for which he is entitled to compensation under the provisions of subdivision (c)."

Your letter cited the case of *Stetler, et al. v. McFarlane.*[3] However, it is my opinion that the statute construed therein is readily distinguishable from the one in Michigan. The New York court quoted the statute, in part, on p. 594 of its opinion as follows:

> " 'Each supervisor * * * may also receive compensation from the county at the rate of four dollars per day while actually engaged in any investigation or other duty, which may be lawfully committed to him by the board, except for services rendered when the board is in session.' "

Since that statute specifically authorized a per diem for investigation or other duties committed to a supervisor by the board, the *Stetler* case is not applicable to the Michigan statute which does not contain such language for any board or committee member except the chairman of the board of supervisors.

It is my opinion that the chairman of the finance committee of the county board of supervisors cannot be compensated on a per diem basis under section 30(1)(c), as amended, for committee work performed outside of committee meetings.

FRANK J. KELLEY,
Attorney General.

64-0120.1

CONSTITUTIONAL LAW:

1. **Right to Appeal – A statute which provides for the appeal of a misdemeanor to the Supreme Court as appellate court, rather than the circuit court for the county in which the offense was committed, constitutes "an appeal as a matter of right," as required by Article I, Sec. 20, Constitution of 1963.**
2. **Different method of appeal from Recorder's Court for the City of Detroit – The statute providing for appeals in misdemeanor cases originally tried in the Recorder's Court for the City of Detroit, is not rendered unconstitutional because it varies from the method of appeal provided for like offenses in other parts of the state.**

No. 4229 January 20, 1964.

Hon. William D. Ford
The Senate
Lansing, Michigan

You have requested the opinion of this office as to the constitutionality of the proposed bill to amend Section 24 of Act 326, Local Acts of 1883,[1] entitled "An act to provide a charter for the city of Detroit, and to repeal all acts and parts of acts in conflict therewith." I express no opinion as to the wisdom of the proposal. The proposed bill to amend reads as follows:

[3] 130 N.E. 591, 230 N.Y. 390 (1921).

[1] C.L. 1948 § 726.24; M.S.A. 1962 Rev. Vol. § 27.3574.

"All ~~the~~ proceedings of ~~said~~ THE recorder's court at any time before or after final judgment or sentence~~,~~ may be ~~removed to the supreme court by writ of error or other process~~ REVIEWED, in the same manner that like ~~proceedings may, by law, be removed to the supreme court from the circuit courts of the state, and the supreme court shall~~ CIRCUIT COURTS PROCEEDINGS MAY BE REVIEWED, AND THE COURT TO WHICH REVIEW IS TAKEN SHOULD proceed to ~~adjudicate thereon~~ AN ADJUDICATION in the same manner as on proceedings ~~removed~~ from ~~said~~ THE circuit courts."

Specifically your questions are:

"1. Would a statute such as JCB-4B, which provides for the appeal of a misdemeanor to the Supreme Court or appellate court rather than the local circuit court as in cases of conviction before justice and municipal courts for the same offenses, constitute 'an appeal as a matter of right' as in sec. 20, Art. I, in the Constitution of 1963?

"2. Would this procedure for the handling of misdemeanor appeals, considering the added expense [and] inconvenience to the party, accessibility of witnesses, availability of a complete rehearing, second opportunity for a jury trial, limitations of record, etc., be constitutional; or is it a violation of the 'due process of law' and 'equal protection of the law guarantees' of the Michigan and Federal Constitutions?"

Your question was answered quite conclusively, we think, by the case of *Missouri v. Lewis,* 101 U.S. 22, which involved a similar problem. The court there said:

"It is the right of every State to establish such courts as it sees fit, and to prescribe their several jurisdiction as to territorial extent, subject matter, and amount, and the finality and effect of their decisions, provided it does not encroach upon the proper jurisdiction of the United States, and does not abridge the privileges and immunities of citizens of the United States, and does not deprive any person of his rights without due process of law, nor deny to any person the equal protection of the laws, including the equal right to resort to the appropriate courts for redress. The last restriction, as to the equal protection of the laws, is not violated by any diversity in the jurisdiction of the several courts as to subject-matter, amount, or finality of decision, if all persons within the territorial limits of their respective jurisdiction have an equal right, in like cases and under like circumstances, to resort to them for redress. Each State has the right to make political subdivisions of its territory for municipal purposes, and to regulate their local government. As respects the administration of justice, it may establish one system of courts for cities and another for rural districts, one system for one portion of its territory and another system for another portion. Convenience, if not necessity, often requires this to be done, and it would seriously interfere with the power of a State to regulate its internal affairs to deny to it this right. We think

it is not denied or taken away by anything in the Constitution of the United States, including the amendments thereto."

It would seem that the statute would not violate either the equal protection or the due process clauses of the Constitution of the United States or of the State of Michigan. It would further seem that the requirements of the Michigan Constitution of 1963 as contained in Article I, § 20, would be satisfied by the proposed bill.

FRANK J. KELLEY,
Attorney General.

640205.1

SCHOOLS: Districts — Annexation and Consolidation.

Act 269, P.A. 1955, as amended, authorizes the consolidation and annexation of noncontiguous school districts upon approval of the superintendent of public instruction and the electors as provided by law.

No. 4193 February 5, 1964.

Hon. David F. Upton
State Representative
Capitol
Lansing, Michigan

You have requested my opinion on the following question:

May a school district consolidate with or become annexed to another school district, which is not contiguous to it?

Act 269, P.A. 1955, as amended, being C.L.S. 1961 § 340.1 et seq.; M.S.A. 1959 Rev. Vol. § 15.3001 et seq., is known as the School Code of 1955.

Chapter 3, Part 2 of the School Code of 1955, as amended by Act 248, P.A. 1963, provides for the consolidation of school districts.

Sec. 401 thereof states in part:

"Any 2 or more school districts, except districts of the first and second class, in which the total number of children between the ages of 5 and 20 years, is 75 or more, may consolidate to form a single school district as hereinafter provided."

The legislature has made provision for the annexation of one school district to another in Chapter 4, Part 2 of the School Code of 1955.

In Sec. 431 of the Chapter, as last amended by Act 97, P.A. 1962, the legislature has specified that "any school district shall become annexed to another school district whenever the board of the annexing district shall have by resolution so determined and a majority of the qualified school electors of the district becoming annexed, voting on the question at an annual or special election shall have approved such annexation."

Before the electors of any school district desiring to become consolidated can vote upon consolidation, the proposed consolidation must be approved