No. 298

COUNTY COMMISSIONERS—REGULAR DEPUTY SHERIFFS—SALARIES—INSPECTION AND MARKING OF HIDES OF THOROUGHBRED CATTLE—SHERIFFS NOT ENTITLED TO MILEAGE FOR INSPECTION

Held: 1. The salary of a regular deputy sheriff is fixed by law on an annual basis and therefore the increase could not be withdrawn sooner than the end of the year for which said regular deputy sheriff is employed.
2. A sheriff is not allowed mileage for making hide inspections.

November 18, 1941.

Board of County Commissioners
Deer Lodge County
Anaconda, Montana
Attention: Mr. A. T. Hempstead
Chairman

Gentlemen:

You have submitted the following:

"Under provisions of Section 4873 is it permissible to pay the deputy sheriff in the sixth class county a monthly salary between $1650 and 80% of the sheriff's salary? If the Board of County Commissioners should give an increase in a deputy sheriff's salary, can such increase be withdrawn at any future time if the Board deems it expedient?

"Under Chapter 78, 1941 Session Laws, is a sheriff or deputy sheriff entitled to a fee for each beef hide inspected of 25¢ and a fee of 10¢ for each veal hide inspected? Is this fee paid in addition to a sheriff's regular salary? Is a sheriff permitted mileage in making such inspections?"

I refer you to Attorney General's Official Opinion No. 144, Volume 19, which holds that:

"Section 4873 of the Revised Codes of Montana, 1935, prescribes the minimum compensation allowed to any deputy or assistant designated under the act, and Section 4874 prescribes the maximum compensation allowed when it is not otherwise definitely fixed by the provisions of Section 4873."

I also refer you to Attorney General's Official Opinion No. 146, Volume 19, which holds:

"In localities where there is no sheriff or deputy sheriff, and where there is need for the inspection herein required, a deputy sheriff shall be appointed, and shall be authorized by the board of county commissioners of the county to make such inspections, and he shall be paid from the appropriate county fund therefor, a fee of not to exceed twenty-five cents (25¢) for each beef hide inspected, and a fee of not to exceed ten cents (10¢) for each veal hide inspected. Except as in Section 2 provided, no fee shall be charged or paid for such inspection."

The aforesaid opinions answer the questions propounded here save and except possibly the question:

"If the board of county commissioners should give an increase in a deputy sheriff's salary, can such increase be withdrawn at any future time if the board deems it expedient?"

and the question,

"Is a sheriff permitted mileage in making such inspections?"

As to the former question, it is my opinion the salary of a regular deputy sheriff is fixed by law on an annual basis and, therefore, the increase could not be withdrawn sooner than the end of the year for which said regular deputy sheriff is employed.

At to the latter question, nowhere within the provisions of Chapter 78, Laws of 1941, or elsewhere, is there any mention of sheriff's mileage for making inspections, and I am, therefore, of the opinion mileage for such inspections cannot be paid.

Sincerely yours,

JOHN W. BONNER
Attorney General