

OPINION
53-57

October 28, 1953 (OPINION)

HOLIDAYS

RE: Armistice Day

We have your request of October 26, asking for an official opinion relative to the holiday known as Armistice Day, which is designated specifically as the eleventh day of November. Your question in particular is as to whether or not this holiday is of such importance that ordinary places of business should be closed or if they are justified in remaining open. This is a question upon which some people might differ, but our opinion is as follows:

Section 1-0301 of the 1949 supplement to the North Dakota Revised Code of 1943 designates all holidays that have been made legal in the state of North Dakota. Included in this section, we have Sundays and the first day of January and many other days. In the same section of the law occupying the same prominence as these other holidays, we find in subsection 10 that the eleventh day of November which is Armistice Day is a legal holiday in North Dakota. I am mentioning the fact that it is included with all the other holidays about which there seems to be no question as to its sanctity.

Section 1-0304 of the North Dakota Revised Code of 1943 provides: "All days other than those mentioned in sections 1-0301 and 1-0302 are to be deemed business days for all purposes". I also desire to direct your attention to section 1-0305 of the North Dakota Revised Code of 1943 which provides: "Whenever an act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which falls upon a holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed".

Searching for some authority from other states, we find, of course, various opinions, but we have for instance in the case of *United Cigar Stores v. Worth-Gyles Grain Co.*, 212 Ill. App. 26, the following: "A 'holiday' is a day on which ordinary occupations are suspended". In another instance, we find this: "The word 'holiday' means, first, a consecrated day, a general festival; and second, a day on which the ordinary occupations are suspended, a day of exemption or cessation from work, a day of festivity, recreation or amusement". *State v. Shelton*, 77 N.E. 1052. Again, we find: "Term 'holiday' has reference to day set apart for worship, reverence to memory of a great leader and benefactor, to rejoice over some great national or historical event, or to rekindle flame of an ideal. Word 'holiday' means a consecrated day, a religious festival, a day on which the ordinary occupations are suspended, a day of exemption, that is, cessation from work, a day of festivity, recreation, or amusement". *Vidal v. Backs*, 21 P. 2d 952.

In construing this matter, we also must note that the legislature has in some instances made special provision where work may be carried on

on certain legal holidays such as legislative work may be done on legal holidays, except Sundays. There are also other instances of special statutes dealing with work that may be accomplished on a holiday, but we find none which exempts November 11 for any purpose whatever, except it is designated as an official legal holiday. Further, in construing this law, it seems to this office that the legislature must have had some specific thought in mind when they declared certain days as holidays. Certainly we cannot say that it was an idle gesture without any significance. We feel the legislature acted with serious thought to set apart a day for each one of these designated holidays in which the people of North Dakota should cease from their normal labors except acts of necessity, charity and mercy. The fact that public offices close and the fact that banks may close does not indicate any particular holiday. It does not give opportunity to the vast majority of our people to join in the purpose for which the holiday was declared by law.

It is, therefore, our opinion that the intent and purpose of the legislature was to set aside this day as a holiday where we should cease from our normal labors, except such acts as are necessary and devote our attention to the memory of those who so bravely fought in the wars of the part.

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