

Opinion No. 155

**County Commissioners — Employment
—Public Policy—Relief.**

HELD: Chapter 44, Laws of 1933, does not authorize county commissioners to employ themselves in poor relief, but authorizes payment of necessary expenditure.

Public policy forbids commissioners employing themselves.

April 13, 1933.

You have submitted the following question: "May the county commissioners of a county legally perform services in the administration of relief under the Reconstruction Finance Corporation, or any other similar agency and receive compensation for it in excess of the budget allowance for county commissioners? May the county commissioners of a county legally perform services in the administration of such relief and pay themselves necessary travelling or other expenses actually incurred by them in the administration of such relief, although in excess of the budget appropriation for expenses of county commissioners?"

Chapter 44 Laws of 1933 gives the commissioners authority to employ the necessary help and to incur such expenses as are necessary in the administration of relief and to appropriate such funds as are necessary from the general fund notwithstanding the provisions of the budget act. This chapter does not expressly authorize the commissioners to employ themselves in administering relief. It has been held that county commissioners can not, as such, charge for services which although authorized by law are performed by them in another capacity. 15 C. J. 454, Note 20, citing *State v. Borstad*, 27 N. D. 533, 147 N. W. 380, Ann. Cas. 1916 B, 1014. In the latter case it was said on page 384 of the *Northwestern Reporter*: "Public policy condemns the employment by the board of their individual members as county agents or agents of the board, as to do so is to mingle private interests of the individual commissioner with the performance of his duties in office".

In this connection may I call your attention to Chapter 45, Laws of 1933, Section 1 of which reads: "The Governor of the State of Montana shall appoint a commission of five members, who shall serve without compensation for the term of two years. This commission shall be known as the 'Montana Relief Commission'. It shall appoint committees in such counties of

this state as shall ask and receive relief from the Reconstruction Finance Corporation, which county committees shall receive no compensation for their services". I do not know whether a committee has been appointed in your county but it occurs to me that such committee might be appointed under the provisions of this section to administer the relief funds advanced by the Reconstruction Finance Corporation.