

Opinion No. 21-3110

September 13, 1921

BY: A. M. EDWARDS, Assistant Attorney General

TO: Mr. H. F. Stephens, Santa Fe, New Mexico.

Extra Salary to County Clerk For Services as District Clerk.

OPINION

{*87} Referring again to the letter of September 1, addressed to you, in which it was stated that the county clerk of San Miguel county {*88} could not draw additional salary as clerk of the district court where he performs the duties of that office himself, my attention has been called to an opinion of Attorney General Clancy, rendered May 24, 1916, in which he held that under the peculiar wording of Chapter 12 of the Session Laws of 1915, such salary might be paid to the county clerk where he had no deputy performing such work.

This office is informed that under Attorney General Clancy's opinion it has been the practice in many counties of the state for the county clerk to draw the additional salary provided by law for the clerk of the district court where he performs such duties himself. The law is susceptible of two constructions and rather than upset a practice which has been followed under an opinion of a former Attorney General, we believe that until the courts decide otherwise it will be proper for these county clerks to draw the additional compensation provided by law for a clerk of the district court where such county clerk performs the duties of the clerk of the district court himself.

If a deputy is employed to do such work, under this construction of the law, all of the extra compensation must be paid to such deputy.