

Opinion No. 12-900

May 28, 1912

BY: FRANK W. CLANCY, Attorney General

TO: Mr. D. J. Jones, Yeso, New Mexico.

FENCES.

Definition of a legal fence.

OPINION

{*40} I have just received your letter of yesterday. I cannot undertake to advise you in detail about all the matters of which you write. It would not be safe for me to give you advice without more complete information, and it is no part of my official duty to advise every citizen as to his difficulties which may require some action in the courts.

In answer to your answer as to what is a legal fence in New Mexico, I call your attention to Chapter 13 of the Laws of 1909 which by its first section provides as to a wire fence, that it should be constructed of barbed wire and posts with not less than four wires well stretched and firmly fastened to the posts, the top one at least four feet from the ground and the bottom one not less than one foot from the ground, the wires to be not over twelve inches apart. The posts must be not more than twenty-four feet apart and firmly set in the ground to a depth of at least two feet, not less than three inches in diameter at the smaller end. When the posts are more than sixteen feet apart there must be stays four feet long and at least one inch thick firmly fastened to the wires not more than eight feet apart.

By Chapter 70 of the Laws of 1909 it is provided that damages cannot be recovered for lands or crops injured by trespassing animals unless the land is fenced in accordance with the requirements of law prescribing a legal fence. By Section 98 of the Compiled Laws of 1897 it is made a misdemeanor for any person to allow stock to run at large from March to October. This is an old statute but it appears to be still in force.