

OPINION
46-169

December 14, 1946 (OPINION)

INTOXICATING LIQUOR

RE: Divorcement Law Not Applicable to Railroads

This will acknowledge your letter of December 6, 1946, in which you inquire as to the application of the liquor-food divorcement act as it applies to dining room and club cars on the trains of the Northern Pacific Railway Company.

In your letter you state:

We think it can be agreed that the intention of the Legislature, or in the case of an initiated act, the proponents of the act plus the people who voted for it, are controlling.

We feel that this act should not apply to railway trains at all, because no one had any intention or thought that it would so apply. You will note that the preamble to the act prohibits the sale, etc. of alcoholic beverages in 'any establishment within the state of North Dakota.' We submit that a railway train is not an establishment under any known definition of the word, and we further submit that there was no intention with any one that the word 'establishment' should apply to railway trains."

You also present the fact that while trains travel through the state they would not ordinarily be referred to as "establishments."

We do not believe that the act was intended to, or that it does, apply to either dining cars or club cars of a railway company used on its passenger trains.

While it is our opinion that the so-called "liquor-food divorcement act" does not apply to club cars and dining cars of a railway company, we hope that insofar as it is possible, the railway companies will attempt to comply with the spirit of the act and limit the sale of commodities in the club cars where liquors are sold, and that the railway companies will not allow liquor to be taken from the club cars to the dining cars, if it is within the power of the company to prevent the same.

NELS G. JOHNSON

Attorney General