

**Railroad Commissioners, Power to Stop Trains at Stations.
Stoppage of Trains by the Board Under Certain Conditions.**

1. The Board may regulate the stoppage of trains at stations when after an investigation they find that it is to the best interests of the traveling public to pass such a rule or regulation.

2. It is not in violation of the commerce clause of the Federal Constitution, and the Board of Railway Commissioners has power, under certain conditions, to cause inter-state trains to make regular stoppages at specified stations on railroad lines in the State of Montana.

3. Where stations have adequate and sufficient train service it is not in the power of a Railroad Commission to arbitrarily cause all passenger trains to stop at such stations.

Helena, Montana, April 11, 1907.

Board of Railroad Commissioners,

Helena, Montana.

Gentlemen:—

I am in receipt of your favor of the 4th inst. presenting for decision by this office the following question:

Has the Board of Railroad Commissioners under the provisions of Section 19 of the law (Chap. 37, Laws 1907), power to compel a railroad company to make regular stops with its passenger trains at stations where their regular schedule does not provide for stoppage at said station, provided, in the judgment of the Board, such stoppage is deemed necessary for the reasonable accommodation of the public?

In answer you are advised that the Board has such power, if after investigation it is found that the railroad company is guilty of discrimination, or in instances where no sufficient or adequate train service and accommodations are furnished to the inhabitants of such stations and the traveling public.

Prentice & Egan Commerce Clause of the Fed. Const., p. 184.

Statutes have been passed in several states compelling railway companies to stop their regular passenger trains at County Seats, and such statutes have been held valid and constitutional by the courts.

Chicago & A. Ry. Co. vs. People, 105 Ill. 657; 143 Ill. 434.

R. R. Co. vs. State, 8 Ohio C. C. Rep. 220.

State vs. Gladson, 57 Minn. 385.

This last named case, under title of Gladson vs. Minnesota, was affirmed in 166 U. S. 427.

Our opinion is that if the Legislature may pass such laws, that a Railway Commission, by virtue of the police powers of the State, may also make the needed regulations along the same general lines.

However, the Supreme Court of the United States, December 3rd, 1906, decided that the Mississippi Railroad Commission had no authority to require a railway company to stop its inter-state mail trains at specified county seat where proper and adequate facilities are otherwise afforded that station. This opinion is a very interesting and instructive one, but the court practically decides that each case should be decided upon the facts involved in the particular case presented. And there is also a suggestion quoted therein from the Circuit Court of Appeals, that instead of ordering mail trains engaged in inter-state commerce to stop, that probably the commission could have ordered more trains to run if the evidence showed lack of accommodations.

Miss. R. R. Com. vs. Ill. C. R. Co., 27 Sup. Ct. Rep., p. 90.

Respectfully submitted,

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Attorney General.