

Opinion No. 12-915

June 28, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Hon. W. G. Sargent, State Auditor, Santa Fe, N. M.

SALARIES OF DISTRICT ATTORNEYS.

There being no salaries provided for district attorneys, the appropriation for such salaries in 1909 is no longer available.

OPINION

{*52} I have before me your letter of the 26th instant in which you ask whether the appropriation for district attorneys made in 1909 is still available, and also whether the salary of five hundred dollars for each district attorney provided by Section 5 of Chapter 22 of the Laws of 1909 is still payable.

This matter has been passed upon by the Supreme Court of the State in the recent case of State ex rel. Ward v. Romero. In that case, which was one brought by a district attorney to obtain payment of fees under the former statutes, the court held that the Constitution does not intend that the old fee and salary law should remain in effect, or that a part of it should be effective, "and that no salary is provided by law for the district attorney." The court refers distinctly to the salary of five hundred dollars about which you ask, but says that the convention could not have intended that this salary should remain, which would not even compensate a district attorney for his traveling expenses.

There being no salary provided for district attorneys, of course the appropriation for such salaries made in 1909 is no longer available.