# REGULATING RETIREMENT
## The Indirect Costs

*George Horwich*

RARELY HAS AN IDEA captured the congressional imagination so swiftly as the proposal to ban mandatory retirement before the age of 70. Bills to do this were introduced in Congress early in 1977. Different versions were overwhelmingly approved by the Senate and the House of Representatives that fall, and the compromise bill that emerged from the Senate-House conference early this March was signed by President Carter on April 6.

The new law explicitly forbids forced retirement solely on the basis of age for nonmilitary federal employees at any age (previously they had to retire by 70) and for all other employees, public and private, under the age of 70 (previously they were not subject to any federal retirement rule). It exempts firms employing less than twenty persons, as well as firefighters, air-traffic controllers, some law enforcement officers, some civil servants (such as foreign intelligence personnel), and those who have been executives for at least two years and are entitled to immediate nonforfeitable pensions of $27,000 a year or more. In response to the Carter administration's request for time to study the law's possible effects, it does not become effective until September 30, 1978, for federal civil service jobs, January 1, 1979, for private sector jobs, January 1, 1980, for jobs covered by collective bargaining agreements (in effect on September 1, 1977), and July 1, 1982, for tenured college and university professors.

*George Horwich is professor of economics in the Krannert Graduate School of Management at Purdue University.* *The author is grateful to James Chelius, John Umbeck, and Arthur Wright for helpful comments.*

The introduction of a federal minimum for mandatory retirement is something of an anomaly in a country where the retirement age has been falling for decades. Today the typical U.S. worker reportedly retires at about age 62, and only 21 percent of those 65 and over are still employed, compared to two-thirds as recently as 1910. There is, however, no necessary contradiction between a declining average retirement age and an increase in the age for contractual—or, as it is often misleadingly called, mandatory—retirement. Viewed from one perspective, a higher floor for mandatory retirement simply increases a person's options, an attractive idea in this age of rising expectations. What *is* clearly anomalous is the enactment of a law that preempts what has until now been essentially a private economic decision. Until now, retirement age in the private sector has been determined by millions of (explicit and implicit) individual contracts between employers and employees, the latter acting to some extent through their unions. Government's influence on the matter—through its provision of social security and its determination of retirement ages for public employees—has been indirect, though not inconsequential.

Direct federal involvement in specifying an age floor for mandatory private-sector retirement, a floor that is higher than the current average, could well disrupt the economy and its existing contractual arrangements. Contrary to the popular view that this measure expands economic freedom, it may turn out to be a move in the opposite direction—toward

**Contrary to the popular view that this measure expands economic freedom, it may turn out to be a move in the opposite direction. . . .**

regulation that establishes special interest claims by the 65-to-70 age group, imposes net uncompensated costs on businesses and organizations for whom mandatory retirement is a source of operating efficiency, and limits the freedom of the population as a whole.

## Age, Discrimination, and Productivity

Federal intervention into the retirement policy of private institutions has its antecedents in the Age Discrimination in Employment Act of 1967, which forbids discrimination on the basis of age for persons aged 40 to 65. Any across-the-board retirement rule within that range invokes age in a way that might be construed as arbitrary and discriminatory. However, in December 1977, the Supreme Court ruled that the act does not invalidate retirement contracts for ages under 65, provided they were adopted before 1967. Adding that the law was intended mainly to encourage the hiring of workers aged 40 to 65, the Court suggested that such contracts adopted *after* 1967 might also be legal. But now Congress has amended that act to make it unlawful for employers to require, or employers and workers to agree upon, mandatory retirement before the age of 70.

While one may validly claim that employment decisions based solely on race or sex are discriminatory, a similar claim for age is more difficult to defend. Employee productivity is a matter of legitimate concern to employers; and productivity and age are related to an extent that invites the use of age as a proxy for productivity. The close correlation between the two is confirmed by a glance at any occupational age-income profile. Income—which economists generally take as the measure of productivity—typically rises smoothly with age until somewhere in the forties or fifties and thereafter declines.[1] The use of age as a proxy for productivity is analogous to the requirement that applicants for a job have college degrees. This requirement tends to be applied in hiring situations where the private costs of searching for the rare nongraduate who is as qualified for a particular job as the typical college graduate far exceed the benefits of finding him or her. In a strict sense, the requirement "discriminates" against those who are not college graduates, but certainly not in the ordinary meaning of that term.

While the productivity life cycle implies eventual retirement (if only at death), it does not imply any particular pattern to that retirement, mandatory or otherwise, nor any generally unique or specialized age distribution of the labor force in various occupations. Just as any given output can be produced with many combinations of labor and capital, so the labor itself can consist of a wide mix of ages, limited only by the existing population patterns, technology, and employer and employee preferences. For any given plant, the given output could be produced by a smaller number of more productive (that is, younger or middle-aged) and better paid workers, or by a greater number of older (that is, less productive) and lower paid workers. In a freely operating labor market one would expect to find a wide variety of age distributions among employees at firms, both within and between industries. The variety should not, however, obscure the fact that in some occupations, such as professional sports, firefighting, and scientific research, the production function may permit little substitution between workers in their prime and those who are older (though one should not ignore the possibility of an occasional Satchel Paige or Lowell Thomas).

## Alternative Retirement Practices

Just as the age patterns of workers at different firms tend to vary, so do the retirement procedures. Let us look here at two procedures, along with a third that combines the two in varying degrees.

[1] See U.S. Bureau of the Census, *Present Value of Estimated Lifetime Earnings*, Technical Paper No. 16, by Herman P. Miller and Richard A. Hornseth, 1967. It does not follow that one's real income necessarily declines after the 40s or 50s, since constant increases in productivity over time tend to raise the income corresponding to each age in any occupational group. Thus as one ages past the middle years, the positive productivity effects on income may cancel the negative aging effects.

**Age Not a Criterion for Retirement.** At one extreme, the most open and flexible practice is one in which firms (used henceforth to mean any cost-minimizing entity, including both profit-making and not-for-profit organizations) do not use age as a criterion for terminating employment. The employee continues working as long as he values additional income more than leisure and as long as the employer believes that the services rendered are worth the wage. In order for this arrangement to work profitably as the employee grows older, his or her productivity would need to be monitored relatively often, and sufficient flexibility in wages and the nature of the tasks required would be necessary to keep wages aligned with productivity. To cite the obvious, older employees might have to take a wage cut (or receive less rapid wage increases) if they continued in the same jobs; or accept less complex, less productive tasks along with an even greater wage cut; or be promoted to the supervisory or managerial positions that their going wage justified and for which their experience and ability qualified them. An alternative, which employees might prefer to the wage cuts, would be a generally lower wage during their highest productivity years so that wages would vary less with age.[2]

In principle, if not in every instance, employment under a nonmandatory retirement plan can continue into a ripe old age. This kind of arrangement, with the added feature that employment gradually tapers off (but seldom terminates formally short of total infirmity or death), is the one typical of most of human history. Today it applies, however, primarily to self-employed individuals, to partnerships and small businesses, and to a number of major corporations, notably the Bankers Life and Casualty Insurance Co. of Chicago, Walt Disney Productions, Tektronics Inc., and the 150,000 or so blue collar workers of the U.S. Steel Corporation. There is also no fixed retirement age in the civil service of the states of Illinois, Pennsylvania, and California (the latter having banned it from both public and private employment in 1977).

**Age-Related Mandatory Retirement.** At the other extreme of retirement practices is the so-called mandatory retirement rule. In an environment where this practice is a legal option, some firms will invoke automatic employment cutoff ages (say, at 65) and other firms will not. The kinds of jobs that will tend to fall under a cutoff age are (1) those that are technologically more age-related than the average (requiring, for example, an up-to-date education), so that the firm's flexibility in choosing the ages of its workers is limited; (2) those whose wage rates are, for any reason, relatively inflexible downward even if an employee's productivity declines; and (3) those for which performance is costly to meter, such as jobs whose output is difficult to evaluate (for example, teaching) or jobs in organizations so large that employee screening to determine productivity is disproportionately more contentious and costly than elsewhere. In these cases, the number of workers beyond the cutoff age who wish to remain (and whose productivity justifies their doing so) within a firm's established wage scale and age-related production process is too small to cover the costs of evaluation. Mandatory retirement in this case is a cost-reducing practice that increases labor's net productivity and wage level. And cost reductions will tend to raise wages in both mandatory and nonmandatory retirement jobs—since, in a competitive labor market, wages for any given variety of labor will be equal in all occupations, after adjustment for nonmonetary rewards.

If workers on balance dislike mandatory retirement, then jobs covered by such rules will have to command relatively higher wages if the desired work force is to be secured. (However, if the wage premiums completely offset the cost savings resulting from the retirement rule, the rule will not survive.) If, on the other hand, workers on balance prefer mandatory retirement—because, say, they dislike the more frequent evaluation and greater attendant risk of forced separation from jobs that accompany nonmandatory retirement—then labor must be compensated by relatively higher wages in the latter case.

The result of all this is a distribution of mandatory-retirement (at various ages) and nonmandatory-retirement jobs and of accompanying wage levels that maximizes returns to all participants. In this framework, the exist-

[2] Whether workers take wage cuts after a certain age or a lower but constant wage over time, their average wage is the same.

ence of an established formal retirement age in an industry or firm is prima facie evidence of its economic efficiency as a management tool and of its acceptance by the labor force at what is presumably an appropriate wage structure. The choice of age 65 by a firm or group of

**. . . the existence of an established formal retirement age in an industry or firm is prima facie evidence of its economic efficiency as a management tool and of its acceptance by the labor force at what is presumably an appropriate wage structure.**

firms—as opposed to, say, 62 or 68—is equivalent to the determination of a market price at which the labor demand by employers and the supply of employees are exactly balanced. Today, according to James Schulz, a tenth of all workers approaching 65 is covered by a mandatory retirement rule (*Time*, October 10, 1977).

This view of mandatory retirement as determined jointly by both sides of the market implies that it is contractual and not really "mandatory"—if by mandatory we mean that it is imposed unilaterally without regard to, or adequate compensation for, any negative employee reactions. Any individual worker may feel he has little control over the system, but so may any single participant confronted with virtually any market price or other aggregate outcome, including democratically determined elections.

Mandatory retirement rules appeared sporadically in this country in the late eighteenth and throughout the nineteenth century, and became more widespread in the 1920s with the growth of large corporations. In these firms the increased distance between decision-makers and subordinates tended to increase the need for simple universal rules governing retirement and other policies. Labor unions may also have contributed to the rise of mandatory retirement by their consistent support for measures limiting the size of the labor force, as well as their use of collective bargaining. The latter, because of its inherent inability to make individual distinctions, would have tended to narrow the wage differentials among individual workers needed to operate retirement systems unrelated to age.

**Hybrid Cases.** Between these two extremes of retirement policy lies a number of hybrid arrangements. Companies with mandatory retirement frequently find ways to retain the services of exceptional employees who exceed the specified age. Special dispensations are made or the employee is retained in an ad hoc, part-time, or consulting capacity. Flexible working arrangements of this kind may satisfy both the firm and the aging employee better than would either extreme. In the other direction, many companies offer their executives a sliding scale of pension incentives for retirement, often beginning in their early fifties. At General Motors, which makes such offers, the average age of retirement is between 58 and 59, despite a mandatory age of 65. At Indiana University, faculty members must retire by 70 but can receive the same pension if they retire as early as 65. Organizations that "buy out" their employees in this way have probably discovered that their mandatory retirement age is no longer optimal because of technological developments or changes in the character of their product. Indiana University's arrangement is consistent with a shift toward greater emphasis on research skills, found more often in younger (and thus more recently trained) personnel. General Motors may be responding to recent advances in managerial technology, which again are more likely to be within the purview of younger employees. One wonders why Indiana University and General Motors do not simply lower their mandatory retirement ages. Perhaps a single age, being inflexible, is a less efficient means of achieving the desired mix of worker ages than an upper age limit combined with pension "sweeteners" at various ages below that limit.

The employee faced with a mandatory retirement age has a number of options for avoiding it. He can move to a firm that does not have it or has a higher cutoff age or will employ him on an ad hoc basis. Such moves are made easier by the fact that, once he has retired, the cost of taking the second best job is obviously lower than it was when he was employed at the best job. Lateral mobility among "retired" business executives, professors, skilled artisans, and salesmen is common.

For the less skilled blue-collar workers, post-retirement employment is severely hampered by the existence of federal minimum wages, union-influenced wage scales, and earnings limitations imposed upon social security recipients—$4,000 for those aged 65 to 72, $3,240 for those 62 to 65.

Planning well in advance for a second career is desirable for those who want to continue at high productivity and earnings levels in their later years. Such planning is a built-in feature of military careers that pay substantial pensions after twenty or thirty years and provide training for post-military employment. Many civil service jobs offer as much.

## Mandatory Retirement below Age 70 Is Banned

The economy is thus made up of some jobs subject to simple mandatory retirement at various ages (mostly 65), others where retirement is not related to age, and still others where various mandatory rules are combined with incentives to retire earlier or with limited options to remain past the retirement age. This economy has now been disturbed by the passage of a law forbidding mandatory retirement at any age below 70, a law that dissolves most of the age-related mandatory retirement contracts in the private sector. To help our discussion of the consequences of this change, let us suppose that all of these contracts have the same retirement age of 65. In order to see the economic impact of the new law clearly, we assume, for simplicity, that the labor market is in equilibrium at the time the law takes effect. That is, firms are providing the kinds of jobs, working conditions, retirement programs, and relative wages that simultaneously minimize costs of production and compensate employees for being where they are.

Although workers covered by mandatory retirement at 65 and their employers have adapted to this rule, the new law abrogates their retirement contracts and opens the way to employment up to age 70 for anyone who values working more than leisure. If employees making up the overall labor market have a net preference for jobs not subject to age-related retirement, the increase in the mandatory retirement age will release large numbers of those in retirement-at-65 jobs for possible employment past that age. If, however, employees have a net preference for mandatory retirement at 65, the new law will lead to post-65 employment only for those experiencing the special circumstances (such as unanticipated reductions in retirement income) that make working beyond 65 desirable. Since the labor market is assumed to be in equilibrium, these experiences would previously have been offset by those of the opposite tendency, leaving overall retirement decisions unchanged. But in the new regime that begins when the law goes into effect, anyone wishing to work past 65 in his present job, no matter whether the desire represents a net change in overall preferences and whether the worker is qualified to continue, may find that he can do so.

The reason the new law may enable unqualified personnel to work past 65 is that firms, deprived of their cost-minimizing retirement-at-65 rule, will have to incur higher costs, first, to screen employees aged 65 through 69 and, then, to enforce their decisions to fire those that are no longer qualified. (More frequent screening of those under 65 will also probably be required.) These costs may severely limit a firm's powers of enforcement. Consider the employee who chooses to resist his "retirement"—that is, resist being fired. He will typically have recourse to a number of appeal bodies, including unions, professional associations, the courts, and specially constituted government appeal boards. Trial by jury for recovery of lost wages is specifically provided for in the new law. As is the case in much government regulation, the burden of proof is likely to fall on the firm, raising its costs of litigation far above those of the employee. As a result, firms may choose not to contest a large proportion of their disputed retirement decisions.

Since jobs that have had mandatory retirement at 65 are characterized by a relatively low degree of age and wage flexibility, firms may find it advantageous to "buy out" the aging employee who is performing below the standards of the wage scale and chooses to stay on. Given that firms have higher costs of litigation than employees, the employees need only threaten to continue working in order to be paid for departing. It is conceivable that organizations will eventually offer all em-

ployees an across-the-board increase in pensions at age 65 as a simple, uniform, and least-cost substitute for the system abrogated by the new retirement floor.

The higher mandatory retirement age will lead to other responses. Firms will attempt to adjust the wages of the 65-and-older employee downward, by omitting year-end bonuses, offering less rapid wage increases, or even (in infrequent cases) reducing the basic nominal wage. At the same time that employers promote downward wage flexibility more vigorously, unions may relax their resistance to it in order that the resulting lower wages for 65-and-older workers might discourage them from remaining in the labor force. Firms may also induce over-65 workers to quit by transferring them to less interesting jobs, giving them less prestigious titles, or reducing their perquisites. In addition, firms may become less inclined to retain the marginally less productive or merely less conforming employee under 65 whose likely remaining years with the company have now increased by as much as five. Hiring practices could be altered, with firms possibly being more reluctant to hire a middle-aged employee to whom a five-year greater maximum commitment has to be made or a higher pension paid at 65 than when mandatory retirement at 65 prevailed. All of these responses would either clearly violate the amended Age Discrimination in Employment Act of 1967 or cut against its intent and would, in any case, increase the burden of its enforcement.

In a more accommodating direction, firms in the long run may find ways to make better use of the older worker's skills, in some cases by reassigning tasks on an age-related basis within the organization, in other cases by changing the character of a firm's product in the direction of the older employee's comparative advantage. In universities, there would be shifts from research to teaching and from graduate to undergraduate teaching; in hospitals, from surgery to diagnosis and from neural and cardiac surgery to hysterectomies; in business, from the development of international and national markets to more localized endeavors; in R & D, from R to D; and in the economy generally, from the innovative to the more traditional and less risky activities with more rapid payoffs.

None of these responses—primary or secondary, individually or collectively—can be counted on to offset the legislated loss of what was apparently developed primarily as a cost-reducing management tool and is often called, misleadingly, mandatory retirement at 65. They are all second-best, partially offsetting measures. As a result of net higher costs under the new law, the size and number of firms offering those jobs formerly covered by mandatory retirement at 65 will tend to decline. Thus the benefits of mandatory retirement to workers will eventually be reversed: net worker productivity and the general wage level throughout the economy will fall.

Particularly vulnerable to increased costs and to any increase in the average age of employees will be businesses operating on a thin profit margin or at a loss, firms in industries undergoing rapid technological or other change and for whom new (more youthful) employees may offer a competitive advantage, and producers of high technology equipment and of R & D for whom, again, young (recently trained) scientific workers play a critical role.

The impact on relative wages will depend on the situation in the initial equilibrium. If the relative wage is higher (owing to worker antipathy to forced retirement) in the mandatory retirement-at-65 sector than in the sector without a predetermined retirement age, the wage difference between the two sectors will shrink. Part of the wage premium will be transferred to higher pensions that might be paid at age 65 to induce early retirement.[3] The remaining premium will reflect the fact that 70 will nevertheless be the prevailing mandatory retirement age and that workers might also want to be compensated for the prospect of employer resistance to post-65 (and some pre-65) employment provoked by the loss of the retirement-at-65 rule. On the other hand, if the relative wage is initially lower in the retirement-at-65 sector (owing to worker antipathy to more frequent evaluation under the alternative system), the wage difference between the two sectors will also shrink, though again not to zero.

[3] Since any wage premium paid workers in the mandatory-retirement-at-65 sector could not be as great as the cost saving due to retirement at 65 (see above, p. 29), the reduction in the premium will not compensate firms for the loss of the 65-retirement rule. Costs, on net, will remain higher.

## A Market-Induced Rise in the Retirement Age

It is, of course, possible for the labor market to generate independently an increase in the average age of retirement. A change of this kind could have resulted from the smaller gains in real disposable income Americans have been realizing in the 1970s compared to the 1960s. Unanticipated inflation and the dismal performance of pension funds in the last decade could also have encouraged widespread postponements of retirement among workers in many occupational groups. The likely response in a market economy would be a gradual liberalization in retirement contracts — say, through extensions in retirement ages for various occupations and firms combined with reductions in older workers' salaries. The number of jobs subject to mandatory retirement at any age could shrink or grow less rapidly than before. Not the least likely response would be legislative efforts to terminate mandatory retirement at 65 in all jobs. The increasing absolute (and relative) number of older voters, who are also more likely than younger voters to exercise their franchise, would spur this development. The growing financial plight of the social security system could also have inspired lawmakers to favor increases in post-65 employment, whether brought about by raising the minimum mandatory-retirement age or by other means. Such increases would not only reduce future outflow of the system, but would raise its tax base.

While legislation to raise the minimum age of mandatory retirement has been enacted, this should be interpreted in the context of the possible labor market disequilibrium in which it arose. If in fact internal market forces were tending to raise the average retirement age, it would be misleading to attribute any increase in post-65 employment solely or even primarily to the new law. It would be equally misleading to regard that law as a catalyst for the market process already under way. The impact of the law will be quite different in critical details from the impact of an indigenous economic tendency toward extending working life.

This point should be emphasized. In establishing a minimum mandatory-retirement age of 70, the federal government—as we noted above—has abrogated all individual retirement contracts at lower ages and has given political (and ultimately economic) power to the members of one group at the expense of all other people. The market process, by contrast, renegotiates contracts on a case-by-case basis. It is selective, reflects individual differences, and operates within existing technological and demographic constraints. In short, the market is a more nearly equitable and economically efficient process than government fiat.

One might argue that transferring the retirement decision from private to public hands achieves a larger social purpose and hence efficiency. For example, some observers have welcomed the increase in the mandatory retirement age on the ground that it will relieve the financially distressed social security system. But surely this is an extremely roundabout, clumsy, and uncertain way of providing such relief.

## The Public Debate

Last winter's discussion on the bill to amend the 1967 age discrimination law focused on the social and private costs of mandatory retirement at age 65 or thereabouts, the probable numbers of people who would choose to work to higher ages (and the consequent drag on employment for teenagers, minorities, and women), the desirability of exempting this or that occupation, and the anticipated impact of the act on social security and private pension funding. Most writers and politicians, including some who normally view *any* government economic intervention with deep suspicion, referred to the end of privately determined mandatory retirement ages in the same uplifting tones that others use in exhorting government to raise minimum wages or set safety and health standards in private employment. There seemed to be little awareness, at any point along the political spectrum, that what is called mandatory retirement is largely the outcome of individual

**There seemed to be little awareness . . . that what is called mandatory retirement is largely the outcome of individual and private market decisions.**

and private market decisions. Nor was there much awareness that the banning of retirement-at-65 agreements thus reached would raise the cost of operation in businesses and organizations that have relied upon them.

**Pro and Con.** Among the few analysts who recognized the private and social *benefits* of mandatory retirement and who saw retirement age in private employment as a private, not public, issue was columnist William Safire. Writing in the *New York Times* (October 3, 1977), he reminded us that "a higher retirement age, or none at all, invites disputes about firing for cause, and the bitterness that one forced-out worker would feel when the man at his side is allowed to stay. A set age offers a dignified way out: 'I reached 65, and that's it for everyone, even though they wanted me to stay.' " Safire defended collective bargaining between management and labor, varying by industry and locality, as the proper forum for determining retirement ages and any exceptions: "We don't need a bureaucrat at the table."

Also viewing mandatory retirement positively were economists Barry and Carmel Chiswick (*New York Times*, November 12, 1977). They referred to the tendency of productivity to decline with age "in part because of the aging process itself and in part because of the obsolescence of skills acquired in school (nearly 50 years earlier) and during the early years of on-the-job training." Mandatory retirement is, the Chiswicks argued, the rational, profit-maximizing response of managers to the stickiness of wages in the face of declining worker productivity. They pointed out that it is the availability of retirement income, not "inability to find a job," that accounts for the fact that most older persons are not employed. And they described the part-time, flexible job options open to the resourceful older worker who is likely to prefer less than a full forty-hour week.

Economist Kenneth Boulding, unlike Safire and the Chiswicks, characterized mandatory retirement as the refuge of unimaginative administrators who want to escape the pain and difficulty of discretionary decisions—that is, want to avoid "trouble" (*Technology Review*, September 15, 1977). In his view, "Society is therefore amply justified to impose trouble on them." Moreover, "discretion is more difficult than [age] discrimination; this is one reason why discrimination has been so popular." Boulding regarded the legislated increase in the minimum mandatory-retirement age as an inadequate response. He proposed instead individual short-term contracts between firms and each of their older employees, renewable at the option of each party.

Boulding overlooked the fact that discretionary retirement policy is not only more difficult than a mandatory system, but generally more costly and, from the workers' point of view, possibly less beneficial. That explains why mandatory retirement arrangements were developed in the first place. Certainly there is no evidence that the most profitable firms are generally those without mandatory retirement, something we might have observed if that system were inefficient. Boulding did not explain how his system of individual contracts was to be imposed. Given the economic obstacles and the absence of any voluntary trend in this direction, some government initiative would clearly be required (and is in fact suggested by his use of the word "impose"). But requiring firms to do this would politicize the retirement process and divorce it further from economic considerations (since every nonrenewed contract would be automatically suspect). And because such a law, like the amended 1967 age discrimination act, would destroy an existing market-determined contractual network, it too would generate ten-thousand-and-one responses and subterfuges to avoid, lessen, and generally subvert the law's impact.

Management expert Peter Drucker saw mandatory retirement at age 65 or thereabouts as an "anachronism," not as a source of business efficiency (*Wall Street Journal*, September 15, 1977). The lengthening of the life span in this century, he asserted, now justifies a retirement age of 78 or 80. He was especially concerned with the growing financial burden that a retirement age of 65 imposes on social security and private pension plans.

Drucker's life-expectancy calculation is more or less irrelevant, primarily because it ignores the increasing preference for leisure by Americans who are 65 and over. This group's 1910 labor-force participation rate of two-thirds, which Drucker cited approvingly, is hardly relevant to an economy in which per capita real income (including social security payments) is more than triple what it was in

1910. Moreover, as of 1975 the life expectancy of 65-year-old American males had increased only 2.2 years since 1900. For American females of that age the increase has been much greater (about six years), but women—as a group still much less attached to the labor force than men—accounted for only 18 percent of total employment in 1900, though they were 41 percent by 1976. Most of the increase in at-birth life expectancy in this century is due to a reduction in the infant and child mortality rate.

**Evidence on Employment Effects.** Reliable empirical evidence on the employment impact of preventing mandatory retirement before age 70 is slight. We have noted that the increase in the labor force is likely to be greater the more negative are worker attitudes toward the 65 rule. There is, of course, no direct evidence on this. Current popular estimates of the ultimate increase in desired post-65 employment range from several hundred thousand to several million. A widely quoted study by Sears, Roebuck and Co. estimates a national loss of 136,000 job openings a year in response to the new federal retirement-age rule. If that many persons remained employed each year for the five years between 65 and 70, the labor force would eventually rise by five times the single year figure—or 680,000. Taking account of the likely high dropout rate of workers past 65, a plausible guess might be that, on average, half of the initial number would continue working between 65 and 70, for an ultimate increase in the labor force of 340,000.

Washington economist and consultant Marc Rosenblum has estimated a labor force increase of 200,000 to 500,000 a year, or 1 million to 2.5 million when a new equilibrium is reached. The lower annual figure is the same as that arrived at by the Senate Committee on Human Resources. A 1974 Louis Harris poll estimates that 2.8 million people aged 65 to 69 would work at least part time in the absence of mandatory retirement at 65.

A widely held view—often called the "lump of labor" theory—maintains that the number of jobs in the economy is effectively fixed. If this were so, jobs retained by 65-year-olds would simply reduce jobs available to others. But there is no basis for this view in economic theory or history. The economy has generated 40 million new jobs since 1945 and an average of over 1.5 million per year in the last ten. Given a minimal degree of wage flexibility and mobility, the economy has displayed a prodigious capacity to absorb eventually almost every variety of worker, except for some (but not all) on the lowest skill levels—this last owing at least in part to union wage scales and minimum wage laws. The long-run economic complaint against the imposition of a minimum mandatory-retirement age at 70 is

**The long-run economic complaint against the imposition of a minimum mandatory-retirement age at 70 is not that it will create long-term unemployment, but that it will . . . introduce inefficiencies, distort production, and reduce the wage level for all jobs.**

not that it will create long-term unemployment, but that it will redistribute income arbitrarily from young to old, introduce inefficiencies, distort production, and reduce the wage level for all jobs.

There will, however, be a short-run bulge in the unemployment rate. This will occur because the new law is to take effect fairly rapidly, because unemployment rates are high among young people who may be the first to be displaced as older workers postpone retirement, and because tax-free unemployment compensation enables most of the unemployed to prolong their job search.

In a 1977 survey of college faculty attitudes toward retirement (*Chronicle of Higher Education*, November 7, 1977), Everett C. Ladd and Seymour Martin Lipset found that only 13 percent planned to stay on past age 66, and this included many who already had this option or would find ways within the existing system to secure it. But the percentage was a much higher 30 percent for those approaching retirement (the 60-to-64 age group). Whether this percentage exceeds the norm for college teaching cannot be known without data from earlier surveys. (If it does, that may be a result of the disappointing performance of the academic profession's major retirement funds, TIAA and CREF, in the 1970s.) The positive correlation between age and the desire to work beyond a

customary retirement age is confirmed for all workers in a Roper poll reported in the *Wall Street Journal*, September 13, 1977.

Ladd and Lipset also found that the percentage of college faculty planning to work to 67 or older is much greater for those who have published three or more articles in the last two years (39 percent) than one or two articles (30 percent) or none at all (12 percent). Taking publication as evidence of research productivity, it would appear, not implausibly, that the more productive individuals are more likely to want to continue active employment for a longer time.

In addition, Ladd and Lipset report that the percentage planning to work to 67 or later is much greater at institutions having a mandatory retirement age of 70 as opposed to 65 (29 percent as against 10 percent). From this fact alone they infer that an increase in the legal retirement age will itself "shape" retirement attitudes and lead to a "significant" increase in the number choosing to work past 65. This is not a supportable inference from the data, which may be explained at least equally well by workers' having independently chosen jobs whose retirement ages pleased them. In the economic model outlined here, both employer and employee preferences on retirement policy are in fact taken as given, but tradable against alternatives such as wages and working conditions. This is the basis for the system of contracts that emerges. Ladd and Lipset's assertion that a governmentally prescribed change in the age of mandatory retirement is sufficient to alter worker attitudes assumes a plasticity of response that is neither in the model nor supported by any evidence they provide.

**Summary and Conclusion**

The amendment to the 1967 Age Discrimination in Employment Act is unlikely to pass a cost-benefit test. Banning mandatory retirement at ages below 70 by legislative fiat is a shotgun tactic that voids millions of individual contracts built on the participants' self-interest. It confers political power on all workers covered by the now-banned mandatory retirement contracts, power that can readily be transformed into economic gains at the expense of the rest of society. It opens the way to continued employment by possibly unqualified older workers at the expense of younger persons who may be unemployed or in less-than-optimal jobs during a protracted and possibly painful adjustment period. It provides disincentives to the hiring of middle-aged and older workers; it raises production costs, alters production methods, changes the character of final products, and lowers the general wage level. It is far from clear that enough people will benefit or want to benefit from the stated purposes of the law to justify these disruptive consequences.

**Banning mandatory retirement at ages below 70 by legislative fiat is a shotgun tactic that voids millions of individual contracts built on the participants' self-interest.**

It may be that even before passage of the act the labor market was independently altering retirement practices and extending working life, owing to unanticipated inflation and the decreased growth rate of disposable income in the 1970s. This market process could also have motivated the now successful legislative move to raise the minimum legal age of mandatory retirement. But these would not be complementary processes. The economic mechanism is governed by individual preferences on both sides of the market and is subject to case-by-case constraints. The law raising the mandatory retirement age ignores individual differences, creates windfalls for the old at the expense of the young, and distorts the allocation of resources, as we noted above.

Is there nevertheless a positive contribution that government can make to those who want to extend their working lives? The short answer is that government might begin by removing its own impediments to the functioning of the labor market—including, particularly, minimum wage rates and the earnings limitations applying to social security recipients below the age of 72. The long answer is that the labor market assuredly does not operate with as much freedom and efficiency as it might, and what government can do about it is worthy of study. That rather academic prescription would be a far more positive approach than the sweeping move to forbid mandatory retirement below age 70 in the name of ending "age discrimination." ■