

Opinion No. 13-1052

June 3, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Mr. A. Rednor, Dale, New Mexico.

DEADLY WEAPONS AND ROADS ON SECTION LINES.

Law against carrying deadly weapon very stringent. A regularly established highway must not be obstructed.

OPINION

{*222} I have received your letter of the 30th ult. and take the first opportunity I have had to answer. We have in New Mexico, and have had for many years, a stringent law against the carrying of deadly weapons, as you will see by referring to the Compiled Laws of 1897, beginning with Section 1377 and to the amendments to be found in Sections 18, 19 and 20 of the Laws of 1907. The amendment in Section 18 makes the prohibition originally contained in Section 1377 of the Compiled Laws a little stronger. As originally enacted, the law permitted the carrying of deadly weapons in the residence or on the landed estate of the person carrying them, but the amendment does not permit that exception to apply if intoxicating liquors are sold on the premises. You ought to have copies of these statutes in your office, and if you have not you should apply to the County Commissioners to be furnished with them.

You ask further as to the right to put a gate across a road which has been established for two years or more, and especially on a section line. There is no law in New Mexico which preserves section lines for road purposes, as I believe is the case in some other states, but the county commissioners, who have authority to establish roads, are required to establish them on section lines when practicable. When you say that the road has been established, I do not know whether you mean that that has been done by an order of the county commissioners, or whether the road has been merely used by the public. If the former, no one has any right to obstruct a regularly established highway, but if the latter, I do not believe that the permissive use of such road would, in two or three years, establish any right in the public so that the owner of the land could not fence up the road or put gates on it to protect his own property.