

## Opinion No. 23-3671

January 15, 1923

**BY:** MILTON J. HELMICK, Attorney General

**TO:** Requested by: Fred Nicholas, District Attorney, Magdalena, New Mexico.

**An American Legion Masquerade Ball Held in a Hall with the Consent of the Owner is not Violative of the Letter or Spirit of Chap. 4 of the Laws of 1923, Properly Known as the Klu Klux Klan Law.**

### OPINION

{\*17} This matter arises upon the inquiry of the District Attorney of the Seventh Judicial District. It appears that the American Legion Post at Magdalena, New Mexico, has advertised a Masquerade Ball for the evening of February 22nd and the question is raised whether such a masked gathering is forbidden by the act recently passed by the Legislature, known as Substitute for Senate Bill No. 20, which became a law on the 2nd day of this month and is popularly known as the anti Klu Klux Klan law.

The portions of the law which refer to masking are the first two sections, which are as follows:

"Section 1. It shall be unlawful for any person to appear or be upon any public street, alley, road, highway or thoroughfare in this State, wearing a mask, hood, robe or other covering upon his face, head or body, or disguised in any manner, so as to conceal the identity of the wearer thereof.

"Section 2. It shall be unlawful for any person, wearing a mask, hood, robe or other covering upon his face, head or body, or disguised in any manner, so as to conceal the identity of the wearer thereof, to enter or be upon the private property of any other person in this State, without the consent of the owner, lessee or occupant of such property."

It will be observed that the law prohibits masking on public streets, etc., and upon private property, without the consent of the owner. I assume that the American Legion Ball will not be held in a public street, but in a private hall either rented or donated for the purpose and, in either event the use of a hall for the masquerade would be obviously with the consent of the owner. It is quite clear that this masquerade is not prohibited either by the spirit or the strict letter of the law.