

## Opinion No. 17-2058

October 5, 1917

**BY:** HARRY L. PATTON, Attorney General

**TO:** Hon. W. E. Lindsey, Governor of New Mexico, Santa Fe, New Mexico.

Money Appropriated for Public Defense Not to Be Used to Equip a Pool Hall, Lunch Counter and Recreation Room in Which a Private Party Is to Have a Concession, Although for the Use of Soldiers.

### OPINION

I am in receipt of your request for an opinion as to whether or not money in the treasury and appropriated for the use of the public defense, may be used for the purposes suggested by Mr. Myron A. Kesner, of Deming, representing the War Department Commission on Training Camp Activities in Deming. The plan outlined by Mr. Kesner is to equip the armory building at Deming with furniture enumerated in his letter, which covers a great number of items and a wide range, and that the sum of \$ 5000.00 be appropriated for such purposes, and that said building, so equipped, be used by the soldiers stationed at Deming as a recreation room. The plan also contemplates the issuance of a concession to a certain party, who will take the building and will use and operate a buffet counter, a kitchen outfit, and pool and billiard tables, soft drinks, cigars and lunches.

The War Emergency Act carries an appropriation of \$ 750,000.00; the Act in question is Chapter 5 of the Laws of the Special Session of 1917. Section 1 of the Act, which appropriates the amount above referred to, or so much thereof as may be necessary to be disposed of by and under the direction of the Governor, as provided in the Act,

"in such manner and for such purposes, and through such agencies, and under such regulations as the Governor may deem necessary or proper to provide for the increase of domestic production of articles and materials essential to the support of armies and of the people, during the interruption of foreign commerce, and to provide for the public defense."

I am of the opinion that compliance with the request made by Mr. Kesner would not "provide for the increase of domestic production of articles and material essential to the support of armies and of the people." I also entertain doubts as to whether an appropriation for this purpose might be considered as "providing for the public defense." It is urged that it is for the comfort and convenience of the soldiers. I can conceive of no limit to the use of such moneys when the only limitation is that it would be for the comfort and convenience of the soldiers.

On July 24th I wrote you a letter in response to a letter from Mr. Hallett Reynolds, Vice President of the First National Bank of Las Vegas, in which he suggested that an old debt owed by the armory at Las Vegas, be paid out of the War Emergency Fund. On September 14th I addressed you upon the subject as to whether funds used for suppressing "boot-legging" to the soldiers at the camp at Albuquerque, could be paid out of this appropriation. In both instances I expressed a view in which I doubted the propriety of using this money for these purposes. I refer to these cases only for the purpose of calling attention to the wide range and latitude of the subjects requesting payment out of this fund.

I am of the opinion that the legislature did not contemplate the use of this public defense money for the purposes suggested by Mr. Kesner.