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DO STATUTES PROHIBITING LABOR ON SUNDAY
MAKE VOID CONTRACTS FOR ADVERTISING
IN SUNDAY NEWSPAPERS?

An important element to be considered in the formation of contract is the object of the parties. Certain objects are illegal at common law and others are made so by statute. One of the fundamental reasons for such statutory prohibition is the need for regulation of certain kinds of business. Statutes commonly prohibit work, labor, and business on Sunday. Sunday statutes are in force in most of the American States but their construction has resulted in some conflict of authority. The construction placed upon the Sunday statutes of Missouri, as well as of other American States, seems to exclude work of "necessity and charity" from labor prohibited on Sunday. This construction is not, however, as valuable as it first appears for in the case of *State v. Stuckey* (1903), 98 Mo. 664, we have the statement that "although the purpose of the Sunday laws to compel a cessation of labor, that there might not be a desecration of the day, is plain, yet the words 'necessity and charity,' as used therein, are vague and impossible of application to every day life with anything like uniformity." In considering the two kinds of work which form the exceptions to that prohibited by Sunday statutes, a pertinent question is, whether or not the publishing of a great daily paper on Sunday is a work of necessity and whether or not contracts for advertisements which appear in said papers are void?

In reviewing a Pennsylvania case, *Commonwealth v. Matthews* (1893), 152 Pa. 166, it was held that the selling of Sunday newspapers is not a work of necessity or charity within the proviso excepting such work from the operation of a statute imposing a penalty for doing and performing worldly employment on Sunday. A similar view was held in New York in *Smith v. Wilcox*, 24 N. Y. 353. The facts in this case show that a newspaper had agreed to publish the advertisement of the defendant on Sunday and to sell on that day their paper containing the advertisement. The Supreme Court of New

York held that it was servile work and for this reason the contract for the advertising would be void. The view taken in the preceding cases is upheld by the Missouri case, *Geo. Knapp v. Culbertson* (1910), 152 Mo. App. 147, where a contract for Sunday advertising in a newspaper was declared to be void as calling for the performance of labor on Sunday, in violation of statute. The cases cited thus far have held that the publishing of Sunday newspapers was not a work of necessity and that contracts for advertising in said papers were void.

Reverting to the statement previously made concerning the conflict of authority in the construction of Sunday statutes it might be well to consider cases holding opposite views to those of the cases cited above. In *Sheffield v. Balmer*, 52 Mo. 474, a contract made with the publishers of the *St. Louis Home Journal* for publishing an advertisement in their weekly (Sunday) edition was held not to be void. In accord with this decision a rather recent and important Missouri case in which the matter of controversy was the subject of the present discussion is *Pulitzer Publishing Company v. McNichols* (1915), 181 S. W. 1. The plaintiff (publisher) sued the defendant in the Circuit Court of the City of St. Louis for a balance due under a contract for printing certain advertisements of merchandise in the *St. Louis Post-Dispatch*. Part of the work had been done on week days and part on Sunday. The defendant did not hesitate to pay for the work done on week days but refused to pay for that done on Sunday, claiming that the paper had violated Section 4801 Rev. Stat. Mo. (1909), which prohibits certain kinds of labor on the first day of the week. In the Circuit Court the judgment was against the plaintiff. The plaintiff appealed and the St. Louis Court of Appeals reversed the judgment with directions to enter judgment for the plaintiff, but certified the cause to the Supreme Court of Missouri for determination because the opinion was in conflict with the Kansas City Court of Appeals in the case (cited above), *Geo. Knapp v. Culbertson*, 152 Mo. App. 147. The Supreme Court sustained the judgment of the

St. Louis Court of Appeals, thereby overruling the decision in the case of *Geo. Knapp v. Culbertson*.

The Chief Justice in handing down the decision made reference to the fact that the only thing to be determined in this case was whether or not the publishing of a great daily paper on Sunday is a work of necessity. In holding that it was a work of necessity reference was made to the progress of civilization and of how one time luxuries had become present necessities. The press, together with the home, the church and the public school ranks as one of the four great institutions of the country. The press is the mouthpiece of statesmen and lawmakers, and is an educator in science and literature. It enables the poor to procure employment and familiarize themselves with the best and cheapest necessities of life. This service is rendered more on Sunday than on other days for the toiling masses have more time to read the paper on that day. The advertisements in the paper are one thing which makes it a necessity, for without them it would be practically worthless to thousands in every city.

Since the above decision was handed down by the Supreme Court of Missouri in comparatively recent times, the law, in Missouri at least, seems to regard the publishing of a Sunday newspaper as a work of necessity, not forbidden by Sunday statutes; and to hold that contracts for advertising in a Sunday newspaper are valid.

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