

MEMORANDUM

April 1, 1944

TO The Director of Retirement Claims

FROM The General Counsel

SUBJECT William A. Smith Construction Company

[REDACTED]
Service claimed at Houston, Texas, from March to April 1943, under a contract with the Missouri Pacific Railroad Company

In an effort to obtain a copy of the contract between the William A. Smith Construction Company and the Missouri Pacific Railroad Company under which this service is claimed, we communicated with the Missouri Pacific Railroad Company and in a letter dated March 8, 1944, Mr. A. T. Cole, Assistant Secretary, states that he has communicated with the William A. Smith Construction Company and has been advised that Mr. [REDACTED] for a period of about five weeks during the months of March and April, 1943 was employed by the William A. Smith Construction Company under a contract with Arthur G. McKee and Company and that the contract had no "relation to work performed for the Missouri Pacific Railroad Company." Therefore, this memorandum deals with the following:

QUESTION

Has the William A. Smith Construction Company ever been an "employer" under the Railroad Retirement Act or Railroad Unemployment Insurance Act?

OPINION

It is my opinion that the William A. Smith Construction Company 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.

Memorandum to the Director,
Bureau of Retirement Claims

DISCUSSION

Information contained in a response to our questionnaire, Form LQ-2-b (revised) received from Mr. P. S. Zentman, Secretary-Treasurer, William A. Smith Construction Company, in a letter dated June 17, 1939, is that the company is not engaged to any extent in the transportation of passengers or property by railroad or in the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage or handling of property transported by railroad; that it has never been engaged in the supplying of products to any railroad for use in railroad transportation; that it is engaged in "General Railroad construction" and in the construction of "Railroad Tracks for Industries"; and finally that it has never been directly or indirectly owned or controlled by or under common control with any express company, sleeping-car company or carrier by railroad subject to Part I of the Interstate Commerce Act.

Since it is obvious from the foregoing that the William A. Smith Construction Company has never been an express company, sleeping-car company or carrier by railroad subject to Part I of the Interstate Commerce Act and since the information submitted by the company is to the effect that it has never been owned or controlled by or under common control with any "carrier employer," it is my opinion that the William A. Smith Construction Company has never been an "employer" under the Railroad Retirement Act or Railroad Unemployment Insurance Act and that service rendered to it is not creditable under those Acts.

Joseph H. Freehill
General Counsel