

Opinion No. 33**County Commissioners—Per Diem—
Expenses—Lobbying.**

HELD: A member of the Board of County Commissioners has no right to attend the legislative session at Helena, at the expense of the county, including

per diem, to look after a bill in which the county is interested.

January 20, 1933.

You have asked for an opinion from this office as to the right of a member of the board of county commissioners to attend the legislative session at Helena, at the expense of the county, including per diem, to look after a bill before the assembly in which the county is interested, and bearing upon this question, we cite you the following statutes and decisions.

Section 1632, R. C. M., 1921, as amended by Chapter 176, Laws of 1929; Section 443 R. C. M., 1921, as amended by Chapter 48, Laws of 1927, and as further amended by Chapter 86, Laws of 1931; and Section 4607, R. C. M., 1921, set forth the rights of county commissioners to compensation for services. Under the construction of these statutes, we conclude that a member of the board of county commissioners is not entitled to any compensation for any services that he might assume to render to the county, except those set out in the provisions of the statutes cited, and, as you will note, taking any part in legislation and having the county bear the expense of the party who assumes to look after the interest of the county in the assembly in relation to any bill before the assembly affecting the county, is not one of the duties enumerated as the duty of any member of the board of county commissioners, nor is the expense connected with any such activity authorized to be paid out of county funds.

In the case of *State vs. Story*, 53 Mont. 573, 583, the court used this language: "It may be said that, as respects per diem, a commissioner may receive \$8 per day for each day's attendance upon sessions of the board and for each day given to inspection of contract roadwork under order of the board, but shall receive no other compensation. In every instance his claim must be verified as other claims."

The amendments to the Codes as set out above, have been made since the decision in *State vs. Story*, and change slightly the right of the members of the board to perform services at the expense of the county. This is true in regard to granting a member of the

board the right to attend certain meetings at the expense of the county, but there is nothing in the statute justifying a member of the board drawing expenses and per diem for rendering any such service as that to which you refer.