

Opinion No. 33-642

September 1, 1933

BY: E. K. NEUMANN, Attorney General

TO: Mr. E. L. Holt, President, State Bar Commission, Las Cruces, New Mexico.

{*75} In your letter of August 30, 1933, you ask this office for an opinion upon the following:

"Can the Board of Bar Commissioners pay a salary to the Clerk of the Supreme Court for his services as Secretary-Treasurer of the Board?"

The thing which prompts this question is a provision in the General Appropriation Act for 1933, as follows:

"(2) For salary of Clerk 3,780.00 Provided, that the Clerk of the Supreme Court is hereby designated as Secretary-Treasurer of the Board of Commissioners of the State Bar."

Disregarding the question of whether or not such a designation should properly be included in an appropriation act, it appears to me that it does not limit the right of the clerk to receive compensation as secretary of the Board of Bar Commissioners. The above quoted provision of the general appropriation act does not, in my opinion, impose upon the clerk additional duties **germane** to his office. It merely makes him ex-officio Secretary-Treasurer of the Board of Bar Commissioners.

"When an officer is required by law to perform the duties of another position not incompatible with the first he is entitled to the compensation attached to each, in the absence of any law to the contrary." State v. Hackman, (Mo.) 254 S.W. 53. See also 46 C.J. 1017.

It is, therefore, my opinion that your question should be answered in the affirmative.

By: QUINCY D. ADAMS,

Asst. Attorney General