

Opinion No. 14-1165

March 9, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. A. A. Temke, Village Clerk, Deming, New Mexico.

TAXES.

As to payment to assessors and collectors for extending village taxes on the county rolls and collecting them.

OPINION

{*22} Your letter of the 4th inst. has not been sooner answered on account of my absence from Santa Fe, having returned here from El Paso day before yesterday, Saturday.

You state that under the provisions of Sections 2437 to 2442 of the Compiled Laws of 1897, the assessor and collector of Luna County have been assessing and collecting the village taxes of the village of Deming and that you have been paying them each four per cent of the amount collected as "a reasonable and just compensation for the extra labor;" and that the question has arisen if, under the provisions of the State Constitution, you can still be required to pay this fee.

It is quite clear to me that, under Section 1 of Article X of the Constitution, as construed by the Supreme Court of the state, all county officers have no right, on account of official services, to receive to their own use any fees or emoluments other than an annual salary. When annual salaries are provided by law for the assessor and collector, such salaries shall cover all compensation to be paid to them and, unless the legislature shall provide that incorporated places should pay any part of the salary, nothing could be charged to such municipalities for the labor of extending their taxes on the county tax roll and collecting them. There is some room to contend that, under Section 2442 of the Compiled Laws, which has not been disturbed by subsequent legislation, a village ought to pay to the county something on account of extra work performed by county officers, but this is not altogether clear to my mind and it seems to me advisable that you should get the matter before the District Court and have it adjudicated before paying any more money on this account. Any compensation for the extra labor certainly ought not to be paid to the assessor and collector for their own use.