

**OPINION**  
**58-55**

September 16, 1958            (OPINION)

COUNTIES

RE:    General Provisions - Salaries of County Officers - County  
         Commissioners

This is in reply to your request for an opinion of this office in regard to per diem pay of county commissioners.

You inform us that the Board of County Commissioners met from ten a.m. to five p.m. but that one of the commissioners went home at noon and did no other county business the rest of the day. Apparently comment has been made to the effect that this commissioner should not have received the full ten dollars per diem payment but should have received only five dollars for that day.

You call our attention to section 11-1010 of the 1957 Supplement to the North Dakota Revised Code of 1943, providing for the allowance of the sum of ten dollars per day to a county commissioner while performing his duties in attending meetings of the board of county commissioners of which he is a member. You also call our attention to the statement at 43 Am. Jur. 148, Public Officers section 358 that: "A 'day' means a calendar day in all cases where the statute merely provides for an officer's compensation at a certain or reasonable sum per day. No length of time of occupation on a day is necessary to entitle an officer to his per diem, for in fixing salaries and fees for the performance of public services at so much per day, the law does not consider fractions of a day." You also cite the case of State v. Richardson, 16 N.D. 1, 109 N.W. 1026, on the point.

We find no authority for the contrary proposition, i.e. that where one commissioner attends only one-half of the regularly scheduled meeting of the board of county commissioners, that he is entitled to only half of the statutorily prescribed per diem.

It is therefore our opinion that your county was correct in paying this commissioner the full ten dollars per diem.

LESLIE R. BURGUM

Attorney General