

SCHOOLS: May not enact rules compelling the attendance of students at religious exercises.

March 16, 1937

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Mr. Eugene L. Johnson  
Professor of English  
School of Mines and Metallurgy  
Rolla, Missouri

Dear Sir:

This department is in receipt of your request for an opinion under date of March 15th, wherein you state as follows:

"The faculty of the School of Mines on March second enacted the following regulation:

Insofar as the Baccalaureate exercises of Commencement Week are by custom firmly established as a part of the Commencement exercises, and the candidates for a degree are now by faculty rule required to be present at the Commencement exercises, unless especially excused by due authority, it is ordered that all candidates for degrees be informed by letter, in ample time before Commencement, that their presence will be required at the Baccalaureate exercises as well as at Commencement proper.

Some of the members of the faculty doubt the extent to which this regulation can be enforced, i.e., to what

extent the faculty can require attendance on a sermon, which is a religious exercise. We do not doubt the extent to which we can excuse attendance, especially upon conscientious grounds. Requiring, however, may be a different matter.

I am writing to you because the School of Mines has no regularly paid attorney, and also because the question may have come up in high schools or elsewhere and the answer is easily ascertainable by your department.

I shall thank you both professionally and personally for whatever attention you can give this matter."

Article II, of Section 6, of the Missouri Constitution provides that no person shall be compelled to attend any place or system of worship, thus:

"That no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same."

Article II, of Section 7, of the Missouri Constitution provides that no money shall ever be taken from the public treasury in aid of any denomination:

"That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church,

sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion, or any form of religious faith or worship."

In the case of Knowlton vs. Baumhover, 166 N. W. (Iowa) 202 I.c. 212, the court in holding that public schools could have nothing to do with religion in any respect whatever said:

"The school is a secular and civil institution in which all have an equal interest, and none may lawfully make use of it as an instrument, or take advantage of its administration, as an opportunity for the promotion of his peculiar religious views.

'As the state can have nothing to do with religion except to protect every one in the enjoyment of his own, so the common schools can have nothing to do with religion in any respect whatever. They are as completely secular as any of the other institutions of the state, in which all the people alike have equal rights and privileges.' Orton, J., in State v. Board, supra."

We take note of your statement to the effect that the baccalaureate exercises consist of "a sermon, which is a religious exercise" and inasmuch as the School of Mines and Metallurgy is a public school, supported by public funds, we are of the opinion that to compel the attendance of students at such exercises by any rule, regulation or otherwise would be contrary to Sections 6 and 7, of Article II of the

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Missouri Constitution, supra.

Respectfully submitted,

WM. ORR SAWYERS

APPROVED:

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J. W. TAYLOR  
(Acting) Attorney General

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