

County Commissioners, Fees Of. Fees, for County Commissioners. Lincoln County Commissioners, Fees of. Mileage, of County Commissioners. Highways and Bridges, Fees for Inspecting by County Commissioners.

The County Commissioners of Lincoln County are entitled to receive six dollars per day for actual sessions, not exceeding \$250.00 per year, and fifteen cents per mile for the distance necessarily traveled in going to and returning from the county seat and place of residence; also five dollars a day for inspection of bridges and highways.

July 20, 1910.

Hon. B. F. Maiden,
County Attorney, Lincoln County,
Libby, Montana.

Dear Sir:

Replying to your letter of July 19, requesting an opinion of this office as to the compensation the county commissioners of your county are entitled to receive, we have this to say:

Section 11, of Chapter 133, an act creating Lincoln county, Eleventh Session Laws of Montana, page 198, reads as follows:

"Section 11. That the officers appointed and mentioned herein in Section 10 of this Act, shall each be allowed to receive an annual compensation for their services as such officers, as follows to-wit:

For each county commissioner, the sum of six dollars (\$6.00) per day, when in actual session, not exceeding the sum of two hundred and fifty dollars (\$250) per year."

Under our construction of this section each county commissioner is entitled to receive \$6.00 per day for actual sessions of the board, which compensation shall not exceed in the aggregate \$250.00 per year.

Section 3194, Revised Codes of Montana of 1907, under the title of "Salaries and fees of officers," provides that members of the board of county commissioners shall receive fifteen cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence.

Section 2893, Revised Codes of Montana of 1907, is in conflict with the section last above mentioned, and provides that each member of the board of county commissioners is entitled to ten cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence, this section being under the title of "Organization and term of board."

Section 3556, Revised Codes, provides:

"If the provisions of any chapter conflict with or contravene the provisions of another chapter of the same title, the provisions of each chapter must prevail as to all matters and questions arising out of the subject matter of such chapter."

Section 3194, Revised Codes, being under the title of "Salaries and

Fees" would prevail under the construction of Section 3556.

We are, therefore, of the opinion that each member of the board of county commissioners of Lincoln county is entitled to receive, in addition to the compensation provided for in Section 11, of Chapter 133, Session Laws of 1909, fifteen cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence.

Should any member of the board be directed to inspect the condition of any highway or bridge in the county and the work thereon, under the provisions of Sections 1387 and 1388, Revised Codes of Montana, such member of said board would be entitled to receive for making such inspection the sum of \$5.00 per day, which sum would be in full payment for mileage, expenses and per diem for such services.

The mileage and fees for inspection of highways provided for in the codes are, in our opinion, not included in the compensation provided by Section 11, of Chapter 133, of the Eleventh Session Laws of Montana.

Yours very truly.

ALBERT J. GALEN,

Attorney General.