

## Opinion No. 13-1006

April 5, 1913

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Honorable Manuel U. Vigil, District Attorney, Albuquerque, N. M.

### **ASSESSORS AND TREASURERS.**

All taxes collected must be turned over to county treasury without any deduction on account of commission.

### **OPINION**

{\*170} I have your letter of the 3rd inst. in which you say that Mr. A. B. Stroup, as attorney for the City School Board, claims that Chapter 114 of the Laws of 1909 still entitles the general school fund to receive the excess of the compensation of the County Treasurer and County Assessor as fixed by that act, and you ask my opinion as to this contention.

That chapter of the laws of 1909 provides as compensation for {\*171} the services of treasurers and assessors, a commission of four per cent upon moneys collected. Under the opinion of the Supreme Court of the State, in the case of State, ex rel, Delgado vs. Romero, 124 Pac. 649, it is true that it is declared that it is the duty of the county officers to collect fees under the law previously in force fixing such fees and to pay them into the county treasury, but this cannot be considered applicable to the four per cent commission of treasurers and assessors. Such fees as are mentioned in the opinion of the Supreme Court in that case must be such as those of the county clerk which are fixed by law and which he collects from individuals and litigants for different services performed, but they are in no way like the four per cent commission of treasurers and assessors, which are taken out of the public money as it is collected. The treasurers and assessors can no longer receive the four per cent commission, and it would be somewhat absurd to say that they should take that money and then hand it over to the county treasurer. The taxes collected must go to the county treasury without any deduction on account of commission, and this being so there is no opportunity for the accumulation of any excess over the limit of compensation formerly allowed to the treasurer and assessor, as that limitation no longer exists and as there is no existing provision for any commission or compensation to those officers.