



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN

~~WICKSWICKSON~~

ATTORNEY GENERAL

Honorable T. M. Trimble, First Assistant
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Opinion No. 0-5643

Re: Shall the Amarillo College,
Amarillo, Texas, receive the
State money allotted to junior
colleges at the rate of \$50.00
each 15 semester hours carried
for the students, in the course
of Bible?

We acknowledge receipt of your letter of recent date to which you attach a letter from Mr. Ernest C. Shearer, Acting President of Amarillo College, which letter reads as follows:

"For the first time this year we are offering a non-sectarian course in Bible. It is our understanding that no money received from the State can be used to pay a teacher in this course, and we have made other arrangements.

"However, the question has arisen as to whether or not we shall receive the State money allotted to junior colleges at the rate of \$50 for each 15 semester hours carried for the students in this Bible course. It has been my understanding that we can list any course for which we give college credit and for which we are collecting our regular tuition. Is this Bible course an exception to this ruling?"

In reply to the above we quote from Opinion 0-5037, as follows:

"It is well known that one of the causes of the Texas Revolution was the enforced national religion of the Republic of Mexico. As a consequence, certain provisions were included in our Constitution to divorce the church from the State and to guarantee absolute religious freedom. Sections 6 and 7 of our Bill of Rights (Article I

of the Texas Constitution) read respectively as follows:

"Sec. 6. All men have a natural and independent right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.'

"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.'

"Section 5 of Article VII, Constitution of Texas, provides, in part, as follows:

" . . . 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; . . .'
See also Article 2899, R.C.S.

"The provisions were before the Supreme Court of Texas in the case of Church et al. v. Bullock et al., 109 S.W. 115. In that case it was held in effect that the holding of morning exercises in the public schools which consisted of reading by the teacher without comment of non-sectarian extracts from the Bible, and the singing of appropriate songs, in which the pupils were invited but not required to join, was not objectionable under the above quoted provisions of the Constitution. See also Pfeiffer v. Board of Education (Mich.), 77 N.W. 250; People ex rel. Vollmar v. Stanley (Colo.), 255 P. 610; Hackett v.

Brooksville Graded School Dist., (Ky.), 87 S.W. 792; Stevenson v. Hanyon, 7 Pa. Dist. R. 585. However, the court emphatically stressed the point that the exercises were non-sectarian in character. We quote the following from the opinion of the court:

" . . . It was the purpose of the Constitution to forbid the use of public funds for the support of any particular denomination of religious people, whether they be Christians or of other religions."

"Therefore, exercises which would include any expression representing the peculiar or distinctive view or dogma of any sect or denomination would not be non-sectarian. Such exercises would be in violation of our Constitution."

We quote the following from the opinion of Judge Brown, of the Supreme Court, in the case of Church v. Bullock, supra:

"There is no difference in the protection given by our Constitution between citizens of this State on account of religious beliefs --all are embraced in its broad language, and are entitled to the protection guaranteed thereby; but it does not follow that one or more individuals have the right to have the courts deny the people the privilege of having their children instructed in the moral truths of the Bible because such objectors do not desire that their own children shall be participants therein. This would be to starve the moral and spiritual natures of the many out of deference to the few,"

Mr. Shearer states that the course offered is nonsectarian, and based on that statement, it is our opinion that there is no exception in the law with respect to Bible courses.

Very truly yours
ATTORNEY GENERAL OF TEXAS

By s/C. F. Gibson

C. F. Gibson
Assistant

CFG:s:wc

APPROVED NOV 8, 1943
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

This Opinion Considered And Approved
In Limited Conference.