

Opinion No. 31-184

June 5, 1931

BY: E. K. Neumann, Attorney General

TO: Mr. J. M. Lujan, State Comptroller, Santa Fe, New Mexico.

{*79} In your letter of June 4, 1931, you request an opinion from this office concerning certain sections of the 1929 Code, referred to in two letters from E. D. Reynolds, Public Accountant, now auditing Quay County.

In Mr. Reynolds' letter of June 2, 1931, he requests advice concerning section 33-3205 with respect to feeding jail prisoners and guards. He particularly desires advice with respect to the necessity of the sheriff furnishing itemized statements showing the actual cost of feeding prisoners and guards.

Among other things, section 33-3205 provides that "no account for the feeding of prisoners and guards shall be paid unless the same are **fully itemized** and verified by the sheriff."

Apparently the only question to determine is what the Legislature meant by saying that such accounts should be "Itemized."

Webster's New International Dictionary defines the word "item" as, "an article; a separate particular in an enumeration, account, or total; a detail; as, the items in a bill"; and also defines the word "itemized" as follows: "to state in items, or by particulars; to set down as an item or by items; as to itemize the cost of a railroad." In addition to the above definition the word "itemized" is defined in 2 Words & Phrases "Second Series" 1223, as follows:

"To itemize an account, within Civ. Code 1902, Sec. 806, requiring itemization of all claims against counties, means merely to state in detail the particulars of the claim **so that the account may be examined and its correctness tested.** State ex rel. People's Bank of Greenville v. Goodwin, 62 S. E. 1100, 1105, 81 S. C. 419."

In 4 Words and Phrases "Third Series" 572, it is said with respect to the word "itemized":

"Under Laws 1909, P. 14, Sec. 12, providing that live stock commissioners shall be paid on itemized vouchers approved by the Governor, the vouchers should set out in detail the services, and a mere statement of the number of days a commissioner was engaged is not sufficient; the term 'itemized' meaning set down by items. People v. Lowden, 121 N. E. 188, Ill. 618."

Therefore, in my opinion, Section 33-3205 requires, before any accounts for feeding prisoners and guards shall be paid, that the sheriff must set down the particular items of expense which comprise the actual cost of feeding prisoners and guards. In other words, he should set down the amounts expended for groceries, fuel, cook hire and other expenses incurred in feeding prisoners {*80} and guards in detail, so that "the account may be examined and its correctness tested."

I do not see why this should present any great practical difficulty. It should not be hard to determine the total amount of such expense, which total should not be greater than the sum arrived at by multiplying 75c by the number of prisoners and guards fed, and the number of days so fed. It might require a little extra bookkeeping on the part of the sheriff, but regardless of the amount of bookkeeping necessary, it is my opinion that the law should be complied with. It was evidently the intention of the Legislature, that jail prisoners and guards should receive the full benefit of all moneys allowed for their subsistence, and in order to insure this result, the Legislature took particular pains to require that accounts for such subsistence should be itemized and verified by the sheriff before they were paid.

The law is plain and unambiguous, and there is really very little need for construction and as far as I can see, there should be no great difficulty in its practical application.

In respect to Mr. Reynolds' letter of June 3rd, it is my opinion that Section 33-3205 supercedes section 33-4426, and it has been so held in previous opinions by this office.

By Quincy D. Adams,

Asst. Attorney General