

Opinion No. 12-911

June 21, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Hon. Antonio Lucero, Secretary of State, Santa Fe, N. M.

FEES OF SECRETARY OF STATE.

Compensation for copying, etc., should be collected.

OPINION

{*49} I have before me your letter of the 19th instant, which I have not been able sooner to answer, in which you ask in substance whether you can properly use money collected in your office as fees for making certified copies of laws and other work, to pay expenses incurred on account of employment of additional help necessary to do such work, or to pay for other additional help and printing.

I am unable to find in the statutes anything on the subject of fees payable to the Secretary of State, except the provisions in the corporation law of 1905 as to fees payable on filing certificates of incorporation and other corporation papers, and the furnishing of copies of such papers, as set out in Sections 119 and 120 of Chapter 79 of the laws of that year; but these matters have all been transferred to the Corporation Commission. There is one other statute, to be found in Section 3192 of the Compiled Laws of 1897, as to the recording of bonds.

It would seem that in the absence of any statute on the subject, the Secretary can properly charge a reasonable compensation for furnishing certified copies of laws, and I can see no objection to his using the money thus received for the necessary expenses of his office. He cannot be expected to do such work without making some charge when he has no fund from which to pay for the extra work required, and the two constitutional provisions applicable, when considered together, do not forbid such charge. In Section 12 of Article V of the Constitution which fixes the annual compensation of the Secretary and other officers, it is provided that such compensation shall be full payment for all services rendered by said officers, and that they shall receive no other fees or compensation whatsoever; and Section 9 of Article XX provides that no officer of the state who receives a salary shall receive to his own use any fees or emoluments for or on account of his office, except the salary provided by law. The effect of these provisions merely is to prevent you from receiving any such fees to your own use, but there is no requirement that anything paid to you for extra work shall be paid into the state treasury, and as already stated, I see no objection to your using that money to pay the additional expenses necessarily incurred.

I recommend, however, that you keep an exact account of all such moneys received, and all their disbursements, and for what purposes they are used, and that in your annual report you make a statement of all such receipts and expenditures.