

Opinion No. 22-3423

May 9, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. W. G. Donley, Superintendent of Schools, Carlsbad, New Mexico.

Reading Bible at School Assemblies.

OPINION

{*150} In reply to your letter of the 5th instant, asking if it would be a violation of law to read the Bible at assembly exercises, without comment thereon, I wish to advise you:

Section 9 of Article XII of the State Constitution provides that:

"No religious test shall ever be required as a condition of admission into the public schools or any educational institution of this state, either as a teacher or student, and no teacher or student of such school or institution shall ever be required to attend or participate in any religious service whatsoever."

Your inquiry involves the question as to whether the reading of the Bible would be in conflict with that part of the section of the Constitution quoted, which provides that no student shall be required to attend or participate in any religious service whatsoever.

The authorities are not uniform as to what constitutes religious service within the meaning of the above mentioned prohibition. In most jurisdictions it is held that the reading of the Bible or parts thereof without comment or remark, the repeating of a prayer and the singing of religious songs in the public schools, which exercises need not be attended or participated in by pupils whose parents or guardians object thereto, is not in violation of a constitutional provision against the giving of religious or sectarian instruction.

While most of the cases so holding are based upon constitutional provisions prohibiting religious instruction, and while our Constitution uses the words "religious service," it is my opinion that there is no objection to the reading of the Bible in the public schools, provided that the pupils whose parents or guardians object to their being present may be excused during such period as the Bible is being read, and provided further that no comment or remark may be indulged in relating thereto.