

December 16, 1943.

Mr. J. Miller Smith
 County Attorney
 Lewis and Clark County
 Helena, Montana

Dear Mr. Smith:

You have requested an opinion of this office asking if board and lodging comes within the meaning of the phrase "actual traveling expenses" used in that certain portion of Chapter 119, Laws of 1943, which portion reads as follows:

" . . . provided also that county attorneys are hereby authorized to attend any county attorneys' meeting or convention held within the state and are allowed actual traveling expenses not oftener than once a year for attending the same."

The courts of Arizona, California and New Mexico have had cases before them involving the interpretation of like statutes and have in the cases of *Van Veen v. Graham*, 108 Pac. 252; *Corbett v. State Board of Control*, et al., 204 Pac. 823, and *State v. McClure*, 143 Pac. 477, held that the phrase "actual traveling expenses" not only includes actual transportation expenses but also board and lodging. These cases so held on the grounds and for the reasons that in most instances such allowances had been allowed in the past under similar statutes and the common usage of the term "traveling expenses" included expenses for board and lodging.

The California court in *Corbett v. State Board of Control et al.*, 204 Pac. 824, remarks as follows:

" . . . it is a familiar rule of statutory interpretation that words and phrases are construed according to the approved usage of the language, and that words of common use are to be taken in their ordinary and general senses."

The Montana courts under different circumstances but in the construction of statutes, have in many instances followed the same reasoning. See in this respect, *Schaeffer v. Chicago etc. Ry. Co.*, 53 Mont. 302, 163 Pac. 565, particularly at page 305 of 53 Montana reports, as follows:

"In construing a statute we are required to give to the words em-

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 Construing Meaning of Statute.**

Held: County attorney entitled to board and lodging under phrase "actual traveling expenses" in addition to actual transportation expenses.

ployed their ordinary meaning, unless it is made apparent from their character or the context or subject that a different meaning was intended."

It seems very apparent to me that if the legislature had intended to limit the county attorneys to their actual transportation expenses in attending the meetings or conventions mentioned in the statute, that it would have used the more restricted and unmistakable term of "transportation" as is used in the same statute in reference to the expenses of the county commissioners. The fact that in the same statute the phrase "actual transportation expenses" is used in reference to the county commissioners and the phrase "actual traveling expenses" is used in reference to the county attorneys furnishes evidence of the fact that the legislature intended that there should be a distinction. In construing a statute all the language of an act must be considered, and that construction favored which will give effect to every part thereof. To hold that the county attorneys should not receive their board and lodging would be to hold that the words "transportation" and "traveling" are one and the same word. See in this respect *Paxson v. Cresson Consol. Gold Mining and Mill. Co.*, 139 Pac. 531, at page 533, as follows:

"The fundamental rule to be followed in construing a statute is to ascertain and give effect to the intention of the Legislature in adopting it, and give effect, if possible, to every word it contains, and as far as practicable reconcile the terms therein employed so as to render it consistent and harmonious."

Therefore, in light of the wording of the statute, the rules of statutory construction and the law on the subject, it is my opinion that the phrase "actual traveling expenses" contained in that portion of Chapter 119, Laws of 1935, above set forth, should be interpreted to mean that the county attorney in attending the meetings as provided by the said chapter, should be allowed actual expenses for his board and lodging in addition to his actual transportation expenses.

Sincerely yours,
R. V. BOTTOMLY
Attorney General