

Assesor, Traveling Expenses Of. County Attorney, Expenses Incurred by in Criminal Cases. Detectives, Employment Of.

1. The county assessor is not allowed his traveling expenses in the performance of the duties of his office.

2. Under section 4681, the law expressly provides that expenses necessarily incurred by the county attorney in criminal proceedings are proper charges against the county. If the employment of detectives is necessary in procuring evidence in such cases, the expenses of such employment properly come within the provisions of said section.

Helena, Mont., Dec. 20th, 1906.

C. R. Stranahan, Esq.,
County Attorney,
Boulder, Mont.

Dear Sir:—

I am in receipt of your favor of the 11th inst., asking official opinion of my office respecting the legality of two certain claims presented to the board of county commissioners of your county.

The first question arising, and by you presented, is as follows:

“Is the assessor entitled to recover from the county, his expenses incurred in the performance of official duty?”

Sec. 4591 of the Political Code provides:

“The salaries of all county officers are as prescribed in this chapter. No county officer, except as provided in this chapter, must receive for his own use any fees, penalties or emoluments, for any official service rendered by him, etc.”

See also *Yost v. Commissioners*, 25 Minn. 366;

Wight v. Commissioners, 16 Mont. 479.

Accordingly, you are advised that the opinion by you given to the county commissioners to the effect that the Assessor cannot make legal charge for his expenses incurred in traveling, is hereby affirmed.

The second question by you presented, is as follows:

“Last spring at the time of the dynamiting in the vicinity of Montana City, an expense of \$300.00 was incurred by me in the employment of a detective in that case provided for by

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subdivision 2 of Sec. 4681 of the Political Code. The commissioners seem to have some hesitancy about paying this claim and would also like your opinion on the matter before the adjournment as to whether or not it is a valid claim against the county."

You are advised that this matter has been heretofore passed upon by my office in an opinion rendered to Mr. George B. Davies, Chairman of the Board of County Commissioners of Gallatin County, Dec. 16th, 1906, and our conclusion respecting the same agrees with yours. We are of opinion that the expense incurred by you, as county attorney, in the employment of a detective, in order to assist you in enforcing the law, is a proper charge to be allowed and paid.

Very truly yours,

ALBERT J. GALEN,

Attorney General.