

SUNDAY:
FIRE PROTECTION DISTRICTS:

The board of directors of a fire protection district may hold meetings and conduct its regular business and pass legally binding ordinances on Sunday.

OPINION NO. 52

March 1, 1972

Honorable Robert H. Branom
Representative, District 35
Room 407, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Branom:

This is in response to your request for an opinion from this office as follows:

"May the Board of Directors of a Fire Protection District hold its regular meetings, conduct its regular business, and pass legally binding ordinances on Sunday?"

"The Board of Directors of a Fire Protection District wishes to hold its regular meetings on Sunday for the convenience of its members and the general public. However, one member of the Board has expressed the belief that actions taken and ordinances passed by the Board at a Sunday meeting would not be legal or binding."

The common law is the rule of action in this state unless it conflicts with the Constitution of the United States or of this state or is changed by statute in this state. Section 1.010, RSMo 1969.

In order to answer your question, we must first determine the scope and extent of Sunday laws.

In 83 C.J.S., Sunday, paragraph 4, it is stated:

"Although it has been said that the common law recognized the sanctity of the Lord's day, at common law the observance of Sunday is a duty of imperfect obligation; all prohibitions

Honorable Robert H. Branom

of ordinary business on the day come from statute, and, aside from judicial transactions, all acts not otherwise unlawful and not prohibited by statute may be lawfully done. The illegality of a given act must be determined by a statute forbidding it, and the courts will not extend the requirements of Sunday observance on considerations of public policy to prohibit acts which are not forbidden by statute."

In 83 C.J.S., Sunday, paragraph 6, it is stated:

"At common law all business other than judicial proceedings can lawfully be transacted on Sunday. However, the carrying on of one's business or occupation, or the transaction of business on Sunday, is specifically prohibited in many jurisdictions by statute, and municipal corporations may regulate the conduct of business on Sunday."

The principle of law, as announced in the preceding paragraphs, have been recognized by the courts of this state which have stated that at common law only judicial proceedings on Sunday were unlawful and that labor and the making of contracts were not prohibited unless by statute. *State v. Chicago, Burlington & Quincy Railroad Company*, 239 Mo. 196 (1912); *Said v. Stromberg*, 55 Mo.App. 438 (1893).

In *More v. Clymer*, 12 Mo.App. 11 (1892), the court stated, l.c. 19:

"In this country, the legislative power, since the formation of our federal government, has never extended to the enforcement of religious duties, merely because they are religious. The rules of human conduct prescribed by the Christian religion find no vindication in the civil authority, except in so far as they have become visibly incorporated in our constitutions and laws. To these constitutions and laws, then, and not to any mere sentiment of piety, however commendable, must we look for the means and measures whereby the courts are required to preserve the good order and well being of society. It may be sinful to make loans and promissory notes on Sunday. But if we do not find the acts clearly forbidden by

Honorable Robert H. Branom

the laws which we are authorized to enforce,
we must leave the sin to be dealt with by a
Higher Power. . . ."

By statute in this state, work and labor on Sunday, other than that of necessity or charity, was prohibited from 1814 until 1963 when Section 563.690 was repealed. 1 Territorial Laws 302. Under this statute contracts growing out of a violation were held void and unenforceable by the courts of this state, Glitzke v. Ginsberg, 258 S.W. 1004 (Mo. banc 1924).

When Section 563.690, RSMo, was repealed in 1963, Section 563.721, RSMo 1969, was enacted prohibiting the sale of certain goods and merchandise as stated therein from being sold on Sunday.

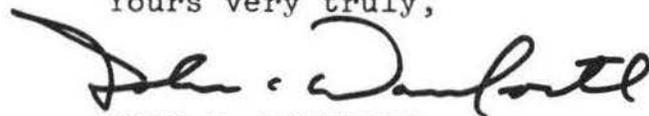
We are unable to find any statute at the present time which prohibits work or labor on Sunday or the transaction of business on Sunday.

CONCLUSION

It is the opinion of this office that the board of directors of a fire protection district may hold meetings and conduct its regular business and pass legally binding ordinances on Sunday.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,



JOHN C. DANFORTH
Attorney General