permissible for retirement under the Social Security Act, would we not then be in the position of saying this has no effect on those workers over age 62 who are not covered by social security?

Mr. FINIGAN. The main purpose in our limiting this to the age of the full benefit of social security was in the interest of not having to amend the law at any future date if social security were to change. That was our only purpose in linking this to social security, not the age a person could conceivably go under social security.

Mr. DENT. That is right, but when you say that, are you not saying that the retirement age established by the law under social security shall be the top limit at which discrimination shall be considered discrimination if an employee over that age is denied opportunity for employment?

Mr. FINIGAN. Yes, sir; that is what we are saying.

Mr. DENT. Doesn't it follow that retirement age under social security be compulsory? I believe we have reached the stage where the committee will sooner or later have that problem before us, whether the Ways and Means Committee discusses it or not.

When we get to age 65, there is no further discrimination. You notice this law says discrimination on account of age is restricted to those persons between 45 and 65 years of age. If you come along and say we should make it flexible, tied to the full benefits obtainable under social security, the full benefit goes out the window if we maintain this law as is. We have to maintain one figure for all workers and can't say it is flexible for those on social security and not flexible for those not on social security. That would be true if we follow your assumption; am I right?

Mr. FINIGAN. Unless you use that as an arbitrary limit, whether a person was or was not under social security.

Mr. DENT. That is the way it is now; it is not tied to social security. The bill proposes if there is age discrimination and employment is denied, the age limit in the act, the upper age is 65 and the lower age is 45. If we were to change that top limit to comply with your suggestion, American Retail Federation's suggestion, we would have in limbo a great number of workers not covered by social security and they would be forced to retire, if someone so desired, at an age limit that is covered by another act of Congress.

Mr. FINIGAN. Yes, I see that.

Mr. DENT. What consideration has your group given to the lowering of the age limit from 45 to some lesser figure in this legislation?

Mr. FINIGAN. We accepted 45 because it was contained in the bill. I think if a great deal of investigation and thought had been given to the possibility of lowering this figure, I certainly don't feel the American Retail Federation would have any opposition to that.

Mr. DENT. It was a question I should have given you some background for. We have testimony to the effect that applicants for jobs in industrial concerns, and some of the commercial and business services, who are otherwise qualified from every aspect of qualification and every angle of the ability to fulfill the employment if they receive the job, have been eliminated from any consideration the minute they answer the question, "What is your age?" by indicating they are 40 years or older.