

Opinion No. 276.

**Board of Railroad Commissioners—
Montana Trade Commission—
Courts—Fees—State Officers—
Section 4893.**

HELD: The members of the Board of Railroad Commissioners ex-officio Montana Trade Commission in an action under the Unfair Trade Practices Act are public officers acting for the State of Montana and are exempt under Section 4893 from paying court fees, including fees of the clerk of the district court.

December 26, 1940.

Board of Railroad Commissioners
The Capitol

Gentlemen:

You have asked my opinion on the question whether the Board of Railroad Commissioners of the State of Montana ex-officio Montana Trade Commission, in a proceeding under the Unfair Practices Act, requiring and directing the defendant to cease and desist from selling or advertising for sale merchandise below cost, is required to pay court costs and fees of the clerk of the district court.

Section 4893, R. C. M., 1935, provides:

"No fees must be charged the state, or any county, or any subdivision thereof, or any public officer acting therefor, or in habeas corpus proceedings for official services rendered, and all such services must be performed without the payment of fees."

Since there can be no question but that the members of the Board of Railroad Commissioners ex-officio Montana Trade Commission in the proceedings in question are public officers acting for the State of Montana, this section would be applicable. It is therefore our opinion that the Board is not required to pay court costs or fees of the clerk of the district court.

See also our opinion to the Water Conservation Board, dated October 19, 1939, Volume 18, Opinions of the Attorney General, No. 155.