

Opinion No. 14-1196

April 18, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Honorable R. E. Twitchell, Chairman, New Mexico Board of Exposition Managers, Santa Fe, New Mexico.

SAN DIEGO EXPOSITION.

Constitution does not prohibit counties from contributing money for exhibits at San Diego Exposition.

OPINION

{*54} In response to your oral request to do so, I have made some examination as to the validity of the provisions of Section 9 of Chapter 57 of the Laws of 1913, which authorizes the boards of county commissioners of the several counties of the state to appropriate such sums as they may deem proper, to assist your board, created by the act, in collecting and preparing the products of such counties for exhibit at said Exposition. I understand from what you have told me that the only possible question as to the validity of this section must arise under Section 14 of Article IX of the Constitution.

Omitting the proviso which is not material to the matter now under discussion, that section reads as follows:

"Neither the state, nor any county, school district, or municipality, except as otherwise provided in this Constitution, shall directly or indirectly lend or pledge its credit, or make any donation to, or in aid of any person, association, or public or private corporation, or in aid of any private enterprise for the construction of any railroad."

From a reading of this section, it seems that we must consider whether or not the New Mexico Board of Exposition Managers can be considered as a "person, association, or public or private corporation," to which no county can lend its credit or make any donation, and in a secondary way, whether that which the statute authorizes the county commissioners to do can properly be considered as a donation.

My view is that your board is an agency of the state created for state purposes and for no private benefit. It is created for the purpose {*55} of exhibiting the products of the state at the San Diego Exposition in the year 1915, and for the construction of a building for that purpose. The Constitution does not prohibit counties from contributing money to assist agencies of the state in accomplishing state purposes.

Further, I am unable to see that the statute in question attempts to authorize the counties to make any donation at all. They are authorized to appropriate money to

assist the board in collecting and preparing their own products for exhibition at San Diego. There could be no possible objection to a statute which authorized the counties to expend money in exhibiting their products at the Exposition. Under such a statute, there could be no question about the making of a donation to anyone, but the section in question, in effect, does no more than such a statute would do. The counties through an agency provided by the state, can, in their discretion, make provision for the collection and preparation of their products for exhibition under the general charge of the board of managers.