

Opinion No. 14-1354

October 5, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. R. C. Hamby, Chilili, New Mexico.

WEAPONS.

Travelers may carry arms for their own protection while actually prosecuting a journey.

OPINION

{*216} I have received your letter of the 28th ult., which appears to have been delayed on the road. You ask whether it is against the law to carry a revolver on a saddle when riding a horse, and also whether persons entering settlements and towns with a revolver on the saddle, can leave the same thereon when dismounting.

The law on this subject is to be found in Section 18 of Chapter 36 of the Laws of 1907, and it provides that any person who shall carry a deadly weapon, concealed or otherwise, in or about the settlements of New Mexico, unless it be in his residence or on his landed estate, if intoxicating liquors are not sold on such premises, or in the lawful defense of his person, family or property, the same being threatened with danger, or unless such carrying be done by legal authority, upon conviction, shall be punished by a fine of not less than \$ 50, nor more than \$ 300, or by imprisonment for not less than 60 days or more than 6 months, or both. I am clearly of opinion that carrying a pistol on a saddle, falls within the prohibition of this statute.

In connection with this, however, and in response to your second question, attention should be called to Section 1384 of the Compiled Laws of 1897, which provides that persons traveling, may carry arms for their own protection while actually prosecuting their journey and may pass through settlements on their road without disarming, but if they stop at any settlement for more than fifteen minutes, they must "remove all arms from their person or persons, and not resume the same until upon eve of departure." Some argument might be made as to the language used as to the removal of arms from their person or persons as indicating that this section applies only to the carrying of weapons upon the person, but I believe that this would be too narrow and technical a construction, and that a revolver upon a saddle, if the rider remains not more than fifteen minutes in the settlement, ought to be removed and not put back until upon the eve of departure.