

## Opinion No. 14-1151

January 16, 1914

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

**TO:** Honorable George E. Remley, Cimarron, New Mexico.

### **NON-DIVERSION OF FUNDS.**

County commissioners no authority to divert money from one fund to another.

### **OPINION**

{\*2} Yesterday I received your letter of the 9th inst. and take the first moment I have had to answer. As far as I can recall, I have not rendered any opinion upon the matters about which you write. In a general way I believe that I have said more than once that the county commissioners have no authority to divert money arising from taxation from the specified purpose, for which it has been collected, to some other purpose, and your letter shows that you entertain the same opinion.

As to the steel cots which are hinged to the walls of the jail, it might be contended that such things are new and independent additions {\*3} and not in the nature of repairs, but I would be inclined to hold that it would not be unreasonable to say that provision for sleeping accommodations, although different in character from those previously provided, could be properly paid for from the Court House Repair Fund.

I do not see, however, how the salary of the jailor or the cost of a typewriter could be properly charged to such a fund. The fact that the jailor devotes a part of his time to the making of repairs would not seem to be sufficient. He might properly be paid for so much labor as he gives to making repairs from the repair fund, and the remainder of necessary compensation for his time from the county fund. This would afford a little relief to the general fund if any way can be found of properly apportioning his compensation to the two different funds.

I think we ought to have some legislation on this subject, and I am inclined to believe that it might be well to authorize the levy of a general county tax which should be made to cover all general county purposes, including as a part thereof court house repairs, compensation of jailors, feeding of prisoners and anything for a general county purpose, permitting the county commissioners to use such general fund for any of these subordinate purposes as might be necessary from time to time. This would do away with the hampering restrictions which we now have and the legislature could fix a higher limit than five mills for such a general tax.