

**OPINION**  
**45-262**

August 25, 1945            (OPINION)

SCHOOLS

RE: Teachers - Wearing Religious Garbs

This will acknowledge your letter of August 23, 1945, in which you refer to a news release reporting the ruling of Arthur E. Thompson, superintendent of public instruction, to the effect that the wearing of a religious garb is not a bar to teaching in the public schools of North Dakota. You want to know whether, in our estimation, this ruling is correct and whether we concur with Mr. Thompson in that ruling.

Mr. Thompson's ruling is based upon a supreme court opinion rendered on April 2, 1936, in the case of G. Gerhardt v. Etheline Heid, found in Volume 66 N.D., on page 444, 267 N.W. 127. That decision holds that the employment of nuns, members of a religious society of the Roman Catholic Church, who are duly qualified as teachers under the laws of this state, does not violate the state constitution. (Sections 147 or 152). It further holds that the employment of those who possess the legal qualifications to teach in any school is a matter for the directors of the school district to determine; that the fact that a teacher in the public schools of North Dakota, who is a member of a religious order, wears the habit of the order while engaged in teaching and contributes a portion of her earnings to the order, standing alone, cannot be said to make the school a sectarian school, to remove the school from the absolute control of the state, or to place the school under sectarian control.

It is, therefore, the opinion of this office that the news release to which your refer of Arthur E. Thompson, superintendent of public instruction, is correct and is in accordance with the decision above referred to, and constitutes the law of this state.

NELS G. JOHNSON

Attorney General