

**Opinion No. 39-3294**

October 4, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. Allen Stamm, State Registrar, New Mexico Contractors' Licensing Board, Santa Fe, New Mexico.

{\*112} I acknowledge receipt of your letter of September 28 and desire to reply as follows:

In reference to the party in Gallup who was fined by the justice of the peace for violating Chapter 197, of the Laws of 1939, and in which the contractor now has applied for a license, it would appear to me that if he meets the qualifications he should be granted a license.

Chapter 197, Laws of 1939, Section 2, Sub-section (b) reads as follows:

"Section 2. SUBJECTS ACT DOES NOT APPLY TO. This act shall not apply to: \* \* \*

(b) Any construction or operation incidental to the construction and repair of any highway or railroad, or to irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts or to farming, dairying, agriculture, viticulture, horticulture or stock or poultry raising;"

Referring to the above quoted Sub-section (b), it is quite apparent that bridge building is incidental to highways and railroads because without the one the other could not function or be used for transportation.

Therefore, it is my opinion that bridge building should be considered incidental to the construction of highways, and bridge contractors would not fall within the jurisdiction of the law.

By: GEORGE LOUGEE,

Asst. Atty. Gen.