

**The Bible, Religion, and the
Public Schools**

DONALD E. BOLES

*The Bible,
Religion,
and the
Public Schools*

IOWA STATE UNIVERSITY PRESS, AMES, IOWA

1965

The Author

DONALD E. BOLES, professor of government, Iowa State University, is a widely known political scientist whose field of special interest is public law. He has been Chairman of the Iowa Governor's Commission on Human Rights, and Chairman of the Federal Advisory Committee on Civil Rights for Iowa, an advisory committee appointed by the U.S. Commission on Civil Rights to examine infringement of civil rights in each state. During the 1961-62 academic year, he was Visiting Professor at the Bologna Center of the John Hopkins University School of Advanced International Studies, Bologna, Italy. Besides this book, his publications include articles in *World Affairs Quarterly*, *The American Review*, and other law, political science, and education journals. He is coauthor of *An Evaluation of Iowa County Government* and *Welfare and Highway Functions of Iowa Counties: A Quantitative Analysis*. He served in 1964 as a member of the Commission on Religion and the Schools of the American Association of School Administrators which issued the report, *Religion and the Schools*.

© 1961, 1963, 1965 The Iowa State University Press
All rights reserved. Printed in the U.S.A.

FIRST EDITION, 1961
SECOND EDITION, 1963
THIRD EDITION, 1965

Library of Congress Catalog Card Number: 65-16369

FOR ROSEMARY

whose piano lessons suffered

Contents

Preface	ix
1. HISTORICAL BACKGROUNDS	1
Colonial Concepts – Post Revolutionary War Concepts – Attitudes of the Founding Fathers – Early Nineteenth Century Legal Aspects – Ante Bellum Period and the Secular Public School – Post Civil War Concepts.	
2. STATE CONSTITUTIONS AND STATUTES	37
Early State Constitutions – Present Constitutional Provisions – Statutes Prohibiting Sectarian Instruction and Influence – Statutes Regarding Bible Reading.	
3. THE LEGALITY OF BIBLE READING	58
The Bible is Nonsectarian – Historical Investigations – The King James Version is Nonsectarian – The Bible and Moral Instruction – The Bible as a Textbook – Bible Reading and Compulsory Attendance – Dissents and Divergences – The Doremus Case – The Tudor Case – The Carden Case – The Murray Case – The United States Supreme Court and the Murray Case.	
4. THE ILLEGALITY OF BIBLE READING	108
Historical Backgrounds – Dissents and Divergences – The Bible is Sectarian – The King James Version is Sectarian – The Bible and Moral Instruction – The Bible as a Textbook – Bible Reading and Compulsory Attendance – The Schempp Case – The United States Supreme Court and the Schempp Case – The Schempp Case Retried – The United States Supreme Court's Last Word.	

5.	ALLIED PROBLEMS IN RELIGIOUS EDUCATION	155
	Baccalaureate Exercises — Religious Instruction at State Universities — Church Control Over Public Schools — Wearing of Distinctive Religious Garb — Released and Dismissed Time: The McCollum Case, The Zorach Case — Classroom Prayer: The Engel Case — Comment by Justice Brennan Concerning Religious Education — Miscellany.	
6.	RELIGIOUS GROUP ATTITUDES AND PRESSURE	211
	The Roman Catholic Position — Jewish Attitudes — Protestant Attitudes — Other Protestant Views Toward Church-State Relations — The Clergy's Response to the Schempp Case.	
7.	EDUCATOR ATTITUDES	269
	Views of United States Commissioners of Education — Teaching Religion for the Sake of Religion — The Bible as History and Literature — Bible Reading and Crime — Studies Testing the Effects of Religious Instruction — Public Officials and the Bible — Effects of the Schempp Case — The AASA Commission Report.	
8.	THE COURT, THE BECKER AMENDMENT, AND CONGRESS	298
	The Clergy and the Becker Amendment — Educator Attitudes Toward the Becker Amendment — Congressional Reaction to the Schempp Case — State Governors and the Becker Amendment — Interest Group Reactions — Turning of the Tide.	
9.	WHERE WE STAND	331
	The Contemporary Scene.	
	NOTES	345
	TABLE OF CASES	371
	BIBLIOGRAPHY	375
	INDEX	381

Preface

Amendments to THE CONSTITUTION OF THE UNITED STATES

Article I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. December 15, 1791.

Article XIV, Section I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. July 21, 1868.

THE 1960's MAY WELL BE REMEMBERED as the years when the United States Supreme Court began to look religion and the Constitution squarely in the eye. After years of being a bit gun-shy about getting to the heart of some of the funda-

mental questions of practice that were causing debates over the meaning of the "Establishment of Religion Clause" and the "Free Exercise of Religion Clause," the court moved dramatically in 1961, 1962, and 1963 to clarify a number of points.

In this short time span, the court upheld the validity of Sunday "Blue Laws," struck down a state regulation requiring a profession of the belief in the existence of God before one could hold public office, and, in probably the most far-reaching and controversial areas, held unconstitutional a state-authorized program of compulsory prayer in the public schools and two state-authorized programs of compulsory Bible reading in the public schools.

And the debate over the relationship between church and state was not restricted to the quiet confines of the judicial chambers during these years. A Roman Catholic was elected President of the United States, stirring in some areas old feelings not noticed since the presidential election of 1928. The proposed Federal Aid to Education Bill raised anew the long-smoldering controversy over public aid to parochial schools. In some parts of the United States this has become the crucial issue upon which congressional elections may turn, as pressure groups such as the "Citizens for Educational Freedom" pledge themselves to oppose any candidate who refuses to support federal aid to parochial schools.

Following the three Supreme Court decisions of 1962-1963, proposals to change drastically the Bill of Rights attracted wide attention. The most publicized and seriously considered was the Becker Amendment that would permit such religious observances as prayers and Bible reading on a voluntary basis (see Chapter 8). However, it was only one of at least one hundred and forty-seven bills and resolu-

tions that took thirty-four different approaches to cancel the effect of the Supreme Court rulings.

Controversies over the relationship between church and state have shaken society to the roots from the earliest moments of recorded history. Unlike most of the nations in the Western World, the United States, while troubled to some extent by these disputes, has escaped the extremes that have plagued other nations. This has been traceable in large measure to the First Amendment to the United States Constitution and its interpretation by the United States Supreme Court.

Through its founding fathers, the United States has made two great contributions to Western civilization — the concept of the separation of church and state, and the secular public school system. True, the integrity of these two principles is often compromised while their virtues are being extolled, and they are frequently honored more in breach than in fulfillment. But the fact cannot be denied that they are important planks in the platform of American political philosophy.

Historically, those who oppose the theory of separation of church and state have centered their attack on the public school system. This method of attack is still being used, as is apparent to all who keep abreast of the news and who follow, even superficially, the activities of the Supreme Court.

Two fundamental propositions basic to our public school system are: public funds shall not be granted to sectarian schools, and sectarian instruction shall not be given in public schools. Most Americans agree with these principles in theory, but cannot agree as to how they shall be practiced. Because of this disagreement on the part of those who sincerely believe in the separation principle, those who op-

pose it have frequently been able to take advantage of the resulting confusion. In this way they have been able to syphon off public funds to parochial schools, and to introduce into the public schools Bible reading, prayers, and other exercises.

We propose here to look more closely at the second principle — that sectarian instruction not be given in our public schools — and in so doing to recognize it as one of the most persistent problems in United States Constitutional history involving the scope and interpretation of the First and Fourteenth Amendments.

To do this we must look not only at the various state constitutions, statutes, and court decisions, but also at the historic past from which all of our customs and theories spring.

In an area such as this, where controversies are frequently characterized by more heat than enlightenment, it might be well to begin this book with the admonition of the late Harry P. Judson, President of the University of Chicago.

We should discuss the question without bitterness. It is not wise on the one hand for those who disapprove of the present system to stigmatize our public institutions as Godless schools; it is not wise, on the other hand, for those who believe in the advisability of maintaining this secular character of public education to assail others as bigoted religionists. There can be no doubt that each side embraces people of the utmost integrity of thought and of earnest moral purpose. The question should be discussed solely on its merits, and we should try to reach conclusions as a body of American citizens, respecting one another, recognizing the weight of opposing convictions, and seeking only the highest good of the young intrusted to our charge.