

Opinion No. 38-2052

September 19, 1938

BY: FRANK H. PATTON, Attorney General

TO: Mr. W. R. Meador Division of Liquor Control Bureau of Revenue Santa Fe, New Mexico

{*279} Your letter of September 19th calls for confirmation of my oral opinion to you regarding the interpretation of Section 809, Chapter 130, Session Laws of 1937.

It is my opinion that under the language of this section it is difficult to determine what constitutes a public celebration and it would be likewise difficult to determine that any particular entertainment does not constitute a celebration.

It was for this reason that I was of the opinion that the dance being held by the New Mexico State League of Young Democrats constituted a public celebration under this section and that therefore a special permit should be issued to a licensed dispenser upon the payment of the prescribed \$ 10.00 fee.

In future cases it should be determined by your office first whether or not the applicant for the special license is a bona fide holder of a dispenser's license, and second whether or not the proposed entertainment constitutes a public celebration.

It is my belief that if these two conditions have been met that a mandamus proceeding would lie to compel your favorable action upon the application.