

Railroad Fares, to Clergymen and Persons Dependent Upon Public Charity. Fares, Railroads May Charge Reduced to Clergymen and Indigent Persons. Clergymen, May Be Allowed Reduced Railroad Fares. Poor Persons, May Be Allowed Reduced Railroad Fares.

Section 4337, Revised Codes, is repealed by implication by Section 4385 and 4386, Revised Codes, and therefore railroad companies may charge and accept less than the regular passenger tariff fixed by the railroad commission from clergymen and persons who are the recipients of public charity.

Helena, Montana, May 3, 1909.

The Railroad Commission of Montana, Helena, Montana.
Gentlemen:

I am in receipt of your letter of April 24, enclosing copy of a letter addressed to me by Veazey & Veazey, wherein you ask my opinion as to the legality of a railroad company granting reduced fares to clergymen and also to persons who are subjects of public charity.

Section 4337, Revised Codes of Montana, which act was approved March 13, 1893, makes it a misdemeanor for a common carrier or ticket

selling agent to charge any person more or less for transportation than the fare charged to passengers generally. However, the act creating and establishing a board of railroad commissioners for the State of Montana repeals Section 4337, of the Revised Codes, at least by implication.

You will notice that Section 4385, Revised Codes, being a part of the act above referred to, provides that no railroad subject to the provisions of the act shall directly or indirectly "demand or receive from any person, firm or corporation a greater or less compensation for any service rendered, or to be rendered, in the transportation of property subject to the provisions of this act than that fixed by the said Board of Railroad Commissioners for such service," Section 4386 of the same chapter, provides that if any railroad subject to the act, or its agents or officers, shall collect, charge, demand or receive from any person, company, firm or corporation a greater rate, charge or compensation than that fixed and established by the said Board of Railroad Commissioners for the transportation of freight or passengers or cars, shall be guilty of a misdemeanor.

Therefore, as I read the two sections, they serve to repeal Section 8337, Revised Codes, and Section 4385, which relates only to the carriage of freight, makes the charging of a greater or less rate than the railroad commission's tariff a crime and fixes the penalty to be imposed upon the common carrier. Section 4386, however, which deals with the transportation of passengers as well as property, places only one inhibition upon a common carrier; that is, that the company shall not "collect, charge, demand or receive * * * * a greater rate."

You are therefore advised that under the provisions of Section 4386 the railroad companies of this state may issue transportation to clergymen and subjects of public charity at a lower rate than that called for by the tariff filed with, and accepted by, your commission, and this may be done without filing with you a tariff covering this particular class of passengers.

Very truly yours,

ALBERT J. GALEN,

Attorney General.