

Opinion No. [30-15]

June 3, 1930

BY: M. A. OTERO, JR., Attorney General

TO: Mr. W. C. Holland, Deputy County Treasurer, Chaves County, Roswell, New Mexico.

COUNTY OFFICERS -- May receive compensation for work not connected with office.

OPINION

I have your favor of the 29th ult. asking for an opinion on the question as to whether or not, under provisions of section 33-3206, Codification of 1929, a county official is prohibited from accepting payment for work done for the county, or a political subdivision thereof, which said work is in no way a part of the official duties of such county officer.

The statute which you have cited provides that:

"No compensation except as provided in this act. No county officer shall accept or receive to his own use, or for or on account of any deputy or deputies, clerk or clerks appointed by him or employed in his office, or for or on account of expenses incurred by him or by any such deputy or deputies, clerk or clerks, or for or on account of his office, any salary, compensation, allowance, fees or emoluments in any form whatsoever, other than as by this act allowed."

The purpose of the foregoing act was to do away with the old fee system which obtained here in New Mexico during territorial days. The idea was that a certain definite salary was provided for each and every county officer, for performing the official duties of the said office, and that they were not to receive anything extra, either in the way of fees or from any other source, for performing the official duties connected with their said offices.

I do not believe that the law contemplated that a county official could not receive any pay, either from the county or from any other source, for extra work performed by him which is in no way connected with his official duties as such county officer and which said work does not interfere with the performance of the regular duties of said office.

Wherefore, I should say that the case cited by you in your letter is one which comes under the foregoing and consequently I believe that the said county official would not be violating the provisions of the statute quoted above if he were to accept pay for his services.