

Railway Employees. Regulation of Hours of Employment Of.

Chapter 5, Laws of 1907, known as the Sixteen Hour Law, regulating the hours of labor of railroad employees, is not beyond the legislative power of the State and should be enforced.

Helena, Mont., April 15th, 1907.

Hon. Board of Railway Commissioners,

Helena, Montana.

Gentlemen:—

I am in receipt of your favor of recent date enclosing a communication by you received from William Wallace, Jr., attorney for the Northern Pacific Railway Company, advising you that it is the intention of the company by him represented, to disregard the provisions of Chapter 5, Laws of 1907, commonly known and designated as "the sixteen hour law." In this connection, you ask opinion from my office respecting the constitutionality of the law, and direction respecting the proper procedure in the premises.

After full and careful consideration of the contents of said communication by you received, and after personal consultation with Charles Donnelly, Esq., of counsel for said railroad, we are unable to agree that the law in question is unconstitutional or beyond the legislative province of the state; but the question is one of such importance, that it would, perhaps, be better to have definite decision upon the subject by the supreme court upon a test case. We cannot see objection to the law, and every presumption being in favor of its constitutionality, it is not within our province to disregard it. The law would appear to be entirely within the police power of the State, and not repugnant to the provisions of either the United States or State Constitutions; it is therefore advised that effort be made to have a case presented on an agreed statement of facts, or failing in this, that criminal proceedings be instituted direct upon presentation of proper evidence in support thereof, in order that a test of the law may be had and decision with respect thereto rendered by the Supreme Court.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.