits.

5. DURATION OF BENEFITS

Unemployment benefits are paid, as we have seen, for a limited period only. Although the various state provisions differ, their effect is to provide benefits for a maximum period of from 16 to 30 weeks of total unemployment.

When an unemployed worker files a claim for unemployment insurance, he establishes the beginning of a "benefit year." During the benefit year he may not receive more than a specified multiple of the weekly benefit amount to which he is entitled. This multiple, which varies from 16 to 30 in the different states, determines the maximum number of weeks of total unemployment for which he may be compensated.

At the end of 1955, 14 states specified a uniform multiple of the weekly benefit for all eligible claimants.

Thus in these states the maximum duration of benefits was the same for all claimants who were totally unemployed. Partially unemployed workers, receiving less than their weekly benefit amounts, would be eligible to receive benefits for a longer period within the benefit year. The remaining states had more complex provisions, which had the effect of reducing the potential number of weeks of benefits for claimants with records of unsteady employment in the base period.

At the end of 1955, 25 states, including California, had provisions which permitted the payment of benefits for a maximum period of 26 weeks of total unemployment. In most of the remaining states, the maximum period was shorter, but there were two states which provided for a maximum period of somewhat more than 26 weeks. There was a tendency for low maximum benefit levels and low maximum duration periods to go together, resulting in maximum total benefit amounts that were much lower than in states with more generous provisions.

6. THE WAITING PERIOD

The great majority of states require a waiting period of one week of unemployment before benefits become payable. At the end of 1955 only four states—Maryland, Nevada, North Carolina, and Texas—did not have such a requirement.

The waiting-period requirement applies only to the first period of unemployment experienced during a benefit year. Claimants who experience subsequent periods

of unemployment and have not exhausted their benefit rights are entitled to receive benefits beginning on the date of filing a claim to reopen their rights to benefits. In addition, about half the states provide that there shall be no interruption of benefits for consecutive weeks of unemployment continuing into a second benefit year. But in these states the waiting-period requirement has to be met if, later in the new benefit year, the claimant is again unemployed.

7. EXHAUSTION OF BENEFITS

Claimants who exhaust their benefit rights before the end of a benefit year cannot receive any more compensation until a new benefit year has been established, based on a new base period. A majority of the states have a provision, however, which permits these claimants to receive additional benefits in a new benefit year without intervening employment, if they received sufficient wages in the "lag period." The lag period is the period between the prior base period and the beginning of the old benefit year.

The number of unemployed who exhaust their benefits varies with the state of the labor market. When relatively few workers are unemployed, most unemployment tends to be of short-term duration. Those workers who do lose their jobs tend to find other employment with comparatively little delay. But when unemployment becomes more widespread, the proportion of long-term unemployment tends to increase.

During the Korean War period, when a high level of employment prevailed, about 800,000 claimants, or approximately a fifth of all those who received benefits during the course of a year, exhausted their benefit rights each year. In 1954, when unemployment rose, the number of claimants exhausting benefits increased to 1.8 million or slightly more than a fourth of all beneficiaries.

8. TRENDS IN DURATION PROVISIONS

Duration provisions have been substantially liberalized during the last twenty years. The early state laws tended to permit the payment of benefits for maximum periods of only 12 to 16 weeks, and waiting periods of two to four weeks were required.

These provisions were gradually modified, and undoubtedly efforts will continue to be made in the various states to lengthen maximum benefit periods and to eliminate waiting periods altogether. But attempts to liberalize duration provisions meet strong resistance, not only from those who support limited benefit periods as a matter of principle, but also because of the intimate relationship between benefit provisions and the financing of unemployment insurance, which will now be considered.

VII. Unemployment Insurance Financing

1. THE PAYROLL TAX

Unemployment insurance is financed through a payroll tax levied on covered employers. Only three states (Alabama, Alaska, and New Jersey) require contributions from both employers and employees, although such provisions were more common in the early years of unemployment insurance.

There were a number of reasons for the selection of a payroll tax on employers as the prevailing method of financing unemployment insurance in this country. Probably the most important factor was that the tax-offset device adopted by the Federal Government to induce the states to enact unemployment insurance laws could be applied most easily to a tax levied on employers in the various states.

Even though the payroll tax is levied on employers, it must be recognized that the costs of unemployment insurance are borne, to a large extent, by consumers. In many instances, the burden of the tax is shifted to the consumer through an increase in the price of the product. This will be particularly true if consumers are insensitive to small changes in price. If, however, consumers resist

price increases, or if employers have excess capacity and are anxious to obtain more business, prices may not fully reflect the increase in labor costs.

Under the federal act, a tax of 3 per cent is levied on covered employers in the various states, as has been indicated earlier. The standard rate of contributions under all state laws is 2.7 per cent (90 per cent of the federal tax), but in practice considerably lower rates apply to most employers under experience rating. The federal act provided from the beginning that employers could get credit under the tax-offset plan not only for contributions actually paid under a state law but also for contributions which they were excused from paying under a state experience-rating system. As a result, all the states adopted experience-rating systems, which will be discussed below. Alaska, however, has recently abandoned experience rating.

The federal act provides that the payroll tax will apply only to wage payments of $3,000 or less in a calendar year to an individual employee. Employees with annual earnings above $3,000 are covered (provided they are working in covered employment), but the employer pays no tax on the amount over $3,000. Most of the state laws also limit taxable wages to $3,000 but a few states have recently raised the limit to $3,600.

2. THE COSTS OF UNEMPLOYMENT INSURANCE

Before discussing state tax rates in greater detail, it will be useful to consider the costs of unemploy-

ment insurance and the manner in which they vary by state and by industry.

The federal unemployment insurance tax rate was set at 3 per cent on the assumption that this was the maximum rate employers could stand at a time when new payroll taxes were also being imposed to finance old-age insurance. Benefit and duration provisions in the original draft bills were influenced by estimates of the total benefit liabilities that could be financed with a 3 per cent contribution rate.

As it has turned out, unemployment insurance costs have been considerably lower than was anticipated. In large part, this reflects the fact that high levels of employment have prevailed throughout most of the period since the late 1930's.

The ratio of benefits to taxable wages is commonly used as a measure of unemployment insurance costs. In recent years this ratio has been averaging about 1.4 per cent, dropping below this level during the Korean War period and rising above it in 1954, when unemployment increased (see Chart 3). But cost ratios have differed considerably in the various states, although in all ten of the largest states represented in Chart 3 cost ratios in most years have been substantially below the standard tax rate of 2.7 per cent.

The states have responded to this low-cost experience in part by reducing tax rates in effect under experience-rating systems and in part by liberalizing the duration of benefits. Benefit levels, too, have been raised, but the rise in average benefits, as has been indicated, has not kept pace with the increase in wage levels.

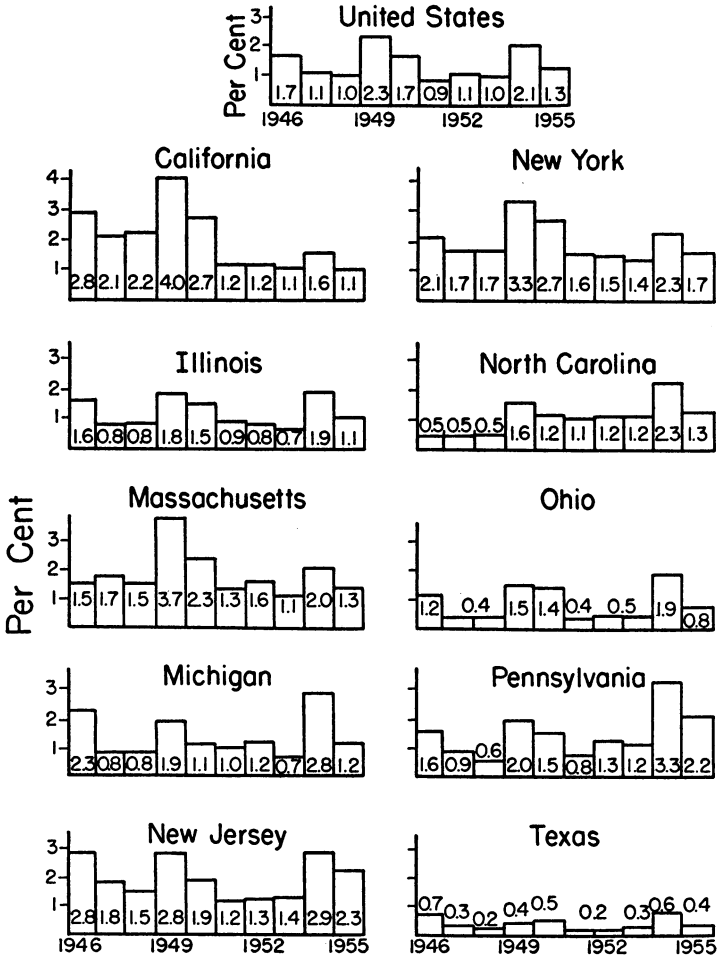

Chart 3. Unemployment Benefits as Per Cent of Taxable Wages, United States and Ten Largest States, 1946–1955

SOURCE: U. S. Bureau of Employment Security.

Unemployment insurance costs differ considerably from one industry to another. Industries in which employment tends to be stable, such as the telephone or electric utility industry, experience low unemployment insurance costs. Where employment is unsteady or subject to marked seasonal variations, as in apparel, food processing, and the like, costs tend to be high. In California, for example, average costs in most major industry groups do not differ appreciably from the statewide average, but costs have been relatively high in certain industries characterized by seasonal, intermittent, or casual employment. In the years 1950–1953, benefits paid in the apparel industry in the state averaged 5.1 per cent of taxable wages. Other comparatively high-cost industries were food products, hotels and restaurants, water transportation, and motion pictures.

Interstate differences in costs are affected in part by differences in benefit provisions and other features of the state laws, but to a much greater extent by differences in the industrial distribution of employment. The states with high benefit costs tend to be highly industrialized, with comparatively large proportions of women and of seasonal or intermittent workers in the labor force. The existence of temporarily depressed industries in a state may raise its relative costs for a short period, while chronically depressed industries will affect the state's cost structure over a longer period.

Although unemployment insurance costs are usually expressed in terms of the ratio of benefits to *taxable* wages, it must be remembered that not all wages, even

in covered industries, are taxed. In most states, as we have seen, the payroll tax applies only to annual wages of $3,000 or less paid to an individual employee. As annual earnings have increased, the proportion of total wages exempt from the tax in covered industries has also risen. Thus unemployment insurance costs—as measured by the ratio of benefits to *total* wages in covered industries—are considerably lower, and have declined more sharply in recent years, than the data in Chart 3 suggest. This consideration should be kept in mind in appraising current costs and benefit levels.

3. EXPERIENCE RATING

Experience rating is a method which permits the tax rates of individual employers to be adjusted on the basis of their experience with unemployment. Although complicated in practice, its principle is quite simple: the employer who maintains a relatively stable work force is taxed at a lower rate than the employer whose workers are frequently unemployed.

The Federal Unemployment Tax Act outlines the general requirements for state experience-rating provisions. Under the pooled-fund system, which prevails in most states, payments into the unemployment insurance fund are "mingled and undivided." Benefits are paid from this fund, not from individual employer accounts. But under the formulas in effect in most states a record is kept of taxes paid by each employer and of benefits paid to his employees in order to determine his experience rating.

The federal law provides that, under a pooled-fund system, employers may be granted a reduced tax rate on the basis of at least one year's experience with unemployment. Prior to 1955, at least three years' experience had been required.

Within the framework of the federal requirements, state experience-rating systems vary greatly, owing chiefly to the different formulas used for rate determination. The *reserve ratio* formula is used in a majority of the states. On each employer's record are entered the amount of his payroll, his contributions, and the benefits paid to his workers. The benefits are subtracted from the contributions and the resulting balance is divided by the payroll to determine the reserve ratio. The balance carried forward each year is ordinarily the difference between the employer's total contributions and the total benefits received by his workers since the law became effective. The payroll measure used is ordinarily one third of taxable wage payments for the last three years, except in the case of newly covered employers.

If, for example, an employer has paid a total of $200,000 into the fund over a period of years and total benefits charged to his account have amounted to $60,000, his balance is $140,000. If his average payroll for the preceding three years has been $2,000,000, his reserve ratio equals $140,000 divided by $2,000,000, or 7.0 per cent. If, on the other hand, his payments into the fund have amounted to $200,000, while benefits charged against his account have totaled $250,000, his balance would be –$50,000. Such "negative-reserve" accounts tend to arise in industries in which the ratio of benefit

costs to taxable wages is above the maximum 2.7 per cent tax rate, i.e., those in which the risk of unemployment is great.

The employer must accumulate and maintain a specified reserve before his rate is reduced. Then rates are assigned in accordance with reserve ratios. The formula is designed, at least in principle, to make sure that no employer will be granted a rate reduction unless, over the years, he contributes more to the fund than his workers draw in benefits. The schedule of reduced rates is planned in such a way as to ensure that adequate reserves will be maintained in the state fund, although in practice this aim is not always achieved.

In addition to the reserve ratio plan, there are a number of other methods for determining rate reductions in use in the various states. The most significant departure from the reserve ratio formula is the payroll variations plan, which is used (sometimes in combination with other formulas) in six states, generally the last states to go over to experience rating. Under this plan, the employer's tax rate depends on the extent to which he has experienced a decline in his payroll from year to year or from quarter to quarter over a given period. If he has experienced little or no decline in his payroll, he will be entitled to the maximum permissible rate reduction.

4. STATE TAX SCHEDULES

The California unemployment insurance tax provisions in effect at the end of 1956 will serve as an illustration of a fairly typical state tax structure. Cali-

fornia uses a reserve ratio plan, which, as we have seen, is the most popular method of determining experience rating.

The basic schedule set forth in the California law would go into effect if the balance in the state's unemployment fund were to fall below 7.1 per cent of total taxable wages. This schedule was in effect prior to 1948 and in the years 1950–1952. It calls for the following rates.

Employer's reserve ratio	*Contribution rate*
0 to 7.5%	2.7%
7.5 to 9.0	2.5
9.0 to 10.0	2.0
10.0 to 11.0	1.5
11.0 to 100.0	1.0

A lower rate schedule goes into effect when the balance in the fund is 7.1 per cent or more. This lower schedule was in effect in 1948, 1949, and from 1953 on. Under it, the rates range from 0 per cent for employers with reserve ratios of 12.5 per cent or more to 2.7 per cent for those with reserve ratios of 0 to 6.0 per cent. The gradations are finer and more numerous than in the basic schedule.

The California law also provides that when the balance in the fund is less than one and one-half times the amount of unemployment compensation benefits paid during the preceding calendar year, a contribution rate of 2.7 per cent may be imposed on all employers. Such a rate would remain effective until the balance had been restored.

Thus California provides for three possible schedules: (1) a normal schedule, (2) a low schedule, and (3) an emergency schedule, which has never been invoked.

The majority of states have two or more schedules of rates, but there is considerable variation in the detailed provisions governing a shift from one schedule to another and in the schedules themselves. New York has as many as eight different schedules which can be declared effective as the balance in the fund increases or decreases.

In the majority of states, as in California, the maximum rate in the least favorable schedule is 2.7 per cent, but some of the states provide for higher rates. Average costs in some industries, as has been indicated, exceed 2.7 per cent, and in many of the states such industries pay less than their share of the taxes on a strict cost basis. Whether they should contribute their share of the costs is a highly debatable point which will be considered more fully below.

There has been a good deal of controversy over whether schedules should provide for minimum rates of zero, as did those of 12 states at the end of 1955. The effect of such provisions, of course, is that employers with favorable experience pay no tax whatever (other than a tax of 0.3 per cent to the Federal Government). In California, 13 per cent of all covered employers were assigned a zero rate in 1955.

In many states, certain benefit payments are not charged against employers' accounts and thus do not directly affect their tax rates. There has been a growing

tendency to amend state laws to permit such noncharging, particularly of benefits to claimants who worked for the employer only a short time, or whose unemployment was of very short duration, or who became eligible for benefits after a period of disqualification. Needless to say, these benefits become a charge against the state's unemployment insurance reserve and indirectly affect the tax rates of all employers. In California, noncharged benefits amounted to 19 per cent of all benefits paid in 1955.

As average unemployment insurance costs have declined, so have average tax rates. In 1955 the average employer contribution rate was 1.2 per cent of taxable wages. But average tax rates vary appreciably from state to state, largely reflecting differences in their costs. They will vary even more if proposals such as that recently made in New York, to impose rates above the standard 2.7 per cent rate on high-cost employers, are widely adopted.

5. THE CASE FOR AND AGAINST EXPERIENCE RATING

The experience-rating system has its avid supporters and its severe critics. Although it is widely recognized that the individual employer's power to prevent unemployment is quite limited, those who support experience rating argue that the system *does* have some effect in inducing employers to stabilize employment. They maintain, also, that experience rating constitutes

the only fair method of distributing the costs of unemployment insurance since it places the heaviest burden on the industries that contribute most to the cost of the program.

More and more, however, there has been a tendency to stress the role of the experience-rating system in connection with the prevention of widespread abuse of the unemployment insurance system. It is argued that even the most conscientious and efficient administrators will have difficulty in preventing abuse unless they can rely on employers to supply information relating to the reasons for separation of employees from their jobs. The supporters of experience rating believe that employers are likely to be more cooperative in furnishing such information if they know that, by carefully checking on every claim filed by former employees, they may become subject to lower tax rates.

Among the many arguments which have been advanced against experience rating, probably the most important is that the individual employer has very little power to prevent unemployment, which is for the most part attributable to broad economic forces beyond his control. Furthermore, even to the extent that he can adopt measures to stabilize employment, unemployment insurance costs will play only a very minor role in inducing him to do so, as compared with more important incentives such as the reduction of labor turnover costs. In fact, so the argument runs, the chief effect of experience rating is to induce the employer to dispute every

claim against his account, thereby largely defeating the purpose of the unemployment insurance system.

Opponents of experience rating go on to point out that, if the individual employer is relatively powerless to prevent unemployment, the system does not actually result in an equitable distribution of the tax burden. Industries which happen to be characterized by unstable employment conditions should not be forced to bear a larger proportion of the tax burden than industries in which employment happens to be comparatively stable.

Economists are inclined to stress the point that experience rating is inconsistent with one of the major objectives of the unemployment insurance system, that of counteracting the effects of cyclical fluctuations. If tax rates are likely to be reduced when unemployment is declining and to be increased when unemployment is rising, the principle of accumulating funds in prosperity to maintain purchasing power in a recession is violated.

Some opponents of experience rating emphasize the serious difficulties involved in defining and measuring "experience" and in devising equitable charging practices. The growing prevalence of noncharging, they argue, means that in many cases there is little relationship between an employer's tax rate and his actual benefit costs. Such critics would admit that this particular objection does not apply to the payroll variations plan (in its pure form) under which benefits are not charged against individual employer accounts and do not enter directly into rate determination, but they would also argue that the payroll variations plan does not really measure experience.

Despite the controversial character of experience rating, many experts are inclined to think that the system is here to stay. We shall return to this question in the concluding section.

6. UNEMPLOYMENT INSURANCE RESERVES

The relatively low unemployment insurance costs which have prevailed throughout most of the last two decades have been favorable to the accumulation of large reserves. Reserve funds available throughout the system amounted to $8.3 billion at the end of 1955 and had fluctuated between $8 and $9 billion for a number of years.

The status of reserve funds varies considerably from state to state. States with records of relatively high unemployment insurance costs tend to have less adequate reserves than states with low costs.

Recognizing the need for some means of protecting high-cost states against possible exhaustion of their reserves, Congress enacted in 1954 a measure providing for federal loans to the states from the federal account in the Unemployment Trust Fund under certain conditions. A state is eligible for a loan if its reserve fund at the end of any calendar quarter is less than the benefits paid during the preceding 12 months. Alaska was the only "state" eligible for such a loan at the end of 1955.

Since benefit payments fluctuate considerably from year to year, estimates of the adequacy of reserves must

be based on estimates of probable future benefit costs, allowing for anticipated variations in unemployment and making appropriate assumptions about other factors affecting costs. The U. S. Bureau of Employment Security has estimated that reserve funds should average at least four to six times the projected average annual benefit costs over an eight- or ten-year period. On this basis, a reserve fund of approximately $8 billion would be more than adequate for the nation as a whole, but in a period of heavy unemployment some of the high-cost states would probably have to borrow from the federal fund.

It must be recognized that the drain on the fund in a period of severe unemployment would be limited because of the short-term character of the protection offered by unemployment insurance. Large numbers of claimants would exhaust their benefit rights after four to six months of unemployment. In effect, the unemployment insurance system provides only a first line of defense against the hazards of severe and prolonged unemployment. The usual assumption has been that other steps would have to be taken to maintain income in a serious depression.

VIII. Supplemental Unemployment Benefits

As a result of recent developments, no discussion of unemployment insurance would be complete without a consideration of supplemental unemployment benefits.

Essentially, supplemental unemployment benefits are additional benefits paid to unemployed workers from private funds accumulated for the purpose. Under existing plans, these supplemental benefits are paid by employers under the terms of collective bargaining agreements. In many respects, they are similar to other types of "fringe benefits" included in union contracts, such as pensions and health and welfare plans.

The first agreement providing for supplemental unemployment benefits was signed by the Ford Motor Company and the United Automobile Workers in June, 1955. Similar agreements were negotiated soon after between the UAW and the other major automobile producers. SUB plans, as they came to be called, have also been adopted in a number of other industries. It was estimated late in 1956 that approximately 2 million workers were covered by such plans, chiefly in the steel, shoe, glass, electrical, maritime, and farm implement fields, as well as in the auto industry.

The Ford agreement provided for contributions by the employer into a trust fund, amounting to 5 cents an hour for each worker covered by the plan. Only employees with at least a year of seniority would qualify for these benefits, which were to equal, when added to state unemployment insurance benefits, 60–65 per cent of the worker's weekly take-home pay. The laid-off worker would get 65 per cent of his take-home pay for four weeks and 60 per cent for the remaining weeks of eligibility for supplemental benefits. Thus the company would be paying the difference between regular unemployment benefits and 60–65 per cent of take-home pay, but in no case would supplemental benefits amount to more than $25 or less than $2 a week. Although the maximum duration of benefits was to be 26 weeks, the actual duration in any given case might be considerably less, depending on (1) the worker's seniority, (2) his previous employment experience, and (3) the position of the trust fund.

The negotiation of supplemental unemployment benefits grew out of the drive for guaranteed annual wage plans, similar to those that had existed in a few firms for many years. But SUB plans represent a substantial modification of the guaranteed wage proposals. By accepting the obligation to pay supplemental benefits for a limited period to laid-off workers, employers incurred a much more limited type of liability than would have been involved in the typical guaranteed wage plan. But at the same time unions gained a concession which they considered a substantial advance toward greater job security

for the worker. The unions argued that, not only would benefits be more adequate under these plans, but employers with SUB plans would be less likely to lay off workers, while employers facing union demands for new or liberalized SUB plans would be more likely to support liberalization of public unemployment benefit levels.

The Ford agreement provided that benefits would not be payable under the plan unless administrative rulings or statutory amendments in the states in which at least two-thirds of its workers were employed had established the legality of supplementation. It was not long before this condition was met. By late 1956, 26 states (including most of the leading automobile producing states) had taken action to permit supplementation, chiefly through administrative rulings but in a few states through legislative enactment. Indiana, North Carolina, and Ohio, however, had rejected supplementation. Ohio voters, in November 1955, rejected a referendum which provided that the receipt of a supplemental unemployment benefit would not disqualify a claimant for unemployment insurance.

Agreements in other industries differ from the Ford plan in some respects, but all SUB plans are linked with public unemployment insurance systems in a similar manner, except "individual account" plans such as those in the glass industry. Under the glass industry plans, each covered worker has an individual account from which withdrawals, in specified amounts, may be made in the event of illness or unemployment.

Although SUB plans may be expected to spread to additional industries, most informed observers expect their expansion to be somewhat limited, at least for some time to come. One estimate suggests that they are unlikely to include more than a total of 5 or 6 million workers in the coming few years. There is a good deal of opposition to the plans, not only on the part of employers, but also on the part of union members in some industries. Workers with relatively high seniority ratings in industries with comparatively stable employment are reported to be unenthusiastic about giving up wage gains or other fringe gains that might be achieved in return for a type of protection which would be likely in practice to benefit only low-seniority workers who happened to get laid off.

SUB plans are not equally well adapted to all industries. They appear to be best adapted to industries in which workers are ordinarily employed on a full-time, continuous basis but in which temporary layoffs affecting substantial numbers of employees occur from time to time. In industries with unusually stable employment conditions, on the other hand, there is less need for this type of arrangement, while in industries characterized by short-term, casual, or sharply seasonal employment, SUB plans of the usual type would not be workable.

Even though SUB plans may not spread rapidly, they are likely to exert upward pressure on state benefit levels. Worker dissatisfaction with current state benefit levels is bound to be enhanced, while employer groups may offer less resistance to liberalization of regular unemployment benefits as a means of forestalling the spread of

SUB plans. At the same time, employer groups are likely to support legislation designed to limit the expansion and liberalization of SUB plans by imposing restrictions on the terms and conditions under which state unemployment benefits can be paid to jobless workers covered by SUB plans.

IX. Unresolved Issues

UNEMPLOYMENT INSURANCE is now an accepted part of our social security program. Only a small minority of Americans would seriously argue that it should be abandoned. In this sense the system is no longer controversial. But it is still the most controversial of the existing public programs in the sense that battles over proposals for substantial modification of statutory provisions are waged in an atmosphere of particularly heated disagreement. More than any of the other programs unemployment insurance has an impact on prevailing wage levels and on the functioning of the labor market. For this reason, the controversies of the next decade or two over changes in federal and state unemployment insurance laws are likely to be no less contentious than those of the recent past. What are the major issues around which these battles will revolve?

1. WHO SHOULD BE COVERED?

The trend toward expansion of coverage will undoubtedly continue, but the chances of being included in the system vary a good deal among the groups of workers now excluded.

Workers in firms with less than four employees are

likely to be covered in the not too distant future. Originally it had been thought that the inclusion of very small firms would create administrative difficulties, but the experience of the states that cover all firms with one or more workers has been encouraging. Bills which would amend the federal Unemployment Insurance Act to apply to all firms with one or more employees have been supported by both the Truman and Eisenhower administrations. Enactment of such legislation at the federal level would undoubtedly bring all the states quickly into line.

In addition, coverage will probably be gradually extended to state and local government employees not presently protected. Now that federal government employees are covered, the pressure on the states to extend protection to their own government employees will be considerably stronger, although resistance in some states will be greater than in others. Another group of workers who are likely to be covered sooner or later are employees of nonprofit organizations.

Opposition to coverage of the other excluded groups is much more pronounced. Although most self-employed workers are now covered by Old Age and Survivors Insurance, inclusion of the self-employed in the unemployment insurance system would present serious difficulties. The chief problem would be one of determining whether, in any given case, a self-employed worker was involuntarily unemployed.

Resistance to the inclusion of agricultural laborers is strongest of all. Because of wide seasonal variations in the employment of farm laborers, farm work tends to be

unsteady and the cost of coverage would be high. The California Department of Employment, for example, has estimated that benefit costs for California agricultural workers would be 11 to 15 per cent of taxable wages in agriculture. A number of experts argue, moreover, that casual workers (among whom they would include farm laborers) should not be covered by unemployment insurance, which is not well adapted to handle the special problems presented by such workers. Those who support the coverage of farm laborers argue that, with the low wages and unstable employment prevailing in agriculture, this group is particularly in need of protection.

The case of domestic servants in private households is somewhat similar, although the costs of insuring this group would by no means be as high as in agriculture.

2. THE PROBLEM OF ELIGIBILITY PROVISIONS

The tightening of eligibility and disqualification provisions, as we have indicated, has been a major trend in the development of the unemployment insurance program. It is a tendency which has been clearly associated with the reliance on experience rating, with its inducements to employers to minimize the number of cases of unemployment to be charged against their accounts.

There is little likelihood that the trend toward tightening of base-period earnings requirements will be reversed. As wage levels rise, there will undoubtedly be

continued pressure toward upward adjustment of minimum earnings provisions. Along with this there will almost certainly be increasing emphasis on provisions calling for distribution of base-period earnings over several quarters, notwithstanding the vigorous resistance of representatives of seasonal workers. It is entirely possible, also, that more of the states will swing over to requirements stated in terms of minimum weeks of employment, despite the more comprehensive record keeping necessitated by this type of provision.

The future of disqualification provisions is less clear. A good many experts argue that the trend toward increasing the severity of penalties for disqualification has gone too far. For example, there is good ground for questioning the justification of provisions which disqualify a claimant for the duration of the entire period of ensuing unemployment, except perhaps in the case of conviction for clear-cut and deliberate fraud. Some experts would argue that federal standards are needed to establish reasonable maximum periods of disqualification.

3. WHAT IS AN ADEQUATE BENEFIT LEVEL?

There is little doubt that some of the most intense battles of the next decade or two will be waged over benefit levels, and particularly over the provisions for maximum benefits which now determine the weekly amounts received by the majority of claimants.

The critical problem in the controversy over benefit levels is the absence of agreement over the criteria to be used in determining adequacy of benefits. There are few who would seriously argue that the principle of relating benefits to previous earnings should be abandoned. But what proportion of previous weekly earnings represents an adequate benefit level? The 50 per cent standard adopted in the early draft bills—and reiterated as a recommendation to the states in the President's Economic Report of 1954—is admittedly somewhat arbitrary.

It is impossible to consider the merits of arguments over what proportion of former weekly earnings constitutes an adequate benefit level without introducing the criterion of *need.* On the basis of today's living costs, what proportion of his former weekly earnings does the unemployed worker with a family of average size need in order to maintain nondeferrable expenditures? Should the proportion be somewhat higher—as many experts would argue and as benefit formulae in practice recognize—for a low-income worker than for a high-income worker? And what about the secondary wage-earner, for example, the working housewife, in a family—should his or her benefits represent a smaller proportion of former earnings than those of the principal wage-earner?

These questions cannot be satisfactorily answered, as most informed observers now recognize, in the absence of comprehensive statistical information bearing on the incomes and expenditures of unemployed workers. The Federal Government has recently initiated a special research program designed to obtain this kind of informa-

tion. The results of a pilot study conducted in Pittsburgh—in cooperation with Duquesne University—represent a significant first step toward accumulating the needed data.

The Pittsburgh findings clearly indicated that the great majority of workers included in the study received very little income other than their unemployment benefits while unemployed. Typically the incomes of these workers during unemployment declined to considerably less than 50 per cent of their former weekly earnings—as would have been expected in the light of current benefit-wage relationships. Their expenditures during unemployment tended to exceed their incomes by considerable margins. Expenditures for food, shelter, and household operation were maintained at the expense of spending on apparel and other deferrable items. To a considerable extent, these unemployed workers borrowed, or drew on whatever savings they had, to meet the gap between income and expenditures during unemployment. The study also showed that, where the unemployed worker was a secondary wage-earner, the family fared much better than did single claimants or families in which the chief wage-earner was unemployed.

Another criterion which cannot be neglected in any discussion of benefit adequacy is the problem of incentives to work. What is the maximum proportion of weekly earnings that unemployed workers might receive as benefits without a serious increase in malingering? Some informed observers would argue that the answer

to this question would suggest, at least in principle, a reasonable upper limit (well under 100 per cent of weekly wages) to the level of benefits. But whether, in practice, it would ever be possible to discover what this upper limit ought to be is highly doubtful.

It now seems not at all unlikely that these questions may be worked out to a considerable extent around the collective bargaining table. The 60–65 per cent of take-home pay adopted in the Ford-UAW supplemental unemployment benefit plan—and substantially followed in many other SUB agreements—is certain to have an impact on legislative deliberations over benefit levels, even though a relatively small proportion of all workers are covered by these plans. And, of course, there remains the possibility that the prevailing percentage in SUB plans may be modified from time to time. But, if this happens, unions and employers will need access to the results of studies similar to the Pittsburgh survey in connection with their negotiations.

An aspect of benefit adequacy that cannot be neglected is the problem of duration of benefits. But since this is intimately related to the question of how much protection the system should offer against severe unemployment, it will be discussed below.

4. SHOULD FINANCING PROVISIONS BE CHANGED?

Despite the widespread dissatisfaction with experience rating, there is little likelihood that the system will be abandoned. Although Alaska, with its high

unemployment insurance costs and inadequate reserves, has recently given up experience rating, it is unlikely that many other states will follow suit, at least in the near future. It must be remembered, not only that experience rating is a well-established feature of our state laws, but that it could not easily be abandoned without revision of the Federal Unemployment Insurance Tax Act. A federal tax of 3 per cent would be completely out of line with present-day unemployment insurance costs in the absence of the experience-rating features of the federal law.

Even though experience rating is not likely to be abandoned, substantial modifications will probably be proposed and seriously debated. Some experts argue that the federal law should be amended to give employers credit under the tax-offset plan for contributions they are excused from paying not only under experience-rating systems but also under other methods of tax rate reduction which states might adopt. This would give a state the option of continuing experience rating or adopting some other system of rate reduction. Other informed observers seriously question whether zero rates, or rates very close to zero, should be permitted under state tax schedules and whether the growing practice of non-charging should be encouraged. And many economists would press for an attempt to develop tax formulas, particularly provisions governing shifts from one tax schedule to another, which would prevent the raising of tax rates during periods of business recession.

Another important issue is whether workers (as well as employers) should be taxed to finance the program, as

under Old Age and Survivors Insurance. Certain labor spokesmen have recently advocated such a change, arguing that (1) unions would pay more attention to cost considerations in advocating legislative changes and (2) employers would be more receptive to proposals for raising benefit levels if the tax were levied on both employers and employees.

Finally, the need for raising the maximum annual earnings to which the payroll tax applies will become more pressing as time goes on. As incomes rise, the exemption of all wage payments over $3,000 to individual employees becomes increasingly obsolete.

5. THE PROBLEM OF SEVERE UNEMPLOYMENT

The last of the major issues to be considered is whether our unemployment insurance system, as now designed, offers adequate protection against severe unemployment.

A good many critics of the present system would argue that benefit and duration provisions should be progressively liberalized to the point at which the system would offer much more effective protection against the severe and prolonged unemployment that might accompany a serious depression. Even in a mild recession, these critics would argue, the proportion of claimants who exhaust their benefit rights rises sharply, and in a severe depression there would be millions of unemployed who would be protected only for a relatively short period. Further-

more, although benefits average about a third of weekly earnings in covered employment, the actual proportion of total wage loss compensated is much less than this, because of incomplete coverage, waiting periods, disqualifications, exhaustion of benefits, and other factors. It has been estimated that in the 1949–1950 recession, unemployment benefits represented only about 20 to 25 per cent of the income lost through unemployment.

Others would sharply oppose this point of view on a number of grounds: (1) that protection of this type would be so costly as to impose a serious financial burden on industry, (2) that the payment of benefits to unemployed workers over long periods would encourage malingering, (3) that English experience in the 1920's clearly indicated that unemployment insurance tends to break down when benefits are paid for long periods, and (4) that other types of emergency government measures would have to be relied on to combat the mass unemployment that would accompany a severe depression.

It is the duration provisions that are chiefly at issue, of course, in this connection. Although these provisions may well be liberalized to a moderate extent over the next several decades, radical changes in the direction of greatly lengthened duration of benefits seem unlikely. What we *are* likely to see, however, is a variety of proposals designed to extend the duration of benefits for particular groups of workers under special circumstances. Michigan is reported to be utilizing a little-known provision of its law which permits benefits to be paid up to 44 weeks to workers enrolled in certain types

of training courses. With the growing interest in the need for training programs to encourage the development of new skills in a period of rapid technological change, similar provisions may be proposed in other states. Another, and somewhat more debatable, type of modification was proposed in a bill that was introduced, but not passed, in California in 1955, under which weekly benefits could be paid for 52 weeks if unemployment in the claimant's area or industry exceeded 6 per cent.

It may well be that significant changes in the unemployment insurance system in the next several decades will grow out of proposals of this type. If a high level of employment continues to prevail, unemployment is likely to be a specialized rather than a general problem, chiefly affecting particular groups of workers who encounter discrimination because of race, sex, age, or physical handicaps, or who are displaced as a result of rapid technological change. As the unemployment insurance program evolves, it may be gradually modified in the direction of offering more effective protection against at least some of these specialized types of unemployment.

In the meantime, it is important not to minimize the significance of the contribution made by our unemployment insurance system as it has evolved over the last twenty years. Despite its defects, the system protects workers against complete loss of income during periods of joblessness and helps to protect the economy against the possibility of a cumulative deflationary spiral during business recessions.

X. Suggestions for Further Reading

PROBABLY the most useful single source of information on the American unemployment insurance system is the August, 1955, issue of *Employment Security Review,* a monthly publication of the U. S. Bureau of Employment Security. Entitled "Twenty Years of Unemployment Insurance in the U.S.A.: 1935–1955," the issue is entirely devoted to articles dealing with the development of our federal-state unemployment compensation system. For somewhat more critical recent appraisals of the program, chiefly by nongovernmental experts, the special symposium in the February, 1955, issue of the *Vanderbilt Law Review* and the groups of papers in the *Annual Proceedings* of the Industrial Relations Research Association for 1954 and 1955 are excellent. William Haber's article on "The Present Status of Unemployment Insurance in the United States" in the last-mentioned volume is particularly useful.

Unemployment insurance is discussed in considerable detail in a number of books dealing with social security programs. Domenico Gagliardo's *American Social Insurance* (New York: Harper, 1949) and the volume of *Readings in Social Security* by William Haber and Wilbur J.

Cohen (New York: Prentice-Hall, 1948) are particularly worthy of mention. A more recent and invaluable discussion of the various alternative approaches to benefit, eligibility, financing, and administrative features of social security programs may be found in Eveline M. Burns' *Social Security and Public Policy* (New York: McGraw-Hill, 1956). While Mrs. Burns' book is concerned primarily with American systems, she introduces comparative material on foreign programs at appropriate points. The reader who is particularly interested in international comparisons will also find the recent International Labor Office volume on *Unemployment Insurance Schemes* (Geneva, 1955) an excellent source.

On some of the more specialized problems, particularly valuable studies are Ralph Altman's *Availability for Work* (Cambridge: Harvard University Press, 1950), Joseph M. Becker's *The Problem of Abuse in Unemployment Benefits* (New York: Columbia University Press, 1953), and Ida C. Merriam's *Social Security Financing*, U. S. Social Security Administration, Bureau Report No. 17 (Washington: U. S. Government Printing Office, 1953). Among the large number of pamphlets on supplemental unemployment benefits, perhaps the most useful is Michael T. Wermel and Geraldine M. Beideman, *Supplemental Unemployment Benefit Plans: Their Economic and Industrial Relations Implications* (Pasadena: California Institute of Technology, Industrial Relations Section, 1957).

Those who are interested in the program of a particular state should consult the official publications of the

agency responsible for administering the law of that state. *A Sourcebook on Unemployment Insurance in California,* issued by the California State Department of Employment (Sacramento, 1953), is especially useful. In addition, a convenient source of information on all the state laws is the volume issued annually by the U. S. Bureau of Employment Security, entitled *Comparison of State Unemployment Insurance Laws.* For current developments in the states the two monthly publications of the Bureau, *Employment Security Review* and *The Labor Market and Employment Security,* are invaluable sources. In addition, there are good, though somewhat outdated, studies of some of the state systems, including Arthur P. Allen's *Unemployment Insurance in California* (Los Angeles: The Haynes Foundation, 1950) and David H. Colin's *The Law of Unemployment Insurance in New York* (New York: New York University, Institute of Labor Relations and Social Security, 1950).

printed in the united states of america
by the university of california printing department