

MAINE STATE LEGISLATURE

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April 1, 1964

Hermit S. Nickerson, Commissioner

Education

John W. Benoit, Assistant

Attorney General

Distribution of Bibles in the Public Schools

Attached hereto is the memorandum submitted by the Commissioner of Education wherein he asks whether the opinion of this Office dated April 28, 1953, copy attached, continues with force and effect in its edict that school committees may legally authorize the distribution of Bibles to school pupils in the public school-houses by the Gideons.

The reference opinion found support in R. S., c. 37, § 127; and that particular statute was carried in the 1954 Revision at Chapter 41, section 145. Today, the reference statute is made null and void by reason of the mandate from our United States Supreme Court in Schempp v. Murray. (Opinion of this Office, November 7, 1963)

The April 28, 1953, opinion provided, inter alia:

"It is our opinion that both of your questions can be answered in the affirmative, there being nothing inconsistent with such action with respect to the above-quoted provision of our law."

That statement carries no ring of authority today.

Notwithstanding the absence of the reference statute, may a public school committee legally permit the disbursement of Bibles in a public school by the Gideons? An affirmative answer would underwrite conduct formerly requiring a statutory decree. Forbidden, statutory principles achieve no new status out of independent practice.

The Gideons could best distribute their Bibles by means other than through the public school system in Maine.

John W. Benoit
Assistant Attorney General

JWB/slf