

## Opinion No. 13-1046

May 16, 1913

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

**TO:** Mr. Thomas E. Hull, Deming, N. M.

### **SUNDAY LAW.**

As to whether Sunday law applies to moving picture shows.

### **OPINION**

{\*215} I have today received your letter of the 14th inst. in which you, in substance, ask me to advise you as to the lawfulness of conducting a motion picture show on Sunday nights.

In answer I will first quote to you the section of the law which {\*216} is Section 1368 of the Compiled Laws of 1897, which bears on this subject:

"Sec. 1368. Any person or persons who shall be found on the first day of the week, called Sunday, engaged in any sports, or in horse racing, cock fighting, or in any other manner disturbing any worshipping assembly, or private family, or attending any public meeting, or public exhibition, excepting for religious worship, or instruction, or engaged in any labor, except works of necessity, charity or mercy, shall be punished by a fine not exceeding fifteen dollars, nor less than five dollars, or imprisonment in the county jail of not more than fifteen days, nor less than five days, in the discretion of the court, upon conviction before any district court."

You will see that a literal reading of the law would make it a violation for anyone to be engaged in such labor as the conducting of a moving picture show, but experience has shown that it is advisable that there should be some discretion exercised in the enforcement of such statutes as this. Intelligent members of the community, who favor the observance of the Sabbath, generally realize that attempts at rigid and undeviating enforcement of such a law is likely to result in such a condition of public sentiment as will either bring about a repeal of all laws on the subject, or make it impossible to secure conviction even in cases where the violation of the law is flagrant and very offensive. Such picture shows are in operation in Santa Fe and Albuquerque on Sunday nights, and I believe no complaint has ever been made on that account. I believe that in almost all of our towns such things as cigars, tobacco, soda water and candies are sold without causing any difficulty, although such occupations would be, literally, within the provisions of the statute.

Such laws are enforceable only when the public sentiment of a community favors them. It would seem to be injudicious on the part of the authorities to attempt to punish the

manager of an orderly, well conducted picture show for giving performances on Sunday night.