

[CHAPTER 842]

AN ACT

October 10, 1940
[S. 3920]
[Public, No. 833]

To amend the Railroad Unemployment Insurance Act, approved June 25, 1938, as amended June 20, 1939, and for other purposes.

Railroad Unemployment Insurance Act, amendments.
52 Stat. 1094; 53 Stat. 845.
45 U. S. C., Supp. V, ch. 11.
Effective dates.
Benefit periods.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act shall take effect on November 1, 1940, except that sections 2, 11, 25, 26, and 27 shall be effective as of July 1, 1940, and sections 19 and 20 shall become effective upon the approval of this Act: *Provided, however,* That—

(a) A half-month which has begun prior to November 1, 1940, in accordance with the Railroad Unemployment Insurance Act and regulations thereunder, and which includes such date, shall continue, and benefits with respect thereto shall be computed and paid as if this Act had not been enacted;

Termination.

52 Stat. 1097.
45 U. S. C., Supp. V, § 352 (c).

(b) All benefit years current on October 31, 1940, shall terminate (1) on October 31, 1940, or (2) on the last day of a half-month which includes October 31, 1940 and November 1, 1940, whichever is later, and, for the purposes of section 2 (c) of the Railroad Unemployment Insurance Act, as amended by this Act, all benefits paid for unemployment in half-months begun subsequent to June 30, 1940, and prior to November 1, 1940, shall be deemed to have been paid for unemployment within the benefit year ending June 30, 1941;

First registration period beginning after Oct. 31, 1940.

52 Stat. 1097.
45 U. S. C., Supp. V, § 353 (b).

(c) Benefits for unemployment in the first registration period, beginning after October 31, 1940, of an employee who has, subsequent to June 30, 1940, completed a waiting period under section 3 (b) of the Railroad Unemployment Insurance Act, shall be determined and computed as though such registration period were a subsequent registration period in the same benefit year.

52 Stat. 1095.
45 U. S. C., Supp. V, § 351 (g).

Exclusion of local lodge and representation service.

SEC. 2. Subsection (g) of section 1 of the Railroad Unemployment Insurance Act, approved June 25, 1938 (52 Stat. 1094), as amended June 20, 1939 (53 Stat. 845), is hereby amended by adding thereto the following sentence: "For the purposes of determining eligibility for and the amount of benefits and the amount of contributions due pursuant to this Act, employment after June 30, 1940 in the service of a local lodge or division of a railway-labor-organization employer or as an employee representative shall be disregarded."

52 Stat. 1095.
45 U. S. C., Supp. V, § 351 (h).
"Registration period."

SEC. 3. Subsection (h) of section 1 of said Act is hereby amended to read as follows:

(h) The term "registration period" means, with respect to any employee, the period which begins with the first day for which such employee registers at an employment office in accordance with such regulations as the Board may prescribe, and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office; and thereafter each period which begins with the first day for which he next registers at an employment office after the end of his last preceding registration period and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office.

52 Stat. 1095.
45 U. S. C., Supp. V, § 351 (j).
"Remuneration."

SEC. 4. Subsection (j) of section 1 of said Act is hereby amended by inserting between the first and second sentences thereof the following: "The term 'remuneration' includes also earned income other than for services for hire if the accrual thereof in whole or in part is ascertainable with respect to a particular day or particular days."

52 Stat. 1095.
45 U. S. C., Supp. V, § 351 (k).

SEC. 5. Subsection (k) of section 1 of said Act is hereby amended to read as follows:

"(k) Subject to the provisions of section 4 of this Act, a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office: *Provided, however*, That 'subsidiary remuneration', as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than \$150: *Provided further*, That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the second of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the first of such calendar days.

"For the purpose of this subsection, the term 'subsidiary remuneration' means, with respect to any employee, remuneration not in excess of an average of one dollar a day for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation."

SEC. 6. Subsection (m) of section 1 of said Act is hereby amended by striking out the designation "(m)" and substituting "(l)" therefor.

SEC. 7. Subsection (n) of section 1 of said Act is hereby amended to read as follows:

"(m) The term 'benefit year' means the twelve-month period beginning July 1 of any year and ending June 30 of the next year, except that a registration period beginning in June and ending in July shall be deemed to be in the benefit year ending in such month of June."

SEC. 8. Subsection (l) of section 1 of said Act is hereby transferred to follow the subsection relettered as "(m)", and is amended to read as follows:

"(n) The term 'base year' means the completed calendar year immediately preceding the beginning of the benefit year."

SEC. 9. Subsection (a) of section 2 of said Act is hereby amended to read as follows:

"(a) Benefits shall be payable to any qualified employee (as defined in section 3 of this Act) (i) for each day of unemployment in excess of seven during the first registration period, within a benefit year, in which he has seven or more days of unemployment, and (ii) for each day of unemployment in excess of four during any subsequent registration period beginning in the same benefit year.

"The benefits payable to any such employee for each such day of unemployment shall be the amount appearing in the following table in column II on the line on which, in column I, appears the compensation range containing the total amount of compensation payable to him with respect to employment in his base year:

"Column I Total compensation	Column II Daily benefit rate
\$150 to \$199.99	\$1.75
\$200 to \$474.99	2.00
\$475 to \$749.99	2.25
\$750 to \$999.99	2.50
\$1,000 to \$1,299.99	3.00
\$1,300 to \$1,599.99	3.50
\$1,600 and over	4.00"

Day of unemployment.
52 Stat. 1098.
45 U. S. C., Supp.
V, § 354.

Provisos.
"Subsidiary remuneration."

Working day which includes part of each of 2 consecutive calendar days.

"Subsidiary remuneration" defined.

52 Stat. 1096.
45 U. S. C., Supp.
V, § 351 (m).
52 Stat. 1096.
45 U. S. C., Supp.
V, § 351 (n).

"Benefit year" defined; exception.

52 Stat. 1096.
45 U. S. C., Supp.
V, § 351 (l).

"Base year" defined.

52 Stat. 1096.
45 U. S. C., Supp.
V, § 352 (a).
Benefits payable to qualified employees.

Amount for each day of unemployment.

52 Stat. 1097.
45 U. S. C., Supp.
V, § 352 (c).
Maximum number
of days.

SEC. 10. Subsection (c) of section 2 of said Act is hereby amended to read as follows:

"(c) The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be one hundred."

52 Stat. 1097; 53
Stat. 845.
45 U. S. C., Supp.
V, § 352 (d).
Adjustment of er-
roneous payments.

SEC. 11. Subsection (d) of section 2 of said Act is hereby amended to read as follows:

"(d) If the Board finds that at any time more than the correct amount of benefits has been paid to any individual under this Act or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments in subsequent payments to which such individual is entitled under this Act or any other Act administered by the Board may, except as otherwise provided in this subsection, be made under regulations prescribed by the Board. If such individual dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act or any other Act administered by the Board, to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

"Adjustments under this subsection may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

No recovery for
overpayments, etc.

"There shall be no recovery in any case in which more than the correct amount of benefits has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this Act or would be against equity or good conscience.

Protection against
liability.

"No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under the third paragraph of this subsection or has been begun but cannot be completed under the first paragraph of this subsection."

52 Stat. 1097; 53 Stat.
845.
45 U. S. C., Supp.
V, § 352 (f).

SEC. 12. Subsection (f) of section 2 of said Act is hereby amended to read as follows:

Payment of benefits
during period when
remuneration was
payable.

"(f) If (i) benefits are paid to any employee with respect to unemployment in any registration period, and it is later determined that remuneration is payable to such employee with respect to any period which includes days in such registration period which had been determined to be days of unemployment, and (ii) the person or company from which such remuneration is payable has, before payment thereof, notice of the payment of benefits upon the basis of days of unemployment included in such period, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent to which benefits were paid upon the basis of days which had been determined to be days of unemployment and which are included in the period for which such remuneration is payable, shall be held to be a special fund in trust for the Board. The amount of such special fund shall be paid to the Board and in the collection thereof the Board shall have the same authority, and the same penalties shall apply, as are provided in section 8 of this Act with respect to contributions. The proceeds of such special fund shall be credited

Holding of such re-
muneration in trust
fund for Board.

Collection of fund;
penalties applicable.

52 Stat. 1102.
45 U. S. C., Supp.
V, § 358.

to the account. Such benefits, to the extent that they are represented in such a special fund which has been collected by the Board, shall be disregarded for the purposes of subsection (c) of this section."

SEC. 13. Section 3 of said Act is hereby amended to read as follows:

52 Stat. 1097.
45 U. S. C., Supp.
V, § 353.

"QUALIFYING CONDITION

"SEC. 3. An employee shall be a 'qualified employee' if the Board finds that there was payable to him compensation of not less than \$150 with respect to the base year."

"Qualified employee" defined.

SEC. 14. Paragraph (ii) of subsection (a) of section 4 of said Act is hereby amended to read as follows:

53 Stat. 846.
45 U. S. C., Supp.
V, § 354 (a) (ii).

"(ii) any of the thirty days beginning with the day with respect to which the Board finds that he failed, without good cause, to accept suitable work available on such day and offered to him, or to comply with instructions from the Board requiring him to apply for suitable work or to report, in person or by mail as the Board may require, to an employment office;"

Failure, without good cause, to accept suitable work, etc.

SEC. 15. Paragraph (iv) of subsection (a) of section 4 of said Act is hereby amended to read as follows:

53 Stat. 846.
45 U. S. C., Supp.
V, § 354 (a) (iv).

"(iv) any of the seventy-five days beginning with the first day of any registration period with respect to which the Board finds that he knowingly made or aided in making or caused to be made any false or fraudulent statement or claim for the purpose of causing benefits to be paid;"

False or fraudulent statements.

SEC. 16. Paragraph (v) of subsection (a) of section 4 of said Act is hereby amended to read as follows:

53 Stat. 846.
45 U. S. C., Supp.
V, § 354 (a) (v).

"(v) any day in any period with respect to which the Board finds that he is receiving or has received annuity payments or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or insurance benefits under title II of the Social Security Act, or payments for similar purposes under any other Act of Congress, or unemployment benefits under an unemployment compensation law of any State or of the United States other than this Act: *Provided*, That if an employee receives or is held entitled to receive any such payment, other than unemployment benefits, with respect to any period which includes days of unemployment in a registration period, after benefits under this Act for such registration period have been paid, the amount by which such benefits under this Act were increased by including such days as days of unemployment shall be recoverable by the Board: *And provided further*, That if that part of any such payment or payments, other than unemployment benefits, which is apportionable to such days of unemployment is less in amount than the benefits under this Act which, but for this paragraph, would be payable and not recoverable with respect to such days of unemployment, the preceding provisions of this paragraph shall not apply but such benefits under this Act for such days of unemployment shall be diminished or recoverable in the amount of such part of such other payment or payments;"

Receipt of benefits under designated laws.

49 Stat. 967; 50 Stat. 307.
45 U. S. C., Supp. V, ch. 9.
49 Stat. 622.
42 U. S. C., Supp. V, §§ 401-410a.

Provisos.
Recovery of certain other payments.

Inapplicability of certain provisions.

SEC. 17. Paragraph (vi) of subsection (a) of section 4 of said Act is hereby amended to read as follows:

53 Stat. 846.
45 U. S. C., Supp.
V, § 354 (a) (vi).

"(vi) any day in any registration period with respect to which period the Board finds that he earned, in train and engine service, yard service, dining-car service, sleeping-car service, parlor-car service, or other Pullman-car or similar service, or express service on trains, at least the equivalent of twenty times his daily benefit rate;"

Day when 20 times daily benefit rate earned.

53 Stat. 846.
45 U. S. C., Supp.
V, § 354 (a).

Day when 40 times
daily benefit rate
earned.

Sundays, holidays,
etc.

Proviso.
When consecutive
days.

52 Stat. 1100.
45 U. S. C., Supp.
V, § 355 (c).
Hearings.

52 Stat. 1100.
45 U. S. C., Supp.
V, § 355 (c).
Review of certain
denied claims.

Awards at less than
proper rate.

Notification.

Hearing.

Regulations govern-
ing appeals.

Right of recovery of
certain benefit pay-
ments.

Notification.

SEC. 18. Subsection (a) of section 4 of said Act is hereby further amended by adding thereto the following paragraphs:

"(vii) any day in any registration period comprising the last fourteen days of a period of twenty-eight days with respect to which period of twenty-eight days the Board finds that he earned, in train and engine service, yard service, dining-car service, sleeping-car service, parlor-car service or other Pullman-car or similar service, or express service on trains, at least the equivalent of forty times his daily benefit rate;

"(viii) any day which is a Sunday or which the Board finds is generally observed as a holiday in the locality in which he registered for such day, unless such day was immediately preceded by a day of unemployment and immediately followed by a day of unemployment or was the last day in a registration period and was immediately preceded by a day of unemployment: *Provided*, That if two or more consecutive days are a Sunday and one or more holidays, then with respect to any employee such consecutive days shall not be considered as days of unemployment unless they were immediately preceded by a day of unemployment and immediately followed by a day of unemployment or the last of such days was the last day of a registration period and such days were immediately preceded by a day of unemployment."

SEC. 19. The first sentence of subsection (c) of section 5 of said Act is hereby amended to read as follows: "Each qualified employee whose claim for benefits has been denied in whole or in part upon an initial determination with respect thereto upon a basis other than one which is reviewable pursuant to one of the succeeding paragraphs of this subsection, shall be granted an opportunity for a fair hearing thereon before a district board."

SEC. 20. Subsection (c) of section 5 of said Act is hereby further amended by adding thereto the following paragraphs:

"Any claimant whose claim for benefits has been denied in an initial determination with respect thereto upon the basis of his not being a qualified employee, and any claimant who contends that under an initial determination of his claim he has been awarded benefits at less than the proper rate, may appeal to the Board for the review of such determination. Thereupon the Board shall review the determination and for such review may designate one of its officers or employees to receive evidence and to report to the Board thereon together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.

"In any case in which benefits are awarded to a claimant in whole or in part upon the basis of pay earned in the service of a person or company found by the Board to be an employer as defined in this Act but which does not comply with the provisions of this Act and denies that it is such an employer, such benefits awarded on such basis shall be paid to such claimant subject to a right of recovery of such benefits. The Board shall thereupon designate one of its officers or employees to receive evidence and to report to the Board on whether such benefits should be repaid. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the

hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the proceedings provided for in this paragraph and for decisions upon such proceedings.

"Final decision of the Board in the cases provided for in the preceding two paragraphs shall be communicated to the claimant and to the other interested parties within fifteen days after it is made. Any properly interested party notified, as hereinabove provided, of his right to participate in the proceedings may obtain a review of any such decision by which he claims to be aggrieved or the determination of any issue therein in the manner provided in subsection (f) of this section with respect to the review of the Board's decisions upon claims for benefits and subject to all provisions of law applicable to the review of such decisions. Subject only to such review, the decision of the Board upon all issues determined in such decision shall be final and conclusive for all purposes and shall conclusively establish all rights and obligations, arising under this Act, of every party notified as hereinabove provided of his right to participate in the proceedings."

SEC. 21. Section 6 of said Act is hereby amended to read as follows:

"SEC. 6. Employers shall file with the Board, in such manner and at such times as the Board by regulations may prescribe, returns under oath of compensation of employees, and, if the Board shall so require, shall distribute to employees annual statements of compensation: *Provided*, That no returns shall be required of employers which would duplicate information contained in similar returns required under any other Act of Congress administered by the Board. The Board's record of the compensation so returned shall, for the purpose of determining eligibility for and the amount of benefits, be conclusive as to the amount of compensation earned by an employee during the period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to be earned by an employee during a particular period shall, for the purposes of determining eligibility for and the amount of benefits, be taken as conclusive that no compensation was earned by such employee during that period, unless the error in the amount of compensation in the one case, or failure to make or record return of the compensation in the other case, is called to the attention of the Board within eighteen months after the date on which the last return covering any portion of the calendar year which includes such period is required to have been made."

SEC. 22. Subsection (d) of section 11 of said Act is hereby amended to read as follows:

"(d) So much of the balance in the fund as of June 30 of each year as is in excess of \$6,000,000 shall as of such date be transferred from the fund and credited to the account."

SEC. 23. The first paragraph of subsection (1) of section 12 of said Act is hereby amended by adding thereto the following sentence: "A person in the employ of the Board on June 30, 1939, and on June 30, 1940, and who has had experience in railroad service, shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Civil Service Commission, he shall pass such non-competitive tests of fitness for the position for which the Board recommends him as the Civil Service Commission may prescribe."

SEC. 24. Subsection (1) of section 12 of said Act is hereby further amended by changing the period at the end thereof to a colon and adding the following: "And *provided further*, That, for the purpose of registering unemployed employees who reside in areas in which no employer facilities are located, or in which no employer will make

Hearing.

Regulations.

Final decision of Board; review, etc.

53 Stat. 847.
45 U. S. C., Supp.
V, § 356.
Returns of compensation of employees.

Proviso.
Duplicate information.
Board's record of compensation, conclusiveness.

52 Stat. 1106.
45 U. S. C., Supp.
V, § 361 (d).

Transfer of designated excess to insurance account.

52 Stat. 1110.
45 U. S. C., Supp.
V, § 362 (1).
Civil-service status.

52 Stat. 1110.
45 U. S. C., Supp.
V, § 362 (1).
Provisos.
Personnel for registering unemployed employees.

42 Stat. 1488.
5 U. S. C. §§ 661-674; Supp. V, §§ 673, 673c.
Compensation on piece-rate basis.

Detail of employees.
5 U. S. C. § 39.

Restriction.

Renewals.

50 Stat. 309.
45 U. S. C., Supp. V, § 228a (h).
Compensation, longevity, etc.

Local lodge, etc., service.

50 Stat. 437.
45 U. S. C., Supp. V, §§ 262 (a), 263 (a).
53 Stat. 179, 189.
26 U. S. C., Supp. V, §§ 1500, 1520.

50 Stat. 314.
45 U. S. C., Supp. V, § 228i.

Erroneous payments.

49 Stat. 967.
45 U. S. C., Supp. V, §§ 215-228.
Recovery by adjustments.

Making of adjustments.

No recovery for overpayments.

49 Stat. 967.
45 U. S. C., Supp. V, §§ 215-228.

facilities available for the registration of such employees, the Board may, without regard to civil-service laws and the Classification Act of 1923, appoint persons to accept, in such areas, registration of such employees and perform services incidental thereto and may compensate such persons on a piece-rate basis to be determined by the Board. Notwithstanding the provisions of the Act of June 22, 1906 (34 Stat. 449), or any other provision of law, the Board may detail employees from stations outside the District of Columbia to other stations outside the District of Columbia or to service in the District of Columbia, and may detail employees in the District of Columbia to service outside the District of Columbia: *Provided*, That all details hereunder shall be made by specific order and in no case for a period of time exceeding one hundred and twenty days. Details so made may, on expiration, be renewed from time to time by order of the Board, in each particular case, for periods not exceeding one hundred and twenty days."

SEC. 25. Subsection (h) of section 1 of the Railroad Retirement Act of 1937 (50 Stat. 307) is hereby amended by adding thereto the following sentence: "For the purposes of determining monthly compensation and years of service and for the purposes of subsections (a), (c), and (d) of section 2 and subsection (a) of section 5 of this Act, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than \$3 and (1) such compensation is earned between December 31, 1936, and April 1, 1940, and taxes thereon pursuant to sections 2 (a) and 3 (a) of the Carriers Taxing Act of 1937 or sections 1500 and 1520 of the Internal Revenue Code are not paid prior to July 1, 1940; or (2) such compensation is earned after March 31, 1940.

SEC. 26. Section 9 of the Railroad Retirement Act of 1937 is hereby amended to read as follows:

"SEC. 9. (a) If the Board finds that at any time more than the correct amount of annuities, pensions, or death benefits has been paid to any individual under this Act or the Railroad Retirement Act of 1935 or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments in subsequent payments to which such individual is entitled under this Act or any other Act administered by the Board may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If such individual dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act or any other Act administered by the Board, to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

"(b) Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities, pensions, or death benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

"(c) There shall be no recovery in any case in which more than the correct amount of annuities, pensions, or death benefits under this Act or the Railroad Retirement Act of 1935 has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judg-

ment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of the Acts or would be against equity or good conscience.

"(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section."

SEC. 27. (a) Subsection (e) of section 1532 of the Internal Revenue Code is amended by adding thereto the following sentence: "For the purpose of determining the amount of taxes under sections 1500 and 1520, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than \$3 and (1) such compensation is earned before April 1, 1940, and the taxes thereon under such sections are not paid before July 1, 1940, or (2) such compensation is earned after March 31, 1940."

(b) For the purpose of determining the amount of taxes under sections 2 (a) and 3 (a) of the Carriers Taxing Act of 1937, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than \$3 and the taxes thereon under such sections are not paid before July 1, 1940.

Approved, October 10, 1940.

[CHAPTER 843]

AN ACT

To transfer the essential language of section 518, title IV, of the Tariff Act of 1930, approved June 17, 1930, into the Judicial Code of the United States and to provide for its reenactment as part of said Judicial Code, to take effect from the date of its passage, including the allowance to the judges of the United States Customs Court for traveling expenses incurred for maintenance while absent from New York on official business and to repeal all Acts inconsistent therewith to the extent of such inconsistency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a new section be, and the same is hereby, added to the Judicial Code of the United States relating to the United States Customs Court, to be known as section 187 (a), to follow immediately after section 187, to read in the exact language of section 518, title IV, of the Tariff Act of 1930 as follows:

"SEC. 187. (a) UNITED STATES CUSTOMS COURT.

"The United States Customs Court shall continue as now constituted, except that the chief justice and the associate justices of such court now in office and their successors shall hereafter be known as the judges of such court. All vacancies in such court shall be filled by appointment by the President, by and with the advice and consent of the Senate. Not more than five of the judges of such court shall be appointed from the same political party and each of such judges shall receive a salary of \$10,000 a year. They shall not engage in any other business, vocation, or employment, and shall hold their office during good behavior. The offices of such court shall be at the port of New York. The court and each judge thereof shall have and possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses and the production of evidence, and in punishing for contempt. The court shall have power to establish from time to time such rules of evidence, practice, and procedure,

Protection against liability.

Determination of tax amounts.
53 Stat. 182.
26 U. S. C., Supp. V, § 1532 (e).
53 Stat. 179, 180.
26 U. S. C., Supp. V, §§ 1500, 1520.

Taxes under Carriers Taxing Act of 1937.
50 Stat. 437.
45 U. S. C., Supp. V, §§ 262 (a), 263 (a).

October 10, 1940
[S. 3990]

[Public, No. 834]

Judicial Code, amendments.
36 Stat. 1143.
28 U. S. C. § 293.

46 Stat. 737.
19 U. S. C. § 1518.

Continuation as now constituted; exception.

Appointment to vacancies.

Tenure.

Offices at New York.
Powers.