

Schools, Reading of Bible In. Bible, Reading in Public Schools.

The reading of the Bible in public schools is not prohibited by the constitution, provided no comment is made thereon, and provided, further, that the pupils are not required to attend during the exercises.

January 31, 1911.

Hon. F. P. Leiper,
County Attorney,
Glendive, Montana.

Dear Sir:

I am in receipt of your letter January 27, 1911, in which you request the opinion of this department upon the following state of facts:

"A teacher in one of the rural districts of this county is desirous of reading a portion of the Bible each morning as a part of the opening exercises of the school. Can this be done legally within the state of Montana?"

The laws of this state applicable to the state of facts recited in your letter are as follows: Article III, Section 4, of the State Constitution provides:

"No person shall be required to attend any place of worship * * * * * against his consent."

Also Article XI, Section 9;

* * * * * Nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the state."

Section 914 of the Revised Codes of 1907, provides:

"No sectarian partisan or denominational publication must be used * * * in any school * * * nor must any sectarian or denominational doctrine be taught therein."

That sectarian instruction is prohibited by the above provisions of the constitution and code, there is no question, but in each case presenting itself it is necessary to determine from the facts the extent of the exercises or readings contemplated. The authorities are not uniform as to what constitutes religious or sectarian instruction within the meaning of constitutional provisions similar

to ours, but in the majority of jurisdictions, I have discovered that the reading of the Bible, or parts thereof, without comment or remark by the person reading, and where further attendance upon such exercises is not compulsory upon the pupils whose parents or guardians object thereto is not a violation of such provisions of the constitution. This is the view of the supreme courts of the states of Kansas, Nebraska, Massachusetts, Kentucky, Iowa, Michigan, Ohio, Pennsylvania, Texas, Maine and Illinois. However, the supreme court of the state of Wisconsin in the case of State vs. District Board, reported in 20 Am. State Reports, page 40, is a very strong case against even the reading of the Bible in a public school without comment or remark.

On December 21, 1907, I addressed an opinion to the Honorable Wm. E. Harmon, supt. of public instruction, involving this question, which opinion may be found in Vol. 2, of Opinions of Attorney General, page 202, and from my recent examination of the authorities, in answer to your communication, I have no reason at this time to change my opinion rendered to Mr. Harmon, wherein I held:

"That the trend of modern decision is to the effect that even the reading of the Bible itself in public schools is not sectarian instruction provided no comment is made thereon, and that the pupils are not required to attend during the exercises."

But as indicated above each particular case should be considered in the light of the facts surrounding it as was said by the supreme court of the state of Nebraska in the case of the State vs. Schreve, 65 Neb. 853:

"Whether it is prudent or politic to permit Bible reading in the public schools is a question for school authorities to determine, but whether the practice of Bible reading has taken the form of sectarian instruction in a particular case is a question for the courts to determine upon evidence."

And further, in the case of Miller vs. Board, 121 Ill. 297:

"The point where courts may rightfully interfere and where they should interfere without hesitation is where legitimate use has degenerated into abuse, where a teacher employed to give secular instruction has violated the constitution by becoming a sectarian propagandist."

In view of the foregoing authorities and of the opinion referred to, I advise you that the reading of the Bible in public schools is not prohibited by the provisions of the constitution, provided no comment is made thereon and provided further that the pupils are not required to attend during the exercises.

Yours very truly,

ALBERT J. GALEN,

Attorney General.