

Chicago 11, Illinois ✓

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The Director of Retirement Claims

The General Counsel

Employer status of the Laramie Stock Yards Company

(Creditability of service of [REDACTED] -SS [REDACTED])

[REDACTED] -SSA- [REDACTED]

Your memorandum of December 13, 1948 refers to your requests of April 20 and August 8, 1945, for a ruling on the employer status of the Laramie Stock Yards Company. It is my opinion, on the basis of information recently made available, that the Laramie Stock Yards Company has been, at least since March 1, 1920 and only with respect to its railroad loading and unloading of livestock operations, an "employer" under the Railroad Retirement and Railroad Unemployment Insurance Acts.

On August 5, 1948 the Commissioner of Internal Revenue transmitted information obtained by the Bureau which was the basis for a ruling by that Bureau that the Laramie Stock Yards Company was, with respect only to its loading and unloading of rail-borne livestock, a carrier by railroad subject to part I of the Interstate Commerce Act and an "employer" within the meaning of the Carriers Taxing Act of 1937 and the Railroad Retirement Tax Act.

The information now available shows that the Laramie Stock Yards Company was incorporated under the laws of the State of Wyoming on December 28, 1912 for the purpose of engaging "in the purchase and sale, the breeding, feeding, caring for, slaughtering, dressing, packing, chilling, preparing for market and holding for sale, selling, and purchasing and selling for others, of any and all kinds and characters of live stock, including cattle, sheep, horses, swine, and the shipping by refrigerator cars and by other means, of the carcasses of said animals and the meats and products thereof, and of acquiring, holding, and possessing by purchase, gift and donation, any and all kinds, character and description of property and estate, whether real, personal or mixed."

The Stock Yards Company and the Union Pacific Railroad Company entered into an agreement dated March 1, 1924, the recitals of which stated that "in connection with the transportation of live stock over its line of railroad, the Railroad Company is required to water

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and/or unload, feed, rest and load such live stock from time to time, and has provided stock yard facilities, including loading and unloading chutes, pens, shelters and barns for such purpose at Laramie, Wyoming, and has also provided certain grazing land in the vicinity of said stock yard facilities which the Stock Yards Company has heretofore operated for the Railroad Company in accordance with the provisions of agreement Contract Department Number 703-A, dated March 1, 1920, the term of which, as extended from time to time by proper supplemental agreements, expired February 29, 1924", and that "to set forth the terms and conditions under which such service by the Stock Yards Company shall continue, this agreement is made".

Under the terms of the agreement of March 1, 1924, apparently still in effect, the Railroad Company leased certain railroad properties in Laramie, Wyoming to the Stock Yards Company "together with all the facilities and improvements, including pens, alleys, loading chutes, platforms, feed racks, water supply system, sheds, shelters, barns, scales and all other and miscellaneous improvements (except facilities indicated by red lines which are not owned by the Railroad Company) in any manner appertaining to said stockyard facilities, placed thereon and owned by the Railroad Company, constituting its said stock yard facilities at Laramie". The Stock Yard Company agreed to furnish all labor necessary and to unload, water, feed, rest, care for and reload shipments of livestock in transit; water in cars or unload, water, rest and reload shipments of livestock in transit; carefully and accurately count all livestock watered in cars and all livestock loaded and unloaded; keep an accurate record showing the number, class and condition of the stock handled; make and keep a seal record available at all times for inspection by the proper representatives of the Railroad Company; make reports to the agent of the Railroad Company at Laramie at such times and in such manner as the Railroad Company may require and keep records open at all reasonable times to the inspection of duly authorized representatives of the Railroad Company; make necessary minor repairs with material furnished by the Railroad Company to the facilities of the Railroad Company located on the leased premises; all in a manner satisfactory in all respects to the Railroad Company and as prescribed and required by the laws of the United States, the State of Wyoming or any other public authority having jurisdiction. It was further provided that the Railroad Company and its patrons should have the right to such use of the driveways, scales, chutes and such portions of the stockyards as the general manager of the Railroad Company may deem necessary and that the Railroad Company at its own cost and expense would maintain, repair, and renew the stockyard facilities.

With regard to the Stock Yards Company's compensation, the agreement provides that compensation for feed furnished for livestock in transit shall be advanced by the Railroad Company and that the

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Railroad Company will collect such sums from the owners of the livestock. All charges assessed by the Stock Yards Company against shippers are required by the agreement to be fair, just and reasonable, and subject to the approval of the Railroad Company. The Stock Yards Company is required to afford fair and just treatment to all patrons without preference or discrimination.

Thus, the evidence shows, the facilities of the Stock Yards Company are those usually available at a stockyard, the Company is commonly known as a stockyard, and the facilities are available to all the shipping public, including, apparently, for the purchase and sale of livestock. I am of the opinion, therefore, that the Laramie Stock Yards Company operates a "public stockyard", though it is not reported to the Secretary of Agriculture as such. El Paso Packing Company, et al., v. Atchison, Topeka & Santa Fe Railway Company, et al., 196 I.C.C. 335. Cf. General Counsel's Opinion re Valley Feed Yards, Inc., L47-792.

The Stock Yards Company apparently kept accounts separately for each of its activities which show for a representative four year period of operation that the revenue received from the loading and unloading of livestock has always been considerably less than half its total receipts.

In view of all the foregoing, it is my opinion that Laramie Stock Yards Company in its handling of livestock at a public stockyard for an interstate railroad has been, at least since March 1, 1920, a "carrier" under section 1(n) of the Railroad Retirement Act and section 1(b) of the Railroad Unemployment Insurance Act and an "employer" under each Act. It is my opinion, further, in view of all the evidence and circumstances, that its "carrier" activities, which constitute a minor part of the Company's total operations, were and are conducted as a separate and identifiable enterprise. General Counsel's Opinion re Valley Feed Yards, Inc., supra. Accordingly, I conclude that at least since March 1, 1920, the Stock Yards Company has been an "employer" under section 1(a) of the Railroad Retirement Act and the Railroad Unemployment Insurance Act only with respect to its "carrier" operations (loading, unloading, feeding, watering of rail-borne livestock in transit and the maintenance, repair and operation of chutes, pens, platforms and properties used in connection therewith). General Counsel's Opinion re Valley Feed Yards, Inc., supra.

[REDACTED]  
General Counsel