

Sheriff—Fees—Board of Prisoners—Profit Therefrom.

A sheriff is entitled to the fees authorized by House Bill No. 332, but he cannot make any profit therefrom.

May 2nd, 1919.

Mr. C. R. Stranahan,
County Attorney,
Havre, Montana.

Dear Sir:

I am in receipt of your letter of recent date asking whether or not, under House Bill No. 332, being Chapter 81, Session Laws 1919, allowing the sheriff increased fees for boarding prisoners, the sheriff may make a profit out of the board of prisoners, and referring to Section 3161, Revised Codes, which makes it a crime for a sheriff to falsely represent to a board of county commissioners the actual expenses of boarding prisoners, or for furnishing food and supplies therefor.

There can be no question but what the sheriff is entitled to receive for boarding prisoners the fees specified in House Bill No. 332. 7 Opinions Attorney General 167-171. But these fees are not allowed him for the purpose of enabling him to make any profit whatever. In the case of Scharrenbroich vs. Lewis and Clark County, 33 Mont. 250, 83 Pac. 482, Mr. Justice Milburn used the following language:

“If the statute allows fifty cents per day for feeding a prisoner, there is no understanding that the sheriff may make any gain or profit for his private use out of the stipend. The direction of the legislature is to give that prisoner fifty cents worth of food every day, and not to feed him perhaps on bread and water at an expense of five cents, thus making fortyfive cents for the sheriff. The object is to put food into the stomach of the prisoner, and not money into the pocket of the sheriff.”

I am, therefore, of the opinion that while a sheriff is entitled to receive the fees for boarding prisoners specified in House Bill No. 332, he must expend the whole thereof for such purpose, and is prohibited from making any profit out of the same.

Respectfully,

S. C. FORD,

Attorney General.