

Sheriffs—Expenses—Prisoners.

A sheriff while engaged in transporting prisoners from his county to a county jail in another county is entitled to his actual expenses under section 4916, R. C. M. 1921, as amended by chapter 111, laws of 1927.

October 14, 1927.

Horace W. Judson, Esq.,
County Attorney,
Cut Bank, Montana.

My dear Mr. Judson:

You have requested my opinion concerning what expense the sheriff is entitled to in transporting prisoners from your county to the jail at Great Falls.

Prior to the enactment of chapter 111, laws of 1927, amending section 4916 R. C. M. 1921, I think the sheriff would have been entitled to ten cents per mile, as provided by section 4885 of the code. The act above referred to, however, amends section 4916 so that the last paragraph thereof reads as follows:

“For actual expenses in conveying a person, when under arrest, before a magistrate or to jail, or on habeas corpus, which must be allowed by the board of county commissioners.”

While the wording of the sentence above quoted is ungrammatical and might be held to be void for uncertainty, I prefer to assume that it was the intent of the legislature to provide that the sheriff should be allowed actual expenses only in the cases indicated in the portion of the section above quoted.

It is therefore my opinion that the new law governs the matter and that the sheriff is entitled to his actual expenses only in the cases indicated in your letter.

Very truly yours,

L. A. FOOT,
Attorney General.