

## Opinion No. 12-888

April 28, 1912

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

**TO:** Hon. Gregory Page, State Senator, Santa Fe, N. M.

### **REPAYMENT OF MONEYS TO COUNTIES.**

Moneys can be paid to counties from proceeds of bonds of Series "A" by Section 3, Article IX, of the Constitution.

### **OPINION**

{\*31} I was able finally this morning to reach the consideration of the matter of the repayment to various counties of the amounts of money specified in Chapter 92 of the Laws of 1907, on account of overpayment {\*32} under the provisions of Chapter 89 of the Laws of 1903, by which act a system was put in operation by which each county was required to pay a specified amount to the Territorial Treasury. It appears from the Act of 1907 that twelve counties paid in more than their proportionate share, and that act recognized the liability of the Territory to make re-payments. It now appears to me that there is room to contend that these amounts specified in the Act of 1907 constitute a part of the liabilities of the Territory which the State assumes under Section 1 of Article IX of the Constitution. The act of the Legislative Assembly of 1907 appears to be a distinct recognition of the liability of the Territory to the several counties specified in the act, and if this view is correct these amounts can be paid to the counties from the proceeds of bonds of Series A authorized by Section 3 of the same article of the Constitution.

Therefore, I advise that no legislation is necessary on this subject, but that these payments are provided for already. There may be some consideration, which now escapes my attention, to indicate that this view is not entirely sound, but at present I feel reasonably certain that I am correct.