

EXTENSION OF AN EXCISE TAX UPON CARRIERS AND AN INCOME TAX UPON THEIR EMPLOYEES

FEBRUARY 19, 1937.—Ordered to be printed

Mr. HARRISON, from the Committee on Finance, submitted the following

REPORT

[To accompany H. J. Res. 212]

The Committee on Finance, to whom was referred the joint resolution (H. J. Res. 212) to amend the act entitled "An act to levy an excise tax upon carriers and an income tax upon their employees, and for other purposes", approved August 29, 1935, having considered the same fully, report favorably thereon without amendment and recommend that the joint resolution do pass.

This joint resolution passed the House of Representatives on February 15, 1937. Under section 12 of the above-entitled act the taxes imposed by the act, unless extended, will expire by limitation upon February 28, 1937. It is the purpose of this joint resolution to extend the levy of such taxes up to and including June 30, 1938.

It was not contemplated that these taxes would be allowed to expire, and the time limitation was placed in the original bill so that the rate of tax might be adjusted after investigation. Such investigation is not completed, and since the revenue is urgently needed, it is proposed at this time to extend the levy of the taxes to the end of the fiscal year 1938. It is expected that before that date the necessary data will have been made available to enable the Congress to determine the rate of tax which it will be necessary permanently to impose in order to raise the amount of revenue required.

The purposes of this joint resolution are fully explained in a letter from the Under Secretary of the Treasury, excerpts from which are incorporated herein and made a part of this report, as follows:

Under section 12 of the Act of August 29, 1935 (49 Stat. 974, U. S. C. title 45, chap. 9, sec. 252), hereinafter referred to as the "Carriers' Taxing Act", the taxes imposed by that act on carriers, their employees and the representatives of such employees, terminate on February 28, 1937.

Section 12 of that act provides as follows:

"The taxes imposed by this act shall not apply to any compensation received or paid after February 28, 1937."

There is no time limitation, however, on the payment of the retirement benefits to such employees and representatives under the provisions of the Railroad Retirement Act of 1935 (49 Stat. 967, U. S. C. title 45, ch. 10).

It thus appears that although there will be continuing demands on the Treasury for the payment of those pensions, after February 28, 1937, the revenues to satisfy those demands will cease on that date. The following amendment extending to June 30, 1938, the period for the collection of the taxes, has been passed by the House:

"Resolved, etc., That section 12 of the act entitled 'An act to levy an excise tax upon carriers and an income tax upon their employees, and for other purposes', approved August 29, 1935, is amended by striking out 'February 28, 1937', and inserting in lieu thereof 'June 30, 1938'."

In the above proposal June 30, 1938, is suggested as the extended date instead of February 28, 1938. The question of a further extension may again arise next year and if the extended date is June 30, 1938, Congress will have more time to act. February 28, 1938, is so soon after Congress meets that there is danger that Congress might not act in time to extend the collection of the taxes, with consequent embarrassment to the Treasury Department.

In connection with the above proposal, the following brief discussion may be helpful as background.

The Carriers' Taxing Act was introduced as H. R. 8652. When the bill was reported from the Committee on Ways and Means (Aug. 22, 1935, H. Rept. No. 1882, 74th Cong., 1st sess.), it contained the provision (sec. 12) that the taxes imposed should not apply to any compensation received or paid after February 28, 1937. The reason for that provision does not appear anywhere in the record, but Mr. L. H. Parker of the Joint Committee on Internal Revenue Taxation advises that it is his recollection that the committee members were dissatisfied with the rate of tax prescribed since they had no adequate information upon which to base a sound judgment. The limitation was accordingly written into the law in order to insure that the matter would again be considered by Congress. It was thought that meanwhile an investigation could be made (probably by the Commission to which reference is hereafter made) and facts procured upon which a proper rate could be based.

The Railroad Retirement Act of 1935 was introduced as H. R. 8651. The House Committee on Interstate and Foreign Commerce in reporting the bill (Aug. 3, 1935, H. Rept. No. 1171, 74th Cong., 1st sess.), included a provision providing for the creation of a Commission to investigate and report to Congress not later than January 1, 1936, upon the facts with reference to a railroad retirement annuity system. (See sec. 8 of the act.)

Mr. Murray Latimer, chairman of the Railroad Retirement Board, advises orally as follows: "The Commission referred to above was appointed but functioned only perfunctorily. It made a report to Congress dated December 31, 1935, the gist of which is as follows:

"The Commission held its first meeting December 18, 1935, at Washington, D. C., and conducted successive meetings through December 31, conferring with members of the Railroad Retirement Board and representatives of railroad employees and railroad executives. The Commission has not found it possible to make such an investigation of the subject referred to it as would enable it by January 1, 1936, to submit recommendations which would be of value to the Congress.

"The Commission accordingly presents this report without recommendations."

The District Court of the United States for the District of Columbia in *The Alton Railroad Co. et al. v. Railroad Retirement Board et al.* (June 26, 1936, C. C. H. Unemployment Insurance Service, p. 3203), held the Carriers' Taxing Act to be unconstitutional and enjoined collection of the tax. That case is now pending on appeal before the Court of Appeals for the District of Columbia but has not yet been set for argument.

In the President's Budget message to Congress for the fiscal year 1937 it was estimated that \$134,600,000 would be collected under the Carriers' Taxing Act. The following table discloses the amounts of assessments and payments under the act through December 31, 1936:

	Assessed	Paid
Carriers' tax and employees' tax.....	\$1,364,185.23	\$86,729.11
Representatives' tax.....	57,515.30	42,269.21
Total.....	1,421,700.53	128,998.32

The foregoing amounts include approximately \$4,000 of interest and penalties. For the two quarterly periods ended May 31, 1936, and August 31, 1936, a total of 758 returns of carriers were filed, and 3,808 returns of representatives were filed. Since August 31, 1936, small amounts of tax have been voluntarily paid but the total collections are to date very little in excess of \$200,000.

