

Opinion No. 15-1680

November 13, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. C. C. Royall, Assistant District Attorney, Silver City, New Mexico.

Moneys collected by forfeiture of a bond should be sent to the state treasurer.

OPINION

{*251} I have today received your letter of the 11th inst. relative to the payment made upon the forfeiture of a bond of Lee Hudspeth, a check for which you say you have sent to the State Treasury, as to the correctness of which you ask this office.

Section 4 of Article XII of the constitution declares what shall constitute the current school fund of the state, the first item being, "all fines and forfeitures collected under general laws." I believe there is no legislation as to how money due upon the forfeiture of a bond shall be collected and transmitted to the State Treasury, and in the absence of any regulation on that subject, I can see no objection to your transmitting any such money to the State Treasurer.

In the same letter you refer to the forfeiture of the \$ 1,500 bond given by Thomas M. Bates in the supreme court. It has been our policy in the matter of any such forfeiture, to give the principal and sureties on the bond every reasonable opportunity to comply with the terms of the bond before proceeding to collect the money. One of my assistants wrote to Judge Terrell, I think about two weeks ago, but has heard nothing in response. Unless we do very soon get some reasonable excuse or statement which would justify {*252} any further delay, we will have the bond forfeited and as it was given by a surety company, I expect there will be no difficulty about prompt collection.