Voluntary Quit Disqualification In Unemployment Insurance— The Iowa Experience

by Fred Slavick

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BUREAU OF LABOR AND MANAGEMENT
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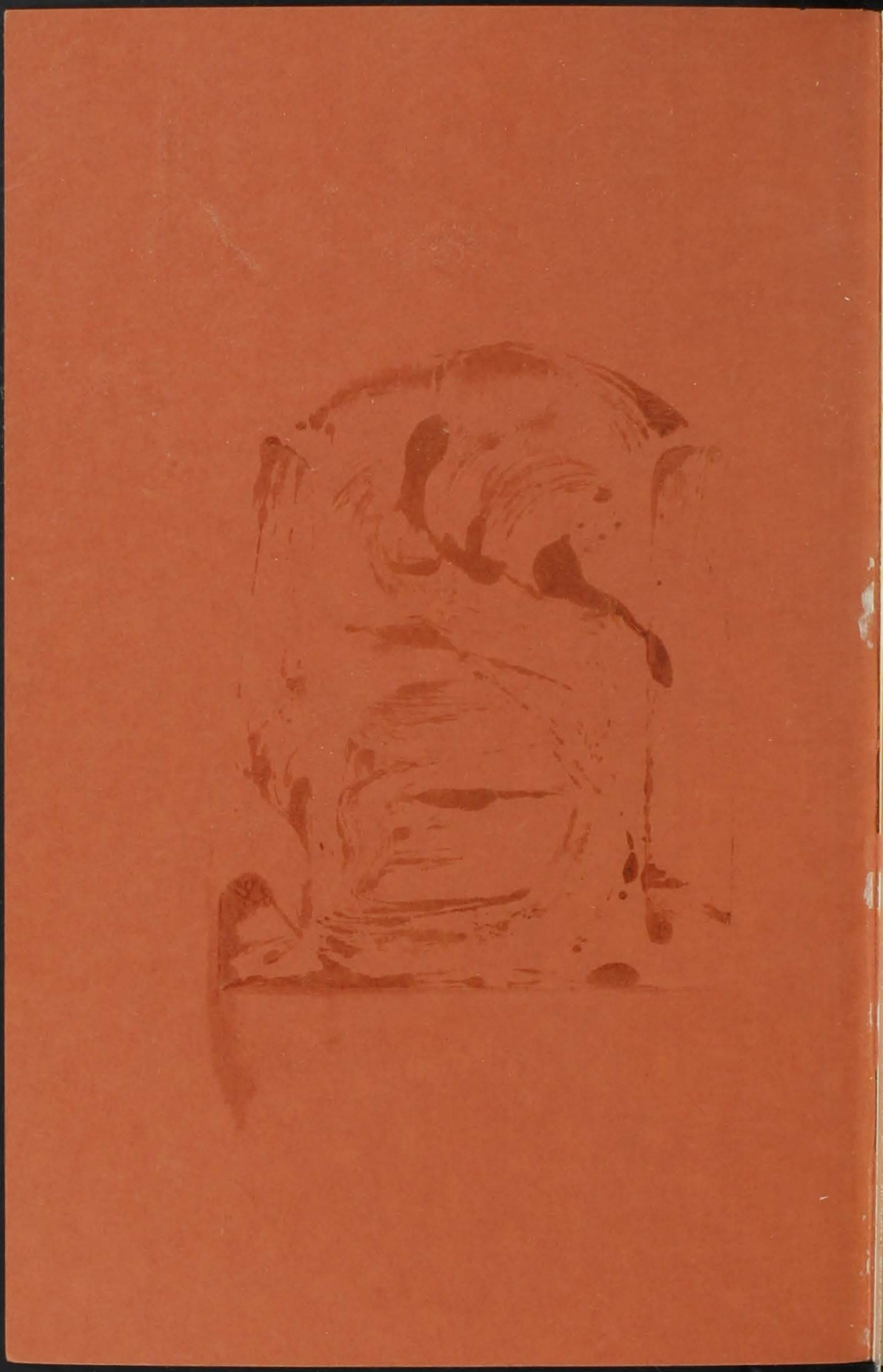

VOLUNTARY QUIT DISQUALIFICATION IN UNEMPLOYMENT INSURANCE— THE IOWA EXPERIENCE

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CHAPTER I

Introduction

Although there is no unanimity of opinion concerning the principal aims and objectives of unemployment insurance, it is widely accepted among legislators, social scientists, employers, and unions that a major function of unemployment insurance is to provide some minimum level of income protection to individuals who are unemployed through no fault of their own.

Prior to and during the early years following passage of the Social Security Act of 1935, various individuals and groups emphasized other objectives of unemployment insurance. These regarded unemployment insurance as a device for stabilizing employment in the individual firm, for helping to smooth out fluctuations in the business cycle, for stabilizing purchasing power, or as an instrument for achieving maximum utilization of the labor force.[1]

While the various provisions in the federal and state unempolyment insurance laws reflect to greater or lesser degree all of the various points of view concerning the objectives of unemployment insurance, its principal function has gradually come to be recognized as that of providing a basic level of economic protection to individuals whose income has ceased or been reduced because of temporary unemployment. Thus, in 1946, the Social Security Technical Staff of the House Committee on Ways and Means, after a detailed study of social security programs in the United States, stated that, "Perhaps the most generally accepted view is that unemployment compensation is justified primarily as a method for providing benefits needed to maintain unemployed workers and their families."[2]

The unemployment insurance "system" which has evolved in this country through the enactment, amendment, and interpretation of federal and state legislation has not attempted to provide income to all individuals who are unemployed. Numerous categories of employees are

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1. For a brief summary of the various views concerning the role and objectives of unemployment insurance, particularly during the early years of the program, see *Issues in Social Security, A Report to the Committee on Ways and Means of the House of Representatives by the Committee's Social Security Technical Staff*, 79th Cong., 1st Sess. Washington: Government Printing Office, 1946, pp. 368-371. A more detailed discussion can be found in Eveline Burns, "Unemployment Compensation and Socio-Economic Objectives," *Yale Law Journal*, Vol. 55, December, 1945, pp. 3-20. See also, Harry Malisoff, "The Emergence of Unemployment Compensation, I, II, and III," *Political Science Quarterly*, June, September, and December, 1939, and "The Import of Theory in Unemployment Compensation," *Political Science Quarterly*, June, 1940.

2. *Issues in Social Security*, p. 368.

excluded from general coverage under the laws.[3] For those employees who are covered, benefits are limited in amount and duration, and are restricted to individuals who have had a definite and recent attachment to the labor market, and who are currently in the labor market. Thus, all states require claimants to have had recent earnings in covered employment, and that they be able and available for work. Moreover, benefits are not paid or are postponed for individuals who, despite general coverage and labor market attachment, have left their work voluntarily without good cause (or without good cause attributable to the employer), have refused suitable work without good cause, are unemployed because of a labor dispute, or whose unemployment is due to discharge for misconduct in connection with the work. These are the major disqualification provisions.

The manner in which unemployment insurance has been performing its function of income maintenance for temporarily unemployed workers has been and continues to be the subject of much research, discussion, and debate in the federal and state legislatures and executive departments, and in academic, management, and union circles. Interest has centered on the extent to which the limitations and restrictions noted above are justified, desirable, and consistent with the objectives of unemployment insurance. During the years since benefits became payable, legislatures have continuously altered the provisions of state programs, expanding their scope in some respects and restricting them in others.[4]

While all aspects of unemployment insurance have been hotly debated, research activity has been focused primarily on questions dealing with the adequacy of benefit levels and duration, methods of financing and financial experience, and various aspects of unemployment insurance administration. Relatively little research has been done, however, by way of a systematic analysis of disqualification policy and experience

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3. The major categories of employees excluded from coverage under the federal-state system established under the Social Security Act are those engaged in agriculture and agricultural processing, employees of nonprofit institutions, domestic employees, state and local government employees, and those employed by very small firms (one to three people, depending on the state). Railroad workers are covered under a separate Railroad Unemployment Insurance Act, and 27 states provide some form of coverage for their own employees. Since 1955 civilian employees of the federal government have been covered by a federal program under Title XV of the Social Security Act; in 1958 Title XV was extended to members of the armed forces. Benefits are paid by the state employment security agencies in accordance with the provisions and requirements of their own laws. Amounts paid to federal employees are refunded to the states by the federal government.

4. For a discussion of the many changes in unemployment insurance during the years 1935 to 1955 see *Employment Security Review*, Vol. 22, August, 1955 (entire issue).

in the individual states, although a number of excellent works dealing more generally with disqualification policy have been published.[5]

Except for several minimal federal standards primarily relating to work refusal, the states have been free to establish their own disqualification provisions.[6] As was noted earlier, the unemployment insurance laws of all fifty-one states and territories[7] have, in one form or another, provided that individuals who voluntarily terminate their employment, are discharged for misconduct, have refused suitable work, are unemployed because of a labor dispute, or are unable or unavailable for work will be disqualified. Disqualification results in a denial or postponement of benefits.

Analysis of experience under disqualification provisions is fundamental to any study or discussion of the role and effectiveness of unemployment insurance in our complex of social security programs. Whether a claimant is to receive $30.00 per week for 26 weeks or $45.00 for 40 weeks is, of course, of great importance. However, the disqualification provisions determine whether a covered employee, clearly in the labor force and clearly unemployed, gets *any* benefits for *any* weeks. Coverage and eligibility are affected as much by the disqualification provisions as they are by the more direct coverage and eligibility requirements of the statutes. Indeed, while general coverage provisions, benefit levels, and duration provisions have gradually been liberalized

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5. See *Yale Law Journal*, Vol. 55, December, 1945, particularly the following articles: Gladys Harrison, "Statutory Purpose and Involuntary Unemployment"; Katherine Kempfer, "Disqualifications for Voluntary Leaving and Misconduct"; Leonard Lesser, "Labor Disputes and Unemployment Compensation"; Louise F. Freeman, "Able and Available for Work"; Arthur M. Menard, "Refusal of Suitable Work"; Earle V. Simrell, "Employee Fault vs. General Welfare as the Basis of Unemployment Compensation." *Vanderbilt Law Review*, Vol. 8, February, 1955, the following articles: Paul H. Saunders, "Disqualification for Unemployment Insurance"; Jerre S. Williams, "The Labor Dispute Disqualification." *Ohio State Law Journal*, Vol. 10, Spring, 1949, the following articles: Louise F. Freeman, "Availability: Active Search for Work"; Edwin R. Teple, "Disqualification: Discharge for Misconduct and Voluntary Quit." See also, Ralph Altman, *Availability for Work*. Cambridge: Harvard University Press, 1950.

6. The Federal Unemployment Tax Act provides that no state law will be approved for crediting of employer state contributions against the federal tax unless the state law provides that compensation shall not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

7. The 49 states, Hawaii, and the District of Columbia.

since unemployment insurance was first enacted, disqualification provisions have become more restrictive.[8]

A study of disqualification policy and experience in the state of Iowa is of special interest. As can be seen in Table 1, the over-all disqualification rate, and particularly the rate of voluntary quit disqualifications in this state have persistently been well above the national average, and among the highest in the nation. During the first quarter of 1957, for example, Iowa had a rate for all disqualifications of 27.6 per thousand claimant contacts compared to a national average of 16.5, and a voluntary quit disqualification rate of 128.4 per thousand new spells of insured unemployment in contrast to a national rate of 37.3.[9] Iowa thus had the highest rate of voluntary quit disqualifications in the nation, and the fourth highest rate for all disqualifications during this period. In the same quarter of 1958 the Iowa rate for all disqualifications was 16.1 per thousand claimant contacts, and 106.3 per thousand new spells of insured unemployment for voluntary quit disqualifications. These compared to national averages of 12.5 and 29.1 respectively, giving Iowa the nation's second highest voluntary quit disqualification rate and the twelfth highest rate for all disqualifications.[10]

It is the purpose of this study to analyze disqualification policy and experience in Iowa in the light of the objectives and philosophy of unemployment insurance, and to examine the impact of such policy and experience on individuals who look to this social insurance program as a first line of defense against the economic risk of unemployment. During the past several decades Iowa has grown industrially and is likely to continue to do so. With industrialization, unemployment insurance increases in importance not only because of the larger number of employees subject to the risk of industrial unemployment, but to employers

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8. See "Trends in Disqualification, 1935-1955," *Employment Security Review*, August, 1955, pp. 41-46. See also Kempfer, *op. cit.*, Saunders, *op cit.*, and Teple, *op. cit.*

9. *Statistical Supplement, Labor Market and Employment Security*, June, 1957, Table 9. "New spells of insured unemployment" are estimated on the basis of initial claims filed and monetary determinations with sufficient wage credits. "Claimant contacts" are estimated on the basis of new spells of insured unemployment plus continued claims for which the state is liable.

10. *Statistical Supplement, Labor Market and Employment Security*, May, 1958. Generally, disqualification rates tend to decline with an increase in unemployment, since a larger proportion of the unemployed applicants are likely to have lost their jobs for non-disqualifiable reasons during a downswing in economic activity. This appears to have been the case in Iowa where the first quarter of 1958, in contrast to the same quarter in 1957, was a period of recession, although less severe than in other parts of the nation. For a discussion of the various factors affecting disqualification rates through time see *Labor Market and Employment Security*, July, 1954, pp. 21-26, 35.

TABLE 1

Total Disqualifications and Voluntary Quit Disqualifications per 1,000 Claimant Contacts and per 1,000 New Spells of Insured Unemployment—All U.S., Iowa, Kansas, Missouri, Nebraska, North Dakota, and South Dakota—First Quarter 1955 through First Quarter 1958.°

Qtr.	Type Disq.	Rate per 1,000 claimant contacts for total disqualifications, and per 1,000 new spells of insured unemployment for voluntary quit disqualifications.†							
		All U.S.	Iowa	Kansas	Mo.	Neb.	North Dakota	South Dakota	Iowa rank in U.S.
1-58	Tot. Disq.	12.5	16.1	15.2	9.1	13.3	16.0	8.5	12
	Vol. Quit	29.1	106.3	18.4	37.4	21.9	21.5	50.4	2
4-57	Tot. Disq.	17.1	23.6	23.8	11.7	21.6	26.3	15.6	12
	Vol. Quit	29.0	77.7	23.3	35.0	26.2	14.5	45.8	5
3-57	Tot. Disq.	22.3	30.5	25.1	16.6	34.2	42.1	27.4	14
	Vol. Quit	37.7	121.7	33.1	52.6	50.2	66.5	56.7	2
2-57	Tot. Disq.	18.9	27.7	19.2	12.1	25.4	14.2	11.7	5
	Vol. Quit	38.0	116.5	30.4	40.7	42.1	39.0	54.5	1
1-57	Tot. Disq.	16.5	27.6	16.8	12.4	17.3	13.3	8.2	4
	Vol. Quit	37.3	128.4	23.3	48.0	26.6	23.4	51.0	1
4-56	Tot. Disq.	20.4	27.5	21.2	13.3	25.2	21.8	12.4	13
	Vol. Quit	33.5	76.7	29.8	38.6	25.6	21.0	38.9	7
3-56	Tot. Disq.	22.2	18.6	30.1	15.3	34.6	48.6	11.6	36
	Vol. Quit	37.7	58.6	37.4	46.1	41.2	53.9	22.2	15
2-56	Tot. Disq.	19.0	24.9	24.7	14.0	30.4	9.0	16.1	15
	Vol. Quit	36.3	110.3	36.3	52.9	36.9	41.0	50.5	2
1-56	Tot. Disq.	17.2	28.3	19.3	15.0	15.0	11.1	8.6	4
	Vol. Quit	36.5	144.7	29.2	62.4	27.8	24.1	49.4	1
4-55	Tot. Disq.	22.1	32.5	27.3	16.7	20.2	14.3	16.4	7
	Vol. Quit	32.8	91.7	31.3	55.1	27.4	18.1	33.2	3
3-55	Tot. Disq.	24.8	34.1	30.9	18.3	39.3	35.5	23.5	16
	Vol. Quit	39.6	139.0	48.2	67.8	59.1	59.0	51.6	4
2-55	Tot. Disq.	19.9	28.0	29.2	13.4	18.2	12.9	12.3	9
	Vol. Quit	36.1	131.3	42.8	57.7	35.2	48.6	52.6	2
1-55	Tot. Disq.	16.6	26.7	20.2	17.2	14.4	8.0	8.8	6
	Vol. Quit	34.6	137.0	28.2	64.4	35.1	27.6	47.6	1

° Source: *Statistical Supplement, Labor Market and Employment Security,* May, 1958; March, 1958; Dec., 1957; Sept.-Oct., 1957; June, 1957; March, 1957; Dec., 1956; Oct., 1956; June, 1956; March, 1956; Dec., 1955; Sept., 1955; May, 1955.

† *New spells of insured unemployment* are estimated on the basis of initial claims filed and monetary determinations with sufficient wage credits. *Claimant contacts* consist of new spells of insured unemployment plus continued claims for which the state is liable. Total disqualifications include disqualifications for voluntary quits, misconduct, not able or available, refusal of suitable work, and miscellaneous disqualifications which do not apply in all states. It excludes labor dispute disqualifications.

who must bear the cost of the program, and for whom unemployment insurance is a major instrument in helping to maintain consumer purchasing power for their products. Moreover, the community as a whole has a vital stake in the effectiveness of unemployment insurance. Recent recessions have demonstrated the importance of this program as a bulwark against depression. To the extent that disqualification policy inhibits unemployment insurance in fulfilling its important function of income maintenance, other less desirable programs such as public assistance, private charity, or other forms of relief may have to fill the gap.

As can be seen in Table 2, voluntary quit disqualifications represent the majority of all disqualifications in Iowa. During 1957 they accounted for 60 per cent of all those imposed. Misconduct accounted for 11 per cent of the total, and the not able and available disqualifications represented 28 per cent. Work refusal and labor dispute disqualifications were negligible. During the first quarter of 1958 voluntary quits represented 80 per cent of the total.

TABLE 2

Number and Distribution of Disqualifications by Type, Iowa, 1957 and First Quarter 1958°

Time period	Total Disqualifications†		Voluntary Quit		Misconduct		Not able and Not Available		Refusal of Suitable Work	
	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total
1st qtr. 1957	4,998	100	2,864	57	580	12	1,507	30	27	.5
2nd qtr. 1957	2,950	100	1,621	55	360	12	912	31	37	1.2
3rd qtr. 1957	2,435	100	1,481	61	262	11	657	27	22	.9
4th qtr. 1957	2,777	100	1,915	69	290	10	553	20	16	.6
Total 1957	13,160	100	7,881	60	1,491	11	3,629	28	102	.8
1st qtr. 1958	4,252	100	3,409	80	537	13	289	7	13	.3

° Source: *Statistical Supplement, Labor Market and Employment Security,* June, 1957; Sept-Oct., 1957; Dec., 1957; March, 1958; May, 1958.

† Excludes labor dispute disqualifications.

Not only do voluntary quits represent the bulk of all Iowa disqualifications, but the consequences in terms of loss of benefit rights are far more serious than is true for misconduct or not able or available disqualifications. In the case of voluntary quits, all benefit credits earned prior

to the disqualifying act are cancelled. For misconduct, the maximum credit cancellation is nine weeks, with most misconduct disqualifications involving cancellation of only two or three weeks of benefit rights. A not able or available disqualification involves no cancellation of benefit rights. For these reasons this study is concerned primarily with voluntary quit disqualification policy and experience.

The analysis in this report is based on a study of all voluntary quit disqualifications imposed during the fourth quarter of 1957 involving individuals filing claims in the Cedar Rapids, Davenport, and Iowa City offices of the Iowa Employment Security Commission. Of the 1,915 voluntary quit disqualifications imposed in Iowa during the fourth quarter of 1957, 272 or 14 per cent involved claims filed in the three cities studied. The 272 disqualifications involved 236 individuals.[11]

Cedar Rapids and Davenport represent two of the major industrial centers of the state.[12] In March, 1957, these two labor market areas (defined by the Iowa Employment Security Commission to include all of Linn and Scott counties) contained 20 per cent of the state's manufacturing employment and 13 per cent of Iowa's total nonagricultural employment.[13] Included in the two labor markets were 27 per cent of the state's durable goods and 14 per cent of its nondurable goods employment. Table 3 indicates the distribution of nonagricultural employment by industry for the state, Cedar Rapids, and Davenport.

The 272 disqualifications imposed in the three cities studied are, of course, not a random sample of all Iowa disqualifications in the fourth quarter of 1957. They do, however, present an accurate picture of the application of the disqualification provisions to individuals in major centers of employment containing a broad cross section of the state's industry.

The information relating to the 272 disqualifications was obtained

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11. In Iowa a separate disqualification is imposed for each disqualifying act occuring in the base period, lag period, or "post-lag" period. The base period is the first four of the last five completed calendar quarters preceding the quarter in which an original claim is filed. The lag period is the period between the end of the base period and the date the original claim is filed. "Post-lag" period refers to the period between the date the individual files an original claim and the date on which he files an additional claim. An individual committing more than one disqualifying act before filing his original or additional claim may be disqualified several times on the same claim.

12. Iowa City was included in the study because of its convenient location, being the home of the State University of Iowa where the study was carried out.

13. Data provided by the Iowa Employment Security Commission. Significant numbers of residents of Rock Island and Moline, Illinois, work in Davenport, and the figures for Davenport employment include residents of Illinois who work in Scott County.

TABLE 3

Estimated Nonagricultural Employment, Total Iowa, Cedar Rapids, and Davenport Labor Market Areas, by Industry, March, 1957°

Major Industry Group	Total Iowa	Cedar Rapids	Davenport	Cedar Rapids plus Davenport	Cedar Rapids plus Davenport as per cent of all Iowa
Total Nonagricultural	632,450	44,600	36,090	80,690	12.8
Total Manufacturing	168,200	20,990	13,130	34,120	20.2
Durable Goods	86,200	13,440	9,630	23,070	26.8
Primary and fabricated Metals	13,800	1,010	3,830	4,840	35.1
Machinery	49,800	11,950	3,150	15,100	30.3
Other durables	22,600	480	2,650	3,130	13.8
Nondurable Goods	82,000	7,550	3,500	11,050	13.5
Food & kindred	47,950	5,740	2,590	8,330	17.4
Other nondurables	34,050	1,810	910	2,720	8.0
Total Nonmanufacturing	464,250	23,160	22,960	56,120	12.1
Construction	28,050	1,700	1,960	3,660	13.0
Transportation, Communication, and Public Utilities	53,150	3,240	2,360	5,600	10.5
Wholesale and retail trade	170,950	9,080	9,520	18,600	10.9
Finance, insurance, and real estate	27,900	1,900	1,610	3,510	12.6
Service (except domestic) and misc.	73,500	6,340	5,950	12,290	16.7
Government	107,700	1,280	1,340	2,620	2.4

° Excludes self-employed, unpaid family workers, and domestic workers in private households. Source: Iowa Employment Security Commission.

from case files of the Iowa Employment Security Commission. When a claimant is disqualified, a "Notice of Disqualification" is mailed to him and to the employer involved. The Claims Division of the Iowa Employment Security Commission provided the author with a carbon copy of each "Notice of Disqualification" mailed to claimants during the fourth quarter of 1957. The "Notice of Disqualification" contains, among other things, the claimant's social security number by which the case

records are filed. The complete files relating to the 272 disqualifications were duplicated by the author with a copying machine and the copied records were taken to Iowa City for analysis.

Each duplicated case file contained the employee's application for benefits, the employer's and employee's statements concerning the circumstances of the employment separation, the claimant's base period employment and wage record, amount of benefit credits cancelled, and various types of inter-office memoranda relating to the claim. Where disqualification decisions were appealed the published appeal decisions were also utilized.

It had been the author's original intention to interview all of the disqualified claimants in the three labor markets in order to obtain additional information, but limitation of funds and personnel for field work, plus the fact that numerous claimants had moved or could otherwise not be located made this impractical. However, 63 of the disqualified claimants were interviewed (mostly in the Cedar Rapids and Iowa City area), and where appropriate such interview information has been used to supplement the basic information obtained from the case records.

Since the unemployment insurance case files are confidential, the claimants and employers involved in many of the cases discussed have not been identified. However, where material from appeal decisions is utilized, the appeal case numbers are cited, since appeal decisions are a matter of public record. Disqualification policy in Iowa is a highly controversial subject. In order that the findings of this study might be viewed as objectively as possible the names of the employees and employers involved in the appeal decisions have been withheld. Anyone desiring to read the decisions in their entirety can easily locate the case by the case number and date cited.

CHAPTER II

Basic Provisions of the Iowa Law and Framework for Analysis

A. *Coverage, Eligibility Requirements, Financing, and Administration*

The Iowa Employment Security Law covers employers who employ four or more workers for some portion of a day in each of 20 calendar weeks within a calendar year. Certain types of employment are exempt, and employees engaged in such occupations are not covered by the law. The exempt employments are agricultural labor and domestic service, employment with the federal, state, and local governments, services performed for nonprofit organizations, employment with a family member, and service performed during school vacations, or outside of school hours by students who devote their time and efforts chiefly to their studies rather than to incidental employment. An exempt employing unit may voluntarily elect coverage. On June 30, 1957, some 20,565 employers employing over 400,000 workers were subject to the law.[1]

Weekly benefits are equal to 1/20 of the employee's total wages during the calendar quarter of his base period in which earnings were highest. The base period is the first four of the last five completed calendar quarters preceding the date a valid claim is filed. The maximum weekly benefit is $30.00 and the minimum is $5.00. To be eligible, an employee must have been paid, during his base period, wages of not less than 20 times his weekly benefit amount. This means the employee must have earned a minimum of $100.

Each calendar quarter an amount equal to 1/3 of the employee's earnings is credited to his account up to a maximum of $200 per quarter. These are referred to as benefit credits. The number of week for which an employee is eligible depends on the amount so credited during his base period, and is determined by dividing the base period credits by the weekly benefit amount. During the 52 weeks following the filing of a valid claim (the "benefit year"), an employee can draw no more than the amount credited to his account during his base period, or 24 times his weekly benefit amount, whichever is less. Thus, Iowa has a variable duration with a 24-week maximum.

Benefits are financed entirely by employer contributions. The Federal Unemployment Tax Act levies a 3 per cent federal payroll tax on the first $3,000 of wages paid by covered employers to employees during a calendar year. As is true in all states, Iowa employers may credit toward

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1. *Twenty-first Annual Report of the Iowa Employment Security Commission for the Fiscal Year July 1, 1956 - June 30, 1957*. Des Moines, 1957, pp. 13, 16.

the 3 per cent federal tax the contributions which they pay under the state law (or which they are excused from paying under the state's experience rating provisions) up to a maximum of 2.7 per cent. Individual employers pay their state tax at reduced rates under Iowa's experience rating provisions, depending on the ratio that the excess of their contributions over benefit payments is to the average annual payroll.[2] The state tax schedule based on this ratio is as follows:

when the ratio is less than 2½% the rate is 2.7%
when the ratio is 2½% but less than 5% the rate is 1.8%
when the ratio is 5% but less than 7½% the rate is 0.9%
when the ratio is 7½% but less than 10% the rate is 0.45%
when the ratio is 10% or more the rate is 0.0%

Thus, under the Iowa law an employer's state tax may vary from zero to 2.7 per cent. The employer pays the 0.3 per cent federal tax irrespective of his ratio. Employers become eligible for reduced rates (i.e. become "rated accounts") after their accounts have been chargeable for 12 consecutive calendar quarters.

When the state's Unemployment Insurance Trust Fund equals or exceeds $110,000,000, the 1.8 per cent, 0.9 per cent, and 0.45 per cent rates are reduced one-half and remain at such reduced rates until the Trust Fund is reduced to $70,000,000, at which time they revert to the full rate. On June 30, 1957, Iowa's Unemployment Insurance Trust Fund contained $110,388,986.33. In the fiscal year ending June 30, 1957, the Employment Security Commission paid $8,884,718.42 to 41,343 individual claimants. During the calendar year 1957 the average state contribution for rated employers was 0.401 per cent, with 50.5 per cent of the rated accounts having a zero contribution rate.[3] The rate during the calendar year 1957 for all Iowa employers, including unrated accounts, was 0.7 per cent compared to a national average for all employers of 1.31 per cent, giving Iowa the seventh lowest rate in the United States.[4] (See Appendix, Table A.)

The Iowa Employment Security Law is administered by a three-member Employment Security Commission appointed by the governor and representing employers, employees, and the public. Claims for benefits are filed in the local offices of the Iowa Employment Security Commission and are sent to the central administrative offices in Des Moines together with any other information relevant to the claim. All base period,

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2. Contributions minus benefit payments ÷ average annual payroll.
3. *Twenty-first Annual Report of the Iowa Employment Security Commission*, pp. 11, 15.
4. Data on average state rates provided by U.S. Department of Labor, Bureau of Employment Security.

lag, and "post-lag" period employers are notified of the filing of the claim, and employers who wish to contest the claim must do so within seven days.

The employee's claim, earnings and employment record, employers' statements, and other information are assembled in the central office by a claims deputy who makes the original determination as to the claimant's eligibility for benefits. A claimant or employer who is dissatisfied with the decision of the claims deputy may file an appeal, but must do so within seven days of the date the decision is mailed. When an appeal is filed the case comes before an appeal tribunal (usually a referee), and a hearing is scheduled as early as possible in the city or town where the employee and employer are located. The decision of an appeal referee may be appealed by either party to the Employment Security Commission and thence to a District Court and the State Supreme Court.

B. *Disqualification Provisions*

1. Statutory Language

The disqualification provisions which are the main focus of attention in this study read as follows:

An individual shall be disqualified for benefits:

1. *Voluntary quitting.* If he has left his work voluntarily without good cause attributable to his employer, if so found by the Commission. But he shall not be disqualified if the Commission finds that:

a. He left his employment in good faith for the sole purpose of accepting better employment, which he did accept, and that he remained continuously in said new employment for not less than twelve weeks;

b. He has been laid off from his regular employment and has sought temporary employment, and has notified his temporary employer that he expected to return to his regular job when it became available, and the temporary employer employed him under these conditions, and the worker did return to his regular employment with his regular employer as soon as it was available.

c. He left his employment for the necessary and sole purpose of taking care of a member of his immediate family who was then injured or ill, and if after said member of his family sufficiently recovered, he immediately returned to and offered his services to his employer, provided, however, that during such period he did not accept any other employment.

2. *Discharge for misconduct.* If the commission shall find that he has been discharged for misconduct in connection with his employment, he shall forfeit not less than two nor more than nine weeks' benefits as may be ordered by the commission.

3. *Failure to accept work.* If the commission finds that he has

failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the commission or to accept suitable work when offered him, or to return to his customary self-employment, if any.

a. In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence, and any other factor which it finds bears a reasonable relation to the purposes of this subsection.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

4. *Labor disputes.* For any week with respect to which the commission finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that:

a. He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

b. He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

5. *Other compensation.* For any week with respect to which he is receiving or has received remuneration in the form of:

a. Wages in lieu of notice;

b. Compensation for temporary disability under the workmen's compensation law of any state or under a similar law of the United States; or

c. Old-age benefits under title II of the social security act (42 USC, ch 7), as amended, or similar payments under any act of Congress;

d. Benefits paid as retirement pay or as private pension.

Provided, that if such remuneration is less than the benefits which would otherwise be due under this chapter, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.

6. *Benefits from other state.* For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States, provided that if the appropriate agency of such other state or of the United States, finally determines that he is not entitled to such unemployment benefits, his disqualificaion shall not apply.[5]

2. The Voluntary Quit Provision—
General Interpretation and Comparison with Other States

The element of key importance in Iowa's voluntary quit provision is that the *good cause* for which an employee voluntarily leaves his job *must be attributable to the employer* or must fall under one of the three statutory exceptions if the claimant is to escape disqualification. These provisions are more restrictive than those found in a majority of the states.

Of the unemployment insurance laws in the 51 United States jurisdictions, 31 require only that the employee have had "good cause" for leaving work in order to avoid disqualification. These general "good cause" provisions have been interpreted to include good personal cause. The remaining 20 jurisdictions have an "attributable to the employer" clause similar to that of Iowa, or clauses requiring the good cause to be "connected with the work," "attributable to the employment," or "involving fault on the part of the employer."[6]

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5. Chapter 96.5, Code of Iowa.

6. U.S. Department of Labor, Bureau of Employment Security, *Comparison of State Unemployment Insurance Laws as of January 1, 1958.* Washington: Government Printing Office, 1958, pp. 88-89. This publication lists 30 states with a general "good cause" provision. Effective October 27, 1958, Massachusetts deleted the "attributable to the employing unit or its agent" limitation from its voluntary leaving disqualification, bringing the number of states with a general "good cause" provision to 31. (Commerce Clearing House, *Unemployment Insurance Reporter,* Vol. 4, par. 1975.) A listing of the states according to the type of provision found in their statutes is provided in Table B of the Appendix.

It has been the responsibility of unemployment insurance administrators and the courts to give specific definition to these brief and general statutory provisions, and the meaning of "good cause," and "good cause attributable to the employer" have been developed as individual cases in the various states have been adjudicated.

In the states which have a general "good cause" provision, the criteria for "good cause" have been whether the claimant acted as a reasonable person would have acted in the circumstances, or whether the circumstances causing the individual to leave were of a compelling or necessitous nature and not merely a matter of personal convenience or advantage.[7] Thus, for example, in Kansas, leaving work to follow a husband to a new domicile, and quitting because of imminent layoff have not been held disqualifying.[8] In South Dakota, leaving work to move to a warmer climate to protect the health of one's children, and leaving a job which aggravated a chronic disability have been held to be for good cause.[9] A North Dakota Commission has held that leaving to attempt reconcilation with a wife who had requested a divorce was for good personal cause.[10] Quitting jobs because of lack of transportation and because of pregnancy have been held non-disqualifying in Indiana.[11] The Illinois Board of Review has held that leaving work which involved a risk to one's health, and leaving because of inability to find housing accommodations in the locality are for good cause.[12]

Even in some of the states whose provisions are couched in terms of

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7. "Unemployment Benefits—Recent Appeal Decisions—Good Cause for Voluntary Quits"—*The Labor Market and Employment Security*, July, 1957, p. 17.

8. App. Ref. Dec. No. 1617, 10-25-45, Commerce Clearing House, *Unemployment Insurance Reporter*, Vol. 4, par. 1975.253; App. Ref. Dec. No. 11,190, 12-12-49, *CCH, Unemployment Insurance Reporter*, Vol. 4, par. 1975.7330. In subsequent references the Commerce Clearing House *Unemployment Insurance Reporter* will be cited as *CCH*.

9. Comm. Dec. No. 453-C-221, 2-2-49, *CCH*, Vol. 7, par. 1975.094; App. Ref. Dec. No. 2084, 1-8-52, *CCH*, Vol. 7, par. 1975.083.

10. Bd. of Comm. Dec. No. WCB - 119-52, 5-19-52, *CCH*, Vol. 6, par. 1975.27.

11. Rev. Bd. Dec. 56-R-95, 12-19-56, *CCH*, Vol. 3, par. 8226.04; Rev. Bd. Dec. No. 57-R-6, 5-7-57, Bureau of Employment Security, *Benefit Series Service, Unemployment Insurance*, VL - 235.4-29. In subsequent references the Bureau of Employment Security's *Benefit Series Service* will be cited as *BSSUI*.

12. Bd. of Rev. Dec. No. 54 - BRD-995, 4-20-54, *BSSUI*, VL 235.45.-15; Bd. of Rev. Dec. No. 46-BRD-981, 10-22-46, *CCH*. Vol. 3, par. 1975.33. Since the enactment of unemployment insurance legislation there have been hundreds of cases in the various states where unemployment insurance administrators and courts have had to rule on whether particular voluntary terminations were reasonable or compelling so as to come within the definition of "good cause." Since each case is unique, a detailed summarization according to the various categories of circumstances would itself require a treatise which cannot be attempted here. For three excellent discussions of the various state interpretations of good personal cause see Kempfer, *op. cit.*, Saunders, *op. cit.*, and Teple, *op. cit.*

"good cause attributable to the employer," the administrative agencies and courts have, nevertheless, not disqualified claimants where the reasons for leaving were of an extremely compelling personal nature, although not attributable to the employer. In some of these states the legislation itself permits a number of exceptions. Thus, for example, the Appeal Referee in a Missouri case pointed out that, "The word 'voluntarily' implies a freedom of choice on the part of an individual who has left work. An individual, who is compelled to leave work by circumstances beyond his control, such as illness, does not leave work voluntarily."[13] The Wisconsin law provides that a claimant will not be disqualified if he "terminated his employment for compelling personal reasons."[14]

Nebraska appeal tribunals have not disqualified claimants who voluntarily leave work which presents a danger to their health.[15] A Minnesota attorney general has held that separations from employment which are due to forces over which the employee has no control are not disqualifying, despite the fact that they are not attributable to the employer, and the legislation itself provides that the disqualification provision does not apply if the individual's separation was due to his serious illness.[16]

The Iowa law, as it has been interpreted, recognizes no personal cause for leaving work (other than the three statutory exceptions noted above), thus foreclosing consideration, from the standpoint of good cause, of many compelling but personal reasons for terminating one's employment. If a voluntary quit is for a reason which cannot be attributed to the employer, an individual will be disqualified, despite his availability for work and genuine efforts to obtain work. The extent to which the *exact* verbiage of the "attributable to the employer" clause has been followed is perhaps best illustrated in the "bloody stump" decision of 1949. In this case the claimant when hired had to use a crutch because of the loss of a leg at the hip. He had obtained an artificial leg and did light work for the employer for about four years. He was then transferred to the production department where he carried heavy rails and angle iron. This work caused the stump to bleed and frequently broke the straps which held the artificial leg. After approximately a month of this heavy work he quit, since the employer apparently could not furnish him lighter work. Because the quit was due to the employee's

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13. App. Ref. Dec. No. A-4702-48, 12-6-48, *CCH*, Vol. 5, par. 1975.07.
14. *CCH*, Vol. 8, par. 4032.
15. Appeal Tribunal Decision No. 48, Vol. XVI, 7-1-50; No. 24, Vol. VIII, 3-27-46; No. 41, Vol. XIV, 6-20-49, *CCH*, Vol. 5, par. 1975.025.
16. *CCH*, Vol. 5, par. 1975.06 and par. 4047. For a summary of exceptions to "attributable to the employer" clauses in other states, see *Comparison of State Unemployment Insurance Laws as of January 1, 1958*, pp. 89-90.

physical condition and was, therefore, not attributable to the employer, the claimant was disqualified by the Commission and his wage credits cancelled.[17]

3. Voluntary Quit Disqualification Penalty

Under the Iowa law as interpreted by the State Supreme Court, any quit during the base, lag, or "post-lag" period which is not attributable to the employer or does not fall within any of the three exceptions results in disqualification, irrespective of whether or not the claimant worked *subsequent* to his quit and *before* filing his claim. Moreover, while section 96.51 of the law does not specify the penalty for disqualification, it has been interpreted as requiring complete cancellation of all wage credits earned prior to the quit. These two basic interpretations of the law were set forth in a 1941 decision of the Iowa Supreme Court in the *Rhode Case*.[18] In this case, the claimant left work with the Iowa Public Service Company on November 7, 1939, in order to accept "better" employment, as found by the Commission, with the Viking Pump Company. This latter employment terminated on December 30, 1939, for lack of work. Upon the filing of a claim for benefits, both a claims deputy and the Appeal Tribunal found that any disqualification resulting from the claimant's having left the Public Service Company had been removed by the subsequent employment. Upon appeal, the Iowa Unemployment Compensation Commission, with its chairman dissenting, affirmed the Appeal Tribunal decision. This affirmance was upon the ground that the claimant was not to be disqualified because his unemployment was the result of a lack of work, not the prior leaving.

The Supreme Court's answer to the Commission's contention was:

> The Commission, in effect, would have us read into the statute disqualifying one who has voluntarily left his work without good cause attributable to the employer some such condition as "provided there is causal connection between the voluntary quitting and the unemployment." This is a matter for the consideration of the legislature with which this court cannot concern itself. . . .
> Without passing on whether the dire consequences which counsel anticipate will result from construing the section in question according to the plain meaning thereof, it is a sufficient answer that this is also an argument to be addressed to the legislature and not to the courts.

The court then went further and proceeded to construe the voluntary leaving section as requiring that the claimant not receive any benefits

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17. Comm. Dec. No. 49C-1022, 11-8-49.
18. *Iowa Public Service Co. v. Rhode,* 230 Iowa 751, 298 N.W. 794 (1941).

"based on his wage credits that were at the time of his voluntarily quitting credited to his account, and to which benefits he would have been entitled had there been no statutory disqualification." This language of the court ever since has been interpreted by the Iowa Commission as requiring the complete cancellation of the claimant's wage credits. Accordingly, the Iowa voluntary leaving provision is so applied as to deny benefits for periods of unemployment which, causally, may be unrelated to a leaving of work. It removes the protection built up by a worker through employment, not only with the employer whom he left, but with other employers as well. In 1945 the legislature attempted to make the law less extreme by enacting the three statutory exceptions. These exceptions from disqualification relate to situations in which an individual leaves work to accept "better" employment, which he must retain for a specified period of time; leaves temporary work to return to his regular employer by whom he had previously been laid off for lack of work; or to care for a member of his immediate family who was ill or injured. As will be seen later, however, these statutory exceptions have been given a very narrow construction by the Iowa courts with the result of minimizing the extent to which they have actually liberalized the law.

The nature and impact of the Iowa disqualification provisions and their interpretation on claimant benefit rights will be discussed in detail in the following chapters. It might be pointed out here, however, that the Iowa policies of imposing disqualification for quits which are from other than the individual's most recent work, and cancelling *all* benefit credits earned prior to the quit are not followed in the majority of other states and jurisdictions. In most states, disqualification is based solely on circumstances of the separation from the most recent employment preceding the filing of a claim. Only in Iowa, Wisconsin, Michigan, Colorado, Louisiana, South Dakota, Georgia, Missouri, Alabama, and Ohio do the statutes or court decisions impose disqualification for voluntary separations within a specified period regardless of intervening employment. In a few additional states the administrative agencies have interpreted their laws as authorizing disqualification for voluntary quits from other than the most recent employer.[19]

In 33 states disqualification results only in a *postponement* of benefits rather than a cancellation of benefit rights. Eighteen states, including Iowa, cancel benefit rights.[20] Iowa, however, is the *only* state in which the voluntary leaving disqualification results in a cancellation of *all* wage credits earned prior to the disqualifying separation, *including* any prior

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19. *Comparison of State Unemployment Insurance Laws as of January 1, 1958*, pp. 88-90.
20. *Ibid.*, pp. 92-93.

wage credits earned with an employer who laid the claimant off for lack of work. By contrast, the other 17 states which cancel wage credits under the voluntary leaving disqualification, cancel *only* those credits earned with the employer (or employers) whom a claimant left under disqualifying circumstances. Thus, the penalty imposed in Iowa is unique among disqualifications for voluntary leaving.

Because of the definition of the base period, and because disqualifications are imposed for quits from other than the most recent employer it is possible under the present Iowa law for an individual to be disqualified and lose benefit credits for quits which took place up to 18 months prior to the date he filed his claim. Thus, for example, assume an employee *files a claim* on June 30, 1958. His base period would be January 1, 1957 through December 31, 1957. If he had quit a job on January 7, 1957 the benefit credits he earned from January 1-7, 1957 would be cancelled. The later in the base period the quit occurs, the greater will be the amount of benefit credits cancelled.

If, after cancellation of credits, the individual has credits remaining in his base period, he is eligible for benefits based on such remaining credits. This is referred to as an *eligible disqualification*. The principal result of such an eligible disqualification is to reduce the *duration* of the claimant's eligibility. If no benefit credits remain in the base period after disqualification it is called an *ineligible disqualification*. If a disqualification results in cancellation of all base period credits, but the claimant had credits remaining in his *lag* period as a result of lag period employment, such lag credits are not available for benefits until the start of a new calendar quarter. For example, assume that an employee quits a job on January 1, 1958, and obtains another job on January 2, 1958. He works at his second job continuously until March 31, 1958, when he is laid off for lack of work. He files a claim on April 2, 1958. His base period would be January 1, 1957, through December 31, 1957. If the quit of January 1, 1958, resulted in disqualification, all of his base period benefit credits would have been wiped out and the individual would not be eligible for benefits until July 1, 1958, when the period January 1-March 31, 1958 containing benefit credits became part of a *new* base period. Thus, such a claimant would have lost his eligibility for almost three months despite the fact that he had worked for three consecutive months just prior to the filing of his claim.

It should also be recalled that when a disqualifying quit takes place in the lag or "post-lag" period, not only are all base period benefit credits cancelled, but the credits earned during the lag or "post-lag" period prior to the date of the disqualifying act are also wiped out. This means that if the lag or "post-lag" period becomes part of a new base period when

the claimant files a new claim in some succeeding calendar quarter, the cancellation of credits from his former lag or "post-lag" period results in a reduction of benefit rights in the new benefit year.

C. *Framework of the Analysis*

Of the 334 disqualifications imposed during the fourth quarter of 1957 in the three labor markets studied, 272 involved voluntary quits, 42 resulted from discharge due to misconduct, 3 involved refusal of suitable work, and 17 involved individuals who were held to be unable or unavailable for work.

Table 4 classifies the 272 voluntary quit disqualifications according to the circumstances surrounding the terminations.[21]

In examining the voluntary quit disqualification experience under the Iowa law the analysis will be focused on the various types of circumstances surrounding the voluntary terminations and the resulting losses of benefit rights by employees. An attempt will be made to assess this experience in the light of the objectives of unemployment insurance generally, and particularly with reference to the public policy declaration set forth by the Iowa legislature when it enacted the original legislation in 1936.

In section 96.2 of the Iowa Employment Security Law the legislature stated:

> As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves

21. With some modifications, the system of classification is that used by the U.S. Bureau of Employment Security in its *Benefit Series Service*.

TABLE 4

Voluntary Quit Disqualifications, October-December 1957, Cedar Rapids, Davenport, and Iowa City Combined

Col. 1	2	3	4	5	6		7		8	9	
					Quits from most recent employer		Quits from "earlier" employer			Eligible disqualifications	
					(a)	(b)	(a)	(b)		(a)	(b)
Reason for quit or type of issue	No. of disqualifications	Base period benefit credits cancelled	Base period benefit weeks cancelled	Lag or post-lag credits canceled: No. of claimants	No. of disq.*	Benefit credits cancelled*	No. of disq.*	Benefit credits cancelled*	No. of ineligible disqualifications†	No. of disq.*	Benefit credits cancelled*
To accept "better" emp.	29	11,303	405	20	0	0	29	11,303	24	5	1,348
To accept recall to "regular" employment	36	14,334	482	15	0	0	36	14,334	17	5	5,988
Health or phys. cond.	33	11,690	407	17	14	7,533	19	4,157	21	12	1,909
Illness or injury	21	6,518	234	11	10	4,699	11	1,819	15	6	523
Pregnancy	3	1,450	49	2	2	1,394	1	56	2	1	56
Risk of illness or inj.	9	3,722	124	4	2	1,440	7	2,282	4	5	1,330
Domestic circumstances	11	3,926	141	6	4	1,158	7	2,768	7	4	815
To attend school	4	1,840	62	2	3	1,640	1	200	4	0	0
To enter self-employment	5	1,598	54	1	1	570	4	1,028	3	2	200
Transportation & travel	6	2,125	71	3	3	1,451	3	674	4	2	674
Wages	19	5,705	210	7	5	2,892	14	2,813	10	9	1,088
Hours	5	1,459	54	1	1	623	4	836	3	2	587
Nature of work	17	3,980	137	4	4	1,892	13	2,088	7	10	1,327
Working conditions	26	6,471	243	7	5	2,070	21	4,401	14	12	1,843
Layoff imminent	7	984	34	1	1	542	6	442	3	4	242
Prospect of other work‡	10	2,677	93	1	0	0	10	2,677	6	4	749
Quit or discharge	22	7,474	253	12	8	3,966	14	3,508	16	6	1,322
Misc.	42	12,201	452	16	8	3,801	34	8,400	27	15	3,310
Total	272	87,767	3,098	113	57	28,138	215	59,629	164	108	21,402

*Col. 6(a) plus Col. 7(a) = Col. 2; Col. 6(b) plus Col. 7(b) = Col. 3; Col. 8 plus Col. 9(a) = Col. 2.

†An "ineligible disqualificaiton" refers to a situation where there were no base period benefit credits remaining after the date of the disqualifying quit. An "eligible disqualification" refers to a situation where there were sufficient base period benefit credits remaining after the date of the disqualifying quit to establish eligibility in the same quarter in which the claim was filed.

‡These refer to cases in which the "other work" did not materialize, or did not materialize immediately. Therefore, the issue of whether the new employment was "better" or whether the claimant remained for 12 continuous weeks did not arise.

to be used for the benefit of persons unemployed *through no fault of their own.*[22]

Chapters III through VII will discuss those voluntary terminations resulting from accepting "better" employment, returning to a regular employer upon recall, illness or accident, returning to school, and domestic circumstances. These five categories include 113 disqualifications or 42 per cent of the 272 voluntary quit disqualifications occuring in the three labor markets during the period studied. Chapter VIII will deal with the relation of the "attributable to the employer" clause to voluntary terminations due to employee dissatisfaction with working conditions, nature of the work and other factors.

While the question of disqualifying claimants for voluntary quits from other than the most recent employer will be discussed at various points in Chapters III through VII with specific reference to the cases discussed there, this issue will also be treated in more general terms in Chapter VIII.

Chapter IX summarizes the Iowa disqualification experience and explores its implications for the future.

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22. Italics are the author's.

CHAPTER III

Leaving To Accept Better Employment

Twenty-nine or 11 per cent of the voluntary quit disqualifications imposed during the fourth quarter of 1957 in the three labor markets studied involved individuals who left their jobs to accept what they believed to be better employment. In 26 cases the disqualifications resulted from the fact that the claimants did not remain at their better jobs for 12 continuous weeks as required by the law. The remaining 3 disqualifications resulted from findings that the new jobs did not constitute "better" employment.

The statute itself does not define "better" employment, nor has the Iowa Employment Security Commission specified in detail the conditions which a new job must meet in order to qualify. In each case which arises the question of whether the new job represented "better" employment is left to the judgment of the claims deputy, subject to possible later modification by the judgment of the Commission or the courts. Generally, the deputies, Commission, and courts have held that where the new job involves a higher rate of pay, provides greater earnings because of longer hours or more regular employment, or appears superior in any other tangible respect it will be considered better employment.

While detailed criteria for "better" employment have not been spelled out, the courts and the Commission have specified several types of employment which are *not* considered "better." These are self-employment,[1] seasonal employment,[2] and previous regular employment.[3] An employee quitting his job to accept any of these three types of work cannot escape disqualification by pleading that they represented "better" employment.

A. *Failure To Remain Twelve Consecutive Weeks*

A detailed examination of the case histories of the claimants involved in 26 of the disqualifications indicated that in none of these cases was the "better" nature of the new employment questioned. In all 26 dis-

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1. Commission Decision No. 55C-2120, 7-29-55.

2. *Fred R. Turnbull v. Iowa Employment Security Commission and Mason City Brick and Tile Co.*, Cerro Gordo County District Court, 10-20-47. Commission Decision No. 47C-682, 7-17-47. Seasonal employment under the Iowa statutes refers only to the "canning season" defined as "the period during which fresh perishable fruits or vegetables are being processed, and in addition thereto preparatory and cleanup periods of four days prior to, and four subsequent to, said processing period." (Rule 8 for the Administration of the Iowa Employment Security Law.)

3. *Johnson Machine Works v. Iowa Employment Security Commission*, Monroe County District Court, 10-20-54, *BSSUI*, VL-350 - 5-41.

qualifications the claims deputies found that the new job did represent "better" employment. The sole ground for disqualification was that the employees did not remain at the better jobs for 12 continuous weeks.

As can be seen in Table 5, 6 of the disqualifications involved individuals who remained at their better jobs 10 or more weeks, 11 who remained 5 to 9 weeks, and 9 who remained 4 weeks or less. One of the claimants actually remained on his better job for 14 weeks, but these were interrupted by one day of unemployment which occurred in the eleventh week. In this case the claimant was employed on a construction job, and the one day of unemployment was due to the completion of the job and the movement of the employer to a new job site in another location. The claimant returned to work for the same employer at the new job site after this lapse of one day. He was disqualified, however, because the one day of unemployment meant his 14 weeks had not been *continuous*. As a consequence $720 in base period benefit credits (24 weeks of benefit rights) were cancelled.

TABLE 5

Distribution of 26 Disqualifications Resulting from Failure To Remain at Better Employment for 12 Continuous Weeks, According to Number of Weeks Claimants Actually Worked on Better Jobs

Weeks worked on better jobs	Less than 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Number of Disqualifications	2	0	2	2	3	3	1	3	3	1	4	1	0	0	1°

° Claimant worked for 14 weeks for the same "better" employer, but his work was interrupted by one day of unemployment in the 11th week.

Of the 26 disqualifications, 13 involved individuals who obtained other employment *subsequent* to termination of their "better" jobs, and remained at such subsequent employment for periods ranging from 4 to 55 weeks before becoming unemployed and filing their claims. The claimants were disqualified, however, since under a 1955 decision of an Iowa District Court, the phrase "he remained continuously in said new employment for not less than 12 weeks" applies *only* to the time the claimant remained in the job which he accepted after leaving his original employment.[4] The remaining 13 disqualifications involved claimants

4. *Mullen v. Iowa Employment Security Commission*, Woodbury County District Court, 7-12-55, *BSSUI*, VL-350.5-59.

who had no intervening employment between the dates they lost their "better" jobs and the dates they filed their claims.[5]

In 20 of the 26 cases none of the "better" or subsequent employers contested the claims. Nor did the claims deputies find any disqualifying circumstances surrounding the termination of the "better" or subsequent jobs. In all 20 cases the disqualifications resulted solely from the earlier quits to accept the "better" employment. In another three cases where the "better" employers did file protests, the claims deputies ruled that the individuals had left their "better" jobs under circumstances which were not disqualifying.[6] The disqualifications were imposed because of the earlier quits involved in accepting the "better" jobs. In the remaining three cases the "better" or subsequent employers as well as the original employers contested the claims and multiple disqualifications were imposed in each case since the claimants had left their "better" or subsequent jobs for reasons not attributable to the employers.

The loss of base period benefit credits resulting from the 26 disqualifications totaled $10,430, amounting to 367 weeks of benefit rights. In 19 cases credits earned during the lag or "post-lag" periods were also cancelled, since the disqualifying quits took place during the lag or "post-lag" periods.[7] Of the 26 disqualifications 22 resulted in a complete loss of eligibility under the state law, while for 4 employees some eligibility remained. For these 4, however, the average loss of benefit rights was 9 weeks.

The desirability of the provision of the Iowa law requiring employees who leave a job to accept "better" employment to remain in that employment for 12 continuous weeks in order to avoid disqualification is open to serious question. There are numerous reasons why an employee might not remain in a new job for 12 continuous weeks. A recession with a con-

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5. Of the 13 claimants who had no employment between the time they lost their "better" jobs and the dates they filed their claims, 5 were interviewed on dates ranging from 13 to 24 weeks following the filing of their claims. While all five claimants had some employment after filing their claims, they had been unemployed for periods ranging up to 22 weeks. All were working on the date of interview and all indicated they had been in the labor market during their periods of unemployment and had sought work through periodic visits to the United States Employment Service, private employment agencies, or direct visits to company offices.

6. In these three cases the deputies ruled that the employees had left their better jobs because of (1) convenience of the employer, (2) mutual consent after hire on a trial basis, and (3) discharge for convenience of the employer.

7. When an employee files an original claim and receives benefits on that claim a base period and benefit year are established. If the employee returns to work after drawing benefits, but at a later date in his benefit year again becomes unemployed and files an additional claim, the original base period and benefit year are still applicable. "Post-lag" period refers to the period from the beginning of the claimant's benefit year to the date he filed his additional claim.

sequent decrease in the general level of employment, or misjudgement by the employer or employee as to the individual's ability to do the work are two of the most important reasons why employees changing to "better" jobs might not remain there for the required period of time.[8] In 23 of the 26 cases noted above the claimants left their "better" jobs either because of the inability of the "better" employers to provide work, or because of employer recognition of the inability of the employees to do the job satisfactorily.

Under the first type of circumstance the 12-week requirement has no logic since the ability of an employer to continue to employ a worker depends on the business conditions and outlook faced by the employer, and on all of the basic economic variables which determine the general and specific demand in the employer's market. The date on which a particular employer must reduce his labor force has little, if anything, to do with the date he hired any one individual. Moreover, because of seniority and other related practices, the employees most recently hired are the ones most likely to be affected first by a layoff. Thus, the hardships of a recession such as that which occurred during the fourth quarter of 1957 are intensified since the protection of unemployment insurance is withheld from the individual unlucky enough to have attempted to improve himself during or shortly before a business recession.

In the case of a termination due to the inability of an employee to perform the job satisfactorily, the 12-week requirement will almost certainly result in disqualification since in most types of employment less than 12 weeks are required to determine the inadequacy of an employee's performance. Thus, an employee seeking to improve his earnings, hours, or other working conditions by changing jobs is penalized for doing so if he or his employer were overly optimistic as to the employee's ability.

Possible unemployment, severing of past working relationships or friendships, the possible necessity of moving, unhappiness in a new job, are all risks or possible consequences inherent in changing jobs. Can one justify the addition of another penalty (loss or reduction of unemployment insurance benefits) should the new job not work out satisfactorily for 12 continuous weeks?

Denial or reduction of unemployment insurance benefits under such circumstances cannot but discourage the individual initiative, self-reliance, and self-help which we in the United States prize so highly and

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8. There are, of course, many reasons of a personal nature why an employee might not remain at his "better" job for 12 continuous weeks. The issue of whether or not quitting for good personal cause should result in disqualification will be discussed in the following chapters.

desire to encourage. In 3 of the 26 cases the jobs which the claimants voluntarily left provided less than full-time employment. Thus, when they found themselves laid off from their "better" jobs these three individuals were denied benefits as a result of having sought and found full-time employment. The disqualification of these three individuals resulted in a cancellation of $1,488 in base period benefit credits totaling 62 weeks of benefit rights.

A fourth claimant left his job for "better" employment because he felt the hours were too long and the earnings too low on his original job. The "better" employment, however, lasted only 4 weeks. Upon termination of the "better" employment the claimant secured another job which lasted approximately 3 months before he was laid off and filed a claim. In the course of looking for work after filing his claim, he was offered the original job which he had voluntarily left. When his unemployment insurance claim was adjudicated the original employer contested the claim on the ground that the employee had quit and also on the ground that he did not accept the job when it was again offered to him. The claims deputy ruled that the claimant was not required to accept his original job because it was not suitable. The employee was disqualified, however, for having voluntarily left this job without good cause attributable to the employer. Thus, one observes the paradox under the present law of an individual being disqualified as a result of having left an unsuitable job for a more suitable one.

Where individuals voluntarily leave their jobs for better employment it seems difficult to justify the setting of any period for which the employee must remain at the "better" employment to escape disqualification. Any period, no matter how short, will be arbitrary and will be unrelated to whether or not payment of benefits is justifiable. If an employee leaves his *"better"* or *subsequent* job for an arbitrary reason he will be disqualified for *this* quit, and there is little danger that leaving *for* recognized better employment can be used as a means of subverting the objectives of unemployment insurance. It was noted above, for example, that in three cases where claimants left their "better" jobs for disqualifiable reasons they were in fact disqualified.

B. *New Employment Not "Better Employment"*

Three claimants left their work to accept what they believed was better employment, but while all three remained on their new jobs for more than 12 continuous weeks, they were disqualified because their new jobs were held not to meet the criteria of "better" employment. The time periods elapsing between the dates of the disqualifying quits and the dates the individuals filed their claims were 16, 33, and 49 weeks,

with the bulk of these periods being spent working for the "better" or subsequent employers.

In one case the new job paid only three cents per hour more, but provided between 50 and 60 hours of work per week in comparison to the old job which provided only 20 to 25 hours of work per week. The new job, however, was in the perishable fruit and vegetable canning industry, and the claimant was disqualified because such "seasonal" employment is not considered "better" employment under the Iowa law. In another case the employee had accepted the new job because it provided payment on a commission basis, and the employee anticipated that it would yield him a larger income than the salary of $225 per month he had been receiving on his old position. As it turned out, the new job yielded only $39.00 per week in commissions and was therefore held not to be "better" employment. Thus, mere expectation that a new job will yield a higher income is not sufficient to meet the requirements of "better" employment. If the new job turns out not to yield a higher income it is not considered "better" employment.

Quite aside from the matter of the criteria used to determine the merits of one job relative to another, the question needs to be raised as to whether under certain conditions superiority of one job in comparison with another is really relevant to the issue of whether unemployment benefits should be paid. An individual usually changes jobs because in his own mind he believes (rightly or wrongly) that one job is better than another. The individual may be sadly mistaken in this belief, but it is one of the basic tenets of a free society that employees should be free to move from job to job without being punished for doing so. Should not the answer to the question of whether or not to pay unemployment benefits to an individual who unwisely changed jobs depend on whether or not *the unemployment for which he is claiming benefits* was caused by the arbitrary or unwise change of jobs? When the individual's unemployment for which he is seeking benefits is *not* related to the fact that he arbitrarily changed jobs sometime in the past, is it sound public policy to deny him benefits and cancel his wage credits?

Since the experience rating provisions of the Iowa law and other state laws provide that employer tax rates are to vary directly or indirectly according to the amount of benefits charged to their accounts, it is understandable that employers would consider it unfair for their accounts to be charged for benefit payments resulting from unemployment for which they are not responsible. It is not the purpose here to reopen the controversy involving the theory and practice of experience rating. This

has been discussed frequently and at length elsewhere.[9] For purposes of this discussion it is assumed that experience rating is "here to stay" regardless of its merit or lack of merit. It is possible within the context of experience rating however, to ensure that the question of "employer fault" does not jeopardize the rights of individuals to benefits. If this is to be accomplished, one basic fact needs to be recognized. Whether under particular circumstances an employer's account should be charged, and whether under these same circumstances benefits should be paid to a claimant, are two separate and distinct questions, each of which can be considered on its own merits. It does not follow that employees must necessarily be denied benefits because one cannot justify charging a particular employer's account.

The majority of states have recognized the merits of treating the two questions separately, while still preserving what they believe to be the advantages of experience rating. This is accomplished by the use of "noncharging" provisions under which benefits paid to claimants under certain circumstances are not charged to employer accounts, but are charged to a general account so that individual employer tax rates are not affected. Thirty-six states do not charge employer accounts where benefits are paid following a potentially disqualifying quit for which no disqualification is imposed, or following a period of disqualification where disqualification results in a postponement of benefits rather than a cancellation of benefit rights.[10]

The use of "noncharging" provisions enables a state (1) to recognize that there are numerous circumstances, such as leaving for better employment, where voluntarily leaving a job represents reasonable action by the employee and is consistent with the public interest, and (2) to ensure equitable treatment to employers.

In determining whether or not to pay benefits in particular cases, the relevant questions would appear to be whether the claimant acted in a reasonable manner in leaving his job, and whether the individual was in the labor market and genuinely seeking work. If the answers to both questions are in the affirmative benefits can be paid, and when the

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9. See Eveline Burns, *Social Security and Public Policy*. New York: McGraw Hill, 1956, pp. 78-79, 165-171, 184-188, 209-211; Herman Feldman and Donald M. Smith, *The Case for Experience Rating*. New York: Industrial Relations Counselors, Inc., 1939; Richard A. Lester and Charles V. Kidd, *The Case Against Experience Rating*. New York: Industrial Relations Counselors, Inc., 1939.

10. *Comparison of State Unemployment Insurance Laws as of January 1, 1958*, pp. 34, 37. For a list of states which "noncharge" in connection with the voluntary leaving disqualification see Table C, Appendix.

termination is not attributable to the employer the general account rather than a specific employer account can be charged. This, for example, is the policy currently being followed in neighboring South Dakota.

Actually, Iowa already uses the "noncharging" device where benefits are paid under the "double affirmative" provisions of the law, and where an employee's eligibility is established by combining wage credits earned in several states.[11,12] The extension of the "noncharging" provision to cover situations where the employee's voluntary leaving represented reasonable action would thus provide the logical means of protecting employer accounts while paying benefits where consistent with the objectives of unemployment insurance and the public interest.

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11. Under the "double affirmative" provision of the Iowa law, if the claims deputy and appeal referee both affirm an employee's eligibility, the claimant will receive benefits despite the fact that the Commission reverses the deputy and referee. In such cases, however, the employer's account is not charged.

12. Where an employee lacks sufficient Iowa wage credits to establish eligibility, he will be entitled to benefits if credits earned in other states, when combined with those earned in Iowa, are sufficient to establish eligibility. In such cases benefits paid are not charged to employer accounts.

CHAPTER IV

Return to Regular Employer

Section 96.51b of the Iowa Employment Security law provides that when an employee who has been laid off from his "regular" employment seeks temporary employment with another employer he must notify his prospective temporary employer of his intention to return to his "regular" job when it again becomes available, if such returning is not to result in disqualification for a voluntary quit. There must be an understanding or agreement with the temporary employer at the time of hire as to the temporary nature of the employment relationship. Where an employer in contesting a claim alleges that there was no such understanding, the employee must prove with a preponderance of evidence that he told the employer he desired temporary employment and was hired on that basis.

Of the 272 voluntary quit disqualifications in Cedar Rapids, Davenport, and Iowa City during the fourth quarter of 1957, 36 or 13 per cent involved individuals who either did not make the required agreement with their temporary employers or were not able to prove that they had done so. As a result the disqualified claimants lost a total of $14,334 in base period benefit credits amounting to 482 weeks of benefits. In addition 17 of the claimants also had lag or "post-lag" credits cancelled, since the disqualifying quits took place during the lag or "post-lag" periods.

Of the 36 individuals disqualified 17 did not have sufficient uncancelled credits remaining in their base periods to establish eligibility in the same quarter in which they filed their claims. In the remaining 19 cases, the disqualifying quits took place sufficiently early in the base periods so that benefit credits were still available. In these cases, however, the disqualifications resulted in reductions of up to 17 weeks of eligibility with an average reduction of 10.6 weeks.

Presumably it is the purpose of this provision to protect the accounts of temporary employers should claimants who did not inform the temporary employers of their intentions later lose their regular jobs and file claims. An analysis and evaluation of this provision of the law, however, involves considerations of equity to employers and employees, its relation to the objectives of unemployment insurance, the implications for state and national output, and the role of personnel administration in relation to unemployment insurance.

From the point of view of industry, the individual employee, and the economy as a whole, it is desirable that an employee be engaged in suitable productive work rather than remain idle and draw unemployment insurance. Indeed, the entire unemployment insurance system and its companion employment service is based on this premise. It is beyond

question that an unemployment insurance program should *encourage* productive employment and discourage idleness.

One can, of course, raise doubts concerning the social conduct of an employee who is less than frank with his prospective temporary employer concerning his future employment plans. However, even in the extreme case of an employee lying to his employer, one is still led to the conclusion that the employee wanted work badly enough to lie in order to obtain it. The problem, however, is far more complex than merely determining whether or not the employee told the truth, or deciding whether, in the event the employee was lying, such conduct merits the penalty involved in cancellation of unemployment insurance rights. A number of considerations must be examined in order for the problem to be seen in proper perspective.

At the time of accepting a temporary job the employee may in fact not know whether, when his former job again becomes available, he will leave to accept it. He may feel that if the new job "works out," he may stay, particularly if the wages and working conditions on the two jobs are fairly similar, and if he has few vested rights such as seniority or pension credits with his regular employer.

Five of the 36 disqualified claimants frankly admitted that at the time of hire they made no commitment to remain permanently with their new employers, informing the employers that they preferred to see how the new jobs compared to their regular employment, or whether the new jobs came up to expectations. Thus, for example, in one of these cases where the decision to disqualify was appealed, the referee in his decision upholding the disqualification stated,

> When the claimant was hired by Mr. ——— he stated that *if* he liked the work better with the X Company he would remain there permanently. The claimant was then hired by the X Company on a permanent basis. However, when claimant was recalled by the Y Company he left his employment with X Company to return to that employment. . . . Claimant has the burden of proving and establishing his case by a preponderance of evidence and has failed to meet this burden. The claimant has failed to show that he was hired on a temporary basis by the X Company nor did he notify his new employer, the X Company, that he *definitely* expected to return to his former job. The employer in this case hired the claimant on a permanent and not a temporary basis.[1]

Thus, in the above case, an employee who refused to commit himself

1. Appeal Tribunal Dec. No. 57A-3820-F, 1-3-58. Italics are the author's. The names of the employers and claimant have not been identified for the reasons indicated in Chapter I.

to remaining permanently on a new job because he was uncertain how it would compare to his regular employment was nevertheless hired by the new employer on what the *employer* considered to be a permanent basis. Because, however, the claimant decided to return to his regular job upon recall (as he said he might during the employment interview), he was disqualified.

While all five employees decided to return to their regular employers upon recall, it is important to note that they did so with no intervening unemployment and did not file their claims until laid off by their regular employers some time later. It should also be recalled that, under the Iowa law, an employee who leaves a temporary job to return to his regular employer cannot escape disqualification by pleading that his regular employment is "better" employment, even though it may in fact be better employment.

In the absence of a thorough employment interview by the employer concerning the worker's future plans, the employee may not make a special point of spelling out the possibility of his returning to his regular employer. In fact, in some states, as for example Indiana, Pennsylvania, and Rhode Island, employees who inform interim employers that they will return to their regular employers when recalled run the risk of being disqualified, since such action may be interpreted as an attempt to avoid being hired by the temporary employer. This can result in disqualification for refusal of suitable work or a holding that the individual was unavailable for work.[2]

In the absence of thorough questioning by the employer is it realistic to expect an employee genuinely desiring work to volunteer any information which would decrease his chances of obtaining work? Thus, for example, the appeal tribunal in one of the Davenport cases studied, while disqualifying the claimant, pointed out in its decision that although the employee admittedly did not tell the new employer that he sought temporary work until recalled by his regular employer, he was also not asked by the employer whether he would return if recalled. When hired by the temporary employer the claimant had stated on his written application the name of his previous employer, and that he had been laid off because of lack of work. The employee, however, was disqualified because he had not specifically informed the employer that he sought temporary work.[3] The case records of two other claimants who

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2. For a discussion of this problem see, "Recent Appeals Decisions-Claimants Awaiting Recall by Former Employers," *The Labor Market and Employment Security*, Sept., 1957, pp. 12-13. Also, *The Labor Market and Employment Security*, Dec., 1957, p. 48.

3. Appeal Tribunal Dec. No. 58A-3887-B, 1-17-58.

did not appeal their disqualifications indicate similar circumstances surrounding their hire by temporary employers.

In attempting to assess the probability of an employee's remaining in his employ, the employer or his interviewer can examine a number of factors which, while not guaranteeing a correct guess, make an intelligent and informed guess possible. A competent employment interviewer will obtain information concerning the reason the applicant left his last job, his former rate of pay in comparison with that on the job being discussed, and the claimant's seniority rights, and rights in pension and other fringe benefit plans with his previous employer. Based on this and other information obtained in the employment interview, and by possibly also contacting the former employer directly, the employment interviewer will make an informed guess as to whether the applicant is likely to return to his former employer when work again becomes available. The decision to hire or not to hire the applicant is always made on the basis of such information, and the employer takes the chance of guessing wrong, regardless of whether there is an unemployment insurance program in existence or not. No unemployment insurance disqualification provision can serve as a substitute for good personnel administration and sound judgment.

The issue is further complicated by the fact that many employees are not likely to be aware that a specific provable understanding with the temporary employer is necessary if he is to be protected against disqualification at a later date. For example, of 12 Cedar Rapids' claimants interviewed who were disqualified for returning to their regular employers without a previous agreement with their temporary employers, 9 indicated that they did not know of this requirement. The making of individual, specific, provable agreements as to length of employment for hourly and most salaried workers is not common practice in American industry. Employees have no precedents for such action and, like most individuals, are not familiar with the "fine print" provisions of labor legislation unless they have previously had personal experience involving these provisions. As a result, not knowing that six months or a year later they may have to prove the existence of an explicit understanding, employees who inform their temporary employers of their past work records, seniority rights, earnings, and other relevant information assume that they have done what is normally expected of them. Thus, for example, one of the disqualified claimants, while admitting that he had reached no specific understanding with his temporary employer, pointed out in his appeal hearing that he had worked for this same temporary employer during the winter months for three years, *and each spring had returned to his regular employer when the latter's construction season*

began. The claimant contended that since the temporary employer knew his past employment pattern, but hired him nonetheless, he had fulfilled the requirements of the Employment Security Law. The employer, however, stated that "they do not hire on a temporary basis," and the claimant was disqualified and $520 of his benefit credits cancelled.[4]

In four other cases where the claimants admitted having reached no specific understanding with their employers concerning the temporary nature of the work, the employees were actually referred to the temporary employers by their regular employers on the day of layoff with the knowledge and co-operation of the temporary employers. In one of these cases *the employee was interviewed by the temporary employer in the office of the regular employer*. The employees believed that under these circumstances the temporary employers should have known there was a strong possibility of their returning to their regular jobs upon recall. All four claimants, however, were disqualified, losing a total of $2,606 in benefit credits amounting to 86 weeks of benefit rights.

Of the 36 individuals disqualified for leaving temporary employers to return to their regular employers, 13 claimed to have informed the employers that they wanted temporary work and were hired on that basis, but were unable to prove it with a preponderance of evidence. Of these 13 individuals, 11 filed their claims six months or more after beginning work on the temporary job, with all the claimants having had at least one intervening job before filing their claims. Thus, these individuals were called upon to provide a preponderance of evidence concerning oral discussions which took place up to 20 months previously in the confines of an employer's office, and involving personnel practices and legal requirements with which they are likely to have been unfamiliar.

It is, of course, neither possible nor appropriate to make any *a priori* assumptions as to which parties are more likely to be telling the truth, but the difficulties faced by an employee in proving his case under these circumstances are obvious. From the point of view of a sound and equitable unemployment insurance program, the relevant question would appear to be: having taken temporary employment rather than remain out of work, and then returning to his regular employer upon recall, did the employee leave his *regular* employer or *subsequent* employers under conditions which would not justify compensating him for his *current* unemployment. The necessity of having to make a decision as to whether or not an oral agreement was made a number of months previously, concerning a situation which has nothing whatever to do with an individual's

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4. Appeal Tribunal Dec. No. 58A-3908-T, 1-22-58.

current lack of work, is a cumbersome, difficult, and unnecessary responsibility to place upon a claims deputy or appeal tribunal. If, as was suggested earlier, payment of benefits under such circumstances were not charged to any individual employer account, but paid out of a general "noncharging" account, the temporary employer would not be unfairly penalized, the worker would not be penalized for having done that which is consistent with public policy and the general welfare, and those responsible for administering the law would be spared the time-consuming task of adjudicating such cases.

For the 36 claimants disqualified, periods ranging up to 15 months elapsed after returning to their regular employers before they actually filed their claims, with 19 of the 36 claimants filing 6 months or more after returning to their regular jobs. The vast bulk of these intervening time periods were spent in employment with the claimants' regular or subsquent employers. In only one of the 36 cases did a regular employer to whom the employee returned contest a claim, and in only two cases did subsequent employers file protests.

Nine of the 36 employees were either *already drawing unemployment benefits* or had been certified as eligible for benefits *at the time they accepted their temporary jobs.* Thus, these 9 individuals specifically gave up benefits in order to accept temporary jobs. There is no way of knowing whether the disqualified claimants would have been able to secure other types of temporary work with employers who would not have protested their return to their regular jobs. It is highly probable, however, that the risk of later disqualification will tend to discourage these and other employees from accepting temporary work in the future. Of 12 of the employees interviewed, 7 indicated that in view of their recent disqualification experience as a result of having taken temporary employment they would be reluctant or hesitant to accept temporary work while awaiting recall. The 36 disqualified claimants worked a total of 456 weeks *on their temporary jobs* before returning to their regular employers. Can Iowa afford to penalize or discourage this type of productive employment?

CHAPTER V

Illness or Injury

As has been indicated earlier, an individual who voluntarily leaves his employment will be disqualified unless the termination was "for good cause attributable to the employer." One of the more important personal reasons for leaving work is disability. In a recent decision, the Iowa Supreme Court has held that where the termination is due to illness or disease directly connected with the employment such a leaving is "involuntary" and "with good cause attributable to the employer."[1] However, most illnesses or accidents are of a nonoccupational origin or nature, and where employees have terminated their employment for this reason, disqualifications have been imposed.

The basic precedent of disqualifying claimants who quit their jobs because of disability was established by the Iowa Supreme Court in the case of *Wolf's v. Iowa Employment Security Commission and Harris*,[2] although even before this decision the Iowa Employment Security Commission had rendered the "bloody stump" case cited in Chapter II.

The *Wolf's Case* involved a claimant who left work to move to a high dry climate to improve a sinus infection causing catarrh of the eyes, a condition for which she previously had been hospitalized. When her case came before the Commission on appeal, the majority members held that she was not to be disqualified for the leaving. The Commission had

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1. *Raffety v. Iowa Employment Security Commission*, 247 Iowa 896, 76 N.W. 2d 787 (1956). This case concerned a claimant who suffered an injury to his back caused by breaking of the floor in a freight car he was unloading. Upon his recovery, and at his physician's advice, he sought lighter work with his employer. When such work was not offered him, he obtained a lighter job, at more pay, with another employer, but was laid off for lack of work after five and one-half months. He then filed a claim for benefits. The claims deputy, appeal tribunal, and Commission disqualified the claimant. The Supreme Court, however, held that the claimant's separation from the first job was "involuntary," and "with good cause attributable to the employer." It also noted that the claimant's action fell within the "letter and spirit" of Subsection (a) of Section 96.5.1. In ruling that there was "good cause attributable to the employer," the court rejected the contention of the employer and the Commission that, although the claimant's injury arose out of and in the course of his employment, it was not attributable to the "*employer*." Since this decision was handed down there have not been sufficient cases involving this issue to indicate clearly how close the relationship between the disability and the employment must be in order for the Raffety decision to be applicable. It is likely that where the claimant is eligible for Workmen's Compensation or where the injury was due to employer noncompliance with a safety code, the Raffety decision will be applied. If the employee did not apply for Workmen's Compensation or was ineligible or not covered under that law, the applicability of the Raffety decision will depend on the judgment of the claims deputies, referees, Commission, and the courts in each individual case.

2. 244 Iowa 999, 59 N.W. 2d 216 (1953).

reasoned that the claimant, as a reasonable person and considering her physical condition, had no choice but to leave; that the employment she left was not suitable for her; and that her leaving was in no sense voluntary, but actually involuntary.

The Commission had contended that the phrase "good cause attributable to the employer" has no application unless it first appears that a leaving is "voluntary." In answer, however, the court stated that:

> The effect of the argument is to read out of the statute the words "attributable to the employer" . . . The argument amounts to this: If an employee has *any* good cause, even though not attributable to his employment, for leaving his work his act in doing so is necessarily involuntary but if the good cause for leaving is attributable to the employment such leaving may be voluntary. . .
> It is argued claimant is not among those "unemployed through no fault of their own." In the sense that she was not blameworthy, culpable, or wrong doubtless she was not at fault in connection with her unemployment. However, *Moulton v. Iowa Employment Security Commission* . . . holds the word "fault" as here used is not limited to something worthy of censure but must be construed as meaning failure of volition.

Before examining the disqualifications resulting from quits related to illness or injury it is important that one preliminary point be clear. The basic problem does *not* involve the question of whether or not an individual who leaves a job because of disability should receive benefits *while he is incapacitated.* Such an individual is not able and available for work and is not in the labor market. No state pays unemployment insurance benefits under such circumstances, and for purposes of this discussion this is assumed to be sound public policy as far as unemployment insurance is concerned.[3] Rather, the basic issue is whether or not to disqualify individuals who, having left their jobs because of incapacity, recover and re-enter the labor market, but cannot find employment, or find employment but lose it at a later date.

Of the 272 voluntary quit disqualifications, 33 or 12 per cent of the total involved individuals whose voluntary leaving was due to physical disability or fear that continuation at the same job would result in illness or injury. Twenty-one of the claimants left because of physical disabilities other than pregnancy, three left because of pregnancy, and

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3. Rhode Island, California, New York, and New Jersey have separate Temporary Disability Benefit Laws which pay benefits to individuals disabled because of non-occupational illness or accident. It is not within the scope of this study to deal with the merits of such laws or whether they should be integrated with unemployment insurance.

nine left because of the belief that the work was detrimental to their health. The 33 claimants lost a total of $11,690 in base period benefit credits as a result of disqualification, plus varying amounts of lag and "post-lag" credits. For 21 of the claimants the disqualifications meant complete loss of eligibility during the quarter, while the remaining 12 claimants had some benefit credits remaining after disqualification.

A. *Illness or Injury Other Than Pregnancy*

1. Resumption of Work Prior To Filing of Claim

Of the 21 individuals disqualified for leaving their jobs because of disabilities other than pregnancy, 11 resumed work upon recovery, and worked for periods ranging up to twelve and one-half months before becoming unemployed and filing their claims. For these 11 individuals the unemployment which caused them to file their claims was thus unrelated to the loss of employment caused by the disabilities.

Three of the 11 claimants sought and obtained new jobs upon recovery because their old jobs were unsuitable in the light of their physical condition. One of these claimants did not accept her old job on the advice of her doctor since it involved a 72-hour week, which was believed to be excessive. Upon re-entering the labor market the claimant obtained work with another employer and remained at this new job for 29 weeks before becoming unemployed and filing her claim. After filing her claim she refused an offer of the same job she had previously quit because of illness. The claims deputy ruled that she was not required to accept this job because it was unsuitable. She was, however, disqualified under the voluntary quit provision for having "voluntarily" left this job. Thus, the claimant, becoming ill on an unsuitable job, was disqualified some nine and one-half months later for having left the unsuitable job on which she became ill. This disqualification resulted in a loss of $539 of benefit credits. A second claimant left his employment to enter the hospital upon suffering an epileptic fit of which he had a history. Because of the nature of his illness, his driver's license was revoked. Upon recovery he secured employment with a new employer which did not require driving. This employee worked for his new employer and a subsequent employer for 11 months before filing his claim, but because of his quit to enter the hospital almost a year previously, he was disqualified, losing 4 weeks of benefit rights. The third claimant was advised by her doctor not to return to her previous work because he believed the congestion in her lungs was due to working with lint. The claimant secured another job as soon as she was able to work.

Four of the remaining eight claimants secured work with new employers after recovering because their old jobs were no longer available, and

two employees accepted new jobs for personal reasons. In the case of the tenth and eleventh claimants, the employments which the employees left upon becoming ill were part-time supplementary jobs which they held concurrently with their regular full-time positions. Upon recovery, the claimants resumed their regular full-time jobs but were disqualified because they had not also resumed the supplementary employment. In one instance the claimant's doctor advised against the supplementary employment, while in the other case the employee had been replaced. These two disqualifications resulted in cancellation of those credits earned on the supplementary jobs.

2. Unemployment Following Recovery

Ten of the 21 claimants disqualified for voluntarily leaving their jobs because of disability other than pregnancy were unable to secure employment upon re-entering the labor market, and filed claims for benefits. Two of these reported back to their former employers, and although able and available for work, were unable to perform the specific tasks at which they were previously engaged because of their physical condition. The employers, however, had no work which the claimants were able to perform, and the employees sought unsuccessfully to find other work.[4]

Three other employees did not report back to their previous employers because they believed their physical condition would not permit them to carry out their former work. For example, one of these claimants who had been driving a truck for a transportation company had to surrender his chauffeur's license because of his illness.

Four of the ten employees had not secured leaves of absence upon becoming ill, and when they reported back to their employer after recovering found either that work was unavailable because of a slack in employment, or that they had been replaced. In one of these cases, the employee reported back to his employer but found that no work was available, and filed his claim two weeks later. One week after filing his claim he was recalled, and worked for two weeks. This claimant, however, was disqualified because of his illness quit, despite the fact that he had returned to work for the same employer when work became available.[5]

In the tenth case the employee filed a claim for benefits upon being laid off from a construction job. He was certified as eligible for benefits, but before drawing his first check secured another job which involved

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4. One of these cases was appealed, but the deputy's decision to disqualify was upheld by both the referee and the Commission. Appeal Tribunal Dec. No. 58-A-3915-T, 1-23-58. Commission Dec. No. 58C-2649, 2-21-58.

5. Appeal Tribunal Dec. No. 58A-3907-T, 1-23-58.

inside work. He worked at this latter position for two and one-half days and quit because of illness. At his appeal hearing the claimant testified that he did not want to continue filing for unemployment benefits and had taken the inside work despite the fact that he had suffered from a lung ailment for the past four years and had been advised not to accept inside employment because of it. The claimant admitted that the job was not misrepresented to him by the employer, that he was not employed on a trial basis, and that he had not told the employer about his ailment when hired. He was doing brush painting and some grinding, and after two and one-half days was unable to continue work because of his physical condition.[6] Thus, this claimant, although certified and eligible for unemployment benefits took an unsuitable job rather than draw benefits. This two and one-half day effort to work, however, cost him his eligibility and $372 in benefit credits.

It is clear that in the case of voluntary quits due to non-occupational disability such leaving cannot be attributed to the employer. At the same time, however, can a leaving caused by an illness be considered voluntary in any realistic sense? As has been pointed out in numerous cases arising in other states (including those with an "attributable to the employer" clause), an employee who is ill or injured has no reasonable alternative but to cease working until he recovers.[7] Neither the employer, the employee, or the community gains when an individual continues at work while disabled.

Illness or accident results not only in a loss of regular earnings, but in addition usually involves expenses for medical care. Where individuals are able and available for work and make a sincere effort to find work after recovery can one justify the imposition of the additional penalty involved in cancellation of previously earned benefit credits and denial of benefits? Moreover, as 11 claimants discovered, under the present law a voluntary quit because of illness can result in such a penalty months after the individual actually returned to work.

B. *Leaving Because of Pregnancy*

From the standpoint of an individual's physical ability to work, a claimant who leaves her job because of pregnancy is no different from one who quits because of some other incapacitating condition. As indicated earlier, the relevant question is *not* whether benefits should be paid during periods immediately preceding or following delivery, but rather, whether the fact of having quit because of pregnancy is sufficient

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6. Appeal Tribunal Dec. No. 58A-3883-B, 1-17-58.
7. See Chapter II.

grounds, *per se*, for disqualifying such claimants if, after re-entering the labor market and making a genuine effort to obtain work they are unable to do so.

It is common knowledge that at the present time large numbers of young mothers work despite family obligations. Re-entry into the labor market fairly soon after childbirth causes no surprises in twentieth century America. Since it is a safe assumption that motherhood is a state which is to be encouraged rather than discouraged, it goes without saying that there are no social or public policy grounds for disqualifying a claimant because giving birth forced her to quit her job. Rather, the problem is one of administration. That is, determining whether such a claimant is or is not genuinely in the labor market. If she is not, then, as is true of all other non-labor market participants, benefits should not be paid. If the claimant is making a sincere effort to obtain work, can one justify refusal of benefits? In either case, can one justify *cancellation* of credits? Since cancellation of previously earned benefit credits is in fact a penalty, does not such a policy mean that an employee is punished for having committed the act of bearing a child?

Three of the 33 claimants were disqualified for voluntary quits due to pregnancy. One of the claimants resumed work with a new employer in the quarter immediately following that in which she left her previous job. Her previous employer had secured a replacement, and she worked for her new employer and a subsequent employer for a period extending from the fourth quarter of 1956 until November 8, 1957, when she was laid off. Her disqualification resulted in cancellation of the benefit rights earned prior to her pregnancy quit. As concerns the other two claimants, the case records showed no employment during the periods between the dates they left their employment and the dates they filed their claims. Information is not available concerning their labor market status on the dates they filed their claims, but in the event these claimants were not genuinely seeking work, the able and available requirement itself would have prevented the payment of benefits without the necessity of imposing voluntary quit disqualifications and cancelling credits.

C. *Leaving Because of Risk of Illness or Injury*

Nine of the 33 claimants left their jobs because they feared that continuation at work would endanger their health. Two of these were employees who left supplementary part-time jobs because they felt that continuing at work on two jobs would be injurious. Both employees continued at their regular full-time jobs without interruption for periods of three and nine months before being laid off and filing their claims for benefits. Although both employees were disqualified for quitting their

supplementary jobs, the cancellation of credits earned on these jobs did not affect their benefit rights since both employees had already earned the maximum amount of credit on their regular jobs.

Of the remaining seven employees, five secured work subsequent to their leaving, and did not file their claims until laid off from their subsequent jobs. One of these claimants had quit his job because he feared the heavy lifting would aggravate a back injury for which he had been hospitalized six months previously, while a second felt that the cement dust was beginning to affect his health and no dust-free positions were available. A third claimant quit his job because the long hours were adversely affecting his health, and in a fourth case the employee left because the work was aggravating a shoulder muscle. The fifth claimant left a foundry job after working one day because the gas and fumes made him ill and dizzy. As noted above, these five individuals did not file claims upon quitting their jobs, but rather secured other work and remained at such subsequent work for periods ranging up to 28 weeks before being laid off and then filing for benefits.

In the final two cases the employees were unable to secure other employment after quitting. Periods of seven and ten weeks elapsed, however, before they filed their claims.

It is true, of course, that an unemployment insurance program must be protected against the efforts which some employees may make to use "fear of illness" as a means of obtaining a paid vacation at the expense of the program. Again, however, preventing such abuse is primarily a problem of administration. Whether a job actually involves a risk to a particular employee's health is a medical question requiring individual determination. If it is suspected that an employee is merely using this as an excuse to draw unemployment insurance, an effort needs to be made to establish this. Where malingering is evident the employee should be disqualified because he quit without good cause. However, under the present law, the merits of the employee's claim are irrelevant if the employer himself is not at fault, and disqualification is automatic.

It goes without saying that health is a matter of the utmost importance not only to the individual, but to the community as a whole. To automatically penalize an employee by cancelling his benefit credits when he may have taken the only possible intelligent course of action is to jeopardize the state's most important asset—its human resources. To the employee who is fearful that his present job is physically harmful the Employment Security Act in effect says, "You had better not quit, since even if you immediately obtain another job, you will lose a significant portion of your benefit rights if you are laid off from your new job six months or more from now."

In seven of the nine cases discussed above, the fact that the employees obtained *new* jobs after the quit without filing claims is strong evidence that their concern for their health was sincere. In the remaining two cases where the employees did not obtain new employment before filing their claims, the fact that they did not file until seven and ten weeks after quitting provides at least some evidence that their quits were not motivated by a desire to draw vacation pay in the form of unemployment insurance.

CHAPTER VI

Domestic Circumstances

Among the various reasons for leaving one's employment are those which come under the broad category of what might be termed "domestic circumstances." Included under this description would be circumstances such as leaving work because of having to care for children, illness or death of others, housing or household duties, marriage, or the moving of one's spouse to another locality. As was pointed out in the discussion of personal illness or injury, unemployment benefits are not and should not be paid as long as the domestic circumstances keep the individual out of the labor market. Of concern here is the question of policy relating to individuals who have returned to the labor market and are actively seeking work.

Where the domestic circumstances causing an individual to leave his job are not attributable to the employer, the Iowa law requires disqualification in all cases except for one narrowly prescribed type of situation. This is where an individual leaves his employment,

> for the necessary and sole purpose of taking care of a member of his immediate family who was then injured or ill, and if after said member of his family sufficiently recovered he immediately returned to and offered his services to his employer, provided, however, that during such period he did not accept any other employment.

Leaving because of any other type of domestic circumstance results in disqualification and cancellation of all previously earned credits, irrespective of the claimant's succeeding labor market participation or employment record. Even the one exception involving care of a family member has been very narrowly interpreted in the past by prior commissions. For example, the word "family" in this provision has been strictly interpreted to mean a collective body of persons who form one household under one head and one domestic government. Thus, a cook who obtained a leave of absence to visit a critically ill daughter in another state did not return to work because her daughter died, and she wanted to remain to care for her three grandchildren. She was held not to have left to care for a sick member of her immediate "family," since her daughter was not a member of her immediate family as defined above. She was disqualified for this reason and also because she did not apply for rehire.[1]

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1. Commission Dec. No. 56C-2221, 3-21-56, *BSSUI*, VL-155.35-23.

Even though an individual has left to care for a member of his immediate family, he is not excepted from disqualification under this provision unless he returns and offers his services to his employer. Thus, a claimant was disqualified when she quit to care for her seriously ill husband and did not apply for re-employment after his recovery because the family had moved to a new locality during his illness.[2] In another case a claimant did re-apply to her immediate supervisor and was told the shift had been discontinued. The employer said she should have applied at the employment department at his establishment as no supervisor had authority to hire. She was disqualified.[3]

During the fourth quarter of 1957, 11 claimants from the three labor markets studied were disqualified for having left their employment for reasons which would appear to come under the heading of domestic circumstances. Of these, two were actually rehired by the employers whom they had left. In one of these cases the claimant had left work to be with a married daughter who was ill in another state. He was rehired by his employer 3 weeks later and worked for an additional 23 weeks before being laid off and filing a claim. He was disqualified, however, and lost $562 in benefit credits because he had not secured a leave of absence, despite the fact that he returned to work for the same employer. The second claimant left her job on October 12, 1956, because she was unable to obtain a baby sitter. She returned to work for the same employer in May, 1957, and worked for this employer for approximately 22 weeks until October 24, 1957, when she was laid off. She filed her claim one week later, but was disqualified for the quit which had occurred one year earlier, losing $215 in benefit credits.

A third claimant had left his employment in Ames, Iowa, on August, 15, 1957, to return to the Davenport area to be near his mother who was to undergo surgery. The claimant had not secured a leave of absence, and admitted to the claims taker that his mother's surgery did not require his presence and he merely wanted to be near her. He filed an original claim for benefits in Davenport on August 20, 1957, but before the claim could be adjudicated he secured a job in the Davenport area and worked until November 15, 1957, before filing an additional claim. On December 2, 1957, he was disqualified because of his quit from the Ames employer on August 15, resulting in a loss of $177 in benefit credits.

Two of the ten claimants left their jobs because their spouses had been

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2. Appeal Tribunal Dec. Nos. 56A-1576-B and 56A-1577-B, 6-8-56.
3. Appeal Tribunal Dec. No. 56A-2064-T, 10-26-56.

transferred to other areas of the state. One of these left her job in Sioux City on August 13, 1957, because she moved to Davenport with her husband. The employee had obtained a leave of absence from her Sioux City employer so that she might receive consideration for a transfer to his Davenport store. The Davenport branch of the company, however, had no openings and she filed a claim on October 13, 1957. The claimant was disqualified because of the Sioux City quit, losing all of her previously earned credits, some $682.[4] The second claimant left her job on April 26, 1957, to be married, and moved to another city. She obtained employment in her new locality on July 15, 1957, and worked until October 18, 1957, when she was laid off. This claimant filed her original claim on October 21, 1957, but was disqualified for the quit necessitated by her marriage, losing 23 weeks of benefit rights.[5]

One claimant left his job intending to visit his mother in Austria upon learning that his father had just died there. The claimant left for Chicago without being given a leave of absence by his employer, but was unable to obtain a passport and returned to Davenport. He obtained work with a new employer upon returning and worked for 34 weeks before being laid off and filing his claim. The quit 34 weeks previously, however, resulted in disqualification.

Of the five remaining claimants who left their jobs because of domestic problems, three subsequently secured other work before filing their claims, while the last two were unable to obtain work upon re-entering the labor market and filed their claims. One of these had not reported back to work at the expiration of her authorized leave of absence because of her inability to find a baby sitter. This claimant was interview approximately four months after filing her claim and had as yet been unable to find work despite the efforts of the United States Employment Service, to whom she reported on a number of occasions after disqualification. It might be noted that the claimant was a veteran and at the time of interview was receiving unemployment benefits under the Veterans' Readjustment Act. This would tend to support her statement that she was currently in the labor market and seeking work, since in order to draw benefits under the Veterans' program the claimant must

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4. Appeals Tribunal Case No. 57A-3684-B-T, 12-2-57. The appeal referee in this case pointed out that he had no choice but to disqualify the claimant in view of the precedent established in the case of *Fairfield Glove Co. v. Iowa Employment Security Commission and Eunice Ruggels.* (District Court for Jefferson County, 11-13-52, *CCH*, Vol. 3, par. 8111.) In this case, the court held that under the Iowa law a woman who leaves her job to move with her husband to another locality must be disqualified because her leaving was not for cause attributable to the employer.
5. Appeals Tribunal Dec. No. 57A-3725-F, 12-9-57.

meet the same tests of availability for work and work seeking effort as state claimants.[6]

The classification "domestic circumstances" covers a wide range of possible individual situations. It is not possible here to discuss in any detail circumstances under which a claimant is or is not justified in leaving a job. Many of the considerations which determine a claimant's actions are subjective and are unique to that individual. In states which recognize good personal cause for leaving work, the claims examiner must look at all the facts, objective and subjective, weigh them carefully in terms of whether or not the claimant acted as a reasonable or prudent person might, and reach his decision accordingly. In Iowa, however, the law arbitrarily rules out all possible domestic circumstances not attributable to the employer except the one noted earlier, and it is difficult to conceive of a domestic circumstance which *would be* attributable to the employer.

It is vital that unemployment insurance funds be protected against individuals who might "invent" domestic circumstances in order to draw benefits to which they are not entitled. This protective function, however, must be performed by those whose responsibility it is to determine whether the individual's leaving was for good cause and whether he is actually making a genuine effort to find work once domestic circumstances no longer keep him out of the labor market. A problem which is essentially administrative is not likely to be solved satisfactorily through a broad legislative provision or judicial decision which applies arbitrarily to many individual situations, each of whose uniqueness requires individual consideration.

It is important to note that of the 11 claimants in this category who were disqualified, 8 did obtain work after the domestic circumstances were no longer a barrier to employment, and did *not* seek unemployment insurance until involuntarily losing their subsequent jobs for non-disqualifiable reasons unrelated to the domestic circumstances. Where, as in these 8 cases, the records show that the claimants did work after the domestic circumstances were no longer present, it cannot be claimed that

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6. At the time of her disqualification under the state program the claimant had also been disqualified for a voluntary quit under the Veterans' Readjustment Act, since under the Veterans' program the claimant is subject to the same eligibility and disqualification provisions as are individuals under the state program, except that under the Veterans' Readjustment Act wage credits cannot be cancelled. In the above case, the claimant's disqualification for a voluntary quit under the Veterans' program resulted in a *postponement* of benefits for two weeks, after which she began receiving benefits. Had she been unavailable for work she would not have been eligible for benefits under the Veterans' program.

the individuals used domestic circumstances as an excuse to obtain a paid vacation.

Ideally, employees who must leave work temporarily should obtain a leave of absence. Employees, however, may not think to do so, may be unfamiliar with the practice, and may not realize the importance of doing so. Employers, on the other hand, may not have a policy of granting leaves, may be hesitant to commit themselves, or may actually be glad to see an employee leave without having to fire him. An efficient policy and procedure for requesting and granting leaves of absence are fundamental to a sound personnel relations program, and progressive employers interested in developing the best in personnel and human relations practices are continuously seeking to improve their procedures for reasons quite independent of the particular relation to unemployment insurance. It is questionable, however, whether imperfections in such procedures, regardless of whether due to the employee or employer, should be permitted to influence the receipt of benefits *in cases where the conduct of employees in leaving employment is neither inconsistent with good social conduct generally nor the objectives of unemployment insurance in particular*.

Where an employer may have been willing to grant a leave of absence had one been requested, his objection to having his unemployment benefit account charged is understandable, just as is his complaint that he had nothing to do with creating the domestic circumstance itself. As has been pointed out earlier, however, such objections can be satisfied through the device of the "noncharging" account without denying benefits to individuals whose conduct would not generally be subject to social disapproval.

CHAPTER VII

Leaving To Attend School

Whenever attendance at school removes an individual from the labor force it is clear that he cannot qualify for benefits because of the "able and available" requirement. There can be little quarrel with this policy. The problem discussed in this chapter relates to the application of the *voluntary quit* provision to individuals who voluntarily leave their jobs to enter, remain in, or re-enter school. Whether to use the "able or available" provision or the voluntary quit provision to protect unemployment insurance funds under such circumstances is not an academic question. A voluntary quit disqualification in Iowa, unlike a "not able or available" decision, results in cancellation of previously earned benefit rights.

The problem of disqualification policy in relation to individuals who voluntarily quit their jobs in order to attend school, while involving only four claimants in the three labor markets studied, is important in the sense that it raises questions of a most basic nature concerning the consistency of the Iowa law with the objectives of unemployment insurance and the general welfare of the community as a whole.

Since one cannot be in two places at the same time, it follows that an employee desiring to attend school *must* quit a job which requires his presence during the hours school is in session. Under the present law this means that if during the 18 months following such a quit the individual completes his education or leaves school for some other reason, re-enters the labor market, cannot find work and files a claim, his previously earned benefit rights will be cancelled. Thus, for example, one of the claimants had quit his job in September, 1956 to enter school. In September, 1957 he re-entered the labor market, secured employment, and worked for approximately a month when he was laid off. Upon filing a claim for benefits on November 15, 1957, he was disqualified for the quit of 14 months earlier, with a cancellation of the $200 in benefit credits earned prior to September 1956.

In the above case the employee did not attempt to obtain benefits while in school, but instead re-entered the labor force and secured work, and later became unemployed for reasons unrelated to the fact that he had quit a job months previously to enter school. The question which this case raises is whether the act of furthering one's education merits the penalty of denial of benefits and cancellation of wage credits.

A second claimant applied for benefits when he was enrolled in school on a half-time basis, and really was not in the labor market at the time he filed his claim. He had quit a job 16 months previously to enter school and was disqualified for this quit. This claimant was not entitled to

benefits because he was not in the labor market. Could not the claimant have been denied benefits on this ground, making unnecessary the cancellation of $200 of benefit credits which had been earned over 16 months earlier?

Where an individual devotes his time chiefly to his studies, with his employment being only incidental, he cannot obtain benefits should he lose his job, since such incidental unemployment is not covered under the law. Consider, however, the individual who works full time and also attends school full time. If such an employee quits his job because it conflicts with his class schedule, is unable to find another job with convenient hours, and files a claim, it is probable that the employee's reservation of certain hours for school attendance constitutes exit from the labor force. If it is evident that an employee cannot hope to find employment during his non-school hours because such work does not exist, the claimant can be held to be unavailable for work and benefits denied. It is quite another matter, however, to impose a voluntary quit disqualification and cancel the individual's previously earned benefit rights. Thus, in the third case the claimant had worked full time as a drill press operator on the second shift of a company for three years until October 22, 1957. During this same period he was a full-time student at Cornell College, except for the summer of 1956 when he worked full time for the employer. On October 22, 1957, there was a reduction in force on the second shift, but because of the claimant's seniority, the employer offered him the same type of work on the first shift. The claimant was in his senior year as a full-time student at Cornell College, and because of his school work, could not accept transfer to the first shift.[1]

The fourth case, which was similar, involved a claimant who had worked over four years for the same company. During much of this time he was a full-time student at the Palmer School of Chiropractic and worked on the second shift while attending school. At the time of his separation the work on the second shift was being curtailed, and the claimant was told he would have to transfer to the first shift. He did not accept the transfer because he was in his senior year in school and did not want to quit his school work at this time to continue with his job, although on two other occasions he had quit school to accept a transfer to another shift.[2]

The facts disclosed in these last two cases indicate that the claimants were restricting their availability to the second shift. This might well have resulted in their being held unavailable for work, and benefits

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1. Appeal Tribunal Dec. No. 57A-3779-B, 1-3-58.
2. Appeal Tribunal Dec. No. 58A-3885-B, 1-17-58.

denied on this ground without cancelling their credits. Instead, under the present law the claimants were disqualified for voluntary quits and each had $720 in benefit rights cancelled. Does an individual who has worked full time while attending college and then must cease working in order to finish his education deserve this type of treatment? Can Iowa afford thus to penalize its young people for seeking to improve their education?

Recent events of world-wide significance have underscored the importance of improving the education of our population. While only a small number of individuals in the three labor markets were disqualified for having quit work to return to school, a number of factors are in operation which are likely to increase the frequency with which such cases arise in the future. Recognition of the importance of education is growing, increasing numbers of individuals are completing high school and entering college, and the costs of higher education are rising, with the result that more and more students may have to work part time or full time while attending school, or may have to interrupt their schooling periodically in order to replenish their finances. Does a social insurance program which makes more difficult the efforts of individuals to improve their education and skills serve the best interests of the state and nation? Where individuals have left the labor force to attend school, denial of benefits on the ground that such individuals are unavailable for work is consistent with the objectives of unemployment insurance. It is difficult to understand what purpose is served by imposing a voluntary quit disqualification and cancelling previously earned benefit rights.

CHAPTER VIII

Employee Dissatisfaction

In previous sections of this study, five broad categories of reasons for leaving work were discussed involving some 113 disqualifications. The remaining 159 cases which do not fall within these five categories involved individuals who either quit because of personal dissatisfaction of one kind or another without having a definite offer of a new job, or contended that they had been discharged and had not quit, but were unable to prove their contention.

As concerns individuals who voluntarily leave their jobs for "better" employment or to return to their regular employers upon recall, who quit because of ill health or serious domestic problems, or to return to school, the author believes that society will generally consider such quits to be reasonable and consistent with the general welfare. It is less clear, however, whether unemployment which is initiated by quits because of dissatisfaction with wages, hours, working conditions, or other factors will be considered compensable unemployment by the community. Unemployment insurance must not be used to aid those whose lack of work is the result of their own arbitrary action. Only when the individual's unemployment is due to action which society considers prudent and reasonable in the light of the particular circumstances can payment of benefits be justified.

Within this context, the present Iowa law as it applies to claimants who leave their jobs because of personal dissatisfaction raises three questions of fundamental importance. The first is whether the provision requiring a termination to be "attributable to the employer" is the appropriate means of preventing payment of benefits for unemployment which is the result of an arbitrary or unreasonable quit.

Secondly, assuming that a quit was arbitrary and unreasonable, is this sufficient reason for disqualification if the individual worked at another job *following* his quit and *before* filing his claim? That is, a situation in which the unemployment for which the individual is claiming benefts is unrelated to his quit, but is due, rather to the inability of the current labor market to provide suitable work?

The third question involves the nature of the disqualification penalty itself.

A. *The "Attributable to the Employer" Clause*

The 159 disqualifications not falling within the categories discussed in Chapters III through VII involved individuals who either left their jobs for a variety of reasons which might be grouped in the broad cate-

gory of "employee dissatisfaction," or claimed that they had been discharged rather than having quit. As can be seen in Table 4, five individuals quit their jobs to enter self-employment and later resumed the status of employees. In six cases the employees felt the transportation facilities to the job were inadequate or that the travel-time to the job was excessive. Nineteen individuals quit because they thought the wages were unsatisfactory, and five quit because of dissatisfaction with the hours. In seventeen cases the employees left their jobs because they felt the nature of the work made it unsuitable, while twenty-six disqualifications resulted from quits because of dissatisfaction with the working conditions. In the latter cases, the dissatisfaction stemmed from such factors as temperature, sanitation, dislike of fellow employees or supervisor, safety, weather, and others. Seven employees left their jobs because they believed a layoff was imminent, while ten employees thought they had good prospects for better jobs which, however, did not materialize immediately. Forty-two quits involved a variety of other reasons. The final twenty-two cases involved the question of whether the employees had quit or were discharged. These cases usually arose in situations where the employees had been absent from work without notifying the employers. The employers contended that the employees had quit, and the employees claimed they had returned to work, but were discharged upon returning or prior to their return. In each of the above cases the employee was unable to establish that the unauthorized absence itself did not constitute a break in the employment relationship.

It is neither feasible nor appropriate for the author to discuss each of the 159 cases and reach a conclusion as to whether the particular dissatisfaction in each case justified the voluntary quit, or whether the employee did in fact quit or was discharged. A careful study of the case histories of the 159 disqualifications does, however, indicate that there are strong grounds for questioning the desirability of so inflexible a policy as that which results from the requirement that a quit must have been "attributable to the employer" in order for the claimant to avoid disqualification.

Many of the claimants would doubtless have been disqualified even in those states which have a liberally interpreted "good cause" provision. As it has been interpreted, however, the Iowa law rules out by definition *all possible* quits based on personal employee dissatisfaction, with the reason for, or degree of dissatisfaction being irrelevant as concerns the decision whether or not to disqualify. As a result, claimants whose actions may be arbitrary and irresponsible are lumped together with individuals whose reasons for leaving would stand a good chance of receiving social approval. Thus, for example, in one case, a single woman aged 45 with two partially dependent parents had been em-

ployed for 14 years as a shoe clerk in a department store. She lost her job without warning when the shoe department was taken over by a new management. The claimant applied for unemployment insurance and drew benefits for four weeks before securing a job as a clerk in a retail bakery. She was unprepared, however, for this type of clerking, and feeling herself unable to cope with the pressures of waiting on large numbers of customers in rapid succession, involving products and procedures with which she was unfamiliar, left after one day. This resulted in disqualification, with a consequent loss of eligibility, and cancellation of $445 in previously earned benefit credits.

Another claimant who had been laid off from his regular job filed a claim and was certified as eligible for benefits. Before receiving his first check he accepted a temporary job in a foundry. The employee found, however, that he could not adjust to the 100-110° temperature in this work, and quit on July 30, 1957, after working one day. He immediately obtained another temporary job, and a short time later accepted recall to his regular employment. He was again laid off by his regular employer on November 4, 1957, and filed another claim. He was then disqualified because of his quit of July 30. This resulted in cancellation of 24 weeks of benefit rights which had been earned prior to the date of his quit from the foundry.[1]

A third claimant who was employed on a second shift which ended at 12:30 a.m. had missed a considerable amount of work because he was unable to secure satisfactory transportation. He had been warned by his employer about missing work. The claimant requested a transfer to either the first or third shift when transportation would have been available. Being unable to obtain a transfer to another shift or to obtain dependable transportation on his current shift, the employee quit.

A fourth case involved a female claimant who had worked for one month as an assembler and was given a new job assignment, part of which involved the lifting of bomb cases. The claimant felt this work was too heavy, but upon requesting lighter work was informed that none was available. She then quit, and two weeks later obtained a job with a new employer for whom she worked for three months before being laid off and filing her claim. The quit three months earlier, however, resulted in disqualification.

The above four cases are cited *not* as quits which would certainly be considered reasonable, but rather to illustrate the type of situation which would justify careful consideration of all relevant factors causing the

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1. This case was not included in the category "quit to return to regular employer" discussed in Chapter IV. The quit of July 30 was not because of recall to his regular job but because the claimant felt the job involved excessive heat.

claimants to quit, and the reaching of decisions based on all such facts rather than blanket definitional disqualifications because the quits could not be attributed to the employers. Can it be assumed that a quit was unjustified or unreasonable merely because it could not be attributed to the employer?

B. *Quits From Other Than the Most Recent Employer*

The second basic question to which the Iowa law gives rise concerns the wisdom of disqualifying claimants whose disqualifying acts took place on jobs other than the ones just prior to the filing of claims. Of the 159 disqualifications stemming from quits due to employee dissatisfaction, or involving the issue of whether the employee quit or was discharged, 121 or 77 per cent involved individuals who had intervening employment between the dates they committed the disqualifying acts and the dates they filed their claims. These claimants lost $25,975 in benefit credits. When these are added to the cases falling under the categories discussed in Chapters III through VIII it is found that 215 or 79 per cent of all the voluntary quit disqualifications involved individuals with such intervening employment, resulting in a loss of $59,629 in base period benefit credits.

As has already been indicated, where employees quit because of illness, to accept recall to a regular employer, or for the other three categories of reasons discussed in the earlier part of this study, there is great doubt as to the wisdom of imposing voluntary leaving disqualifications. This holds whether the quit was from the most recent employer or from an earlier employer. Consider, however, those cases among the remaining 159 which may have involved quits without good personal cause. To be sure, it would be unsound to permit an individual who has arbitrarily quit his last job to begin drawing benefits as soon as he has completed his waiting period. Is it not quite another matter, however, when such individuals, rather than seeking benefits, seek and find other work, thus giving concrete evidence that their quits were motivated by something other than the desire to loaf and draw benefits?

Many persons at one time or another get "fed up" with their work to the extent that they think seriously of quitting, and some are unable to control this feeling long enough to ride out a "crisis." Others are born optimists who feel they can do better elsewhere and act accordingly, despite the lack of realism of such a belief. Still others, particularly those with limited working experience, require a period of trying different jobs before finding their "niche." These actions leading to voluntary quits stem from the basic psychological, emotional, and physiological characteristics of individuals as human beings. This is not to condone arbitrary or unjustified quitting for such reasons, but rather to put in

proper perspective the question of whether quits occurring up to 18 months prior to the filing of claims and separated from the claimant's current unemployment by one or more jobs are relevant to the individual's current lack of work.

These matters are extremely relevant to the employer who under the present law has a direct financial interest in whether or not benefits are paid. As indicated earlier, however, if the device of the "noncharging" account is used the problem of the liability of the employer can be treated on its own merits, and payment of benefits to claimants when consistent with the objectives of unemployment insurance need not result in inequity or injustice to employers.

For a state such as Iowa which is in the process of industrialization the disqualification of claimants for quits unrelated to their current unemployment has particular relevance and interest. Iowa is currently in the process of industrialization, with a consequent movement of employees from farms into industry. This transition means that for many workers, particularly younger employees with little or no industrial experience, a period of adjustment is required, with many having to change jobs a number of times before finding their places in the new environment. This adjustment needs to be facilitated not only through the efforts of industry, labor, and government to provide the necessary job openings, but also to aid employees in acclimating themselves to the new conditions. Care must be taken to be sure that unemployment insurance aids and does not hinder this adjustment. In a period of full employment employees are able to change jobs quite readily until they find ones which are suitable. Should, however, the past changing of jobs in the process of adjustment be permitted to haunt the employee once a recession or other factors result in temporary unemployment? A denial or reduction of benefits during a period of bona fide unemployment because of past efforts to adjust to industrial conditions or to obtain better wages or working conditions can only impede the process of adjustment so vital to Iowa's future welfare.

It will be recalled that of the 51 jurisdictions, in only nine other than Iowa do statutes or court decisions impose disqualifications for quits from other than the most recent employer. The majority of the jurisdictions have recognized that separations from other than the most recent employment have little if anything to do with the individual's current lack of work.

C. *Postponement v. Cancellation of Benefits*

An important aspect in which the Iowa law differs from those in most of the other states is that relating to the consequences of disqualification. It was pointed out in Chapter II that only 17 states in addition to Iowa

cancel wage credits as well as postpone benefits when a claimant is disqualified for a voluntary quit. Only Iowa, however, includes among credits cancelled those earned with employers who laid claimants off for lack of work. In 33 jurisdictions, disqualification results only in a postponement of benefits with no cancellation of benefit rights.

Unemployment insurance, like all other forms of insurance, is established to pay benefits upon the occurrence of a specific event. Thus, life insurance insures against the risk of death, fire insurance covers the risk of fire. In the case of unemployment insurance, the event insured against is involuntary unemployment or unemployment which the individual could not avoid through reasonable action.

In all types of insurance, benefits are not paid when the event insured against does not occur, or when the event is not covered or is explicitly excluded from the policy. If a property damage policy excludes damage by flood, benefits are denied to a policy holder whose house was damaged in this manner. For social reasons and because of limited funds, public policy has seen fit not to pay unemployment insurance benefits for voluntary unemployment which could have been avoided by reasonable action. In other words, voluntary unemployment of this type is an event which is excluded from the coverage of unemployment insurance "policy." It is the function of the voluntary quit provision of most state laws to ensure that benefits are not paid upon the occurrence of this uncovered event.[2] Thus, the legislatures of the states have said, in effect: "Unemployment caused by an unreasonable voluntary quit is not the type of unemployment for which benefits should be paid. Therefore, when a person suffering unemployment which is due to this type of action files a claim, benefits are to be postponed." Although there is general agreement that benefits should be postponed following a voluntary quit without good cause, opinions differ as to the length of the postponement period and whether the period should be fixed by legislation or should be a variable one within limits prescribed by law.[3]

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2. For an excellent detailed discussion of the risk controlling function of disqualifications, and the parallels with other types of insurance see Paul H. Saunders, *op. cit.*

3. Of the 33 jurisdictions in which disqualification results in postponement of benefits without cancellation of benefit rights, 11 postpone benefits for a fixed number of weeks, ranging from 4 weeks plus the week of occurrence in Connecticut to 8 weeks in Oregon. Twelve states postpone benefits for a variable number of weeks. Ten states postpone benefits for the duration of the unemployment, with most of these requiring some minimum amount of employment or wages to requalify. In the remaining 17 states other than Iowa which cancel benefit rights in addition to postponing benefits, the number of weeks cancelled in most cases is equal to the number of weeks of postponement. See *Comparison of State Unemployment Insurance Laws as of January 1, 1958*, p. 88.

Cancellation of benefit rights, however, goes beyond the function of excluding voluntary unemployment from coverage. Not only does it mean that benefit payment is refused because the event was not covered by the "policy," but in addition it levies a penalty to punish the individual for committing the act. Thus, a disqualification provision which requires cancellation of benefit credits is based on what may be thought of as a "penalty theory" of disqualification.[4] That is, it is the function of the disqualification to penalize the individual for committing the disqualifying act. The voluntary leaving provision of the Iowa law as interpreted by the Iowa Supreme Court appears to be based on an almost pure "penalty theory" of disqualification rather than upon a "risk exclusion theory."

An evaluation of the Iowa policy involves an analysis of the appropriateness of utilizing the "penalty theory" of disqualification, in contrast to the "risk exclusion theory" found in the majority of states. It would appear to be sound public policy to refuse benefits to an individual whose unemployment is not the type covered by the law. Put another way, there is much to be said for a policy of not paying benefits to a claimant whose unemployment is due to an arbitrary quit, and to refuse to pay benefits for as long as his unemployment is due to this factor.

Whether cancellation of benefit rights is sound policy, however, depends on whether the community believes the individual's act of quitting a job is sufficiently antisocial to merit punishment, and whether a social insurance program is the appropriate device to police antisocial behavior.

Assume for the moment that some portion (or even all) of the 159 quits because of employee dissatisfaction were without good cause. The unemployment resulting from these quits would not and should not have been compensated, thus protecting the unemployment insurance trust fund. Having already denied benefits to such individuals, should they also be penalized for having exercised their right to change jobs at will, a right which all nations of the free world consider basic?

It is not possible or necessary to discuss here the role of labor mobility in a free enterprise economy, nor to attempt to define how much labor mobility is good or bad. The crucial point is that it is one thing to deny an individual benefits because his type of unemployment is not covered by law, and it is another thing to punish him for changing jobs by cancelling his previously earned benefit rights. If the state actually feels that quitting a job without good cause is an offense deserving of a penalty, it would seem logical that it be made a misdemeanor under

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4. Katherine Kempfer, *op. cit.*, p. 148.

some type of "anti-quiting" law. As one writer has pointed out, if it is the intention of wage cancellation to punish or discourage quitting, the penalty does not apply equally to all those committing the act, since only those who happen to file claims are punished. Those who do not file claims or are not covered by the act remain untouched.[5] The use of a social insurance program to police moral or social conduct is highly questionable.

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5. *Ibid.*

CHAPTER IX

Summary and Conclusions

This study has analyzed the voluntary quit disqualification experience under the Iowa Employment Security Law as it is reflected in the 272 disqualifications imposed in the Cedar Rapids, Davenport, and Iowa City labor markets during the fourth quarter of 1957. The author has focused his attention on the nature of the voluntary quits which resulted in disqualification, and has examined the Iowa policy in relation to the purposes of unemployment insurance, the need for equity to employees and employers, and its implications for employment behavior.

The study has revealed that there is considerable need for reappraisal of several key provisions and interpretations of the present law. The provision which should give Iowans the greatest concern is the inflexible requirement that a voluntary quit must be attributable to the employer if the claimant is to escape disqualification.

As this provision has been interpreted, it has in practice meant a refusal to recognize that there are numerous compelling and sensible personal reasons for employees to leave work. Thus, for example, it was seen that significant numbers of employees who left work because of illness or accident or serious domestic circumstances were either denied benefits upon their re-entry into the labor market or had their eligibility reduced. The concept that no termination is justified unless it is due to some fault on the part of the employer is a difficult one to defend.

In addition to the disqualification of individuals who had little or no alternative to leaving their work, the "attributable to the employer" clause has resulted in disqualification of individuals whose reasons for leaving, while not of a compelling nature, nevertheless are consistent with the economic welfare of the community, employers as a group, and with the objectives and financial soundness of the unemployment insurance system itself. Individuals who leave one job to accept a better one, who accept temporary employment rather than remain idle but accept recall to their regular employers, or who leave work to further their education, are following a pattern of behavior which has contributed greatly to the success of the free enterprise system.

In 1945 the Iowa legislature recognized that leaving a job to accept better employment was a socially and economically defensible act, and amended the law to exempt such action from disqualification. Unfortunately, the proviso requiring the employee to remain on the new job for 12 continuous weeks, and the interpretation that as little as one day of unemployment on the better job breaks the required continuity, have nullified the effectiveness of this amendment to a considerable extent.

Employers have a vital stake in the upward mobility of labor. A social insurance program which discourages and penalizes employees who have sought to make fuller use of their potential through seeking and obtaining better employment, or who have attempted to improve their education and skills, does not serve the best interests of the employers, the community, or the employee. Similarly, the disqualification of individuals who have chosen to accept temporary work while awaiting recall rather than remaining idle and drawing unemployment compensation makes little sense in a nation dedicated to the proposition that material well being must be earned through productive effort.

The requirements that the employee notify his prospective interim employer that he desires only temporary work, that the employer hire him on that basis, and that the employee be able to prove with a preponderance of evidence that such an understanding was reached, are ill designed if one is sincerely interested in achieving the objective of maximizing work and minimizing idleness. A number of the cases discussed in Chapter IV indicated that employment interviews are not always conducted with maximum thoroughness. To expect employees to volunteer information which will lessen their chances of obtaining employment is unrealistic. Even more unrealistic is the requirement that an employee be able to prove with a preponderance of evidence at some future time the existence of an explicit but unwritten understanding as to the temporary nature of his work. It is paradoxical that general economic and ethical considerations, as well as the philosophy of unemployment insurance itself, stress the importance of working in contrast to remaining idle and drawing unemployment benefits, while the Iowa law places in jeopardy the benefit rights of individuals who do so.

The "attributable to the employer" requirement is apparently an outgrowth of the fact that employer tax rates depend on the amount of benefits charged against their experience rating accounts. Where an employer cannot be held responsible for the unemployment, it has been felt that benefits should not be paid in order not to penalize the employer. As a result, the criterion for payment of benefits has come to be whether an employer's account can legitimately be charged, rather than whether the payment of benefits is consistent with the purposes of unemployment insurance. As indicated in Chapter III, however, the device of the "noncharging account" provides a way out of the dilemma, since it enables benefits to be paid where consistent with the objectives of unemployment insurance, while preserving the basic method of cost allocation which many feel is fair to employers.

A second aspect of current Iowa policy which is open to question is the practice of imposing disqualifications for quits from other than the

most recent employer. The rationale for this policy would seem to be the same as that for the "attributable to the employer" clause. Of the 272 disqualifications in the three labor markets 215 were imposed for quits from other than the most recent employer. Such quits cannot logically be held to be the cause of the unemployment for which the employee is seeking benefits. When a claimant's *current* unemployment is due to a layoff or to any other reason which is considered compensable under the law, is it reasonable to deny him benefits because of an unrelated quit some time in the past?

The third major question posed by the present law relates to the cancellation of wage credits in contrast to the postponement of benefits, the latter practice being the one followed in the majority of states. The cancellation of wage credits constitutes a method of penalizing an employee for a particular type of behavior—quitting a job without good cause attributable to the employer. Such behavior may be more or less antisocial, depending on one's standard of right or wrong. There are, however, strong grounds for the position that in a democracy government should not seek to tie an employee to his job by holding over him the threat of wage credit cancellation. This is not to say that government should aid employees in arbitrarily leaving their jobs by paying them unemployment insurance when they have done so. To refuse unemployment benefits to a worker who has arbitrarily quit his job, however, is far different from wiping out his past benefit rights so that they are unavailable at some future time when he is suffering unemployment caused by factors beyond his control, such as a recession. The use of a social insurance program to discourage employee mobility constitutes the use of an inappropriate mechanism to achieve a questionable end.

All insurance programs, whether private or public, must maintain constant vigilance against the natural human desire to "get something for nothing." Public concern that some individuals will seek benefits to which they are not legally entitled is realistic, and legislative provisions and administrative procedures must be devised to minimize possible abuse. The problem is one of selecting legislative provisions and administrative procedures which will best shield the program against abuse, while enabling it to achieve its objectives.

The public rightly becomes upset in cases where a married woman, or an individual recently recovered from an illness, has no desire to work and is not seeking work, but is drawing unemployment benefits. Similarly discouraging is the thought of paying benefits to individuals who have quit their jobs for no good reason and are seeking paid vacations at state expense. Such abuse needs to be detected and eliminated. Is it not more reasonable, however, to concentrate on developing the admin-

istrative skills and procedures necessary to detect such abuse, rather than assuming that *all* individuals who quit for reasons not attributable to the employer have done so without justification?

Private insurance companies administering disability and life insurance policies, the federal government administering Old Age and Survivors Insurance, and other public and private organizations faced with the responsibility of making similar decisions involving both fact and judgment have found it possible to attract and train administrators with the necessary skills. An extensive and intensive effort to attract and develop adminisrators capable of making a "good cause" provision work is feasible and would represent a constructive step of major importance. Universities, private insurance companies, states with over 20 years' experience in administering "good cause" provisions, and other public organizations offer a rich source of potential training and instruction. By making available such training to current employment security personnel, and offering salaries and working conditions attractive to competent individuals, it is reasonable to believe that a "good cause" provision can be administered with efficiency and equality.

Appendix

TABLE A

Average Employer Contribution Rate, Rated and Unrated Employers, by State, Calendar 1957
(Rates expressed as per cent of taxable wages)*

State	Rate	State	Rate
UNITED STATES (51 states)	1.31		
Alabama	1.03	Missouri	.98
Alaska	2.70	Montana	1.22
Arizona	1.33	Nebraska	.95
Arkansas	1.14	Nevada	1.98
California	1.34	New Hampshire	1.58
Colorado	.68	New Jersey	1.73
Connecticut	1.19	New Mexico	1.17
Delaware	.65	New York	1.77
District of Columbia	.71	North Carolina	1.45
Florida	.64	North Dakota	1.51
Georgia	1.22	Ohio	.72
Hawaii	1.02	Oklahoma	.97
Idaho	1.34	Oregon	1.43
Illinois	1.00	Pennsylvania	1.55
Indiana	1.02	Rhode Island	2.70
Iowa	.70	South Carolina	1.18
Kansas	1.08	South Dakota	.96
Kentucky	1.95	Tennessee	1.75
Louisiana	1.43	Texas	.63
Maine	1.58	Utah	1.31
Maryland	1.00	Vermont	1.32
Massachusetts	1.55	Virginia	.53
Michigan	2.04	Washington	2.11
Minnesota	.68	West Virginia	1.14
Mississippi	1.65	Wisconsin	1.10
		Wyoming	1.12

* Source: U.S. Department of Labor, Bureau of Employment Security.

TABLE B

General "Good Cause" and Restricted "Good Cause" Requirements in Voluntary Leaving Provisions of 51 States and Jurisdictions as of October, 1958°

States which do not impose disqualifications where the employee quits work for "good cause" (31 states):

Alaska	Maryland	Oregon
California	Massachusetts	Pennsylvania
Colorado	Mississippi	Rhode Island
District of Columbia	Montana	South Carolina
Florida	Nebraska	South Dakota
Hawaii	Nevada	Utah
Idaho	New Jersey	Virginia
Illinois	New Mexico	Washington
Indiana	New York	Wyoming
Kansas	North Dakota	
Kentucky	Ohio	

States which restrict "good cause" to "good cause attributable to the employer," "connected with the work," or "involving fault on the part of the employer" (20 states):

Alabama	Louisiana	Oklahoma
Arizona	Maine	Tennessee
Arkansas	Michigan	Texas
Connecticut	Minnesota	Vermont
Delaware	Missouri	West Virginia
Georgia	New Hampshire	Wisconsin
Iowa	North Carolina	

° Source: *Comparison of State Unemployment Insurance Laws as of January 1, 1958*, p. 88. Effective October 27, 1958, Massachusetts deleted the "attributable to the employing unit or its agent" clause from its voluntary leaving disqualification. (*CCH*, Vol. 4, par. 1975).

TABLE C

States Which Omit Charges to Employer Accounts for Benefits Paid Following Periods of Disqualification for Voluntary Quits, or for Benefits Paid Following Potentially Disqualifying Quits for Which No Disqualifications Were Imposed, January 1, 1958 (36 States)°

Alabama	Kentucky	Ohio
Arizona	Maine	Oklahoma
Arkansas	Maryland	Oregon
California	Massachusetts	Pennsylvania
Colorado	Minnesota	South Carolina
Connecticut	Missouri	South Dakota
Delaware	Montana	Tennessee
Florida	Nebraska	Texas
Georgia	New Hampshire	Vermont
Hawaii	New Mexico	West Virginia
Idaho	North Carolina	Wisconsin
Kansas	North Dakota	Wyoming

° Source: *Comparison of State Unemployment Insurance Laws as of January 1, 1958*, pp. 34-37.

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