

a new labor force entrant and projecting out until his retirement assuming a mature Social Security system, with interest rates, etc. We think all would agree that at this point the "mathematics" have become irrational and must be discarded for a more meaningful solution to the problem of discrimination.

A broader point raised by all these observations is that perhaps today we are in danger if we attempt to translate into mathematics the simple and understandable proposition that to some degree an employee contributes towards his Social Security retirement. Spelled out, this mathematics calculation tends towards a "no integration" rule because the underlying assumptions seem to demand a growing "carve out" for purposes of recognizing the employee's input. What we are therefore doing in this exercise is neglecting the discrimination issue to accommodate this concept. In sum, we might well be letting the tail of the dog wag the dog.

THE SPECIFICS OF THE CURRENT FORMULA

We think that the basic relationship of benefit amounts compared to base wage should be the "exclusive" mathematical consideration in the rule. From this point any adjustments made might most appropriately be designated "tinkering," not mathematical calculations. Such "tinkering" could perhaps be justified either to preserve other rules such as the requirement for downward adjustment because of a death benefit, early retirement, etc., or to reflect some indisputable facts. In this latter category we would include the following:

1. The Social Security benefit is tax free, and the primary insurance amount understates the real worth to an individual.
2. To some, perhaps undefinable, degree the primary insurance benefit does understate the value of the pension.

Finally, we would use the theory of employee contributions as a rationale for "a rule of caution." As long as it is possible to make a theoretical case that an employee contributes to his Social Security pension, we would tend to be conservative in estimating benefits; and where high or low alternatives exist, it might be fair to consider only the low ones to reflect this theoretical factor.

A "TRANSITION" RULE

In the past when changes were made in the integration test, the rule with respect to existing plans was simple. If the plan was qualified, the prior favorable determination letter continued applicable unless withdrawn or modified, or "new regulations" required a change. For the past 15 years, this "grandfather clause" approach has been justified on the grounds that the basic rule—the 37½-percent test—has not changed. Announcement 66-58, however, suggests that transition rules might be in order in light of any possible downward revision to presumably offset any "inequity" created by a drastic change in the rules.

We find some merit in the theory of a transition rule should a drastic new test such as the 24-percent rule be adopted. However, we wonder whether the approach taken really does what it seems to be intended to do. For example, as we understand the application of the transition rule, employers with integrated plans would immediately face the prospect of a gradual reduction of retirement benefits in future years. Certainly, it seems clear that many employers accepting this result would rightly presume that the employees would place the blame for the reduction on the government. In the practical sense then, the approach being suggested amounts to a retroactive reduction of benefits, even though from a technical point of view it does not.

The problem, as we see it, is from the practical viewpoint, and we suggest that a transition rule should be avoided unless it is so obviously necessary it cannot be avoided. Further, in the justification of such a change, it seems only reasonable that minor inequities be ignored. There would seem to be no need to clamp down on the problems of minor variations in benefit amounts for income between the levels of \$4,800 to \$6,600 simply on the basis that there can be no "discrimination" whatsoever. What, in effect, we are suggesting is that consideration should be given to some sort of rough test—e.g., a stretchout to 1970—as opposed to the strict test suggested in the Announcement.

To repeat, however, we think it is clear that the only time a transition rule would ever be necessary is in the case of a drastic change in the basic rule. At this time, we do not see where a case is made for such a change and, therefore, conclude that at the present no transition rule is necessary at all. *In sum, we suggest the old "grandfather clause" is the answer once again.*