

Opinion No. 13-1140

December 9, 1913

BY: H. S. CLANCY, Assistant Attorney General

TO: Honorable Howell Earnest, Traveling Auditor and Bank Examiner, Santa Fe, New Mexico.

DELINQUENT TAXES AND FINES.

Disposition of delinquent taxes collected. All fines collected go to state treasury.

OPINION

{*321} I am in receipt of your letter of the 8th inst. asking for the opinion of this office as to the disposition of penalties collected upon delinquent taxes under the provisions of Section 10, Chapter 22 of the Laws of 1899.

That section provides that, where taxes have become delinquent, one per cent penalty shall be added to them, and that unless said taxes and penalty be paid before the first day of the following month, an additional penalty of four per cent will then be added, and that such penalty "shall have the full force and effect of the original tax, and become part of the same." The language above quoted is perfectly plain and there can be no question as to where the penalty collected should go. It unquestionably is added to the tax, becoming part of the same, and is distributed to the various funds of the county, as other receipts are distributed. There does not appear to have been any other legislation in regard to penalties, until the enactment of Chapter 84, Laws of 1913, where, in Section 35, practically the same language is used as in the act of 1899.

You also ask for the opinion of this office as to the disposition of all fines collected under the general laws of the state, and whether Section 4 of Article XII of the Constitution applies to fines collected under judgments rendered by justices of the peace. There can be no question that fines collected under judgments of justices of the peace follow the same route as fines imposed and collected in a district court. All fines imposed by justices of the peace are imposed under general laws of the state and should, through the proper channels of collection, come to the State Treasury. I am unaware of any fines which can be imposed except under "general laws" of the state, with the possible exception of fines imposed for the violation of a city ordinance.