

Opinion No. 14-1194

April 17, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Albert H. Harvey, County Clerk, Carrizozo, New Mexico.

COUNTY OFFICERS.

Fees of county clerk for recording bond, oath and commission of notary public.

OPINION

{*52} I have just received your letter of the 15th inst., in which you ask me to advise you what are the correct fees required by law for the recording of bond and oath and commission of notaries public by the county recorder.

Section 4 of Chapter 55 of the Laws of 1909 provides that the {*53} commission of a notary public shall be recorded on payment to the clerk of \$ 1.00 for recording the same. Section 6 of the same act provides that the bond must be recorded in the office of the county recorder, but I do not find any distinct requirement that the oath should be recorded, although it may be implied that it should be recorded because by Section 16, when a notary changes his residence from one county to another, he must cause his bond, commission and oath of office to be filed in the office of the county recorder and that the recorder shall receive for recording the same the fees therein before provided for the original record of such papers. There is no statement in the act of any fee to be paid for recording the bond and oath and some argument might be made that the legislature intended that the \$ 1.00 specified in Section 4 is to cover all recording services for notaries. I am of opinion that this is not a proper construction of the act and that if any general statutory provision can be found authorizing or requiring payment for such recording, the recording of the oath and bond would be governed by such provision. The only provision which I have found which could properly be held applicable is in Section 1768 of the Compiled Laws of 1897, which reads: "For copying any order, record or paper, for every one hundred words, ten cents." I incline to the belief that this would be the proper charge, but I am not perfectly sure that the courts would hold that this item of fees would apply to the recording of the notary's oath and bond. If it does not, there is nothing to be collected for such services as any work required of the county recorder for which no compensation has been fixed, must be performed without charge.