

mining claim under this Act, which notice shall state that the claimant, or claimants, were entitled to exemption from the payment of a Federal income tax for the taxable year 1936: *Provided further*, That such suspension of assessment work shall not apply to more than six lode-mining claims held by the same person, nor to more than twelve lode-mining claims held by the same partnership, association, or corporation: *And provided further*, That such suspension of assessment work shall not apply to more than six placer-mining claims not to exceed one hundred and twenty acres (in all) held by the same person, nor to more than twelve placer-mining claims not to exceed two hundred and forty acres (in all) held by the same partnership, association, or corporation.

Number of lode-mining claims limited.

Placer-mining claims.

Approved, June 24, 1937.

[CHAPTER 382]

AN ACT

To amend an Act entitled "An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes", approved August 29, 1935.

June 24, 1937
[H. R. 7519]
[Public, No. 162]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I

That the Act of August 29, 1935, entitled "An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes", be, and it is hereby, amended to read as follows:

Railroad Retirement Act of 1937.
49 Stat. 967.
45 U. S. C., Supp. II,
§§ 215-223.

"DEFINITIONS

Definitions.

"SECTION 1. For the purposes of this Act—

"(a) The term 'employer' means any carrier (as defined in subsection (m) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however*, That the term 'employer' shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term 'employer' shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transpor-

"Employer."

Proriso.
Street, interurban,
or suburban electric
railways.

tation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations.

"Employee."

"(b) The term 'employee' means (1) any individual in the service of one or more employers for compensation, (2) any individual who is in the employment relation to one or more employers, and (3) an employee representative. The term 'employee' shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after the enactment date. The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor organization included in the term 'employer' as defined in section 1 (a) who before or after the enactment date was in the service of an employer as defined in section 1 (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

Service defined.

"(c) An individual is in the service of an employer whether his service is rendered within or without the United States if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, which service he renders for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer not conducting the principal part of its business in the United States only when he is rendering service to it in the United States.

Proviso.
Place of employment.

Person in employment relation.

"(d) An individual is in the employment relation to an employer if he is on furlough, subject to call for service within or outside the United States and ready and willing to serve, or on leave of absence, or absent on account of sickness or disability; all in accordance with the established rules and practices in effect on the employer: *Provided, however,* That an individual shall not be deemed to have been on the enactment date in the employment relation to an employer not conducting the principal part of its business in the United States unless during the last pay-roll period in which he rendered service to it prior to the enactment date, he rendered service to it in the United States.

Proviso.
Status of person employed within, for a business without United States.

"United States" defined.

"(e) The term 'United States', when used in a geographical sense, means the States, Alaska, Hawaii, and the District of Columbia.

"Years of service."

"(f) The term 'years of service' shall mean the number of years an individual as an employee shall have rendered service to one or more employers for compensation or received remuneration for time lost, and shall be computed in accordance with the provisions of section 3 (b): *Provided, however,* That where service prior to the enactment date may be included in the computation of years of service as provided in subdivision (1) of section 3 (b), it may be included as to service rendered to a person which was on the enactment date an employer, irrespective of whether, at the time such service was rendered, such person was an employer; and it may also be included as to service rendered to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which, on the enactment date, was a carrier as defined in subsection (m), irrespective of whether, at the time such service was rendered to such predecessor, it was an employer. Twelve calendar months, consecutive or otherwise, in each of which an employee has rendered such

Proviso.
Service included.

service or received such wages for time lost, shall constitute a year of service. An ultimate fraction of six months or more shall be taken as one year. An ultimate fraction of less than six months shall be taken at its actual value.

“(g) The term ‘annuity’ means a monthly sum which is payable on the 1st day of each calendar month for the accrual during the preceding calendar month.

“(h) The term ‘compensation’ means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee.

“(i) The term ‘Board’ means the Railroad Retirement Board.

“(j) The term ‘enactment date’ means the 29th day of August 1935.

“(k) The term ‘company’ includes corporations, associations, and joint-stock companies.

“(l) The term ‘employee’ includes an officer of an employer.

“(m) The term ‘carrier’ means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

“(n) The term ‘person’ means an individual, a partnership, an association, a joint-stock company, or a corporation.

“ANNUITIES

“SEC. 2. (a) The following-described individuals, if they shall have been employees on or after the enactment date, shall, subject to the conditions set forth in subsections (b), (c), and (d), be eligible for annuities after they shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1 (a) (but with the right to engage in other employment to the extent not prohibited by subsection (d)):

“1. Individuals who on or after the enactment date shall be sixty-five years of age or over.

“2. Individuals who on or after the enactment date shall be sixty years of age or over and (a) either have completed thirty years of service or (b) have become totally and permanently disabled for regular employment for hire, but the annuity of such individuals shall be reduced one one-hundred-and-eightieth for each calendar month that they are under age sixty-five when the annuity begins to accrue.

“3. Individuals, without regard to age, who on or after the enactment date are totally and permanently disabled for regular employment for hire and shall have completed thirty years of service.

“Such satisfactory proof of the permanent total disability and of the continuance of such disability until age sixty-five shall be made from time to time as may be prescribed by the Board. If the individual fails to comply with the requirements prescribed by the Board as to proof of the disability or the continuance of the disability until age sixty-five, his right to an annuity under subdivision 2 or subdivision 3 of this subsection by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights under subdivision 1 or 2 (a) of this subsection. If, prior to attaining age sixty-five, such an individual recovers and is no longer disabled for regular employment for hire, his annuity shall cease upon the last day of the month in which

“Annuity.”

“Compensation.”

Tips, etc.

“Board.”

“Enactment date.”

“Company.”

“Employee.”

“Carrier.”

“Person.”

Annuities.

Classes eligible.

Attaining 65 years.

Attaining 60 years and completing 30 years of service; total disability, etc.
Reduction, under 55 years.

Total disability, after 30 years' service regardless of age.

Periodic examinations.

Discontinuance of annuity if employee fails to comply.

Annuity discontinued on recovery; reduction, if paid thereafter.

Payment conditional upon reemployment.	he so recovers and if after such recovery the individual is granted an annuity under subdivision 1 or 2 (a) of this subsection, the amount of such annuity shall be reduced on an actuarial basis to be determined by the Board so as to compensate for the annuity previously received under this subdivision.
Accrual of annuity.	“(b) An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivision 2 (b) and subdivision 3 of subsection (a) prior to attaining age sixty-five. “(c) An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but— “(1) not before the date following the last day of compensated service of the applicant, and “(2) not more than sixty days before the filing of the application.
Payment in any month in which compensated service rendered.	“(d) No annuity shall be paid with respect to any month in which an individual in receipt of an annuity hereunder shall render compensated service to an employer or to the last person by whom he was employed prior to the date on which the annuity began to accrue. Individuals receiving annuities shall report to the Board immediately all such compensated service.
Report thereof.	

“COMPUTATION OF ANNUITIES

Computation of annuities.	“SEC. 3. (a) The annuity shall be computed by multiplying an individual's ‘years of service’ by the following percentages of his ‘monthly compensation’: 2 per centum of the first \$50; 1½ per centum of the next \$100; and 1 per centum of the next \$150.
Determination of “years of service”.	“(b) The ‘years of service’ of an individual shall be determined as follows: “(1) In the case of an individual who was an employee on the enactment date, the years of service shall include all his service subsequent to December 31, 1936, and if the total number of such years is less than thirty, then the years of service shall also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: <i>Provided, however,</i> That with respect to any such individual who rendered service to any employer after January 1, 1937, and who on the enactment date was not an employee of an employer conducting the principal part of its business in the United States no greater proportion of his service rendered prior to January 1, 1937, shall be included in his ‘years of service’ than the proportion which his total compensation (including compensation in any month in excess of \$300) for service after January 1, 1937, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (including compensation in any month in excess of \$300) for service rendered anywhere to an employer after January 1, 1937. “(2) In all other cases, the years of service shall include only the service subsequent to December 31, 1936. “(3) Where the years of service include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.
Proviso. Where principal part of business was outside United States.	
Where principal part of business was within.	

“(4) In no case shall the years of service include any service rendered after June 30, 1937, by an individual who is sixty-five years of age or over, except for the purpose of computing his monthly compensation as provided in subsection (c) of this section.

“(c) The ‘monthly compensation’ shall be the average compensation earned by an employee in calendar months included in his ‘years of service’, except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation earned by an employee in calendar months included in his years of service in the years 1924–1931, and (2) that where service in the period 1924–1931 is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the monthly compensation for service prior to January 1, 1937, the Board shall determine the monthly compensation for such service in such manner as in its judgment shall be just and equitable. If the employee earned compensation after June 30, 1937, and after the last day of the month in which he attained age sixty-five, such compensation shall be disregarded if the result of taking such compensation into account would be to diminish his annuity. In computing the monthly compensation, no part of any month’s compensation in excess of \$300 shall be recognized.

“Monthly compensation,” computation of.

“(d) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

Annuity to employee representative.

“(e) If the individual was an employee when he attained age sixty-five and has completed twenty years of service, the minimum annuity payable to him shall be \$40 per month: *Provided, however*, That if the monthly compensation on which his annuity is based is less than \$50, his annuity shall be 80 per centum of such monthly compensation, except that if such 80 per centum is less than \$20, the annuity shall be \$20 or the same amount as the monthly compensation, whichever is less. In no case shall the value of the annuity be less than the value of the additional old-age benefit he would receive under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term ‘employment’ as defined therein.

Employee attaining 65 and with 20 years of service.

Provided.
Basis, if compensation less than \$50.

Minimum annuity.

49 Stat. 622.

“(f) Annuity payments due an individual but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 4; otherwise they shall be paid to the same individual or individuals who may be entitled to receive any death benefit that may be payable under the provisions of section 5.

Payments upon death.

“(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies.

“(h) After an annuity has begun to accrue, it shall not be subject to recomputation on account of service rendered thereafter to an employer, except as provided in subdivision 3 of section 2 (a).

Recomputation on account of service rendered.

“(i) If an annuity is less than \$2.50, it may, in the discretion of the Board, be paid quarterly or in a lump sum equal to its computed value as determined by the Board.

If annuity less than \$2.50.

“JOINT AND SURVIVOR ANNUITY

“SEC. 4. An individual whose annuity shall not have begun to accrue may elect prior to January 1, 1938, or at least five years before the date on which his annuity begins to accrue, or upon furnishing proof of health satisfactory to the Board, to have the value of his annuity apply to the payment of a reduced annuity to him during life and

Joint and survivor annuity.

an annuity after his death to his spouse during life equal to, or 75 per centum of, or 50 per centum of such reduced annuity. The amounts of the two annuities shall be such that their combined actuarial value as determined by the Board shall be the same as the actuarial value of the single-life annuity to which the individual would otherwise be entitled. Such election shall be irrevocable, except that it shall become inoperative if the individual or the spouse dies before the annuity begins to accrue or if the individual's marriage is dissolved or if the individual shall be granted an annuity under subdivision 3 of section 2 (a): *Provided, however,* That the individual may, if his marriage is dissolved before the date his annuity begins to accrue, or if his annuity under subdivision 3 of section 2 (a) ceases because of failure to make the required proof of disability, make a new election under the conditions stated in the first sentence of this subsection. The annuity of a spouse under this subsection shall begin to accrue on the first day of the calendar month in which the death of the individual occurs.

Proviso.
Marital, etc., provisions.

"DEATH BENEFITS

Death benefits.

"SEC. 5. The following benefits shall be paid with respect to the death of individuals who were employees after December 31, 1936:

"(a) If the deceased should not be survived by a widow or widower who is entitled to an annuity under an election made pursuant to the provisions of section 4, there shall be paid to such person or persons as the deceased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the deceased, the amount, if any, by which 4 per centum of the aggregate compensation earned by the deceased after December 31, 1936, exceeds the sum of the total of the annuity payments actually made to the deceased plus the total of the annuity payments due the deceased but not yet paid at death. If the person or persons designated to receive the death benefit do not survive the deceased, the death benefit shall be paid to the legal representative of the deceased.

"(b) If the deceased should be survived by a widow or widower entitled to an annuity under an election made pursuant to the provisions of section 4, there shall, on the death of the widow or widower, be paid to such person or persons as the deceased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the deceased, the amount, if any, by which 4 per centum of the aggregate compensation earned by the deceased after December 31, 1936, exceeds the sum of the total of the annuity payments actually made to the deceased plus the total of the annuity payments actually made to the widow or widower under an election made pursuant to the provisions of section 4 and under the provisions of section 3 (f), plus the total of the annuity payments due the widow or widower but not yet paid at death. If the person or persons designated to receive the death benefit do not survive the widow or widower, the death benefit shall be paid to the legal representative of the deceased.

"In computing the aggregate compensation for the purpose of this section, no part of any month's earnings in excess of \$300 shall be recognized.

Pension or gratuity rolls of employers.
Pensions to individuals on.

"PENSIONS TO INDIVIDUALS ON PENSION OR GRATUITY ROLLS OF EMPLOYERS

"SEC. 6. (a) Beginning July 1, 1937, each individual then on the pension or gratuity roll of an employer by reason of his employment, who was on such roll on March 1, 1937, shall be paid on July 1, 1937,

and on the 1st day of each calendar month thereafter during his life, a pension at the same rate as the pension or gratuity granted to him by the employer without diminution by reason of a general reduction or readjustment made subsequent to December 31, 1930, and applicable to pensioners of the employer: *Provided, however,* That no pension payable under this section shall exceed \$120 monthly: *And provided further,* That no individual on the pension or gratuity roll of an employer not conducting the principal part of its business in the United States shall be paid a pension under this section unless, in the judgment of the Board, he was, on March 1, 1937, carried on the pension or gratuity roll as a United States pensioner.

“(b) No individual covered by this section who was on July 1, 1937, eligible for an annuity under this Act or the Railroad Retirement Act of 1935, based in whole or in part on service rendered prior to January 1, 1937, shall receive a pension payment under this section subsequent to the payment due on October 1, 1937, or due on the 1st day of the month in which the application for an annuity of such individual has been awarded and certified by the Board, whichever of the two dates is earlier. The annuity claims of such individuals who receive pension payments under this section shall be adjudicated in the same manner and with the same effect as if no pension payments had been made: *Provided, however,* That no such individual shall be entitled to receive both a pension under this section and an annuity under this Act or the Railroad Retirement Act of 1935, and in the event pension payments have been made to any such individual in any month in which such individual is entitled to an annuity under this Act or the Railroad Retirement Act of 1935, the difference between the amounts paid as pensions and the amounts due as annuities shall be adjusted in accordance with such rules and regulations as the Board may deem just and reasonable.

“(c) The pension paid under this section shall not be considered to be in substitution for that part of the pension or gratuity from the employer which is in excess of a pension or gratuity at the rate of \$120 a month.

“SEC. 7. Nothing in this Act or the Railroad Retirement Act of 1935 shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities or pensions paid to such employees under such Acts, nor shall such Acts be taken as terminating any trust heretofore created for the payment of such pensions or gratuities.

“CONCLUSIVENESS OF RETURNS OF COMPENSATION AND OF FAILURE TO MAKE RETURNS OF COMPENSATION

“SEC. 8. Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns under oath of monthly compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their monthly compensation as reported to the Board. Any such return shall be conclusive as to the amount of compensation earned by an employee during each month covered by the return, and the fact that no return was made of the compensation claimed to be earned by an employee during a particular calendar month shall be taken as conclusive that no compensation was earned by such employee during that month, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the last date on which return of the compensation was required to be made.

Proviso.
Limitation.
Where principal part of business is without United States.

Persons eligible for annuities not to be carried as pensioners.

Adjudication.

Proviso.
Double payments forbidden.

Adjustment of differences.

Additional payments by employers.

Conclusiveness of returns of compensation and of failure to make returns, etc.

"ERRONEOUS PAYMENTS

Erroneous pay-
ments.

"SEC. 9. (a) If the Board finds that at any time more or less than the correct amount of any annuity or pension has theretofore been paid to any individual under this Act or the Railroad Retirement Act of 1935, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under such Acts to the same individual.

"(b) There shall be no recovery of payments of annuities, death benefits, or pensions from any person who, in the judgment of the Board, is without fault and if, in the judgment of the Board, such recovery would be against equity and good conscience. No disbursing officer shall be held liable for any amount paid by him to any person where the recovery of such amount is waived under this section.

Retirement Board.

"RETIREMENT BOARD

Personnel.

"Personnel

Establishment as an
independent agency.Composition, terms
of office, vacancies,
etc.Representation of
employees and car-
riers on Board.Chairman, term of
office; qualifications.

Board vacancies.

Salary, expenses,
etc.

"SEC. 10. (a) There is hereby established as an independent agency in the executive branch of the Government a Railroad Retirement Board, to be composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and the terms of office of the members first taking office after the enactment date shall expire, as designated by the President, one at the end of two years, one at the end of three years, and one at the end of four years after the enactment date. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of carriers, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and carriers concerned. One member, who shall be the chairman of the Board, shall be appointed initially for a term of two years without recommendation by either carriers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum, for the transaction of business. Each of said members shall receive a salary of \$10,000 per year, together with necessary traveling expenses and subsistence expenses, or per diem allowance in lieu thereof, while away from the principal office of the Board on official duties.

"Duties

Duties and powers
of Board.Enforcement of
laws; effect of deci-
sions.Awards to appli-
cants entitled to an-
nuity.

"(b) 1. The Board shall have and exercise all the duties and powers necessary to administer this Act and the Railroad Retirement Act of 1935. The Board shall take such steps as may be necessary to enforce such Acts and make awards and certify payments. Decisions by the Board upon issues of law and fact relating to pensions, annuities, or death benefits shall not be subject to review by any other administrative or accounting officer, agent, or employee of the United States.

"2. If the Board finds that an applicant is entitled to an annuity under the provisions of this Act or the Railroad Retirement Act of 1935 then the Board shall make an award fixing the amount of the annuity and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied.

"3. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

Certification of those entitled to receive payments.

"4. The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of such Acts, with power as a Board or through any member or designated subordinate thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. In the employment of such individuals under the civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. All rules, regulations, or decisions of the Board shall require the approval of at least two members except as provided in subdivision 5 of this subsection and they shall be entered upon the records of the Board, which shall be a public record. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of such Acts. The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of such Acts. The several district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the District Court of the United States for the District of Columbia in such suits may run and be served anywhere in the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Rules and regulations.

Approval required.

Records and data.

Authority to compel furnishing of information, etc.

Annual report.
Witness fees.

Delegation of authority.

Provido.
Right of appeal.

"5. The Board is authorized to delegate to any of its employees the power to make decisions on applications for annuities or death benefits in accordance with rules and regulations prescribed by the Board: *Provided, however,* That any person aggrieved by a decision so made shall have the right to appeal to the Board.

"COURT JURISDICTION

"SEC. 11. An employee or other person aggrieved may apply to the district court of any district wherein the Board may have established an office or to the District Court of the United States for the District of Columbia to compel the Board (1) to set aside an action or decision of the Board claimed to be in violation of a legal right of the applicant or (2) to take action or to make a decision necessary for the enforcement of a legal right of the applicant. Such court

Court jurisdiction.

shall have jurisdiction to entertain such application and to grant appropriate relief. The decision of the Board with respect to an annuity, pension, or death benefit shall not be subject to review by any court unless suit is commenced within one year after the decision shall have been entered upon the records of the Board and communicated to the person claiming the annuity, pension, or death benefit. The jurisdiction herein specifically conferred upon the Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by such courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this Act or the Railroad Retirement Act of 1935.

“EXEMPTION

Exemption. “SEC. 12. No annuity or pension payment shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

Penalties.

“PENALTIES

Failure to make report or furnish information.

“SEC. 13. Any officer or agent of an employer, as the word ‘employer’ is hereinbefore defined, or any employee acting in his own behalf, or any individual whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required, in accordance with the provisions of section 10 (b) 4, by the Board in the administration of this Act or the Railroad Retirement Act of 1935, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of such Acts, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such Acts, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year.

False, etc., statement.

Penalty.

“SEPARABILITY

Separability of provisions.

“SEC. 14. If any provision of this Act or the Railroad Retirement Act of 1935, or the application thereof to any person or circumstance, should be held invalid, the remainder of such Act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

“RAILROAD RETIREMENT ACCOUNT

Railroad Retirement Account.

Annual appropriations authorized.
Post, p. 470.

“SEC. 15. (a) There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Account. There is hereby authorized to be appropriated to the account for each fiscal year, beginning with the fiscal year ending June 30, 1937, as an annual premium an amount sufficient, with a reasonable margin for contingencies, to provide for the payment of all annuities, pensions, and death benefits in accordance with the provisions of this Act and the Railroad Retirement Act of 1935. Such amount shall be based on such tables of mortality as the Railroad Retirement Board shall from time to time adopt, and on an interest rate of 3 per centum per annum compounded annually. The Railroad Retirement Board shall submit annually to the Bureau of the Budget an estimate of the appropriation to be made to the account.

Annual estimate.

Investments.

“(b) At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury to invest such portion of the

amounts credited to the account as, in the judgment of the Board, is not immediately required for the payment of annuities, pensions, and death benefits in accordance with the provisions of this Act and the Railroad Retirement Act of 1935 in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired on original issue at par or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the account only on such terms as to provide an investment yield of not less than 3 per centum per annum. It shall be the duty of the Secretary of the Treasury to sell and dispose of obligations in the account if it shall be in the interest of the account so to do. Any obligations acquired by the account, except special obligations issued exclusively to the account, may be sold at the market price. Special obligations issued exclusively to the account shall, at the request of the Board, be redeemed at par plus accrued interest. All amounts credited to the account shall be available for the payment of all annuities, pensions, and death benefits in accordance with the provisions of this Act and the Railroad Retirement Act of 1935.

Sale, etc., of obligations.

“(c) The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of carriers. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Account. The committee shall examine the actuarial reports and estimates made by the Railroad Retirement Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the committee of actuaries, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per-diem basis.

Actuarial Advisory Committee.

Duties, etc.

“(d) The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement Account. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this Act and the Railroad Retirement Act of 1935 and shall include such estimate in its annual report. Such report shall also contain an estimate of the reduction in liabilities under Title II of the Social Security Act arising as a result of the maintenance of this Act and the Railroad Retirement Act of 1935.

Annual statements.

“APPROPRIATION FOR ADMINISTRATIVE EXPENSES

“SEC. 16. There is hereby authorized to be appropriated from time to time such sums as may be necessary to provide for the expenses of the Board in administering the provisions of this Act and the Railroad Retirement Act of 1935.

Sums authorized for administrative expenses.

“SOCIAL SECURITY ACT

Social Security Act.

“SEC. 17. The term ‘employment’, as defined in subsection (b) of section 210 of title II of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b).

“Employment” term modified. 49 Stat. 625. 42 U. S. C., Supp. II, § 1107.

"FREE TRANSPORTATION

Free transportation to annuitants, etc., not unlawful.

"SEC. 18. It shall not be unlawful for carriers by railroad subject to this Act to furnish free transportation to individuals receiving annuities or pensions under this Act or the Railroad Retirement Act of 1935 in the same manner as such transportation is furnished to employees in their service."

PART II

Citations of titles.
49 Stat. 967.

SEC. 201. The Act entitled "An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes", approved August 29, 1935, as in force prior to its enactment by part I of this Act, may be cited as the "Railroad Retirement Act of 1935"; and such Act, as amended by part I of this Act, may be cited as the "Railroad Retirement Act of 1937".

Conditions of eligibility for annuities.

SEC. 202. The claims of individuals (and the claims of spouses and next of kin of such individuals) who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be employee representatives as defined therein, and became eligible for annuities under such Act, shall be adjudicated by the Board in the same manner and with the same effect as if this Act had not been enacted: *Provided, however,* That with respect to any such claims no reduction shall be made in any annuity certified after the date of the enactment of this Act because of continuance in service after age sixty-five: *And provided further,* That service rendered prior to August 29, 1935, to a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such company was a carrier as defined in the Railroad Retirement Act of 1935; and service rendered prior to August 29, 1935, to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall also be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such predecessor was a carrier as defined in the Railroad Retirement Act of 1935: *And provided further,* That annuity payments due an individual under the Railroad Retirement Act of 1935 but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 5 of such Act; otherwise they shall be paid to such person or persons as the deceased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the deceased.

Provisos.
No reduction because of continuance in service after 65.

Prior services included.

Unpaid annuity due at death.

Person relinquishing employment and ineligible for annuity under Act of 1935, adjudication of right thereto.

SEC. 203. Any individual who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be an employee representative as defined in such Act, and who is not eligible for an annuity under that Act but who would have been eligible for an annuity under the Railroad Retirement Act of 1937 had such Act been in force from an¹ after August 29, 1935, shall have his right to an annuity adjudicated under the Railroad Retirement Act of 1937: *Provided, however,* That no such annuity shall begin prior to the date of the enactment of this Act.

Proviso.
No prior annuity.

¹ So in original.