

Opinion No. 14-1223

May 6, 1914

BY: FRANK W. CLANCY, Attorney General

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

SCHOOLS.

The cost of survey of a school district limited to \$ 50.00, payable out of general county fund, but additional payment for expenses may be made by school district.

OPINION

{*83} I have just received your letter of yesterday in which you ask me to advise you as to the proper fund out of which payment should be made for the survey of school districts under Section 23 of Chapter 97 of the Laws of 1907, and as to the legality of payments in excess of \$ 50.00 for any one district.

A similar inquiry was addressed to me in June, last year, by Mr. Asplund of the Department of Education, and on June 19, 1913, I wrote a letter to him which you will find at page 233 of the published opinions of this office, which will be ready for distribution within a few days. It appears from that letter that the Surveyor of Curry County had been directed, by the county superintendent, to survey two school districts, and that the actual expenses of such surveys would exceed the statutory amount of \$ 50.00 provided in said Section 23. I am of opinion that the language of that section is such that the \$ 50.00 is to be paid out of the general county fund, as it is stated that "The expense of such proceedings is to be charged to the county," and is to be allowed by the board of county commissioners. In my opinion of last year I said that it was a reasonable construction of this provision that the payment by the county commissioners is limited to \$ 50.00 for a district, but in cases where the welfare of the district required that it should be surveyed, additional payment for expenses might be made by the district itself under Section 6 of Chapter 51 of the Laws of 1912.

You further ask if Chapter 34 of the Laws of 1912 in any way conflicts with previous legislation regarding the fund out of which such payment is to be made. I do not believe that it has any relation to the survey of school districts. It authorizes the county commissioners "to have the lands of the county, or any portion thereof, surveyed by the county surveyor, or other surveyor deputized by {*84} him, under the direction and in accordance with the instructions of the board of county commissioners of such county." The manifest object of said chapter 34 is to obtain such a survey of the real estate in the county as will facilitate its assessment for purposes of taxation, although that is not distinctly stated in the act itself. Any court would, however, take judicial notice of the fact that that was the object to be attained, it being notorious that much of the land has escaped assessment because of lack of just such surveys.