

**Holiday.**

The third Tuesday of April being fixed by law for the observance of Arbor Day and the Governor having proclaimed the same to be a legal holiday it is a non-judicial day and the District Court or Judge cannot act except as provided in the exceptions to Section 121 of the Code of Civil Procedure.

Helena, Mont., April 15th, 1907.

John W. James, Esq.,  
County Attorney,  
Anaconda, Mont.'

Dear Sir:—

In response to your telephonic request for opinion from this office upon the following statement of facts:

“To-morrow being by law and the Governor’s proclamation, set apart for the observance of Arbor Day, would it be proper or legal for the District Judge to continue to hold court and proceed with the trial of a criminal case?”

and confirming oral opinion given you over the telephone, you are advised that to-morrow being set apart by the Governor’s proclamation as a legal holiday, the court cannot transact any business other than that enumerated in the exceptions contained in Section 121 of the Code of Civil Procedure. By the provisions of Section 3280 of the Political Code, as amended by H. B. 79, approved February 13, 1907, the third Tuesday in April is designated by law as Arbor Day, and it is made the duty of the Governor to annually make his proclamation setting apart such day for the observance of Arbor Day. And by the provisions of Section 10 of the Political Code, among other holidays enumerated are the following:

“Every day appointed by the President of the United States or of the Governor of this State for a public fast, thanksgiving or holiday.”

The Governor in his proclamation, having declared the third Tuesday of April this year to be a legal holiday, the force and effect of what is hereinabove stated will be by you readily understood and applied.

Yours very truly,

ALBERT J. GALEN,

Attorney General.