

Opinion No. 69-46

May 16, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Ray Shollenbarger,
Assistant Attorney General

TO: Jean B. Cates, Quay County Clerk, Quay County Court House, P.O. Box 1334,
Tucumcari, New Mexico

QUESTIONS

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Who owns the furniture and equipment used by the District Court.

CONCLUSION

See analysis.

OPINION

{*69} ANALYSIS

Section 16-3-32, N.M.S.A., 1953 Compilation provides:

"It shall be the duty of the sheriff of each county to provide for the district courts held within the county of which he is sheriff, **necessary furniture**, fuel, lights, stationery **and other articles required for the proper performance of the business of the court**. In counties where proper rooms are not otherwise provided the sheriff shall procure such rooms as are necessary for the use of the court, when open in term time and at chambers, and for the jury and petit {*70} jury. When juries are kept together during a trial, the sheriff shall provide suitable meals and accommodations for them." (Emphasis added).

Under this section it would seem that the sheriff is the owner of the furniture and equipment. However, as early as 1937 this office pointed out that although he statute charges the Sheriff with supplying certain items to the Court there is actually no budgetary provision for such expenses and that as a practical matter these items are provided for in the budget of the Court Fund. (Report of the Attorney General 1937 page 163). Thus if money in the Court Fund was used to purchase these items it is our opinion that they belong to the District Court. Since Section 16-3-22, N.M.S.A., 1953 Compilation provides that disbursements are to be made by the county treasurer only for expenses of the District Court in his county it is our opinion that although the items belong to the District Court they are to be used only in the county paying for them.

It should be noted that after July 1, 1969 there will be a change in the law in this area because the legislature in 1968 repealed Section 16-3-32 and 16-3-22, supra, effective July 1, 1969.

Section 16-3-11, N.M.S.A., 1953 Compilation (1968 Supp.) which will become effective July 1, 1969 provides:

"Operation -- Location of court -- Facilities. -- In each county, the district court shall be held at the county seat. Each board of county commissioners shall provide adequate quarters for the operation of the district court, and provide necessary utilities and maintenance service for the operation and upkeep of district court facilities. **From the funds of each judicial district, furniture, equipment, books and supplies shall be provided for the operation of each district court within the judicial district.**" (Emphasis added).

This Section makes it clear that the funds of the Court are to be used in purchasing furniture and equipment and does not limit use of these items to use in any one county. Rather, the furniture and equipment are to be used anywhere within the Judicial District where needed for the operation of the District Court. Thus under new Section 16-3-11, supra, the ownership and control of the furniture and equipment purchased will be in the District Court.