

Railroad Companies, Carriers. Reduced Fares, to Hotel Runners, Transfer Agents.

Under the provisions of Chapter 52 of the Session Laws of the Thirteenth Legislative Assembly, and Chapter 136, Session Laws of the Twelfth Legislative Assembly, baggage agents may be carried at reduced rates by railroad companies, without violating the law. Hotel runners are not among those mentioned to whom reduced rates may be made, and therefore cannot be carried at less than the regular rate.

February 10th, 1914.

Honorable Railroad and Public Service Commission,
Helena, Montana.

Gentlemen:

I am in receipt of your communication under date of the 2nd instant, submitting for my opinion the question:

"As to whether contracts with hotel runners and transfer agents to ride on passenger trains between certain points soliciting business for their respective concerns, is illegal or invalid, under the terms of Chap. 53 of the Laws of the Thirteenth Legislative Assembly?"

It is true that transfer agents and hotel runners are not mentioned among the classes of persons enumerated by said Chap. 53, to whom passage and reduced rates may be issued. However, Sec. 2 of Chap. 136, Session Laws of the Twelfth Legislative Assembly, includes baggage agents. Hotel runners are not included in either act. It is to be noted that Chap. 53 of the Session Laws of the Thirteenth Legislative Assembly is not an express repeal of any law of Montana. There is a general repealing clause that all acts and parts of acts in conflict with the provisions of Chap. 53 are repealed. In order to

invoke a repeal then under this law, it is necessary to find a direct conflict in terms. It cannot be said that the repealing clause in Chap. 53 works a repeal of Sec. 2 of Chap. 136, Laws of 1911, since there is nothing in Chap. 53, Laws of 1913, which mentions baggage men. The laws are not in conflict as to this class of persons, therefore no repeal can be implied.

I am, therefore, of the opinion that there is nothing unlawful in a contract between a carrier and the agents of transfer companies for the carrying of solicitors at a reduced rate or free.

As to hotel runners, I find no provision in either law for their carriage upon passes or at reduced rates, and I am therefore of the opinion that the carriage of such persons in that way would be in violation of Chap. 136, Session Laws of the Twelfth Legislative Assembly, and subjects carriers, or the persons accepting such transportation, to the penalty mentioned in Sec. 3 of this said Chap. 136 of the Laws of 1911.

Yours very truly,

D. M. KELLY,
Attorney General.