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THE DAY SATAN COMES CALLING: A CONSIDERATION OF EQUAL ACCESS IN THE PUBLIC SCHOOLS

Abstract

Just about everyone has some reflection come to mind when thinking of the role that religion plays or should or should not play in the public schools. It has been said in several diverse ways, the most family appropriate version may be "opinions are like noses, everyone has one and they all smell." When issues concerning the intersection of religion in public education come before the Supreme Court of the United States, the Court rarely stands in unanimity. Even the majority opinions of the court can "smell" according to dissenting justices.

The plaintiff in the *Good News Club v. Milford Central School District* contended that the school district had engaged in viewpoint discrimination, reasoning that religious-based restrictions on expression of speech clearly demonstrate a hostility toward religion. The central proposition of the judicial philosophy is that religion is just speech from a religious viewpoint. When school is not in session the district may open the buildings to community groups. The Equal Access Act passed by Congress in 1984 allows student religious clubs the same opportunity to access school facilities after regular school hours as any other noncurricular student club. In concurring with the Good News Club, the court determined in 2001 that a school district or administrator cannot prohibit groups from access to school facilities for the purpose of holding weekly after-school religious-themed classes.

This paper examines the paradoxical viewpoints of public school principals when an After School Satan Club comes calling. If something is acceptable for one group, should it not be equally as good for another point of view? This is an issue that we face in a religiously pluralistic society.

Keywords: *Good News Club v. Milford*, After School Satan Club, separation of church and state, religion classes in public schools, *McCollum v. Board of Education*

INTRODUCTION

Back in my public school days (1954-1966) I can recount being assigned Bible verses to memorize, particularly in the second grade. I still have a small ceramic artifact from my third grade year of a shepherd that I painted for our class Nativity scene. If memory serves me correctly, each member of the class got a cast member from the nativity production to paint, be it human or animal. Due to a large class, there were several sheep and horses.

When the Gideons distributed Bibles to my sixth grade class I noticed that my teacher had a different colored faux leather cover on her New Testament. The teacher's Bible had a red cover, and the rest of the class had brown covers. Our teacher explained that her Gideon New Testament was a Roman Catholic edition and that the rest of us had a Protestant copy. No further explanation was forthcoming. I found out later that my teacher's version contained an Apocrypha.

In my high school I recall assemblies held once a month by different Protestant ministers from the community. My community with a population of 1,700 had eleven distinctly different Protestant churches at the time.

My school district should have known better, but we were all Christians, and no one complained. Three Supreme Court decisions in the early 1960's should have given school boards and school administrators some semblance of a clue that the Court was taking the Establishment Clause seriously. In 1962, in the case of *Engel v. Vitale* the Court ruled that having students begin the school day with a government endorsed prayer was unconstitutional.

The 1963 decision in *Abington School District v. Schempp* ruled government sponsored Bible reading in the public schools was unconstitutional. Many Christians believe that the *Engle* and *Schempp* decisions was the day that any semblance of the free exercise clause died. "The Supreme Court took prayer and the Bible out of the public schools" is a cry often heard on conservative communication channels and church pulpits. With at least eleven versions of the protestant Christian Bible available, the question becomes "whose Bible was removed?" The answer most commonly given by those that assert that the Bible was removed in *Schempp*, say "my version."

In the 1965 case of *Reed v. Van Hoven,* the Sixth Federal District ruled that if students were to pray in the cafeteria before lunch it would be a silent prayer and non-disruptive.

Quoting from the *Reed* decision the court said:

> "Certainly, the period of silent prayer before lunch affords the students an opportunity to say their own denominational prayer, and all would be privileged to say prayer which their own denomination may have taught them. Those who do not share the prayer would be free to contemplate anything which they desired." (*Reed v. Van Hoven)*

It is a truism that it is one thing for the Court to issue a decision, and it is quite another for schools and states to comply with the decision. We need look no farther than the integration of schools in Little Rock, Arkansas in the 1950s. Sometimes Supreme Court decisions require federal law enforcement in order to get necessary compliance from state and local entities when Supreme Court decisions are ignored or intentionally violated.

Unfortunately, when schools violate the Establishment Clause as adjudicated by courts it is typically the tax payers of the district that absorb the costs of mismanagement.

ESTABLISHMENT CLAUSE and FREE EXERCISE

Most of the original thirteen colonies included a religious qualification in their oaths for public office. The colonies were part of the British Empire, and the king was the leader of both the state and the official state religion. Europe was deeply divided on issues of religion and intolerance prevailed. The majority of those coming to America brought their intolerance and policies of uniformity with them (Chapin, p. 84). The Constitutional Convention did not discuss religion in any meaningful way, as the relationship between church and colony was well established throughout the thirteen colonies (Bowen, p. 215). The delegates feared that a powerful unchecked government might do what other governments had done, establish an official religion for political purposes (Lambert, p. 254). (Many of the original colonies were established with religious intent and continued with an official colony religion. The Puritans, Pilgrims, Quakers, Roman Catholics, Presbyterians, Shakers, Dutch Reformed Church and many others of a particular faith found some degree of solace in the new world (Gaustad & Schmidt, pp. 43-99).

Religion is mentioned exactly once in the original U.S. Constitution, as ratified on September 17, 1787. Article VI Clause 3 pronounces that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." It was not until the first ten amendments (the Bill of Rights) were ratified in 1791 that a second reference to religion was made. The First Amendment states in part that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." The short phrase authored by Thomas Jefferson provides for freedom of religion, but also freedom from religion. This is a

reiteration of the no religious test clause. Religious beliefs and government must be kept separate.

The First Amendment also contains the wording "or prohibiting the free exercise of (religious freedom)." This second part creates a conundrum with public education as public education is a matter of state control. The public schools may not (as controlled by state government) endorse any religion and yet must teeter on the balance beam of some ambiguity.

Gaustad and Schmidt summarize several of the quandaries of this First Amendment clause, many of which are still being called into question at this very moment.

> "So novel was this daring experiment in religious freedom, so unprecedented in European history, that none could be entirely sure what it meant. Did the promise of free exercise' extend to everyone, even to those who were not Protestants? To Roman Catholics? To Jews, Muslims, and Native Americans? Did the prohibition against "establishment" rule out federally promoted days of fasting or feasting? Did it rule out Congressional and military chaplains? Did it require a rigid neutrality that might at times appear to be even a hostility? And did it determine what the states might or might not do in the religious arena? The questions were not readily answered in the 1790s, and many of them remained just as open to debate more than two centuries later" (Gaustad & Schmidt, op. cit. p. 127.)

Jon Meacham in his biography of Jefferson states that Jefferson, author of the First Amendment, believed that the apostolic faith was superstitious and therefore unreasonable – and did not speak well of the power of God, if He needed a human government to prop him up (Meacham, p. 122-123). Jefferson, a Deist, even went as far as to cut and paste the New Testament into his own version, leaving the divinity of Jesus out, considering Jesus to be only a great moral teacher (Blakemore, p.2). Exactly what our founding fathers' religious beliefs were are somewhat hard to determine for certain. Thomas Paine said that "genuine equality and justice would materialize naturally once the last king was strangled with the entrails of the last priest (Ellis, p. 43)." The Establishment Clause has been supported time and again by the courts.

The Supreme Court has interpreted that the First Amendment through the Fourteenth Amendment's due process clause made the provisions of the Bill of Rights applicable to the states. In a letter written in 1802, Jefferson highlighted the "wall of separation" metaphor for religion and state. The Supreme Court first utilized the wall of separation reference in the 1879 decision in *Reynolds v. United States*. In this case the Supreme Court rejected the claim that the First Amendment's protection of the free exercise of religious liberty would exempt members of the Church of Jesus Christ of Latter-day Saints from the prohibition of polygamy due to their firm belief in the role of polygamy.

The Latter-Day Saints lost the polygamy question, but the Amish were successful in 1972 in *Wisconsin v. Yoder* when the Supreme Court ruled that Amish children could not be placed under compulsory education rules past the eighth grade. The sincere belief of the Amish religion was that attending school beyond the eighth grade would create a worldly attitude among the Amish culture and destroy the Amish conviction. The Amish parents' right to freedom of religion outweighed the state's interest in education, but the Latter-Day Saints right to polygamy was trumped by the state's interest in protecting the sanctity of marriage between one woman and one man. This decision held until 2015 when the Court ruled in *Obergefell v. Hodges* guaranteeing the right of same-sex couples to marry.

In 1947 the Supreme Court first applied the establishment clause to the individual states in *Everson v. Board of Education.* In deciding *Everson,* the court found that there was no violation to the wall of separation by allowing New Jersey to transport students attending parochial schools (*Everson v. Board of Education).* The *Everson* decision was based upon the 1930 case of *Cochran v. Board of Education* when the nation's highest court initiated the "Child Benefit Theory," allowing public funds to be utilized to supply textbooks to children attending religious

schools. The Court determined that only students were benefited, not a particular religious belief. Since the *Everson* decision the "wall of separation" has been breached on occasion, including the *Mahoney* decision allowing a coach to kneel in prayer in the center of the football field after a game, and the 2022 decision in *Carson v. Makin*.

The *Carson* decision allows vouchers utilizing public tax dollars to support religious instruction in certain circumstances, rather specific to the state of Maine, but with implications throughout the country.

Justice Sotomayer in her dissent in *Carson* stated: "the court's increasingly expansive view of the Free Exercise Clause…risks swallowing the space between the religious clauses" (*Carson v. Makin*).

In 1940 in Champaign, Illinois, the Champaign Council on Religious Education comprised of members of the Protestant, Roman Catholic, and Jewish faiths offered religious education classes to grades four through nine in weekly 45-minute classes. This was with the permission of the Champaign School District. Various members of the respective clergy led the weekly sessions. Although this religious training held during the regular school day was voluntary on the part of students and families, the students that opted out of the class were made to feel as outcasts and were ostracized, according to the suit. Vashti McCollum, the mother of a student enrolled in the district, filed suit claiming that religious instruction in the school violated the Establishment Clause of the First Amendment. The Supreme Court of the United States agreed in the *McCollum v. Board of Education* decision of 1948. Religious classes conducted in the public school house during instruction time is unconstitutional.

The *McCollum* decision, which seems plain enough, has not deterred other public schools from instituting religious classes during the school day. A plethora of examples could be

illustrated. The 2002 federal district court case from Tennessee serves as an illustration. The Rhea County District allowed a program entitled "Bible Education Ministry" to conduct classes during regular school hours for thirty-minutes each week to students in grades kindergarten through five. Unfortunately, someone in the community must initiate a lawsuit in order to stop the clearly unconstitutional religious instruction *(Doe v. Porter).*

As recently as 2022 Mercer County Schools (West Virginia) school board ended a 75 year Bibles In Schools voluntary class that was described as a "Sunday School (West Virgina district agrees to pay)." How many other school districts are violating the *McCollum* ruling is not known. Evidence may indicate that there may be several others violating *McCollum.*

THE GOOD NEWS CLUB and **THE AFTER SCHOOL SATAN CLUB**

It is clear that religious training in the public school house during regular school hours is a violation of the Establishment Clause. What has become acceptable is that after school religious training is permissible. In the *Good News Club v. Milford Central School* decision in 2001 the Supreme Court ruled that the school district had violated the rights of the Good News Club by prohibiting them to meet on school grounds after school hours. Milford was trying to follow the Establishment Clause and not utilize the school for religious purposes. Both the district court and the 2nd Circuit agreed. The Supreme Court overruled saying that the Milford policy constituted impermissible viewpoint discrimination. Justice Thomas noted that since the Milford District allowed other groups to utilize school facilities, it could not deny character development in children through the person of Jesus Christ. The Good News Club website indicated that there are over 55,143 Clubs worldwide having reached over fifteen million students (Roots).

As originally conceived, Good News Clubs were first held in churches and often in a "good Christian home." The Milford decision brought the Good News Club to the schoolhouse (Roots). Parental permission is needed, and no member of the school district can be paid a stipend from tax dollars to supervise the club. When asked, aspiring principals easily make the distinction between religious instruction in the public schools during the school day, and after school activities (Waggoner). None of the principals surveyed had any issue with the formation of a Good News Club if they were asked, liking it to the ubiquitous Fellowship of Christian Athletes.

Good News Clubs term themselves as "Bible Study" that is aimed at children from kindergarten through grade six. They are sponsored by Child Evangelism Fellowship, which is a world-wide organization founded more than eighty years ago in Warrenton, Missouri (Stewart, p. 13).

The Satanic Temple based in Salem, Massachusetts, is sponsoring a club that is in contrast to the Good News Club. The After School Satan Club, sponsored by Reason Alliance LTD, a 501 (C) (3) is designed to teach rationalism and a deeper understanding of the world around us. According to the Satanic Temple "It's critical that children understand that there are multiple perspectives on all issues, and that they have a choice on how they think… "Satan" is just a "metaphorical construct" intended to represent the rejection of all forms of tyranny over the human mind (An After School Satan Club Could be Coming)." David Emery adds that "We are only doing this because Good News Clubs have created a need for this. If Good New Clubs would operate in churches rather than public schools, that need would disappear. But our point is that if you let one religion into the public schools, you have to let others, otherwise it's an establishment of religion (Emery)."

The After School Satan Club is real, but it is difficult to pinpoint exactly where the club may be viable. A Google search reveals that the Tehachapi Unified School District in California (Stunson) and the Moline-Coal Valley School District in Illinois (Molina) are involved with the After School Satan Club. Both of these districts have publicly recognized that because of the *Milford* decision, they cannot discriminate among groups wishing to utilize the facilities.

In December of 2022 the Chesapeake, Virgina, school board was entangled with the decision to allow the After School Satan Club or cancel all after-school clubs, including the Good News Club (Athley). The Chesapeake Public Schools Building Utilization Policy states that a request may be rejected if it is judged not to be in the best interest of the school and community and would result in an unacceptable risk. The request of the After School Satan Club was tabled by the Chesapeake school board until the building use policy could be further scrutinized (Council of School Attorneys).

CONCLUSION

Swenson cautions Christians that not to the question the Bible is intellectual malpractice. "The Bible demands that we investigate it, interrogate it, learn about it. To do anything less is to fail to take the text seriously (Swenson, p. 25)." Considerations of religion are basically personal, but the impact of religious views are social and political as well. "As history shows, the competition that arises between different religious outlooks when any one of them tries to dominate, readily leads to trouble (Grayling, p. 2)."

In his excellent book David Silverman gives some examples of fair questions that any Satan Club might consider as discussion topics. To mention only one provocative question on the list:

"If God is all powerful, why did he/she take six days to create the universe? Why

didn't he just snap his proverbial fingers and create everything all at once?"

(Silverman, p. 242).

It is difficult to ascertain how many After School Satan Clubs (ASSC) are fully operational. Internet searches do not locate any currently active, perhaps there may be three or more caught in bureaucratic flux. The official policy of the ASSC is that they will not locate in any school that does not have a Good News Club. Communities that implement Good News Club would likely be anathema to allowing an ASSC.

School Administrators fully understand the connotation of allowing a club with Satan in the title. Not a great optic. When contemplating an ASSC in their school, three out of ten principals like the concept of taking a deep dive into religious issues of all faiths, but not calling the club Satan anything (Waggoner, 2023).

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