

ECONOMIC SECURITY ACT

SATURDAY, FEBRUARY 2, 1935

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, D. C.

The committee met at 10 a. m., Hon. Robert L. Doughton (chairman), presiding.

The CHAIRMAN. The committee will be in order.

We will call out of order, at the request of Representative McCormack, a member of the committee, Ralph Whitehead, of New York, representing the American Federation of Actors.

STATEMENT OF RALPH WHITEHEAD, REPRESENTING THE AMERICAN FEDERATION OF ACTORS, NEW YORK CITY

Mr. WHITEHEAD. Mr. Chairman and gentlemen:

The American Federation of Actors is a group with jurisdiction over vaudeville, motion-picture-presentation theaters, clubs, cabarets, and all out-door amusements. Under a charter granted us by the American Federation of Labor, we are functioning in the capacity of an actors' group for the protection of those people. I have the honor to represent them as their executive secretary.

I do not think it is necessary for me to go into any long explanation as to the great suffering that we have experienced not only through the depression but even before the depression on account of this monopoly created by the motion-picture industry. We have found that most of our people were locked out of the theater, and they have suffered immeasurably.

I will not go into too lengthy a discussion of the matter. I am going to read from a short brief that I have prepared here. I am taking the liberty of presenting it as a résumé of the matter as it affects our people; not only actors but all workers whose employment necessitates their being engaged in a migratory manner.

In section 4 of Senate bill 1130, relating to old-age assistance, and so forth, this bill, as introduced by Senator Wagner, provides in section 4, subsection (d), page 4, that State plans for old-age assistance offered for approval shall be approved only if such plans do not deny assistance to any person who, among other things—and I quote from the bill itself—

Has resided in the State for 5 years or more within the 10 years immediately preceding application for assistance.

Actors and actresses, including those who appear in vaudeville, motion-picture-presentation theaters, and outdoor amusement places,

and other classes of entertainers, by the very nature of their work, would be unable to qualify under this provision, because a large proportion of their members are continuously required to travel between cities in one or more States. According to the measure of their success and the consequent demand for their services, they are never in one city or State for a sufficient period of time to qualify under this 5-year residence requirement of the bill.

As a matter of fact, large numbers of our members are, and have been for years, disfranchised completely because they are traveling continuously and either they do not have a permanently established home or, if they do, they are not able to meet the qualifications of States, for example, like New York, where the registration requirement is 1 year for the State, 3 months for the county, and 30 days for the precinct. Voting is permitted by mail, and although this is authorized by statute, yet they must appear in person to register.

This is easily understandable when we consider the number of artists who are either unmarried or whose wives or husbands accompany them on their tours.

I have noted the residence requirements as set out on page 914 of the World Almanac of 1935 and in most part I think the requirements are a 1-year residence in the State, 4 months in the county, and 1 month in the town or voting precinct.

Our members are now more conscious of their voting power than ever before in the history of show business and the requirements for voting, though much less stringent than similar requirements in this bill, have, for years, proved impossible of fulfillment by actors and entertainers required to do a great deal of traveling, because they cannot control the conditions of their employment.

We all, of course, are obliged to follow the itineraries that are laid down by the booking agents and the operators or proprietors of these theaters.

I would like to point out that it is a special hardship on any of us when we are on the road and want to return to the place of our residence for the purpose of voting, because, although we may plan on that—I have done that many times myself—we may have a certain number of weeks already contracted for. We may have decided to come back to New York, and then find that a continuous booking is offered us. Of course, it would be too great a sacrifice to turn that down, especially at a time like this.

So it seems to us that a 5-year period is unduly long and for the benefit of all classes affected might well be reduced to approximately the same period as is now required for voting qualification.

Old people, without adequate subsistence income, are often shunted from pillar to post. For example, I know of many elderly folks who visit from one family to another, because they have not funds of their own. They will go to a son's family, live there a very short time, then visit the sister-in-law or go to the uncle, and so forth and so on. That works a great hardship not only on these older folks, but on those upon whom they are depending for a living.

Approximately 42,000 men and women are employed who are under our jurisdiction and, needless to say, every actor and actress throughout the country is vitally interested in looking forward to their old-age assistance, as contemplated by this humanitarian legislation.

No employees in any field of endeavor work under more trying conditions or are subject to greater mental or physical strain than those of our calling. There are those fortunate few who retain for many years the public favor which results in large incomes, and the terrors of old age mean very little to them. But for the large majority, the rank and file, who no longer have any box-office attraction, it means very, very much. When old age creeps upon us and the public demands new faces, we find it very, very difficult to make a living.

If the scope of the bill is extended so as to give our people the same benefits as employees in other vocations, it will prove of everlasting satisfaction and comfort.

It cannot be questioned that our people devote their lives to bringing pleasure to others, and it is not conceivable that merely because of the migratory nature of their work they should be excluded from the benefits of this great social-security program.

The CHAIRMAN. The time of the gentleman has expired. We are proceeding, as you know, under the 5-minute rule.

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for 3 minutes.

The CHAIRMAN. Without objection, the time of the witness is extended for 3 additional minutes.

Mr. WHITEHEAD. Thank you, sir; I shall get down to the proposed amendment.

This, of course, is not the result of mature thought as to exact language, but as nearly as I can put it.

For the purpose of this act the residence of an actor, actress, public entertainer, or other class of employees engaged in migratory vocations, whose employment requires frequent changes of residence, and who is thereby unable to meet the residence requirements of this paragraph, shall, with the approval of the States concerned, be considered as having resided at the place where the applicant has regularly returned upon completion of his engagement, and has resided until required to travel for the purpose of filling future engagements.

Mr. BUCK. Mr. Chairman, may I ask a question?

What I would like to know is if you feel there is anything in the proposed bill which is contrary to the sentiments that you have expressed. I have taken out my copy of the bill and looked at the provision to which you have referred. It seems to me, starting on page 3 at the bottom, line 22, the language is entirely negative. It says that a State plan for old-age assistance shall be approved which

at least does not deny assistance to any person who * * *

Has resided in the State for 5 years or more within the 10 years immediately preceding application for assistance; * * *

The State can go ahead and make more liberal provision, if it wants to. In your proposed amendment you state that it shall be done with the approval of the States concerned.

Mr. WHITEHEAD. The point of the proposed amendment is to make it less stringent, make the residence requirements less stringent. This says 5 years within 10, that is the point.

Mr. BUCK. It says that those people shall not be denied assistance; it does not take away from the State the power to make less stringent those requirements, if it wants to, and that is what I understand your amendment provides, too.

Mr. WHITEHEAD. I make mention of that later in my statement, but I had not come to it. The fact that it says that they shall not

be denied that privilege, I cover later in my statement. But if it is written into the act that the residence requirement shall be 5 years within 10, that absolutely excludes our folks or anyone else who travels.

Mr. BUCK. I do not agree with you. My dear friend, I am very sympathetic with your purpose, but the language of the bill does not exclude you, because it simply says that the States shall not deny old-age assistance to anybody who has resided for 5 years, and so forth. It does not say that the State cannot be more liberal than that. It takes in the point that you have raised.

Mr. WHITEHEAD. We have thousands of artists who are constantly moving about, and I dare say that they cannot very well establish a 5-year residence anywhere during their entire professional career.

Mr. BUCK. Will you tell us what percentage of those are over 65, who might come within the provisions of this bill?

Mr. WHITEHEAD. There are very, very few of them, a very small percentage. But there are some. It appears to me that if this is not altered—for instance, if it could be worded their legal domicile, that might make it less stringent. But, as I take it, if we cannot establish a 5-year residence either before or during the time we are traveling about the country, we are not entitled to the relief provided in this legislation.

Mr. BUCK. I thought that was what you were leading up to. That is, an amendment that would be positive and instructive to the States, in their legislation. But the amendment that you suggested was "with the approval of the States concerned." That still leaves it in the same position.

Mr. McCORMACK. Mr. Chairman, may I say to our colleague, Mr. Buck, that the witness has stated he has not any pride of authorship in the specific language suggested to the committee. He is merely trying to convey the thought he has in mind to the committee. Is that right, Mr. Whitehead?

Mr. WHITEHEAD. That is correct. We are not trying to give you the exact language. I am not an attorney. This is merely a suggestion as to what I thought the language might be.

Mr. McCORMACK. The suggestion appeals to me, looking at the question from a broader point of view. I realize the power of your argument. I think it is a very constructive suggestion. I think we all feel that. I am sure Mr. Buck does. I am very glad that you have called it to our attention, and we will have it in mind when we come to take up the bill section by section.

There are other people besides actors who may be involved in or affected by this provision, and I think we ought to clarify it so that there will be no doubt of its intent. Take the settlement question. It is a very serious problem in each State—settlements between cities and towns. It is going to be more troublesome between the various States. We ought to clarify that provision with specific language.

Mr. WHITEHEAD. I thought that I was making it clear that I was not attempting to offer the exact language in my amendment. As a matter of fact, in presenting this, I am presenting it after a discussion that I had, very briefly, with Senator Wagner on the matter. The Senator thought that it was only fair that something should be done to clarify this particular section of the bill. This is merely

offered as a suggestion. If we were allowed additional time to work out better language, I shall be glad to undertake it, if that is the wish of the committee.

The CHAIRMAN. Have you completed your statement?

Mr. WHITEHEAD. Yes, sir.

Mr. COOPER. Mr. Chairman, on the question of residence, I am unable to see how that would disturb the witness so much. Mr. Whitehead, you have a legal residence, I assume, in New York, have you not?

Mr. WHITEHEAD. I have; yes, sir.

Mr. COOPER. All of your people have a legal residence somewhere?

Mr. WHITEHEAD. Yes, sir.

Mr. COOPER. The fact that they may be away working under a contract, for a definite period of time, does not alter the fact that they still have a residence somewhere.

Mr. WHITEHEAD. Of course, they have a residence.

Mr. COOPER. For instance, I have to be away from my home, which is Tennessee, several months each year, serving as a Member of Congress. But my residence remains my home in Tennessee.

The fact that I have to be away in the discharge of duties does not in any way affect my residence there. The fact that you people have to be away for certain periods of time in the performance of other duties does not alter the situation that you have a legal residence wherever you claim it. I am unable to see how that should disturb you people very much.

Mr. WHITEHEAD. The thing is this. Do you think we would be entitled to the protection of this act the way it is worded now, where it says that we are supposed to establish a residence for 5 years within the 10 years immediately preceding application?

Mr. COOPER. Why, certainly. You would have to establish whatever residence your people claimed as their residence. Many traveling men have to be away from their homes three-fourths of the time, perhaps nine-tenths of the time, during the year. They still have a residence, they still have a home, and certainly for the purpose of this act that is recognized as their residence. The fact that somebody has to be away temporarily or periodically does not militate against his interest, so far as the purposes of this act are concerned.

The CHAIRMAN. My understanding is that the matter of residence is a matter of intent. Every man knows where he intends to live, what he regards as his residence. That is recognized, as I understand, in the exercise of the franchise. If it were not, a man who had to travel could not vote anywhere. I do not think you would have any trouble with this bill, Mr. Whitehead, as you seem to anticipate.

Mr. McCORMACK. Mr. Chairman, the gentleman's argument appealed to me from the broader viewpoint. Suppose I had been in Massachusetts for 30 years and had reached the age of 60. Suppose I moved to New York. With the chairman I agree that it is a question of intent, and I agree also with everything that the gentleman from Tennessee has said. A person must intend permanently to divest himself of residence in a particular State and move from that State. But suppose I move to New York with my family. I move there because employment is offered me. I am 60 years old. I might

stay in New York only 6 months but I have the permanent intent to live in New York. I assumed, in other words, that the job offered was going to last for some time. For some reason or other it does not. That is a different case from the case of a man who is a traveling salesman, for instance.

Mr. COOPER. Will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. COOPER. All you would have to do is to go back to Massachusetts.

Mr. VINSON. But he might have lost his residence in Massachusetts.

Mr. COOPER. No. If you have a residence in Massachusetts or had had a residence in Massachusetts for 5 years within the 10 years immediately preceding the application, that is your residence.

Mr. VINSON. But if you move out for 6 months, as instanced by the gentleman from Massachusetts, you break the continuity of your residence. But here is the point that I wish to make, and that is the question of the burden on the State: If the gentleman were living in New York, and had been there for 35 years or 30 years, as my friend, Mr. McCormack states, and then moved to Massachusetts just 6 months before he becomes 65 years of age, Massachusetts might not want to accept that burden. It is a taxpayers' problem. Massachusetts would not want to accept the burden of taking care of this party who had just come into her State 6 months prior to the age at which he would become eligible to the benefits under the State act.

If there were not such a requirement of 5 years, and if some States, for instance, Massachusetts, were allowing a benefit of \$40 a month while New York were allowing a benefit of \$30 a month, you would find folks traveling across the State line from New York to Massachusetts, where they would get a more substantial benefit.

So, looking at it from the standpoint of the burden on the State, you have to have some sort of fair and reasonable period of residence specifically provided.

Mr. McCORMACK. Will the gentleman yield there?

Mr. VINSON. Yes.

Mr. McCORMACK. I agree with you, but my thought was simply this. I was expressing agreement with the gentleman, speaking on my feet, as it were, in that case where each State had their own law. But now we are passing a Federal law. What about the person who went from New York to Massachusetts, or vice versa? When they reach 65 years of age, they say, "Why, here is a Federal law and we are denied the benefits of it."

Mr. VINSON. No; this Federal law, as I see it, simply puts a limitation upon the law that will be drafted in the States. The gentleman from Massachusetts will not contend that it is fair for the taxpayers of Massachusetts, who are providing a more liberal benefit to their own residents, to have to take care of an influx from other States of the Union that are providing lesser benefits. It is not fair to the taxpayers of Massachusetts.

Mr. McCORMACK. The gentleman from Massachusetts has not said that. The gentleman is making his statement based upon an incorrect premise. What I did say was that where you have a Federal-aid law and there is a group of persons excluded, that group of per-

sons naturally are going to ask, "Well, where do we get these old-age pension benefits?"

Mr. VINSON. Just as an example, Ohio has a 15-year residence requirement. That is in conformity with this Federal law proposed; that is, any period over 5 years. If Massachusetts has a 5-year residence requirement, with larger benefits offered, what is to keep all of the aged from Ohio from emigrating to Massachusetts?

Mr. WHITEHEAD. On the other hand, it is taxation without representation, because our people are all required to pay the tax.

Mr. VINSON. Oh, no; there is nothing in that argument. Certainly they have a residence somewhere. There is no question about that. They might have a residence that would permit them to receive these benefits in Massachusetts or in Ohio, but if they have a residence in Massachusetts, under the State law, they will get the benefits provided under that law.

Mr. WHITEHEAD. We have thousands of members of our profession who are shifting about constantly. I dare say they would find it very difficult to establish a permanent residence anywhere. There are people among the rank and file of our profession who sometimes do not remain in one town more than 2 or 3 months, perhaps not that long. They will go to one section of the country—I am talking about the variety actor now—he goes, for example, to Boston. He will remain there just so long as he can exhaust the few weeks that can be played around there. Then he moves on to Detroit, Mich., or he goes to New York. They are constantly on the go. It seems to me that if this section of the bill is not clarified, those people may be deprived of the benefits proposed in the legislation.

The CHAIRMAN. In your opinion, if a person has never given sufficient thought to a State to take up a permanent residence in it, and to become a taxpayer, if he does not recognize it to be of some value to be associated with the State as a resident, should he be entitled to any consideration on the part of the State?

Mr. WHITEHEAD. If they are paying a tax, it does seem to me that they are entitled to some benefit on account of it.

The CHAIRMAN. They would not be paying a tax unless they had a residence there, unless they thought enough of the State to identify themselves with it, as a resident of it. Why should they claim benefits under any State law, if they do not do that?

Mr. REED. Mr. Chairman, I was just going to say that the courts have held that it is a matter of intention. A man can wander all over the globe, but yet establish a residence. That is recognized by the courts.

The CHAIRMAN. That is the point that the Chair raised a few moments ago.

Mr. WHITEHEAD. I should like to call your attention to the fact that you have been optimistic about our people being property owners anywhere. The great majority of them are fortunate to own the clothes they have on their back.

Mr. VINSON. Then they will not have very much of a tax burden.

Mr. WHITEHEAD. It works both ways, of course.

The CHAIRMAN. If there are no further questions, Mr. Whitehead, we thank you for the information you have given the committee.

Mr. REED. Mr. Chairman, the advisory council, which reported to or advised with the Cabinet committee in this investigation on

economic security, made a report to them in writing. This advisory council was composed of some of the leading industrialists of the country. So far as I know that report has not been made available. Perhaps other members of the committee have had a copy of that report to the Cabinet committee. I believe, in view of the fact that they have made a report and expressed their views in it, and made their recommendations in it, we ought to be in a position to know how far those recommendations have been accepted by the Cabinet committee. This committee of ours ought to have the benefit of that information.

Mr. LEWIS. Will the gentleman yield for a question?

Mr. REED. Yes.

Mr. LEWIS. To what extent does that report indicate facts as distinguished from opinions and conclusions.

Mr. REED. I do not have a copy of the report. I say that the committee ought to have a copy of it, to understand what they did report. I am just calling that to the attention of the chairman because, when we get into our own deliberations, we ought to have that information before us.

The CHAIRMAN. Without objection, the clerk will be directed to request that copies of the report referred to be furnished members of the committee.

The CHAIRMAN. The next witness is E. W. Mason, representing the Progressive Study Club, Washington, D. C.

Mr. Mason, we are operating under the 5-minute rule. Please come forward and give your name and address and the capacity in which you appear.

STATEMENT OF E. W. MASON, REPRESENTING THE PROGRESSIVE STUDY CLUB, WASHINGTON, D. C.

Mr. MASON. Mr. Chairman and gentlemen, my name is E. W. Mason and I represent the Progressive Study Club, Washington, D. C.

Listening to those who preceded me, I noticed that almost all of them represented several millions of people in a group. I must confess to you that I do not represent several millions. I have been researching here in the Library in Washington on the subject of money, depressions, bonds, and bondage, and kindred questions, and this book, "The Internal Debts of the United States", represents the book that I have read on these questions. I believe that I have information that no one else will bring you, and when I originally asked for permission to speak, I asked for 30 minutes. My material here, however, will not take that much time.

The old-age pensions in all States require the pauper's oath. I plead with you men to change that proposed law and make it an honor pension system of a pauper system. Honor the men who paid the Government taxes and pay you your salaries or pensions. The men who need—those who in active life spent their income are your best citizens. They spent their all to maintain themselves, the wealthy people, and the Government. The wealthy fattened on them; first, because they spent their pay envelopes; second, because they never were paid all they earned—a part of their pay envelopes was held back. The Government has an unseen way of collecting