

Opinion No. 14-1344

September 29, 1914

BY: FRANK W. CLANCY, Attorney General

TO: Mr. W. C. Tharp, St. Vrain, New Mexico.

SCHOOLS.

Use of public moneys in aid of denominational schools and charitable institutions.

OPINION

{*205} I have just received your letter of the 2nd asking me if there is any provision in our laws or constitution for the assisting of any denominational school, and if so, whether it has been taken advantage of in our state.

Section 3 of Article XII of the Constitution fully answers this question, and it reads as follows:

"The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by Congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university."

You will see from the foregoing that no public money can be used for the support of any denominational school.

You further ask what donations, if any, have been made to denominational charitable institutions. There have been such donations made in the past under the territorial form of government, and the constitution has put a limitation thereon in Section 31 of Article IV of the Constitution, which reads as follows:

"No appropriation shall be made for charitable, educational or other benevolent purposes to any person, corporation, association, institution or community, not under the absolute control of the state, but the legislature may, in its discretion, make appropriations for the charitable institutions and hospitals, for the maintenance of which annual appropriations were made by the Legislative Assembly of nineteen hundred and nine."

You will see that the legislature is permitted to make appropriations only for the charitable institutions for which appropriations were made in 1909 and those institutions are the Orphan's School at Santa Fe; Children's Home Society; St. Vincent's Hospital,

Santa Fe; Grant County Hospital, Silver City; Sisters of Mercy Hospital, Silver City; Ladies' Hospital, Deming; Eddy County Hospital, Carlsbad; Relief Society, Las Vegas; Sisters' Hospital, Albuquerque; Gallup Hospital; St. Mary's Hospital, Roswell; Sisters of Loretto, Mora, and Sisters of Loretta, Las Cruces.

You will find that the state legislature has made appropriations for eleven of these thirteen institutions, the two which were omitted being the Orphans' School, Santa Fe, and the Children's Home Society. {*206} The amounts run from one thousand dollars to thirty-six hundred dollars. You will find these appropriations in Section 11 of Chapter 83 of the Laws of 1912, and in Section 4 of Chapter 83 of the Laws of 1913. You can undoubtedly find copies of these statutes in the office of your justice of the peace.