

Opinion No. 14-1351

October 5, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mrs. Maud A. Hortenstein, Springer, New Mexico.

GAMBLING.

Ladies' club playing cards for prizes is a violation of the statute against gambling.

OPINION

{*213} I have received your letter of the 3rd inst., in which you say that a number of ladies in Springer have organized a card club, which meets every two weeks at the home of some member of the club, and that you contemplate playing Five Hundred for a prize of small value given to the winner, which prize is furnished by the lady at whose house the club meets; and you further say that threats have been made that if you play for prizes, as above stated, criminal complaints will be made against the members of the club, and you desire to know if, in playing for prizes as above stated, you will violate the provisions of Chapter 24 of the Laws of 1913, or any of the criminal laws of the state.

Section 1 of the Act of 1913, reads as follows:

"That any person who shall play for money or other thing of value any game of chance, by whatsoever name known or howsoever played, upon conviction thereof shall be punished by a fine of not more than One Hundred Dollars, or by imprisonment for not to exceed three months, or both."

Substantially the same question which you ask was submitted to me about a month after the adoption of the Law of 1913 and I then said that it seemed to me that such playing was at a game of chance for a thing of value, in the words of the statute, and consequently it would be a violation of the law. I said also, however, that as a practical question, I could hardly imagine that it would be possible to find anyone to make a complaint against the members of such a club for any such proceedings, and that it was even more difficult to imagine that any district attorney would prosecute such a case, or that any judge could be found who would impose punishment, as the only object there could be in such prosecutions would be to discredit the law and bring it into such disrepute as to procure its repeal. I do not believe that the machinery of the law would be found available to accomplish any such purpose.

Of course, what I say is upon the assumption that the formation and existence of such a club are not intended as a mere pretense under cover of which gambling would be carried on.