

## Opinion No. 14-1232

May 14, 1914

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

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

### **COUNTY COMMISSIONERS.**

Discretion of county commissioners to use excess funds remaining in treasury.

### **OPINION**

{\*94} I have received your letter of even date herewith, relative to appropriations by boards of county commissioners, under the provisions of Chapter 57 of the Laws of 1913, to assist your board, created by {\*95} that act, in collecting and preparing products of their counties for exhibition at the Panama-California International Exposition.

You say that in soliciting aid from the counties, your board has been confronted by a condition of lack of funds, or what the commissioners have considered lack of power on their part to appropriate such sums as they may deem proper, and that in one or two counties you have ascertained that in some funds there remains an excess in the county treasury. You refer especially to Curry County, where there is a "court house" and "jail repair fund" and, as I understand, no way that that fund can be expended for any court house and jail repairs. I believe, in fact, that possibly the levy and collection of that fund were unauthorized, but the money is in the county treasury and subject to control by the county commissioners. You desire to know whether it could be used for the purposes of your board.

I have recently had a similar question presented to me as to what should be done with money coming into a county treasury from interest on deposits made by the treasurer in banks, and I believe that the view which I expressed as to that money would be applicable to what you ask about.

I said, in substance, that in the absence of any specific statute, I believed that under the 5th Sub-division of Section 664 of the Compiled Laws of 1897, the county commissioners have power "To represent the county and have the care of county property and the management of the interests of the county in all cases where no other provision is made by law." Under this authority, it appears to me that in the control and use of money in the county treasury, as to which there is no specific statute, the county commissioners have a discretionary power to make use of the money for the best interests of the county, and I can see no reason why such money cannot be drawn upon

for the purpose of assisting your board and give effect to the legislative intent expressed in said Chapter 57 of the Laws of 1913.