

Opinion No. 257.

**Counties—County Commissioners—
Montana State Training School,
Inmates of—Cost of
Maintenance.**

HELD: 1. A county is chargeable only for expenses of examination, transportation and clothing of those committed to the Montana State Training School.

2. The cost of maintaining inmates of the Montana State Training School is not a proper charge against the county from which committed.

September 13, 1940.

Mr. W. M. Alberda
Chairman, Board of County Commissioners
Bozeman, Montana

Dear Sir:

You have requested my opinion as to whether the county can pay for the room and board of an inmate of the Montana State Training School at Boulder, Montana. You state that your board has been advised that "the appropriation for the State Training School is not sufficient to allow them to accept additional inmates, but they have sufficient facilities for additional inmates providing that one dollar per day is paid to the institution for their room and board."

A board of county commissioners has only such power and authority as is expressly given by statute, or necessarily implied therefrom. The board must justify its act by such express or implied statutory authority. See Section 4441, R. C. M., 1935; *Lewis v. Petroleum County*, 17 Pac. (2) 60, 92 Mont. 563. What is not by law imposed as expenses upon the county, is not chargeable to it. *Wade v.*

Lewis and Clark County, 24 Mont. 335, 61 Pac. 879. We must, therefore, look to some statutory authority permitting the county commissioners to pay such expenses.

Section 1480, R. C. M., 1935, provides:

"Expenses of commitment a county charge. The expenses of examination, transportation, and clothing of the inmates admitted under this act shall be paid by the county from which they were committed, upon the rendering of a sworn itemized account of said expenses, and the county in turn shall collect, in its own name, from the parents, guardian, or estate of the inmate, provided they are financially able to meet such expenses. Said inmate, whether a minor or adult, shall remain such county charge so long as he is in this institution."

I do not find any other statute applicable to this question and it would seem that if the county is liable for any charges in connection with inmates of this institution, their liability is governed by this statute. The statute states specifically that the expenses of examination, transportation and clothing shall be a county charge. Under the maxim "*inclusio unius est exclusio alterius*," only those expenses included in the statute are chargeable.

The state legislature makes an appropriation for the maintenance of this institution. If such appropriation for any year is insufficient, the law makes provision whereby expenditures in excess of appropriation may be authorized by the Board of Examiners in cases of emergency. (Chap. 40, Laws of 1937.)

There being no statutory authority for the expenditure of county funds for board and room of inmates of the Montana State Training School, it follows that the board of county commissioners is without authority to make such expenditure.