

Opinion No. 14-1218

May 5, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Honorable James A. French, State Engineer, Santa Fe, New Mexico.

ROADS.

Funds may be drawn from state treasury by state engineer for paving street on south side of old palace building in Santa Fe.

OPINION

{*78} I have received your letter of even date herewith, calling attention to Chapter 23 of the Laws of 1913, and especially to Section 2 of that act. By the first section an appropriation of \$ 13,000.00 is made "for the paving of the streets on the east, south and west sides of the Capitol grounds and the street on the south side of the Old Palace Building." Section 2 reads as follows:

"Sec. 2. No part of the sum hereby appropriated shall be expended until the private owners of property abutting upon the streets for the paving of which provision is herein made, shall have contributed in cash and deposited to the credit of the State Engineer one-half of the cost of paving any such street in the manner hereinafter specified, as such cost is estimated by the State Engineer."

You say that the question has arisen whether it would be possible, under this statute, for the State Engineer to draw from the Treasurer of the State sufficient funds to pave the street on the south side of the Old Palace Building without entering upon the paving of the east, south and west sides of the Capitol grounds.

My opinion is, notwithstanding the unfortunate wording of Section 2 of the act, to the effect that "no part of the sum hereby appropriated shall be expended until, etc.," that the money necessary for paving the street on the south side of the Old Palace Building can be expended without waiting for the contribution by private owners of property abutting upon the other streets, as that requirement applies only to private owners and can have no application to the Old Palace Building, which is the property of the state, nor to the Plaza Park, which is either the property of the state or of the city, neither of which can be considered as a private owner. The requirement is that the contribution of one-half of the cost shall be for "paving any such street," showing an intention, on the part of the legislature, to divide the work into four different street sections.