

## Opinion No. 15-1527

May 14, 1915

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. R. A. Marble, County Surveyor, Estancia, New Mex.

**Payment of assistants to a county surveyor by county commissioners.**

### OPINION

{\*112} I have received your letter of yesterday asking my opinion in regard to the pay of assistants to the county surveyor, chainmen, axmen and flagmen, and also as to camp expenses. You say the Board of County Commissioners is in doubt as to how much per day you should allow them and whether they should allow you pay for a team and transportation on surveying trips.

The act of the legislature commonly known as the "Salary Bill," makes no distinct provision for these expenses. The only mention made of the county surveyor, except as to counties bordering on a foreign country, is that the county surveyor is to have not to exceed \$ 10 per day for each day actually employed under orders by the Board of County Commissioners, such employment not to exceed a specified number of days which vary with the different classes of counties. Section 6 of the act provides that no county officer shall receive to his own use or on account of any deputies or clerks appointed or employed by him or for or on account of expenses incurred by him, or by any such deputies or clerks, any salary, compensation, allowance fees or emoluments in any form whatsoever other than as by this act allowed.

Notwithstanding this sweeping provision which would literally prevent any payment on account of such expenses as you write about, yet I cannot believe that the act should be construed so that you would be compelled to pay out of the \$ 10 a day allowed all of such expenses. Any court would take judicial notice of the fact that \$ 10 a day when a surveyor goes into the field, is the usual compensation for his own services, and I do not see how he could possibly perform the work and pay for chainmen, axmen, flagmen, supplies for the camp and hire of a team for transportation and have anything left for his own services. If the act should be thus construed, the result probably would be that the county would not get its work done unless it hired surveyors specially. I think the county ought to pay such expenses, and as to how much should be allowed or paid in any particular case, would rest in the discretion of the county commissioners.