

## Opinion No. 16-1751

March 7, 1916

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Tomas Atencio, Dixon, New Mexico.

**As to definition of word "village" in connection with the issuance of licenses for the sale of liquors.**

### OPINION

{\*324} I have just received your letter of yesterday in which you say you would like to know what is the legal interpretation of the word "village" that is found in Section 4124 as amended in 1901, Chapter 115, Section 1. The statute to which you intended to refer is Chapter 115 of the Laws of 1905, which provides that no license shall be granted for the sale of liquors at any place except within the limits of a city, town or village containing at least one hundred inhabitants.

There has been no decision of the Supreme Court as to the meaning of the word village in this statute, but in the district court of the second district there have been, to my knowledge, two cases where the question arose as to what was meant by this word. The court held, in substance, that a village was any settlement or collection of houses where people lived together, and that it might cover a considerable amount of country. In that particular case a man had set up a saloon near the coal town of Clarkville, in McKinley County. Clarkville belonged to the coal company which had laid out a townsite, and this saloon was quite a little distance from the last house on the land owned by the coal company, but there was still another house farther away from the coal company's land than the saloon, and the court held that this saloon was within the limits of the village because it was not the last house of that village.

In another case in the same court a man was seeking to obtain a license to sell liquor at a place called Thoreau, at which place there were not one hundred inhabitants, and his counsel tried to get {\*325} the court to hold that they could count the people in two other settlements in the same precinct, which would give much more than the necessary one hundred, but the court refused to do that.

Of course we now have incorporated villages under an act of the legislature of 1909, but the word village would not be limited to incorporated places. The dictionary definition of village is "A collection of houses larger than a hamlet and usually smaller than a town or city." In this country but little use is made of the word hamlet except to mean a little village, but in England it meant particularly a village without a church.

I know of no way that we can define village within the meaning of the statute with any degree of accuracy, but it seems to me that a village should only include those houses

which are assembled in the same neighborhood, and could not be expanded to include remote and isolated houses in the same general section of the country.