September 28, 1936.

Hon. Elmer Holt
Governor of Montana
The Capitol

I have your letter of September 26, in reference to our opinion No. 349, in which we advised you that "members of the Montana Relief Commission may validly be paid per diem for each day that the Commission is in session and not otherwise."

You now ask:

"The question arises as to whether or not Commission members may collect per diem from the time that they leave their homes until they return. A specific case is that of Mr. S. E. Moss, of Miles City, a member of the Montana Relief Commission, who is required to leave his home on the night preceding the meeting. It is impossible for him to return to his home until the morning of the day following the meeting, or frequently, and usually, until the night following the day of the meeting. Therefore, he has been receiving ten dollars for the day of the Commission meeting. For the reason that he is a railway employee, he is compelled to lose trips, and, therefore, on each occasion of his attendance at the Relief Commission meeting in Helena, he suffers a shortage. If he is permitted to receive pay from the time he leaves his home until he returns thereto, then he would break even. Will you please give me your opinion as to whether or not he may be legally paid as specified?"

Under Section 335.3 R. C. M. 1935, to which we referred in our previous opinion, members of the Commission may receive as compensation $10 per diem for each day the Commission is in session "and their necessary expenses while away from their home in the performance of the duties of their office." The statute makes no provision for the payment of per diem for days spent in travel to and from meetings, as does, for instance, the State Highway Commission Act (see Section 1783 R. C. M. 1935).

Accordingly we must advise that the facts stated in your letter furnish no basis for an exception to the conclusion reached in our previous opinion.

Opinion No. 359.

Montana Relief Commission—Members, Per Diem.

HELD: Members of the Montana Relief Commission may not validly be paid per diem for days spent in travel to and from meetings.