

Opinion No. 15-1570

July 2, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Weber & Sons Merc. Co., Clayton, New Mexico.

Sunday law.

OPINION

{*149} I have just received your letter of the 30th ultimo relative to the Sunday law of New Mexico. As I understand your letter you are in the habit of observing Saturday as your Sabbath, desisting from business at sundown on Friday night and remaining closed up until sundown Saturday night. This must be with you a matter of religious observance, and I can readily appreciate the embarrassment and loss which you would suffer if you closed up your business on both Saturday and Sunday, but the law of New Mexico on this subject is not one for any religious observance, nor is it founded upon any religious considerations. Similar laws have been upheld throughout the country, notwithstanding constitutional provisions such as we have in New Mexico, on the subject of religion, and the laws have been upheld for the reason above indicated.

We have in our constitution, in Section 11 of Article II, and again in Section 1 of Article XXI, as strong and liberal provisions on the subject of religion as I believe are to be found anywhere in the United States. The first of the sections above cited reads as follows:

"Every man shall be free to worship God according to the dictates of his own conscience, and no person shall ever be molested or denied any civil or political right or privilege on account of his religious opinion or mode of religious worship. No person shall be required to attend any place of worship or support any religious sect or denomination; nor shall any preference be given by law to any religious denomination or mode of worship."

The first sentence of the other section is as follows:

"Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship."

The section first quoted is one which at first glance would seem to harmonize with and sustain your idea that you should not be compelled to desist from business on Sunday after having religiously observed your Saturday Sabbath, and if the Sunday laws were to be considered in the nature of religious laws your position would be quite correct..

As a practical question, if the sentiment of your community does not favor the observance of this law it is quite probable that you might never be punished for disregarding it, but you would always run the risk of being brought before the district court on a charge of violating the law, and might suffer the punishment of a fine not exceeding \$ 15.00 nor less than \$ 5.00, or imprisonment of not more {**150*} than fifteen days nor less than five days, in the discretion of the court. You will find the law on this subject in Sections 1368 to 1374 of the Compiled Laws of 1897, and in Chapter 33 of the Laws of 1913, which, by amendment, declares that Sunday be regarded as the time between 11:59 P. M. on Saturday and 12 P. M. on Sunday.

I am unable to advise you that the fact of your closing up on Saturday gives you any right to do business on Sunday.