

DEC 26 1945

The Director of Retirement Claims

L-45 811

The General Counsel

Yosemite Valley Railway Company
(Los Angeles, California)

I herewith submit my opinion on the following:

QUESTION

Has the Yosemite Valley Railway Company ceased to be an "employer" within the meaning of the Railroad Retirement Act and the Railroad Unemployment Insurance Act?

OPINION

It is my opinion that as of 8:00 A.M. (P.W.T.) August 27, 1945, the Yosemite Valley Railway Company ceased to be an "employer" within the meaning of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

DISCUSSION

By virtue of being a carrier by railroad subject to part I of the Interstate Commerce Act, the Yosemite Valley Railway Company has been an "employer" within the meaning of the Railroad Retirement Act and the Railroad Unemployment Insurance Act. Its name appears under Item No. 7566 in the Employer Status List with the period of creditable service shown as December 23, 1935 to date.

In a certificate of public convenience and necessity dated June 26, 1945, and effective 30 days from that date, the Interstate Commerce Commission authorized the abandonment as to interstate and foreign commerce by the Yosemite Valley Railway Company of its entire line of railroad. Yosemite Valley Railway Company Trustee Abandonment, Finance Docket No. 14688.

Information furnished by Mr. DeWitt Morgan Manning, attorney for the Yosemite Valley Railway Company, with a letter dated December 4, 1945, is that the Yosemite Valley Railway Company, pursuant to prior

Memorandum to
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notice to the public, ceased all railroad operations for the public, both as to interstate and intrastate commerce, at 8:00 A.M. (P.W.T.) August 27, 1945; that all of the tariffs, and concurrences, and with one exception all of the powers of attorney, of the Yosemite Valley Railway Company on file with the Interstate Commerce Commission were cancelled or revoked as of 8:00 A.M. (P.W.T.) August 27, 1945; that through oversight the revocation of one power of attorney given to E. C. Fyfe was not made effective until September 6, 1945; that the corporation has not been dissolved and that since abandonment of operations "certain clerical and accounting employees have been engaged in completing the necessary reports, and guards were employed for the property until its sale under power of sale contained in the mortgage upon the property, on September 7, 1945."

In view of the foregoing it is my opinion that as of 8:00 A.M. (P.W.T.) August 27, 1945, the Yosemite Valley Railway Company ceased to be a carrier by railroad subject to part I of the Interstate Commerce Act and consequently as of that date ceased to be an "employer" within the meaning of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Myles F. Gibbons
General Counsel

HPC:lr