

Opinion No. 15-1474

March 20, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Hon. Robert P. Ervien, Commissioner of Lands, Santa Fe, N. M.

Relative to "An act concerning the publicity and promotion of public resources and welfare," passed by the legislature of 1915.

OPINION

{*58} I have received your letter of the 18th inst. calling attention to House Bill No. 357 entitled "An Act Concerning the Publicity and Promotion of Public Resources and Welfare," from which you quote the first section which provides, in effect, that you may use three cents on the dollar of the annual income of your office to give or cause to be given publicity to resources and advantages of the state generally and particularly to home-seekers and investors. What you desire to know is whether this 3% must create an additional fund or whether it should be considered as a part of the state lands maintenance fund created by Chapter 82 of the Laws of 1912, which authorizes the setting apart of 20% of the collections of your office from which are to be paid all salaries and expenses of the state land office.

I am of opinion as set out in your second alternative statement of the course to be pursued, -- that the expenses limited or authorized by House Bill No. 357 should be paid out of the state lands maintenance fund created by Chapter 82 of the Laws of 1912, because {*59} that fund is the one from which all expenses of the office are to be paid and the last act merely indicates one kind of expense of the office.

You further ask my opinion upon the suggestion of the Governor in vetoing the House Bill No. 357 that it was diverting funds from channels directed by the Enabling Act. I am of opinion that the expense for which provision is made in the last act are so connected with the proper administration of the lands of the state, that it would not be viewed as a violation of the terms upon which the lands were donated by congress, but without going into careful examination of that question, I believe that executive officers of the State of New Mexico ought not to raise any such question as to the validity of a statute which has been adopted by the legislature. We ought to feel ourselves bound by any such statute and if any complaint is to be made against this one, it should come from the Attorney General of the United States and not from us.