Name _____ Date _____ Class _____

Supreme Court Case Study 24

Released Time Religious Education in Public Schools

McCollum v. *Board of Education*, 1948

★★★★★★★★★★★★★★★ Background of the Case ★★★★★★★★★★★★★★★

The Board of Education in Champaign County, Illinois permitted teachers of religion into the public schools to provide 30 to 45 minutes of weekly religious instruction for grades four through nine in public schools. Parents signed printed cards authorizing their children to attend these classes, and absences were reported to school authorities. Children who did not attend the religious instruction were not excused from their regular classes. The religion teachers were employed by the Champaign Council on Religious Education at no cost to the schools. Classes had originally been offered for Protestant, Catholic, and Jewish students. Similar programs were popular around the country in the 1940s. They were known as "released time programs."

Vashti McCollum, mother of a child in the Champaign school system, objected to the use of tax-supported school time and buildings for this purpose. She challenged the practice on the grounds that it violated the establishment clause of the First Amendment. A county court refused her petition to have these classes halted, and that decision was upheld by the Illinois Supreme Court. McCollum then appealed to the United States Supreme Court.

Only a year after its ruling in the *Everson* case, the Supreme Court was faced with another case involving religious education. The circumstances of these cases, however, were different. The same Justice, Hugo L. Black, wrote both decisions.

Constitutional Issue ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

Did the Champaign program violate the First Amendment prohibition against any law regarding the establishment of religion as applied to the states through the Fourteenth Amendment?

★★★★★★★★★★★★★ The Supreme Court's Decision ★★★★★★★★★★★★★

The Court voted 8 to 1 in McCollum's favor. Justice Hugo L. Black wrote the majority opinion for the Court.

Justice Black went directly to the heart of the issue. He stated that the facts of the case "show the use of the tax-supported property for religious instruction and the close cooperation between the school authorities and the religious council in promoting religious education. . . . This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment (made applicable to the States by the Fourteenth). . . ."

The Court denied that ruling for McCollum's claim would "manifest a governmental hostility to religion or religious teachings. . . . The First Amendment rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere."

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Supreme Court Case Study 24 *(continued)*

In a concurring opinion, Justice Felix Frankfurter wrote, "Religious education so conducted on school time and property is patently woven into the working scheme of the school. The Champaign arrangement thus presents powerful elements of inherent pressure by the school system in the interest of religious sects. The fact that this power has not been used to discriminate is beside the point. Separation is a requirement to abstain from fusing functions of Government and of religious sects, not merely to treat them all equally. That a child is offered an alternative may reduce the constraint. . . . [However,] the result is an obvious pressure upon children to attend."

Frankfurter continued, "Separation means separation, not something less. Jefferson's metaphor in describing the relation between Church and State speaks of a 'wall of separation,' not of a fine line easily overstepped. The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny. In no activity of the State is it more vital to keep out divisive forces than in its schools, to avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart."

Quoting the decision in the *Everson* case, Justice Frankfurter stated, "We renew our conviction that 'we have staked the very existence of our country on the faith that complete separation between the state and religion is best for the state and best for religion."

In another concurring opinion, Justice Robert Jackson pointed out that there was little real cost to the taxpayers in Champaign. He also agreed that the "formal and explicit instruction" of the Champaign schools should be ended. However, he cautioned that the Court might be flooded with petitions to rid public schools of materials that any group might regard as religious.

★★★★★★★★★★★★★★★★★ Dissenting Opinion ★★★★★★★★★★★★★★★★★

Justice Stanley Reed, the lone dissenter, had concurred in the *Everson* decision. Here he argued that the Court's interpretation of the First and Fourteenth Amendments was too strict. He agreed that the nation and the states were not to make law regarding establishment of religion, but he felt, "A state is entitled to have great leeway in its legislation when dealing with the important social problems of its populations. . . . Devotion to the great principle of religious liberty should not lead us into a rigid interpretation of the constitutional guarantee that conflicts with accepted habits of our people."

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. On what grounds did the Court declare the Champaign religious program unconstitutional?
2. What did Justice Frankfurter mean when he wrote that Thomas Jefferson's description of the relation between Church and State was a "wall of separation" not a fine line easily overstepped?
3. In Justice Reed's view, what should the Court take into account in ruling on religion cases?
4. If the Court voted so heavily to rule the Champaign practice unconstitutional, why do you think four of the nine justices concurred?
5. Do you agree with the Court's decision in this case? Explain.