

Opinion No. 49-5206

April 1, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Paul Tackett District Attorney Second Judicial District Albuquerque, New Mexico

{*31} This is in response to your request for an opinion of this office upon the following question: Whether or not a county may use the proceeds derived from the sale of its bonds to pay attorneys employed by it for work done in connection with the bonds.

Section 9 of Article 9 of the New Mexico Constitution provides that any money borrowed by any county shall be applied for the purpose for which it was obtained and for no other purpose whatsoever. While at first glance this section might seem to prohibit the payment of attorneys fees, we feel that it does not prohibit the payment of incidental expenses, such as the fees of architects and attorneys. If there was no power to pay attorneys out of the proceeds derived from the bonds, practical problems might arise since in many instances a particular public corporation would not have available funds with which to pay the attorneys. The power to pay attorneys fees is then an implied power which is to be inferred from the general scope of the actual power to issue bonds. See *Village of Ft. Edward vs. Fish*, 156 N.Y. 363.

It is therefore the opinion of this office that a county may use the proceeds derived from the sale of its bonds to pay attorneys employed by the county for work done in connection with such bonds.