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LONG TERM CARE POLICY AND ITS AFFECT ON THE FAMILY UNIT

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Security issues or on employer established funds, the Government should consider the problems associated with ensuring economic literacy among savers and investors. Women, in particular, must understand the benefits of more aggressive investing as opposed to the benefits obtained from passbook savings accounts. They need to understand that there is a possibility of putting a small amount of money into the stock market and making much more than they can make in treasury bonds. Economic literacy, therefore, is my concern. And my goal is that Congress rethink its strategies.

MS. SHLAES: Thank you, Professor Staudt. When it comes to old age there are hard questions, there are harder questions and then there are hardest questions. Our last speaker, David Dorfman, is going to address one of the hardest questions relating to old age and money: Long-term care. He is going to focus, in particular, on the perverse policy nexus where Social Security and Medicaid interact to impoverish widows.

LONG TERM CARE POLICY AND ITS AFFECT ON THE FAMILY UNIT

David A. Dorfman, Esq.

MR. DORFMAN:[*****] I am an Elder Law attorney in private practice in New York City. I am going to tie together some of what happens in our Social Security and Medicaid system by using an example which resembles some of my typical clients. The example will specifically focus on how this system is leading people right over a cliff and it is indefensible in terms of what it is going to do to some clients especially when it is tied up in the health care process.

Imagine a middle class couple, who are both in their eighties, living in Manhattan on West End Avenue. The husband, a couple of years older, had been the primary wage earner. They each receive Social Security; his Social Security benefits are larger than hers. They

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also receive some pension money and a small amount of investment income from their savings. The husband has been diagnosed with Parkinson's or Alzheimer's (or some other disease that requires long-term care). Typically, the wife will provide care for her husband until there is a moment of acute illness resulting in hospitalization, such as a stroke, fall or a broken hip.

They contributed a portion of their Social Security to buy into the Medicare system, which is similar to traditional health insurance.[47] Medicare will pay for the hospitalization and the emergency care needed, when the husband is transported from home by ambulance to the hospital.[48] Following hospital discharge, the husband is entitled to a limited amount of rehabilitative care in a nursing home. It is important to understand that we have built a system that is set up against the family in certain situations. As the care needs get to be too much for the wife to provide alone in the house, a social worker in the hospital will say, "your husband needs to be placed into a nursing home." The consequences of this statement change over the next three months, then across the rest of the husband's life, and into death.

Following hospital discharge, the husband will be transferred to a nursing home for a certain amount of rehabilitative care and Medicare will pay 100 percent of the costs for the first 20 days of nursing home stay.[49] For the following 80 days of care, Medicare will pay 80 percent of the cost and the wife, or a Medicare supplemental insurance policy will pay the remaining 20 percent of the bill.[50] After the first hundred days of hospitalization, the wife is receiving a bill for 100 percent of the care because Medicare will only pay for the first hundred days of post hospital care in a skilled nursing facility.[51] Nursing homes in New York, at the very top of the scale, in an Alzheimer unit, cost $14,000 a month. An average rate in New York City is about $10,000 a month and Medicaid is paying a preferential rate of $7,000 per month for every nursing home bed in the City. In

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[47] *See generally* 42 U.S.C. § 1395 (1994).

[48] *See* 42 U.S.C. § 1395e (1994).

[49] *See* 42 U.S.C. § 1395e(a)(3) (1994).

[50] *Id.*

[51] *See* 42 U.S.C. §§ 1395 (x)(I),d (2)(A),e(a)(3) (1994).

the current example, either the wife, or the family combined, has a modest amount of savings, which they have accumulated over a lifetime. But, without further coverage, their savings will be depleted shortly.

When the hospital social worker decided on institutionalization, there was not a discussion about the financial circumstances of the family or what is going to happen to them. Furthermore, there will be no discussion concerning the soon to be widowed client. At the end of this story, she will be forced to provide for herself because she will be in a completely untenable position. She will not be able to maintain her standard of living and at the end of her husband's life, will be faced with a choice. She can either move in with her children and possibly become a burden on them, or move into a nursing home. However, she otherwise might be able to survive in the community if there were an adequate system for her to manage her finances.

Medicaid has a special set of laws designed to prevent the impoverishment of the "community spouse," which is in many cases the wife, who stays at home. Medicaid eligibility, unlike Medicare, is needs-based, with eligibility determined by the beneficiaries income or assets.[52] These laws allow her to protect only $80,000 of her lifetime savings or the couples lifetime savings.[53] Also, she will be allowed to protect a monthly income of only $2,019.[54] Therefore, the family is faced with a situation where the savings are going to be lost in the first year of long-term care, which will reduce the income that is made from the investments. After a year and a half in the nursing home, the husband dies. The family's savings have been reduced to a level where they produce very little income. However, if the couple has made the right election, the wife will still receive a pension.

On the other hand, If the husband opted to calculate the pension based on his individual life expectancy, "single life expectancy,"[55] the couple would not receive the longer term of tax-

[52] *See* 42 U.S.C. § 1396 (1994).

[53] *See* N.Y. SOC. SERV. LAW § 366-C(2) (McKinney 1992).

[54] *See* N.Y. COMP. CODES R. & REGS. tit. 18 §§ 360-4.10(a)(8) & (b)(4)(ii) (1992).

[55] *See* Tres. Reg. § 1.72-9, tbl. V. (1999) (illustrating the idea that if the

free accumulation available through a determination based upon joint lives.[56] If the single life expectancy was chosen, he would enjoy higher benefits while he was alive, however, there would be less or no benefits at the end of his life which would be detrimental to his wife's situation.[57] In the current situation, the husband made the right election and chose a determination based upon joint lives and therefore the wife can receive the pension.

Prior to the husband's illness, the family had been surviving in the community on the joint Social Security of both the husband and the wife. Following the husband's death, the system allows the wife's Social Security to rise up to her husband's level.[58] As such, she would be receiving a larger Social Security check. However, the amount is still not as much as was received when they had two Social Security checks. In addition, all the income from investments was lost when the savings were depleted.

Therefore, a year and a half after the illness, the wife is left in the community without any savings and no longer with enough income to afford the apartment that they lived in for two generations. She is left in an awful circumstance when she should have been able to care for herself. Her choices will be either to become a burden on her family or enter a nursing home. If she enters a nursing home, she will most certainly spend the last of her savings and become a public benefits recipient.

New York State has enacted a special set of rules to help people who face these egregious situations. In actuality, they often

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single life calculation is chosen, then the participant's life expectancy will be recalculated each year).

[56] *See* Tres. Reg. § 1.72-9, tbl. VI (1999) (joint life); I.R.C. § 417 (b) (1999) (notinging when the joint lives calculations is used, the participant's life expectancy (husbands in the current example) is paired with the beneficiaries life expectancy and the difference represents the added length of tax free accumulation).

[57] *See* Required Distributions From Qualified Plans and Individual Retirement Plans, 52 Fed. Reg. 28070 (1987) (to be codified at 26 C.F.R. pt 1, 54) (proposed July 27, 1987); I.R.S. Pub. 590 (discussing an alternative to the recalculation method is the Term Certain or One Year reduction method). The Term Certain requires the participant to consult the life expectancy table only once, after the appropriate number is ascertained, the participant will subtract one (1) one after each year of distribution. *Id.*

[58] *See* 20 C.F.R. pt. 404.338 (1991).

place an enormous social hardship on the elderly facing these circumstances. As earlier stated, the wife is entitled, if her husband is in the nursing home and on Medicaid, to receive $2,019 a month in income.[59] It is possible that the pension and investment savings (if it has not been spent) is going to the husband while the wife is only receiving her Social Security check. This would not add up to the $2,019 level allotted to the community spouse.

Potentially, the wife could be forced to bring a lawsuit against her husband to receive a portion of his Social Security check in order to raise her income to the $2,019 level allowed by law.[60] If successful, a family court will order that the husband's Social Security, instead of ging to a nursing home, be diverted to the wife to pay her cost of living. Everyone can understand what it must be like trying to counsel an 82-year-old woman under these circumstances. Because her husband is in a nursing home and given the way the public benefits system works, she will have to initiate a lawsuit against her husband who is on a ventilator for support.

New York has two systems that could work in the wife's favor. The first is a set of special laws referred to as "Spousal Refusal Laws," which essentially allow a spouse to opt out of the Federal program.[61] This prohibits the state from denying Medicaid because a spouse "refuses" to provide support for medical care. The second, is New York's very strong public benefits system and very liberal government tradition. This generous policy allows, in the small percentage of cases where people want to plan and make aggressive choices to protect themselves and are not overwhelmed by the circumstance, to take all of their savings and transfer them from the husband to the wife.[62] There are timing restrictions that may apply depending on whether both or only on spouse is applying.[63] There is a

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[59] *See* N.Y. COMP. CODES R. & REGS. tit. 18 §§ 360-4.10(a)(8), 360-4.10(b)(4)(ii) (1999).

[60] *Id.*

[61] *See* N.Y. SOC. SERV. LAW § 366(3)(a) (McKinney 1992).

[62] *See* N.Y. SOC. SERV. LAW § 366.5(c)(3)(ii); *see also* N.Y. COMP. CODES R. & REGS. tit. 18 § 360-4.4 (c)(2)(ii)(2)(i) (McKinney 1999).

[63] *See* N.Y. COMP. CODES R. & REGS. tit. 18 § 360-4.10(c)(6) (1999) (when only one spouse is applying for Medicaid, a transfer from the applicant to a non-applicant

problem with this system, however. The Department of Social Service — the agency providing the Medicaid dollars for the husband in the community — has the power to reserve or receive the corresponding right of the husband to sue the wife for support, so that she may have to turn over the nest-egg to the nursing home.[64] Therefore, an attorney can advise a spouse that in order to protect her assets and preserve her current status in the community, she will be subject to being sued by the nursing home/husband through the Department of Social Services in an attempt to take away their retirement savings, whatever her decision.

Another common problem the community spouse will face following her husband's death, is her children's request that she transfer her remaining dollars to them in order to protect those dollars from the nursing home. This situation leaves the wife in another difficult position, her husband has expended most of the family resources, and now her children are asking for what is left.

In terms of what needs to be done, there is a lot of reform that must take place at the government level. Individuals, however, do have the capacity to manipulate their future so that they will not face these circumstances and have to rely on the mere possibility of governmental reform. The appropriate choice is to engage in long term care planning with a qualified estate-planning attorney. This can reduce the possibility that a widow will have to face the egregious circumstance sustained by many elderly widows.

MS. SHLAES: A parable on the futility of fine-tuning. And not just the New York story, the national story. Overall, what we have seen is a system that, at first, provides well. That is what all our panelists have described, therefore — although this is not the panel on the future of Social Security — which of the Social Security reforms being discussed is the one you think is the best? Dr. Steuerle?

DR. STEUERLE: I would go back to my set of principles. To start with, we would try to identify the most important needs and then see if they can be funded. When I apply that approach, one

spouse (as in current example) must be completed with ninety days after determination that the applicant can receive Medicaid).

[64] *See* N.Y. SOC. SERV. LAW § 366.3(c) (McKinney 1992); *see also*, N.Y. COMP. CODES R. & REGS. tit. 18 § 360-4.3 (f)(1)(i) (1999).

conclusion I come to is almost unavoidable — the problems that we see today, the problems David Dorfman pointed out,[65] are going to come at us in spades in the near future when we drop from three workers per retiree to two workers per retiree. That either reduces, at current tax rates, everyone's benefits by 1/3, or increases tax rates by 50 percent. That is for Social Security alone. Then there is the health care system, where the issues are even more difficult. Essentially, you must either double the tax rate or cut the promised benefits in half when these baby-boomers retire.

This has led me to focus on people in their mid-sixties and early seventies who, in many ways, would not be old by the definition of "old" a generation or two ago. These are people who, on average, are scheduled to live for quite substantial amounts of time longer. Indeed, the average person today now retires for 1/3 of his or her adult life.[66] This pattern leads to an extraordinary increase in the number of beneficiaries in our society, but it simultaneously substantially reduces the number of taxpayers. If you take Social Security projections to the early part of the next century, close to 1/3 of the population will be on Social Security.[67] That does not include many others who might be disabled but on some program like SSI, people who need welfare help, those who are mentally incapacitated or impaired, or the unemployed. In effect, close to half of the population could become primarily dependent on government. How do you get around that problem? I believe there is a solution. I would look to the number of years of retirement support provided. People like myself do not deserve to have so large an entitlement. The public should not be expected to support a system where my wife and I are promised close to two-thirds of a million dollars in Social Security benefits, on average. You can not maintain us at that level of benefits without consequences to the rest of the system. You should be able to tell us

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[65] *See generally supra* notes 47-64 and accompanying text.

[66] *See* Eugene Steuerle, *Ease Burden on Young*, USA TODAY, July 29, 1998, at 10A.

[67] *See generally* Bradley D. Belt, *Rethinking National Retirement Policy: The Twenty-First Century Retirement Security Plan*, 22 WASH. Q. 133, 134 (1999) (explaining that in light of the baby boom, more workers will be receiving benefits and fewer will be paying into the system).

that we are not going to receive that level of benefits and that we may need to work longer.

I realize that choice has consequences. Dr. Kijakazi illustrates this point well.[68] If you say I have to work longer, you simultaneously have to worry about what that choice does to other groups in the population. In addition, you have to make a lot of other adjustments as well. Part of the problem is that Social Security is an annuity system, and annuity systems will award the most to those who live the longest. For example, if you examine the situation some minorities are in, you see that there is a disadvantage. Statistically, many members of minority communities die before they reach 65.[69] No matter what the age of retirement, you do not really solve their problem. You must resolve differentials through programs like the Earned Income Credit that would help wage earners have fewer taxes.

MS. SHLAES: Dr. Steuerle, to what age would you move retirement?

DR. STEUERLE: I would move to a system where the expected number of years of retirement support would be something like 15. That would mean you would probably get to the point where today the retirement age would be about 67 or 68 and also indexed for longevity. President Clinton, in his last State of the Union address, said a person born today should be able to live to the end not just of this century but the century after that[70] — that is to say, live to the age of 102.

I must admit, increasing the retirement age is one of the least popular proposals because people have been led to believe they are old at 62. I do not think most are old under any measure of life expectancy or health status.

MS. SHLAES: Dr. Kijakazi, I wanted to raise the issue of the life expectancy of women and minorities. The data I have heard indicates that the life expectancy for people of Color, particularly males, is shorter than for Whites, therefore, under the current system, they do not get much Social Security relative to people who live

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[68] *See generally supra* notes 11-31 and accompanying text.

[69] *See generally* Belt, *supra* note 64; *see also* Fred Williams, *Studies Rap Social Security*, PENSIONS AND INVESTMENT AGE, Sept. 7, 1987, at 19.

[70] *See* State of the Union, *supra* note 31.

longer.[71]

DR. KIJAKAZI: There are protections under Social Security that help to compensate for the shorter life expectancy of African Americans. I mentioned one, which is the progressive benefit formula. Since African Americans are disproportionately represented among low-wage earners, on average we get back our contributions (as benefits) at a faster rate than higher wage-earners. The early retirement provision also helps to compensate for our shorter life span. Receiving a reduced, early retirement benefit increases the total amount of benefits we receive compared to the total amount of benefits we would get if we waited until 65 to retire and received full benefits for a shorter period of time. And as I mentioned, African Americans benefit disproportionately from the disability and survivors insurance components of Social Security.

There is a study that was done by Duggan, Greenlees and Gillingham that determined rates of return by race using a data base that is not accessible to the general public but is available to the Treasury Department and the Social Security Administration.[72] These researchers were employees of the Treasury Department. They found that African Americans historically have had a slightly higher rate of return from Social Security than the general population or Whites. This is due to the progressive benefit formula, early retirement and survivors benefits. The study did not include disability insurance so when we look only at Old Age and Survivors Insurance, African Americans are getting a greater rate of return from Social Security than Whites. A second study by Dean Leimer, an employee of the Social Security Administration, compared the rates of return for Disability Insurance among different groups.[73] He found that African Americans received a higher rate of return from Disability Insurance than Whites and women received a higher rate of return than men.

I would also like to respond to your original question. Social

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71 *See generally supra* notes 11-31 and accompanying text.

72 *See* J. Duggan et al., *The Returns Paid to Early Social Security Cohorts*, CONTEMPORARY POLICY ISSUES 1 (Oct. 1993).

73 *See* DEAN R. LEIMER, HISTORICAL REDISTRIBUTION UNDER THE SOCIAL SECURITY DISABILITY INSURANCE PROGRAM (Social Security Administration Office of Research, Evaluation and Statistics 1998).

Security's guaranteed benefit should be maintained so that individuals, and particularly low-wage workers, are assured of having a guaranteed income. In addition, as was mentioned, Social Security was intended to be one of the legs of a three-legged stool. Programs that would ensure that minority women obtain greater pension coverage and greater savings are needed. Proposals that provide a vehicle for increasing savings on top of Social would help to shore-up income for women of Color. The Clinton proposal for Universal Savings Accounts is one example of a savings program that supplements Social Security.[74] Since the accounts would be funded using a progressive formula, women of Color — who are often low-wage earners — would benefit.

I did not mention before that the Clinton plan would also invest a portion of the Trust Funds in the stock market to get a greater rate of return for Social Security.[75] Unlike investing in individual accounts, investing a portion of the Trust Funds spreads risk over time and over people. Even if the market goes down, individuals would not feel the impact directly. The government would still be able to pay out benefits and over the long-term the market fluctuations would tend to smooth out. Under an individual accounts system, the individual feels the impact of the fall in the market right away. By investing the Trust Funds and getting a higher rate of return we reduce the amount that we would have to increase taxes or cut benefits to restore solvency.

PROF. STAUDT: I do feel very concerned about proposals to raise the tax rates, increase the age of retirement, or cut benefits for all the reasons that Dr. Steuerle and Dr. Kijakazi pointed out.[76] Another alternative, of course, is to increase the level of income that is subject to FICA taxes, currently it is $72,600 for a year. In fact Congress could either raise the FICA taxes on both unearned and earned income. The taxes are currently imposed solely on earned income. After reading and thinking about the topic of this symposium, I believe that the best way to go is to create benefits system in which

[74] *See* State of the Union, *supra* note 31.

[75] *Id.*

[76] *See generally* Steuerle, *supra* notes 2-10 and accompanying text; *see also,* Kijakazi, *supra* notes 11-31 and accompanying text.

individuals are all entitled to some basic level of income, with an option to save beyond that amount.

MS. SHLAES: How do you attain economic literacy, by doing and watching Louis Rukeyser's television show[77] or by going to school? We have changed enormously in 20 years. For example, we now have many tens of millions American mutual fund holders, as opposed to just a couple of decades ago when that culture was not so well established.

PROF. STAUDT: There are many avenues for attaining economic literacy. Congress, for example, could adopt education requirements at the high school and college level. Or it could provide incentives for employers to provide free seminars to their employees. Also, the Social Security Administration could send out information about the level of retirement savings in comparison to needs at a much earlier stage in life.

DR. KIJAKAZI: You are referring to the PEBES statement, that each worker will get every year, beginning in October 1999.

MS. SHLAES: Mr. Dorfman?

MR. DORFMAN: I have only a one percent solution to the Social Security, Medicare/Medicaid issue because there are very few millionaires receiving Social Security, Medicare/Medicaid dollars. In terms of a partial solution, we can start means testing benefits both in terms of income and, potentially, in terms of the amount of assets that someone holds. As such, if someone still does not have much in the way of earned income, but they have house and investment assets and retirement funds, this maybe a person who, even though they paid in for their whole career, should not be receiving benefits because there are other people who need it more. The next step would be to begin looking at the Medicare or Medicaid System and the reforms that we need in Medicare to keep from impoverishing our Social Security recipients. This is particularly true with regard to long-term care or catastrophic care and other things that fall through the holes in the Medicare System.

THE AUDIENCE: I have two questions, the first is for

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[77] Louis Rukeyser is the host of the PBS television show "Wall Street Week." *See Wall Street Week with Louis Rukeyser*, (visited Oct. 27, 1999) <http://www.pbs.org/mpt/rukeyser/>.

Eugene Steuerle. Dr. Steuerle, you painted, what seemed, a very attractive set of principles. Yet, as I listened more closely it seemed that you were advocating a system of individual accounts and a flat benefit. If that is accurate then what you have done is to separate the earnings related and re-distributive proponents. However, it seems that maybe politically unstable?

For Dr. Kijakazi, we apparently have this wonderful opportunity in the budget surplus, which may allow us, temporarily, to avoid the kind of tough cuts that Dr. Steuerle says we need. It seems it may be a mistake to use the surplus to shore up Social Security and not make the cuts?

DR. STEUERLE: You ask some of the toughest questions on Social Security. There is one debate over what we, as analysts, might do. We could probably sit down at this table and come to some compromise agreement amongst ourselves with which we would be happy. However, that is not to say the compromise would be politically feasible. I can tell you, in fact, that I have had this same debate with a gentleman who claims to represent the poor. He argues that one reason that he is afraid of the minimum benefits proposal that I suggest, and which is in draft legislation, is not that it does not help the poor — it does. The reason he is afraid of that proposal is that if you really give more to the poor, then you probably have less, in the end, to give to the middle class. If you have less to give to the middle class, they then will come to a greater recognition that the system is redistributive. They will see what they can get out of their private savings and will say "Well, I can get a higher return on private savings than from a redistributive system because I'm a transferor, not a transferee. Therefore, I do not support the Social Security system."

I do not believe there is much empirical evidence for that case, even though I recognize the potential validity of the theory. The reason I say this is that the system to date has transferred hundreds of billions in a way that favored the rich more than the poor, but that history will not be repeated no matter what. People paid so little into the system for the first 50 years, that the second and third generations received substantial net transfers from their children. For the first 50 years the political stability of the system was based upon rich people getting more from the system than they contributed. Everybody won and the burden was constantly shifted to future generations. That period has basically ended, and that is one of the reasons why the debate has become so intense today. Now the losers are finally starting to identify themselves.

If you flatten the system so that the benefit becomes more even (perhaps because there is a minimum) benefits grow less with earnings. However, there is not much of an earnings relationship in the current system anyway. The people at the top already know they are getting at best a two percentage point return out of the system. In a flat system they might get one and a half percent. I do not think that is going to change their political support one way or the other, especially if the latter system gives them a smaller tax rate. I also do not believe international experience supports that political theory either. Many foreign countries have flatter systems, but are not less stable. Since the evidence is weak, we should create the system we think we want and not try to buy off the rich and the middle class by giving people like myself hundreds of thousands of dollars more in benefits than we need.

DR. KIJAKAZI: I would like to answer your question about using the surplus as part of the method for restoring solvency to Social Security and whether it would be a problem down the road. If the transfer of general funds to the Social Security Trust funds was not time limited and if the transfer was the only thing that was going to be done, then I would agree, this would be problematic. A transfer of general funds should be coupled with reforms that would restore solvency. And, as I indicated, investing some of the Trust Funds and getting a higher rate of return would reduce the amount by which benefits have to be cut or taxes increased.

THE AUDIENCE: Why is the re-distributive part of Social Security still in Social Security? It seems a little odd to me that middle wage earners are paying to redistribute to low-wage earners; why not put it all into the income tax so we have a broader base, not just earned income but unearned income as well, is that just political?

DR. KIJAKAZI: I think of Bob Ball who is one of the strongest advocates for Social Security and a former Commissioner of the Social Security Administration. One of the arguments that he makes is that when you begin relying on general revenue for Social Security rather than the trust funds which are separate and distinct, then Social Security must compete for funding with other items in the federal budget.

DR. STEUERLE: I think there is another argument. The theory of social insurance is less of a theory over who should get benefits than who should pay. Social insurance must deal with what has been called a moral hazard problem. For example, suppose you and I are in roughly equal circumstances and you save for your retirement and I do not. Then we retire. In a society that takes care of its poor, you are going to take care of me even though it would be unfair. This causes us to add a mandate to the system that requires people to contribute to their own retirement. Social insurance, therefore, is partly an issue of who pays. Once we create a system like Social Security where you are forced to contribute to your retirement, it is hard not to entitle you to get something back. We can not tell people that they are required to save for retirement but that they will not get anything back.

THE AUDIENCE: Well, why don't you just split it into two, the part that is dependent on you earnings and the part that is tied into redistribution. Why should the person who has a lot more money, not help contribute to that person who needs redistribution.

DR. STEUERLE: I agree as an analyst that to separate them would be cleaner and in some ways better. The fear of some advocates is that if you make the redistribution apparent, people will not support it.

MS. SHLAES: You mean that the middle class will rebel? When you look at poles, such as the famous Third Millennium Pole of Generation X, most young people do not believe Social Security will be there for them when they retire. I would not expect rebellion. Most young people have written off what they are going to get if they keep their Social Security, that is just lost money to many Americans.

DR. STEUERLE: Part of my talk was about the inefficiency of the transfers. I used the metaphor of throwing money of the roof — under the re-distributions of the present Social Security a lot may go to the poor, but a lot also goes to people whom, I do not believe anyone would identify as worthy of redistribution.

THE AUDIENCE: I wanted to ask about the proposal to raise the retirement age. I know a lot of people who do not want to retire but who are forced out of their jobs because they are older workers. These workers then have a difficult time finding other work because the older you get the harder it is to find another job. How would raising the retirement age deal with those kinds of workers?

DR. STEUERLE: The issue is not whether in every group we can identify a lot of people we would be sympathetic toward. The question is do you want to retire 100 percent of a population at 63 because you might have 20 or 30 percent — or whatever the number might be — with very deserving needs. I could argue that somebody who loses his or her job when he or she is young faces an equally difficult situation. Older people often are being pushed out of much higher income jobs.[78] Although it is challenging psychologically, in some ways they are not being pushed any more than some of our young people who have trouble breaking into the workforce. Saying young people will contribute to people basically in their late middle ages because the middle aged people may have trouble in the job market is demanding a huge amount of redistribution from people who are often equally deserving. Again, if you identify 100 people and 20 of them are deserving, do you want to give benefits to 100 because 20 are deserving? I think you have to work out different solutions.

As a society for the last 50 or 60 years, we have moved to a system where we spend tremendous amounts of our societal wealth in helping ourselves in late middle age. As I indicated, our Federal Government has evolved to a point where almost the entire Federal budget is scheduled to be devoted to the consumption of baby-boomers in retirement. Now, at one level you might say that we baby boomers are all deserving because some of us might have trouble finding and keeping jobs, but I think society has other needs like education, defense, and reducing crime on the streets. I think government has done a terrible job with children in some of our cities partly because programs for the elderly and near elderly are absorbing so many resources. I believe these issues have to be engaged as a society. We have also built a seniority pay system that, I admit, is one reason why people retire early. Senior workers often get more than younger workers in firms, even when they are not more productive. These same firms often try to get rid of their older workers, as in the

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[78] *See generally Mandatory Retirement* (visited Oct. 27, 1999) <http://www.aarp.org/ontheissues/issuemandret. html>.

case of a senior academic member, who becomes much more expensive than a younger faculty member.[79] Some pension systems, in turn, are designed so that if you work one more year past 65, you will get nothing out of the pension system.[80] The worker himself or herself will then often want to retire.

In effect, we have built many types of institutions — not just Social Security — to support this extraordinary middle age retirement system. To change those institutions, I grant you, is not going to be easy. It involves not just changing the federal rules, but also the private pension and other rules along the way. Until we are willing to engage in this effort as a society, we are going to be in trouble. Yet the baby boomers start retiring in less than ten years. The day is no longer around the corner, it is right down the street.

PROF. STAUDT: I also think that the retirement age of 65 was arbitrarily chosen in the first place and as we live longer, it gets harder and harder to defend that age. Of course for some people it would be hard to continue to work but the vast majority of people probably could work longer.

DR. KIJAKAZI: Except, as you pointed out, that is the least popular option with the public.

MS. SHLAES: And confronting that grim prospect we will close. Thank you, very much.

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[79] *See generally Overcome the Barriers to Employment* (visited Oct. 27, 1999) <http://www.aarp.org/working_ options/barriers/home.html>.

[80] *See generally* Office of the Chief Actuary, Social Security Administration, *Retirement Earnings Test Exempt Amounts* (visited on Oct. 27, 1999) <http://www.ssa.gov/OACT/COLA/RTEA.html>.