

Opinion No. 23-3691

April 11, 1923

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Mrs. Grace B. Melaven, State Game Warden, Santa Fe, New Mexico.

A County Clerk May Accept the Office of Deputy Game Warden and Receive the Fee Incident Thereto.

OPINION

{*41} We have your inquiry relative to the appointment of County Clerks as Deputy Game Wardens and allowing them a fee as such Deputy, for issuing and reporting licenses and the receipts thereof, in which some County Clerk has written you as follows:

"I understand for some years that the County Clerk as appointed would be entitled to the fee as such deputy, but upon advice from counsel I find that the receipts thereof should be diverted directly through the channel of such office as other fees are collected, if such is the case and you sustain such a ruling I would not desire to complicate the duties as County Clerk in such way. I would be pleased to have you give me a ruling along this line."

There certainly can be no objection to the law authorizing the appointment of County Clerks as Deputy Game Wardens. Further there can be no objection to allowance and acceptance by them of a fee for services of such deputy.

It is true the State Constitution at Section 1 Article 10 provides that: "* * * No county officer shall receive to his own use any fees or emoluments other than the annual salary provided by law and all fees earned by any officer shall be by him collected and paid into the Treasury of the County."

This inhibition applies only to County officers. As Deputy Game Warden such an individual would be a state officer. There is no law in this state against a person holding more than one office provided the duties prescribed are not incompatible. We can see no incompatibility between the office of county clerk and that of Deputy Game Warden.