

## Opinion No. 14-1250

June 15, 1914

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

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

### **COUNTY FUNDS.**

Money cannot be transferred from one county fund to another.

### **OPINION**

{\*113} I have received your letter of the 12th inst., in which you say that you have what purports to be an opinion of District Attorney Scott, holding that the county commissioners, in case of a surplus in any fund other than interest and sinking funds, may transfer such surplus to any other fund, at the same time referring to an opinion by me given R. E. Twitchell, Chairman of the Board of Exposition Managers, of May 14, 1914, which he says is to the same effect as is his.

Mr. Scott's opinion was called to my attention sometime since by the Traveling Auditor, who brought a copy of it to me with horror depicted on his countenance, and asked me whether I had given an opinion that transfers could be made from one county fund to another. {\*114} Upon referring to the letter which I addressed to Mr. Twitchell, while it is not as clearly expressed as it should have been, having been prepared in some haste, yet it does not bear the construction which Mr. Scott puts upon it, as you will see by reference to the copy of it, which I enclose herewith.

In effect, all that I really said was that as to money in the county treasury, concerning which there was no specific statute, under the broad general power given to the county commissioners by the fifth subdivision of Section 664 of the Compiled Laws of 1897, "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," the county commissioners must have a discretionary power to make use of such money for the best interests of the county. If this were not so, money in the county treasury, not devoted to any particular purpose by statute, would have to remain there indefinitely.