

Digest

APR 18 1945

L-45-236

The Director of Retirement Claims

The General Counsel

The Rensselaer and Saratoga Rail Road Company

I herewith submit my opinion on the following:

QUESTION

Has The Rensselaer and Saratoga Rail Road Company ceased to be an "employer" under the Railroad Retirement Act and Railroad Unemployment Insurance Act?

OPINION

It is my opinion that on January 30, 1945, The Rensselaer and Saratoga Rail Road Company ceased to be an "employer" under the Railroad Retirement Act and Railroad Unemployment Insurance Act and that service to it subsequent to January 29, 1945, is not creditable under those Acts.

DISCUSSION

The Rensselaer and Saratoga Rail Road Company, by virtue of being a carrier by railroad (lessor) subject to part I of the Interstate Commerce Act, has been an "employer" under the Railroad Retirement Act and Railroad Unemployment Insurance Act. Item No. 5613 in the Employer Status List and General Counsel's Opinion L-42-528.

On September 12, 1944, the Interstate Commerce Commission authorized the merger of the properties of The Rensselaer and Saratoga Rail Road Company into The Delaware and Hudson Railroad Corporation. Delaware and Hudson Railroad Corporation et al Merger, Etc. (257 I.C.C. 453). Information furnished by Mr. J. H. Nuelle, President, The Delaware and Hudson Railroad Corporation, in a letter dated March 28, 1945, is that "The Agreement of Merger, dated as of May 1, 1944, was finally consummated January 30, 1945, and filed with the Secretary of State, State of New York, on that date"; and that "The only paid employe of The Rensselaer and Saratoga Rail Road Company, Mr. W. F. Leversee, Secretary and Treasurer, was transferred to The Delaware and Hudson Railroad Corporation on January 1, 1945."

Memorandum to
The Director of Retirement Claims

On the basis of the foregoing facts, it is my opinion that on January 30, 1945, The Rensselaer and Saratoga Rail Road Company ceased to be a carrier by railroad subject to part I of the Interstate Commerce Act and consequently on that date ceased to be an "employer" under the Railroad Retirement Act and Railroad Unemployment Insurance Act. Service to it subsequent to January 29, 1945, is not creditable under those Acts.

Hyles F. Gibbons
General Counsel

HPC:lr