

ABINGTON V. SCHEMPP

WILLIAM J. BRENNAN

1963

...I join fully in the opinion and the judgment of the Court. I see no escape from the conclusion that the exercises [namely, daily recital of the Lord's Prayer and the reading of passages of Scripture] called in question in these two cases violate the constitutional mandate [against an establishment of religion]....

It is true that the Framers' immediate concern was to prevent the setting up of an official federal church of the kind which England and some of the Colonies had long supported....

But an awareness of history and an appreciation of the aims of the Founding Fathers do not always resolve concrete problems. The specific question before us has, for example, aroused vigorous dispute whether the architects of the First Amendment—James Madison and Thomas Jefferson particularly—understood the prohibition against any “law respecting an establishment of religion” to reach devotional exercises in the public schools... A more fruitful inquiry, it seems to me, is whether the practices here challenged threaten those consequences which the Framers deeply feared; whether, in short, they tend to promote that type of interdependence between religion and state which the First Amendment was designed to prevent....

A too literal quest for the advice of the Founding Fathers upon the issues of these cases seems to me futile and misdirected for several reasons: First, on our precise problem the historical record is at best ambiguous, and statements can readily be found to support either side of the proposition....

Second, the structure of American education has greatly changed since the First Amendment was adopted... Education, as the Framers knew it, was in the main confined to private schools more often than not under strictly sectarian supervision....

Third, our religious composition makes us a vastly more diverse people than were our forefathers. They knew differences chiefly among Protestant sects....

Fourth... [i]t is implicit in the history and character of American public education that the public schools serve a uniquely public function: the training of American citizens in an atmosphere

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free of parochial, divisive, or separatist influences of any sort....

Attendance at the public schools has never been compulsory... [The Constitution reserves] such a choice to the individual parent. . . . The choice which is thus preserved is between a public secular education with its uniquely democratic values, and some form of private or sectarian education, which offers values of its own....

...After the Revolution, the new States uniformly continued these long-established practices in the private and the few public grammar schools. The school committee of Boston in 1789, for example, required the city's several schoolmasters "daily to commence the duties of their office by prayer and reading a portion of the Sacred Scriptures...." That requirement was mirrored throughout the original States, and exemplified the universal practice well into the nineteenth [and twentieth] century....

