

## **Opinion No. 57-97**

May 13, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Hilario Rubio, Assistant Attorney General

**TO:** The Hon. Eric L. Freelove, New Mexico State Senator, Sandoval County, La Jara, New Mexico

### **QUESTIONS**

#### QUESTIONS

Is the operation of a cock fighting pit in the State of New Mexico legal or illegal?

#### CONCLUSION

Illegal.

### **OPINION**

#### ANALYSIS

Under § 40-44-22, N.M.S.A., 1953 Comp., "any person or persons engaged in cock fighting on the first day of the week called Sunday shall be punished by a fine not exceeding \$ 15.00 nor less than \$ 5.00, or imprisonment in the county jail not more than fifteen days nor less than five days, in the discretion of the court, upon conviction before any district court."

It would appear that if this were the only Statute we have, by implication cock fighting would be legal the rest of the week days except Sunday. However, Section 40-4-3, N.M.S.A., 1953 Comp., under the heading "Cruelty to Animals" provides as follows:

"If any person torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, cruelly kill or overdrive any animal, or unnecessarily fail to provide the same with proper food or drink, or cruelly drive or work the same when unfit for labor, he shall be punished by a fine of not more than fifty (\$ 50.00), nor less than five dollars (\$ 5.00), or by imprisonment in the county jail for not more than thirty (30) nor less than ten (10) days, or both such fine and imprisonment."

This Statute specifically makes it illegal for any person to cruelly mutilate, beat or kill any animal.

Therefore, § 40-4-3, N.M.S.A., 1953 Comp., is broad enough and specific enough, that the operation of a cock fighting pit where cock fighting is engaged in, is thereby

prohibited and held to be a violation thereof and is therefore illegal at all times in the State of New Mexico.