

THE LEGISLATION OF THE FORTY-SIXTH GENERAL ASSEMBLY OF IOWA

EXTRA SESSION ¹

On August 14, 1935, President F. D. Roosevelt signed the "Social Security Act". This measure included a Federal tax of one per cent on employers for the year 1936, two per cent for 1937, and three per cent after 1937. The Federal act did not, however, set up an unemployment compensation system; it merely provided that in States where approved unemployment compensation laws were enacted, the employers so taxed might deduct the amount paid to the State from the total Federal tax, but this deduction could not exceed 90 per cent of the tax due the Federal government. The Federal government would also pay the cost of administering the unemployment insurance. Such legislation must be passed and approved before December 31, 1936. If no satisfactory State law for unemployment compensation had been passed by that time, the tax levied by the Federal government in that State went into the general fund of the United States and the tax money was lost to the State.²

To secure the benefits of this law for the State of Iowa,

¹ The Constitution of Iowa is not uniform in the designation of sessions of the General Assembly other than the regular biennial sessions. In Article III, Section 25, provision is made for payment of legislators during "extra" sessions. Section 26 of the same Article specifies when laws passed at a "special" session shall take effect. Article IV, Section 11, provides that the Governor may, "on extraordinary occasions", convene the General Assembly by proclamation. Governor Herring's proclamation calling this session of the Forty-sixth General Assembly, refers to it as an "extraordinary" session.

² The Federal "Social Security Act" (August 14, 1935), Secs. 301-303, 901-910.

Governor Clyde L. Herring, on December 16, 1936, called an "extraordinary session" of the General Assembly of Iowa to meet at Des Moines, on Monday, December 21st. The call stipulated that the Assembly was convened "for the purpose of enacting unemployment insurance legislation necessary to comply with the Federal Social Security Law, and for no other purpose whatsoever."³

When the Senate and House assembled on December 21st, an early item of business was the report of the committees on credentials. It appears that several vacancies had occurred in the membership of the Senate and House of the Forty-sixth General Assembly, and that Governor Herring had decided to fill these vacancies by appointing the men who had been elected to the Forty-seventh General Assembly from the districts in which the vacancies had occurred.

Seven men thus appointed by the Governor were seated by the Senate (apparently without question) and served throughout the session. The House Committee on Credentials, however, reported against seating the six men appointed by the Governor to fill the vacancies in the House. The committee pointed out that the Constitution made it the duty of the Governor to call special elections to fill vacancies in the General Assembly, and consequently Article IV, Section 10, giving the Governor authority to fill a vacancy if no other method is provided by the Constitution and laws for filling such vacancy, did not apply in such cases. The House Committee, therefore, held that appointments made by the Governor to fill vacancies in the General Assembly were invalid. The report of the Committee was adopted by a large majority and the House continued its work with only 102 members.⁴

³ *Journal of the Senate*, Extra Session, 1936, p. 1.

⁴ The decision of the House appears to be correct. Section 12, Article III, of the Constitution of Iowa reads as follows: "When vacancies occur in either

At this session (which convened on December 21st and adjourned *sine die* on December 24th), seven measures were introduced. Two of these measures originated in the Senate and five in the House of Representatives. The two Senate measures, both of which pertained to social security, were passed by the General Assembly and became operative. Of the five House bills, the first was a companion bill to Senate File No. 1. On the third day of the session, the Senate File was substituted for the House File and was passed as a Senate measure. Of the remaining four House bills, two pertained to expenses of the session, and were passed by both houses. The other two measures — one a tax reduction measure and the other a homestead exemption bill — did not pertain directly to the social security program and were not seriously considered by the special session. One of them was indefinitely postponed; the other was referred to a committee where it was still held when the session adjourned. Thus of the seven measures introduced in the special session, four were passed and enacted into law, one was incorporated in its companion bill which passed, and the other two failed of passage.⁵

Prior to the convening of the special session a legislative committee had conferred with Federal officials and had drafted an unemployment compensation act which, it was believed, would be acceptable to Federal agencies. This measure was introduced in both houses of the General Assembly and with slight amendments was passed with but two negative votes in the House and one in the Senate.

house, the Governor, or the person exercising the functions of Governor, shall issue writs of election to fill such vacancies.' Since a method is thus provided by the Constitution for filling such vacancies, it would seem that Section 10 of Article IV of the Constitution does not authorize the Governor to fill them by appointment. This section provides for filling vacancies only when "no mode is provided by the Constitution and laws".— *The Editor*.

⁵ Data compiled from Journals of the Senate and House, Forty-sixth General Assembly, Extra Session.

The measure was officially designated as the "Unemployment Compensation Law".⁶

In conformity with the Federal legislation the Iowa law, which became effective by publication, is applicable to employers of eight or more individuals for full or part time during at least fifteen weeks of the year, but it does not apply to services rendered for the State or Federal government or for a political subdivision of the State or Federal government, nor to agricultural labor, domestice service in a private home, or services for a religious or charitable purpose. Employers affected by the Iowa law are required to contribute a sum equal to 1.8 per cent of their payrolls for the last six months of 1936 (and enough additional to make nine-tenths of one per cent of their total payroll for the year 1936), 1.8 per cent for 1937, and 2.7 per cent for 1938 and for each year thereafter up to and including the year 1941. Thereafter the rate shall be based upon "benefit experience" as provided in the law. The purpose of this is to make occupations with the greatest amount of unemployment pay the higher rate.

The moneys thus provided shall be placed in a separate fund known as the "Unemployment Compensation Fund", which shall be set apart from other public funds and administered by a commission set up by this act and known as the Unemployment Compensation Commission of Iowa. Provision was also made for an Unemployment Compensation Administration Fund into which the money provided for administrative expenses is to be paid.

The law provided that the Unemployment Compensation Commission, consisting of five persons should be appointed

⁶ For the details of this law see: *Journal of the Senate*, Extra Session, 1936, p. 25; *Journal of the House of Representatives*, Extra Session, 1936, p. 30; *Unemployment Insurance Act* (pamphlet published by order of the General Assembly of Iowa, 1936), p. 1. This law was amended by the Forty-seventh General Assembly. One amendment reduced the membership of the Commission to three and provided full-time salaries.

not later than March 1, 1937. The Commissioner of Labor should serve as one of the members and the four additional members should be appointed by the Governor, with the approval of two-thirds of the members of the Senate in executive session. It further provided that two of the commissioners should represent labor, two should represent employers, and one should be a representative of the public. The Commissioner of Labor should serve during his term of office, and the other members should serve for terms of six years, except that of the members first appointed, two should serve until June 30, 1941, and two until June 30, 1943. Any member appointed to fill a vacancy shall serve for the remainder of the unexpired term. Provision was also made that in the interim between the passage of the law and the appointment of the Commissioner, the funds were to be administered by the Executive Council.

It is made the duty of the Unemployment Compensation Commission to administer this law in accordance with its terms and with such rules and regulations as may be adopted and published. Such rules and regulations shall not be changed or altered without the publication of proper notice and an opportunity for a public hearing.⁷

The new law also provides that the Iowa State Employment Service as formerly provided in Chapters 75 and 77 of the *Code of Iowa* be transferred to this newly created Commission.⁸

Benefits under this law shall be received by unemployed individuals in the employments specified as subject to the tax. Applicants for compensation must have been properly registered for work, have made proper claims for benefits, and be available for work as provided by law. Provision is

⁷ *The Des Moines Register*, December 19, 20, 24, 1936; *Unemployment Insurance Act* (Iowa, 1936), Secs. 7, 10, 11, 13, 19.

⁸ *Unemployment Insurance Act* (Iowa, 1936), Sec. 12.

also made for the protection of rights and benefits and for representation in court for the enforcement of such rights and benefits.

The Iowa law, hastily drafted, was not looked upon by the legislators themselves as being in a complete and finished form. It was agreed to by them and approved by the Governor, however, because of the time requirement, with the understanding that it may need extensive revision at an early date.⁹

Senate File No. 2, introduced by the Appropriations Committee and passed by both houses, appropriated \$2500 "as a loan to the Unemployment Compensation Administration Fund" as set up in the Unemployment Compensation Act, and provided for a later repayment of such moneys into the general fund of the State. This expense is to be paid by the Federal government out of the 10 per cent reserved for its use.¹⁰

House File No. 2 was passed to authorize the payment of \$20 and mileage to each of the six men who had come to Des Moines to attend the session of the House of Representatives by authority of certificates of appointment issued by the Governor and were denied seats by the House.¹¹ House File No. 3 was a measure passed for the payment of typewriter rentals and other incidental expenses of the session.¹²

JACOB A. SWISHER

STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA

⁹ *Unemployment Insurance Act* (Iowa, 1936), Secs. 3, 4; *Journal of the House of Representatives*, Extra Session, 1936, p. 34.

¹⁰ Senate File No. 2, Forty-sixth General Assembly, Extra Session, 1936; *Journal of the Senate*, Extra Session, 1936, p. 34.

¹¹ *Journal of the House of Representatives*, Extra Session, 1936, pp. 17, 38.

¹² *Journal of the House of Representatives*, Extra Session, 1936, pp. 22, 38.