

M E M O R A N D U M

L-44-559

M-345

September 18, 1944

TO The Director of Retirement Claims

FROM The General Counsel

SUBJECT Milwaukee Livestock Exchange

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

QUESTION

Has the Milwaukee Livestock Exchange ever been an "employer" under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and is service rendered to it creditable under those Acts?

OPINION

It is my opinion that the Milwaukee Livestock Exchange has never been an "employer" under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and that service rendered to it is not creditable under those Acts.

DISCUSSION

Information furnished by Mr. J. E. McGillivray, President, Milwaukee Stock Yards Company, in a letter dated June 25, 1943, is that the Milwaukee Livestock Exchange is an association of firms engaged in the business of conducting livestock sales agencies on the Milwaukee market. "Their efforts are confined to the handling and to the sale of livestock after delivery has been made to them by the Milwaukee Stock Yards Company," and in a letter dated August 10, 1943, Mr. Otto H. Treichel, President, Milwaukee Live Stock Exchange, states in part that the Exchange "functions for the purpose of governing the conduct of its members in the yards and providing a Public Inspector for the dockage of hogs. This man and the part-time Secretary are the only paid employees"; that "There are about thirty-five members of the Exchange,

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and five on the Board of Directors, representation on the Board of Directors generally being one member from each of the five commission firms"; and "The Milwaukee Stock Yards Company has absolutely no control over the Milwaukee Livestock Exchange. We have absolutely no connection with any Sleeping Car Company or Carrier by Railroad."

Since it does not appear that the Milwaukee Livestock Exchange has ever been an express company, sleeping-car company or carrier by railroad subject to Part I of the Interstate Commerce Act and since there is no evidence that it has ever been owned or controlled by or under common control with any such express company, sleeping-car company or carrier by railroad, or that it has ever been controlled or maintained by any "employer" under the Railroad Retirement Act, it is my opinion that that Milwaukee Livestock Exchange has never been an "employer" under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and that service to it is not creditable under those Acts.

Joseph H. Freehill
General Counsel