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Boles: The Bible, Religion and the Public Schools

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THE BIBLE, RELIGION AND THE PUBLIC SCHOOLS. (3d ed.) By Donald E. Boles. Ames, Iowa: Iowa State University Press. 1965. Pp. xii, 408. \$5.95.

From time to time, in some field of constitutional law, the Supreme Court of the United States decides a case which establishes a new datum, a new benchmark, from which courts, lawyers, and the public may make calculations. The school segregation cases of 1954 present clear examples.¹ In the recurring controversies concerning religious elements in public school instruction, the Supreme Court established a similar benchmark on the 17th of June 1963 when it decided *School District v. Schempp*² and the associated case of *Murray v. Curlett*.³ Mr. Justice Clark's opinion for the Court held that the fourteenth amendment, which in this respect expresses the same negations as the first, forbids prayer or Bible reading in a public school as a devotional exercise, even where an objecting child is excused. This proposition was scarcely novel. In 1948, *McCullum v. Board of Education*⁴ had held instruction in religious doctrine unconstitutional when conducted as evangelization on public school premises, even though a pupil to whom it was unwelcome could obtain exemption. In 1962 the Court had held unconstitutional the use in public schools of a prayer composed by the New York Board of Regents, even though similar provisions were made to excuse students who so desired. From this New York Regents' Prayer case, *Engel v. Vitale*,⁵ and from the foregoing precedents, *Schempp* in 1963 was no more than what a reasonably foresighted lawyer could predict. Nevertheless, the 1963 decisions so clearly established the constitutional impropriety of any purely devotional exercises in a public school that they have made unnecessary a labored historical discussion of what went on before.

When the Court establishes benchmarks like *McCullum* and *Schempp*, the legal scholar or the practical school administrator is often at least as much interested in what the Supreme Court has *not* forbidden as in what it *has* forbidden. Mr. Justice Clark's opinion in *Schempp*, in which seven of the other Justices joined, contained an explicit limitation of the scope of the decision. He wrote:

[It] might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indi-

1. *Brown v. Board of Educ.*, 347 U.S. 483 (1954); *Bolling v. Sharpe*, 347 U.S. 497 (1954).

2. 347 U.S. 203 (1963).

3. *Ibid.*

4. *Illinois ex rel. McCullum v. Board of Educ.*, 333 U.S. 203 (1948).

5. 370 U.S. 421 (1962).

cates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment.⁶

To some extent in grade schools, and to a greater extent in high schools, instruction in many subjects is bound to bear some relation to religious controversy. Some explanation of religious controversy is inevitable, even in simplistic "Stories of the Thirteen Colonies" or similar historical material given to grade school children. The Puritans came to New England to escape governmental discrimination from the Stuart Establishment; the Calverts came to Maryland to escape the persecution of Roman Catholics in England. A teacher must either depict the ruling English of the seventeenth century as cruel, irrational tyrants, or else point out that religious differences are conceivable and that it is possible for decent people to align themselves with either side in doctrinal disputes. At once this concession irritates those whose religious commitment is firmest. As public education proceeds into the high school, the problem becomes more acute because the subject-matter of study is more sophisticated. If a high school study of history is to be adequate, it must necessarily involve some account of the Reformation. A literate high school student of English should know about *Pilgrim's Progress* and *Henry Esmond*. High school biology will inevitably suggest to any thoughtful student that the doctrines of evolution are inconsistent with a literal acceptance of the accounts of creation found in the Book of Genesis. Furthermore, in some of the most progressive public high school systems, courses are conducted in which the study of the English Bible is offered to students, not as a devotional exercise but as a cultural study of the type which Mr. Justice Clark characterizes as an objectively presented "secular program of education." Instruction in such courses seems to be attracting much interest, and the literature on the subject is increasing. In 1958 the American Council on Education held a conference on "Religion and Public Education" at Arden House, the Harriman, New York, outpost of Columbia University; the results were published in a pamphlet, *The Study of Religion in the Public Schools*. In July 1965 the University of Oregon held a three-day conference attended by public school educators and administrators, as well as university teachers of education and of religion, to explore the constitutional possibilities of instruction of this type.

The constitutional guidelines for what is not permissible have been laid down by the Supreme Court. Regardless of conflicting state statutes, constitutions, or administrative regulations, devotional exercises of any sort and indoctrination in religion in public schools

6. *School Dist. v. Schempp*, 374 U.S. 203 (1963).

are now constitutionally proscribed in the United States. Instruction which is neither devotional nor intended for sectarian indoctrination is not federally proscribed, even though it may have an incidental effect on the religious beliefs of some student or may awaken controversy with parents or clergy in the school district. Any limitations on secular instruction derive from state prohibitions, or are imposed by pedagogical techniques and educational policy.

Dr. Boles agrees with the Supreme Court adjudications in *Schempp* and the cases which preceded it, and would have them faithfully and loyally carried out for the good of public school children and the public school system generally. His book appears in 1965 in its third edition. The first edition, published in 1961, preceded the *Engel* case of 1962, which prohibited the New York Regents' prayer. The second edition appeared in 1963 before the *Schempp* case had been decided by the Supreme Court. Therefore Dr. Boles has twice revised his basic text to take account of the important developments which have occurred so rapidly since the book first appeared. His first chapter gives the colonial and early experience under the Constitution. His second chapter, which deals with state constitutions and statutes, is dominated by the Supreme Court's decisions in so far as the state law may be inconsistent. The third and fourth chapters, entitled "The Legality of Bible Reading" and "The Illegality of Bible Reading," are now susceptible of brief summary, perhaps briefer than their present form, which discusses pre-1962 state precedent at considerable length. His fifth chapter concerns allied problems in religious education, exploring some peripheral areas such as baccalaureate exercises and religious instruction in state universities. The sixth and seventh chapters discuss the attitudes and pressures of various religious groups and educators. The eighth describes unsuccessful congressional efforts to bring forward the proposed "Becker Amendment," which would in effect overrule *Schempp*. The ninth and final chapter of Professor Boles' book is a summary statement of the contemporary scene. The author includes a better-than-average index of twenty-seven pages, a bibliography, and a substantial table of federal and state cases. Since his book discusses the state litigation prior to *Schempp* in careful detail, the table of cases would be even more useful if it referred the reader to the page at which the various decisions are discussed.

If a reviewer were to venture any adverse criticism of the third edition of *The Bible, Religion and the Public Schools*, he might refer to the inevitable difficulty of revising an earlier work after such extraordinary episodes as the decisions of *Engel* and the *Schempp-Murray* cases in 1962 and 1963. The reader who is already familiar with the constitutional relationship between state and federal law

will follow without confusion those parts of the book describing state adjudications previous to 1962 and 1963. However, a novice in the field might be helped by a more thorough introductory explanation of the constitutional effect of the Supreme Court cases of 1962 and 1963 and by a more emphatic and extended explanation that *Schempp* and its associated decisions have eliminated any inconsistent doctrine in the states, no matter how well entrenched previously.

Perhaps a more useful change in another edition would be a reorientation toward the questions of tomorrow instead of a concentration on the controversies about public school devotions and evangelization, which are now settled. Dr. Boles has not overlooked the protests of educators at the lack of attention in our schools to the cultural elements of religion, which led President Nicholas M. Butler of Columbia University to comment that "the neglect of the English Bible incapacitates the rising generation to read and appreciate the masterpieces of English literature from Chaucer to Browning."⁷ Dr. Boles correctly points out that Dr. Butler did not suggest any way to use the Bible in public schools without involvement in sectarian disputes. The same is true of instruction in current history or international affairs; a high school teacher who suggests to a class that there is something to be said for the point of view of Russia in East Germany, or of China in Viet Nam, will become involved in disputes with people who hold to their beliefs as unquestioningly as some of our ancestors held to predestination, or as the legislators of Tennessee during the 1920's held to their distrust of the doctrines of biological evolution which John Thomas Scopes attempted to teach and for which he was tried and fined.⁸ The Supreme Court has settled the constitutional issues of Bible, religion, and the public schools; the currently important questions involve the courage and persuasiveness of the educators and the wisdom of state governments. Controversy and education are inseparable.

Anyone who has tried to keep a book up to date in a period of rapid judicial or other governmental change will understand and sympathize with Professor Boles' problems. The comments here set out are not carping criticism, but expressions of hopes for tomorrow.

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7. See BOLES, *THE BIBLE, RELIGION AND THE PUBLIC SCHOOLS* 277 (3d ed. 1965). President Butler was writing in the *Journal of the National Education Association* (1902) at 71-74.

8. See Tenn. Acts 1925, ch. 27, at 50-51. Frederick Lewis Allen described the *Scopes* trial in *ONLY YESTERDAY* 201-06 (1931). The Tennessee Supreme Court reversed *Scopes'* conviction on a non-constitutional ground. *Scopes v. State*, 152 Tenn. 424, 278 S.W. 57 (1925).