

**Board of Railroad Commissioners, Jurisdiction of Grain,
Shipment of.**

If the interstate commerce commission had previously made any ruling on the subject, the railroad commission of Montana would have no authority to order coopering put in cars used for interstate transportation of grain. Otherwise, the ruling of the railroad commission of Montana would be binding until superseded by an order of the interstate commerce commission.

August 16th, 1913.

Honorable Board of Railroad Commissioners,

Helena, Montana.

Gentlemen:

I beg to acknowledge receipt of yours of the 8th instant, submitting for my opinion the question:

“Has the commission jurisdiction to place an order requiring the carriers and not the shipper to stand the expense of this special fitting (coopering) when the grain is to be shipped to points outside of the state?”

I have been unable to find any authority directly on the point. It is well settled, however, both by principle and decision, that every part of every transportation of articles of commerce in a continuous passage from a commencement in one state to a prescribed destination

in another, is a transaction in interstate commerce. In the case submitted by you some difficulty might be found in deciding upon the time at which the transportation commenced. I am inclined to believe that the courts would hold that it began at the time the contract was made with the railroad company for the cars used in a particular shipment, and certainly it would begin when the cars were placed upon the loading track or alongside the elevator for the purpose of loading. Under this view your commission would have no authority to order cooping put in the cars which were to be used for the interstate transportation of grain, if the interstate commerce commission has previously made any rulings upon the subject. In the event that the interstate commerce commission has made no ruling upon this matter, I am of the opinion that a ruling by you upon the subject would be binding upon the railroad until such time as the interstate commerce commission supersedes your ruling by one of their own.

Yours very truly,

D. M. KELLY,
Attorney General.