

Opinion No. 44-4537

June 29, 1944

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Richard F. Rowley, Acting District Attorney, Clovis, New Mexico

We are in receipt of your letter of June 20, 1944, in which you ask our opinion as to whether or not it is necessary for any person holding a dance for profit outside the municipal limits of any town to secure a license, and, if so, what officer should issue the license, and how much license fee, if any, should be charged.

Your attention is directed to Sections 62-501 and 62-502 of the 1941 Compilation, which require any person who proposes to give a dance to apply to the Justice of the Peace or Probate Judge for a license.

Section 62-502 provides for trial and a \$ 10.00 fine for failure to comply with this section. While this law is very old, yet it is still a part of our law. It is therefore my opinion that any person who proposes to give a dance must secure such license, which should be issued by the Justice of the Peace or Probate Judge.

As to the portion of your question with respect to the license fee, it is my opinion that none may be collected, since none is provided for. While the Compilation shows an Attorney General's opinion in which it was stated that a \$ 10.00 fee was payable, this opinion was written under Section 81-301 of the 1929 Compilation, which was repealed by Section 1902 of Chapter 236 of the Laws of 1939.

You attention is also directed to Section 62-104 of the 1941 Compilation, which provides a license tax upon the owners or operators of premises used as a place of public amusement, such as public balls.

Trusting that the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General