

**Railroad Commission, Power of in Matter of Abandonment.
Railroad, Abandonment of Line by.**

The railroad commission of Montana has authority to permit the abandonment of established lines of railway where the public service warrants.

Helena, Montana, April 8, 1910.

The Railroad Commission of the State of Montana,

Helena, Montana.

Gentlemen:

I am in receipt of your letter of April 7, wherein you refer to my letter to you of April 24, 1908, in regard to proposed change of line by the C. B. & Q. R. R. Co., whereby the line between Toluca and Scribner would be abandoned and the railroad would operate over a new line built from Scribner connecting with the Northern Pacific at Fromberg.

I am still of opinion that this change of line is not such as would require an order of the board making authorization therefor to the railroad company.

However, section 4382,, of the revised codes, provides that the board shall have the power, and it shall be its duty, to compel all railroads subject to its jurisdiction to provide adequate freight and passenger service.

This, in my opinion, extends to all established lines of railroad operating within the state of Montana. However, when line changes are made for the convenience of the railroad company and economy in operation, I do not believe the law contemplates that the railroad commission shall have power to determine over which line the company shall operate its trains, and unless it is apparent that the public will not be so well served under the new conditions as under the old, that the railroad companies may abandon the original line.

However, if, as I understand, a field inspection has been made by the commission, and the railway company is desirous of obtaining the permission of the board. I can see no objection to the board making an order authorizing the abandonment of the line between Scribner and Toluca, and if your commission desires to make this or any other order in the premises I shall be glad to assist you in drafting the same.

Very truly yours,

ALBERT J. GALEN,

Attorney General