

Railroad, Permitting Sheriffs and Deputies to Ride on Freight Trains. Sheriffs and Deputies, Right to Ride on Freight Trains.

A railway company may make classification permitting sheriffs and their deputies to ride on freight trains in this state upon procuring proper transportation, without extending this privilege to other classes of passengers.

March 1, 1912.

Railroad Commission of Montana,
Helena, Montana.

Gentlemen:

I am in receipt of your letter of February 19th, stating that the C. M. & P. S. Ry Co., is desirous of permitting sheriffs and their deputies to ride on freight trains in Montana, without extending this privilege to other classes of passengers, when in the pursuit of criminals or upon other important business connected with the sheriff's office; provided, that such person so riding upon the freight train shall have procured regular transportation.

Sec. 7, Art. XV of the Constitution of Montana provides that no discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by any railroad, transportation or express company between persons or places within this state.

The supreme court of this state in the case of John v. N. P. R. Co., reported in 42 Mont. p. 18, in construing this constitutional provision used the following language:

"In the absence of classification by the legislature the railroads may themselves make reasonable classifications. But classification into public office holding and non-public office holding persons is clearly arbitrary, vicious, unreasonable and, therefore, illegal and void."

The supreme court in this case recognizes the right of the railroad company to make reasonable classification for the transportation of passengers, and the only question is as to whether or not this would be a reasonable classification.

In my opinion the railway company may make this character of classification; provided, of course, that the person so riding is in possession of proper transportation and is riding only upon official business connected with the sheriff's office.

Yours very truly,

ALBERT J. GALEN,

Attorney General.