

Opinion No. 14-1273

July 14, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. C. C. Edmonds, Columbus, New Mexico.

DISINCORPORATION OF TOWNS.

No statute providing for the disincorporation of town of Columbus.

OPINION

{*135} I have just received your letter of the 13th instant in which you ask whether there is any provision in the laws of New Mexico to prohibit the sale of liquors inside the corporate limits of a town after the town has been disincorporated by a vote of the people. You ask this question with reference particularly to your town of Columbus which has voted itself dry.

In answer to your question I have to say that I know of no statutory provision which would continue in force the prohibition of the sale of liquor within the limits of a town which had voted dry after such town is disincorporated. The difficulty which exists in your case is as to whether there is any authority of law under which {*136} Columbus can disincorporate. That question was submitted to me in a letter over two months ago, and in answer I wrote a letter to Mr. W. G. Robertson, of Columbus, a copy of which I will inclose herewith for your more complete information. You will see that I incline to the belief that there is no provision of law by which your town can be disincorporated, but I am not willing to predict with certainty what the courts might hold on this question. In order to have the matter decided proceedings might be begun with a view to disincorporation, as provided in Section 2503 of the Compiled Laws of 1897, and then someone interested against disincorporation could bring a suit in the District Court to enjoin the county commissioners from ordering an election as provided in that statute. This would make a test case in which the court would necessarily decide as to whether or not the town can disincorporate.