

ARE BIBLE READINGS EVER ALLOWED IN PUBLIC SCHOOLS?

THE FIRST AMENDMENT TO THE U.S. CONSTITUTION BEGINS WITH THE ESTABLISHMENT CLAUSE: "CONGRESS SHALL MAKE NO LAW RESPECTING THE ESTABLISHMENT OF RELIGION..." THROUGHOUT THE 20TH CENTURY, THE MEANING OF THE ESTABLISHMENT CLAUSE PROVOKED DEBATE, ESPECIALLY ON THE ISSUE OF PRAYER. THE RELATED ISSUE OF BIBLE READINGS HAS ALSO PROMPTED GREAT CONTROVERSY.

In 1962, the U.S. Supreme Court took up the issue of official prayer in public schools in the case of *Engel v. Vitale*. In that case, the court struck down a New York law authorizing a short, non-denominational prayer at the beginning of the school day. Writing for the majority, Justice Hugo Black stated that New York's law was an "establishment of religion." He explained that even though the prayers were non-denominational and voluntary, the state cannot promote religious belief generally. Also, he wrote, the law does not have to force anyone to pray in order for it to be unconstitutional. Government sponsorship of religion puts "indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion."

The very next year, the court decided a similar issue about a law in Abington Township School District of Pennsylvania. The Abington law required that "at least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." Exceptions were allowed for any child whose parent or guardian wrote a request for the child to be excused.

The Case of Ellery Schempp

Ellery Schempp was a junior in high school in Abington Township in



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In 2009, protesters outside a federal court in Pensacola, Fla., voiced their support for school officials charged with violating a court order against prayers at school-sponsored events.

1956. His school selected students to broadcast the daily reading of Bible verses, the Lord's Prayer, and the Pledge of Allegiance over the school's intercom system. In classes, students were asked to stand and join in reciting the Lord's Prayer and the Pledge. General school announcements followed.

One day, however, Schempp did not stand for the Lord's Prayer in his homeroom class. Instead, he read silently from the Quran, the holy book of the Islamic faith.

Schempp did this as a protest. He and his family belonged to the Unitarian church, a traditionally liberal Christian denomination. He and his parents felt that the readings "without comment" reflected a literal understanding of Scripture that stood against their religious convictions.

The 16-year-old Schempp also felt that the reading of the Bible and the Lord's Prayer offended his Jewish classmates. He had read *Civil Disobedience* by the American Transcendentalist Henry David Thoreau, and it inspired his protest. Schempp said he chose the Quran for no other reason than that he found it among his father's books.

Schempp spent the remainder of the year's homeroom periods in the guidance counselor's office as a consequence. His parents sued the

school district to enjoin, or stop, further Bible readings. At trial, Edward Schempp, Ellery's father, testified that he opted not to excuse Ellery from the Bible readings because it would mean Ellery (and later his siblings) would be "labeled as odd balls."

The trial featured expert testimony on both sides. Dr. Solomon Grayzel, rabbi and author of *A History of the Jews*, testified for the plaintiffs (the Schempps) that readings from the New Testament "without comment" are psychologically harmful to Jewish children and generally cause divisiveness in schools. Dr. Luther A. Weigle, a Lutheran minister and co-founder of the National Council of Churches, testified for the defendants (Abington School District) that the Bible itself does not favor any Christian sect. He added that excluding the New Testament would discriminate against Christianity.

A three-judge panel in federal district court agreed with the Schempps. The court held that the Abington law violated the establishment clause as applied to the states through the 14th Amendment. Abington School District appealed. The Schempp children became targets of harassment in school, and the family received some 15,000 letters, many of them hostile and even threatening.

The Murray Case

In the meantime, a second case had made its way through the courts in Maryland. Baltimore City schools had adopted a similar rule under state law, providing for daily Bible readings “without comment.” William J. Murray III was a junior-high student in Baltimore in 1960 when he took a dislike to the Bible readings. Unlike Ellery Schempp, however, Murray was an atheist, and his protest took the form of standing up while his teacher read from the Bible in order to call the reading “ridiculous.”

William was the son of Madalyn Murray O’Hair, an outspoken atheist who later founded the activist organization American Atheists. O’Hair gained notoriety by petitioning the Baltimore school authorities to stop the daily Bible readings. The petition stated that the Bible-reading policy placed “a premium on belief as against non-belief and subjects [the O’Hairs’] freedom of conscience to the rule of the majority.”

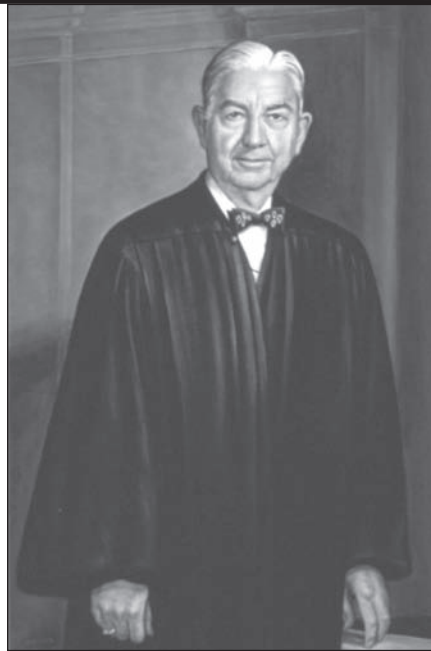
Unlike the *Schempp* case, the O’Hairs lost at state trial court. An appeals court affirmed that the Bible readings were constitutional. The O’Hairs’ home was firebombed, and outraged students physically abused William and his younger brother because of their activist-atheist stance.

When the *Schempp* and O’Hair cases reached the U.S. Supreme Court, the court consolidated the two cases because they dealt with almost identical issues.

In the Supreme Court

During oral arguments, Philip H. Ward, the attorney for Abington School District, argued primarily that the Pennsylvania law’s purpose was to teach morality, not religion. “[T]he people of Pennsylvania have wanted to do this . . . wanted to bring these lessons of morality to the children,” he said. “So what did they do? They picked a common source of morality, the Bible.”

For the *Schempps*, attorney Henry W. Sawyer countered, “You cannot separate the moral leaven



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Supreme Court Justice Tom C. Clark (1899–1977) wrote the majority opinion in *Abington School District v. Schempp* (1963).

from the religious leaven in the Bible.” (Leaven is a necessary ingredient in baking bread.) In other words, the Bible’s moral teachings are always religious in nature.

On June 17, 1963, the court issued its decision in favor of the *Schempps* and O’Hairs. Chief Justice Earl Warren assigned the writing of the majority opinion to Justice Tom C. Clark, a devout, churchgoing Presbyterian.

In his opinion for the majority, Justice Clark concluded that the government must not interfere with an individual’s religious choices. He wrote:

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel. . . .

Justice Clark argued that the government must be neutral toward religion. “In the relationship between man and religion,” he wrote, “the State is firmly committed to a position of neutrality.” Clark maintained, however,

that the Bible was still allowed for the study of literature, comparative religion, and the history of religion “when presented objectively as part of a secular program of education.”

In reaching this decision, Justice Clark also articulated the test of a law’s neutrality. According to Justice Clark, we must always ask what the purpose and primary effect of a proposed law is. “That is to say,” he wrote, “that to withstand the strictures of the *Establishment Clause* there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.” (Emphasis in original.)

The lone dissenter on the court was Justice Potter Stewart. One year before, he had been the lone dissenter in *Engel v. Vitale* as well. In *Abington School District*, Justice Stewart argued that removing religion from the school setting, in itself, violated the establishment clause. Compulsory, or required, schooling influences children so much that “if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage.”

Justice Stewart argued that if schools forbid Bible readings, then they are no longer neutral toward religion. “And a refusal to permit religious exercises thus is seen,” wrote Stewart, “not as the realization of state neutrality, but rather as the establishment of a religion of secularism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.”

An Unpopular Decision

Reactions against the decision were swift. The Rev. Billy Graham told the press, “Eighty percent of the American people want Bible reading and prayer in the schools. Why should a majority be so severely penalized . . . ?” Sen. Barry Goldwater announced that the court had “ruled against God.” In 1964, *Life* magazine dubbed Madalyn Murray O’Hair the “most hated woman in America.” ▶

The case also affected the futures of the younger plaintiffs. Ellery Schempp made a career as a scientist at General Electric. He remained a life-long Unitarian Universalist (UU) and currently sits on the advisory board of the Secular Coalition for America, a non-profit advocacy organization for non-theists. (The UU denomination places no judgment on whether an adherent believes in God.)

William J. O’Hair III, on the other hand, did not retain his youthful beliefs. In 1980, he announced his conversion from atheism to Christianity and soon became a Baptist minister. For this act, his mother publicly denounced him, calling his conversion “beyond human forgiveness.” In 1982, he founded the Religious Freedom Coalition, a conservative non-profit advocacy organization, and published an autobiography, *My Life Without God* that details his disillusionment with atheism.

The Ongoing Debate

The *Abington* case informs our current national discourse on religious freedom. The debate about whether the Bible can ever be used in schools is part of an ongoing debate between liberal and conservative groups. The liberal position is generally “separationist,” which seeks to limit schools’ use of the Bible according to the “separation of church and state.” The conservative position is generally “accommodationist,” which seeks to accommodate, or to allow, the practice of students’ and even teachers’ religious beliefs as much as possible. Both sides base their arguments on the First Amendment.

The arguments offered on both sides in the *Abington* case reflect the separationist and accommodationist perspectives offered in courts and the media today. Whenever a school district’s policy or a state’s law addresses prayer or Bible-reading issues, the arguments Justice Clark and Justice Stewart made long ago appear again.

DISCUSSION & WRITING

1. Was either Ellery Schempp’s protest or William J. Murray III’s protest in school more effective than the other, or were neither of them effective? Give reasons to support your answer.
2. What do you think the establishment clause means when it states that Congress shall not make any law “respecting” the establishment of religion? Would other words make its purpose clearer? If so, what words would you choose, and why?
3. In his majority opinion, Justice Clark addressed Stewart’s concern about the “religion of secularism.” “[T]he State,” wrote Clark, “may not establish a ‘religion of secularism’ in the sense of affirmatively opposing or showing hostility to religion. . . . We do not agree, however, that this decision in any sense has that effect.” Do you agree? Why or why not?

ACTIVITY

Theories of the First Amendment

Justice Clark’s opinion in *Abington School District v. Schempp* reflects the Supreme Court’s theory that the government should remain neutral, or have no preference, in religious matters. The major theories followed by different justices on the Supreme Court today are as follows:

Strict separation. This theory holds that government and religion should be separate as much as possible. The government’s laws and policies should be secular, and religion is a private matter for individuals.

Accommodation. This theory maintains that government should accommodate, or make exceptions for, private religious beliefs and practices as much as possible. It also means that government should recognize the importance of religion in our nation’s history, laws, and society.

Neutrality. This theory asserts that government should simply have no preference for one religion over any other, and no preference for either religion in general or secularism (non-religion) in general. Some justices support an endorsement test for neutrality, that government must not be seen as “endorsing” any religion, religion in general, or secularism. Imagine you are a Supreme Court justice. In small groups, do the following:

1. Analyze and discuss the set of facts below with your fellow justices.
2. Answer the question presented from the perspective of strict separation, accommodation, and neutrality theory.
3. Discuss and decide which of the three theories your group supports and what decision your group would make based upon that theory. Be prepared to report your decisions and the reasons for them. If any members disagree with the majority, they may report their dissenting opinion.

Facts: A school district in the hypothetical city of Bookville, USA, has chosen to create a new elective course called Studying the Bible. The course’s purpose is to teach students “biblical literacy” in order to understand contemporary American society and culture, including American literature, music, and public policy. The course will include teacher-led study of the Hebrew Scriptures (aka Old Testament) and the New Testament so that students will be familiar with the people, events, literary style, and influence of the Bible. The course will also include discussion about the moral lessons included in the Bible.

Question presented: Does the Studying the Bible course violate the establishment clause of the First Amendment?

Sources

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Standards

Lincoln-Douglas Debates

National High School U.S. History Standard 11: Understands the extension, restriction, and reorganization of political democracy after 1800. (2) Understands the positions of northern antislavery advocates and southern proslavery spokesmen on a variety of issues (e.g., . . . Lincoln-Douglas debates).

California History-Social Science Standard 8.9: Students analyze the early and steady attempts to abolish slavery and to realize the ideals of the Declaration of Independence. (5) Analyze the significance of . . . the Missouri Compromise (1820), . . . the Compromise of 1850, . . . the Kansas-Nebraska Act (1854), the Dred Scott v. Sandford decision (1857), and the Lincoln-Douglas debates (1858).

Common Core Standard RH.11B12.6: Evaluate authors= differing points of view on the same historical event or issue by assessing the authors= claims, reasoning, and evidence.

Common Core Standard RH.11B12.8: Evaluate an author=s premises, claims, and evidence by corroborating or challenging them with other information.

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National High School World History Standard 36: Understands patterns of global change in the era of Western military and economic dominance from 1800 to 1914. (3) Understands the influence of European imperial expansion on political and social facets of African and Indian society (e.g., . . . the major chain of events in Europe and Africa that led to the “scramble” for African territory, and the role of particular African governments or peoples in the partition of Africa by the Europeans) (6) Understands economic, social and religious influences on African society (e.g., . . . how and why slavery and the slave trade flourished in both West and East Africa . . .). (7) Understands African resistance movements against the British during the period of European imperial expansion (e.g., the nature of the Sudanese resistance to the British, as well as the general success of Mahdi Muhammad Ahmed and the Mahdi uprising against British imperialism).

California History-Social Science Standard 10.4: Students analyze patterns of global change in the era of New Imperialism in a least two of the following regions or countries: Africa (2) Discuss the locations of the colonial rule of such nations as England (3) Explain imperialism from the perspective of the colonizers and the colonized and the varied immediate and long-term responses by the people under colonial rules. (4) Describe the independence struggles of the colonized regions of the world, including the role of leaders and the roles of ideology and religion.

Common Core Standard WHST.11B12.7: Conduct short as well as more sustained research projects to answer a question . . . synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

Bible Readings

National High School Civics Standard 25: Understands issues regarding personal, political, and economic rights. (1) Understands the importance to individuals and to society of personal rights (5) Knows major documentary sources of personal, political, and economic rights such as . . . court decisions (6) Understands how personal, political, and economic rights are secured by constitutional government and by such means as the rule of law, checks and balances, an independent judiciary, and a vigilant citizenry

National High School U.S. History Standard 29: Understands the struggle for racial and gender equality and for the extension of civil liberties. (3) Understands how various Warren Court decisions influenced society (e.g., . . . the effectiveness of the judiciary in promoting civil liberties).

National High School U.S. History Standard 31: Understands economic, social, and cultural developments in the contemporary United States. (3) Understands how the rise of religious groups and movements influenced political issues in contemporary American society (e.g., . . . how Supreme Court decisions since 1968 have affected the meaning and practice of religious freedom)

Common Core Standard SL.11B12.4: Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

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