

M E M O R A N D U M

L-45-184.2

M-39

March 29, 1945

TO The Chief Liaison Officer
Through the Office of the Executive Officer

FROM The General Counsel

SUBJECT Association of Machinists, Helpers and Apprentices,
Illinois Central System
Association of Boilermakers, Helpers and Apprentices,
Illinois Central System
Association of Blacksmiths, Helpers and Apprentices,
Illinois Central System
Association of Sheet Metal Workers, Helpers and Apprentices,
Illinois Central System
Association of Electrical Workers, Helpers and Apprentices,
Illinois Central System
Association of Car Men, Helpers and Apprentices,
Illinois Central System

QUESTION

Is service which was rendered to the six Associations mentioned above from the time of their formation in August, 1922, through September 22, 1933, creditable as "employee representative" service under the Railroad Retirement Act of 1937?

OPINION

No; such service is not creditable as "employee representative" service.

FACTS

The following statement of facts is based upon the material which you have submitted to me in connection with this matter, including information concerning the relationship between the Illinois Central System (hereinafter referred to as the Company) and the Associations named above, obtained in September, 1933, by former Federal Coordinator of Transportation Eastman in an investigation of company unions in the railroad industry.

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The Associations were organized during the nation-wide railroad shopmen's strike which began on July 1, 1922. In a letter dated August 2, 1922, addressed to officials in the Company's Mechanical Department, General Manager Clift referred to attached "plans for the preliminary organization of employees in the Mechanical Department" and requested the officials "to put these plans into effect and hold the elections outlined therein at the earliest possible date", stating: "It is imperative that the Superintendents, Master Mechanics and other officers cooperate to the fullest extent to make the election and plan a success." "Special Instructions" attached to the letter directed the officers in charge at each point to "discuss the question of employees representation with the employees to the end that their full cooperation may be had", and provided that two of the four tellers for the election were to represent the management.

In its reply to Coordinator Eastman's "Company Union Questionnaire" the Company stated that the machinists' Association was organized on August 10, the boilermakers' on August 11, the carmen's on August 12, the sheet metal workers' on August 14, the electrical workers' on August 15, and the blacksmiths' on August 16, 1922; that the Company's officers assisted in the organization of the Associations; and that its Supervisor of Wages assisted in the preparation of the original constitution adopted by each Association. The Company also stated in its reply that it paid the officers and representatives of the Associations for time lost when on business for the Associations and for travelling time and expenses when away from home on such business, that it paid the expenses of delegates to conventions and sometimes paid the rent of convention halls, and that it furnished printing and stationery; an itemized statement attached to its reply indicates that these expenditures for the Associations totaled approximately \$600,000 in the period beginning with January, 1923, and ending with August, 1933. In addition, the Company stated that it furnished the Associations with company mail, telegraph, and telephone service; stenographic assistance; and regular meeting places.

The Company's reply to the questionnaire also contained the statement that its officers and supervisory officials "at times encourage or advise eligible non-members to join" the Associations. A report dated September 22, 1933, by an investigator for the Interstate Commerce Commission, based on interviews with the Company's employees and officials and on correspondence obtained from the files of Company officials, contains much information concerning the Company's use of intimidation to coerce its shop employees to become or remain members of the Associations, and indicates that Company officials assisted in the collection of dues by speaking to members in arrears.

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CONCLUSION

It is clear that from their formation in August, 1922, through September 22, 1933, "interference, influence or coercion" within the meaning of the Railway Labor Act, as amended, was a factor in the designation of the Associations as representatives of the Company's shop employees. I am therefore of the opinion that service which was rendered to each of these Associations from the date of its formation through September 22, 1933, is not creditable as "employee representative" service under the Railroad Retirement Act of 1937. The principles of law on which this conclusion is based are discussed in General Counsel's Opinion No. L-45-136 in the case of the Shopmen's Association, Atlantic Coast Line Railroad Company.

Myles F. Gibbons
General Counsel