



The Public and Education

VOL. 3, NO. 3

PUBLISHED BY THE NATIONAL EDUCATION ASSOCIATION

MAY 25, 1948



Religion and the Public Schools

I. THE SUPREME COURT'S DECISION IN THE CHAMPAIGN CASE

FACTS OF THE CASE

"In 1940 interested members of the Jewish, Roman Catholic, and a few of the Protestant faiths formed a voluntary association called the Champaign Council on Religious Education. They obtained permission from the Board of Education to offer classes in religious instruction to public-school pupils in grades 4 to 9 inclusive. Classes were made up of pupils whose parents signed printed cards requesting that their children be permitted to attend; they were held weekly, 30 minutes for the lower grades, 45 minutes for the higher. The council employed the religious teachers at no expense to the school authorities, but the instructors were subject to the approval and supervision of the superintendent of schools. The classes were taught in three separate religious groups by Protestant teachers, Catholic priests, and a Jewish rabbi, altho for the past several years there have apparently been no classes instructed in the Jewish religion. Classes were conducted in the regular classrooms of the school building. Students who did not choose to take the religious instruction were not released from public school duties; they were required to leave their classrooms and go to some other place in the school building for pursuit of their secular studies. On the other hand, students who were released from secular study for the religious instructions were required to be present at the religious classes. Reports of their presence or absence were to be made to their secular teachers."—From the Supreme Court decision.

On March 8, 1948 the Supreme Court of the US rendered a decision in the case of *McCullum vs. Board of Education of School District No. 71, Champaign, Illinois*.

The decision resulted from a suit brought by a parent contending that the program of released-time religious instruction in that city was unconstitutional. The parent did not want her child to be trained in any faith and, altho attendance at religious classes was voluntary, her child was made uncomfortable in relation to other pupils because of his nonattendance.

The eight-to-one decision of the Court held that the program of religious instruction conducted on public-school time and within the physical structure of the Champaign public schools was unconstitutional under the First and Fourteenth amendments.

The First Amendment states that: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

The Fourteenth Amendment reads in part: ". . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. . . ."

The decision affects a relatively small proportion of the school children of the nation. Only 2,000,000 out of 25,000,000 children in the public schools are involved in released-time classes.

The decision is of great significance because of the recent trend toward breaking down the wall of separation between church and state. The Court's

action halts this trend with a vigorous and all but unanimous decision.

What Does the Decision Mean?

The decision of the Supreme Court makes clear that it is unconstitutional for a public-school system to release pupils from the regular school curriculum and provide housing, other facilities, and services for sectarian religious education classes.

The decision also seems to make unconstitutional religious education classes conducted off school premises where there is active cooperation of the school administration not only in releasing pupils from the regular school curriculum and in keeping attendance records but also by exerting a direct influence upon attendance at the religious classes.

The release of all pupils early for voluntary attendance on programs of religious education (usually called "dismissed time") *where the schoolboard has authority under state law to do so* would probably be constitutional.

Classes in religion held outside of school hours but in school buildings, when the school authorities do no more than to permit the buildings to be used for religious education may be unconstitutional under the *McCullum* decision, since it is the use of tax-supported property for sectarian education.

Typical opening exercises, the reading of the Bible, and repeating the Lord's Prayer are not directly affected by the decision in the *McCullum* case. The usual curriculum materials and instruction with respect to religious developments in history, art, and music, emphasis upon spiritual values in teaching, courses in ethics and morals, are not affected by the Court's decision.

II. WHY THE COURT BANNED RELEASED-TIME CLASSES

COURT CITES HISTORY OF PUBLIC SCHOOLS

"The evolution of colonial education, largely in the service of religion, into the public school system of today is the story of changing conceptions regarding the American democratic society, of the functions of state-maintained education in such a society, and of the role therein of the free exercise of religion by the people. The modern public school derived from a philosophy of freedom reflected in the First Amendment. It is appropriate to recall that the Remonstrance of James Madison, an event basic in the history of religious liberty, was called forth by a proposal which involved support to religious education. As the momentum for popular education increased and in turn evoked strong claims for state support of religious education, contests not unlike that which in Virginia had produced Madison's Remonstrance appeared in various forms in other states. New York and Massachusetts provide famous chapters in the history that established dissociation of religious teaching from state-maintained schools. In New York, the rise of the common schools led, despite fierce sectarian opposition, to the barring of tax funds to church schools, and later to any school in which sectarian doctrine was taught. In Massachusetts, largely thru the efforts of Horace Mann, all sectarian teachings were barred from the common school to save it from being rent by denominational conflict. . . . Zealous watchfulness against fusion of secular and religious activities by Government itself, thru any of its instruments but especially thru its educational agencies, was the democratic response of the American community to the particular needs of a young and growing nation, unique in the composition of its people."—From separate opinion delivered in *McCullum v. Board of Education* by Justice Frankfurter joined by Justices Jackson, Rutledge, and Burton.

To understand why the Court took the action it did, it is helpful to review briefly the development of America's public schools. Such a study reveals why the Court's decision, in addition to the question of constitutionality, is a reaffirmation of the fundamental decisions made when the foundations of our presentday public schools were laid a century or more ago.

The free, universal, tax-supported, non-sectarian public school is uniquely American in character. It developed in answer to the peculiar needs of the people of the United States.

This country, from earliest colonial times, has been populated by immigrants from many nations. They brought with them a wide variety of religious faiths.

Education in the new world had its roots in the churches. In earliest colonial times the schools were controlled by the Church and dominated by religious motives. If people were to be "saved" they must know the scriptures. If they were to know the scriptures they must be able to read. Hence, the churches fostered education.

The idea that public funds could and should be used to promote public welfare began to develop early in the nineteenth century. Economic, industrial, political, religious, and humanitarian forces were at work which began to clear the way for public education.

The battle to obtain tax money for the operation of the public schools was long and arduous. Many people could not understand why they should help to pay for the education of other peoples' children. Nevertheless a change in sentiment with regard to taxation for public school purposes began to appear after 1825. By this time the ideal of democracy was growing clearer. Slowly but surely the battle for tax support was won in one state after another.

No sooner, however, was this issue settled than the states were faced with attempts to divide the school funds between private and public schools. As a matter of fact, public tax money for schools was distributed in the beginning among existing schools. In many cities church schools, in the early days of taxation for public education, shared in the public funds made available for schools.

Rivalries between various religious groups anxious to share in public funds, however, gradually made it clear that the public schools must be made non-sectarian.

So it was that about a century ago, in state after state, bitter battles were waged to free the public schools from sectarian teachings so as to save them from destruction in denominational conflict. In most states, prohibitions against the expenditure of public funds for parochial schools were then or subsequently written into their constitutions.

In 1875, President Grant urged an amendment to the federal constitution forbidding the diversion of public funds to church or sectarian purposes, but Congress took no action.

Separation of church and state in the field of education was not forced upon the states.

Even before the adoption of the Fourteenth Amendment (just after the Civil War) the people thru state constitutions had already generally accepted the separation of church and state. The Fourteenth Amendment to the Constitution made the First Amendment applicable to the states.

The educational leaders, the statesmen, and the people who successfully fought for the American tradition of separation of church and state in education over a hundred years ago were not anti-religious. They had learned, however, from bitter experience that they could not have common schools at public expense and at the same time teach sectarian religion in them.

The Supreme Court, by its decision in the *McCullum* case, has taken a firm stand that the principle of separation of church and state in education, developed in the American scene and prescribed in the Constitution of the United States, shall not be relinquished.

The Court held that in *Champaign*: "Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question a utilization of the tax-established and tax-supported public schools to aid religious groups to spread their faiths. And it falls squarely under the ban of the First Amendment . . ."

III. SPIRITUAL VALUES AND THE PUBLIC SCHOOLS

The American non-sectarian public school has sometimes been called godless by its avowed enemies and deliberate critics. Now there is a hue and cry in some quarters that the Court decision is the final blow to remove all vestiges of religion from the public schools.

The Court did not say this. The Court did say that the public schools cannot be a party to the teaching of *sectarian* religion. The decision does not affect the teaching of spiritual values common to all religions.

In a statement issued to the press shortly after the Supreme Court gave its decision in the McCollum case, Executive Secretary Willard E. Givens of the National Education Association commented:

"In our opinion, this decision of the Supreme Court in no way voids the responsibility of the public schools to inculcate those moral and ethical principles which are the essence of the good life. One of the important objectives of public education has been, and always will be, to inspire in youth a deep appreciation for the basic spiritual and religious values which give meaning to existence, provide the foundations of good character, and are guides to a high order of human conduct."

Let us point out briefly some of the spiritual values of public education.

Unity thru the public school—The United States is a nation of diverse peoples. The free, public, tax-supported school is the one great social agency in America which has the opportunity of developing the common ideals which make us a great people in spite of our diversity. No other agency does, or can do, as much to bring together children of many backgrounds as the public schools. This fact alone would justify our system of public education.

Schools stress the worth of individual personality—A cardinal principle of religious teaching is that the individual person is infinitely precious. Modern educational theory harmonizes with this principle. Education seeks to build its program around the individual child, developing his talents and directing them to worthy ends. The great concept of our democratic culture and our religious heritage that every person is worthy of respect is not the exclusive

property of any one religious group.

The schools help to develop ethical character—The development of good character is a central concern of public education. It has always been so. The teaching of character in the public schools is not divisive. Good character is common to all religious faiths. Character education is developed in the modern school by a program of action in which boys and girls work and play together.

The schools develop the cooperative spirit—Another of the great teachings of religion is that of helpfulness one to another. Practice in actual living situations occurs in the schools from day to day as pupils work together to improve themselves and the group. This is a central teaching of all great religions, not the exclusive teaching of any.

The schools improve home and community life—The service of the schools to the improvement of individuals is a recognized contribution to home and family life. Finer homes and communities are the fertile soil from which enriched spiritual life may develop. Take the public school out of the American community and you take out the agency which, more than any other, contributes to the upbuilding of home and community as well as national life. Good public schools help to develop an atmosphere in which spiritual values flourish.

Knowledge of religion as a great force in life is taught—Thru literature, history, art, music, and other studies the institutions and the traditions of the great religions are taught. This type of strictly non-sectarian religious teaching is not considered to be in conflict with the Constitution.

Teachers as a group are among the most idealistic members of society—Their religious impulses are revealed not only in their regular classroom teaching but in a variety of community agencies including the churches. Horace Mann, a deeply sensitive and religious character, faced the charge of godlessness a century ago when he sought to free the schools of Massachusetts from destruction by sectarian divisiveness. Public school teachers today deserve support in their valuable work rather than false charges of godlessness.

RELIGION, POLITICS, AND THE PUBLIC SCHOOLS

"No school can wisely omit acquainting its pupils with the tenets of the major political parties. . . . The minimum of tolerance would seem to permit young people learning to distinguish, with the help of the school, between the donkey and the elephant and the convictions of a Democrat and a Republican! But were a school to delegate its responsibility in this area to the leaders of the local Democratic and Republican parties . . . most of us would infer that it had shirked a task clearly its own. And if, in addition, children were segregated for this purpose on the basis of the party affiliations of their parents, would we not conclude that the school had indeed gone bankrupt?"

"On what ground would we object to this procedure? Is it not because we believe partisan instruction has no place in the public school? We should not question the right of a parent of passionate convictions to instruct his child, quite apart from the school, in the doctrines of the Democratic Party. That is his privilege as a citizen and a parent. But the extent to which the school might go in this matter would be only to seek conviction on principles of government common to all parties and mere knowledge about the objectives and goals of rival political organizations."

* * * * *

"There is a minimum of information and knowledge about the religious institutions and organizations of a community which the school can convey without violating the spirit of neutrality to which the school as the representative of the state is committed. One major purpose of this orientation, however, is to foster common understanding and mutual appreciation, to wear down the rough edges of religious suspicion and antagonism so often conveyed to children by their parents. In the days of group tension this purpose is highly important and obviously achieved best without segregation."—V. T. Thayer in *Religion and Public Education* (Viking Press.)

IV. NEXT STEPS IN EDUCATION-RELIGION RELATIONSHIPS

The Supreme Court decision does not throw religious values out of the schools. It does rule out the teaching of sectarianism. What, then, should be done by those who are deeply concerned about religious education and at the same time the welfare of the public schools?

While some religious leaders find it easy to criticize the public schools, they have sought the aid of the public schools in sectarian religious teaching. Are the churches then admittedly inadequate to the task of sectarian religious teaching with their own resources? If they give up and turn this task over to the public schools, do they not thereby weaken themselves still more? If sectarian religious teaching cannot be handled by the churches, do they not thus give up one of their great reasons for existence?

Here is a practical program for those laymen concerned about the problem of religious education and the public schools:

► Consult with your local school officials about the problem in your community. If any kind of sectarian religious education program has been practiced in connection with the public schools of your community, your school administrator will act on the basis of legal advice concerning the decision's effect upon the program in your community. So many varieties of programs of religious education have been worked out in different communities that it is impossible to know without study of a specific case whether it is or is not in violation of the Constitution.

► Study carefully the history of our great American public schools as briefly outlined on page 2 of this issue of *THE PUBLIC AND EDUCATION*. Regardless of your religious faith, ask yourself if, for our country, the decision for non-sectarian public education is not the best.

► Support and build the public schools

by your attitude. Help to put to rest the deliberate and malicious charge of "godlessness in the public schools." The public school system was devised so that people of all religious faiths could have a common school system. Strengthen this system. Consider the result if all of our major religious groups

withdrew their children from the public schools and put them into parochial schools. Could such a plan possibly be in the interest of the national welfare?

► Support and help to develop the public schools by backing adequate local, state, and federal financing of public education. Thus you will make it possible for the public schools to do a better job of instilling basic religious values in all our American children.

► Hold fast to the principle of public funds for public schools. This fundamental American theory has been going thru a new period of challenge from both subtle and direct efforts to break down the principle.

► Support the religious education program of the church of your choice. Here is the place for sectarian religious education. Let the churches come to grips with the problem by a vigorous, vital program. It can be done by strengthened churches determined to perform this service—but not by institutions which would weaken themselves by leaning upon the physical or administrative facilities of the public schools.

► Take the lead in getting a meeting of minds of both religious and lay leaders in your community on the problem of religion and education. Further study and experience may reveal ways in which the schools can improve their programs in teaching a knowledge of the fundamental role of religion in our history, its place in the presentday scene, and the ways in which religion is expressed in community life. This knowledge the well-educated person should have regardless of his own sectarian beliefs. If any significant progress is to be made in this direction, however, it is imperative that the religious leaders and the people of the community harmonize their views. No school administrator can or should be expected to move without such united support.

LOOKING AHEAD

Separation of church and state is a phrase born in the spirit of the craving for religious liberty in the early days of our country. How separate must church and state be held to meet the constitutional standard?

Laymen, educators, and church leaders are perplexed by this question. So are the lawyers and judges. The principles in the abstract are accepted by nearly all the American people; application of the principles to specific facts leads to questions without very certain answers. Many of the questions have never been presented to the courts. Where there have been judicial determinations, state courts have sometimes disagreed. Even the justices of the United States Supreme Court are not unanimous.

We must not be too hasty in attempting to find all the answers in one Supreme Court decision. The Court can whittle off little segments as each case comes before it, and the rest of us can only abide by the specific decisions which are past and wait for those to come in the future.

—MADALINE KINTER REMMLEIN, *assistant director, NEA Research Division, speaking before the Religious Education Association, April 24, 1948*

The Public and Education is published by

NATIONAL EDUCATION ASSOCIATION OF THE UNITED STATES

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