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Editor's Note

The articles in this issue of the Illinois State University *Journal* were delivered as addresses on the campus of Illinois State University in October, 1966, at the Conference on Teaching About Religion in the Public Schools, sponsored by the University, the Chicago and Northern Illinois Region of the National Conference of Christians and Jews, and the United Campus Christian Foundation serving Illinois State University and Illinois Wesleyan University of Bloomington, Illinois.

RELIGION AND EDUCATION

Historical Perspective and Current Problems

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The subject, "Religion and Education, Historical Perspective and Current Problems," is very broad indeed. Generous guidance in finding a particular path through it will be provided by the divisional topics, to be revealed as we go along. But even the context in which the general subject is set provides some clue as to its intended accent. This is prepared for a "Conference on Teaching About Religion in the Public Schools."

That expression, "teaching about religion," appears *explicitly* in one of my subdivisional topics and *implicity* in a second. On the other hand, the expression, "teaching of religion," appears explicitly in two of my sub-topics and implicitly in a third. The first time it is preceded by the definite article "the teaching of religion." This confirms me in my intuition that the latter expression is intended to be the equivalent of the expression, "teaching religion," and is deliberately intended to contrast sharply with the expression, "teaching about religion."

The difference between these two expressions and their relations to each other will need to be discussed in some detail later. But in a preliminary way it may be said that their relation is analogous to that between "teaching painting" and "teaching about painting," or that between "teaching football" and "teaching about football." The first activity, in each case, requires the kind of participation of which a certain appropriate commitment is a crucial ingredient.Thus inspiring the learner to keep his commitment burning brightly is the *sine qua non* of effective teaching.

On the other hand, teaching about painting—or football—requires no such fundamental commitment. That teaching about painting can have functional value within the context of teaching painting goes without saying. But it remains true that teaching about painting can be justified on the basis of nothing more than a desire for the reduction of cultural illiteracy.

This distinction, which has no great interest for anyone when applied to painting, become significant enough—when applied to religion within the context of our traditional American church-state doctrine—to stir up all sorts of activities—including this conference!

I

Thus we are brought face to face with the first subdivision of our subject: "Summarize what the courts have ruled on the question of the teaching of religion in the public schools." This seems to come to focus in the Engle, Schempp, and Murray cases—but also demands the sketching of a context. The context must, of course, include the busy docket of litigation since World War II. But, if we are to take the "historical perspective" in our title seriously, we must go right back to the First Amendment and trace its influence through the developing American experience with religion in the public schools.

When we get to this matter presently, it will be shown that organized religion has long had an important hand in the formal educational process in Western society. American experience under the First Amendment has been accommodated to this by a series of adaptive compromises. In recent years there has been reason to think that the thrust of American pluralism, followed by legal developments, was bringing this historic accommodation to an end.

On June 25, 1962, the direction of movement became explosively evident as the Supreme Court handed down its decision in *Engle v. Vitale* (New York Regents' Prayer Case). No other church-state case (with the possible exception of McCollum in 1948) has aroused such instant and widespread public antagonism and controversy.

In 1951 the Board of Regents of the State of New York composed the following twenty-two word devotion as a part of their "Statement on Moral and Spiritual Training in the Schools": "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessing upon us, our parents, our teachers and our country." State law and district school regulations gave effect to the Regents' recommendations by making the prayer a daily public school requirement (with provision that conscientious objectors might remain silent, or leave the room).

Nine parents challenged the practice as a violation of the establishment clause of the First Amendment, made applicable to the state

by the Fourteenth Amendment and similar provisions of the New York State Constitution. The New York Court of Appeals rejected their claim by a 5 to 2 vote. The various opinions ranged widely over relevant issues, but nowhere discussed the fact that the Board of Regents actually wrote the prayer. This is interesting inasmuch as the Supreme Court, in reversing 6 to 1, made a special point of this issue. Writing for the majority, Mr. Justice Black found the Regents' action to be

> a practice wholly inconsistent with the establishment clause. . . . We think that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.[1]

The opinion is actually broader than this passage appeared to many commentators. The proscription of the decision goes beyond the writing of prayers, to "sanctioning" them. On the other hand, the decision was also interpreted too broadly by some. The view, reflected in some segments of the press, that the decision outlawed all references to a Supreme Being in our public life, was explicitly rejected in a Black footnote:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

The Engle case helped prepare the way for the acceptance of the Schempp and Murray cases, in 1963, with somewhat less evidence of explosive antagonism than had been the case with the earlier decision. Nevertheless, it would be idle to deny that they raised deep and widespread objections.

In *School District of Abington Township v. Schempp* the Supreme Court sustained the Federal District Court of Eastern Pennsylvania in holding unconstitutional a Pennsylvania law requiring ten verses of the

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[1] The source of this quotation, and other material in this section is George R. LaNoue, "A Review of Church-State Legal Developments 1961-62," New York: NCCJ Background Reports, 1962.

Bible to be read without comment at the opening of each school day and the practice of a local school district requiring daily recitation of the Lord's Prayer. In *Murray v. Curlett* the Court reversed the Maryland Supreme Court in striking down as unconstitutional a rule of the Baltimore Board of School Commissioners requiring each day either the recitation of the Lord's Prayer or the reading of one chapter from the Holy Bible. In both cases children who did not want to participate in the exercises could have been excused.

The Court disposed of both cases in a single opinion, with Mr. Justice Clark writing for the majority. The decision was based squarely on the establishment clause, and took as its touchstone a concept of government "neutrality" to religion, taken to mean that government action must have a "secular . . . purpose and a primary effect that neither advances nor inhibits religion."[2] Such religious exercises as prayers and devotional Bible readings were explicitly prohibited as parts of the prescribed public school program, but the Court found the study of the Bible or of religion permissible "when presented objectively as part of a secular program of education."

Some of the concurring opinions made interesting supplementary points. Mr. Justice Brennan asserted that not every involvement of religion in public life violates the establishment clause—only those "which (a) either serve the essentially religious activities of religious institutions; (b) employ the organs of government for essentially religious purposes; or (c) essentially religious means to serve governmental purposes where secular means would suffice." His conclusion was that prayer and devotional Bible reading tend to fall into the second category, and can only avoid doing so by falling into the third. He also found that due to the youth of elementary and secondary school children such exercises would be coercive—because of reluctance to draw attention to their different beliefs by asking to be excused—and thus a violation of the free exercise clause.

The same point was made by Mr. Justice Goldberg, joined by Mr. Justice Harlan, incidental to arguing that the principle of neutrality did not mean hostility to religion and should not be applied to bring about that result. He argued that the establishment and the free exercise clauses of the First Amendment should be read together and were designed to serve a single end, the promotion of the "fullest possible scope of religious liberty and tolerance for all." He cited military chaplains and teaching about religion as examples of permissible accommodations to religious interests which prevent the principle of neutrality from becoming one of hostility in a society with a religious tradition and a majority of believers.

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[2] The source of this and other quotations concerning this decision is Donald Gianella, "A Review of Church-State Cases, September 1962-September 1963," New York: NCCJ Background Reports, 1964.

This last point is in serious tension with one of the passages in Mr. Justice Douglas' concurring opinion in Engle. And there has been dissent from the strong majority opinion in each case. However, the main thrust of these decisions is strongly in one direction, and quite clear. And it has been making its way in terms of influencing the actual situation. A recent bit of evidence illustrates the point in a striking way.

In mid-September State Attorney General Charles Nesbitt of Oklahoma ruled that Bible reading and prayer in Oklahoma City public schools is unconstitutional under Supreme Court decisions. Whereas prayer and/or Bible reading had been sanctioned by the Regents in New York, state statute in Pennsylvania, and school board rules in Baltimore, in Oklahoma they had been promoted only by tradition without any official sanction. This had enabled many Oklahomans to assume that these practices would prove exempt from the Supreme Court proscriptions. Not so, said the attorney general, in applying Schempp to the Oklahoma situation:

> It is only a matter of degree whether religious activities are prescribed by state statute, school board rule, individual school administration, or individual teacher. In any of those cases, the influence, authority and financial support of the state are placed behind purely religious activities in the public school. The exercises are a recognized part of the curricular activities of the students who are required to attend school, and they are held in school buildings under supervision and with participation of teachers employed by the state.[3]

Mr. Nesbitt explained that his ruling violates his own personal feelings and interpretation of the Constitution, but I think it must be admitted that it shows an accurate reading of the Court's decisions.

We would make a mistake to assume, however, that the situation has been irrevocably secured on these lines. Efforts in Congress to upset the balance struck by the Court have been many—and in some cases powerful. The Dirksen Amendment is but the latest example. Although it failed in this session, it achieved solid support. An effort to modify the First Amendment (for the first time in its history) which can command a majority in the Senate is no more to be taken lightly.

When all has been said, however, it does not appear *likely* that any striking change in the legal situation of religion in the public schools is in the offing.

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[3] *The Christian Century*, September 28, 1966, p. 1167.

To understand the meaning of this legal situation—as defined in Engle, Schempp, and Murray—it is necessary to provide a long-range historical setting for them.

Although we do not often call it to mind, our colonial period extended over almost as long a period as our independence as a nation thus far endured. Indeed, not until five years hence will the establishment of a viable Federal Republic stand at the midpoint between the present and the founding of the first permanent colony within the area of the original Republic. The colonial period, of course, should not get "equal time" in a review such as this. However, its religious life should be viewed more realistically than is often the case. It is not infrequently pictured as a golden age of piety among a Christian people. This notion stumbles over the known fact that the proportion of the population formally adhering to all organized religious groups never significantly exceeded five per cent during the colonial period.

To be sure, a simple comparison of that figure with the current 64 per cent might well lead to an impression even more misleading than the romantic golden age myth. Sectarian discipline was far more rigorously exercised then than now. Church membership was not easily or lightly maintained. Many with varying degrees of Christian commitment were outside the churches. Certainly some of the colonial governments were under degrees of influence (varying at times up to domination) from organized religious groups. Nine of the thirteen colonies has a history of religious establishment, and six of these establishments (Massachusetts, New Hampshire, Connecticut, Maryland, South Carolina, and Georgia) survived, in modified form, for a time after the founding of the Republic. Thus, when Professor Franklin Littell says of colonial and post-colonial America that it was a heathen—rather than Christian—people, although he is engaging in a compensating exaggeration, undoubtedly he is nearer the mark than the golden age myth. The most significant aspect of Protestant history in the United States is the story of successful evangelistic effort. Thus the most numerous Protestant groups even today are not those with the deepest European traditions, but those who adjusted themselves most flexibly to the frontier situation and developed the most effective evangelistic procedures.

Although the earliest compulsory school law was in the Massachusetts Bay Colony in 1642, it cannot be said that there was a general public school system by the time of the founding of the Republic. In the 1642 law the towns were required to maintain schools which clearly were Puritan sectarian schools in a colony where Puritan religion was established. Throughout the colonies educational opportunities were unequally available, but under sectarian domination where they existed.

The first basic change in this situation occurred in the 1830's under the leadership of Horace Mann. Endeavoring to develop a unified public school system, he saw the sectarian nature of the already existing schools as a source of difficulty. Accordingly, he fought vigorously to rid the schools of their explicit sectarianism, and in this he found strong support from other Protestant denominations who resented the fact that their creeds were not promulgated in the schools. Thus it might be said that the first significant change in the school pattern was brought by pressure from the dissenting Protestant groups. The result was the development of what might be called a pan-Protestant school system, a public school that taught none of the specific creeds, but did indoctrinate the children in common Protestant tenets.

This pattern remained the dominant form until late in the 19th Century when increased tension, produced by growing Roman Catholic immigration forced a gradual change. Quite naturally, and quite properly, these newcomers resisted a system of public education that sought to indoctrinate their children in Protestant teachings. As a result of their resistance, many Roman Catholic children were treated badly, or even actively persecuted, by public school officials. Nevertheless, Roman Catholics continued to work for changes, through various kinds of public pressure.

Tension increased, but the pressure was effective. Gradually, the substance, if not always the form, of the public school teaching changed. The schools became increasingly secular in their curricula. The Roman Catholics did not want secular schools, but they preferred them to pan-Protestant schools. The Protestants did not want secular schools either, but they preferred them both to providing tax support for Roman Catholic schools or permitting Roman Catholic indoctrination to vie with Protestant indoctrination within the public schools. (It should, of course, be borne in mind that no such broad generalizations as these can hope to fit all types of community equally well.) Thus the secularization of schools was less a movement guided by theoretical constitutional principles, than a pragmatic accommodation to growing competition between creeds.

This is not to deny that the development of secular schools was in line with constitutional principles—the prevailing tendency of the Supreme Court in recent decisions has indicated that it was—but it is to say that it was not brought about primarily through litigation. This historic development may be said to have reached its effective completion in the 1930's and 1940's. Some of the superficial symbols (observance of religious holidays and perfunctory Bible reading and prayer) remained in varying degrees, but the substance of religious indoctrination was gone. A secular school system had been achieved. Some have chosen—without proper justification—to call it a

secularist school system. The difference between these two gives some clue to the understanding of the present controversy. In the half-generation since World War II—during which period almost all of the important litigation in this area has reached the Supreme Court—there has been a steadily reviving public interest in the relationship between religion and education. In order to understand this, it would be well to examine briefly the attitudes of the various major religious communities toward the public schools.

On theological grounds the Roman Catholic Church has always held that education is fundamentally the concern of the family, and then of the Church. The motivation towards the founding of parochial schools, which this conviction provided, has been abetted on the American scene by the controversy, already described, which led to the secularizing of the public schools. The strong preoccupation within the Roman Catholic Church with the development of their own parochial school system has helped to create the widespread impression, both within and without the Church, that Roman Catholics are relatively indifferent to the public schools. Recently it has been made increasingly apparent that this is not the case, for Roman Catholics have participated actively in the controversies over the status of religion in the public schools.

There are at least two good reasons why it is both proper and important that they should do so. First, half of the Roman Catholic children in the country are still in the public school systems. Secondly, even those Roman Catholics who have no children in the public school system have excellent reasons to be interested in them because of their very important effects upon our general culture, in which Roman Catholics are involved along with everyone else. Thus, we may properly expect that the recent Roman Catholic expressions of concern about the state of religious education of children in the public schools will be continued and increased.

Protestant attitudes concerning the status of religion in the public schools are neither so unified nor so easy to summarize as the Roman Catholic. Not only are there different attitudes on the part of different Protestants, but their is considerable ambivalence on the part of individual Protestants. On the one hand Protestants generally affirm the principle of separation of Church and State, while on the other they tend to avoid some of its consequences. During the whole history of its development, the secularizing of the public schools has been a source of some distress to Protestants. Yet, on the whole, they agree that it was both necessary and right. Perhaps the weakest point in the Protestant attitude has been the tendency to assume that the religious education of their children was somehow being taken care of by the public schools when this was no longer a reasonable expectation. Now they have awakened to the realization of the situation and

are expressing distress about it in somewhat the same terms as are Roman Catholics.

Most Protestants would agree that the means actually found up to the present time to provide for the religious education of Protestant children are not adequate. There is an increasing—and much needed—stirring of interest in the problem of finding more adequate means. Some of this interest manifests itself—quite understandably—in the form of various kinds of pressure upon the public schools.

Of all the major religious communities in the country, the Jews are most generally satisfied with the present state of affairs in the public schools. With only a few exceptions, they are pleased to have a good system of secular schools. The historical reasons for this comparative unanimity are not difficult to find. The heavy Jewish immigration to this country started somewhat later than the heavy Roman Catholic immigration. Thus the secularization of the schools had progressed far enough that Jewish children were somewhat better treated than had been Roman Catholic children earlier. Even though they were sometimes put under improper pressure, the tendency to subject them to dogmatic indoctrination was so much less than in the schools from which they had come in Europe that they were genuinely grateful for the American system. At the same time they recognized the need to provide adequately for the religious education of their children in a way supplementary to the public schools. It is widely recognized that the religious education systems of the synagogues are markedly superior to those of the Protestant churches on the average.

Accordingly, the Jewish community is quite well satisfied with the situation as it exists, and tend to work for further separationist clarification. In doing so, they often bring themselves under attack from Roman Catholics and Protestants. It should be recognized, however, that when they help to raise the issue of constitutionality of various practices in the public schools, they are not simply protecting their own interests, but they are working for the general welfare. Clarification of the constitutional basis of our institutions is surely a notable public service.

The historical development reviewed up to this point has been set forth without any direct reference to the constitutional charter which has been intimately entwined in it. We have noted that the changing patterns of the past have not been produced primarily by legal action. However, the First Amendment of the Constitution emerged from and in that history, and in the past generation it has played an increasingly direct role in shaping the forms under which we operate in the area of our present interest. It is, therefore, necessary for us to give it some attention.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This first clause of our Bill of Rights has now become one of the most familiar in our contemporary situation.

Three assertions about this part of the First Amendment are so obvious as to be almost beyond dispute, and yet they stand in a relationship of ironic tension with each other. First, almost everyone agrees that these are among the most important words in our constitutional heritage. Not only that, but almost all would agree that they are among the most creative parts of our American polity, for they represent a system which was neither envisaged nor embodied in the practice of any nation prior to the establishment of our Republic.

Secondly, although the words are generally agreed to be of the greatest importance, there is the deepest kind of disagreement as to what they mean. This disagreement, although it characterizes the popular mind in the most extreme form, is not limited to it. It characterizes the opinions of constitutional lawyers and, indeed, the opinions of the Supreme Court itself.

In the third place, although this disagreement is deep and widespread, it has been set forth and come to focus in the public mind largely within the last generation. Indeed, it would be no exaggeration to say that it has mostly arisen since the Everson decision in 1947.

Let us examine the nature of the disagreement, with special attention to the effect it has upon educational policy. Inasmuch as there are almost as many positions on the meaning of this clause as there are interpreters, it will not be possible to give a full survey even of the most significant positions. However, some semblance of order can be introduced into the multiplicity of opinions by seeing them in relationship to two rather sharply defined poles. The first of these I shall call the "wall of separation" pole, and the second the "friendly neutrality" pole.

Probably no clearer statement of the wall of separation position can be found than in the most familiar paragraph of the Everson opinion. Therefore, let us identify the wall of separation pole through these often-quoted words:

> The "establishment of religion" clause of the First Amendment means at least this: 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 nor influence a person to go to or 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 nonattendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they 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 or vice versa. In the words of Jefferson, the clause against the establishment of religion by law was intended to erect "a wall of separation between Church and State."[4]

An equally clear statement of the opposing pole is to be found in a decision of the Florida Supreme Court—*Chamberlain v. The Dade County Board of Public Instruction.* The Florida court unanimously and emphatically rejected Mr. Justice Black's definition of the meaning of the establishment clause in Everson and instead, preferred a definition written in 1891 by a famous constitutional lawyer, Thomas M. Cooley:

> By establishment of religion is meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others. It was never intended by the Constitution that the government should be prohibited from recognizing religion. . . where it might be done without drawing any invidious distinctions between different religious beliefs, organizations, or sects.[5]

The tone of the whole opinion was one of rather acrimonious polemic against the United States Supreme Court, but these words quoted were from the standpoint of an earlier day. The seriousness of their disagreement with the Supreme Court's opinion as stated in Everson cannot be overlooked.

We do not have to go beyond the scope of recent Supreme Court opinions themselves, however, to get a position which, though not directly on the friendly neutrality pole, is much closer to it than to the wall of separation pole. Mr. Justice Douglas, writing for the majority in the Zorach case, said, "The First Amendment . . . does not say that in every and all respects there shall be separation of Church and State." In Everson, the Court had said that, despite the "wall of separation" between church and state, it was permissible for New Jersey to provide bus transportation to parochial school students, on public welfare grounds. In the McCollum case (1948) the court had said that released-time classes held in public school facilities were unconstitutional. Now in Zorach (1952), it said that released-

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[4] LaNoue, p. 5.

[5] LaNoue, p. 11.

time classes not held in public school facilities were permissible. Mr. Justice Douglas argued thus:

> When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do so believe. Government may not finance religious groups nor undertake religious instruction nor blend secular and sectarian education or use secular institutions to force one or some religion on any person.

It remains to be said that Mr. Justice Douglas has cast serious doubt upon these earlier opinions in his concurring opinion in the Engle case. There he appears to swing over to a more extreme application of the wall of separation position than any as yet espoused by the court.

The difference between these two polar positions can best be understood by analyzing the language of the clause more closely. It can be divided into two clauses, reading as follows: "Congress shall make no law respecting an establishment of religion," and "Congress shall make no law prohibiting the free exercise (of religion)." Those who hold to the wall of separation position hold that each clause is important in its own right, regardless of its bearing upon the other clause. Thus, it is important to maintain the separation of church and state whether or not it can be shown in the particular instance that the preservation of the free exercise of religion requires it.

On the other hand, those who incline away from the separation pole and towards the friendly neutrality pole, argue that the no establishment and the free exercise clauses should not be analyzed separately, but should be read as one proposition in which separation should be carried only as far as it is functionally justified in order to assure free exercise.

In deciding for one's self what the First Amendment means, it is important to turn back and consider briefly the process through which the clause in question was adopted. To find out what the Founding Fathers meant by it, if we can, will not necessarily settle all issues for us, but it surely will have an important bearing upon their settlement.

Our Bill of Rights, of which we have the very first item under consideration, was not a part of the original Constitution, which went into force in 1789. After the Constitution had already gone into force,

the first ten amendments were adopted and went into effect on December 15, 1791. The reason they were not included in the original draft of the Constitution was largely a matter of tactics. It was agreed in principle that there should be such a Bill of Rights, but it was felt the more complicated the original draft the greater the difficulties in securing its ratification. There was, therefore, a gentlemen's agreement that the original constitution would be confined to the structure of the government, and that specific protection of individual liberties would be, in the main, provided for by amendments to be adopted subsequently.

Thus the amendments were introduced in the Congress of the new government, and the most prominent figure in the adoption of the First Amendment was James Madison, at that time a member of the House, and chairman of the House-Senate conference committee which fixed upon the final wording of the Amendment. There can be little doubt that James Madison was an extreme separationist on this question. He was against a number of arrangements, such as chaplains in Congress and in the armed forces, which have subsequently become accepted practice. Not all of his recorded expressions look in this direction, but most of them do. Sharing his opinions in these matters was Thomas Jefferson, who was abroad on diplomatic duty at this time and did not actually participate in the legislative drafting. Nevertheless, his spirit brooded over the process, and he must be regarded as influential. It is important to recognize, however, that there were others involved who held opinions quite sharply in tension with those of Madison and Jefferson. The process of actual adoption of the Amendment was one of working compromise.

The drafting history of the Amendment is quite interesting in relation to identification of its meaning. In the Senate three different proposals, all of which would have indicated a narrow intent for the Amendment, by prohibiting preference for one religious sect above another, were proposed. All were defeated, thus indicating that the Senate preferred some broader intent. Nevertheless, the Senate eventually passed a form which was rather narrow: "Congress shall make no law establishing articles of faith or a mode of worship." The wording was rejected by the House, and in the conference committee it was made quite clear that the House would not accept any such narrow construction. It was in this committee, under the leadership of James Madison and Oliver Ellsworth, that the present wording of the Amendment was worked out. The drafting history thus shows that Congress did consider phrasing which would have had a more restricted application than the present wording, and deliberately rejected it.

It remains to ask what the phrase, "an establishment of religion," used without definition in the article, meant to the Founding Fathers.

It is quite clear that in the Europe with which they were familiar an establishment of religion meant a single church or religion enjoying official monopolistic privilege through union with the government of the state. But there is good reason to think that this is not what it meant in America at the time of the adoption of the Constitution. There were at this time a number of states in which there was an establishment, and it is important to ask what kind of establishment it was. Four of the states had never experienced establishments of religion. Of the others, three completely abolished their establishments during the Revolution, and the other six converted to comprehensive or multiple establishments. Each one of them explicitly provided that no sect or denomination should be subordinated to any other. All of the denominations which were recognized enjoyed equal status before the law on a nonpreferential basis. Not every religion known to man was recognized, but every religion with sufficient strength to form an organization and make its presence felt was recognized. Thus, in three of the states Christianity was the established religion, and in the other three, where there were no significant number of Roman Catholics, Protestantism was the established religion. In this matter, I have been following the argument of Leonard W. Levy who concludes:

> An establishment of religion in America at this time of the framing of the Bill or Rights meant government recognition, aid, or sponsorship of religion, principally through impartial or nonpreferential tax support to the churches. The framers of the First Amendment understood "an establishment of religion" to mean what their experience showed them it meant.[6]

There is still one point to consider. What did the words "respecting an establishment of religion" mean to the framers of the First Amendment? Having long become accustomed to the application of these words to state and local governments as well as to the Federal Government, because of the Supreme Court's interpretation of the Fourteenth Amendment in relation to the First, it is easy to forget that no such development was envisaged when the First Amendment was written. At that time there were establishments of religion in six states. Congress was prohibited from making any law respecting an establishment of religion. It is therefore possible to interpret these words in a way which inclines toward the friendly neutrality pole in a special way, but the Court has not, up to the present time, given support to this position.

II

After this extended survey of relevant court decisions, in the context of our history, we come back to our second sub-topic: What is meant by "teaching of religion" or "teaching religion?" As already

[6] *Commentary*, September 1962.

indicated, it must mean training one to participate in religious activities and inspiring in him the motivation to do so. This is what "teaching religion" is when it is successful.

But this drives us back to the prior question: What does it mean to be religious? Religion is a flexible and ambiguous word in our language—and not all of its ambiguity arises from the controversies between persons of conflicting religious convictions. In most instances where the term has been used in Supreme Court opinions it has referred to what would be more precisely described as organized (theistic) religion, i.e., formal group activities in response to the object deemed of supreme worth, usually (though not in every case) called God. This makes it quite easy to tell whether a person is religious or not. Is he a member of a church, or synagogue, or other organized fellowship of this type? If a person has not made this kind of commitment, and is not prepared to do so, we can say he is not religious.

This is neat, but it won't stand up. By this standard Abraham Lincoln (referred to by a well known church historian as the finest theological mind produced in the United States in the 19th Century) was irreligious. Hardly anyone would entertain the notion for a moment. To take another illustration, we would have to say that former President Eisenhower got religion after he became president. We have his word for it that this was not so.

Even with regard to those who gladly stand outside all recognized religious groups and would be pleased to call themselves irreligious, we have to ask, what do they respond to as most important? What makes them tick when the chips are down? What takes the place of religion in their lives? And we have to say that a man's religion (or its equivalent) is his total pattern of response to whatever concerns him ultimately. (This, of course, raises the possibility that the religion a man professes publicly may not be his true religion. There are rich possibilities for exploration here, but we shall not trace them out now.)

III

This brings us abruptly to our third sub-topic, which is to state and interpret the present status of religion in relation to public education in the light of what it means to teach religion.

If the analysis just given is correct, there can be no conceivable question of divorcing education completely from religion. Every teacher and every child is a human being who responds to what is most important to him. The question is how to handle religion most wisely in the public schools in a society which is religiously pluralistic and possesses a constitutional guarantee and tradition of religious liberty. The religious pluralism of our society has become steadily more diverse—and with a diversity we can no longer pretend is

encompassed within the Judeo-Christian tradition. We are having to learn what it means to live in an authentically secular (but not necessarily secularistic) society and under an authentically religiously neutral government.

What options lie open to us with regard to the place of religion in the public schools? One possibility is simply to stand on the status quo, and seek further clarification. This process is going on. Without trying to predict the Supreme Court in detail, it is safe to assume that it will become increasingly clear that any form of religious advocacy or corporate worship is inappropriate to our constitutional system and a violation of the First Amendment.

However, anyone who feels that adequate means are not yet provided for the religious education of our population will not be satisfied with the situation as it now is. Religion has to do with what is most important to man, whatever he deems that to be. The second approach, therefore, to which a good deal of conscientious attention has been given in recent times, is the attempt to find some kind of common core of religion, or values which arise from religion, which can be taught in the public schools without offense to anyone. The New York Regents' Prayer was an ill-starred attempt in this direction. Personally, I am glad to have people exploring this possibility, although it does not appear to me a very hopeful line. The reason is two-fold. In the first place, religion which is not identified with its own specific ultimate convictions is likely to be falsified, and of little worth to anyone. Secondly, I cannot see how the sort of controversy which has led historically to the secularization of the schools can be avoided in this approach.

The third approach, which is more promising, though not adequate to our total needs, is the improvement of our teaching about religion. By this I mean something more concrete than is often intended. I mean the proper teaching of our history so that its religious roots are accurately displayed. This is no easy thing to do. The things which matter most to people are almost always controversial. There is no way in which history can be taught in such a manner as to preclude the possibility of controversy. Thus, there has undoubtedly been a tendency to avoid the religious aspects of our history because of the difficulty of teaching them in a non-controversial way. This is clearly not enough—whether or not one is interested in religious education as such—for it is simply bad teaching. I am not suggesting that improvement at this point will be easy to bring about, but we must face its necessity. We must develop a higher degree of sophistication among our teachers so that accurate teaching in this sensitive area becomes more and more common.

Fourthly, all of the various proposals for supplementary religious education, which are currently under discussion (and others of which we have not yet thought) are worthy of the most careful study and experimentation. Released-time, dismissed-time, shared-time, part-time parochial schools: all of these and others are worthy of study through attempts to make them effective. I am especially hopeful that shared-time will not be pushed aside without trial because of its enormous administrative difficulties.

Even those who are not committed to any of the major organized religions should have some interest in the development of more effective supplementary means of religious education. The permanent viability of our public school system may depend in part upon it.

This leads up to a comment upon the nature of our American experiment. Never before has a system of education quite comparable to our been successfully achieved. Christians and Jews can readily agree that education has to be informed at its heart by convictions with regard to the things that are most important. Yet, in our society we are attempting to build a public school system which is not formally based upon any agreed convictions about ultimate things. Every teacher or school official, whether he be an adherent of some organized religious group or not, has his own ultimate convictions. And these inform his work as a teacher or administrator—while he undertakes to work with those who have different convictions. Thus, our schools become what might be called a theological united-front activity. Without violating the convictions of any, we seek to achieve a system which will show respect for all. It is a difficult experiment, but an exciting one—one which offers us the opportunity of making a real contribution to the world's future.

IV

Our fourth sub-topic brings us back to that part of what we have been discussing which clearly can be tackled in and by the public schools: "Point out what some of the major barriers and problems are in teaching about religion in the public schools of Illinois."

As I have no detailed expertness concerning conditions in the public schools of Illinois, I shall have to deal with the problems as they confront attempts to teach about religion anywhere in the country. I think it can safely be said, however, that the difficulties will not be quite so acute here as in some other states.

As remarked earlier, teaching about any subject-matter which is potentially controversial raises difficulties. And the stronger the emotions accompanying the controverted opinions, the graver the difficulties. Safety is not to be found even in "sticking to the facts," for the facts themselves are in dispute.

In the area of the natural sciences we can get by fairly well, because we have developed operational tests for judging the facts which have proved powerful in achieving widespread agreement. Even so, the matter is not absolute. As scientists used to say, the "human equation" can never be wholly removed from scientific research. By this they mean that every scientific experiment is carried on by a man who has his own convictions and limitations, and thus is a source of possible error, both gross and subtle.

As soon as we move away from areas of clear applicability of experimental measurement, the possibilities for controversy grow rapidly. And it turns out that the things which matter most to men are all well out of reach of science. This state of affairs is illuminated by an anecdote of a professor in the social sciences who was lecturing at a neighboring institution. In the question period which followed his formal presentation a student asked, "Why is it your discipline is not as exact as the natural sciences?" Somewhat stung, the professor retorted, "Because we aren't dealing with trivialities!"

Even if it be true, however, that the things the natural sciences actually deal with are not the things that matter most to men, they sometimes get mixed up with the latter. Witness the difficulty of teaching about evolution in the public schools of some of our states!

Teaching about politics and teaching about religion are always going to be touchy matters because they involve historical interpretation, which can never depend more than marginally upon science. Every such historical interpretation has a bearing upon the convictional stance—political and religious—of contemporary figures, and is likely to be welcomed or resisted accordingly.

If it be said that the answer is to teach objectively, one can accept the suggestion as well-intentioned, but dubiously stated. That objectivity is a proper goal in the natural sciences one can agree. Is it a proper goal in politics? Or religion? Etymology is not greatly helpful here. Object comes from Latin roots meaning to throw against, whereas subject comes from roots meaning to throw under. But in English usage objectivity has come to mean outsidedness, avoidance of involvement. As such it is not the proper ideal for either the study or teaching of politics and religion. They can be understood only as the appropriate passion is seen as nearly as may be from the inside. One should be fair to all views. But he can be fair only as he projects himself imaginatively into each one. If he does so, and it shows in his teaching, there is always the chance that it will be mistaken for advocacy.

The result is that good teaching about politics and religion—no matter how free from overt advocacy it may be—can never be safe from the *charge* of advocacy. Conscientious effort to present history as

accurately as possible will not be pleasing to those who demand that history be distorted to fit in with their own convictions. All of the best available high school texts in history and social studies can be—and have been—regarded as Communist-line brainwashing.

The issue was sharply posed for me in a conversation I had some years ago with Mrs. McCollum. I had been advocating improved teaching of history, including improved teaching about religion in its proper place in our history. In the midst of seeming to agree with me in general terms, she suddenly took a new tack: "I wouldn't want my children taught about the Pilgrims. That would amount to advocacy!"

Although nothing has been said about it directly, in the background of our discussion has been the faith-reason issue, which has received so much attention since medieval times. The position taken here has assumed the fundamental priority of faith. Faith is unavoidable, as everyone is moved by it, and finally invincible. This is why you can never be sure to overthrow a given position—however nutty—by rational argument. This is why it is possible "to fly in the face of facts"—as apprehended, in faith, by others. The controversy concerning evolution can be understood only by this assumption—how much more the controversy over fluoridation of drinking water!

If this picture authentically represents our situation, it is obvious that teaching about religion—which relates to men's deepest convictions— is going to raise problems in Illinois, as well as anywhere else.

V

Thus we are brought face-to-face with our final sub-topic: "Suggest possible solutions to these problems which may guide us."

Have the problems been presented in such a bleak light as to seem insoluble? Is the long withdrawal, which has removed from the public schools not only worship and indoctrination but also (because it cannot be dealt with noncontroversially) much of the factual content concerning the place of religion in our history, destined to continue? Is there any way to reverse it without falling afoul of the First Amendment?

The answer is that it can be reversed, but there is no certainty that it will be. There is only one fundamental program for solving the problem: improved teaching—teaching sophisticated enough to make its way under difficult circumstances. But who is going to teach the teachers? And who is going to teach the teachers of the teachers?

Some years ago at Northern Illinois University it was proposed to offer an interdisciplinary course under the modest title: The Human Enterprise. It was to be offered, in extension, as part of a continuing

education program for teachers. Quite properly, it was felt that it would be anachronistic to omit religion from the human enterprise! Yet nobody could be found on the faculty willing to take on the assignment. Thus the organizers of the course reached outside and picked me to deal with "religion in the human enterprise." I am not attacking my temporary colleagues for refusing the assignment. They felt—and quite rightly so—that some technical expertness in history of religions was needed, and they did not have it.

Has the tide turned? I think it may have, although assuredly it is not yet flooding in. There certainly is more competent teaching about religion now in state institutions of higher learning than there was fifteen years ago—and the amount increases year-by-year. Even so, there are still institutions for the training of teachers untouched by the trend. This is a situation which must be changed. We must come to see that teachers ill-informed about religion are crippled at a crucial point relevant to their task.

I do not mean to suggest, of course, that religion can be dealt with only through separate courses. All things considered, it can better be dealt with through history and social studies preparation. Although I am not familiar with the details of the situation, I have the impression that teacher-training institutions are steadily registering improvement at this point.

One final note of encouragement. We have repeatedly suggested a parallel between teaching about religion and teaching about politics —because both involve handling of material which is indubitably controversial. It would be my very strong impression that teaching about politics in the public schools has improved enormously in the last generation.

Lest we be made too optimistic by this, it should be pointed out that there is no constitutional barrier to "teaching politics" in the process of "teaching about politics." It is simply that the material is so controversial that the schools have traditionally backed away from it. In recent times those responsible have been finding mutual encouragement.

The rising sophistication in the area of politics suggests the possibilities of advance in the area of religion. We have considered in some detail the added dimension of difficulty which arises because of the constitutional restraint on "teaching religion." Yet, despite this difference, the two problems have much in common.