

Opinion No. 50.**Holidays — Pioneer Day, Designation
Of.**

HELD: November 1st of each year should be designated and known as Pioneer Day in the State of Montana.

November 20, 1953.

Miss Mary M. Condon
Superintendent of Public Instruction
Capitol Building
Helena, Montana

Dear Miss Condon:

You have submitted the following question to this office:

"What day is legally to be designated as Pioneer Day in Montana?"

You inform me that the question arises due to the evident conflict in the language of Sections 75-2204 and 75-2207, R.C.M., 1947.

Section 75-2204, R.C.M., 1947, reads:

"Legal Holidays—School Sessions. When Suspended. No school shall be in session on the following holidays: New Year's day, Memorial day (May 30th), Independence day (July 4th), Labor day (first Monday in September), Thanksgiving day, or Christmas day; provided, however, that in school districts where the school building must be used for election purposes, state and national election day shall be deemed a legal holiday under the provisions of this Act. No school shall be dismissed on the following holidays, but appropriate exercises as a part of the day's program shall be held in each school when school is in session, on each of the said holidays, and where such holidays fall on Saturday or Sunday such exercises shall be conducted on the Friday preceding such holiday: Lincoln's Birthday (February 12th), Washington's Birthday (February 22d), Arbor day (second Tuesday of May), Flag day (June 14th), Columbus day (October 12th), **Pioneer day (November 1st)**, Armistice day (November 11th), and such other days as may hereafter be designated as legal holidays by the legislature or governor."

(Emphasis supplied.)

Section 75-2207, R.C.M., 1947, reads:

"Pioneer Day, How Observed. The **First Monday** of November of each year shall be designated and known as Pioneer Day in the state of Montana." (Emphasis supplied.)

The first mention of Pioneer Day in Montana Session Laws is found in Chapter 88, Laws of 1903, wherein the chapter entitled "An Act to Set Apart One Day in the Schools of Montana for the Study of Pioneer History, to be known as Pioneer Day," reads in part as follows:

"That the last Friday in May of each year shall hereafter be designated and known as Pioneer Day in the State of Montana."

Re-enacted in 1907 as Section 1025, R.C.M., 1907, this Act was amended by Section 1 of Chapter 35, Montana Session Laws of 1909, to read as follows:

"That the **first Friday of November** of each year shall be designated and known as Pioneer Day in the State of Montana." (Emphasis supplied.)

Section 1025, R.C.M., 1907, was expressly repealed by Chapter 76, Laws of 1913, however, this chapter in Section 1400 thereof provided:

"Pioneer Day. 1. Date of—The first Monday of November of each year shall be designated and known as Pioneer Day in the State of Montana."

Chapter 76, Laws of 1913, in Section 1300 provided:

"No schools shall be in session on a legal holiday. The days which shall be recognized as legal holidays are Labor Day, (the first Monday in September), Columbus Day (October 12), State and National Election Day, Thanksgiving Day, Christmas Day, New Year's Day, Lincoln's Birthday (February 12), Washington's Birthday (February 22), Memorial Day (May 30), Independence Day (July 4) and other days that may hereafter be designated as legal holidays by the legislature or governor."

Section 1300, supra, was amended by Chapter 240, Laws of 1921, and included in said amendment was the provision "Pioneer Day (November 1st)." There was no express repeal of Section 1400, Laws of 1913, by Chapter 240, however, said chapter did provide that "all acts and parts of acts in conflict herewith are hereby repealed." The 1921 amendment was the last legislative expression on the subject and must prevail. Although not expressly repealing Section 1400 of Chapter 76, Laws of 1913, it nevertheless impliedly repealed same.

It is, therefore, my opinion that November 1st of each year should be designated and known as Pioneer Day in the State of Montana.