

Opinion No. 33-554

January 23, 1933

BY: FRANK H. PATTON, Asst. Attorney General

TO: Hon. Joseph W. Hodges, District Attorney, Silver City, New Mexico.

{*25} Your letter of January 21, 1933, in which you submit three questions propounded by W. H. Bard, County Surveyor, has been received.

These questions are as follows:

"In a county where there is a designated office in the courthouse for the County Surveyor and which was so occupied by his predecessor, which contains built in vault, files and etc., for the proper keeping of the county survey records, is it competent for the commissioners to allow an employee to retain the office forcing the County Surveyor to find quarters where he may?"

"Where the District Attorney finds it necessary to have some maps or sketches made for an official purpose is it competent for him to employ the County Road Superintendent or anyone else other than the County Surveyor to do such work?"

"Is it competent for the Board of County Commissioners to refuse to furnish the County Surveyor's office with a telephone, stationery and etc?"

In our opinion, the answer to all of these questions should be in the affirmative, for the reasons hereinafter set out.

Referring to question number 1, we find that Section 33-4905 of the 1929 Code provides that the County Surveyor shall keep his office at the County Seat, but we are unable to find any provision which requires that the said official shall be entitled to quarters to be furnished him by the Board of County Commissioners. The fact that such Board has heretofore furnished such official with office space is of no consequence and we believe it to be within the power of such Board to furnish such quarters if same are available or to not do so, in the exercise of its discretion. We believe the Board cannot be compelled to provide offices for the County Surveyor.

The answer to the second question shall be qualified to the extent that any **county surveying** and **engineering** on roads and bridges should be done by the County Surveyor. Nothing is to prevent the District Attorney, in the exercise of his duties, in preparing maps or sketches of a criminal character and for use in court procedure, or as evidence in courts, from obtaining such data in the way he chooses and in such matters he is not limited to the services of the County Surveyor.

Responding to question number 3, we are not able to see where any duty falls upon the Board of County Commissioners to provide the County Surveyor with telephone, or stationery.

However, telephone calls necessary in the duties of such office should be itemized and allowed by the Board. {26} The same, of course, is true regarding stationery.

We trust the foregoing sufficiently answers your inquiries.