

Opinion No. 54-6068

December 31, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. C. Chase, Jr. District Attorney Third Judicial District Las Cruces, New Mexico

{*543} In your letter of December 18, 1954, you request the opinion of this office upon the following matter:

Where an individual rents a hall or acts as host to a fraternal organization and confines the entire premises or a part thereof to the use of said organization, is that place a public place within the meaning of the statute prohibiting the consumption of alcoholic beverages in any public place other than on licensed premises?

{*544} The statute referred to is § 46-10-11, N.M.S.A., 1953, which provides:

"It shall be unlawful to drink or consume alcoholic liquors, or for any person who is the owner or proprietor to sell, serve, furnish or permit the drinking or consumption of alcoholic liquors in any public dance hall, pool room, bowling alley, street, state or federal building, or in any other public place except establishments having a license to dispense alcoholic liquors. . ."

It is our opinion that a hall which has been rented by an individual, or by an organization, is not a "public place" within the contemplation of the foregoing statute, when the premises of such a hall are confined to the use of the bona fide guests of the person renting it or to the members of the organization for the benefit of which it is rented.

The term "public place" has been defined thus:

"A 'public place' is any place which is opened to general public, and upon use of which by the general public there is no limitation except that required in the interest of safety and good order." Stateham vs. State, (Oklahoma Criminal Appeals) 243 Pac. 2d 743.

We believe that when a hall is rented by an individual or by an organization, that hall loses the character of a "public place", and becomes a private place, to the exclusive use and enjoyment of which such individual or organization is entitled. When the use of such a hall is limited to the guests of the person renting it, or to the members of an organization, it cannot be said to be "open to the general public", nor can it be said that it is a place "upon use of which by the general public there is no limitation."

Trusting that the foregoing will answer your question satisfactorily, I am