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THE BIBLE IN THE PUBLIC SCHOOLS

LEGAL STATUS AND CURRENT PRACTICE

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BIBLE READING IN THE PUBLIC SCHOOLS.

LEGAL STATUS AND CURRENT PRACTICE.

CONTENTS.—Introduction—State laws relating to Bible reading in the public schools; I. Laws requiring Bible reading; II. Laws specifically permitting Bible reading in the schools; III. States in which Bible reading in the schools is permitted under general terms of the law or by reason of its silence on the subject; IV. Court decisions favorable to Bible reading in the schools; V. Court decisions adverse to Bible reading in the public schools; VI. Other States in which the stated reading of the Bible in the public schools is not permitted or practiced.

INTRODUCTION.

The material here presented has been brought together for publication in response to a very considerable demand for information relative to the use of the Bible in the public schools. This demand has been evidenced in recent years by many letters addressed to the Bureau of Education and designed to ascertain what laws the several States have on the subject and what the practice is with respect to Bible reading in the schools of the country. Early in 1922 the bureau prepared and sent to State departments of education a brief questionnaire which was intended to obtain the main items of information needed for this study. This questionnaire comprised six questions, as follows:

1. Does the law of your State require Bible reading in the public schools at stated times or for specified periods within the school week? If so, refer to the law.
2. Does the law (constitutional or statutory) *specifically permit* Bible reading in the schools? If so, give reference.
3. If neither of the above is the case, is Bible reading permitted under general terms of the law or by reason of its silence on the subject?
4. If it is not permitted to read the Bible in the schools, please refer to statute or constitutional provision which prohibits such reading.
5. In some States the Bible is excluded from the schools through recognized construction of the constitution or statutes, as by supreme court decision or attorney general's opinion. Is your State one of these? If so, please cite such decision or opinion.
6. Outline briefly the practice with respect to Bible reading in the schools of your State.

The questionnaire was sent to all States, except the six whose laws unequivocally require stated reading of the Bible in the schools; and every State department of education filled and returned the blank

so sent, or otherwise answered the questions propounded. To the data thus obtained was added information derived from the school laws of the several States and from State constitutions and supreme court reports of cases involving the legality of Bible reading, and from these several sources the material embodied in this brief bulletin was compiled and arranged.

It should be readily apparent to the reader that the study here undertaken is given the form of a statement of facts only. The writer makes no argument for or against the use of the Bible in the public schools; nor is any attempt made to prove the soundness or fallacy of any argument or opinion quoted. To show the legal status of Bible reading in the schools of each State, however arrived at, and something of the practice under such law as exists, whatever that practice may be, is the writer's objective.

On examination of the detailed data it will be seen that 6 States require that a portion of the Bible be read daily in their schools; 6 other States specifically permit by law the reading of the Bible in the public schools; in 19 States and the District of Columbia the law is silent on the subject, and under general terms of the law Bible reading is construed as permissible; in 5 States, whose laws otherwise contain no specific provision on the subject, the courts have rendered opinions favorable to Bible reading. In Michigan and California the matter is at present somewhat in doubt. The Michigan Supreme Court held, in a particular case before it, that the reading of Bible stories emphasizing "moral precepts" was not unconstitutional, if the reader made no comment and pupils were permitted to absent themselves, but the court went no further in some other aspects of the matter. A case involving Bible reading in the schools is at present pending in the Supreme Court of California. Massachusetts has both a statute requiring Bible reading and a favorable court decision.

There remain 10 States, and in these it is not permissible to read the Bible at stated times in the public schools. Of these States 3 have supreme court decisions adverse to such reading, and in the remaining 7 an opinion of the State superintendent of public instruction, attorney general, or other authoritative construction has barred the Bible from the schools. The accompanying tabular statement shows in brief space the States which require, permit, or prohibit the use of the Bible in their respective schools.

**SUMMARY TABLE SHOWING PROVISIONS OF STATE LAWS RELATING
TO BIBLE READING IN THE PUBLIC SCHOOLS.**

States.	Law requires Bible reading in public schools.	Law specifically permits Bible reading.	Bible reading permitted under general terms of the law or by reason of its silence.	Bible reading prohibited in public schools.	Supreme court decision favorable or adverse.	Attorney general's opinion favorable or adverse.	Present practice in public schools (as reported).
1	2	3	4	5	6	7	8
Alabama	Yes					Adverse ¹	See column 2.
Arizona	No	No	No	Yes		Adverse ¹	Generally read.
Arkansas			Yes				Local board decides.
California	No	No	No		Adverse ²		In some schools.
Colorado			Yes				At opening exercises.
Connecticut			Yes				
Delaware			Yes				In most schools.
Dist. of Columbia			Yes				See column 2.
Florida			Yes				
Georgia	Yes					Adverse	
Idaho	No	No	No	(³)		Adverse	
Illinois	No	No	No	Yes	Adverse		
Indiana		Yes					In some schools.
Iowa		Yes					Do.
Kansas		Yes					At opening exercises.
Kentucky			Yes		Favorable.		"Common practice."
Louisiana	No	No	No	Yes	Adverse		
Maine			Yes		Favorable.		Widely read.
Maryland			Yes				Custom to read.
Massachusetts	Yes				Favorable.		See column 2.
Michigan	No	No	(⁴)		(⁴)		"At opening exercises."
Minnesota	No	No	No	Yes		Adverse	
Mississippi			Yes				Generally read.
Missouri			Yes				Bible stories read.
Montana			Yes			Favorable	Usually not read.
Nebraska			Yes		Favorable.		In some schools.
Nevada	No	No	No	Yes			
New Hampshire			Yes				Commonly read.
New Jersey	Yes						See column 2.
New Mexico			Yes				Little attention to it.
New York	No	(⁵)	No	(⁶)		(⁷)	In New York City.
North Carolina			Yes				Usually read.
North Dakota		Yes					Generally read.
Ohio			Yes		Favorable.		Local board decides.
Oklahoma		Yes					Do.
Oregon			Yes				Generally not read.
Pennsylvania	Yes						See column 2.
Rhode Island			Yes				At teacher's option.
South Carolina			Yes				Generally read.
South Dakota		Yes					In some schools.
Tennessee	Yes						See column 2.
Texas			Yes		Favorable.		In some schools.
Utah			Yes				At teacher's option.
Vermont			Yes				Generally read.
Virginia			Yes				In some schools.
Washington	No	No	No	Yes		Adverse	
West Virginia			Yes				
Wisconsin	No	No	(⁸)	(⁹)	Adverse		In many schools.
Wyoming	No	No	No	(⁹)			

¹ State board of education has ruled that religious instruction can not be given during school hours.

² By court of appeal. Case now pending (Jan., 1923) in State supreme court.

³ Constitution (Art. IX, sec. 6) prohibits teaching "sectarian or religious tenets or doctrines."

⁴ There is question whether the Bible may be read. Court decision favorable to reading Bible stories.

⁵ Reading must be without comment.

⁶ In New York City by city charter.

⁷ State commissioner of education has ruled adversely to Bible reading in school hours.

⁸ Supreme court decision adverse to "stated reading of Bible."

⁹ Constitution prohibits "sectarian instruction" or requiring attendance upon any "religious service."

The laws of the six States which require that the Bible be used in the public schools are alike in that daily readings are prescribed, but in some other phases there is want of likeness. Alabama requires

"readings from the Holy Bible"; Georgia prescribes "the Bible, including the Old and the New Testament"; Massachusetts, "a portion of the Bible"; the new Jersey law, "at least 5 verses from that portion of the Holy Bible known as the Old Testament"; Pennsylvania requires "at least 10 verses from the Holy Bible"; and the Tennessee law uses the same language as that of Pennsylvania. In New Jersey, Pennsylvania, and Tennessee reading must be "without comment," and in Massachusetts, "without written note or oral comment." In Georgia, Massachusetts, and Tennessee any pupil may be excused from the Bible-reading exercises upon written request of his parents or guardian.

The laws of the six States which specifically permit the use of the Bible in the schools would seem to indicate the intent of the legislatures to safeguard the Bible against exclusion from the schools under construction placed upon laws relating to religious or sectarian instruction. For example, the North Dakota act declares "The Bible shall not be deemed a sectarian book. It shall not be excluded from any public school."

The largest group of States, under the classification made in this study, comprises those which have no written law on Bible reading in the schools, but in which such reading is permissible by reason of the law's silence on the subject or by general consent of the people. In these States the matter is generally at the discretion of the local school authorities. Closely related to this group is the group of five States whose constitutions and statutes are silent on Bible reading as such, but whose courts have rendered favorable decisions. In Ohio, for example, the supreme court held that the courts could not by injunction prevent a local school board from requiring that the Bible be read as a part of the opening exercises of the school. An opinion of the attorney general of Montana would permit Bible reading in the schools if no accompanying comment is made.

Where a State constitution or statute prohibits "religion," "religious instruction," or "religious exercises" in the public schools, it would seem that the Bible is generally understood to be excluded, particularly if its use is to be made a part of the morning exercises or other observance in which the religious element is prominent. Arizona, Idaho, and Wyoming constitute a group of States in which Bible reading in the schools is not permitted for this reason. On the other hand, if the aim in the use of the Scriptures is purely instructional, apart from any religious aim, as when excerpts are used for literary study, such a use is in some jurisdictions permitted. In the Wisconsin court decision, quoted further on in this bulletin, it was held that such portions of the Bible as are not "sectarian" in character may be used in "secular instruction" and "to inculcate good morals."

It is around the word "sectarian" that the sharpest controversy has been waged. Various States have constitutional or statutory

provisions intended to prevent sectarian instruction and the use of sectarian books in the public schools, and primarily it is at sectarianism that these laws are aimed; but out of this has arisen the question whether a particular version of the Bible—as, for example, the King James translation—is excluded by this class of legal provision. As yet this question remains unsettled. Of three State supreme court decisions bearing directly on the definition of the word, one held the Bible a sectarian book and two declared the opposite opinion. The former was Illinois and the latter Kentucky and Texas. A Nebraska decision inclines to the view that the Bible in itself is not excluded by that State's constitution, but that, in the hands of a "sectarian propagandist," its use may become illegal. A court of appeal in California has held the Bible to be a sectarian book.

With respect to current practice in the use of the Bible in the schools, data at hand are not so complete as for the legal status of Bible reading, but from the returns received from State departments of education considerable information on this phase of the subject was obtained. It may be assumed that in the 6 States having mandatory laws, Bible reading in the schools is general and that the practice varies in the 30 States where it is permissible, specifically or impliedly, to read the Bible. In the last column of the table given on a preceding page some noteworthy data on current practice are presented.

Plans of allowing credit toward graduation from high school for approved Bible study are in operation in several States. This is somewhat aside from the question of the legal status of the Bible in the schools, but it would seem to constitute an effort to induce school pupils to acquire knowledge of biblical literature and history. The Indiana plan, which has the approval of the State department of education, contemplates the taking of work according to an official syllabus in Sunday schools, Young Men's Christian Association classes, or in other approved ways, and the accrediting of this work for not exceeding two high-school units. In Iowa credit of one-half to one unit is allowed, and here also the plan has the approval of the State department. The work in Iowa may be done (1) in denominational groups by pastors, (2) in general groups by persons "trusted to rise above sectarian bias," (3) in colleges or secondary schools which offer courses in Bible study, or (4) in courses in English classics. In Michigan and Missouri similar plans have been worked out.

Of the Oregon plan State Supt. J. A. Churchill writes:

This department issues a suggested course in Bible study which is used extensively throughout the State by Sunday schools and other organizations. Twice each year the department gives an examination on Bible study, and those who pass the examination may secure credit in their regular high-school course.

In Virginia an "official syllabus of Bible study for high-school pupils" is issued by the State board of education; this comprises three

courses, two on the Old and one on the New Testament. These are designed for use by Sunday-school teachers and others, and credits are allowed on satisfactory examinations as for other high-school electives. In some other States, as Colorado and North Dakota, some schools have plans of accrediting Bible study.

STATE LAWS RELATING TO BIBLE READING IN THE PUBLIC SCHOOLS.

I. Laws Requiring Bible Reading.

Alabama.—Be it enacted, etc.: SEC. 1. That all schools in this State that are supported in whole or in part by public funds be and the same are hereby required to have once every school day readings from the Holy Bible.

SEC. 2. That teachers in making monthly reports shall show on the same that they have complied with this act, and superintendents of city schools in drawing public funds shall certify that each teacher under their supervision has complied with this act.

SEC. 3. That schools in the State subject to the provisions of this act shall not be allowed to draw public funds unless the provisions of this act are complied with, and the State superintendent of education is charged with the enforcement of the provisions hereof.

School Code, 1919, p. 143.

Georgia.—Be it enacted, etc.: SEC. 1. * * * Provided, however, that the Bible, including the Old and New Testament, shall be read in all the schools of this State receiving State funds, and that not less than one chapter shall be read at some appropriate time during each school day. Upon the parent or guardian of any pupil filing with the teacher in charge of said pupil in the public schools of this State a written statement requesting that said pupil be excused from hearing the said Bible read as required under this act, such teacher shall permit such pupil to withdraw while the reading of the Bible as required under this act is in progress. Such request in writing shall be sufficient to cover the entire school year in which said request is filed.

Georgia Laws, 1921, p. 157.

Massachusetts.—SEC. 31. A portion of the Bible shall be read daily in the public schools, without written note or oral comment; but a pupil whose parent or guardian informs the teacher in writing that he has conscientious scruples against it shall not be required to read from any particular version, or to take any personal part in the reading. The school committee shall not purchase or use in the public schools school-books favoring the tenets of any particular religious sect.

General Laws Relating to Education, 1921, p. 38.

New Jersey.—SEC. 162. No religious service or exercise, except the reading of the Bible and the repeating of the Lord's Prayer, shall be held in any school receiving any portion of the moneys appropriated for the support of public schools.

SEC. 163. In each public-school classroom in the State, and in the presence of the scholars therein assembled, at least five verses from that portion of the Holy Bible known as the Old Testament shall be read, or caused to be read, without comment, at the opening of such school, upon each and every school day, by the teacher in charge thereof; provided, that whenever there is a general assemblage of school classes at the opening of such school day, then instead of such classroom reading the principal or teacher in charge of such assemblage shall read at least five verses from said portion of the Holy Bible, or cause same to be read, in the presence of the assembled scholars, as herein provided.

School Law, 1921, p. 83.

Pennsylvania.—SEC. 3901. That at least 10 verses from the Holy Bible shall be read or caused to be read, without comment, at the opening of each and every public school, upon each and every school day by the teacher in charge: Provided, That

where any teacher has other teachers under and subject to direction, then the teacher exercising this authority shall read the Holy Bible, or cause it to be read, as herein directed.

SEC. 3902. That if any school-teacher whose duty it shall be to read the Holy Bible or cause it to be read, as directed in this act, shall fail or omit so to do, said school-teacher shall, upon charges preferred for such failure or omission and proof of the same before the governing board of the school district, be discharged.

School Laws, 1921, p. 201.

Tennessee.—SEC. 1. That at least 10 verses from the Holy Bible shall be read or caused to be read, without comment, at the opening of each and every public school upon each and every school day, by the teacher in charge; provided, the teacher does not read the same chapter more than twice during the same session; provided, that where any teacher has other teachers under and subject to direction, then the teacher exercising this authority shall read the Holy Bible or cause it to be read as herein directed.

SEC. 2. That if any school-teacher, whose duty it shall be to read the Holy Bible, or cause it to be read, as directed in this act, shall fail or omit to do so, said school-teacher shall, upon charges preferred for such failure and omission and proof of the same before the governing board of the school, be discharged.

SEC. 3. That pupils may be excused from the Bible reading upon the written request of the parents.

Public School Laws, 1920, p. 152.

II. Laws Specifically Permitting Bible Reading in the Schools.

Indiana.—130. The Bible shall not be excluded from the public schools of the State.

Laws Relating to the Public School System, 1917, p. 96.

Iowa.—SEC. 2805. The Bible shall not be excluded from any public school or institution in the State; nor shall any child be required to read it contrary to the wishes of his parent or guardian.¹

School Laws, 1919, p. 59.

Kansas.—SEC. 163. No sectarian or religious doctrine shall be taught or inculcated in any of the public schools of the city; but nothing in this section shall be construed to prohibit the reading of the Holy Scriptures.

SEC. 214. No sectarian doctrine shall be taught or inculcated in any of the public schools of the city; but the Holy Scriptures, without note or comment, may be used therein.²

Laws Relating to the Common Schools, 1920, pp. 64 and 78.

North Dakota.—SEC. 1388. The Bible shall not be deemed a sectarian book. It shall not be excluded from any public school. It may at the option of the teacher be read in school without sectarian comment, not to exceed 10 minutes daily. No pupil shall be required to read it or to be present in the schoolroom during the reading thereof contrary to the wishes of his parents or guardian or other person having him in charge.

General School Laws, 1919, p. 112.

Oklahoma.—SEC. 329. No sectarian or religious doctrine shall be taught or inculcated in any of the public schools of this State; but nothing in this section shall be construed to prohibit the reading of the Holy Scriptures.

School Laws, 1921, p. 69.

South Dakota.—SEC. 7659. No sectarian doctrine may be taught or inculcated in any of the public schools of the State, but the Bible, without sectarian comment, may be read therein.

School Laws, 1921, p. 94.

¹ Construing this statute, the Supreme Court of Iowa said: "It is a matter of individual option with school-teachers as to whether they will use the Bible in their schools or not, such option being restricted only by the provision that no pupil shall be required to read it contrary to the wishes of his parents or guardian; and said section is not in conflict with article 1, section 3, of the constitution."

Moore v. Monroe et al., 64 Iowa, 387.

² See *Billard v. Board of Education, 69 Kans. 53*, for a court decision sustaining the Kansas statute.

III. States in Which Bible Reading in the Schools is Permitted under General Terms of the Law or by Reason of its Silence on the Subject. —

In the questionnaire sent to State departments of education, one question asked was: "Is Bible reading permitted under general terms of the law, or by reason of its silence on the subject?" According to returns received, the following States belong in this group, but in several cases reading must be without comment:

Arkansas.	Mississippi.	Rhode Island.
Colorado.	Missouri.	South Carolina.
Connecticut.	Montana.	Utah.
Delaware.	New Hampshire.	Vermont. ²
District of Columbia.	New Mexico.	Virginia.
Florida.	North Carolina.	West Virginia.
Maryland.	Oregon.	

IV. Court Decisions Favorable to Bible Reading in the Schools.

Kentucky.—We believe the reason and weight of the authorities support the view that the King James translation of the Bible is not a "sectarian" book within the meaning of the Kentucky statutes, Section 4368, which provides that "no books or other publications of a sectarian, infidel, or immoral character shall be used or distributed in any common school; nor shall any sectarian, infidel, or immoral doctrine be taught therein," and when used merely by reading in the common schools, without note or comment by teachers, is not sectarian instruction; nor does such use of the Bible make the schoolhouse a house of religious worship.

The Bible is not a sectarian book.

Huckett v. Brooksville Graded Sch. Dist., 120 Ky., 608.

Maine.—With the superintending school committee the legislature has reposed the power of directing the general course of instruction and what books shall be used in the schools; and they may rightfully enforce obedience to all the regulations by them made, within the sphere of their authority.

A requirement by the superintending school committee that the Protestant version of the Bible be read in the public schools of their town, by the scholars who are able to read, is in violation of no constitutional provision, and is binding upon all the members of the schools, although composed of divers religious sects.

Honohue v. Richards et al., 38 Me., 379.

Massachusetts.—The school committee of a town may lawfully pass an order that the schools thereof shall be opened each morning with reading from the Bible and prayer, and that during the prayer each scholar shall bow the head, unless his parents request that he shall be excused from doing so; and may lawfully exclude from the school a scholar who refuses to comply with such order, and whose parents refuse to request that he shall be excused from doing so.⁴

Spiller v. Woburn, 12 Allen (Mass.), 127.

Michigan.—The use in the public schools, for 15 minutes at the close of each day's session, as a supplemental textbook on reading, of a book entitled "Readings from the Bible," which is largely made up of extracts from the Bible emphasizing the moral precepts of the Ten Commandments, where the teacher is forbidden to make

² In a Vermont case, which has been widely cited in cases involving religious rights, it was held that a pupil may be excluded from school for absence without leave, though such absence was for a religious purpose and in compliance with the parents' wishes. See *Ferriter v. Tyler, 48 Vt. 444.*

⁴ This opinion was handed down in 1896. See page 5 for present Massachusetts statute requiring Bible reading in the public schools.

any comment upon the matter therein contained, and is required to excuse from that part of the session any pupil upon application of his parent or guardian, is not in violation of the State constitution.⁵ (Art. 4, secs. 39, 40, 41.)

Pfeiffer v. Board of Education of District, 118 Mich. 560.

Nebraska.—The law does not forbid the use of the Bible in the public schools.

* * *

The point where the courts may rightfully interfere to prevent the use of the Bible in a public school 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.

Whether it is prudent or politic to permit Bible reading in the public schools is a question for the school authorities, but whether the practice of Bible reading has taken the form of sectarian instruction is a question for the courts to determine upon evidence. Every alleged violation must be established by competent proof.⁶

State ex rel. Freeman v. Scheve, et al., 65 Nebr. 877.

Ohio.—The court can not by injunction prevent the board of education from adopting and enforcing a rule requiring the reading of the Bible as a part of the opening exercises of the school.

It rests with boards of education to determine what instruction shall be given and what books shall be used in the public schools.

Nessle v. Hum, 1 Ohio N. P. 140.

Texas.—The holding of morning exercises in the public schools, consisting of the reading by the teacher without comment of nonsectarian extracts from the Bible, King James version, and repeating the Lord's Prayer and the singing of appropriate songs, in which the pupils are invited but not required to join, does not violate Const., Art. 1, sec. 7, or Art. VII, sec. 5.⁷

The holding of such exercises does not convert the school into a place of worship.

Church et al. v. Bullack et al., 109 S. W. 115.

V. Court Decisions Adverse to Bible Reading in the Public Schools.

California.—(1) A religious "sect" is a body of people believing in the same religious doctrines, and any book which promulgates such doctrines in whole or in part is a book of a "sectarian character." There can be no doubt that the legislature, when it enacted the code sections, used the term "publication of a sectarian, partisan, or denominational character" as referring to any work devoted to or promotive of the tenets and doctrines of any religious denomination. The King James version of the Bible is a translation made under the direction of King James of England in 1604-1611. It has been accepted and followed by Protestants as the authorized translation.

⁵ Michigan constitution (1850), Art. IV, sec. 39. The legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

⁶ Sec. 40. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes.

⁷ Sec. 41. The legislature shall not diminish or enlarge the civil or political rights, privileges, and capacities of any person on account of his opinion or belief concerning matters of religion.

⁸ Nebraska constitution, Art. VIII, sec. 11. No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public funds set apart for educational purposes; nor shall the State accept any grant, conveyance, or bequest of money, lands, or other property to be used for sectarian purposes.

⁹ Texas constitution, Art. 1, sec. 7. No money shall be appropriated or drawn from the treasury for the benefit of any sect, or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Art. VII, sec. 5. * * * And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof, ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

Though Protestantism may not be a sect in the strict interpretation of the term, the Protestant Bible contains the precepts of many of the Protestant denominations, and "denomination" is merely another term for "sect." Controversies have waged for centuries over the authenticity of the various translations of the Bible, each sect insisting that its version is the only truly inspired book. As a result of this controversy, men fail to consider any Bible for its literary or historical value, but bar all from the schools for fear that their children might absorb some doctrine adverse to the teaching of their own denomination. The King James Bible having been adopted by Protestants as their book, it is objectionable to those who do not follow that faith. (2) It is thus a book of a sectarian or denominational character within the meaning of the Political Code.⁸

Evans v. Selma Union High School District, etc., California Appellate Decisions, Nov. 8, 1922, p. 374. (First Appellate District. Decision, Oct. 31, 1922.)

NOTE.—It will be observed that this is not an opinion of the Supreme Court of California, but of one of the courts of appeal. In a letter of January 15, 1923, B. Grant Taylor, clerk of the supreme court, writes that the latter court has granted a hearing in the case, and that this court's opinion will be rendered in due course. The case is therefore pending at this time (January 25, 1923) in the highest court of the State.

Illinois.—(1) Free enjoyment of religious worship includes freedom not to worship. Section 3 of article 2 of the constitution, guaranteeing "the free exercise and enjoyment of religious profession and worship, without "discrimination," includes freedom from being compelled to join in any religious worship.

(2) Children attending public school can not be compelled to join in religious worship. The reading of the Bible in the public schools, the singing of hymns and the repeating of the Lord's Prayer in concert, during which time the pupils are required to rise, bow their heads and fold their hands, constitutes worship within the meaning of the constitution, and pupils can not be compelled to join therein against their own or their parents' wishes.

(3) The constitution forbids giving sectarian instruction in public schools. The provision of section 3 of article 8 of the constitution forbidding the use of public school funds in aid of any sectarian purpose is a prohibition of the giving of sectarian instruction in the public schools.

(4) Reading of the Bible in the public schools constitutes sectarian instruction. The reading of the Bible in public schools constitutes the giving of sectarian instruction within the meaning of section 3 of article 8 of the constitution.⁹

People ex. rel Ring et al. v. Board of Education, 245 Ill. 534.

⁸ California Political Code, sec. 1607, subdiv. 3. Boards of school trustees and city boards of education shall have power, and it shall be their duty: * * * Third—to exclude from school and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character.

Sec. 1672. No publication of a sectarian, partisan, or denominational character must be used or distributed in any school, or be made a part of any school library; nor must any sectarian or denominational doctrine be taught therein. Any school district, town, or city, the officers of which knowingly allow any schools to be taught in violation of these provisions, forfeits all right to any State or county apportionment of school moneys; and upon satisfactory evidence of such violation, the superintendent of public instruction and school superintendent must withhold both State and county apportionments.

⁹ Illinois Constitution, Art. II, sec. 3. The free exercise and enjoyment of religious profession and worship without discrimination shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or mode of worship against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

Art. VIII, sec. 3. Neither the general assembly nor any county, city, town, township, school district, or other public corporation shall ever make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State or any such public corporation to any church or for any sectarian purpose.

Louisiana.—The constitution of the State of Louisiana provides that every person has the natural right to worship God according to the dictates of his conscience, and that no preference shall ever be given to, or any discrimination made against, any church, sect, or creed of religion, or any form of religious faith or worship.

The reading of the Bible, including the Old and New Testaments, in the public schools of the State is a preference given to Christians, and a discrimination made against Jews.¹⁰

Herald et al. v. Parish Board, etc., 136 La. 1034.

Wisconsin.—The use of any version of the Bible as a textbook in the public schools, and the stated reading thereof in such schools by the teachers, without restriction, though unaccompanied by any comment, has "a tendency to inculcate sectarian ideas," within the meaning of sec. 8, ch. 251, Laws of 1883, and is "sectarian instruction," within the meaning of sec. 3, Art. X, Const.

But textbooks founded upon the fundamental teachings of the Bible, or which contain extracts therefrom, and such portions of the Bible as are not sectarian, may be used in the secular instruction of the pupils and to inculcate good morals.

The fact that the children of the petitioners are at liberty to withdraw from the schoolroom during the reading of the Bible does not remove the ground of complaint.

The stated reading of the Bible as a textbook in the public schools may be "worship," and the schoolhouse thereby become, for the time being, a "place of worship," within the meaning of sec. 18, Art. I, Const.

Such reading being religious instruction, the money drawn from the State treasury for the support of a school in which the Bible is so read is for the benefit of a "religious seminary," within the meaning of said section.¹¹

State ex rel. Weiss et al. v. Board of School District of Edgerton, 76, Wis. 111.

VI. Other States in Which the Stated Reading of the Bible in the Public Schools is not Permitted or Practiced.

Arizona.—The State constitution (Art. XI, sec. 7) prohibits sectarian instruction in the public schools, and the school laws¹² make it unlawful for any public-school teacher to "use any sectarian or denominational books, or teach any sectarian doctrine, or conduct any religious exercises in his school." The State board of education has ruled that children should not be given any religious instruction at school during regular school hours.

Idaho.—"No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as a teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian or religious tenets or doctrines shall ever be taught in the public schools."

Idaho Constitution, Art. IX, sec. 6.

Minnesota.—The State constitution prohibits the use of public moneys or property for the "support of schools wherein the distinctive doctrines, creeds, or tenets of any particular Christian or other religious sect are promulgated or taught" and guarantees

¹⁰ This decision invalidated the resolution of a parish [county] school board providing for Bible readings without note or comment in the public schools.

¹¹ Wisconsin Constitution, Art. I, sec. 18. The right of every man to worship Almighty God, according to the dictates of his own conscience, shall never be infringed; nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments, or modes of worship, nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

Art. X, sec. 3. The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition, to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein.

¹² School Laws of Arizona, 1921, p. 52.

freedom of conscience in religious matters. These constitutional provisions have been interpreted by the attorney general of the State as prohibiting (1) the opening of public schools with a recital of the Lord's Prayer, (2) the use of the Bible in the public schools, (3) religious instruction in public schools, (4) the use of schoolhouses for religious services, and (5) wearing the garb of a religious body by public-school teachers while teaching.

Nevada.—The State superintendent of public instruction reports that no Bible reading, except study of references in literature, is allowed in the public schools. The Nevada constitution provides that any district which allows "instruction of a sectarian character" in its school may be deprived of its proportion of the interest of the public-school fund, and this has been construed as excluding Bible reading.

New York.—In a decision rendered June 5, 1872, Abram B. Weaver, State superintendent of public instruction, said: "There is no authority in the law to use, as a matter of right, any portion of the regular school hours in conducting any religious exercise, at which the attendance of the scholars is made compulsory. On the other hand, there is nothing to prevent the reading of the Scriptures or the performance of other religious exercises by the teacher in the presence of such of the scholars as may attend voluntarily, or by the direction of their parents or guardians, if it be done before the hour fixed for the opening of the school or after the dismissal of the school." On May 27, 1884, State Supt. W. B. Ruggles rendered a decision of like nature.

Section 1151 of the charter of New York City permits Bible reading in the public schools of that city.

Washington.—"No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or support of any religious establishment."
Constitution, Art. I, sec. 11.

The attorney general has rendered an opinion holding the stated reading of the Bible to be a "religious exercise" within the meaning of this section of the constitution.

Attorney General's Opinions, 1891-92, p. 142.

Wyoming.—"No sectarian instruction, qualifications, or tests shall be imposed, exacted, applied, or in any manner tolerated in the schools of any grade or character controlled by the State, nor shall attendance be required at any religious service therein, nor shall any sectarian tenets or doctrines be taught or favored in any public school or institution that may be established under this constitution."

Constitution, Art. VII, sec. 12.

The State superintendent of public instruction reports that Bible reading is not permitted in the public schools and cites this section of the State constitution.

