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## Church and State

Both the Left and the Right Get It Wrong

**Kevin Kosar**, a Ph.D. candidate in politics at New York University, writes frequently for TomPaine.com.

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This past year, a slew of issues have arisen around the relation of church, state, and schooling, provoking fierce debate. Should high school football players be permitted to gather in a circle before or after a game and say a prayer? Should students from impoverished families be given vouchers that allow them to attend any school they like, even if it is parochial? Can the federal government rightly turn Title I education dollars into a portable entitlement, allowing poor students to redeem them at any service provider, religious or public? May a state provide tuition tax credits for parents who send their children to religious schools?

These are just some of the big questions that have arisen. The debate surrounding the topic tends to be shrill, with the hard right blaming the banishment of God from the classroom for every malaise, real or imagined, that afflicts schools. This is just silly and polls have shown that Americans don't buy the idea that reintroducing prayer into the classroom will solve the problems. In terms of education policy, the only thing that the far right has achieved is getting Kansas to remove macroevolution from its mandatory state education standards, which brought hails of laughter and derision from about the nation.

Then there are those on the far left, who assail any entanglement whatsoever between public monies, public schools and religious institutions. Compared to the right, the hard left has been far more successful at getting their preferences translated into education policy. Just last month their efforts managed to stop a Cleveland voucher program from admitting any new students.

As Joseph Viteriti, a colleague of mine at New York University, notes in his new book, *Choosing Equality* (Brookings), in recent years federal courts have upheld punishments meted out by schools for the slightest breeches of secularism. One teacher was reprimanded for silently reading a Bible during her class's quiet time. A high school valedictorian was removed as a graduation speaker because she refused to delete references in her speech to God. And six-year old Zachary Hood was asked to read to the class a story of his choosing but then was disallowed from doing so when he picked a passage from Genesis.

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These folks like to justify their actions by declaring, as the People United for the Separation of Church and State do, that "church-state separation stands as one of the foundations of our Nation." But this just isn't true.

As anyone who has studied the early America recognizes, the ideas of schooling and religion were inseparable. Article three of the Ordinance of 1787, which granted large tracks of federal lands to the states, opined, "Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall be forever encouraged." It was the churches that gave birth to the young nation's schools. Grammar schools were funded and run by the local parish, and colleges like Harvard and Princeton were created for the express purpose of turning out ministers. Horace Mann, tireless advocate for public education found nothing improper with students reading from the Bible each day.



Ironically, as Viteritti indicates, the real push for a separation between church and state came in the 1860's and 1870's. Bigots like Senator James G. Blaine were aghast at the number of Catholic immigrants entering the country. Blaine fought for a constitutional amendment to bar any public funds from flowing into sectarian schools. He did not, however, seek to end the common public school practice of daily readings from the King James Bible. Public schools were Protestant schools, and Blaine and the Know-Nothing sorts liked them that way. Ultimately the amendment failed, but Blaine still won because states added Blaine amendments to their own constitutions.

The phrase "wall of separation" leapt into popular parlance in 1947. Justice Black in his majority opinion in *Everson v. Board of Education*, wrote "In the words of Jefferson, the cause against establishment of religion by law was intended to erect a wall of separation between church and state." This phrase, wall of separation, is regularly invoked by those who want to keep the schools secularized.

This is peculiar and a bit sophisticated, for what is left unsaid is the outcome of the *Everson* case. In 1941 New Jersey passed a statute that authorized local school boards to provide transportation to students attending parochial schools. New Jersey wasn't exactly striking out on new ground- no less than fifteen other states had similar laws.

The Court held that this law did not violate the establishment clause. Black wrote that government must take a position of aloof neutrality toward religious groups. Among other things, "[t]he 'establishment of religion clause' of the First Amendment means at least this: Neither 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."

However, "other language of the amendment command that New Jersey cannot hamper its citizens in the free exercise of their religion. Consequently, it cannot exclude Catholic, Lutherans, Mohammedans, Baptists, Jew, Methodists, Non-Believers, Presbyterians, or the members of any other faith, or lack of it, from receiving the benefits of public welfare

legislation."

The reasoning behind this was simple but sane -- provided the statutes favor no particular religion and benefit the public, they are no offense to the First Amendment.

This idea makes much sense, and Congress has often been guided by it. Legislation like the GI Bill, the National Defense Education Act, the National Science foundation Act, college housing loans, and school lunch acts have all funneled federal dollars into religious coffers for the sake of the public good. And in the 1970 Cochran v. Louisiana case, the Court affirmed that Louisiana could rightly use tax dollars to purchase secular textbooks for students at parochial schools.

In deciding the controversies with which this piece began, one hopes that the federal and Supreme Court will stop up their ears to the nonsense being hurled from the hard right and left. Hopefully they will instead listen to history, which tells a more complex story and which offers sane, reasonable guidelines that thwart theocracy without sacrificing the well-being of America's children.

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