1951

Old-Age Pensions, An Answer and a Problem

Leo A. Rodell
Loyola University Chicago

OLD-AGE PENSIONS, AN ANSWER AND A PROBLEM

by

LEO A. RODELL

A Thesis Submitted to the Faculty of the Institute of Social and Industrial Relations of Loyola University in Partial Fulfillment of the Requirements for the Degree of Master of Social Administration

June

1951

TABLE OF CONTENTS

CHAPTER I

WHY THE EMPHASIS NOW?

During the past few years the American people have given more attention to the subject of old-age pensions, than at any previous time in our history. The problem and all of its complex ramifications have been argued in courts, in classrooms, in homes, around collective bargaining tables and on the street. The eyes of the employer, the employee, the government and the general public have been focused on old-age security.

The basic problem is how to reasonably assure workers a decent standard of living when they reach the age at which they can no longer be gainfully employed. It is apparent that this is not a new problem for this country. Why then has this problem become so prominent during the past decade, and why is it so much in the news today?

There is perhaps no one reason why the subject of pensions has attained such importance, but this is due rather to a combination of events. The main reason which indirectly effects all others is that our population is an aging popula-

tion. Steinhaus[1] says that:

> Due to great progress in the field of medical science, chemistry and sanitation, the life expectancy of individuals has greatly increased. It may be said that two causes are at work. Progress in new types of medicine and treatment, publicity campaigns calling attention to various types of diseases and improvement of diagnostic treatment have not only greatly reduced mortality, but have lessened the severity of these diseases and hence the younger generation is healthier as it approaches old age.

Except for an increase during the two war periods the birth rate in America has been steadily declining. The tightening of our immigration laws, which resulted in a great reduction in immigration has also been a contributory factor to aging our population.

It is not improbable that in 1960, there will be 18,000,000 people over 65 years of age in our population. There would then be one aged person for every five persons of productive years. If there were a laboring force of sixty million workers there would be thirty aged for every hundred workers.[2] It is no wonder that the problem is before the eyes

---

1 Financing Old Age, National Industrial Conference Board, New York, 1949, 12.

2 Ibid., 16.

of many Americans today.

There have been other factors also which have played their part in bringing the problem of old age security into the spotlight. The Social Security Act effective in 1937 provided some pension coverage to many workers and stimulated industry and employees to think of some means of providing for old age. The 1942 Revenue Act provided legislative encouragement in our tax laws for employers to make provisions for the old age security of their workers.[3]

During the past decade we have been living in an unusual economic period. The shadow of war has cast its ugly pallor over our lives, and as yet, the sunshine of peace has not filtered through. During the war years high excess profit taxes and other taxes on income encouraged industry to establish pension plans because through tax deduction, the U. S. paid a substantial part of the cost.[4] With the shortage of manpower some industries offered pension plans as an inducement to obtain workers. In the post war period some of the larger unions bargained for pension benefits in lieu of wage increases,

---

3 "Employee Retirement Plans," Round Table Discussion, Continental Illinois National Bank and Trust Company of Chicago, 1950, 4.

4 Ibid.

because increased wages pursuing increased prices was a futile chase. The Inland Steel Case, which shall be discussed later, in which it was decided that pensions were within the proper scope of collective bargaining, also focused the spotlight on pensions and was a further inducement for unions to press for pension benefits.

The above mentioned events with the underlying factor that we are an aging population are the reasons why Americans are very pension conscious today.

Since the solution of the problem of providing security for old age means so much to everyone, it is important that we solve the problem adequately. Keeping workers on the job as long as possible would seem a help in solving the problem. As has been pointed out previously, due to great progress in drugs and medical science, not only has mortality decreased, but the population on the whole is healthier and should carry added vitality into their old age. This means that from a physical standpoint, many workers should be able to work beyond the age of 65.

The number of older workers available for work is large. A survey among beneficiaries under the Social Security Act revealed that about fifty per cent of the beneficiaries

are willing to work, thirty-seven per cent of all beneficiaries would accept any kind of work without qualifications and the remainder have some qualifications as to type of work.[5]

During World War II a great number of aged workers demonstrated their ability to work and work well. The War Manpower Commission reported on the experience of employers with older workers.

> It was indicated that even in the cases where the production of the aged per time unit was relatively less than that of younger workers, the experience, judgment, concentration, carefulness and patience of the older workers are compensating factors "which pay dividends in quality of product, salvage from waste and rejects, and often in the long run, output."[6]

There are, therefore, and there will be large numbers of aged workers who are ready, willing and able to work.

As O'Neill[7] says, however,

> it may be argued that keeping older workers on the payroll represents a hidden pension cost. Usually the oldest workers are drawing the highest wages, while many are semi-efficient and therefore are being paid more than their actual productive worth. It may also be said that keeping older employees on the job tends to stagnate a business because the promotion of younger

---

5 Why Beneficiaries Retire, Social Security Bulletin, January, 1945.

6 Older Workers in Wartime, Monthly Labor Review, August, 1944, 276.

7 Modern Pension Plans, Prentice-Hall, New York, 1947, 6.

workers would be curtailed, their morale lowered, and therefore no new, stimulating ideas would be injected into the industry. Under these conditions it is also assumed that the turnover of younger workers would increase thereby adding a cost.

Granting that there is some merit in the arguments against keeping older workers on the job, it seems that there is much room for research as how to best utilize the experience, skills and even hobbies of the aged while at the same time keeping avenues of advancement open for younger employees.[8] Little work has been done on this project, but with our aging population, it is important that we explore all possibilities to solve our problem.

Is it possible to answer the basic problem by having each individual worker save enough during his working years to provide security for his old age? If each worker could and would save enough to provide for his old age, the problem would be solved. The plain fact is however that most workers do not make enough money to save for their old age. Then too, savings of the individual worker are not always secure. Entire savings can be wiped out in a short time by sickness or an accident. High taxes, low interest, periods of inflation,

---

8 Henry Steinhaus, Financing Old Age, National Industrial Conference Board, New York, 1949, 47.

not only make it difficult to save, but eat into money that has been saved. If a worker loses some or all of his savings late in life, it becomes almost impossible for him to make up enough to provide any security for his old age. The costs of purchase in investments or annuities by an average worker are prohibitive. Moreover, the return on small holdings is too meager to provide old age security for the worker.

Even though at the present time most workers cannot and do not save or invest enough to provide security for their later years, the writer feels that much more can be done in this area towards solving the basic problem. A more equitable distribution of wealth and income is necessary, in order that workers might have an opportunity to save. Various forms of social insurance, especially health insurance, should be available to all, so shock losses will not have to be absorbed by the individual. Workers could be given an opportunity to study how to spend, invest and save prudently.

The best answer to providing security for old age seems to be pensions. A pension provides a definite income to the worker when he reaches the age when he can no longer be gainfully employed. If a worker is assured of a certain income when he reaches retirement age, he can approach that age

without fear of want and with an air of self-dependence.

Pensions in themselves, however while providing the best answer to this complex problem facing America, are not a cure-all. Even in this age one cannot get something for nothing. Pensions cost money. Pensions must be set up on a financially and actuarially sound basis. Pensions should be adequate. Pensions are a very important part of the overall answer to the problem of financial security for the aged. In this respect it is well to remember "that the financial security of the aged basically rests on conservative financing of government. If the soundness of the currency is impaired, and inflationary price rises follow, the aged are hardest hit."[9]

One of the most important problems that is now facing the United States and one that will become much more acute is how to provide financial security for the aged. Much research and work must be done particularly in the areas of employment for the aged and distribution of income so that workers can save, in order to solve this problem. Pensions however, have a most important part to play in providing an answer to this serious and complex problem.

9 Ibid, 40.

CHAPTER II

WHO SHALL PROVIDE THE PENSION?

Since pensions play such an important role in providing financial security for the aged it is well to ask who is going to provide the pension. It can be said that pensions will be provided either by government, by private industry or by a combination of government and private plans. Which of these systems is best for providing pensions in the United States?

Under a plan wherein the government provides the pension many more workers would be covered than under a plan where pensions are provided by private industry. The Federal Reserve Bulletin[10] indicates that:

> under the New Social Security Amendments (HR 6000) which were effective January 1, 1951, approximately three-fourths of the employed labor force is covered by Social Security. About nine million excluded persons are in agriculture, self-employed, unpaid family workers, and irregular hired workers. Another million is comprised of non-farm self-employed persons, including both specifically designated groups of professionals and persons with self-employment income below the specified minimum. The other major groups excluded comprise persons covered by existing public retirement systems.

---

10 Business Conditions, A Review by the Federal Reserve Bank of Chicago, September, 1950, 1.

Private pension plans could not provide this broad coverage. Millions of workers in agriculture and millions who work for small firms would be without coverage. Of a total labor force exceeding sixty-two million at present, forty-three million are non-agricultural employees and only about fifteen million of these are unionized.[11] While it is true that private pension plans can and will be expanded to cover more workers than are presently covered, they cannot cover the millions that are covered under a plan where the government provides the pension.

Private pension plans tend to restrict the mobility of labor, whereas this undesirable feature is practically eliminated in retirement plans provided by the government. A worker may be reluctant to change jobs, even for a better opportunity, if he must relinquish his pension rights. This is especially true in non-contributory plans where pension rights generally do not attach to the worker. Since so many industries are covered in the same manner under a government plan, a worker is free in this respect to take advantages of opportunities which may require a change. Much can be done in private plans to cover all workers in an area or an industry in

---

11 Ibid, 12.

the same plan, but as yet little has been done in this regard. Vesting which would allow the worker to take his pension rights with him could also improve this situation for private plans, but would increase the cost.

Under the private retirement plans, there is a tendency to discriminate against the older workers in hiring, because of the higher pension cost involved. Where the government provides the pension, reluctance to hire older workers because of this reason is minimized.

It is apparent therefore that there are definite advantages in having government provide pensions. Is it wise however to turn the entire pension problem over to the government? Cannot part of this problem be handled on a lower level? Is it not possible to combine government and private pensions? Not only is it possible, but this is the very way pension trends have evolved in the United States, and it seems to be the best solution.

The government through Old Age and Survivors Insurance (Social Security) provides the floor on which private pensions may build. This is basic and essential. Arthur J.

Altmeyer,[12] Social Security Administrator Commissioner recently stated,

> "I think some of us tend to forget at times that the effectiveness and value of supplementary security measures are largely dependent upon the existence of a basic program which can be supplemented. The multiplication of many special and limited plans is no real substitute for a basic program. This issue was debated at length in 1935 when the original Social Security Act was under consideration. There was considerable support for proposals which would have permitted the substitution of separate employer retirement plans for coverage under the basic program. It was recognized that they would make difficult or impossible the assurance of basic security to workers who changed employment, and that there would still be room for special retirement plans to supplement the basic program."

Just as a floor, however, is only a floor, and not an entire house, so also Social Security is only part of the pension solution, albeit a basic one. Private pension plans can and should build on this basic program. Some of the newer pension programs such as those established by Ford and Bethleham are integrated with Social Security. A flat monthly payment is made to each qualified employee upon retirement, and this payment includes primary Social Security benefits. The employer finances the difference between the Social Se-

---

12 Social Security and Welfare Funds, Union Health and Welfare Funds, National Industrial Conference Board Studies in Business Economics, No. 8, New York, 1947, 23.

curity benefit and the flat payment due the worker. Whether or not this is the best method of building on the basic floor of Social Security is debatable.

Regardless of how this building is done however, it appears that the best pension system is to have the government provide a pension floor and private industry should build on this with their own pension plans. In this way the advantages of the government plan can be retained without turning the entire problem over to the government. Private industry then while building on this basic floor, has freedom in meeting the responsibility of improving their individual plans.

CHAPTER III

FINANCING THE PENSION PROGRAM

The primary purpose of a pension plan is to afford the employee a ready income when he retires. There may be other reasons why a plan is put into effect in a given plant or industry, but the essential function of a pension plan is to provide an adequate income to workers upon retirement. If a pension plan is to be a good one, it must attain this primary objective. If it does not fulfill this end, it is not a good plan, regardless of what other benefits if any, may be derived from it.

It is evident, therefore that pension plans cost money. It is very important that both employer and employee realize that pensions are not magic. Someone has to pay for them. Even though the company itself, an insurance company or a trust company, handle the funds of a pension plan, the cost is borne by the employer, or in the case of contributory plans, by the employer and employee.

The cost of a pension plan will in general be determined by the number of employees, the average age of the employees, the average length of service, the average en-

trance age, the life expectancy of the workers, the rate of interest, the benefits to be given, the cost of administration and similar factors. Figuring the cost of a pension plan is most important and complex. The average layman should not attempt and need not try to compute this. A person skilled in this work should be called upon for this advice. Since the benefits of a pension plan affect the cost, these benefits must be in line with what the parties can afford, keeping in mind also the primary purpose of any plan. It does not seem wise, therefore, for a union to demand higher benefits than a company can afford, nor for an employer to promise greater benefits than he can finance. A plan which affords very minute benefits is not worth having. A plan which promises high benefits and goes on the rocks, is worse than no plan at all because it has given a false sense of security to the workers.

When the persons responsible for planning a pension program know what they are able to spend, what the cost will be, and what benefits are desired, it is important that they consider in detail and at length the method to be used in financing this pension program. They certainly want the plan to be able to pay off as each worker retires. They also want to be able to obtain the maximum in benefits for the money

they can spend. By studying methods of financing they may find that one method is more favorable to their particular situation than another, or that a combination of the various plans is most adaptable to their company or industry.

In this chapter we will discuss the various methods of financing pension plans. In the following chapter we will go over the advantages and disadvantages of these systems.

The cost of financing a pension plan may be handled on a pay-as-you-go basis or the money may be placed in a fund to meet obligations. "The pay-as-you-go method is probably the oldest and least satisfactory."[13]

> This method seems simple and inexpensive, because of the low initial cost. This is deceptive however, because the simplicity of not taking into careful consideration future costs could render a firm insolvent. The low initial cost hides the fact that this method of financing is more expensive since in this system there is no interest to work towards building the fund. Furthermore under the pay-as-you-go method future obligations tend to increase and these may well be at a time when the company cannot withstand this increase in cost. Even the largest and strongest concerns cannot be certain that pension payments can be continued for generations on a pay-as-you-go basis.[14]

---

13 J. W. Meyers, Financing Voluntary Pension Plans, Forum held on February 16, 1950, by Chamber of Commerce, State of New York, 32.

14 Business Conditions, A Review by the Federal Reserve Bank of Chicago, September, 1950, 8.

Since therefore the cost is high and the certainty of paying pensions as they become due is doubtful, this method of financing pensions is very unsatisfactory for both employer and employee.

Opposed to this pay-as-you-go method is the system of accumulating money necessary to pay off pension benefits in a fund. The fund may be in an insurance company, in a trust or in the company itself providing the pension.

Pension plans funded in an insurance company are either of the Group Annuity type, the Group Permanent Insurance type or the Individual Annuity type. The Group Annuity is

> "a type of pension plan designed by insurance companies for a group of persons, usually employees of a single employer, covering all qualifying persons under one contract for the benefit of the members of the group. Employer contributions or employer and employee contributions, as the case may be, are determined by the insurance company's actuaries in accordance with the benefits to be offered. Contributions are turned over to the insurance company as specific premiums. The insurance company then guarantees payment of the benefits as they accrue to members of the group who meet the eligibility requirements."[15]

In setting up a pension program, liability for the

---

15 *Handbook for Pension Planning*, Bureau of National Affairs, Washington, D. C., 285.

future and past must be considered. The liability of the future, although unknown, must be forecast as accurately as possible. The possibility of a business recession, or the seasonal nature of a particular business should be taken into account.[16]

When a pension program is inaugurated, there usually will be a number of older employees who are close or very close to the retirement age. It would not be just, nor would the objective of the pension program be realized if these employees were excluded. The problem usually is solved by granting credit for prior service. This will of course greatly increase the cost of a pension program, because generally, these older employees are earning proportionally higher wages, and no reserve has been set aside for them. If, by granting full credit for past service, the cost of the program is excessive, this may be reduced by giving credit for only part of the service in the past.[17] The premium for this liability is computed as a single premium on the effective date of the

---

16 Burton A. Zorn, Collective Bargaining of Pensions, Form held February 16, 1950 by Chamber of Commerce, State of New York.

17 Pension and Profit Sharing, Prentice-Hall, 1948, 7011.

plan to purchase the amount of all past service credits under the plan.[18] There is considerable flexibility in paying this sum, however, although the unpaid portion earns interest from the inception date. This payment may be made in one lump sum, but this is usually not done because the federal income tax law and regulations provide that only ten per cent of the amount of the single sum cost may be deductible in any one year in computing the employer's income tax.[19]

The number of people required in writing group annuities varies according to companies and according to state laws. Insurance companies, however, may require 50 or 100 persons regardless of the state minimum and if the plan is contributory, that 75 per cent of the eligible employees join the plan.[20] Under the group annuity plan, the rates are usually guaranteed by the insurance company for a period of five years. At the end of this period and usually on each anniversary, the company reserves the right to modify the

---

18 Handbook for Pension Planning, Bureau of National Affairs, Washington, D. C., 1949, 107.

19 Federal Income Tax Regulations, Reg. 111, Sec. 29.23 (p) 7.

20 Handbook for Pension Planning, Bureau of National Affairs, Washington, D. C., 1949, 86.

rates either higher or lower.

Under this type of plan the employer may receive credits for cancellations of annuities on termination of employment other than death. The credit allowed on cancellation of any future service annuity is usually figured as follows:

> "(a) 96 per cent of the amount of the employer's payments with interest on each premium payment from the end of the plan year in which the payment was made to the first of the month in which cancellation of the annuity occurs, less
>
> (b) 4 per cent of the cash value payable to the employee, whether or not he avails himself of the cash option. If the plan provides for the return to the employee of his contribution without interest and the employee terminates at least three years after he entered the plan, this 4 per cent deduction will not be made."[21]

As regards the credit to the employer on any past service annuity, it will either be "96 per cent of the employer's premium payments for such past service annuity with interest from the date of payment to the first of the month of cancellation or 100 per cent of the employer's premiums without interest."[22]

For that portion which is vested in the employee

---

21 Ibid, 104-105.

22 Ibid, 105.

there will of course be no cancellation and therefore no credit.[23]

If an employee continues to work after the set retirement age often the benefits which would be due him at retirement are postponed until he actually does retire. The payments which would have been made during this period are credited to the employer against future premiums.[24]

Rate credits or rate reductions may also accrue to the employer depending upon the size and experience of his particular contract and the insurance company's general experience on group annuities. Investment yields on the accumulated cash balance in the contract may also result in a dividend to the employer.[25]

It must be kept in mind, however, that in order to qualify for the requirements of the Internal Revenue Code, credits due the employer, may not be paid in cash, but are to apply to future premiums.[26] The employees covered under the plan will receive credit upon termination of employment. The

---

23 Ibid, 103.

24 Ibid, 97.

25 Ibid, 111.

26 <u>Federal Income Tax Regulations</u>, Reg. 111, Sec. 29.23 (p) (e) 9.

employee is generally given the option of continuing the annuity, purchased with his own contributions, or withdrawing his contributions in cash with or without interest, depending upon the contract. Under a contributory plan, in the event the employee dies before retirement, his contributions are payable to his beneficiary or estate.

A type of group annuity sometimes used in funding a pension plan is known as deposit administration. It is generally used only where there are large groups (at least 500 to 1,000 persons) to be covered. There are some insurance companies, however, who prefer not to write this type of plan. As Boyce[27] describes the plan;

> Under this deposit administration arrangement the premiums which the employer pays are not used to purchase paid up deferred annuities, but rather are kept in a single fund. If employees contribute, their premiums are kept in a separate deposit fund. As each worker retires the amount necessary to purchase the particular employee's annuity is withdrawn from the fund. The rate paid for the annuity is the same as the rate paid under the group annuity plan; maximum and minimum deposits are agreed upon.

The insurance company guarantees the minimum rate of interest on the deposit; it does not guarantee any specific amount of benefit payable on retirement. Once an annuity is purchased,

---

27 How to Plan Pensions, McGraw-Hill, New York, 1950, 136-137.

however, the insurance company does guarantee payment for life. Since annuities are not bought before retirement there is no employer credit for withdrawals.[28] These however may be estimated and discounted in advance.

A combination of life insurance and retirement benefits is found in the Group Permanent Plan underwritten by insurance companies. Group permanent insurance, as related to pensions is a retirement plan which usually combines life insurance with retirement benefits and uses the level premium method, under a group contract between the employer and the insurance company.[29] Since the coverage is broader and the administration more complex than the group annuity plan, the premiums are higher. This form of coverage usually provides $1,000 of life insurance with each unit of $10.00 of monthly retirement income. The insurance coverage up to certain limits, apply automatically to each member of the group without medical examination.

For small companies with few employees, insurance companies will write individual annuities to provide a pension.

---

28 Handbook for Pension Planning, Bureau of National Affairs, Washington, D. C., 1949, 115.

29 Ibid, 285.

An individual annuity is a contract with an insurance company under which the insurance company guarantees to pay an individual employee a certain amount of money per month or per year starting at a certain age, such as 65, for as long as he lives.[30] The contracts are written in the name of the individual worker and premiums are on a level annual basis. Most annuities provide for benefits in units of ten dollars. Often life insurance is written in conjunction with the individual annuity, usually 1,000 dollars for each 10 dollars monthly retirement benefit. Medical examinations are generally required. If an employee is unable to pass the physical examination an annuity is issued without the life insurance.

Under this method of providing pensions, withdrawals are quite expensive for the employer because particularly in the early years the cash value is usually low.[31] Boyce points out that

> quite often a trust is established to handle these individual annuities. This is to prevent members of the plan from gaining control of the policies. It is possible that if the employees were given the contracts, the employer might be open to claims for overtime under the Wage and Hour Law, since the payments made to the in-

---

30 Carroll Boyce, <u>How To Plan Pensions</u>, McGraw-Hill, New York, 1950, 473.

31 Ibid, 139.

surance company would have the effect of putting immediate cash in the hands of the employee. Then pension contributions would have to be computed in overtime pay.[32]

Pension plans may also be funded through a trust agreement.

A Pension Trust Fund is a fund consisting of money contributed by the employer and in some cases the employer and employee, to provide pension benefits. Contributions are paid to a trustee, either corporate or individual, who invests the money, collects the interest and earnings and disburses the benefits under the terms of the plan and trust agreement. A pension trust fund may be either wholly self-administered or the plan may be partially insured with benefits purchased by the trustee, often at retirement, from an insurance company.[33]

Sometimes this plan is called "self administered" or "self insured."

The usual procedure in setting up a trust plan is that the employer or the pension committee selects a trustee. This may be an individual, a corporation, a trust company or a bank. The trustee is then put in charge of the fund and the responsibilities of the employer and trustee are set forth as regards the administration of the trust funds. There may or may not be specific rules as to amounts and time of deposits

---

32 Ibid, 139.

33 Handbook for Pension Planning, Bureau of National Affairs, Washington, D. C., 1949, 287.

or as to investments. The trustee is authorized to make payments from the fund to employees and retired employees according to the conditions specified in the plan. It is important to remember that under this type of plan it is the responsibility of the parties to see that the plan is actuarially sound. Employees may contribute under a trust plan. Death benefits or even disability pensions can be provided under a trust agreement, depending upon the amount the employer or the employer and employees are willing to spend.

The Ordinary Life Pension Trust is a combination of life insurance with a self-administered trusteed plan. The trustee purchases ordinary life insurance for each employee or for all employees, and pays the premiums on this insurance until the employee reaches retirement age. The trust also accumulates in an auxiliary fund, sums to purchase retirement benefits for the employee. The paid up cash value of the insurance policy is then used to help purchase an annuity for the employee.

It is apparent that there are many ways in which a pension plan can be financed. Each plan has strong points and weak points, advantages and disadvantages. Since it is very important to both employer and employee that their plan be sound, let us analyze the advantages and disadvantages of

each plan.

CHAPTER IV

ADVANTAGES AND DISADVANTAGES

In discussing the advantages and disadvantages of financing pensions, it is well to keep in mind that it is not possible to compare one system against another for the purpose of finding the best method. The different financing methods do not compete one against the other, but are available for selection to fit the definite occasion and need. A plan that works very well in one plant or industry may be no good at all in another industry. For example small plants may prefer to finance their pension through an insurance company by individual annuities. A larger concern may finance through an insurance company, but use group annuities. A large industry may select to finance their plan in a trust fund. "What's one man's meat is another man's poison" applies also to methods of financing a pension. It is often possible that a combination of plans will provide the best answer to a specific situation. It is well for employer and employees to realize this point. They should want to get the broadest, soundest pension benefits at the lowest cost. They will be wise, therefore, if they deliberate long and carefully to see what plan or combination of

plans will do this for them.

As we pointed out previously, it is hard to conceive of any instance where it would be more advantageous to finance a pension by an unfunded method. An unfunded system of financing is usually more costly in the long run, and never has the security of a funded system. We shall not, therefore, compare or analyze pension plans that are financed on a pay-as-you-go basis.

The question to be decided by the employer or the union is whether the pension should be financed through an insurance company or whether it should be handled by a self-insured trust. If the pension is to be handled by an insurance company they must further decide on the type of contract or contracts to be used. The parties must also determine whether a combination of these plans would best suit their needs.

Let us consider some of the factors which will influence the decision. The size of personnel will definitely determine the plan to be used in financing the pension. Where there are less than 100 or 200 employees it is better to finance through an insured plan, rather than by a self-insured trust. Self-insurance even if the entire 100 or 200 employees were participants must be excluded; only in an exceptional

situation would an employer of 200 or less be warranted in assuming the risks and expense of self-insurance.[34] If an insured plan is selected, the number of employees will in part determine the type of plan available. Most companies require a minimum of 50 to 100 eligible employees to qualify for a group annuity plan. If the employer cannot qualify for a group annuity plan because of the size of his working force, individual annuity contracts is the only type of plan he can use to fund the pension program.

In the situation where there are more than 200 employees to be covered under a pension plan, there is much more variety as to how the plan may be financed. The plan may be insured or a self-insured trust used. If the plan is insured, either the group annuity, deposit administration or group permanent type may be used.

If, therefore, the personnel size permits a wide selection of plans, the parties will undoubtedly want to install that plan or combination of plans which will give them the broadest, most secure benefits at the cheapest cost. The financial strength and reserves of the company or industry must be determined and projected as far as possible into the

---

[34] Hugh O'Neill, Modern Pension Plans, Prentice-Hall, New York, 1947, 246.

future. How much the company can spend on pensions must be known. It should be decided whether the pension will be on a contributory or non-contributory basis. When it is known how much can be spent, the parties can begin to look for the best plan or combination that will fit their particular need. It must be kept in mind at all times that regardless of the method of funding used, the cost of a pension plan will be the expense of the payment of benefits plus the cost of administration minus the interest accrued.

Practically the same benefits may be obtained under the trust method as under the insured method. It is rather fruitless to compare the various types of plans, such as Group Annuities, Group Permanent Insurance or Individual Annuities with one another as regards benefits. The amount of retirement benefit, of course, will depend upon how much the employer or employer and employees are willing to spend. If death benefits are to be included as is usual in Group Permanent or Individual Annuities, this is naturally going to cost more than a plan excluding this benefit. It is well for the parties to study the various plans or combination of plans to see which one will be most advantageous to them as regards benefits for the money they can afford to spend.

The cost of administration is a factor which will

determine the method of funding. Here again the size of the working force must be considered. Most small employers do not have the skilled personnel nor the facilities to effectively self-administer a plan. For them a pension plan can best be handled by an insurance company which will administer the plan. For larger companies who have a choice of either a trust plan or an insurance plan, a self-administered trust plan will often be cheaper as regards administration costs. It is claimed that the trustee's expense, other than basic fees and custodial expenses (which correspond to the investment expenses of insurance companies) will usually be less than 1% of contributions. The expense loading under group annuity insurance contracts is 8%, the major portion of which is for items other than actual expenses.[35] It must be noted, as Boyce[36] points out that the actual loading for administration is usually 3 to 4 per cent and the remainder of the 8 per cent is for contingencies. Since the insurance company guarantees a certain rate of interest on its policies, it must set aside a reserve

---

[35] J. W. Meyers, Financing Voluntary Pension Plans, Forum held on February 16, 1950, Chamber of Commerce, State of New York, 35.

[36] How To Plan Pensions, McGraw-Hill, New York, 1950, 198.

to take care of investment losses.

The commissions paid to brokers or agents in insured individual policy plans usually run about three or three and one-half per cent of the annual premium. This cost is avoided in a self-insured plan, although, unless a company has skilled technicians available, there will be expenses for pension consultants, actuaries and trustees.[37] These costs, however, are included in the 3 to 4 per cent administration charges under insured plans.

The quality of the administration process must be considered, of course, and the parties must determine whether in their particular case the cost of administration would be less by self-insurance than by the insured plan.

The actuarial principles used in determining the liabilities of a pension plan are exactly the same whether the plan is insured or self-insured. One exception, however, is that an independent actuary will generally use more realistic mortality rates than those often used by insurance companies. Because of the different tables used, the total cost of the self-insured plan will be less, and in some instances as much

37 N. H. Seefurth, A Second Look at Pension and Profit Sharing Plans, Financial Management Series No. 87, American Management Association, 1947, 31.

as 15 per cent.[38]

The interest that the fund accumulates is of importance to those planning a pension as this affects the cost. The rates of interest on investments have fallen considerably during the past fifteen years.

> In 1927 or 1928 an actuary, in computing a self-insured plan, might have conservatively used an interest rate of four to five per cent. Today, however, about two and one-half per cent is all he might reasonably assume. An actuary figuring an insured plan would be even more conservative because he is setting a price for a guaranteed product.[39]

In this respect it is generally agreed that insurance companies have a wider field or a more diversified investment portfolio than the trustee handling the self-insured fund. Since interest on the fund represents a savings, and sometimes a substantial one, it is well for the parties to check this carefully.

An important factor, in determining the plan to be used, especially in a company where the earnings are not constant is the freedom allowed as to time and amount of payment

---

38 "Employee Retirement Plans," Round Table Discussion, Continental Illinois National Bank & Trust Company of Chicago, Trust Department, 1950, 65.

39 Harry E. Blagden, "Actuarial Basis for Pension Systems," Pensions and Profit Sharing Trusts, New York University, 1944, 67.

into the fund. The self-insured trust allows more flexibility in this regard than does the insurance method. The insurance companies, however, under the deposit administration plan have attempted to meet this challenge.

Since there is no surrender charge for withdrawals under the self-insured trust plan, whereas there is a penalty under practically all insured plans, this important feature must be taken into consideration before deciding how the pension plan is to be funded.

The attitude of the union in bargained pension plans will have an effect upon the method of funding. Some unions will insist upon an insured plan fully funded. Other unions will leave the matter of funding up to management. There is a tendency recently, especially among the larger unions to demand jointly administered self-insured plans.

There is no special rule to follow on the system to be used in funding a pension plan. Individual circumstances will determine the best system to be used. The main feature of self-insured trust funds is flexibility. The outstanding characteristic of insured plans is security. There are, however, advantages and disadvantages to both. What aspect each plan will take should be based upon the individual case. It is often advantageous to use a combination of various systems

and plans. The goal is to obtain for the lowest cost, the most secure pension plan that will give the best benefits.

CHAPTER V

PENSION PROBLEMS

The problems of financing and funding are not the only problems to be solved in setting up a pension plan. There are many other questions which must be answered if a plan is to function efficiently. Since a pension plan will have serious and long-range effects upon the employer, the employee and the public, one cannot urge too strongly that unions and management seek not only their own selfish interests, but the good of all in working out these problems. Because pensions involve grave long-term commitments, it is to be hoped that the plans be studied thoroughly and patiently by both sides together.

(1) Pensions Within the Proper Scope of Collective Bargaining

There is no doubt now that pensions are within the proper scope of collective bargaining. This was decided in the Inland Steel Case.

The Inland Steel Company installed a pension plan on January 1, 1936. The retirement age was set at 65 and section three stated, "no employee shall be retained in active service after the normal retirement date, except upon year to year approval of the Board." During

> the war years this approval was given almost automatically, in order to keep a necessary large working force. After the war however, this normal retirement age began to take on some meaning again. The company returned to the old practice of compulsory retirement at the age of 65 without consulting the union.[40]

When the union complained about this the company refused to discuss the matter. The C.I.O. Steelworkers Union then charged the Inland Steel Company with an unfair labor practice before the N.L.R.B. The basis of the Steelworkers' charge was that compulsory retirement was a condition of employment and thus subject to collective bargaining. In April 1948, the Board ruled in favor of the C.I.O. Steelworkers by a 4 to 1 decision. The National Labor Relations Board ordered the Inland Steel Company to

> "Cease and desist from
>
> "(A) Refusing to bargain collectively with Local Unions Nos. 1010 and 64, United Steelworkers of America (CIO) with respect to its pension and retirement policies if and when said labor organization shall have complied within thirty (30) days from the date of the Order, with Section (9) (f), (g) and (h) of the Act as amended, as the exclusive bargaining representative of all production, maintenance and transportation workers in the (petitioner's) Indiana Harbor, Indiana and Chicago Heights, Illinois plants, excluding foremen, assistant foremen, supervisory, office and salaried employees, bricklayers, timekeepers, technical engineers,

---

40 Carroll W. Boyce, How to Plan Pensions, McGraw-Hill, New York, 1950, 5.

technicians, draftsmen, chemists, watchmen and nurses;

"(B) Making any unilateral changes, affecting any employees in the unit represented by the union, with respect to its pension, and retirement policies, without prior consultation with the Union, when and if the Union shall have complied with the filing requirements of the Act, as amended, in the manner set forth above."[41]

The Board found that the company refused to discuss the original pension plan and amendments with the union and since this involved wages and working conditions, the company by their refusal to bargain was guilty of an unfair labor practice.

The Board ruled that "wages include emoluments of value like pension and insurance benefits which may accrue to employees out of their employment relationship." Pensions, they held, are part of wages and thus, subject to collective bargaining. Compulsory retirement comes within conditions of employment, the Board ruled and therefore, this too was subject to bargaining. The Board relied on previous court decisions, and particularly upon the legislative history of the N.L.R.A. as amended to substantiate their ruling. The Board's decision was affirmed by the United States Circuit Court of Appeals at Chicago and the United States Supreme Court denied

---

41 22 LRRM 2508

certiorari.[42]

From this case, it is therefore evident that pensions do fall within the proper scope of collective bargaining.

(2) Contributory or Non-Contributory

The question whether or not employees should contribute toward the pension plan is often a headache in setting up a plan. This problem has been argued pro and con at length and in detail. Some of the disagreements have not been pleasant. One of the main issues in the steel strike of 1949 was that of employee contributions.

A contributory pension plan is one in which the participants pay part of the cost of purchasing the annuity or building up the fund from which pensions are paid.[43] A non-contributory plan is one in which the employer pays the entire cost of the premiums or of building up a fund from which pensions are paid.[44]

It is evident that if an employee contributes to a pension plan, larger benefits may be purchased for him. If the

---

42 Inland Steel Company v N.L.R.B. 170F2d247; cert. denied 336U.S.960.

43 <u>Handbook for Pension Planning</u>, Bureau of National Affairs, Washington, D. C., 1949, 285.

44 Ibid, 287.

employees add something to the amount that the employer pays into the fund there will be a greater sum available for them to purchase benefits. Boyce[45] points out, however, this does not follow through on a dollar for dollar basis. Because employees have normally the right to have their own contributions refunded if they become separated from employment prior to retirement, some of their money will be used to pay death benefits, in the case of those who die before retiring and some will be returned to those who terminate employment before retiring. Also while retirement income, up to the amount of the employee's contribution is tax free,[46] the amount he contributes is not. The employer's contribution, however, is usually exempt.[47]

There is the rebuttal, however, that if the employee's contribution is reasonable, it will not contribute much to the overall pension cost. The added cost of administration which accompanies a contributory plan is not worth the relatively small total of employee contributions. It is also contended

---

45 Carroll W. Boyce, <u>How To Plan Pensions</u>, McGraw-Hill, New York, 1950, 75.

46 <u>Internal Revenue Code</u>, Sec. 22(b)(2)

47 Ibid, Sec. 23(p)(1)(A)

that another payroll deduction (in this case for Pensions) would tend to make the employees more wage conscious, since their take home pay would be less. This might easily lead to a demand for a wage increase, which, in the long run, could mean that the employer is paying the total cost of the pension plan.

Those advocating the contributory plan point out that when an employee contributes toward the pension, he is shouldering part of the responsibility of providing security for his old age and is more aware of the cost of the plan. The persons favoring a non-contributory plan, however, hold that it is the obligation of management to provide the best benefits they can afford, and after that it is the employee's own business if and how he wants to provide further for his years of retirement.

In theory it seems that in a contributory plan a worker would be in a much better position to demand a voice in the pension administration. In practice this has not always held true, because unions have demanded and received a part in administration of pensions that are on a non-contributory basis.

Employees in a contributory plan often have a vested

right to the benefits accrued prior to their separation from service. This is important to the employee, and is hailed as a good point for the adherents of the contributory plan. The opponents of this plan, while recognizing the employee's right, maintain that vesting is not always favorable to the employer, because it reduces the effectiveness of a pension plan in cutting down employee turnover.[48]

Since the Treasury insists that at least 70 per cent of all the employees or 80 per cent of the eligible employees participate in a pension plan in order to qualify for tax exemption,[49] those favoring a non-contributory plan point out that the employer runs a risk of not qualifying if the required number do not sign up, unless the plan is compulsory.

The problem of contributions recently has been placed on an optional basis in some pension plans. In these cases if the plan is contributory the employee may elect to contribute an additional amount, or if the plan is non-contributory he may contribute to the cost. In return for this contribution he receives a stated additional amount of benefit.[50]

---

48 "Business Conditions," A Review of the Federal Reserve Bank of Chicago, September, 1950, 7.

49 Internal Revenue Code, Sec. 165(a)(3)

50 Carroll Boyce, How To Plan Pensions, McGraw-Hill, New York, 1950, 78-79.

It is evident that the question of contributory or non-contributory plan has arguments for and against each. The practical answer usually will be given in accordance with the specific company, the economic conditions and the specific issues at hand. From the theoretical standpoint it would seem that if the basic objective of pensions is to provide economic security for workers in old age, this could best be achieved in most instances by having a contributory plan because there would be more money available to purchase benefits, and by comparison therefore, the benefits should be greater either by quality or quantity.

(3) Vesting

The question of vesting is another problem that must be answered in setting up a pension plan. Vesting means that an employee covered under the plan who leaves the company for any reason not excepted by the plan, does not lose all of the equity built up on his behalf, but may, at a designated time, receive either a stated lump sum payment or a reduced pro rata pension prior to the time he reaches retirement age or a normal pension upon the attainment of normal retirement age.[51]

---

51 Handbook for Pension Planning, Bureau of National Affairs, Washington, D. C., 1949, 289.

In a contributory plan, of course, the employee has a vested right to the amount of his contribution, and when he terminates employment this amount is returned to him usually with interest. If a plan is funded in such a way that there is a surrender charge for withdrawals, sometimes, part or all of this interest is withheld to offset this.

In non-contributory plans the time of vesting and the amount vested may depend upon age, service, combination of both, membership in plan and reason for retirement. Vesting may be immediate or deferred. The employee's vested right may be returned to him in a lump sum cash payment, or by purchasing a retirement income for the employee with this amount. If a plan is funded by individual annuities, the employee may be given the option of taking over the annuity.

It is apparent that if a plan has liberal vesting provisions, it is going to be costly. Vesting, however, can be used to good advantage by giving the employees a feeling of security and by giving them some job mobility. The economic shock of a long layoff may be tempered somewhat by an employee's vested right in a plan. Death benefits may be a subject of vesting, although this is more common under plans which use individual annuity contracts. Under other plans this may be taken care of by group life insurance.

In setting up a pension plan care should be taken to seek the proper point at which the advantages of vesting can be had without sacrificing the main objective, i.e. adequate retirement benefits. This will call for a thorough study of the requirements to be met for an employee to be eligible for vesting.

(4) Administration

Whether the pension should be administered by the employer only or whether it should be administered jointly by the employer and the union is usually a thorny question which must be solved. This problem reflects one of the basic differences between labor and management, namely, should labor have a voice in management and if so how much. Since pension plans are designed primarly for the employee, and since the worker has so much at stake in a pension plan, it is difficult to see why the union should not join management in the administration of the plan. If the plan is contributory, the argument of the union for joint administration is even more evident.

In the report, "Retirement Funds for Newspaper Workers," prepared by Murray Latimer,[52] Section 11 states,

---

52 Murray W. Latimer, "Retirement Funds for Newspaper Workers," Sec. 11, How To Plan Pensions, Carroll W. Boyce, 204.

"In times past most pension plans have been administered on a unilateral basis, with such help from insurance companies, actuaries and other experts as the employer, in his discretion might retain. Participation by representative of labor organizations in the administration of pension plans is highly desirable for several reasons. First and foremost, of course is that participation is desirable in order to make sure that the interests of the participants are protected. Second, the experience gained by union representatives in knowledge of the functioning of pension plans is valuable. Third, participation in administration gives union representatives a leverage in making sure that the development of the plan is towards more effective protection of employees against the hazards of old age and disability. The tasks of an administrative body have to do with the award of pensions, which may involve determination of disability; with decisions as to how to make the payments in order to protect the interests of those elderly or disabled persons whose mentality may have been clouded; with maintaining records useful for the purpose of studying experience, with seeing to it that adequate contribution rates are maintained; with making decisions with respect to investments or with respect to selection of outside agencies for that purpose; with recommending changes in plan terms; with whatever steps are needed to make the plan function effectively. In all these aspects of administration, the union has as much, frequently more, to contribute as management."

Even though many of the newly bargained pension plans provide for joint administration of the plan, management seems to fear the position that unions thus assume. The unions on the other hand, are unwilling to let management administer the entire pension program, since it is so important to the workers. It is to be hoped that as the two work together these fears and doubts will disappear.

It would seem wise to state very definitely just what administrative power a joint committee will wield; just how far either management or the union can go. This will help protect the pension plan and ultimately the workers in case either side should attempt to pursue their own selfish interests.

We shall not attempt to enumerate all the pension problems that may arise. It is certain that difficult questions and serious problems will crop up in setting up a pension plan. It is very important that both unions and management always keep in mind the basic objective of the pension plan and try to work out these problems harmoniously.

CHAPTER VI

LEGAL and TAX ASPECTS OF PENSIONS

It is very important that a pension plan meets all legal and tax qualifications at all times. Much time, trouble and money can be saved if the advice of a qualified person or persons is obtained regarding these aspects. If a firm, large or small, does not have the qualified personnel, it is imperative to call in some experts who could advise them.

It is not the purpose of this chapter to attempt to detail all the legal and tax pitfalls inherent in pension programs, nor to try to give the solutions to problems in this area. We wish to point out that there are important problems, as regards legality and taxation, which must and can be solved, and we will review some of these.

There is no definite field of law which deals only with pensions. Actually pensions cris-cross into many fields and regulations as regards legality, such as tax laws, labor laws, wage and hour legislation, S.E.C. regulations and many others. Unfortunately there is no model to follow, but each plan must be carefully checked to be sure that it is on safe

legal ground; otherwise serious trouble will follow.

The employer will certainly want to be sure that the pension plan qualifies for tax exemption under the Internal Revenue Code. If the plan qualifies, much money can be saved, and therefore greater benefits may be purchased.

> The provisions of law controlling tax exemption are found in Section 165 (a) and those concerning deduction in Section 23 (p) of the Internal Revenue Code. The law has been combined in Regulations of the Commissioner of Internal Revenue. In addition to this there have been a whole series of rulings known as P.S. Rulings issued through the Pension Trust Division of the Bureau of Internal Revenue in Washington, D. C., and miscellaneous Bulletins, General Counsel Memoranda, Treasury Decisions, Mimeographs, and the like.[53]

The principal requirements to qualify a plan under Section 165 (a) of the Internal Revenue Code are:

1) The plan must be permanent.
2) There must be a trust, contract or other legally binding instrument.
3) It must be for the exclusive benefit of the employees or their beneficiaries.
4) Until the purposes of the plan have been fulfilled, it must be impossible for the principal or income of the trust to be

---

53 Gustave Simons, "Qualifying a Plan," Handbook for Pension Planning, Bureau of National Affairs, Washington, D. C., 1949. 50.

diverted from these benefits to any other source.

5) The trust must include certain minimum personnel. It cannot be for selected groups of executives or supervisors.

6) The benefits specified must not discriminate in favor of officers, stockholders, supervisory personnel or highly paid employees.

Since there are certain definite data which must be supplied to the Internal Revenue Office, the pension plan should be worked out in detail and then the necessary information sent to the Commissioner of Internal Revenue for an advanced ruling. If the plan is not approved, the plan must be amended until it meets the qualifications. When the plan is approved, a letter will be sent to the taxpayer over the signature of the Commissioner, stating that the plan meets the requirements of Section 165 (a) of the Internal Revenue Code, provided the information given was correct and true.

The qualifying rules, particularly the ones concerning non-discrimination may give doubt as to interpretation in particular cases. It is well to study the rulings of the Commission in regard to all these qualifying rules. In the final

event, however, the Commission will judge as to whether or not a particular plan qualifies or not.

Although a pension plan qualifies for tax exemption under Section 165 (a) of the Internal Revenue Code, actual exemptions, year to year, however, must be claimed under Section 23 (p). If a plan qualifies for tax exemption under Section 165 (a) the Bureau places certain limitations in the quantity of payments that may be deducted in any one year under Section 23 (p). It is also important to check State tax laws, as these laws vary according to State, as to whether the pension trust itself, the income from the trust, the employer's contributions, the employee's contributions, or the pension benefits are subject to taxation.[54]

It is very important, therefore, to all parties concerned, that a pension plan be set up in such a manner that it will qualify for tax exemption.

The Fair Labor Standards Act must be taken into account when planning pensions. Under this Act, a worker who is covered, is entitled to overtime premium when he works more than forty hours in one work-week. In figuring the overtime

---

54 Blueprinting the Pension Plan, Commerce Clearing House, Chicago, 1950, 56-57.

premium the question arises as to whether the employer's contribution to a pension plan constitutes part of the employees' earnings, so as to be included in the employees' regular rate of pay. Prior to the amendment of the Fair Labor Standards Act in 1949, there was nothing definite on this, although there were a series of rulings by the Wage-Hour Administrator. This question, however, has been answered in the Amendments of the Fair Labor Standards Act, effective January 25, 1950. Beginning on that date, an employer's contribution to a pension plan is not included in the figuring of his employee's "regular rate of pay," provided that the employer's contributions: cannot be recovered by him, that is, irrevocable; that they are made to a trustee or third person; and that they are made in accordance with a bona fide plan.[55]

In cases where the pension plan does not apply to workers covered under the Fair Labor Standards Act, it is wise to check State laws as regards minimum wages, wage payment and wage assignment.

Labor law must be complied with in setting up a pension plan. As we have previously seen, it has been legally established that pensions come within the scope of collective

---

55 Ibid, 35.

bargaining.

The Taft-Hartley Act has definite provisions concerning employer's contributions and administration of pensions and applies to all who come under the Act. Section 302 (c) states:

> "The provisions of this section shall not be applicable . . . (5) with respect to money or other things of value paid to a trust fund established by such representative for the sole and exclusive benefits of the employees of such employer, and their families and dependents (or of such employees, families and dependents jointly with the employees of other employers making similar payments, and their families and dependents): provided, that (A) such payments are held in trust for the purpose of paying, either from the principal or income, or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and representatives of the employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such a deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such disputes, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested

persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments are are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities."[56]

From the foregoing it can be seen that the Taft-Hartley Act provides definite limitations as regards certain pension trust funds, particularly as to who is to benefit, the use of the fund, the administration of the fund and an accounting of the fund.

Other Federal and State Labor Laws must be studied as regards the pension plan, particularly when the plan is tied in with collective bargaining. Laws pertaining to union security, bargaining rights, and bargaining practices can have an effect on pension plans. For instance, a pension plan would be in jeopardy in many states if it were included in a bargaining agreement which provides union security through the union shop, as the union shop is outlawed in many states.[57]

It is also wise to determine if the pension plan checks favorably with S.E.C. regulations. The S.E.C. regula-

---

[56] National Labor Relations Act, as amended, 1947, Sec. 302 (c).

[57] Blueprinting the Pension Plan, Commerce Clearing House, Chicago, 1950, 28.

tions are highly technical and must be carefully checked especially with contributory plans. The reason for this is that the investment contract or certificate of interest in contributory plans involves sales as far as Section 2 (3) of the Securities Act of 1933 is concerned.[58]

The exceptions to rule 430 are important because ordinarily a contributory voluntary plan will be exempt, if it comes under any one of the following four exemptions:

(1) Contributions are used only to buy annuity contracts or insurance policies - both of which are themselves exempt from registration.

(2) Plan membership is limited to those who live in the state in which the employer is a resident or is incorporated and is doing business.

(3) Membership in the plan is offered privately to a limited number of employees.

(4) If the amount of contribution to which the employees are invited to obligate themselves throughout the lifetime of the plan will not exceed $300,000.[59]

Pension trust investments must also be checked with S.E.C. rulings even though the plan be exempt.[60]

Legal and tax problems exist with every pension plan;

---

58 Blueprinting the Pension Plan, Commerce Clearing House, Chicago, 1950, 73.

59 Ibid, 74.

60 Ibid, 74.

not to be sure in the same number or degree, as they vary according to the specific plan; but each plan has some. It is most important, therefore, if the plan is to function effectively, that these legal and tax problems be solved, and this usually calls for expert advice.

CHAPTER VII

EFFECTS and TRENDS OF PENSIONS

Because pensions are a long range program it is practically impossible to determine as yet what the effects have been of the recent pension plans. Although there have been pension plans in operation for over half a century in this country, it must be remembered that the dramatic growth of pensions has just occurred within the past eight or nine years. Then too, a majority of these eight or nine years have been years of unusual inflation.

We do know that many people have become much more aware of the pension problem. This is definitely a good effect. Once we recognize that there is a problem and define it we can begin to tackle it. We may not as yet have found the correct answer, but we are making an effort. In our efforts to solve this problem we realize the problem is difficult and complex. This too in a good effect, because it should make persons stop and consider the broad implications of pension plans upon the employer, and employee and society. With this in mind, pensions should be studied and

planned very carefully.

Pensions have had their effect on labor laws and on collective bargaining and will continue to play a major role in labor relations. These are some who feel that pensions do not fit in favorably in collective bargaining because of their long range implications and because of the many technical complexities inherent in pension plans. Since, however, it has been decided by the courts that pensions are within the proper scope of collective bargaining, and since unions seem to want to keep them there, it is doubtful if there will be any change in this respect in the foreseeable future. It is sincerely hoped that labor and management will not "horse trade" about pensions or use them as a football to display their respective power. There is too much at stake for everyone. Eugene Whitmore,[61] editor of American Business, writes,

> "Here then are the issues: Shall we fight out the security benefits in a long-drawn guerrilla warfare with both sides sustaining frightful losses which will wipe out all probable gains for the next generation? Or will labor and management both rise above penny-ante unionism and penny-ante management and join hands to conduct an intelligent study of pension and security plans?"

---

61 Eugene Whitmore, American Business, November, 1949.

Unfortunately, as yet, the hands have not been joined and the study has not been made together.

The problem of financial security for the aged has has its effect on Social Security. The recent amendments to the Act which extended the coverage and increased the benefits stemmed from an acute awareness of this problem, although it is undoubtedly true that inflation also played a major role. Many of the recent plans have integrated their benefits with those of Social Security, and there appears a definite trend in this direction. This appears to be a sound approach, although there is still the problem of including more workers under both Social Security and private pension plans.

It is difficult to ascertain how employees have been affected by pensions. We do know that the benefits for those retiring have been inadequate in recent years, but this is due primarily to inflation. Will the benefits of recent pension plans coupled with the increased benefits of Social Security be sufficient? It is well to point out here that while pensions are an important part of the answer to old age security, they are not the complete answer. Even a plan providing liberal benefits may not be adequate in an inflationary era. The solution will not come by increasing benefits, but by halting in-

flation.

How has the employee been affected by pensions on his job? We do know that there has been discrimination against older workers due to recent pension drives. This is an extremely difficult problem for which no solution has been found as yet. It is also difficult to tell as yet the effects of recent pensions on the mobility of labor, or on job selection. The age of the employee and the attitude that workers have toward pensions and cost of living will affect his actions in these regards. With today's high cost of living will a worker choose a job that pays more and has less security over a job that has security and less money at present? As yet we do not know exactly how pensions are affecting workers in relation to their jobs.

Although we can determine how much an employer is paying for his pension plan in a specific industry, we cannot be sure how this will affect profits, prices or wages. The problem of how the small employer is going to provide sound and adequate pensions for his workers has not been solved satisfactorily. It has been and will be difficult to accurately determine the benefits to the employer from a pension plan, although there certainly will be definite benefits.

It seems certain that the demand for more private pension plans will continue. People have become more aware of the basic problem, security for old age, and the unions seem to be continuing to demand that this problem be solved. At present many unions are insisting on plans that are funded, self-insured, non-contributory, jointly administered and pay flat benefits integrated with Social Security. These unions have generally not demanded that the employees' rights be vested. They have, however, been doing some serious thinking on industry-wide or area-wide pension plans, and the U.A.W. is trying to have such a plan put into effect in the Toledo area.

It seems quite certain that the unions will continue to press for pension benefits, but it is not certain if they will continue to demand the same type of plan in the future. They may insist upon a different type of plan or benefits if and when economic conditions change.

It is evident that pensions play a major role in answering one of the serious problems confronting the United States today, namely, how to provide adequate economic security for an employee who has reached the age when he can no longer work. Pensions, to be sure, are not the complete

answer, but an important part of the answer. While pensions are an answer, they are also a problem. They are a serious problem, because they involve the security of so many people for such a long period of time and indirectly affect many segments of our economy. They are a complex problem because they involve problems of actuarial science, financial and funding problems, legal and tax problems and labor relations and public relations problems. This means that pensions cannot be put into operation quickly nor without thorough and detailed study and planning. With the government, the unions and management working together for the good of society, these problems can be solved, so that pensions may effectively perform their important function in providing economic security in old age.

BIBLIOGRAPHY

Bankers Trust Company of New York, "A Study of Industrial Retirement Plans," New York, 1950, 119.

Bomar, Fleming - Fellers, William W., Fisher, Austin M., Maduro, Dennis B., St. John, John B., Simons Gustave, Gottesman, N. Matthew and Editorial Staff of Bureau of National Affairs, Handbook for Pension Planning, Washington, D. C., 1949.

Boyce, Carroll W., How to Plan Pensions, New York, 1950.

Chamber of Commerce, State of New York, Pension for Employees, New York, 1950.

Commerce Clearing House, "Blueprinting the Pension Plan," New York, 1950, 78.

Continental Assurance Company, "Yardstick for Pension Plans," Chicago, 21.

Continental Illinois National Bank and Trust Company of Chicago (Trust Department), "Employee Retirement Plans," Round Table Discussion, Chicago, 1950, 70.

Federal Reserve Bank of Chicago, "Business Conditions," Chicago, September, 1950, 13.

Garner, Esmond B. and Weber C. Jerome, Pension, Bonus and Profit Sharing Plans, New York, The Chase National Bank of the City of New York, 1943.

Institute of Industrial Relations, University of California, "Pensions and Health and Welfare Plans in Collective Bargaining," California, 1950, 63.

Institute of Labor and Industrial Relations, University of Illinois Bulletin, Volume XLVII, No. 40, January, 1950, 31.

Johnson and Higgins, "Pensions, Intricate and Expensive," New York, 14.

Larson, Robert E., "Insured Pension and Welfare Plans," Bulletin of the University of Wisconsin, Volume II, No. 5, August, 1950, 129.

Latimer, Murray Webb, Industrial Pension Systems, Volumes I and II, Industrial Relations Counselors Inc., New York, 1932.

Louis Behr Organization, Retirement Plans, a Realistic Approach, Chicago, 1944.

National Industrial Conference Board, Handbook of Pensions, New York, 1950.

New York University, Three Day Conference, School of Law, Division of General Education, Pensions and Profit Sharing Trusts, Chicago, Coordinators Cooperation, 1944.

O'Neil, Hugh, Modern Pension Plans - Principles and Practices, New York, Prentice-Hall Inc., 1947.

Poirot, Paul L., "The Pension Idea," New York, The Foundation for Economic Education Inc., 1950, 51.

Steinhaus, Henry W., Financing Old Age, National Industrial Conference Board, New York, 1949.

Wyatt, Richard., Bjorn, Walter; Williamson, William; Bromson, Dorrance C., Employee Retirement Plans, Washington, D. C., Graphic Arts Press, 1945.