

**Opinion No. 46-4944**

August 23, 1946

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. Richard F. Rowley Asst. District Attorney Ninth Judicial District Clovis, New Mexico

{\*267} I wish to acknowledge your inquiry of August 22, 1946, wherein inquiry was made as to whether or not a carnival held on Sunday would in any way violate the laws of New Mexico, and in particular, Section 41-4402 of the 1941 Compilation, which prohibits certain activities on Sundays.

As you have the statutes available, I shall not bother to set the section out in full.

It is my opinion that this section applies to activities tending toward immorality and/or the disturbance of any worshipping assembly or private family.

This office has held in previous opinions that a program of sports held on Sunday would not violate this section (Attorney General's Opinions, 1914, p. 79). (See also 17 N.M. 214). It was also held in Attorney General's Opinions, 1915-16, p. 52 that **unless** the having of dances on Sunday has the effect of disturbing some worshipping assembly or private family, that same are not in violation of the statute.

In your inquiry, you stated that the carnival proposed to be held would not interfere with any worshipping assembly or any private family and that the proposed location was outside the city.

It is, therefore, my opinion, from the facts presented to me, that the holding of this carnival on Sunday, on the face of things, would not violate Section 41-4402 of the 1941 Compilation, or any other state law.

However, I wish to point out at this time that if any shows or games sponsored and presented under the auspices of the carnival tend toward immorality, or if the holding of such carnival would interfere with any private family, then there would be a violation of the aforementioned statute.

Trusting this satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General