

MEMORANDUM

(Fictitious name substituted for actual name)

L-49-717
M-174

December 7, 1949

TO: The Director of Retirement Claims

FROM: The General Counsel

SUBJECT: Submarine Boat Corporation

John Doe -
Service claimed as brakeman, conductor, and
yardmaster at Newark, New Jersey, from
December 1917 to 1922
(Submitted November 29, 1949)

From an examination of the records of the Interstate Commerce Commission and information in Poor's and Moody's Industrials, the valuation report of the Interstate Commerce Commission on the Atlantic Port Railway Corporation, 43 VR 525 (value as of 12-31-1927), and Atlantic Port Railway Corporation - Capital Stock, 67 ICC 734 (6-10-1921), and that furnished by The Pennsylvania Railroad Company, the following appears: The Submarine Boat Corporation was incorporated on August 4, 1915, under the laws of the State of New York. On September 14, 1917, it entered into a contract with the United States Shipping Board - Emergency Fleet Corporation for the construction of a fleet of steel cargo vessels. It constructed for account of the Emergency Fleet Corporation, on land owned by the City of Newark, the so-called Newark Bay Shipyard, and built a considerable number of cargo vessels. In 1922 it made final adjustment with the United States Shipping Board or Emergency Fleet Corporation and became the owner of the entire plant, consisting of buildings, docks, wharves, shipways, locomotives, rolling stock, and trackage connecting with the Pennsylvania and the Central Railroad Company of New Jersey, and a fleet of cargo vessels. In the meantime it formed the Transmarine Corporation to operate the cargo vessels; the Atlantic Port Railway Corporation to operate the trackage connecting the terminal facilities with the trunk lines, and the Newark Bay Terminal Corporation, which latter appears to have been more or less inactive. The Submarine Boat Corporation went into receivership in 1929, and by the latter part of 1931 or early part of 1932 it and the three subsidiaries referred to had all been liquidated. The City of Newark, New Jersey, acquired the railroad trackage, and since then switching over the trackage has been performed by the Pennsylvania and the Central of New Jersey. The Submarine Boat Corporation did not file with the Interstate Commerce Commission any tariffs, concurrences, powers of attorney, annual reports, or circulars.

Memorandum to
The Director of Retirement Claims

The Transmarine Corporation has been held not to have been an "employer," General Counsel's Opinion L-46-686, and the Atlantic Port Railway Corporation has been held to be a "carrier" employer from May 4, 1920 to December 31, 1931. Steam List; Employer Status List, Item No. 348.

On the basis of the foregoing, it is concluded:

(1) That the Submarine Boat Corporation was not a common carrier by railroad and therefore not a "carrier" or a "predecessor."

(2) That while during the period May 4, 1920 to December 31, 1931, it was under common control with a "carrier," it was not engaged in the performance of services in connection with the transportation of passengers or property by railroad within the meaning of the Railroad Retirement Act.

(3) That the Submarine Boat Corporation was not an employer within the meaning of the Railroad Retirement Act.

(4) That Mr. Doe, in performing the duties of brakeman, conductor, or yardmaster at the location in question prior to the date the Atlantic Port Railway Corporation took over the operation would have been engaged in the "performance of operations involving the use of standard railroad equipment," which operations "were performed by an employer on the enactment date," within the meaning of Section 1(f) of the Act, and that such service, when properly verified, is creditable under the Act.

It should be noted that after sometime in 1920 Mr. Doe may have been employed by the Atlantic Port Railway Corporation.

Myles F. Gibbons
General Counsel