

Opinion No. [30-16]

March 31, 1930

TO: Office of the Attorney General of New Mexico

COUNTY OFFICERS -- Sheriff's expenses in serving requisition to be paid by the State in felony cases.

OPINION

Reference is made to yours of even date with which you submitted for an opinion of this office the question of the expense account rendered by Jack Seay, agent, such expense being incurred in serving requisition upon the Governor of Texas, the arrest of E. P. Jackson, and the return of the prisoner to the sheriff of Lea County, New Mexico. You direct our attention to section 56-124 of the 1929 Codification.

That section provides that "when the punishment of the crime shall be the confinement of the criminal in the penitentiary" the expenses shall be paid out of the State Treasury, etc. We are of the opinion that the intent of the legislature in the use of this language was to provide for the payment of the expenses of extradition out of the State Treasury when the crime for which the prisoner is extradited is a felony, otherwise out of the county treasuries.

In the case of E. P. Jackson he stands charged with a violation of section 35-2102, in that he did unlawfully and feloniously remove from the State of New Mexico personal property held under contract, without the consent of the owner and which is a felony under the statute.

In view of the statutes quoted, we are of the opinion that the bill of Jack Seay was properly rendered to the State of New Mexico rather than to Lea County.