

Opinion No. 19-2376

October 2, 1919

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: Mr. A. G. Whittier, State Traveling Auditor, Capitol Building.

Feeding of Jail Prisoners.

OPINION

We have your letter of the 29th ultimo, enclosing a copy of Circular No. 43, and letter of John N. Hewett, Sheriff of Eddy County, in regard to the payment of sheriffs for feeding jail prisoners, and in reply would say that we approve of the contents of the circular as issued by you, but we are of the opinion that neither the sheriff nor the Board of County Commissioners would be authorized to enter into a contract with a third party to feed prisoners at a flat rate per day, in view of the wording of section 1, Chapter 125, Laws 1919, wherein it is provided that "in no event shall more than actual cost be paid." It is clear that it was the intention of the legislature that no charge should be made for feeding prisoners excepting the actual cost thereof, and in entering into a contract with a third person for such purpose, we can easily conceive that a greater charge than actual cost of so feeding them would be incurred.