

**Opinion No. 39-3326**

November 7, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico.

{\*121} We have your request of November 6 wherein you express your belief that bonds may be issued for the purpose of building an addition to a county courthouse, but not for the purpose of remodeling or reconditioning one already built.

In this, you are correct. In the case of Board of County Commissioners of the County of Guadalupe vs. The State of New Mexico, No. 4480, the court said:

"The expression of the limitation of power to borrow money for the purpose of **erecting** buildings excludes the power to borrow money to remodel alter or repair a building already existing, unless these processes amount in fact to erection of a building."

As I understand that case, a bond issue may be floated for the purposes of erecting a courthouse, and the money used to build an addition to the courthouse or to remodel it if such remodeling would in fact so change the old building as to make of it an entirely different building. If the bonds for the erection of a building are floated, however, the attempt to use any part of the money on the old building might subject the county to an injunction suit.

Therefore, I could not answer your second question with respect to reconditioning the old building in the affirmative.

A motion for rehearing has been filed in the Guadalupe County case, which has not yet been disposed of, but I do not anticipate any change in the views of the court as expressed in that case.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.