

Opinion No. 15-1621

August 18, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. Linus L. Shields, Jemez Springs, N. M.

Judgments based upon promissory notes bear interest at the rate specified in the notes. Prosecution of Drunken persons.

OPINION

{*194} Replying to your letter of the 16th inst., I have to say that your interpretation of Sections 2550 and 2551 of the Compiled Laws of 1897 is correct. Where a judgment upon a promissory note bearing two per cent interest per annum is entered, the judgment will bear interest at the same rate from the date of its rendition.

So far as prosecutions against drunken persons are concerned, I would advise that such prosecutions be instituted under Section 4131, C.L. 1897 rather than under Sections 1341 and 1342. In case a person convicted under Section 4131 should fail to pay the fine and costs assessed against him, he can be committed to the common jail of the county, where the sheriff can make such use of him as he may see fit, but I do not believe that a justice of the peace under Section 1342 could impose a sentence requiring labor on the public roads under the direction of a road supervisor. Sections 1341 and 1342 became law in 1856 while Section 4131 was enacted in 1891 and prosecutions for such an offense should be instituted under it.

So far as persons are concerned who, while in an intoxicated condition, fight at a public dance or elsewhere, they may be also prosecuted under Section 4131 upon a charge of disorderly conduct. A constable has the right to arrest without warrant, any such persons, if the offense is committed in his presence; otherwise the arrest must be by warrant issued on a complaint made before a justice of the peace.