Opinion No. 14-1235

May 21, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. James H. Higdon, Las Cruces, New Mexico.

LIQUOR.

Wine manufactured in a "dry" district cannot be sold therein.

OPINION

{*97} I have just received your letter of yesterday in which you ask me whether a person residing in a "dry" precinct, can transfer wine made by grapes grown in his own vineyard to a "wet" precinct and sell it without taking out a license, or is he required to take a license the same as a regular saloon man.

You further say that there are many vineyards in the valley, the owners of which depend upon the sale of wine as their principal source of revenue, and if they are cut off from that sale it would work a hardship upon them. I cannot refrain from saying that they ought to have thought of that before they voted themselves "dry," although that is hardly proper because the majority of mankind become wise only after something has been done.

The law on the subject, as it now exists, will be found in Chapter 40 of the Laws of 1907, which you can undoubtedly find and examine in the office of any lawyer, or your justice of the peace or county clerk. It reads as follows:

"Nothing in this act shall be construed to prevent the manufacture, brewing and distilling and sale without license, by the manufacturer, upon the premises where manufactured, brewed or distilled, in quantities of not less than five (5) gallons of beer, cider, or brandy from apples, brandy from peaches, wine or brandy from grapes, currants or other fruits grown in this Territory."

You will notice that the right to sell such products without a license is limited to the premises where manufactured. There appears to be no reservation in the local option statutes, which appear as *{*98}* Chapters 75 and 78 of the Laws of 1913, in favor of the sale of wine or other liquors at the place of manufacture within dry territory, and it appears to me that the only way that such makers of wine can get any relief is through the legislature, which will have a session beginning in January, next.