

utory authority for the payment of such a claim.

The general rule in relation to the legality of claims is well settled in this jurisdiction. 15 Corpus Juris 562, states the rule as follows:

“One who asks payment of a claim against the county must show some statute authorizing it or that it arises from some contract express or implied which finds authority of law. In other words, no claims are chargeable on a county treasury nor can they be paid therefrom except such as the law imposes on the county or empowers it to contract for, either expressly or as a necessary incident, and no officer of the county can charge it with the payment of other claims, however meritorious the consideration, or whatever may be the benefit the county may derive from them.”

The Montana court in *Pacific Coal Co. v. Silver Bow County*, 79 Mont. 323, 256 Pac. 386, dealt with the county paying for coal used by the sheriff in cooking meals for the inmates of the jail and stated at page 326 as follows:

“What is not by law imposed as expenses upon a county is not a charge against it.”

Other cases substantiating the general rule as above cited are: *Board of Commissioners of Washita County v. Brett*, 124 Pac. 57, denying a telephone to a county attorney; *Clayton v. Barnes*, 16 Pac. (2nd) 1056; *State v. Major*, 97 Pac. 249; *Maricopa County v. Norris*, 66 Pac. (2nd) 258; *Beauchamp v. Pike County*, 158 S. W. 321, holding that a telephone in a county official's residence was not a legal charge on the county.

Opinion No. 28, Volume 19, Report and Official Opinions of the Attorney General, held that where a sheriff occupied living quarters in the county jail that the redecorating and renovating of the same was not a lawful charge against the county. Opinion No. 1, Volume 20, Report and Official Opinions of the Attorney General, unbound, sustained said Opinion No. 28.

Section 21, Chapter 227, Laws of 1943, states the compensation to be paid the probation officer, and from a reading of said section and the other sections of said Chapter 227, no au-

**Opinion No. 250.**

**Counties—Telephone Lines to County Officers' Residences—Probation Officers—County Commissioners.**

Held: A claim for the construction of a telephone line to the residence of a county official is not a proper claim against the county.

September 19, 1944.

Mr. H. R. Eickemeyer  
County Attorney  
Cascade County  
Great Falls, Montana

Dear Mr. Eickemeyer:

You have requested an opinion of this office asking if the costs of constructing a private telephone line to the residence of the probation officer of your county is a proper charge against the county of Cascade.

You state that the probation officer lived some five miles from the city and could not get a residence within the city at the time of taking the position of probation officer.

In making a search of our codes pertaining to the duties of the county commissioners and claims payable by the county, I am unable to find any stat-

thority can be found authorizing the county to pay for any service to such officers in the nature of the claim presented to your county. In this respect see Section 173, page 506, Volume 15 Corpus Juris as follows:

“A county board can allow compensation to county officers only when authority so to do is conferred clearly and unequivocally by statute, and then only in the manner and in direct accordance with the language used therein.”

It is the prospective officer's duty to be available to perform the services necessary to comply with the full requirements of the position and it is presumed that the authorities will hire a qualified man. To allow such a claim as is before your board would be to hold that the board may not only equip a man to fill a job but would lend authority for its educating or qualifying a man to hold such a position.

Therefore, it is my opinion that the claim presented to your commissioners for the construction of a telephone line to the residence of the probation officer of your county is not a proper or legal claim against the county.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General