

MAR 8 1944

Mr. Frank Karr
Vice President and Chief Counsel
Pacific Electric Railway Company
Pacific Electric Building
Los Angeles 14, California

Dear Sir:

In your letter of December 23, 1943, you inquire as to whether the last sentence of the minimum annuity provision in section 3(e) of the Railroad Retirement Act of 1937, or any other provision of that Act, provides for the payment of a single annuity based on service creditable under the Railroad Retirement Act and on employment creditable under the Social Security Act.

The last sentence in section 3(e) quoted in your letter provides that the value of an individual's annuity under the Railroad Retirement Act shall in no event be less than the value of the additional old age benefits he would receive under Title II of the Social Security Act if his creditable service under the Railroad Retirement Act after December 31, 1936, were considered to be "employment" covered by the Social Security Act. The sole basis for granting a minimum annuity under this provision is the individual's service covered by the Railroad Retirement Act. Neither section 3(e) nor any other provision of the Railroad Retirement Act provides for the payment of a single annuity based on creditable service under the Railroad Retirement Act and on employment covered by the Social Security Act. However, there is nothing in the Railroad Retirement Act which precludes an individual, receiving an annuity under the Railroad Retirement Act on the basis of service covered by that Act, from applying for and receiving old age benefits under the Social Security Act on the basis of employment covered by that Act.

The matters discussed in your letter of December 22, 1943, relating to the action, now pending in the California Courts, brought by the Los Angeles Railway Corporation and the Pacific Electric Railway Company against the California Employment Commission, are now being

Mr. Frank Karr

considered by this office and I shall write you with respect thereto at a later date.

Very truly yours,

Joseph H. Freehill
General Counsel

SK:BD:as