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ABSTRACT

The purpose of the research was to provide practitioners in the public schools with an empirical basis for their efforts to find the proper place of religious ritual and instruction in the school setting. This paper analyzes two Supreme Court decisions regarding prayer and Bible reading in the public schools: (1) "Engel v. Vitale"; and (2) "School District of Abington Township, Pennsylvania v. Schempp." The headnotes of each case, as supplied by the editors of the "Supreme Court Reporter" are listed in a table. These headnotes denote the legal principles expressed in the actual text of the Court's decision. Beside each headnote is placed the words that limit the legal restrictions in the note. The analysis indicated that the activity banned by the Supreme Court in "Engel v. Vitale" was the imposition of the religious activity of prayer by government and not the actual act of prayer itself. Prayer by students or teachers is not forbidden. Prayer imposed by the government or one of its agents is forbidden. The analysis also indicated in the "Schempp" decision that reading the Bible in a public school was not forbidden; what was banned was the required reading of the Bible as a religious exercise. (SI)

BIBLE READING AND PRAYER IN THE PUBLIC SCHOOLS: CLEARING UP THE MISCONCEPTIONS

by

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Bible Reading and Prayer in the Public Schools: Clearing Up the Misconceptions

It is very popular in American society for citizens to complain about the public schools. This has become so much a part of our modern culture that many organized interest groups have also taken up the cry against various aspects of American education.

Groups with a conservative political stance have expressed much concern over the lack of moral education in the public schools. More specifically, religious elements of the conservative movement decry the removal of religious ritual from public education. "They've taken God out of the schools!" is a frequently heard complaint from religious leaders and lay people alike.

From its inception, the American public schools were largely dominated by the Protestant ethic. As waves of European immigrants arrived from these predominantly Catholic countries, the Catholic Church developed a system of parochial schools to protect their children from the influences of Protestantism. Thus the Protestant culture dominated the public schools for a hundred years or more. This domination was slowly and almost imperceptibly eroded by two factors: the increasing numbers of immigrants from non-Christian countries, and the growth of a secular humanist culture among the American population.

This shift became more noticeable after the forced racial integration of the public schools following the Supreme Court's decision in the Brown v. Board of Education case (347 U.S. 483, 74 S.Ct. 686). It was not the Brown decision that caused the most concern among the Protestant leaders of America, however. In 1962, the Supreme Court handed down its ruling in Engel v. Vitale (82 S.Ct. 1261), which immediately grabbed the attention of religiously- oriented people. In this landmark decision, the Court declared that the practice of a school's program of daily classroom prayer was a violation of the Establishment Clause of the First Amendment to the Constitution and, therefore, impermissible.

The shock waves from the Engel decision had not died down when, a year later, a new source of irritation to America's Protestant community was added in the Court's ruling that Bible reading

in the public schools was also a violation of the Establishment Clause (School District of Abington TP, PA v. Schempp, 83 S.Ct. 1650). These two Supreme Court decisions, more than anything else, have been the foundation of concerns expressed by religious and political conservatives about the public schools of America. Taking God out of the schools, they believe, is responsible for the many well-publicized problems of the schools, such as poor discipline, drug abuse, and lower test scores. In addition, public schools and administrators have expressed the chilling effect of the Supreme Court's decision on their ability to support the Protestant ethic in the schools.

Did the Supreme Court take God out of the public schools by its decisions in the Engel and Schempp cases? That is the research question which was posed as a working hypothesis for this investigation. The purpose was to provide for practitioners in the public schools an empirical basis for their efforts to find the proper place of religious ritual and instruction in the school setting. As is usually the case, the popular press does not give reasoned analyses of complex legal decisions. Its response to the two cases at hand has been more emotional than rational. What is needed, then, is an analytical, scientific investigation of the actual court decisions which allows a realistic rationale for classroom and administrative practice. It was the object of this research to fill that need.

The data source for the present research was the Court decisions in the Engel and Schempp cases, as printed in the SUPREME COURT REPORTER. The reported decisions include numerous footnotes provided by the Court and are augmented by several headnotes supplied by the publisher to assist the reader in locating specific legal principles within the text of the report. No attempt was made to utilize the many secondary sources of data available in the form of commentaries, analyses, and speculations published in numerous books, journals, and newspapers. This limitation of sources was imposed to control, as much as possible, any researcher bias that might contaminate the investigation.

The research methodology employed was a deductive, analytical process applied to the primary source material. This involved selecting the headnotes related to religious activity (Bible reading or prayer) in the public school. Those headnotes dealing with court procedure or other matters were not included. Each one selected denotes a legal principle from the actual text of the Court decision.

Generally, the Supreme Court will rule as narrowly as possible in its written decisions. Therefore, it will either directly or by implication limit the scope of the decision's application. Such was the case in both decisions analyzed here. Each statement of principle has within it words which limit the extent of its application. For each Court decision, the limiting words are placed beside the listed headnote. Thus, one can see both the restrictions placed on prayer and Bible reading in the public school classroom and the limits of that restriction.

Prayer in Public School

In Engel v. Vitale (82 S.Ct. 1261), the Supreme Court was called upon to determine the constitutionality of a rule of the New York State Board of Regents which required that school children repeat a specified prayer at the beginning of each school day. The words of the prayer were: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country." This prayer was a part of the Regents' "Statement on Moral and Spiritual Training in the Schools."

In a divided opinion, the Court ruled that the prayer requirement was unconstitutional in that it violated the Establishment Clause of the First Amendment. The restrictions of this amendment on the federal government were extended to the states by the Fourteenth Amendment. Since the schools are a function of the State, actions of the Board of Regents are, in essence, State actions and fall under the purview of the United States Constitution. The Court had no question that prayer is a religious activity and, as such, the Regents' requirement was an impermissible establishment of religion by the State.

The immediate public response to the Supreme Court's decision was that it was illegal to say a prayer in a public school. This response provided the catalyst for a political coalition seeking to amend the Constitution to permit prayer in the public schools.

The purpose of this research was to analyze the Court's decision to determine the scope of the Court's prohibition of prayer and the limits to that prohibition. As a part of the analysis, the headnotes of the case, as supplied by the editors of the SUPREME COURT REPORTER, were listed in Table I. These headnotes denote the legal principles expressed in the actual text of the

Court's decision. They form a legal outline of the case. Beside each headnote is placed the words which limit the legal restrictions in the note.

TABLE I

Headnotes for Engel v. Vitale

Restrictions	Limitations
1. New York's program of daily classroom invocation of God's blessings as prescribed in prayer promulgated by its Board of Regents was a "religious activity," and use of public school system to encourage recitation of such prayer was practice wholly inconsistent with Establishment of Religion Clause of Constitution.	Use of public school system
2. Constitutional prohibition against laws respecting establishment of religion must at least mean that it is no part of business of government to compose official prayers for any group of American people to recite as part of religious program carried on by government.	Government to compose
3. First Amendment was added to Constitution to stand as guarantee that neither power nor prestige of federal government would be used to control, support, or influence the kinds of prayers American people can say--That people's religions must not be subject to pressures of government for change each time new political administration is elected.	Power or prestige of government
4. Under First Amendment's prohibition against establishment of religion, as reinforced by Fourteenth Amendment, government, whether state or federal, is without power to prescribe by law any particular form of prayer in carrying on any program of governmentally sponsored religious activity.	Government without power to prescribe
5. Neither fact that prayer composed by governmental body for use in public schools might be denominationally neutral nor fact that its	Composed by government

Table I (Continued)

observance on part of students was voluntary could serve to free it from limitations of the Establishment of Religion Clause of Constitution.	
6. Both the Establishment of Religion Clause and the Free Exercise Clause of the First Amendment are operative against the states by virtue of the Fourteenth Amendment.	States
7. The Establishment of Religion Clause and the Free Exercise Clause of the Constitution forbid two quite different kinds of governmental encroachment upon religion: The Establishment Clause, unlike the Free Exercise Clause, does not depend upon direct governmental compulsion and is violated by enactment of laws which establish an official religion whether they operate directly to coerce nonobserving individuals or not.	Governmental encroachment
8. Establishment of Religion Clause of Constitution is violated when power, prestige and financial support of government is placed behind particular religious beliefs.	Support of government
9. First and most immediate purpose of Establishment of Religion Clause rested on belief that union of government and religion tends to destroy government and to degrade religion.	Union of government and religion
10. Establishment of Religion Clause stands for expression of principle that religion is too personal, too sacred, too holy, to permit its unhallowed perversion by civil magistrate.	By civil magistrate
11. A purpose of Establishment of Religion Clause of Constitution rested upon awareness of historical fact that governmentally established religions and religious persecutions go hand in hand.	Governmentally established

Table 1 (Continued)

12. That prayer, promulgated by governmental body for daily classroom use in public schools, did not amount to total establishment of one particular religious sect to exclusion of all others did not free it from limitations of Establishment of Religion Clause of Constitution	Promulgated by government

In the Engel decision, the REPORTER provided 13 headnotes. The first of these dealt with Court procedure and is not relevant to this analysis. The remaining 12 headnotes dealt with the constitutional principles enunciated in the written opinion of the Court and were shown in Table I. The limiting words identified in Table I are as follows:

Table II

Limiting words in Engel v. Vitale

Limitation	Headnote
School system	1
State action	6
Civil magistrate	10
Government	2,3,4,5,7, 8,9,11,12

As indicated in Tables I and II, the prohibition of the use of prayer in the public schools is limited to the actions of: the school system, the state, civil magistrates, and government. It should be noted that the restriction is limited to actions of governmental agencies and is not applied to individuals. Thus, prayer by students or teachers is not forbidden. What is forbidden is prayer imposed by government or one of its agents.

Discussion

The analysis provided in the previous section indicated that the activity banned by the Supreme Court in its Engel v. Vitale decision was the imposition of the religious activity of prayer by

government and not the actual act of prayer itself. Individuals were not prohibited from saying prayers, but government and its subordinate agencies were prohibited from requiring students to repeat a prayer. Therefore, the Supreme Court did not remove prayer from the public schools.

In considering the nature of the act of prayer itself, it would be impossible to enforce a prohibition of prayer. This act is a personal one and does not require a liturgical formality. Prayer is a personal communication between an individual and his God. In the Christian community, there is widespread belief that God can know the very thoughts of a person. Therefore, prayer that is silent and confined to one's mind is just as effective as a prayer that is audible. Although the police power of the state is formidable, it does not have the ability of mind control. Therefore, it's ability to interdict the unspoken prayer is not existent.

Of course, most religions recognize the significance of the prayer ritual. This is public prayer, having structure and formality. Its form and delivery are frequently denoted by some authority, usually that of a church hierarchy. By its very nature, this type of prayer lends itself to control outside the church structure. It was this public formalized type of prayer as imposed by the agency of government which the Supreme Court ruled against and, while this does place limits on the totality of prayer in the public schools, these limits are far from absolute.

A second factor to consider is the long-term effect of ritualized prayer said in the context of a required activity within a public school. Ritual and formality eventually result in depersonalization. Ritualized prayer, then, will eventually obscure the personal nature of this form of communication. The rote mumbling of words imposed by the Regents may have had a deleterious effect on the moral and spiritual development of school children, rather than being a positive influence as desired by the Board. If such is the case, the Supreme Court decision in Engel v. Vitale may, in the long run, be a positive factor in the moral and spiritual development of school children.

Bible Reading in Public Schools

The Supreme Court decision regarding Bible reading in the public schools consists of two companion cases which were joined together because, while they had slightly different facts, they dealt with the same legal issues. They are the School District of Abington Township, Pennslyvania v. Schempp (201 F.Supp. 815) and Murray v. Curlett (179 A.2d 698). Since the Court rendered

one decision for the two cases, it is usually referred to by the title of the former, or by its abbreviation, Schempp, as will be done in this paper. The first case related to a law of the State of Pennsylvania that 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. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian."

The actual practice in question at the school involved was that a student would read the Bible verses over the school's public address system. This was followed by a recitation of the Lord's Prayer by all students and a salute to the Flag.

The appellants were members of the Unitarian faith and testified that at least some of the readings were contrary to their religious beliefs. Expert testimony was given indicating that readings from the New Testament would be offensive to the Jewish faith.

The second case dealt with a rule adopted by the City of Baltimore, which required the "reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer." The petitioners in this case were athiests.

After giving the facts of the two cases, Justice Clark, who delivered the opinion of the Court, wrote a short preamble to the decision. In it, he admitted that religion has been closely identified with the history of our nation and government. He also pointed out that religious freedom has also been strongly imbedded in our national culture. The work of the Court, then, is to balance these two major conceptual principles which have been codified in the First Amendment.

In the Schempp case, the REPORTER provided 21 headnotes. Three of these dealt with requirements for standing to bring action in the cases cited, two dealt with the legal defense to the appellants' action, one dealt with the demurrer. All of these are outside the purpose of this research and were not included in the analysis. The remaining 15 headnotes are listed in Table III, along with the limiting words.

As in the Engel case, each headnote provided has either a specific or implied limitation on the restrictions against Bible reading in the public schools. These limitations have been summarized in Table IV.

TABLE III

Headnotes for Schempp

Headnotes	Limiting words
1. The First Amendment's mandate that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof has been made wholly applicable to the states by the Fourteenth Amendment.	The states
2. The Establishment Clause of the First Amendment is not restricted to forbidding governmental preference of one religion over another.	Governmental preference
3. The Establishment Clause of the First Amendment prohibits a fusion of governmental and religious functions of a concert or dependency of one upon the other to the end that official support of the state and federal government would be placed behind tenets of one or all orthodoxies.	State and federal government
4. The Establishment Clause of the First Amendment withdrew all legislative power respecting religious belief or expression thereof.	Legislative power
5. Test under Establishment Clause of the First Amendment is as to purpose and primary effect of enactment, and if either is advancement or prohibition of religion, enactment exceeds scope of legislative power.	Legislative enactment
6. To withstand the strictures of the Establishment Clause of the First Amendment, there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.	Legislative purpose
7. The Free Exercise Clause of the First Amendment like the Establishment Clause withdraws from legislative power, state and	State and federal legislative power

federal, the exertion of any restraint on free exercise of religion.	
8. Purpose of the Free Exercise Clause of the First Amendment is to secure religious liberty in the individual by prohibiting any invasion thereof by civil authority.	Civil authority
9. It is necessary in case under Free Excercise Clause of First Amendment for one to show coercive effect of enactment as it operates against him in practice of religion and violation of Free Exercise Clause is predicated on coercion, while Establishment Clause violation need not be so attended.	Coercive effect of enactment
10. Practices of selection and reading of verses of Bible and recitation, by students in unison, of the Lord's Prayer, at opening of school day, as part of curriculur activities of students required by law to attend school, were religious in character and they and the laws requiring them were unconstitutional under the Establishment Clause of the First Amendment as applied to the states through the Fourteenth Amendment.	Required by law
11. State may not establish a religion of secularism in sense of affirmatively opposing or showing hostility to religion and thus preferring those who believe in no religion over those who do believe.	State may not show hostility to religion
12. Study of the Bible for its literary and historic qualities and study of religion, when presented objectively as part of secular program of education may be effected consistent with the First Amendment.	Part of secular program of education
13. The concept of neutrality which does not permit state to require religious exercise even with consent of majority of those affected does not collide with the majority's right to free exercise of religion.	State to require

Table III (Continued)

14. While Free Exercise Clause of First Amendment clearly prohibits use of state action to deny rights of free exercise to anyone, it does not mean that majority may use machinery of state to practice its beliefs.	State action
15. In the relationship between man and religion, state is firmly committed to a position of neutrality and it is not within power of government to invade citidel of individual heart and mind, whether its purpose or effect be to aid or oppose, to advance or retard.	Power of government

As indicated in Tables III and IV, the prohibition against Bible reading in the public school is limited to the actions of the state, government, legislature, and civil authority where Bible reading is a legal requirement. This is further extended by giving explicit approval to Bible reading where it is part of the secular program of the school. An added limitation is the requirement that the state may not show hostility toward religion. As with the prayer case, the restriction against Bible reading is limited to the actions of government and its agencies, and is not applied to individuals. Thus, Bible reading by students or teachers is not forbidden. What is forbidden is Bible reading imposed by government upon the students.

Table IV

Limiting words in Schempp

Limitations	Headnotes
State action	1,13,14
Government	2,3,9,15
Civil authority	8
Legal requirement	10
No hostility	11
As part of secular program	12

Discussion

The analysis provided in the previous section indicates that the Supreme Court, in its Schempp decision, did not forbid the reading of the Bible in a public school. What was banned was the required reading of the Bible as a religious exercise. In both cases in Schempp, Bible reading was mandated by law. This, the Court ruled, is in direct violation of the Establishment Clause of the First Amendment to the Constitution.

The Court was mindful that religion is an integral part of the American culture and, as such, it is certainly proper for school children to be aware of, and even be required to study, religious documents such as the Bible.

> "In addition, 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 indicates that such a 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" (83 S.Ct. 1573).

In addition, the Court explicitly stated that its decision was not intended to be hostile toward religion or to aid in establishing secularism in the schools. The government, by its actions, must choose a neutral ground. It also did not prohibit Bible reading as an individual act by teachers or students. There is nothing to disallow a student from bringing a Bible to school and reading it silently during his free time. A teacher should also have that same freedom.

Since the Court specifically stated that the reading of the Bible could have a proper place in the school curriculum if it were a part of the secular program and not a religious function, it is appropriate to suggest in this paper some instances where this might take place. These suggestions are not intended to be exhaustive, but rather to open up possibilities that might be consistent with the First Amendment. Table V presents this in outline form.

As with prayer, the reading of the Bible can be a very personal act of worship. While such reading can take place both in public and private, it is the private act which is most significant. The religious purpose of Bible reading is a form of communication between God and a person on this

TABLE V
Appropriate Bible Reading in the Public Schools

Subject	Bible Reading	Purpose
History	Narrative sections of both Old and New Testaments	Provide an history of ancient peoples using the Bible as a primary source
English	Psalms, 1 Corinthians 13	Examples of ancient poetry and prose
Journalism	Genesis 1	An example of great events described with succinct writing
Anthropology	Ruth	Describe ancient family customs and courtship patterns
Sociology	Genesis, Exodus, Joshua	Shows the development of a nation
Government	Exodus	Early codification of law
Personal Development	Proverbs, Ecclesiastes	The wisdom of old for personal use
Economics	Leviticus 25	Early laws on the distribution of resources

earth. When Bible reading becomes an empty ritual, it demeans the very act and decreases the effectiveness of the communication. Government requirement to read the Bible in public school as a prescribed ritual would have just such an effect. In essence, then, the Supreme Court's decision may result in strengthening religion in America by removing the government requisite of Bible reading and restoring it as a voluntary, individual act.

Conclusions and Recommendations

It was the purpose of this paper to analyze two Supreme Court decisions regarding Prayer and Bible Reading in the Public Schools to answer the more generic question, "Did the Supreme Court take God out of the public schools?" In the analysis of both cases, it was shown that the action ruled in violation of the First Amendment was that of government and not of individuals. Thus, while the government or any of its agencies may not require people to pray or read the Bible in a public school, individuals are not prohibited from doing so. In that respect, the Court is not guilty of taking God out of the public schools.

In some respects the ultimate effect of the decisions in these two cases may result in actually enhancing religion. Coerced and ritualized religious practice tends to have a negative effect on the internalization of religious beliefs, while individual observance enhances this process. Removing the required ritual may, in the long run, be a benefit to religion in the United States.

As with all research, many questions remain unanswered from this study. While the Supreme Court usually rules narrowly on constitutional issues, their decisions are frequently given a much broader application than was originally intended. It is recommended that research be conducted to determine the extent of the effects of the Court's decision in the cases analyzed here and especially how they have been administratively applied.

Some critics of the Court have suggested that the result of these decisions have had a chilling effect on religion. Research should be conducted to determine if this is so. It may also be valuable to assess how lower courts' subsequent rulings have broadened the original decisions. Such research will give insights into the total effect of the original decision.