



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable L. A. Woods
State Superintendent
Department of Education
Austin, Texas

Dear Sir:

Attention: Mr. T. M. Trimble

Opinion No. O-278

Re: Article 288, Penal Code of Texas,
does not prohibit providing text-
books for teaching modern language
above the second grade.

We received your letter of November 14, 1939, re-
questing our opinion on the following question:

"Does Article 288 of the Penal Code mean
that it is unlawful to provide textbooks, or un-
lawful to teach any modern language except Spanish
under the limited conditions provided in the above
mentioned Article of the Penal Code?"

Article 288, Penal Code of Texas, provides as fol-
lows:

"Except as herein provided, each teacher, prin-
cipal and superintendent employed in the public free
schools of this State shall use the English language
exclusively in the conduct of the work of the schools
and recitations and exercises of the school shall be
conducted in the English language, and the trustees
shall not prescribe any texts for elementary grades
not printed in English; provided, however, that it
shall be lawful to provide text books, as now provid-
ed by law, for and to teach any modern language in
the elementary grades of the public free schools
above the second grade, and in the High School grades
as outlined in the State Course of Study; provided,
however, that it shall be lawful to provide text
books for and to teach the Spanish language in
elementary grades in the public free schools in

Counties bordering on the boundary line between the United States and the Republic of Mexico and having a city or cities of five thousand (5,000) or more inhabitants according to the United States Census for the year 1920. It is lawful to teach Latin and Greek as a branch of study in the High School grades as outlined in the State Course of Study. Any such teacher, principal, Superintendent, trustee, or other school official having responsibility, in the conduct of the work of such schools who fails to comply with the provisions of this Article shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), cancellation of certificates or removal from office, or both fine and such cancellation or fine and removal from office."

A close reading of the above Act reveal that it does not prohibit the teaching of any modern language in grades above the second, nor the furnishing of text books therefor. Furthermore, the teaching of Spanish and the provision of text books for teaching the same is not prohibited in any of the elementary grades in certain counties along the Texas-Mexico boundary. The proximity of the State of Texas to the Republic of Mexico undoubtedly accounts for this proviso relating to the provision of text books for and the teaching of the Spanish language.

In our opinion your question should be answered in the negative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

(S) Hirschie Johnson
Hirschie Johnson
Assistant

HJ:pbp

APPROVED: DEC. 6, 1939
(S) Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED:
Opinion Committee
By B. W. B.
Chairman