

Opinion No. 15-1468

March 15, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Elias S. Silva, Dilia, N. M.

As to payment of license tax upon buildings in which public dances are held, and as to the holding of balls on Sunday.

OPINION

{*52} I have received your letter of the 13th inst. in which you ask me for a definition of a public hall, saying that there is one in your town which is used for dances and public meetings and that it is vacant and occupied by no one, the owners lending or renting it to persons who desire to use it and claiming that it is not a public hall.

I assume that the reason for your question must be as to whether the hall in question comes under the requirements of Section 4146 of the Compiled Laws as I know of nothing else which would make it of any importance as to whether a hall was to be considered a public hall or not. That section of the statutes is as follows:

"All persons who are the owners, or have under their control or management any building or premises used as a place of public amusement or entertainment and who shall rent or hire the same for theaters, public balls and public entertainments for hire, where such hall or building has a seating capacity of three hundred persons, shall pay a license tax of ten dollars per annum, and where such hall or building has a seating capacity of more than three hundred persons, shall pay a license tax of twenty-five dollars per annum: Provided, This shall not apply to any building used in whole or in part as an educational institution."

The foregoing section will give you all the information which your question seems to call for, but you also ask whether at such a place it is proper to have balls on Sunday. The so-called Sunday law is to be found in the Compiled Laws of 1897, beginning with Section 1368, and unless the having of dances on Sunday has the effect of disturbing some worshipping assembly or private family, it would not be a violation of the law. Even if the balls were a violation of the statute, I do not think that it would follow that any officer would have the right to stop the dance or to prevent its being given on Sunday. The only proper course would be to prosecute the offender in the district court as, under the statute, conviction can be had only in the district courts.