

**Railroad Commission, Power Of. Railroad Commission,  
Authority to Install Stock Yards. Stock Yards, As a Station  
Facility.**

It is doubtful as to whether under section 4882 the Railroad Commission has authority to order a railroad company to install stock yards at any station.

February 28th, 1911.

Board of Railroad Commissioners,  
Helena, Montana.

Gentlemen:

I am in receipt of your letter of February 13th, 1911, together with your letter of inquiry concerning the same dated February 20th, 1911. On account of the press of business in this office due to the present session of the legislature, I have not been able to reply to your request for an opinion heretofore.

This correspondence relates to an order of the board directing the O. S. L. Railway Co., to install a station and station agent at the station of Bond in Beaverhead county. The order also requires the company to install stock yards at this point. You ask my opinion as to whether your board has authority to direct the installation of stock yards.

On May 8th, 1903, I addressed an opinion to you dealing generally with your power and authority over the strictly operating departments of railroads. (See Vol. 2, Opinions of Attorney General, page 362.) As stated to you in that opinion, your board, under the law, is primarily a rate commission, but I believe that it has, within certain limitations, power and authority to make and enforce orders, with respect to service in the transportation of freight and passengers.

Section 4882, for example, gives the commission power and auth-

ority to order the installation of sufficient train service and to provide and maintain suitable waiting rooms and suitable rooms for freight and baggage at all stations. The board in making the order now under consideration—at least with reference to that portion of the order which requires a station and station agent at the station of Bond—was entirely within the province of the board under the section above referred to. I am doubtful as to whether this section is broad enough to include all facilities for the transportation of freight, such as stock yards, and I do not find any other section in the statute which would confer this authority.

Section 4373 defines the word "transportation" and makes it include all instrumentalities of shipment or carriage, but Section 4378, which confers general supervision of all railroads upon the board limits that grant of power to "matters pertaining to the duty of said board and within its power and authority under the provisions of this act." I am not prepared to advise you that an action to compel the railroad company to abide by your order with reference to the establishment and maintenance of stock yards at Bond, can be successfully maintained. However, if you desire to have your authority in this regard tested in the courts, and desire to have proceedings instituted against the company to enforce this regulation, I shall be pleased to act in accordance with your wishes in the premises.

Yours very truly,

ALBERT J. GALEN,

Attorney General.