

JAN 18 1944

The Director of Retirement Claims

The General Counsel

Michigan Central-Lehigh Valley Route

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Service claimed as clerk at Buffalo, New York, from March 1898 to June 1906; as travelling freight agent at Indianapolis, Indiana, from June 1906 to January 1909; and as agent at Minneapolis, Minnesota, from January to April 1911

In response to your request, I herewith submit my opinion on the following:

QUESTION

Was the Michigan Central-Lehigh Valley Route an "employer" under the Railroad Retirement Act?

OPINION

It is my opinion that the Michigan Central-Lehigh Valley Route was an "employer" under the Railroad Retirement Act from at least November 15, 1909 to at least May 10, 1922, and that service to it during that period is creditable under that Act.

DISCUSSION

The following information has been furnished by Mr. C. J. Brister, Vice President in Charge of Freight Traffic, New York Central System, from records in possession of various offices in that System:

The Michigan Central-Lehigh Valley Route filed with the Interstate Commerce Commission certain tariffs, in the form of a "basis book," effective as early as November 15, 1909, and had such tariffs in effect until at least May 10, 1922. These tariffs contained four pages of concurring carriers. All of these carriers were not members of the Michigan Central-Lehigh Valley Route but Mr. Brister states that: "It is reasonable to assume that the principal roads which were members were the: Lake Shore & Michigan Southern (NYC), Michigan Central (NYC), Cleveland, Cincinnati, Chicago & St. Louis (NYC), Pere Marquette Railway, Lehigh

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Valley Railroad, Reading Railway," and that "It is fair to assume the Michigan Central, Lake Shore, Lehigh Valley and Reading railroads exercised control because of their preponderant interests." With respect to the question of the manner in which funds for operation were obtained Mr. Brister states: "Generally speaking the above mentioned roads, I would say bore the expense. Some of the connections of these roads may have contributed but we have no information as to what roads contributed, how much they contributed or on what basis the expense was divided, but certainly the expenses were entirely borne by the railroads concerned. When these Fast Freight Lines were operating it was the practice to appoint solicitation representatives of the line or route instead of solicitors of the individual railroads, and these Fast Freight Lines were, therefore, in fact solicitation agencies of the carriers."

From the foregoing description of the activities of the Michigan-Central-Lehigh Valley Route as furnished by Mr. Brister, particularly his statement with respect to "solicitation representatives," it is clear that it was one of the many so-called "fast freight lines" in existence during the period involved, the duties, functions and activities of which were principally the establishment of through routes, solicitation of traffic, adjustment of claims, etc. In fact, it is listed in various issues of the Official Railway Equipment Register under the heading "Fast Freight Lines." It is equally clear from the information furnished that the Michigan Central-Lehigh Valley Route was controlled by at least four "carrier employers" and that it was maintained by at least that number of "carrier employers." Therefore, it is my opinion that at least from November 15, 1909 to at least May 10, 1922, the Michigan Central-Lehigh Valley Route was a traffic association controlled and maintained wholly or principally by two or more "carrier employers" and engaged in the performance of services in connection with or incidental to railroad transportation. Consequently, from at least November 15, 1909 to at least May 10, 1922, it was an "employer" under the Railroad Retirement Act and service to it during that period is creditable toward annuities under that Act.

Joseph H. Freehill
General Counsel

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