



McCOLLUM v. BOARD OF EDUCATION
SUPREME COURT OF THE UNITED STATES
333 U.S. 203
March 8, 1948
[8 - 1]

Champaign, Illinois...1948. Can local churches come into public schools to teach their faith?

Added bonus: You are provided with the history of religious and public education in this Country, both well before and after the ratification of the Constitution plus the reason “Sunday School” came into being. You just can’t get these taste treats anywhere else.

OPINION: Justice Black...This case relates to the power of a state to utilize its tax-supported public school system in aid of religious instruction insofar as that power may be restricted by the 1st and 14th Amendments to the Federal Constitution.

...Vashti McCollum began this action...against the Champaign Board of Education in the Circuit Court of Champaign County, Illinois. Her asserted interest was that of a resident and taxpayer of Champaign and of a parent whose child was then enrolled in the Champaign public schools. Illinois has a compulsory education law which...requires parents to send their children...to its tax-supported public schools where the children are to remain in attendance during the hours when the schools are regularly in session. Parents who violate this law commit a misdemeanor punishable by fine unless

the children attend private or parochial schools which meet educational standards fixed by the State. District boards of education are given general supervisory powers over the use of the public school buildings within the school districts...[All lower courts ruled that the Champaign released time program is constitutional...McCollum has appealed to this Court...]

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 four to nine...Classes were made up of pupils whose parents signed printed cards requesting that their children be permitted to attend; they were held weekly, thirty minutes for the lower grades, forty-five 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...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.

The foregoing facts...show the use of tax-supported property for religious instruction and the close cooperation between the school authorities and the religious council in promoting religious education. The operation of the State's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects. 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 school system to aid religious groups to spread their faith. And it falls squarely under the ban of the 1st Amendment** (made applicable to the States by the 14th) as we interpreted it in *Everson v. Board of Education*.¹ There we said: "Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force or influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and *vice versa*. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and State.'" The majority [and the minority] in the *Everson* case... agreed that the 1st Amendment's language, properly interpreted, had erected a wall of separation between

¹Case 1A-R-022 on this website.

Church and State. They disagreed as to the facts shown by the record and as to the proper application of the 1st Amendment's language to those facts...

[The respondents] **argue that historically the 1st Amendment was intended to forbid only government preference of one religion over another, not an impartial governmental assistance of all religions.** In addition they ask that we distinguish or overrule our holding in the *Everson* case that the 14th Amendment made the "establishment of religion" clause of the 1st Amendment applicable as a prohibition against the States. After giving full consideration to the arguments presented we are unable to accept either of these contentions.

To hold that a state cannot consistently with the 1st and 14th Amendments utilize its public school system to aid any or all religious faiths or sects in the dissemination of their doctrines and ideals does not, as counsel urge, manifest a governmental hostility to religion or religious teachings. A manifestation of such hostility would be at war with our national tradition as embodied in the 1st Amendment's guaranty of the free exercise of religion. For the 1st 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...

Here not only are the State's tax-supported public school buildings used for the dissemination of religious doctrines. **The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the State's compulsory public school machinery. This is not separation of Church and State...**[Judgment] Reversed...

CONCURRENCE: Justice Frankfurter/Jackson/Rutledge/Burton...This case, in the light of the *Everson* decision, demonstrates anew that the mere formulation of a relevant Constitutional principle is the beginning of the solution of a problem, not its answer. This is so because the meaning of a spacious conception like that of the separation of Church from State is unfolded as appeal is made to the principle from case to case. We are all agreed that the 1st and the 14th Amendments have a secular reach far more penetrating in the conduct of Government than merely to forbid an "established church." But agreement, in the abstract, that the 1st Amendment was designed to erect a "wall of separation between church and State," does not preclude a clash of views as to what the wall separates...

Traditionally, organized education in the Western world was Church education. It could hardly be otherwise when the education of children was primarily study of the Word and the ways of God. Even in the Protestant countries, where there was a less close identification of Church and State, the basis of education was largely the Bible, and its chief purpose inculcation of piety. To the extent that the State intervened, it used its authority to further aims of the Church.

The emigrants who came to these shores brought this view of education with them. Colonial schools certainly started with a religious orientation. When the common problems of the early settlers of the Massachusetts Bay Colony revealed the need for common schools, the object was

the defeat of "one chief project of that old deluder, Satan, to keep men from the knowledge of the Scriptures."

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 1st Amendment. It is appropriate to recall that the Remonstrance of James Madison...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 through the efforts of Horace Mann, all sectarian teachings were barred from the common school to save it from being rent by denominational conflict. The upshot of these controversies, often long and fierce, is fairly summarized by saying that long before the 14th Amendment subjected the States to new limitations, the prohibition of furtherance by the State of religious instruction became the guiding principle, in law and feeling, of the American people...**

Separation in the field of education, then, was not imposed upon unwilling States by force of superior law. In this respect the 14th Amendment merely reflected a principle then dominant in our national life. To the extent that the Constitution thus made it binding upon the States, the basis of the restriction is the whole experience of our people. Zealous watchfulness against fusion of secular and religious activities by Government itself, through any of its instruments but especially through 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. A totally different situation elsewhere, as illustrated for instance by the English provisions for religious education in State-maintained schools, only serves to illustrate that free societies are not cast in one mould. Different institutions evolve from different historic circumstances.

It is pertinent to remind that the establishment of this principle of Separation in the field of education was not due to any decline in the religious beliefs of the people. Horace Mann was a devout Christian, and the deep religious feeling of James Madison is stamped upon the Remonstrance...**The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and most bitterly engendered.** Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must keep scrupulously free from entanglement in the strife of sects. **The preservation of the community from divisive conflicts, of Government from**

irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice...

Enough has been said to indicate that we are dealing not with a full-blown principle, nor one having the definiteness of a surveyor's metes and bounds. But by 1875 the separation of public education from Church entanglements, of the State from the teaching of religion, was firmly established in the consciousness of the nation. In that year **President Grant** made his famous remarks to the Convention of the Army of the Tennessee:

"Encourage free schools, and resolve that not one dollar appropriated for their support shall be appropriated to the support of any sectarian schools. Resolve that neither the State nor nation, nor both combined, shall support institutions of learning other than those sufficient to afford every child growing up in the land the opportunity of a good commonschool education, unmixed with sectarian, pagan, or atheistical dogmas. **Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contributions. Keep the church and the state forever separate.**"

So strong was this conviction, that rather than rest on the comprehensive prohibitions of the 1st and 14th Amendments, President Grant urged that there be written into the United States Constitution...a specific prohibition against the use of public funds for sectarian education, such as had been written into many State constitutions. By 1894, in urging the adoption of such a provision in the New York Constitution, Elihu Root was able to summarize a century of the nation's history: "It is not a question of religion, or of creed, or of party; it is a question of declaring and maintaining the great American principle of eternal separation between Church and State." The extent to which this principle was deemed a presupposition of our Constitutional system is strikingly illustrated by the fact that every State admitted into the Union since 1876 was compelled by Congress to write into its constitution a requirement that it maintain a school system "free from sectarian control."

...Prohibition of the commingling of sectarian and secular instruction in the public school is of course only half the story. A religious people was naturally concerned about the part of the child's education entrusted "to the family altar, the church, and the private school." The promotion of religious education took many forms. Laboring under financial difficulties and exercising only persuasive authority, various denominations felt handicapped in their task of religious education. Abortive attempts were therefore frequently made to obtain public funds for religious schools. But the major efforts of religious inculcation were a recognition of the principle of Separation by the establishment of church schools privately supported. Parochial schools were maintained by various denominations. These, however, were often beset by serious handicaps, financial and otherwise, so that the religious aims which they represented found other directions. There were experiments with vacation schools, with Saturday as well as Sunday schools. They all fell short of their purpose. It was urged that by appearing to make religion a one-day-a-week matter, the Sunday school, which acquired national

acceptance, tended to relegate the child's religious education, and thereby his religion, to a minor role not unlike the enforced piano lesson.

Out of these inadequate efforts evolved the week-day church school, held on one or more afternoons a week after the close of the public school. But children continued to be children; they wanted to play when school was out, particularly when other children were free to do so. Church leaders decided that if the week-day church school was to succeed, a way had to be found to give the child his religious education during what the child conceived to be his "business hours."

The initiation of the [released time] movement may fairly be attributed to Dr. George U. Wenner. **The underlying assumption of his proposal...was that the public school unduly monopolized the child's time and that the churches were entitled to their share of it. This, the schools should "release."** Accordingly, the [Interfaith Conference on] Federation...urged that upon the request of their parents children be excused from public school on Wednesday afternoon, so that the churches could provide "Sunday school on Wednesday." This was to be carried out on church premises under church authority. Those not desiring to attend church schools would continue their normal classes. Lest these public school classes unfairly compete with the church education, it was requested that the school authorities refrain from scheduling courses or activities of compelling interest or importance.

...Gary, Indiana, inaugurated the movement. At a time when industrial expansion strained the communal facilities of the city, Superintendent of Schools Wirt suggested a fuller use of the school buildings. Building on theories which had become more or less current, he also urged that education was more than instruction in a classroom. The school was only one of several educational agencies. The library, the playground, the home, the church, all have their function in the child's proper unfolding. Accordingly, Wirt's plan sought to rotate the schedules of the children during the school-day so that some were in class, others were in the library, still others in the playground. And some, he suggested to the leading ministers of the City, might be released to attend religious classes if the churches of the City cooperated and provided them. They did, in 1914, and thus was "released time" begun. The religious teaching was held on church premises and the public schools had no hand in the conduct of these church schools. They did not supervise the choice of instructors or the subject matter taught. Nor did they assume responsibility for the attendance, conduct or achievement of the child in a church school; and he received no credit for it. The period of attendance in the religious schools would otherwise have been a play period for the child, with the result that the arrangement did not cut into public school instruction or truly affect the activities or feelings of the children who did not attend the church schools.

From such a beginning "released time" has attained substantial proportions. In 1914-15, under the Gary program, 619 pupils left the public schools for the church schools during one period a week. According to responsible figures almost 2,000,000 in some 2,200 communities participated in "released time" programs during 1947. A movement of such scope indicates the importance of the problem to which the "released time" programs are directed. But to the extent that aspects of these programs are open to Constitutional objection, the more extensively the movement operates, the

more ominous the breaches in the wall of separation...

How does "released time" operate in Champaign? Public school teachers distribute to their pupils cards supplied by church groups, so that the parents may indicate whether they desire religious instruction for their children. For those desiring it, religious classes are conducted in the regular classrooms of the public schools by teachers of religion paid by the churches and appointed by them, but, as the State court found, "subject to the approval and supervision of the superintendent." The courses do not profess to give secular instruction in subjects concerning religion. Their candid purpose is sectarian teaching. While a child can go to any of the religious classes offered, a particular sect wishing a teacher for its devotees requires the permission of the school superintendent "who in turn will determine whether or not it is practical for said group to teach in said school system." If no provision is made for religious instruction in the particular faith of a child, or if for other reasons the child is not enrolled in any of the offered classes, he is required to attend a regular school class, or a study period during which he is often left to his own devices. Reports of attendance in the religious classes are submitted by the religious instructor to the school authorities, and absentees are...deemed...truants...

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; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain.** The law of imitation operates, and non-conformity is not an outstanding characteristic of children. The result is an obvious pressure upon children to attend. Again, while the Champaign school population represents only a fraction of the more than two hundred and fifty sects of the nation, not even all the practicing sects in Champaign are willing or able to provide religious instruction. **The children belonging to these non-participating sects will thus have inculcated in them a feeling of separatism when the school should be the training ground for habits of community, or they will have religious instruction in a faith which is not that of their parents.** As a result, the public school system of Champaign actively furthers inculcation in the religious tenets of some faiths, and in the process sharpens the consciousness of religious differences at least among some of the children committed to its care. These are...the consequences against which the Constitution was directed when it prohibited the Government common to all from becoming embroiled, however innocently, in the destructive religious conflicts of which the history of even this country records some dark pages.

...If it were merely a question of enabling a child to obtain religious instruction with a receptive mind, the thirty or forty-five minutes could readily be found on Saturday or Sunday. If that were all, Champaign might have drawn upon the French system, known in its American manifestation as "dismissed time," whereby one school day is shortened to allow all children to go where they please, leaving those who so desire to go to a religious school. The momentum of the whole school atmosphere and school planning is presumably put behind religious instruction, as given in Champaign, precisely in order to secure for the religious instruction

such momentum and planning. To speak of "released time" as being only half or three quarters of an hour is to draw a thread from a fabric...

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. "The great American principle of eternal separation" -- Elihu Root's phrase bears repetition -- is one of the vital reliances of our Constitutional system for assuring unities among our people stronger than our diversities. It is the Court's duty to enforce this principle in its full integrity.

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." *Everson v. Board of Education*. If nowhere else, in the relation between Church and State, "good fences make good neighbors."

CONCURRENCE: Justice Jackson...**The complaint is that when others join and he does not, it sets him apart as a dissenter, which is humiliating. Even admitting this to be true, it may be doubted whether the Constitution which, of course, protects the right to dissent, can be construed also to protect one from the embarrassment that always attends nonconformity, whether in religion, politics, behavior or dress...**

While we may and should end such formal and explicit instruction as the Champaign plan and can at all times prohibit teaching of creed and catechism and ceremonial and can forbid forthright proselyting in the schools, I think it remains to be demonstrated whether it is possible, even if desirable, to...completely...isolate and cast out of secular education all that some people may reasonably regard as religious instruction. Perhaps subjects such as mathematics, physics or chemistry are, or can be, completely secularized. But it would not seem practical to teach either practice or appreciation of the arts if we are to forbid exposure of youth to any religious influences. Music without sacred music, architecture minus the cathedral, or painting without the scriptural themes would be eccentric and incomplete, even from a secular point of view. Yet the inspirational appeal of religion in these guises is often stronger than in forthright sermon. Even such a "science" as biology raises the issue between evolution and creation as an explanation of our presence on this planet. Certainly a course in English literature that omitted the Bible and other powerful uses of our mother tongue for religious ends would be pretty barren. And I should suppose it is a proper, if not an indispensable, part of preparation for a worldly life to know the roles that religion and religions have played in the tragic story of mankind. The fact is that, for good or for ill, nearly everything in our culture worth transmitting, everything which gives meaning to life, is saturated with religious influences, derived from paganism, Judaism, Christianity -- both Catholic and Protestant -- and other faiths accepted by a large part of the world's peoples. One can hardly respect a system of education that would leave the student wholly ignorant of

the currents of religious thought that move the world society for a part in which he is being prepared.

But how one can teach, with satisfaction or even with justice to all faiths, such subjects as the story of the Reformation, the Inquisition, or even the New England effort to found "a Church without a Bishop and a State without a King," is more than I know. It is too much to expect that mortals will teach subjects about which their contemporaries have passionate controversies with the detachment they may summon to teaching about remote subjects such as Confucius or Mohammed. When instruction turns to proselyting and imparting knowledge becomes evangelism is, except in the crudest cases, a subtle inquiry...

DISSENT: Justice Reed...I find it difficult to extract from the opinions any conclusion as to what it is in the Champaign plan that is unconstitutional. Is it the use of school buildings for religious instruction; the release of pupils by the schools for religious instruction during school hours; the so-called assistance by teachers in handing out the request cards to pupils, in keeping lists of them for release and records of their attendance; or the action of the principals in arranging an opportunity for the classes and the appearance of the Council's instructors? None of the reversing opinions say whether the purpose of the Champaign plan for religious instruction during school hours is unconstitutional or whether it is some ingredient used in or omitted from the formula that makes the plan unconstitutional...

Mr. Jefferson, as one of the founders of the University of Virginia, a school which from its establishment in 1819 has been wholly governed, managed and controlled by the State of Virginia, was faced with the same problem that is before this Court today: the question of the constitutional limitation upon religious education in public schools. In his annual report as Rector, to the President and Directors of the Literary Fund, dated October 7, 1822, approved by the Visitors of the University of whom Mr. Madison was one, Mr. Jefferson set forth his views at some length. These suggestions of Mr. Jefferson were adopted as Regulations of the University:

"Should the religious sects of this State, or any of them, according to the invitation held out to them, establish within, or adjacent to, the precincts of the University, schools for instruction in the religion of their sect, the students of the University will be free, and expected to attend religious worship at the establishment of their respective sects, in the morning, and in time to meet their school in the University at its stated hour."

Thus, the "wall of separation between church and State" that Mr. Jefferson built at the University which he founded did not exclude religious education from that school. The difference between the generality of his statements on the separation of church and state and the specificity of his conclusions on education are considerable. **A rule of law should not be drawn from a figure of speech.**

...This Court summarized the amendment's accepted reach into the religious field, as I understand its scope, in *Everson v. Board of Education*...I agree, as there stated, that none of our governmental entities can "set up a church." **I agree that they cannot "aid" all or any religions or prefer one "over another." But "aid" must be understood as a purposeful assistance directly to the church itself or to some religious group or organization doing religious work of such a character that it may fairly be said to be performing ecclesiastical functions. "Prefer" must give an advantage to one "over another."** I agree that pupils cannot "be released in part from their legal duty" of school attendance upon condition that they attend religious classes. But as Illinois has held that it is within the discretion of the School Board to permit absence from school for religious instruction no legal duty of school attendance is violated. If the sentence in the Court's opinion, concerning the pupils' release from legal duty, is intended to mean that the Constitution forbids a school to excuse a pupil from secular control during school hours to attend voluntarily a class in religious education, whether in or out of school buildings, I disagree. Of course, no tax can be levied to support organizations intended "to teach or practice religion." I agree too that the state cannot influence one toward religion against his will or punish him for his beliefs. Champaign's religious education course does none of these things.

It seems clear to me that the "aid" referred to by the Court in the *Everson* case could not have been those incidental advantages that religious bodies, with other groups similarly situated, obtain as a by-product of organized society. This explains the well-known fact that all churches receive "aid" from government in the form of freedom from taxation. The *Everson* decision itself justified the transportation of children to church schools by New Jersey for safety reasons. It accords with *Cochran v. Louisiana*², where this Court upheld a free textbook statute of Louisiana against a charge that it aided private schools on the ground that the books were for the education of the children, not to aid religious schools. Likewise the National School Lunch Act aids all school children attending tax-exempt schools. In *Bradfield v. Roberts*, this Court held proper the payment of money by the Federal Government to build an addition to a hospital, chartered by individuals who were members of a Roman Catholic sisterhood, and operated under the auspices of the Roman Catholic Church. This was done over the objection that it aided the establishment of religion. While obviously in these instances the respective churches, in a certain sense, were aided, this Court has never held that such "aid" was in violation of the 1st or 14th Amendment.

Well-recognized and long-established practices support the validity of the Illinois statute here in question. That statute...is comparable to those in many states. All differ to some extent...The practices of the federal government offer many examples of this kind of "aid" by the state to religion. The Congress of the United States has a chaplain for each House who daily invokes divine blessings and guidance for the proceedings. The armed forces have commissioned chaplains from early days. They conduct the public services in accordance with the liturgical requirements of their respective faiths, ashore and afloat, employing for the purpose property belonging to the United States and dedicated to the services of religion. Under the Servicemen's Readjustment Act of 1944, eligible veterans may receive training at government expense for the ministry in denominational schools.

²Case 1A-R-007 on this website.

The schools of the District of Columbia have opening exercises which "include a reading from the Bible without note or comment, and the Lord's prayer."

In the United States Naval Academy and the United States Military Academy, schools wholly supported and completely controlled by the federal government, there are a number of religious activities. Chaplains are attached to both schools. Attendance at church services on Sunday is compulsory at both the Military and Naval Academies. At West Point the Protestant services are held in the Cadet Chapel, the Catholic in the Catholic Chapel, and the Jewish in the Old Cadet Chapel; at Annapolis only Protestant services are held on the reservation, midshipmen of other religious persuasions attend the churches of the city of Annapolis. These facts indicate that both schools since their earliest beginnings have maintained and enforced a pattern of participation in formal worship...**The prohibition of enactments respecting the establishment of religion do not bar every friendly gesture between church and state.** It is not an absolute prohibition against every conceivable situation where the two may work together, any more than the other provisions of the 1st Amendment -- free speech, free press -- are absolutes...This Court cannot be too cautious in upsetting practices embedded in our society by many years of experience. A state is entitled to have great leeway in its legislation when dealing with the important social problems of its population. A definite violation of legislative limits must be established. **The Constitution should not be stretched to forbid national customs...**The judgment should be affirmed.

Justice Reed indicates that "a long standing tradition" is somehow determinative of how a Constitutional provision should be interpreted. Do you believe a "doctrine of past practice" is a dangerous principle to follow? And, please note that our Supreme Court has never said that "God" could not be uttered in school or that the Bible or the Koran could not be studied. The same is true with religious art, music and literature. On many occasions, the general public seems quick to criticize the Supreme Court for doing what it has **never** done. Now that you are "in the know," **please correct your fellow citizens when they get it wrong!!!** As Justice Jackson implied in concurrence, the problem lies when "instruction turns to proselyting — when imparting knowledge becomes evangelism."