

Opinion No. 14-1319

September 11, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. W. C. Zerwer, City Clerk Pro Tem, Clovis, New Mexico.

LIQUOR.

Shipments of liquor on Sunday.

OPINION

{*177} I am in receipt of your letter of the 9th inst. in which you state that the City Council of Clovis has instructed you to obtain the opinion of this office upon the following question:

"Does the law prohibit a wholesale liquor house from loading shipments of liquors or beer on Sunday, the sale having been made and goods paid for on the Saturday afternoon or evening previous?"

The so-called "Sunday law" is to be found at Section 1368, et seq., of the Compiled Laws of 1897. This law makes it an offense for any person to engage in any labor on Sunday, except works of necessity, charity or mercy. The language of this statute, as you will observe, {*178} is very far-reaching, but in the enforcement of it, a city government has no jurisdiction. A Justice of the Peace holding his court within the limits of a city is authorized to hold a person accused of violation of the Sunday law to await the action of the grand jury, but he has no power to impose a penalty. Technically, I do not believe that the shipment of liquors on Sunday would be considered a work "of necessity, charity or mercy," but I am inclined to believe that it would be difficult to induce a grand jury to find an indictment against such a person, or in the event an indictment was found, to secure a conviction by a petit jury.

I recommend that the City Council of Clovis refer this matter to the District Attorney of Curry County so that he may take action in case he deems it advisable.