

One Woman's Fight

VASHTI CROMWELL McCOLLUM

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Foreword

IN THE late 1940's when the McCollum Case was making news all across the United States, I was a student at the University of Wisconsin in Madison. I remember following the fascinating three-year story in the newspapers. Always a rebel in matters of religion, I rejoiced at the decision that boded so well for the future of state/church separation in our country. The McCollum family members were my heroes, especially Vashti.

I lost total track of Vashti in ensuing years; freethinkers and their causes rarely appeared in the popular press. However, Vashti's book, published in 1951, was a staple at our house, and our daughter Annie Laurie, who first read it as a 13-year-old, named a favorite kitten for her.

When the Freedom From Religion Foundation, which I direct, was organized in the late 1970's, I was pleased to learn that one of our founding members, C.J. Richards of Illinois, had been in correspondence with Vashti. I was delighted to know that she was thriving, living in retirement in Arkansas, traveling and even making speeches. So we invited her to speak at the very first annual convention of the Freedom From Religion Foundation in Madison, Wisconsin on September 24, 1978.

Vashti came with her husband, John, and they brought a lovely travelogue. Accomplished photographers as well as world travelers, they presented their beautiful slides with musical accompaniment. We felt so honored.

Vashti graciously consented to lend her name as an honorary officer of the Foundation, and she related her story in a documentary film the Foundation produced called "Champions of the First Amendment." Her sons, Jim and Dan, also

are interviewed in that film, as are noted state/church litigants Ed Schempp and Roy Torcaso.

The events of the 1980's and early 1990's led to the Foundation's decision to publish a new edition of Vashti's book. The United States Supreme Court, once the welcoming refuge for minority litigants, has increasingly become a vehicle for rightwing religious views. The principle of separation of state and church, once taught in elementary and high school citizenship classes, somehow disappeared from the public school curriculum, replaced by a religious pledge. Television has brought constant evangelizing, and critical thinking is lost in the din.

In accord with the Foundation's goals of separating church from state and promoting freethought, our members are eager to see books published that acquaint the public with the problems that occur when state and church are entangled. We know that the introduction of religion into the public schools is always divisive. It builds walls between children who never have had occasion to notice religious differences before. The McCollum drama from the 1940's surely has a poignant lesson for today.

So here, for your reading pleasure, is *One Woman's Fight* by Vashti Cromwell McCollum. Pictures have been added to acquaint you with the McCollum family, and Vashti has written a brief afterword to update you.

All of us are indebted to Vashti for her activism in defense of a basic constitutional principle. And we are so pleased to know her—an intrepid and charming woman of great integrity.

Anne Nicol Gaylor
President, Freedom From Religion Foundation
Madison, Wisconsin
1993

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“That Awful McCollum Woman”

I OFTEN wonder if the minister who baptized me is whirling in his grave as the late-lamented are supposed to do when subjected to severe stress from those of us still on this earth. And my grandfather, an elder of the Presbyterian Church, is he, too, rotating violently at the behavior of his defiant descendant, Vashti McCollum?

“That awful McCollum woman,” as some of the proper ladies in our town have referred to me in shocked whispers. “That Atheist Mother,” as the press, with its love of labels, tagged me. A small-town housewife who didn’t want her son to spend his school hours reading Bible stories, I was to become the central figure in one of the most-publicized legal battles of many years, a fight against religious instruction in the public schools, a fight that was to end in a United States Supreme Court hearing after three years of headlines, headaches, and hatred.

But I think it is highly possible that both the minister of the Lutheran Church in Lyons, New York, and my grand-

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father Cromwell would have been on my side. For although in some churches, for a while, I was the subject of more hell-fire-and-damnation sermons than the devil himself, I gained the support and friendship of many Lutherans and Baptists, Quakers and Jews, Christian Scientists and Unitarians, Seventh-Day Adventists and Jehovah's Witnesses, and a host of others. In the three years my case was under public as well as judicial scrutiny, I found myself branded a wicked, godless woman, an emissary of Satan, a Communist, and a fiend in human form, but I was also hailed as a courageous heroine, a champion of American liberty, a true pioneer, democrat, and patriot, and "a woman George Washington would have been proud to know."

There was a group that planned, publicly, to lynch me, but there was also a man who willed me all his worldly goods. There was a Sunday-school class that petitioned my husband's employers to fire him because of my activity, and a retired preacher who tried to raise funds to erect a monument to me.

Between being praised and persecuted, condoned and condemned, I might understandably have become bewildered, particularly at the brand of ethics sometimes displayed by the staunch defenders of Christianity. But of one thing I am sure: I am sure that I fought not only for what I earnestly believed to be right, but for the truest kind of religious freedom intended by the First Amendment, the complete separation of church and state.

One of the most common misapprehensions about the entire McCollum Case is that I was waging an all-out fight against religion. Nothing could have been farther from the truth. I had no desire to attack formal religion nor any wish to convert anyone to my particular theological bias. My ob-

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jection was on constitutional grounds, and my action was one I could have brought with equally firm convictions had I been a member of any of the 250-odd sects flourishing in this country.

Nor can I say the term “atheist” describes me fairly, although it is flattering compared to some of the epithets delivered in my mail. It is too militant a term, however, and it also implies a more profound student of theology than I am. If I must have a tag, I believe that “Humanist” would describe me more accurately.

Another popular assumption was that I must be the product of careful and complete indoctrination against religion from early childhood on. Again this is far from the truth.

My mother was religious enough to have given me, her second-born, a biblical name. Readers of the Bible—and it is amazing how many “good Christians” have only the most casual acquaintance with that Book—know that Vashti was the first wife of King Ahasuerus, whose story is told in the Old Testament Book of Esther. During the trial I frequently received letters addressed to “Mr. Vashti McCollum,” letters admonishing me to read my Bible and see the error of my ways. If the writers had read theirs, they would have known that Vashti was no Mister.

She was a spirited woman who refused to exhibit her beauty before the king’s drinking companions on the seventh day of a party when “royal wine in abundance” had made the king hilarious. On the spot, Ahasuerus sent for his wise men and asked their advice concerning a wife who refused to do her husband’s bidding. Their judgment was that Vashti had not only wronged the king but all the men in the kingdom, for as soon as the word got around that the royal wife had refused to do her regal husband’s bidding, commoners would think

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they could do likewise. It was a man's world in those days, and Vashti was banished for her successor, Esther.

My mother was fond of saying that Vashti was "the first exponent of woman's rights." Perhaps it was for that reason that I have always liked and been proud of my name. In any case, I have always been eager to set people right when they assumed that I was named after the once-popular novel of purple passion, *Vashti, or Until Death Do Us Part*.

In spite of my unconventional name, however, my upbringing was not unconventional. My older sister Helen Louise and I were both baptized in the Lutheran Church. They tell me Weezie howled and I slept blissfully all the way through the ritual. Maybe that's why it didn't take. We went to Lutheran Sunday school in our very early childhood, in what was apparently an old-fashioned and old-world atmosphere.

A friend of my family, Mark Ewald, used to delight in telling us an anecdote about this church in the time of his boyhood. His father had been a Lutheran minister but had given up his pastorate in another town because of his health. When he moved to Lyons he went into business and made a practice of sending his children first to one Sunday school and then to one of a different denomination, to broaden their views.

One day the old German minister—the same one who baptized me, I believe—called on Mr. Ewald to reproach him for not sending his children to Sunday school. Mr. Ewald tried to explain tactfully, avoiding the real reason: namely, that he disapproved of services conducted in German and wanted his children to have a more liberal outlook. The old minister stressed the importance of sending children only to the Lutheran Church, until finally Mr. Ewald said, "Come now, Pastor, do you mean to tell me there is no salvation outside of the Lutheran Church?"

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The minister pondered a moment, then shook his head slowly.

“Vell,” he said, “it’s doubtful.”

Like Mr. Ewald, my parents believed in letting us absorb different views, so for a while I went to Sunday school at my grandfather’s Presbyterian Church. I remember that church services seemed very long and my grandfather became impatient when I wriggled. I also remember that we received fancy stickers for learning a certain number of Bible verses and I always had more stickers than anyone else.

We moved from Lyons when I was seven years old and went to Rochester to live. I didn’t go to Sunday school there until I was well along in school. Then two sisters, teachers of the fifth and sixth grades respectively, took an interest in me. The school was in a poor neighborhood, with many Negro and foreign-born students. Without their handicaps, I found it easy to get good marks and I was a sort of teacher’s pet. Both the sisters liked me but were distressed that I didn’t go to Sunday school.

Once again I want to stress that there was never any anti-religious indoctrination in our home. My father wasn’t against religion, my mother certainly wasn’t, and an aunt who lived with us was very religious. It was just that my parents didn’t take it seriously enough to consider it indispensable. But when the teachers talked to them, they agreed to let me go to the Episcopal Church.

It was a huge church, and classes were held in various corners of the church building. I used to sit with some of the boys and we’d think up stunts, like crawling under the pews to pinch the teachers’ legs. When I became completely uninterested, my parents let me drop out, but I still wasn’t without church contacts. My aunt started going to the Universalist

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Church, and on Sunday evenings my sister and I would go along to watch movie slides of foreign travel and things like that. When I was seventeen I went away to Cornell University, where I frequently visited the beautiful chapel, sometimes to hear an interesting speaker, sometimes just to sit in an atmosphere that pleased me.

It was while I was away at college that my father became active in the Freethinkers' Society and for the first time began to study liberal religion as opposed to formal religion. He began to read Voltaire and Ingersoll and Tom Paine and developed his views as a rationalist, which were played up so widely during the trial. But inasmuch as I was then away from home and never have returned home to live in the years since, I don't feel that his new views indoctrinated me particularly. There is such a thing as indoctrination against religion as well as indoctrination for it, and I don't believe in either. I think a child should be allowed to understand all presentations and choose for himself. And we certainly had that advantage in my family. Any views against formal religion that I hold come entirely as a result of my own study and reflection.

At Cornell I studied political science for two years and then transferred to the University of Illinois, where I had one semester of law school in addition to a year in the Arts College. At the end of that time I married an instructor in the university, John Paschal McCollum, now associate professor of vegetable crops in the Horticultural Department of the university. A long-suffering and wonderful gentleman, "Pappy" would rather have his wife be right than be a college president. Although my case didn't advance his campus career any, he never failed to be for me all the way.

Marriage interrupted my college education, and although I intended to go back to school, actually the interruption lasted

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ten years. First Pappy’s work took us to Des Plaines, Illinois, where we stayed for three years instead of the original one we had planned, and then we had our three boys, James Terry, Dannel, and Errol, and they kept me busy for quite a while. I finally went back to school and got my degree in 1944, instead of 1934, and it was one of my proudest accomplishments that in my final semester, after almost ten years away from my studies, I combined child care and housework with fourteen hours of “A” grades.

Meanwhile my father’s interest in rationalism had continued. In 1940 he wrote a pamphlet, *Rationalism vs. Religious Education in the Public Schools*, a pamphlet which was widely quoted and misquoted during the entire McCollum Case. The newspapers seized especially on the first sentence, “Religious worship is a chronic disease of the imagination contracted in childhood.” Actually this statement was not original with my father but was made by Father Jean Mesler (1678–1733), a former priest in the Roman Catholic Church, in his *Superstition in All Ages*. But it was credited to everyone, even, occasionally, to me.

If readers had gone further into the pamphlet they might have come on some more pointed and equally quotable passages; for example, one that reads:

“America was founded at a time when Europe was emerging from the Dark Ages, and our forefathers were determined that America should be forever free from the religious strife that had thrown European civilization back into a morass of hate and murder. They were determined that neither Christianity nor any other religion should ever rule or gain a stranglehold on American government. So to this end was written in the Constitution the law of the separation of church and state.”

At the time this was written I knew almost as little about it

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as did the misquoters, and my interest was slight. My father came to visit me in Champaign about that time, but since I had a small baby and my health wasn't especially good, I was more concerned with work, worry, and three active children than with such a dim, inconsequential thing as religious instruction. My father told me there was going to be some sort of meeting about a system of religious instruction in the schools. I didn't pay much attention.

Father went to the meeting and even made a short speech. He told the group how the School Board in Rochester was dominated by a religious group so biased that many great classics of literature had been "censored" as uncomplimentary to that particular religion. He warned them against the dangers of the hold of religion on the public-school system. Even such a small infiltration as religious-instruction classes one day a week was setting a bad precedent, he said. But he was an outsider, and no one paid much attention to him. I remember that he came home and said, "Vashti, they're railroading this thing through, and it's a very bad thing." But it still didn't mean much to me.

Soon after—on June 6, 1940—religious instruction was adopted in the public schools of Champaign, and Mrs. McCollum, who was later to fight it for three years, through court trials, and at a cost of twenty-five thousand dollars, scarcely knew it.

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How It All Began

WHEN our oldest boy, James Terry (then called "Terry" but now grown to the more adult-sounding "Jim"), entered the fourth grade at South Side School in Champaign, he became eligible to attend the classes in religious instruction sponsored by the Council of Religious Education. The classes were not compulsory, of course, but on that subject of "non-compulsion," I'd like to quote from a Chicago Sun editorial which put the matter very aptly.

"Attendance at the classes is not formally compulsory. Inevitably, however, children who do not attend may be subject to social pressures which exert almost as much compulsion as law. For many a child, there is no tyranny so rigorous as his own desire to conform with the behavior of the group."

That was the way it turned out in our family.

At first Jim came home with a slip which I was to sign, permitting him to take religious instruction and designating whether he was to receive Catholic, Protestant, or Jewish instructions.

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"I'm sorry," I told him, "but we don't approve of this being taught in the schools. I can't sign it."

Up to this time we had never discussed religion pro or con with the boys, but from then on it entered very much into our family discussions. Jim wasn't the only one not taking the course at this particular school—there were half a dozen others—but he teased and teased to be allowed to take it, and gradually I discovered the various reasons.

For one thing, as the editorial said, there was the desire to conform to the majority. But, in addition, the ones who didn't take religious instruction had little to do while the others were in class. Besides that, the teacher in the Protestant class, who had been a missionary to China, was always bringing pictures and souvenirs to class, and Jim wanted to see them.

The children were required to pay a quarter for supplies used in the course, and during the first semester Jim saved up his quarter for the next course. Then a good movie came to town and he wanted to go.

"Go on, go ahead to the movie," Pappy told him. "You've got a quarter, haven't you?"

"Yes, but I'm saving that for religious instructions," Jim said.

"Well," Pappy laughed, "you'll just have to make up your mind—the movie or religious instructions. But I hear it's an awfully good movie."

The more Jim wavered, the more Pappy talked up the movie, until finally he gave in completely and spent the quarter on the movie. I thought this was sort of unfair, so I gave him another quarter and told him he could take the religious instructions if it meant that much to him. I was a bit irritated about it, though, and I hurriedly scribbled out a messy consent note in pencil on a scrap of paper. This note was later pro-

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duced in court—for some odd reason the teacher had kept it—and I was anything but proud of this sample of a letter produced by a college-graduate mother. But it sufficed for the purpose, and for the last half of the fourth grade Jim joined the class.

When he began coming home with the results of his lessons I realized immediately that this wasn't a course in ethics or morals or tolerance or good behavior, as I'd been led to believe, but was a complete religious indoctrination, abounding in faith and miracles. The children made posters of the Resurrection, and Jim sat and gazed at his worshipfully. This bothered me. I didn't worry about a permanent indoctrination, as I knew he'd hear the other side eventually, but I resented the fact that the churches were taking advantage of an opportunity they found in the schools. Again, to quote from another portion of the *Sun's* editorial on the case:

“The question to be decided is not atheism vs. religious belief nor the value of religious education. The question is whether religious instruction shall be carried on in tax-supported public schools at which attendance is compulsory; and whether the type of instruction given semi-officially takes on, in practice, the form and substance of a compulsory curriculum.”

There were many times in the trial when this major issue was considerably beclouded, when the opposition contended that I was a worker or—worse still—a tool of the forces of godlessness to spread the doctrine of atheism. Although I came to learn later that among certain segments of organized religion there were other issues to battle, my original concern was simply with the use of tax-supported schools for private purposes. As to whether this instruction “given semi-officially” should take on the “substance of a compulsory curriculum,”

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my answer was an unequivocal "No." I told Pappy and I told Jim that never again would I sign for the course.

Jim changed schools the following fall. South Side was so terribly crowded that I sent him to the fifth grade in a school in another district, the Dr. Howard School. At the beginning of the school term he brought home the same sort of slip. And, as before, he brought it home with the remark, "Here's a slip you're supposed to sign."

Once again I refused to sign, and once again Jim teased and teased.

"The teacher says I gotta sign," he told me once. "She says I'm keeping the class from being 100 per cent."

"Jim, you can't be 100 per cent about something that's not legal," I tried to tell him.

Again, as at South Side, Jim had several good reasons for not wanting to be out of the class. The schools in Champaign are crowded and they have to use all available space, so the religious instructions were given in the regular classrooms and the pupils that didn't take them had to get out. Because Jim was the only abstainer in his class, he sat all alone in the music room, a small anteroom next to the teachers' toilet. The teachers would come out, glare at him, and say, "What are you doing here?" and shut the door. He didn't much like sitting there all alone with the door closed.

Also his teacher sat in the room with the class while the religious teacher gave instruction, and that was another complaint I had. Jim had always had a great deal of respect for his teacher, as children should have, and her presence in the class made it look as if he were going against the wishes of the school and the teacher. It seemed to Jim that we were wrong and they were right.

One day in the fall of the year I went to school to pick Jim

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up and take him to the "Y." His teacher and another teacher came along, and I offered to drive them home. We dropped Jim off first, and then as we rode along I asked his teacher how he was progressing.

"Truthfully," she told me, "he's not getting along very well."

"I'm sorry to hear that," I said. "Is there anything I can do to help?"

"Well, yes, I think there is," she said. "It's always hard to come into a new school and be accepted completely right away, but I think it would help if you'd persuade him to enter a little more into school life. For instance, he might change from his old Boy Scout troop to the Dr. Howard troop. And also," she added, "he's the only one who doesn't take religious instruction, and that segregates him from the others. It would help if he took the course too."

"You know," I answered, "that I'd do anything to help my boy get along, but I will not let him take something we feel is unconstitutional and undemocratic. A few pressure groups have taken advantage of the schools to further their own aims. It isn't that I feel the courses would hurt him, but if we let him go we'd be counted among the parents in support of that program, and we are not hypocrites."

I also mentioned that he didn't like sitting in the music room, that he felt uncomfortable there.

"I don't think he really means that," she said. "He's just trying to get your sympathy because he wants to take the course so badly."

"Why don't you let him take it?" she asked. "I've promised him he could take it next term if he got caught up with his other schoolwork."

"But you had no right to promise," I protested, horrified.

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"You should have asked first whether or not we wanted him to take the course."

Needless to say, we didn't get very far with that discussion.

In January 1945, I received a publication put out by the Unitarian Church of Urbana, which was sent to all faculty members who expressed no religious preference. I usually glanced at it casually, but this month one item caught my eye. The Unitarian minister, the Reverend Philip Schug, called his readers' attention to a bill legalizing religious instruction in the public schools that was going to come before the Illinois Legislature. He suggested that interested persons write their legislators opposing it, and he listed the legislators to write.

Under the circumstances, I was a very interested reader, and I wrote to my legislators, Charles W. Clabaugh, Everett R. Peters, and Ora D. Dillavou. All three answered my letters, assuring me of their agreement and co-operation. Clabaugh, in a letter dated January 14, 1945, which I still have in my possession, said:

"I think you need have no fears about any bill passing or even being seriously considered by the Legislature which would institute religious teaching in our schools. Long-standing precedent and the ill affected by such instruction in public schools would, in my opinion, prohibit such, even if the federal Constitution did not. Upon either of the reasons I would stand."

Senator Peters, in a letter dated February 27, 1945, wrote:

"I have always taken the stand since I have been a member in the Legislature that it is the duty of the schools to educate our children in the regular needs of education and that religious education should be secured in the churches. I know of no reason why I should change my opinion at this time."

Dillavou, in a letter dated January 17, 1945, wrote:

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“I am in hearty accord with . . . your objections to mixing religious education with regular educational training in our public schools.”

These letters later had an important and somewhat amusing bearing on events in my case, and like many gentlemen who write letters which end up in court, these distinguished representatives could well have regretted ever having written them. But at the time I gave them very little thought, except to be relieved that our public servants did see eye to eye with me on the matter. Shortly afterward I was again to be concerned with religious instruction in the schools in a manner that was far more personal than theoretical.

One day in February, Jim came home in tears. He isn't a boy who's given to crying easily. Less than a year before he had come home one noon hour, lay down quietly on the divan, doubled up with pain, and refused his lunch. It had turned out that he had a ruptured appendix.

But this was something worse than a physical hurt, and he was crying. He wouldn't go to school ever again on the day they had religious instruction, he said. He'd had to sit out in the hall by himself, and all the kids walking down the hall to get a drink or run an errand had thought he'd been put there as punishment and had teased him. He knew they'd tease him still more if he said he was there because he couldn't attend religious-instruction classes, so he'd let them think he was there for being bad.

This was too much for me. I went over to the school and told the teacher I was very distressed and I would not have my son placed in the hall for punishment. She said he hadn't been put there for punishment but because the music room was occupied that day.

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"As far as the child was concerned," I said, "it was the same as punishment."

She said she had no place else for him to sit.

"Couldn't he sit in the other fifth-grade room?" I suggested, still trying to solve the problem peaceably.

She explained he would disrupt the regular pupils of that class. (Actually she did put Jim in the other fifth-grade room after that, and at the trial the defendants were careful to point up the fact that he was exiled to the hall on only one occasion and had then sat in the other classroom—without adding, of course, that the change was made on my insistence.)

"I'm not condemning you," I told the teacher, "but all this upholds my contention that this course does not belong in the public schools. I think it's time I went to see someone about it."

3

I Reach a Decision

THE “someone” I went to see was Dr. E. H. Mellon, superintendent of schools in Champaign. Dr. Mellon was no stranger to me. I had visited him before, concerning a school-district problem, and on this occasion, as before, he was pleasant, gracious, charming. He is a tall, nice-looking man, always co-operative and never too busy to talk to anyone. He is quite active in the Methodist Church.

Since Dr. Mellon is a very agreeable conversationalist our interview went off smoothly. There was no bitterness, no tirade, no unpleasantness. The conversation was a rather one-sided one. I did all the talking, pointing out as eloquently as I could just why I was in favor of the separation of church and state.

“I simply do not believe it’s the function of the public school to bring children into the church,” I said, “or to discipline them if they don’t go to church. Public schools shouldn’t be recruiting centers for sectarian interests.”

I told him that history shows that in the early days of this

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country we did not have complete tolerance, that at one time, in Maryland, Catholic colonists had lost their civil and religious liberties. At another time, in Rhode Island, Jews were forbidden naturalization because an early charter provided that the colony be settled by "those of Christian views." It was this, I said, that led the framers of our Constitution (most of whom were men of emancipated and liberal views) to insist on the complete separation of church and state.

Even with this good beginning, I pointed out, it took almost seventy years before the schools were transformed from private institutions to public enterprises. Now that we have attained that sought-after status, there are forces working steadily to undermine the principle of separation of church and state in education.

"Understand," I said, "it's not that I worry about the local Methodists or Baptists or whatever taking over, but if this principle of separation is weakened and the wall destroyed, there is always the possibility that a strong and powerful group may someday capitalize on the breakdown."

I brought forth what I considered one of the biggest arguments, the fact that instead of fostering equality, religious instruction in the schools fosters discrimination because it makes children conscious of differences that before they didn't know existed. The moment children are separated for religious instruction there is new emphasis placed on the distinctions of Jewish or Gentile, of church and unchurched. The public schools are our greatest hope for teaching and driving home the lessons of democracy; there, children of all creeds, races, and colors meet on common ground, and work and play together.

"There should be no Jews, no Catholics, no Protestants in public schools," I told him. "They're all American children."

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As I said, Superintendent Mellon is an amiable man and he conceded many of my points. He didn't express agreement with me in all respects, but he didn't thoroughly disagree either. And at least he did not seem to subscribe to that popular fallacy that there is any correlation between religious instruction and the elimination of juvenile delinquency.

In the mail I was to receive later, throughout the letters from those opposed to me, like an old, old refrain, came the words, "We ought to have religious training to combat juvenile delinquency." I have never believed that there was any basis at all for this attitude, and all the behavior studies made on the subject seem to corroborate my belief. V. T. Thayer, in his book *Religion in Public Education* (The Viking Press, 1947), summarized the results of such studies by saying:

"From an exhaustive comparison of the actions of children who regularly attend Sunday school with those of children of similar background and circumstance who do not, they concluded that there exists no significant relationship between religious training and delinquent or nondelinquent behavior."

"Have you read the Thorndike Report?" Mellon asked, citing another authority, when we got on this subject of church attendance and behavior.

He went on to explain that this was a report made by the psychologist E. L. Thorndike which showed the correlation between religion and morality to be nonexistent. The cities with the most church members, Thorndike found, ranked above average in infant death rate, child labor, and illiteracy and below average in school attendance and home ownership.

"Of course," I said, "sectarian religion isn't what makes for good citizenship. Our standards of morality and good citizenship are rooted in our way of life, and it is a way of life that was designed to cut through sectarian difference."

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Mellon admitted I had good arguments but said there was very little he could do. The program was in effect when he took over the job of superintendent, the church people paid the bills, hired the teachers, and as long as there had been no complaints, he hadn't questioned the program seriously at all. One thing he promised me was that the program would go no lower in the grades.

This turned out to be an empty promise. Religious instruction had started in junior high school, and then, because it was too difficult to arouse the interest of children in that age group, the level had been moved down to the sixth, then the fifth, and then the fourth grade, where it had caught Jim. That was to be the bottom starting point. But a year from the next fall the program was instituted in the third grade.

"I'd be content to let this go," I said, "even though I don't believe in it, but so much pressure has been brought to bear that I can't. My boy apparently can't remain out of the classes; his teacher even promised him that he could attend although I had expressly forbidden it. So what do you suggest that I do?"

"Why don't you write a letter and take it to the School Board?" Mellon suggested at last.

Up to this point I had been patient and controlled, but now I began to see red.

"Are you suggesting that I waste my time?" I snapped. "I'm going to do something."

With this, I stalked out of the office.

When I got to the street I stood for a moment not knowing which way to turn or where to go. I had made a threat, and I don't like to make threats I can't carry out. I stood wondering what I should do and, above all, what lawyer I should turn to. I knew that many lawyers would hesitate to take such a case because of community criticism. Then I happened to think of

I Reach a Decision

the Unitarian minister who had sent out the notice about the religious-education bill in the Legislature. And that's how I went to see Phil Schug.

He turned out to be a young man, in fact, a much younger man than I had expected, and at that first meeting he was as patient and reliable and helpful as he was all through our three-year ordeal. He did not know at the time that he was letting himself in for a battle royal and a project of marathon proportions, but even if he had, I'm sure he wouldn't have hesitated.

I wanted to file a suit right away that very afternoon, if he could suggest a lawyer.

"I don't know any lawyer," he said thoughtfully. "There are men in the Law School who support this church, but they don't practice law.

"But say," he added, "I just happened to think. The organization that told me about that bill, the Chicago Action Council—they're opposed to it too. Why don't we write them and ask if they know of anyone?"

"How long do you think it will take?" I asked.

"Well, just to Chicago and back. We ought to hear by the end of the week."

"Do we have to wait that long?" I complained.

"This has been going on for five years," he said. "A little longer won't hurt."

So we wrote a letter and sat back to await a reply. We never expected what we got. The Chicago Action Council wrote by return mail:

"Tell that woman to go ahead. We will hire her attorney and pay all the legal bills."

4

On the Way to Becoming "A Very Unpopular Woman"

ONE month after Jim's tearful home-coming on March 21, 1945, Pappy and I received a letter from Landon L. Chapman, of Chicago, telling us that he had been retained by the Chicago Action Council as our attorney, and requesting that we send him information about the teachers, board members, and ministers involved. Chapman's services had been obtained, I later discovered, with the co-operation of the Chicago Civil Liberties Committee. The members of the Action Council, businessmen banded together to fight for liberal causes, had asked the advice of Ira Latimer, executive secretary of the Chicago Civil Liberties Committee, and he had recommended Chapman.

Chapman and I began to correspond, and he told me what information he would have to have before we could file a suit. There was still only a meager supply of information on how the classes in religious instruction actually operated. In order to find out more about them, I went to see the Reverend H.

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Clifford Northcott of the First Methodist Church, who had been instrumental in starting the program.

To get the full effect of my visit with Northcott, a picture of me in my typical summer regalia should accompany the telling. In summer, in Champaign, I usually run around in shorts and bobby sox, with a ribbon around my hair. I did put on a dress to see the Reverend Northcott, but that's about as formal as I made myself. I don't know whether my appearance was at all related to the hostility of that session. We had hired an attorney already and probably would have filed suit anyway, but I was confirmed in my intention after my visit to Northcott.

I waited a long time for Northcott to arrive, and while I waited I talked to a young lady in the office, and learned from her some things I'm sure I wouldn't otherwise have found out. I merely mentioned to her that I had come to talk with Northcott about the religious-instruction classes. I suppose it never occurred to her that I might be opposed to them. She was quite chummy and told me she thought it was wonderful the way the clergy co-operated. As an example of this wonder she told me that one of the local Catholic priests had made a private contribution to the Protestant program. But he didn't want this mentioned, she said, he was so modest.

Finally Northcott arrived and smiled cordially as I introduced myself. I came to the point immediately.

"I'd like to find out some facts about the classes in religious instruction being given in the Champaign-Urbana schools," I said, "because it's caused some dissension in my family."

"How's that?" he frowned. "Dissension? What do you mean, dissension?"

"Well, I have three boys," I went on, "and my oldest is in a class where religious instruction is offered. He doesn't take the course and it's caused trouble."

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"Doesn't take it?" Northcott echoed, and asked why.

"Why, you see," I went on, still cheerful and chatty, "we don't approve of it. We don't think it belongs in the schools and we feel it sets a dangerous precedent. As far as the contents of the courses are concerned, while it's not the sort of thing we teach, I don't believe it would hurt him, but it's the practice of moving it into the schools, a public institution, that we object to. We think it's unconstitutional."

Northcott was terribly angry.

I was quite taken aback at the time. Like a child I had wandered around seeking information. So far everyone had been nice and polite to me. And now I was being terribly scolded. Now that I think about it, I understand Northcott's reaction better. For five years the proponents of the religious-education system had been sitting on the edge of this legal powder keg waiting for someone to set off the explosion. They couldn't welcome the first attack.

Northcott suggested that principles were none of my business and gave me the feeling that, as a simple-minded mother, I was getting beyond my depth.

"I'm a college graduate, a former law student, a taxpayer, and a parent," I proudly told him. "I feel I have every right to be interested."

He was antagonized and defensive in the face of a "lawyer." But he went on talking nevertheless. This program was dear to his heart and he'd fight for it, even if I said it was unconstitutional. I have never felt so bullied as I did that afternoon. The few answers I did receive were no help to me. I tried to tell him that we felt the program to be a breach of the separation of church and state. He said there were many breaches of church and state; for example, the money that Notre Dame University received for the V-12 program, which was going on at the time.

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"But that is an emergency," I said, "and the government is paying the church just as they would pay any organization doing work for them. But this is no emergency. It is a cool, calculated move on the public schools."

Northcott suggested I was wasting his time and had better get out.

"All right," I said, "but I've only asked questions I had every right to ask. You were my last resort before appealing to the courts for satisfaction."

On my next visit in the search for facts, at least I did not have to go alone. Chapman came down to Champaign, and he, Phil Schug, and I paid another call on Superintendent Mellon to ask him questions. We asked him, among other things, what religious groups were allowed to participate in the program, as this was an important point. He told us it was his understanding that any group could take part; they showed no partiality.

"Well, how about the Jehovah's Witnesses?" Chapman asked. "If some of the parents belonged to that sect, would you allow one of their teachers to form a class?"

Why, yes, Mellon said, he supposed so.

"Are you familiar with the tenets of that church?" Chapman asked. "Do you know they don't believe in saluting the flag?"

Mellon gave us the impression he didn't know this, and Chapman explained to him that they believe the flag is an idol and saluting is on a par with idol worship.

After this explanation he asked Mellon whether he would permit the Jehovah's Witnesses to have a class in the schools, supposing the American Legion would object.

Mellon's answer came out later during the trial, when a Jehovah's Witness member, whom we had brought in as a witness, testified that he had visited Mellon to ask permission to have one of their teachers in the schools and that Mellon

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had told him they would have to make application "in the regular manner," without explaining just what that manner was. Mellon, however, denied during the trial that we would refuse classes to Jehovah's Witnesses.

Our point, of course, was that no public official should be in the position of having to judge the merits of a religious group, and Mellon certainly was in that position.

Again, when we discussed the qualifications for teachers in the religious instruction classes, Mellon said he would want those teachers to speak good English and have high educational standards. We pointed out that a small sect might not have the money to hire a teacher with a good educational background and some of the groups applying would thus automatically be discriminated against. A superintendent of schools, in our opinion, should not be in a position to discriminate among religious groups. And if he approved *all* the groups that applied, it would lead to endless confusion. Why, there could be as many as seventy or eighty classes being taught at once.

One more incident that occurred during our visit to Mellon was to have a distinct bearing on the case. While we sat and talked to him, he went through his file of material on religious instructions, and among the letters and notations was my father's pamphlet, apparently mailed to him at the time the classes were first adopted.

"Do you know who wrote that pamphlet?" I asked Chapman when we got outside Mellon's office. "My father wrote it."

Chapman was immediately interested.

"Do you suppose you could get me a copy of it?" he asked. "We might be able to use it."

"I think I could," I said.

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I have often thought what a much quieter case it might have been had I never mentioned my father's pamphlet at all.

Our next calls were on various members of the School Board. I remember particularly our visit with one woman. It was amusing chiefly because all through our conversation she appealed to Schug for support, apparently because she knew he was a minister.

"You'll agree, Reverend, won't you, that we ought to have more religious instruction in the schools?" she would ask him.

She thought religious instruction was wonderful and couldn't imagine that anyone wouldn't approve of it. Chapman tried to see how far she'd go in her theories and asked if she believed the schools should be controlled by the churches. Oh yes, she said eagerly. Well, what church would you have in control? he continued. Why, just any church, she supposed. It was obvious that she had come from a homogeneous community; in her experience all churches were pretty much alike, and she had no conception of the extremes to which creeds and cults could go.

We also had a talk with Lakie Munson, the principal of Jim's school. We asked her what she did while the pupils of the room she taught were taking the class. Did she work with those few who weren't taking it? She said she sat with them and graded papers while they read books.

When we left, Chapman whistled between his teeth. "Boy, if she says that on the witness stand, we're in."

But when Chapman questioned her at the trial she said she got paid for being a teacher during religious-instruction hours and that she never ceased being a teacher. Chapman asked her again what she did with those not taking the course.

"In modern education," she informed him, "it's individual instruction that counts, and I instruct those children individu-

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ally while the others take religious instruction. Then when the whole class is together I instruct the others individually."

Champaign schools, incidentally, are very old-fashioned in their setup and methods, and there's precious little "individual instruction" in their classrooms of forty pupils.

We had one more call to make, and that was on John Franklin, attorney for the School Board. Franklin is also a member of Northcott's Methodist Church and was apparently in favor of the program. He was not surprised to see us. By that time the word had spread around pretty well. We felt him, too, to be extremely hostile. He gave me to understand that I'd be "mighty unpopular" in our God-fearing community if I continued to pursue my principles.

On this one point of our long and antagonistic association Franklin was right.

5

The Senate's Hot Potato

IN SPITE of intimidations, threats, and the warning that I was going to be a “very unpopular woman” among certain elements of the community, we continued with our plans. Chapman sent me detailed instructions about how to serve the demand on the School Board that it discontinue religious instructions. He stressed the fact that I must serve it directly to the person to receive it and must be sure that he got it.

“As soon as they open the door, put your foot in it,” he instructed me, just as if I were a Fuller Brush man.

I took Phil along with me as a witness, and served the demand first on the lady member previously interviewed. She took it very graciously and didn't seem to know what she was getting. I served it on Delos Huxtable, president of the School Board, and he said, “Well, I guess this is it.” He knew what it was all right.

The demand was signed by me, and in addition by the Reverend Randall S. Hilton, secretary of the Western Unitarian Conference; the Reverend Paul J. Folino, of a large and

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liberal Congregational church in Chicago; Rabbi Jacob J. Weinstein, of the K.A.M. Temple; Robert S. Greenfield, of the Chicago Action Council; and Ira Latimer, of the Chicago Civil Liberties Committee. We waited the minimum of time for the School Board to reply and then filed our petition, on Monday, June 11, 1945. My father's pamphlet was included in the petition without my being consulted.

We immediately broke into the papers. The next day headlines announced, "Religious Education Test Suit Filed Against School Board," "Mrs. McCollum Sues to End Instruction," "Religion Class Ban Requested For Campaign."

Two days later, almost on the heels of our filing, came news that New York State Education Commissioner George D. Stoddard, who was president-elect of the University of Illinois, had ordered termination of religious classes on school property in Wayne County, New York, on a petition filed by my father. Naturally everyone assumed the two cases were planned to break together. Actually there was little connection between them. I was not aware before that my father had filed a complaint, although, as I have said, I knew the subject was dear to his heart.

I didn't know any of the details at the time, but I later learned that the day he was leaving for Albany he received a letter from me telling of Jim's experiences in being put in the hall. He took the letter and read it at the hearing to show that New York wasn't the only place where such things were happening—that they were going on out in Illinois too. So my case had some connection with his, although his had no connection with mine.

Within the week, papers in near-by Chicago, St. Louis, and on across the country had covered the case. But also within the week there was another news item of great interest to me. The

The Senate's Hot Potato

reader will recall our old friend, Representative Clabaugh, who wrote, "I think you need have no fear about any bill passing," with regard to legalization of religious instruction. I was understandably surprised when on June 19, eight days after my suit was filed, Representative C. W. Clabaugh himself introduced in the Legislature the Clabaugh bill to legalize religious-education classes.

Surprised as I was, I was also gratified. I had contended that religious instruction conflicted with the state constitution and statutes. The fact that the religious-education proponents introduced the bill at this very time—less than two weeks after my case was filed—suggested to me that they, too, must have thought it conflicted with the statutes. They wanted a new statute to try to legalize something that had been going on for five years.

Naturally I gave the press my letter from Clabaugh in which he had expressed his disapproval of religious instruction "in the school." Clabaugh accused me of "splitting hairs" and said that anyone could tell that what he had meant was religious instruction by the schools.

Well, whoever was doing the hairsplitting, my possession of the letter served to embarrass Clabaugh and to make news at a time when we wanted favorable publicity for our case. Someone asked me how it happened that I had kept Clabaugh's letter, and frankly, I don't know why I did—just some sort of lucky hunch. But I had a good answer for the inquirer:

"I was just so impressed," I said, wide-eyed and naïve, "at receiving a letter from a representative that naturally I kept it."

Phil Schug and I immediately set about fighting the bill before they could rush it through. It passed the House within the week by a vote of 85 to 2, and only one dissenter came openly to my defense with the halfhearted statement that he

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felt I had "rights which should be protected." Senator Peters—yes, the selfsame Senator Peters who believed "religious education should be secured in the churches"—was chosen to rush it through the Senate.

It was a hectic time for me. There was a bumper crop of green peas in my garden, and I was picking peas all day and shelling and canning peas at night. And through it all I worked at fighting the bill.

The day of the vote in the Senate, Phil Schug went to Springfield and passed around a "pink paper" to all the desks. It was an intriguing-looking pamphlet with a catchy title designed to interest the senators and profitably while away their time while duller bills were in progress.

The title of the pink paper was:

Dear Senator—You have been handed a *very hot potato!*

It went on:

The House has sent you a bill to "legalize" sectarian religious education in tax-supported public schools during school hours. The constitutionality of such education is now being tested in our courts. Our Federal Constitution provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

This was applied to the states by the 14th Amendment.

Our State Constitution provides: "Neither the general assembly nor any county, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; . . .

"And:

"The free exercise and enjoyment of religious profession and

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worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; . . . No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

We Believe in Constitutional Government!

Our Tradition Has Carefully Separated Church and State!

This Is Indeed a Hot Potato!

You Will Never Have to Regret Handling This As a Statesman!

Sincerely Yours,
PHILIP SCHUG
Minister
Unitarian Church
Urbana.

On the next page, under the heading "Senator Peters Is Not Sure He Wants to be a Statesman," Schug quoted from both Peters's and Clabaugh's letters.

The pink paper, and the protests of other groups who sent representatives to Springfield, had the desired effect. The bill was voted down in the Senate: by a 20-14 vote the senators refused to approve Peters's motion to consider the bill.

Undaunted, Clabaugh was quoted as saying, "All we lost was a race against time."

Along with this bill the House had considered another one, a resolution introduced by Representative A. A. Brands of Prairie du Rocher, asking the University of Illinois board of trustees to deny employment to any person holding atheistic views. Of course such a plan would have been completely unconstitutional.

Finally, to save face, the senators tabled this "hot potato" after a representative told his colleagues that Mrs. McCollum

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was no longer employed by the university and he had "been assured" she would not be hired again. This took care of the problem, he said, inasmuch as she was "the only atheist hired by the university." This statement aroused much amusement on the part of various members of the faculty at the university.

However, as far as my status with the university was concerned, the assurance was more or less true. It was the end of the semester when the suit was filed, and that summer the university did not offer the courses in square dancing that I would have taught, and by fall they had another teacher in physical education to take over the course.

Although I have since taught dancing at the university, I subsequently worked for the Student Union and was really paid by the students rather than by the university. But as far as corrupting the students goes, I was still in there corrupting them—teaching them such uninhibited practices as the polka and the Virginia reel.

6

The First Round

WHEN a private individual goes into a case like this, it means a lot of work and a lot of money, and he may easily get discouraged after the first defeat and drop it. I feel sure that everyone in Champaign—all the judges, all the lawyers, all the church people—thought I'd give up after a while. If they hadn't felt pretty confident on that score, I doubt that I would have won my first court victory so easily. Of course this first victory was crucial to our whole case: it was simply the right to file. The hearing was before Judge Frank B. Leonard, John Franklin's "ex-law partner and attorney for the School Board when religious education was adopted." These circumstances might, I suppose, have made the first round tougher for me, but my victory may have been facilitated by a misjudgment of my tenacity.

Franklin's motion to quash, variously described by the press as a "motion to dismiss" and a "hearing on the right to file," came up on Tuesday, July 5, 1945. I had done my laundry that morning, and since it was a cloudy day I was more concerned

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with the laundry getting dry than I was with the various tedious and technical legal arguments.

My right to bring the suit at all was questioned. One of the issues he raised was, as the newspapers politely put it, "whether Mrs. McCollum has legal custody of her son, James Terry." The method of raising this point was to question—by inference—Jim's legitimacy.

"And why is Mrs. McCollum bringing this suit?" the question was asked. "Wasn't Mr. McCollum the guardian of this child too? We assume that Mr. McCollum is the father."

And then the two attorneys wrangled endlessly as to whether or not I, a single taxpayer, had the right to file on a public question or whether, in order to file such a mandamus suit, I had to have the signature of the state's attorney or attorney general. Franklin claimed that I had to have such a signature. Chapman contended that it wasn't necessary.

On and on the arguments went, and finally Judge Leonard apparently got sick and tired of hearing them cite the same cases to prove different points. When it was learned that one of the cases cited, the Bay Window Case of 1903, had been heard in Champaign, he recessed and sent for the case.

The Bay Window Case had involved a window that projected over a sidewalk and interfered with persons walking by. The window thus involved the public welfare. Had this suit carried the state official's signature? On this bulging architectural nuisance hung all my hopes.

We returned from recess during which Judge Leonard consulted the precedent. The bay-window suit had not been signed by the state official. My right to file was supported.

I rushed home to look at the laundry. My dry clothes were swinging on the line, and as I was taking them down John

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Franklin drove by in his car. I waved to him happily. Innocently, too.

Repercussions over the filing of the case began the day it was filed and went on all summer. Almost all of Champaign seemed to choose up sides. There were those who opposed us—and they didn't hesitate to let us know. There were those who were on our side—and they were sometimes afraid to say so.

To understand this fear, I suppose one has to know something about the small, tightly knit social structure of a small college town in the heart of the Midwest Bible belt, a town with all its horror of, "What will the neighbors think?" and, far more important, "What will my employer think?"

One woman in Champaign, a speaking acquaintance, had called me long before the trial to try to interest me in sending Jim to the Unitarian Sunday school. She was vehement in protests against the public-school classes in religious instruction, said she felt they had no place there and that they were unconstitutional. Needless to say, she was further exasperated when her child, after teasing for and getting permission to take the classes, proved such an apt pupil that she was awarded a New Testament as a prize.

Her violent feelings added fuel to the fire I already felt, and it was less than a month after our talk that I decided to file the suit. I called to tell her about it and to ask if I could be assured of her support. Nervously she backed down. What was I talking about? she wanted to know. Surely I wouldn't think of using *her* name. Her husband was a university professor. She was active in the P.T.A. She couldn't jeopardize her important position.

Even knowing our town so well, I was surprised and a little disgusted. Many people have asked me if it never occurred to

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me that I was jeopardizing my husband's position at the university. Frankly, it never did occur to me, but even if it had, I still would have had to do it. I was amazed that this woman considered such angles. I took it for granted that responsible people could follow their convictions without being thrown into disgrace and out of a job.

As it turned out, my unconsidered faith in the freedom from consequence was naïve. Many of the university people, of course, applauded—some only privately. In fact, the very first phone call I received was from a professor in the university congratulating me for bringing the suit. He said the subject had always concerned him, and he was grateful that someone finally took the courage to see it through.

But later in the day, as the phone calls began coming in fast and furious, I stepped out of the house for a breath of air—and also to see if by any chance an army was marching toward our house, since we seemed to be such a target of aroused fury. While I was out, Pappy answered the phone. A woman said to him: "I want you to know that my husband is a university professor, too, and we're going to do everything in our power to see that you're dismissed."

There were strong opponents in the university crowd, and they were serious. A representative of the university approached the Associated Press and asked that they refrain from referring to me as the "wife of a University of Illinois professor." One of my husband's bosses told him there'd been a call from the office of the president of the university to the dean of the College of Agriculture, asking if there were any grounds on which they should fire Dr. McCollum. They didn't want to fire him without adequate cause, they explained. And rightly, too, because the university had just had a case of arbitrary dismissal with ensuing complications. We later

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learned that the telephone call had been prompted by outside pressures and that when the authorities were assured there could be no good grounds for dismissal, the matter was dropped.

The phone calls continued spasmodically all summer long, each new epidemic of calls usually resulting from a new rash of newspaper headlines. Part of the press was prejudiced and indulged in clear propaganda. The two local papers were in marked contrast all the way through. It seemed to me that the *News-Gazette* was more interested in the sensational elements than in the real issues. The *Courier*, on the other hand, tried to stress the real issue of legality. At the very beginning of the case they sent a man to interview me and printed my version of the case in an article entitled, "Mrs. McCollum Tells Why." It was an act of bravery to print such an article in a small-town daily.

Papers from the larger cities could, with less risk, be more tolerant in my behalf. The *Chicago Sun* was among my supporters, and a *Sun* reporter came down to interview me. *Time*, *Newsweek*, and the various national magazines called me, and all through the case I talked to them over the phone and answered endless questions, but their articles always ended up with the same old canned A.P. stories. It seemed that whenever I could meet a reporter face to face, my point of view would come out, but otherwise the stories were less favorable. It wasn't that I wanted to prejudice the press in my favor, but I would have liked a clearer and fairer statement of my side of the case.

None of the phone callers was neutral, and some were pretty silly. Often we would pick up the receiver to hear a chorus of, "Onward, Christian Soldiers," and "Jesus Loves Me," not in children's voices but not in adults' either, more often teen-

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agers', mostly girls'. Men seldom called, but when they did they almost always gave their names. Not a single woman who called to criticize me ever gave her name.

One woman who did give her name was very much on my side, partly because her son had shared Jim's misfortunes. The parents were Jewish, and the boy was an adopted child. He was in the fifth grade at the time, and his parents had not signed the enrollment slip because there were no classes in Jewish instruction.

The teacher, with little common sense, asked that those children whose parents hadn't signed the slip stand up. The adopted boy stood up along with several others, and the teacher went down the aisle and asked them, one by one, why their parents hadn't signed. This little fellow said, "Because I'm Jewish."

Now up to this time he had never had any trouble with his classmates, and since he was an adopted child the parents were especially anxious that he have a feeling of security. Everything had been working out fine.

The next day one of the little girls pointed him out to her older brother in junior high, and the brother beat up the little boy with accompanying anti-Semitic remarks.

The mother was terribly upset and called the father of the junior-high boy. She got a cool reception, and in order to impress on him that this wasn't just a slight affair, she explained that her son had had his glasses in a case in his pocket and had been beaten so severely that the glasses were smashed.

"Oh," said the father, "in that case, we'll replace the glasses."

"I'm afraid you don't understand," she said stiffly, half angered and half horrified at his callous disregard for the attitude of anti-Semitism in a growing youngster. "We can replace the glasses."

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They were naturally on our side, so much so that the father came to the "motion to quash" hearing. He, too, found out that in a small town your business is not your own. The following morning, when he reported to his place of business, he was greeted not by the usual silence and emptiness of the place at that hour but by a small crowd of people, all of whom wanted to know what he had been doing at the hearing. He should be more careful, they warned him. That gives some idea of why many of our sympathizers were afraid to come out in the open.

Many of the people opposed to us insisted that their only interest was to see the case settled. One of these active, civic-minded, and much-publicized persons was Dr. David E. Lindstrom, professor of rural sociology in the university and president of the Illinois Church Council. He traveled around the state making speeches on, "The Success of the Champaign Plan"—which in our minds was anything but a success—and headed a group that was collecting money for legal assistance to Franklin. When the case was finally settled, Lindstrom was quoted as saying he was glad, because his "only interest was in getting the case settled." If that was the truth, I could only wonder why he hadn't offered his services impartially to both sides.

The Parent-Teachers Association also considered collecting money to help fight the suit. They said they were interested in getting a fast decision so the schools wouldn't be under a cloud. Later they discovered there was a regulation forbidding their donating to any cause, but at the time one of the P.T.A. officers told her husband of their interest in getting the case settled.

"Fine," he said. "Tell them to collect twice as much and split it with Mrs. McCollum. Then the case should be settled much sooner."

7

Pre-trial Tribulations

THROUGH all this commotion and conflict, Phil Schug stood out like a light over a stormy sea, to me a symbol of hope and serenity. I can never give sufficient thanks but will tell all I can of his part in helping me and the case.

His very decision to help me was a brave one, inasmuch as he had a position to think of, a congregation made up predominantly of conservatives, not crusaders. But he contributed both moral support and actual physical hard work. He went to see School Board people, wrote press releases, fought battles. No matter how busy he was preparing sermons or working on his monthly bulletin, he would always take time out to work on the suit. He made his fight in Springfield against the Clabaugh bill almost singlehanded; all I did was turn the mimeograph machine. His first child was born the day the suit was filed, and he didn't even have time to pace the floor.

Phil, Chapman, and I spent many hot summer afternoons running around town, hunting up witnesses, especially religious spokesmen. One of Chapman's main strategies was to try to

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show that there were many conflicting views among Gentiles and non-Catholics, that you couldn't have a Catholic group, a Jewish group, and then lump all the others together.

We went downtown to look up a Jehovah's Witness spokesman, and way out to the outskirts of town to find a Seventh-Day Adventist. The latter told us he was opposed to the classes, but added, "I don't go on that witness stand even if you subpoena me. I have a city job and I can't take the chance." But he did give us some church literature opposing the classes.

We had a terrible time finding a Christian Science practitioner and finally located a member who said he could read from Mary Baker Eddy but that the practices of his church would not permit him to state his own view or interpret the views of his religion. We went through all kinds of maneuvers to get witnesses. For example, a Mr. Adams called me one day and assured me of his support. Chapman thought it would be a good idea to get some private citizens to state their views, so I set about calling all the Adamses in the phone book to find the right Mr. Adams. I finally located him and he testified for me.

About a month before the trial we went to call on the head of the Jewish group in Champaign. When we reached the building Chapman said to me, "You won't have to go in with us. Just wait in the car." I waited and waited and finally got tired and uncomfortable in the hot car, so I decided to go in and take my chances on being thrown out. I didn't get thrown out; the man looked up at me and beamed, "So this is the little girl who started all the trouble."

Still, despite his approval, he was very noncommittal. He said the instruction classes weren't to the advantage of the Jewish group. They'd always had their Saturday classes for their children, but they did not intend to fight or protest the

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public-school system. We explained that we thought it would be wise to have members of different religious sects explain their religion, so he suggested we see the rabbi, which we did.

There were at that time some disagreements within the Jewish group about which we knew nothing until later. I was later told that a prominent Jewish citizen had approached his rabbi and said, "Rabbi, this case is being fought for us Jews as well as for Mrs. McCollum. I want you to tell the court that we as Jews are opposed to these classes, we don't condone them; they only serve to call attention to differences and are harmful to us." The rabbi seemed to agree with him, so you can imagine his surprise when, on attending the trial, he heard the rabbi carefully steer clear of any controversial subjects and state his position tactfully and colorlessly. After the proceedings another man called him and said, "Didn't the rabbi do beautifully?"

"No," the man said. "He didn't represent the Jewish people."

Throughout the summer, ministers based sermons on the case and discussion groups talked over the problem. I thought the best summary was made by Phil Schug in a pamphlet reprinted in the *Courier*. It began:

"Just what is the real problem behind the suit brought by Mrs. Vashti McCollum against the School Board of Champaign? . . . Only one main issue is at stake—the legality or illegality of sectarian religious teaching in tax-supported public schools during school hours. There is no question of trying to destroy the churches, as has been alleged. There is no question of atheism versus orthodoxy, as some have been led to believe by reporters seeking the sensation or by defenders of the existing system of religious education in the schools. Only one

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question stands out—shall we allow sectarian religious teaching in our public schools?”

The other ministers did not take this unbiased view. One minister made his advance release on a sermon so intriguing that even Mrs. McCollum went to church. This was the Reverend Charles L. Hollis, pastor of the Urbana Foursquare Church, who announced he would answer “Mrs. McCollum and her colleagues.” A friend of mine called and said we ought to go, and at first I agreed, but when the time came I was so tired of being cussed out over the phone I said I didn’t feel up to a public denunciation.

“But you can’t back out,” she said. “You promised.”

“Besides, I don’t have a hat, and you have to wear a hat to church,” I protested.

“I’ll lend you a hat,” she said.

The hat settled it for me. It was a cute red straw with a veil, and I was intrigued with it. So we went to church. I remember it started to rain before we got there, and we got an old bushel-basket top out from the back of the car and held it over our heads as we scurried across the street to the church.

The church was crowded, not so much with townspeople as with stolid, sedate farmers. We sat toward the back of the church, and since I love to sing hymns, I joined in lustily. My friend concealed her amusement with some difficulty as she watched me chorusing with the devout.

It was a long service and it seemed an odd one to me. One thing followed another in rapid succession—prayers by the minister, by the minister’s wife, by members; a trombone solo by the minister; choir singing, congregation singing, and testimonials. And when the minister called for the sinners to come up and give themselves to the Lord, he seemed to be looking

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directly at me. Finally he got down to the business of the sermon.

As he started off on Phil Schug it soon became apparent to me that he was misrepresenting facts. My heart kept pounding so I was sure I'd have a heart attack when he started on me, but I must have become conditioned, because I took my own sermonizing much more calmly. After his diatribe was over and the service ended, I hung back, and when the crowd had thinned I went up to him and said quietly, "I'm Mrs. McCollum."

"I thought that might be you," he said without batting an eye. "How did you like our service?"

"I thought it was very stirring," I said, "and I especially enjoyed the singing. But I think you ought to know that you made many misstatements and misrepresentations."

"Oh well, that's possible," he said. "I tried to get in touch with you to check some of the facts, but I couldn't reach you."

He didn't tell me, but I learned later that he had talked to Phil, and Phil had set him right on the case. Of all the religious and civic groups that held forums, conferences, and discussions on the case, not one asked me to come to their meeting and defend my position. Only one group even approached an invitation. The Kiwanis Club was going to have a panel discussion, and a friend who was a member called me and said that since they were having Mellon to represent the School Board he thought it only fair to have me state my case. I accepted with pleasure. A few days later I was out in the garden when he came over to see me, very embarrassed.

"I'm terribly sorry, Vashti," he said, "but some of the wives objected to your appearing on the program. I told them if you couldn't appear, Mellon couldn't either, and we wouldn't have a discussion."

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As far as I know, that's the way they left it.

Another group that had difficulty getting a two-sided representation was the Round Table of the Episcopal Foundation, at the university. They had Phil to represent our side and had asked a Catholic priest to present the other, but the priest's superior sent orders that he was not to share the platform with Phil Schug.

Another student organization decided to have a debate on the case and asked Schug to come. They also asked if he could suggest anyone to debate the other side. He thought of people available around the campus and finally suggested David Lindstrom, the man who had been such an active fund raiser for the other side. He said he knew Lindstrom was an excellent speaker and he couldn't think of anyone better qualified. The group approached Lindstrom, who, to their surprise, emphatically refused.

"They're not going to make a fool out of me," he was reported to have said. We never did quite figure that one out.

The only meeting we held was a mass meeting in the Unitarian Church on Sunday night, September 9, the night before the trial started. It was Ira Latimer's idea and was advertised widely as a meeting of the "Opponents of the Champaign System" of religious instruction in the schools. Latimer, the Civil Liberties man, came down from Chicago with Chapman, and Schug and I were the other two leaders of the meeting. Aside from us, the opponents of the Champaign system were few and far between. At our own meeting, in fact, we were outnumbered by the "proponents of the Champaign system." Hardly any of the friends of Mrs. McCollum dared to show their faces, but the ministers were there in full force.

The meeting was hardly a sweeping success. Personally, I had some objections to Ira Latimer's approach in his speech.

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Instead of sticking strictly to a discussion of the case, he seemed to use his speech as a recruiting drive for members of the Chicago Civil Liberties Committee. He criticized the townspeople because Negroes were discriminated against by restaurants and boardinghouses—laudable but hardly relevant argument. He also made such statements as, "You people down here don't have guts enough to fight something like this," which hardly endeared him to his audience.

However, the mass meeting was a landmark in a way, as it secured me an apology from one of my most vocal critics. Not everyone, you see, thought I was an agent of the devil. At least one man thought I was merely a publicity seeker. The opponent who made that charge was the Reverend A. Ray Cartledge of the First Presbyterian Church, who had told the press, in commenting on the case, "Some people will do anything to get publicity." What he thought I hoped to gain from the publicity, I don't know. A Hollywood contract for horror films, perhaps, or a chance to travel with Ringling Brothers.

After the prepared speeches at the mass meeting, questions were asked, and someone inquired how the classes had started. I got quite excited and jumped to my feet and said, "That's just what I've been trying to find out, and that's why I filed this suit. I went to the superintendent of schools and he wouldn't tell me, and I went to one of the ministers and he was very rude——"

Phil saw at this point that I was beyond the bounds of my temper, so he interrupted, "Yes, Mrs. McCollum is right, and we'd still like to know the answer to that question. The suit has been filed now, and we might as well lay our cards on the table. If there's anyone who knows the answer, we'd like him to speak up."

He said it very nicely, but he didn't get any immediate re-

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sponse, so he directed the question to the Reverend Herbert Miller. Miller turned the question over to Cartlidge, who got up and made a long speech. He drew a long round of applause, which indicated how the house was packed that night. And he repeated the remark about the publicity.

"Wolf is being cried," he said, "and if I wanted to be nasty I might say this suit is offering some people a good chance to gain publicity."

At that a young man in the audience stood up.

"I'm merely an interested bystander," he said, "but this is an important case. I figured it might assume national importance, and I wanted to hear it discussed. I have not been prejudiced one way or another. But as a result of the last gentleman's remarks, I'd like to make one observation. From the beginning, something has been quite apparent to me. One side seems to have all the support, all the money, all the respectability. The other side seems to have nothing but sincerity.

"Now what I can't figure out is why the side with all the advantages should stoop to name calling. I think the gentleman who just spoke owes the young lady an apology."

The Reverend Cartlidge stood up then, flushed, and said, "I'm sorry." As I was leaving the hall he apologized personally.

I told him I appreciated the apology, that I thought he'd been unfair to jump to that conclusion, because that had not been my reason. From then on he was quite nice. In fact, he is still one of the few Champaign ministers with whom I have a speaking acquaintance. I later inquired who my champion was and was happy to learn he was someone from the university with an excellent standing in scholastic circles.

With this meeting, we came to the end of the preliminaries and the war of nerves and were ready to enter the main event.

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The School Board had filed an answer to our petition exactly one month before, on August 10. We had half expected them to file a motion to strike, which would have meant another delay, but instead they filed an answer. And that was the case that went all the way up to the highest court in the land.

8

The Three-Ring Circus Begins

FROM the beginning our trial was compared to the notorious Scopes “monkey” trial in Tennessee in the twenties, a comparison which infuriated me even though I knew it was partly true. At the start my attitude had been that our job was to stick to the strict legality of our contention rather than to try to alienate people, shock them, or provide scandalous headlines. Instead the case turned rapidly into a three-ring circus, a kind of Roman holiday for the curious, sensation-seeking spectators, and a nightmare for me.

All the way through we felt that the cards were stacked against us. One indication of the kind of tactics our opponents might use was the telephone incident.

We had had the sheriff serve a subpoena on a professor, a faculty member of the University College of Education, who was known to be opposed to religious instruction in the schools. He was a Quaker and did not approve of the system in use. Very shortly after he was served, according to his testimony, he received a phone call.

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"This is John Franklin," the caller said. "I wonder if you know that a record is going to be made of everything you say, and a copy will be sent to the university president."

The professor became very upset and called Phil Schug.

"You have nothing to worry about," Schug told him. "You won't be asked your opinions in the case. You'll be asked what your beliefs are, just as the Seventh-Day Adventists and the rest of us will be asked our beliefs. They want to bring out the fact that there is no such thing as an interdenominational Protestant view, that if a Methodist teacher teaches the Protestant class, she'll teach it as Methodists believe."

The professor did take the witness stand, and one of the first questions Chapman asked him was whether or not he had received a call from John Franklin. Franklin objected. The judge then asked the witness if he had ever talked to Franklin on the phone at any other time, so he could identify his voice. He hadn't, so the testimony was thrown out theoretically; he couldn't be sure that the caller really was Franklin. If we'd only known at the time of the call, we'd have had him call Franklin back.

There were three judges of the Sixth Illinois Circuit Court hearing the case: Judge Martin E. Morthland, Decatur; Grover Watson, Farmer City; and Frank B. Leonard, Champaign. I didn't like the idea of three judges, but Chapman had given his permission before I heard of it.

In the courtroom I took a seat in the back and by myself. A scout leader and his wife sat behind me, and it was like having the cheering section of the opposing team at my ear. Every time the other side scored a point, they would gloat quite loudly enough for me to hear. When the principal, Lakie Munson, gave her cautious testimony, the sterling scout leader exclaimed, "They'll never get anything on her!"

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Chapman and Latimer sat up at the counsel table, and as the trial got under way I had a sinking feeling that things weren't going as I had planned, as I wanted them to go, and that I was impotent to help. I felt that my ship was being lost right then and there.

Most of the witnesses that first day were the ones we had called in order to show the differences in religious beliefs. There was the Reverend John Kaiser from the Lutheran Church, Harold Barcus of Jehovah's Witnesses, Dr. Edwin Reeder for the Quakers, William Bursk for the Christian Scientists. In addition, we had had to call Lakie Munson, Jim's principal; Mae Chapin, the religious-instruction teacher; Superintendent Mellon; Delos Huxtable; Bessie Taylor, Jim's teacher; Sarah Jorgensen, another religion teacher; Father Higgins; and the Reverend Mr. Cartlidge. Although they were hostile witnesses, we had called them and we were handicapped in cross-examining them, since a lawyer can't discredit his own witness. But we had had to call them because we needed their testimony.

The first witness was Mae Chapin, and Landon Chapman questioned her in a way that was amusing to some spectators but didn't increase our popularity any. Among other things, she said she gave religious instructions with the help of the Biblette, a sort of game in which the children had cards with questions on them. One person asked the questions, and the child that knew it or had the answer on his card would rise and the other child would give him the card.

"Well," Chapman asked, "isn't that gambling?"

"No," she said, "it's just a game. It's not gambling."

"Is there any difference between that and playing lotto?" he pursued.

Abe Peterson, a second lawyer from the other side, rose and objected. The objection was sustained.

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One of the things Chapman did was to lead people into making the statement that they considered all religions good, or that they approved of the teaching of any religion, and then he would say something like, "Let us take the Holiness Faith Healers. We have seen their pictures in the papers with snakes around their necks. Do you accept them as being just as good as the Presbyterians?" Chapman frequently brought in the snake worship religions.

But of all the witnesses of the first two days, the one that caused the most sensational headlines was my father, Arthur G. Cromwell. His appearance was the result of the highly inflammatory pamphlet that had first come to Chapman's attention the day we called on Superintendent Mellon. When Chapman told me he was calling my father as a witness, I protested vehemently, for many reasons. My father's health wasn't good and it was an expensive trip for him to make. And then I didn't want to keep house for a guest during the trial. And in the third place, I knew we were in the doghouse as far as many people were concerned, anyway, and I was sure my father's testimony wouldn't improve our public relations.

Chapman maintained that he needed him in order to show the varying beliefs, including atheism, so he could maintain that religious teaching is sectarian. He was basing his whole case on the Ring Case, in which Catholic parents had protested the recital of the Lord's Prayer before class each morning on the grounds that the form of the prayer was sectarian. They had been upheld, and Chapman hoped this case would be a precedent for ours. If he could prove the teaching was sectarian, we would win on the basis of the Ring Case. Therefore, Chapman concluded, my dad was indispensable.

Perhaps he was right, but I knew that my father's testimony

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would induce a flood of unfavorable publicity, and, as it turned out, my suspicions were practically understatements. There were many reasons for my father's conduct in the case: he is hard of hearing, and he was excited and confused; and so he answered things he wouldn't have had to answer about his beliefs. He went far too much into details, said he believed the Adam and Eve story to be fictitious, that resurrection was a physical impossibility, that the flood which brought about Noah's ark was a "scientific impossibility," that "miracles are a violation of natural law," that he considered prayer "teasing God," and ministers "insane . . . to the degree of their belief in the divinity of Jehovah," and finally that he denied the existence of God and was "proud to be an atheist."

It was a line of thinking to which undoubtedly many rational people subscribe, and yet in a small town, in which most people offer a semblance of conformity to religious dogma whether they believe it or not, it set off an explosion. The papers ate it up, of course. The *News-Gazette* reported, "An audible gasp went up as a courtroom crowd, composed largely of churchgoers, received an introduction to atheism, as it figures in the McCollum religious trial."

By this time the papers were calling it a "religious trial," an "anti-religion trial," the "atheism trial," and everything except what it was. That day the publicity was so bad that three of the members of the Chicago Action Council came down to Champaign. They had not intended to come to the trial, although they were backing me, but they were all businessmen and this talk of atheism was bad for them.

One of the three was Milton "Ted" Raynor, who was to become one of the greatest helpers I had during the trial and the actions to follow. An established and prosperous attorney with a flourishing practice, he nevertheless was always willing

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to take time to help me by giving his able advice and his moral support. In spite of his sympathy with me, it was only natural that he was flabbergasted at the headlines.

The conservative members of the Chicago Action Council wanted to withdraw their backing, and the three came down to deliver the message. I sat there and looked at them helplessly.

"But you can't get out," I told them. "We've made mistakes, yes, but they're your mistakes as well as mine. You just can't get out of it now."

They had the others on the phone, and after talking to me, they went back to the phone and said, "Sorry, fellows, Vashti says we're not quitting."

That was characteristic of them all along. What I said went. They tried to help me out of the immediate difficulties. They gave out press releases which emphasized the real issues involved in the case rather than the sensationalism. They did all they could after they arrived to restore order and serenity. I begged them to stay.

Ordinarily I'm not the helpless type, but I felt they couldn't go back; they gave me so much courage. They couldn't stay overnight, they said, so they drove all the way back to Chicago and all the way down again the next morning. Because he was not in his office those days, Ted Raynor lost one of his biggest clients. But it was for a good cause, and they tried to do something to offset the bad publicity.

One of the things they did was to bring down two ministers who opposed religious instructions in the schools: the Reverend Erwin A. Gaede and the Reverend Karl Baehr, both of Chicago. For the first time we had ministers on the stand to tell us, not what they believed in, but what they thought of religion in public schools. However, it was hard to get much

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of this testimony into the records because of the objections from the other side. The ministers were not from our district, they weren't familiar with Champaign, they didn't have children in the schools there. Franklin argued that if we were going to start bringing in people and asking them what they thought, we could ask everyone in the United States and when we ran out here we could start on Europe. He objected frequently and heatedly, and we had known that he would, but the fact that a couple of ministers had disapproved of having religion taught in public schools was good for public consumption even if their opinions didn't get into the record.

I felt that we were moving at least a few faltering steps away from the class of "another Scopes monkey trial."

9

James Terry on the Witness Stand

WHILE the testimony of my father came as the biggest shock of the trial to the earnest, churchgoing spectators, the biggest shock to me was the testimony of Jim's teacher. She said that he "didn't fit" into the class, that he was "never accepted," that he "came to me with a history from his mother of not being able to get along with other children."

There had never been any talk, she said, of religious differences by other members of the class. The reason the others didn't like him was that he "called them names, kicked them and punched them, and spit in their faces."

A friend of mine who was a child psychologist with the University Counseling Service had once asked Jim's teacher about his progress. This was done not because I considered him a problem child, but because I was always interested in the social adjustment of my children, perhaps more so than the average mother. My friend didn't treat Jim as a professional case but as the child of a friend, and as a friend himself, and in that capacity she had inquired about him of his teacher.

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Because this question of Jim's general adjustment had been raised in the minds of the judges, I became very upset and told Chapman I wanted to bring the psychologist in as a witness to tell why I had talked to her and what she knew about Jim. Chapman didn't think it was very important, but I insisted that it was important to me as a mother, so he said I should call her.

Now up to this time few of our friends, except the very closest ones, had said much to us about the case. It was peculiar in a way. We had close acquaintances among the professors and their wives, who would have eagerly talked with us about a baby or a death in the family or a new house. With the case, it was different. They not only didn't mention it, they carefully avoided mentioning it. It was as if they were hesitant to commit themselves. And yet you could tell that it was uppermost in their minds and that there were strained feelings about it. However, the psychologist was a close friend of mine and I had no qualms about calling her.

Instead of getting her on the phone, I got her husband. He said she was in Chicago, and I asked how I could get in touch with her, explaining why I wanted and needed her. He spoke sharply.

"Don't you try to drag us into this," he said. "If Jim's having a bad time, don't come crying around to us. You should have known what it would do to him when you filed that suit, and we don't want any part of it. You leave us out of this."

Crestfallen, I hung up. Naturally I couldn't blame my friend, who knew nothing about it. In fact, when I told her later that I had wanted to get in touch with her, she said, "If I had known, I'd have started walking toward Champaign." That's the sort of person she is. But even knowing that at the

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time wasn't much help. I don't cry any easier than Jim does, but that night I sat down and bawled.

There were many other witnesses, relevant and irrelevant, reverent and irreverent. Phil Schug and I were always tearing out to hunt up some more witnesses for some point or other. We had a feeling, for instance, that such people as the teachers and School Board officials had had so much time to think about what they were going to say that we weren't getting quite the same frank discussion that we'd had in informal conversations with them. Chapman wanted to take some teacher by surprise and ask the same questions we had asked in our pre-trial interviews, so Phil got a cab (a major expense for him, since he was always broke) and set out to hunt one down. But her testimony didn't mean a great deal.

Then there were other extraneous witnesses for the opposite side. Toward the end of the case they brought in a lot of bobby soxers to testify that they hadn't taken the course in religious education but they hadn't been ostracized or discriminated against. This was pretty silly, because the children they brought in were children in junior high, who hadn't taken religious education for other than reasons of principle, because they had band practice or other activities. Also they were all children of parents who were influential in the Methodist or the Presbyterian Church, never the children of Christian Scientists or Jews or Jehovah's Witnesses. None had stayed out of classes because of religious scruples.

Finally it was time for the two star witnesses, Jim and me. Jim had his chance first, at the end of one busy day. The reporters from the Chicago papers kept asking and asking when he would take the witness stand, and finally Chapman said it would be that day. They wired their papers, and then the testimony dragged on and on until near the end of the day,

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when Chapman put him on for a few minutes anyway to satisfy the Chicago reporters.

Jim's appearance made up for a lot of the adverse publicity that had been circulated about him. He stuffed his shirttail into his pants as he walked up to the witness stand, and he was pretty cute as he swiveled around in his chair and answered questions honestly and without any show of nervousness at all. Up to that time his principal occupation had been collecting used flash bulbs from all the photographers and once accidentally dropping some on the floor so he'd had to crawl under the benches after them. The bailiff had come over and scolded him about it. Every now and then he'd make a trip out to the car to deposit his supply of flash bulbs. But when he got on the stand I was really proud of him.

One thing that got a laugh was when John Franklin asked if he had tried to keep his atheistic beliefs a secret.

"Why," he said, "I guess about everyone in the city of Champaign knows about it now."

He also got a laugh when he leaned over from the stand to whisper something to Chapman. As this is against the accepted order of things in courtrooms, the other attorneys objected immediately. Then Abe Paterson, changing his mind, said, "I withdraw my objection. I'm the father of a small boy, and I think I know what he wants."

Jim didn't want to go to the men's room, however. He just wanted to know if he would get back his sample "religious-education permission card" he'd given the Court. But it had been entered as an exhibit.

"Oh, that's all right," he told the judges. "You guys can use it."

Franklin told him he'd get him a duplicate. He didn't, but, kid fashion, Jim soon forgot about it.

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In the fall of that year, 1945, Jim had started back to school at South Side, which was easier for him because the children there were the children of professors and somehow of a different class from those at Dr. Howard, a little more tolerant. Besides that, there were more there who didn't take the religious-instruction classes. At Dr. Howard, black eyes, bloody noses, and welts had been all in the day's routine, but at South Side he was beaten up just once.

I had heard indirectly that, because of my case, the Dr. Howard Parent-Teachers Association had tried to have a rule put through insisting that children attend schools in their own district, which would have put Jim back in South Side anyway. That amused me because it was one of the things I'd always been in favor of, but many of the Board members and fancy townspeople opposed it because it would have meant that their children would have had to go to school with lesser lights in the community. One woman I knew sent her child all the way across town to South Side although she lived only a block from another very good and far less crowded school, but she felt that all the children "from the best families" attended South Side.

"They are the children I want my children to associate with," she told me, "and their parents are the people we want to associate with."

Jim's testimony was all about Dr. Howard School, and I thought he brought out our ideas very well. He testified that he didn't like to sit in the hall or in the music room, that he didn't like being the only fifth-grader not enrolled, and that he hadn't hit any of the other boys before they "beat up on" him.

Two of his remarks were widely quoted. One was that he was an atheist, and that an atheist was "a guy that doesn't

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believe in God, doesn't believe in the Bible, doesn't believe in religion and stuff like that." The other was a misquotation, in which he was supposed to have said—in answer to Franklin's question, "Is it fun to be an atheist?"—"Sometimes it is and sometimes it ain't." I don't know where they got the "ain't," as Jim didn't say it and it isn't included in the court record. But it was printed someplace and then, as those things go, reprinted and recopied a dozen times.

In Jim's testimony, as well as in mine and my father's, much was made of the fact that we refused to swear on the Bible but asked that we be allowed to "affirm" instead. As far as taking the oath was concerned, we were damned if we did and damned if we didn't. There was some question as to whether Jim knew what he was doing by affirming, but he ended that controversy very quickly when Judge Leonard asked him if he understood the consequences of not telling the truth.

"As far as I'm concerned," he said, "you'd be thrown in the jug."

But the part of Jim's testimony that made me most proud occurred in the cross-examination, when he was asked if he had talked to his mother about this case and if she had told him what to say. Jim admitted that he had talked to me about it.

"Aha," said the opposition triumphantly. "And what did she tell you?"

"She told me to tell the truth."

10

"Jesus and Santa Claus"

ALL through the case we had the conviction that the law is so clear we just couldn't lose. It must have been Chapman's conviction, too, that our case was so strong that the risky controversial matters couldn't hurt us. He must have thought, "No matter how they smart and burn, they can't do anything about it, we've got 'em."

But although it seemed as if the law were incontrovertibly on our side, I still wasn't pleased at the way the trial was going. I've never liked to antagonize people, and I hated the position I was in, being on the outs with everyone, disliked and despised all around. I not only wanted the ruling to be in our favor, but I wanted people to understand and sympathize with the principle at stake, and we had definitely lost ground in the way of public sympathy. It isn't pleasant to go into a courtroom and know that everyone is hostile, to know that the friends who are on your side feel that they can't afford to be seen supporting you. That aspect was most discouraging.

There was much delay in getting me on the stand, what

“Jesus and Santa Claus”

with all the extra witnesses and extra testimony, and it wasn't until the tail end of the week's siege that my chance to testify came. I wasn't nervous, but I was worn out. The week had started with that terrible night of the mass meeting at the Unitarian Church. Since the Chicago Action Council men had come down and Latimer had left, I had been sitting at the counsel table with Landon Chapman, and poor Chapman's nervous fatigue didn't help me any.

All sorts of little annoyances kept coming up. While Ted Raynor, of the Action Council, was there, he sat in the row in front of the rail that divides the spectators from the members of the bar. Only members of the bar are permitted to sit there, and when Raynor indicated his disgust by shaking his head at one point in the proceedings, Judge Leonard threatened to put him out, until he learned that, as a lawyer, he was entitled to be seated there.

Every day there were more letters, more wires, more telephone calls. Wires from people in Michigan, in Louisiana, wanting to know when the trial would begin, so they could come on for the event; since it was already going on, we figured it was too late to notify them.

With all these distractions, plus such things as dashing out to get extra witnesses, seeing my son on the witness stand, hearing him maligned, hearing my father's explosive testimony, by the time they got to me I found it hard to keep my mind on what was going on. I had to concentrate hard just to be lucid. At times I'd get vague and hazy and start thinking, "Now, who is this I'm talking to and what am I doing here?" It didn't help me to know that the courtroom was packed and that curiosity seekers were being turned away from the doors. Under such circumstances, anyone wants to appear intelligent,

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but there were times when I felt my mind was a complete blank.

Some things about my testimony do still stand out in my mind. I related the same story in Chapman's first examination that I have told here, how Jim came home from school crying after his exile into the hall, how I went to see his teacher and Superintendent Mellon. Then Chapman, sandwiching the question between numerous objections by Franklin, sought to show that I did not want to have Jim "indoctrinated with religious beliefs."

"Do you desire that doctrine or belief taught to your child while he is at the age of nine or ten?" he inquired.

"Objection," Franklin said, "on the ground that the parents' desires with reference to the matter are not the controlling factor with reference to what the child should himself be permitted to learn."

Now what I would still like to know is what is the controlling factor in what a child is to learn if his parents' desires are of no importance? The desires of one pressure group in the community? The desires of the state? While many of my critics cried "Communist" at me for fighting religion in the schools, to me the idea that the parent has no control over what his child is to learn sounds strangely totalitarian.

One of the other things that still stands out strongly in my mind was slightly amusing. Franklin, in cross-examining me, asked whether or not my husband and I had been married by a minister in a religious service. I am sure he thought we probably were, and he was paving the way to ask me why I hadn't objected to a religious ceremony at that date. The answer, of course, was that I had objected, and so had Pappy, and as a result, we had been married by a civil judge in Chicago. I think my reply took Franklin aback a bit.

“Jesus and Santa Claus”

According to the *Chicago Daily News*, Mrs. Bash, a witness for the defense, and I presented a marked contrast as we “eyed each other curiously” (to the best of my recollection, we did not eye each other curiously or any other way). She was “smartly attractive, her graying hair coiffed into a becoming up-do, and quiet in a matronly way.” I, on the other hand was “comely, brown-haired, a restless person.” Well, I’m glad they called me “comely,” and as to the “restless” part, they were quite right, and John Franklin’s tactics didn’t help any.

There were photographers around all the time, of course, to photograph Mrs. Bash’s matronly quiet and my comeliness, and again I alienated Judge Leonard. He had given orders that no pictures were to be taken of me while I was testifying on the witness stand. I took this to mean while the trial was going on, so proceedings wouldn’t be interrupted, and when one of the photographers asked me to pose in the witness chair between sessions, I went in with him and had my picture taken. Judge Leonard came back and scolded me, explaining he had meant no pictures on the witness stand at any time.

We had thought all the headline fireworks were over, but they managed to bring up something else that the papers fell on with great glee. That was Phil Schug’s comparison of Jesus Christ and Santa Claus. It came about in Phil’s description of the Unitarian method of teaching, in which he said he taught children to challenge the Bible as to truth, and in fact taught them that there is no theory or doctrine that they cannot challenge.

“I teach about witches in connection with spirits. I teach about the birth of Jesus and I teach about Santa Claus,” he said. “The story comes on quite naturally as another folk tale that people repeat.”

This, of course, was too much for Franklin.

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"In other words, you have the same reverence for Jesus as you do for Santa Claus?" he said. "You consider them both just folk tales?"

"The Santa Claus story is not as deeply tinged with religious feeling and not as deeply implanted in the cultures as is the story concerning the birth of Jesus," Phil said. "Otherwise I consider them as both just stories that are quite meaningful to people."

Well, Franklin kept harrying him about the comparison between Jesus and Santa Claus, and then Chapman re-examined him on Jesus and Santa Claus. It was the end of the day, and finally a counsel for the School Board, disgusted with all the ping-pong repetition of question and answer, got up and said, "Can't we just agree that there is no Santa Claus?"

And court adjourned for the day.

There was a postscript to this, however. One of the reporters told me later that Phil had preached to his congregation on the subject one Sunday afterward. He told the congregation that he owed them an apology, that the question as to the comparative proof of the existence of Jesus and Santa Claus had been sprung on him suddenly and he hadn't had time to give it due consideration. Since then, he said, he'd done a little historical research and found that he was wrong. He had found that there was some evidence for belief in the existence of Santa Claus.

The trial lasted five and a half days, and on the last day I got up with a horrible headache. I told Pappy I thought I was going to have an attack of migraine, and actually I felt so sick I could hardly hold my head up, but I got dressed and went to court, feeling pretty wobbly. One of the Chicago Action Council men noticed I was pale green and asked if there was anything he could do for me.

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“I have a terrible migraine headache,” I told him. “Perhaps I could go over to the hospital and get a shot; they sometimes help me.”

At noon recess he went with me to the hospital. We walked about a block in the rain to his car, and then the car wouldn’t start. So we hailed a cab and rode over to the hospital.

“I have a terrible headache,” I said to the doctor as I went in. “I think I’d better have one of those shots.”

“Well, I’m not surprised,” he said, “after the week you’ve put in.”

I told him not to give me a full shot to put me “out,” just enough to give me relief. I stayed there awhile, and we kept the cab waiting outside with the meter running, so we’d be sure to have it to get back. For a person who has to watch finances as I do, that worried me almost as much as the migraine. The Action Council men let me rest up in their hotel suite that afternoon, and eventually I felt better.

Because of my absence, I missed much of the summation that Chapman and Franklin gave that final afternoon. As the papers reported, everything was argued, from the legal doctrines of *de minimis non curat lex* (the law does not take notice of trifles) to the feeding of hogs.

The hog analogy came up when Chapman said:

“When we begin to let the churches use school funds, we are letting them feed at the public trough. And when we do that, it means the beginning of the end for most churches. Like pigs at a trough, the little churches will be crowded out by the big ones and eventually we will have only one church left. Then we will be back to the dark ages with a union of the church and state.”

Franklin replied that he found the analogy “inappropriate as to taste.” Nevertheless, he said, “This is a corn-belt country

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where we know little about atheists and much about hogs. We know that when pigs are fed at a trough, one alone does not get fat. They all do. . . . So, if we must use this analogy, I say let them all grow fat at the trough together."

Franklin contended furthermore that atheism was an issue in the case, which we denied, and Owen Rall, one of his associate attorneys, called the phrase "separation of church and state" a "shibboleth." Both of them contended that Jim had not been embarrassed; no more, Franklin said, "than a Catholic boy when he passes up meat in the school cafeteria on Friday, or a Jewish boy who declines pork."

"This is a Christian nation," Franklin declared (evidently having never read George Washington's statement to the contrary). "We have oaths in our courts, Congress opens with a prayer, and so do our legislatures. The Christian religion is incorporated into the warp and woof of our government. Mrs. McCollum has no religion, and so there can be no violation of her religious freedom."

So the trial ended, and the McCollums and the Chicago Action Council men went back to our house to rehash the closing arguments. Clearer than any of their remarks, and to me more appropriate than anything said at the trial by either Chapman or Franklin, I recall the statement of our Action Council friend:

"I may be Jewish," he said, pounding his fist to his palm, "but by God, Vashti, I'm not a Jew, I'm an American!"

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Christian Halloween

WHEN the trial came to an end, we expected we'd get a decision in a couple of weeks. But then the judges asked for briefs to study, and we knew it would take much longer. Actually it took four months, from September 1945 to January 1946, for them to reach their decision. Many things seemed to hold them up, first our brief and then Franklin's brief. There was talk of printing ten thousand copies of his brief for religious distribution. "It looks like I'm the author of a best seller," he joked.

But there was plenty for me to do in that interval between the trial and the decision. First of all, there was the mail to answer, and that is a story in itself, which I shall get to later. In addition to letters, there were other comments to read concerning the case. The collection of funds for the defense of religious education in the schools had reached a new high. The Reverend H. Clifford Northcott of the Methodist Church had stated, in a magazine article, that the McCollum case showed "the need for legislation" for religious education in

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the schools. Various columnists and commentators post-mortemed the case back and forth.

Far more important to me at the time was our big crop of tomatoes, which we started canning as soon as the trial was over; we canned over two hundred quarts of tomato juice alone. Also, in late September, I went back to school and began taking some pre-med courses. All in all, I was busy, and you might say there was never a dull moment around our house.

Certainly there wasn't around the telephone. The calls kept up, as continually and as nastily as before.

"We know what kind of a mother you are!" a woman screamed at me when I picked up the receiver one day. "You used to tie your children to a tree and leave them all day."

"That's not so," I protested. "When the boys were toddlers I sometimes tied them to the tree out in front, so they wouldn't run in the street, but I never left the premises." (I got very serious and upset over these ridiculous charges in those early days.)

"We know better," the woman said. "We have a friend who's one of your neighbors and she's told us."

"Well, what's this friend's name?" I asked. "And what's your name?"

"That's not important," she said.

"It's very important to me," I told her. "When I had a complaint I went to court and signed my name. You can do the same."

The phone calls were bad enough, and so were some of the letters, but the biggest attack on us came in person the Halloween night after the trial.

Halloween is the season for pranks in this vicinity, as it is everywhere, I guess. The pranksters are around every night for

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nearly a week before they climax their activities on Halloween. Nightly we were serenaded by the teen-age crowd singing, "Onward Christian Soldiers," which seemed to be the theme song of the hecklers.

"ATHIST" was scribbled on the windows of the family Chevy and on the windows of the house, its misspelling indicating either that an "atheist" was too recent a being in Champaign to be known or else that the schools could have spent some of that religious-instruction time in spelling drill.

The night before Halloween the callers became bolder and after the usual serenade came up and banged on the front door. Pappy and I had just stepped out to mail some letters, leaving the heavy oak door ajar. Banging against it, several of the invaders were surprised to find themselves inside the house. Jim, awakened by the commotion, ran downstairs, sized up the situation, and passed out the "treats" so they would go away.

The next day was a bad one right from the beginning. I'd been fighting a cold and sore throat and was miserably sick. Danny had been in the hospital recovering from an appendectomy, and we went over to bring him home in the afternoon. That evening Pappy went to a lecture—ironically enough, Ely Culbertson on "World Peace"—and Jim and Errol went Halloweening around the neighborhood. Danny and I, the two sick ones, were kept busy handing out treats to the small fry who kept our doorbell ringing continuously.

Errol came in early and went to bed, and shortly afterward Jim came in also. While I was upstairs, making Danny comfortable for the night, a large group of serenaders came around. When they rang the bell I started down the stairs to get more treats ready, as our supply by the front door was exhausted. Jim was struggling out of his costume before answering the

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bell. Promptness is imperative in answering the bell, as the youngsters are usually impatient to start in on the tricks. Realizing this, I grabbed the rest of our wartime hoard of candy and dashed for the door.

As I opened it I was met by a shower of everything the victory gardens had to offer that year. Rotten tomatoes smashed against the walls, splattered in my hair and over my clothes. Huge cabbage plants, roots, mud, and all, came careening through the open door and into the living room.

Weakened by fever and exhausted by the activities of the evening, this was the last straw for me. I called the police and they arrived shortly. All they did was pick up a cabbage or two as they walked out and suggested that perhaps they'd better drive around the block a couple of times. Naturally it was too dark for them to see or identify anyone. All the time the hoodlums were concealed in the shrubbery in front, so when I went out to shake the throw-rug free of debris, I was greeted by, "So you don't like it? You had to call the police, you atheist," and much more. There were teen-agers' voices among them, but they were liberally fortified by adults.

All was quiet for nearly half an hour, and then they returned again, singing, "Onward, Christian Soldiers." There was no doubt it was the same crowd, so I didn't answer the bell. Whereupon they determined to push in the door, probably thinking it would give as easily as it had the night before. Disappointed in their first attempt, they would start out at the street and with a running start ram against the heavy oak door with such violence that our whole house, a stone one, seemed to shake.

All three of the boys were awakened and frightened by this mob violence. I didn't dare open the door but waited out the storm, and eventually they left after piling trash and leaves two

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feet high on our front doorstep. Our pet kitten disappeared, too, that night. Poor pagan pussycat, even she had to pay for belonging to a family of nonconformists!

The local papers always carry a story on the previous night's Halloween activities. While the *Courier*, accurate as usual, reported the attack under the head "McCollum Home Target," the *News-Gazette* reported call after call from the police records but not the call made by me.

The item in the *Courier* didn't go unnoticed. An august professor at the university read it and called my husband to "apologize for the community." He then called three or four ministers of the largest churches in Champaign and explained what had happened and strongly urged that they deliver a sermon on the assault, expressing as vehement an opposition to such tactics as they had previously to me and my suit. Unfortunately, the ministers were unable to do this, as their services had all been planned in advance. As far as I know, no mention of it was made by any of the clergy to their flocks.

One minister, however, saw to it that his congregation heard of the goings on of this fine group, the products of that highly moral religious education, who had apparently profited so richly from those precepts, "Love thy neighbor as thyself" and "Do unto others as you would have them do unto you." That minister, of course, was Phil Schug, and he reported it all—the barrage of "fruit of doubtful value," the plight of the police who "found high-school youngsters hard to find in the dark."

His heading of it was especially appropriate.

He called it simply, " 'Christian' Halloween."

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The Power of the Press

THE day we went over to file the suit, I, in my great innocence and ignorance, said to an attorney with whom we filed it, "Do you think I should write up anything and take it to the local newspapers? Or will they be notified that a suit is being filed?"

He looked at me a little pityingly.

"I don't think you'll have to worry," he said. "I think they'll probably hear about it all right."

In the three years that followed, I often had occasion to think of this naïve early hunger for a small crumb of publicity for my bold venture. Without once attempting to save newspaper stories, without subscribing to a clipping bureau or hiring a press agent, I amassed four thick scrapbooks of clippings, most of which were sent to me by readers. I saved only the local clippings and those sent to me; had I saved everything that was printed about the case, I would have had to build a wing onto the house to hold the library.

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In many instances I got what the theatrical trade refers to as a "good press"; in many others I received a thoroughly bad and biased press. To my mind, a good newspaper is one that reports facts correctly on the news pages and expresses its opinion on the editorial pages. But by misleading headlines and by emphasis on sentiment-exciting phrases and quotations, some papers managed to distort the facts. And not only the facts, but my features. Pictures were posed to put me in the poorest light physically as well as figuratively, and in some instances I could tell by comparing reproductions of the same picture that some had been retouched—usually until my nose, a prominent feature anyway, looked like a beacon light.

As I have said before, the two local Champaign papers provided the best contrast in journalistic methods of dealing with such a highly controversial subject as ours. For a term paper in a graduate course in sociology, Phil Schug submitted a thesis on "The Efforts of the Local and Chicago Metropolitan Press to Form Public Opinion in the Case of Mrs. Vashti McCollum vs. the Board of Education of School District 71, Champaign County, Illinois."

It was an excellent and revealing study, especially of the local papers. One of the things Phil did was to contrast the headlines covering similar news material prior to the trial. Some of them were:

	<i>News-Gazette</i>	<i>Courier</i>
June 12	Religious Education Test Suit Filed Against School Board	Religion Class Ban Re- quested for Champaign
	Mrs. M'Collum Sues To End Instruction	

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	News-Gazette	Courier
June 14	Mrs. M'Collum's Father's Petition Stops New York Religious Classes	Religious Classes Stopped On N.Y. School Property
June 17	Ministers Outline Position	Free Schools Lauded
	Religion Is Part of Life, Rev. Cartlidge Tells Presbyterian Congrega- tion	Unitarian Pastor Sees Separation Essential
	Schug Declares Only Point At Issue Is "Le- gality" Of Instruction	
June 18	School Board Asks Dis- missal of McCollum's Move to Ban Bible Study	Dismissal Asked in Re- ligion Suit
	Says Petition Not Quali- fied Before Court	Franklin's Reply Denies Individual Can File Contest
June 28	Clabaugh Says "Com- munist Atheists" Slow Religious Teaching Bill	Religion Bill Given Senate After Hearing
Sept. 9	Christianity vs. Atheism Clash Opens Monday In Circuit Court Here	"Released Time" On Trial

As Phil pointed out, the *Courier's* headlines in most instances summed up the core of the news, dealt with "the

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central issue or import of each news story in a dispassionate way." It seemed to Phil and to me that the *News-Gazette*, on the other hand, slanted headlines and in addition made lavish use of names, a technique that tended to confuse issues with personalities. The last headline, "Christianity vs. Atheism," Phil pointed out, "is a clear example of the use of emotion-freighted terms in the identification of an issue."

While the news stories themselves, for the most part, reported the news, they repeated certain stock phrases and ideas, and, as Phil's thesis states, the *News-Gazette* article of June 14 set the key for their stand in the case by declaring:

Mrs. McCollum, a self-styled atheist, who lives at 1118 West John Street, said in a petition filed late Monday afternoon in Champaign County Circuit Court that "religion is a chronic disease of the imagination contracted in childhood" and that her son, James Terry, 10, has been "embarrassed" by being the only child in his sixth-grade room at Doctor Howard School who does not participate in weekday religious education.

And on June 15:

Describing herself as a "rationalist" or "atheist," Mrs. McCollum charges . . . that her son, James Terry, 10, has been "embarrassed" by being the only child from his grade not participating in religious courses.

And on June 17:

In her petition for a writ of mandamus, Mrs. McCollum describes religion as a "chronic disease of the imagination contracted in childhood . . . born of fear, ignorance, and superstition."

These phrases—"chronic disease of the imagination," "rationalist or atheist," and "embarrassed"—were used repeat-

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edly by the *News-Gazette* despite the fact that the word "embarrassed" does not appear in the petition for mandamus and that the quotation regarding religion is not mine but comes from my father's pamphlet. The pamphlet describing religion as a "chronic disease" was included with our petition, but nowhere in the *News-Gazette's* stories was the true authorship acknowledged. Instead these emotionally loaded phrases were parroted over and over by them, and in turn sent all over the country by news wire services.

The *Courier*, on the other hand, not only reported the news without bias, but gave me a hearing and an opportunity to express my views. Schug quoted some of their story, titled "Mrs. McCollum Tells Why," an early interview with me, in which they said:

Vashti Cromwell McCollum is a novice at jousting with convention, but already she knows that it begets stings, but is not deterred.

Mrs. McCollum neither talked nor looked the part of a social reformer out to upset conventions.

"My father and husband have always talked more about religious issues than I have," she explained. "I usually have avoided discussing religion. I've found it's the best way to lose friends."

Among the out-of-town papers the treatment was also divided between the two camps. The *Chicago Herald-American* used such headlines as "Anti-Bible Mother On Stand Today" and "Children Plead to Study Religion." In addition, a *Herald-American* photographer persuaded my father and me to pose for some highly unflattering pictures. Much against our wishes, he talked us into assuming militant stances, arms flailing, et cetera, although I assured him such was not my normal way of behavior.

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"It's all right," he assured me. "These won't be used for publication. I just want to get some character studies."

His "character studies"—and horrible ones they were, too—appeared a few days later in the *Herald-American*.

On the other hand, the *Chicago Sun, Tribune*, and *Daily News* all did relatively unbiased reporting jobs, and all three supported me editorially, to a greater or lesser degree.

I am proud to say that one of the newspapers strongest in the support of my case was the *St. Louis Post-Dispatch*. Characteristic of its attitude of treating the issue at stake, especially the long-range, nation-wide issue, rather than my personal beliefs, was an editorial which ended:

The public school is no place to teach sectarian beliefs. Denominational teaching is the responsibility of pastors and parents. The places for it are the church, the Sunday school, and the home. . . .

One of the greatest blessings of the American people is that they have not been blighted with strife and hatred in the name of religion to the degree which has caused so much suffering over the world. We hope Mrs. McCollum will be upheld, not because of her disbelief but because of her right to it. If she is not free to bring up her son according to her convictions, then other parents are not secure in their freedom to train their children in their beliefs.

Mr. Irving Dilliard, of the *Post-Dispatch*, in a lecture he gave before the League of Women Voters of Champaign, took the opportunity to congratulate the community for the presence in its midst of a woman who had successfully fought a courageous battle to preserve religious freedom in this country. The following morning Mr. and Mrs. Dilliard and their two daughters honored us with a call. A devout Christian, Mr. Dilliard had supported my case from the beginning. Before the final Supreme Court decision he sent a journalist to Cham-

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paign to interview me, and the story was run in the *Everyday Magazine* immediately after the decision.

Very often people would send me clippings from out-of-town papers showing me curious juxtapositions of news stories. Several papers that were sent to me, usually Southern or small-town newspapers, placed in adjacent columns the headlines "Woman Seeks To Halt Religious Course in Schools" and "Rain Soaks Parched Georgia Earth After Special Prayer By Over 600 Townspeople."

In another case, in Mobile, Alabama, my story headed "Curious Crowd Horrified By Testimony of Atheists" was printed directly under a picture headed "Snake Cultist Buried," a picture showing a Tennessee member of the Church of God who had died as a result of snake-cult ceremonies. The person who sent me the clipping wrote alongside it, "Nobody, I judge, is horrified at snake cultists."

The type of stories and editorials printed were reflected in the newspapers' mail columns. Small towns, in which editorials pointed with alarm to my case, drew horrified letters from their readers. City presses, which stressed the legal issue, were likely to receive and print numerous unbiased letters on the real issue at stake. But our news went far beyond the towns and cities of this country. *Stars and Stripes*, southern Germany issue, for army men overseas, printed a letter from a private who disagreed with me and an answering letter from a "Free-thinker." The soldiers were soon treated to a regular barrage of letters, which were reflected in a great deal of overseas serviceman mail I received. One letter writer thought I ought to have my head examined. Another differing rather sharply from the first, quoted my father's pamphlet, ending his letter:

" 'A chronic disease of the imagination contracted in childhood'? Give that lady sixty-four dollars, Doctor!"

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The case also attracted newspapermen other than straight reporters. An editorial in the *Saturday Evening Post* referred to the case and thus stimulated a rather interesting bit of correspondence between my father and one of the associate editors. The editorial pokes fun, in a not particularly malicious but not particularly kind way, at Jim, identifying him but not mentioning him by name. It ridiculed him for suffering embarrassment at the hands of his classmates, pointed out that free-thinkers should be "made of sterner stuff," that he should "dare to be a Daniel, dare to stand alone," unless he wanted to end up as a choirboy.

My father, in a lengthy letter to the editor, explained the background of the case and said in part:

"James Terry was a Daniel and dared to stand alone—but it was awful hard for a little feller only ten years old to have the teachers look at him in questioning ways and even urge him to fall in line. Likewise it was hard being locked up all alone in that little anteroom between a main hall and a ladies' toilet. Like him, I am sure that you too would have approached your parents and asked them to let you take the religious course. ANYTHING to be saved from such humiliation. And, kid fashion, I think that you too would have been curious to see the pretty pictures of China the other kids told you the religious teacher was showing them. . . . Mr. Editor, Daniel only had to stand alone and face lions, but this little lad had to stand alone and face the jibes and ridicule of both school-mates and some of the teachers.

"You tell me, why did not his parents permit him to take those lessons? Would you permit your child to be taught Shintoism if it just so happened that an organized minority of the community were Japs or believed in that particular form of superstition?"



*Vashti Cromwell McCollum
savors her U.S. Supreme Court victory
March 8, 1948*



*Baby James Terry McCollum (Jim) with his parents John and Vashti,
June, 1935*



James Terry McCollum with his maternal granddad, Arthur G. Cromwell, on a Sunday afternoon, October, 1936 in Rochester, New York

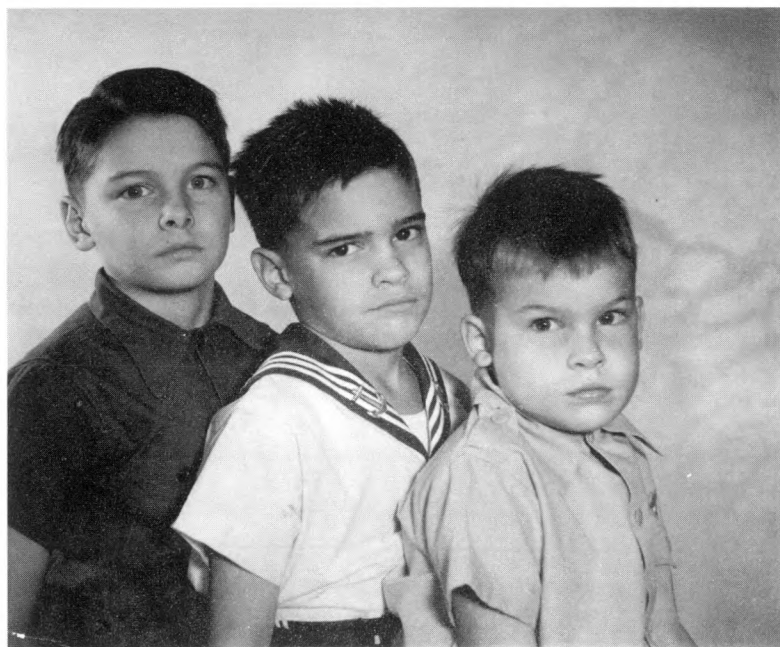


Ruth and Arthur Cromwell, Vashti's parents, in their office in Rochester, 1946



The McCollum residence, 1118 West John Street in Champaign, Illinois, summer and winter scenes. This was home for the McCollum family from 1937 to 1971.





James, Dannel and Errol, 1943



James (Jim) and his mother in court, 1945



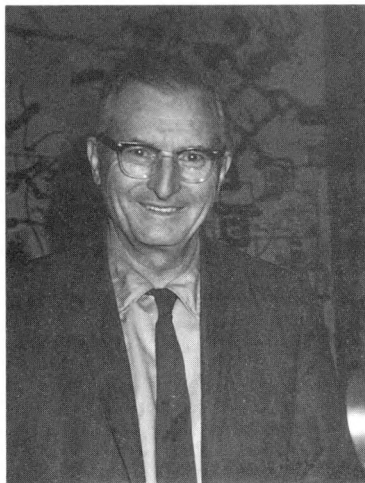
Attorney Landon Chapman (left), Arthur Cromwell and Vashti McCollum, Circuit Court, Urbana, Illinois



The McCollum Case reaches the United States Supreme Court, December 8, 1947. Attorneys Edward Burke, (left) and Walter Dodd argued against teaching religion in the public schools.



Three noted freethinkers pose in the early 1960's: author Paul Blanshard (left), Vashti and Roy Torcaso. Torcaso vs Watkins (1961) affirmed the constitutional guarantee that there must be no religious test for public office.



Prof. John McCollum ("Pappy")



Errol, Jim and Dan McCollum, August, 1992. Errol is in business in Moline, Illinois, Jim practices law in Rochester, New York, and Dan is mayor of Champaign.



Vashti

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The result of my dad's letter was a nicely worded apology and a request for further information so that they would be better informed concerning the case.

Columnists, as well as national magazines, made capital of the subject. Elsie Robinson accused me of "being a smarty and commanding the spotlight," and (the expression is hers, I assure you) "throwing spitballs at God."

Elsa Maxwell, on the other hand, regretted that Clarence Darrow was not still alive to defend me. She said, further:

"Mrs. McCollum is undoubtedly right when she says this religious training in public schools makes for discord rather than harmony. I remember hearing of fist fights and name calling among the groups as soon as they were out of teacher's sight.

"To me, it has always seemed queer that people believe a particular way of worship will get them nearer the gates of heaven than their neighbors. I can't understand a God who would be so finicky.

"I was brought up on the principle of 'being concerned with man's relations to man rather than man's relation to God'—and if there is a God, it seems to me, He'd be more concerned about that too.

"It will be interesting," she ended, "to see how the rights of the minority (in this case a minority of one) come out."

Another columnist who aroused the ire of a great many of my supporters was George E. Sokolsky, who wrote three very hostile columns about me; the *News-Gazette* titled them, "God On Trial In Champaign Case," "Sokolsky Cites Real Issue In Champaign Case," and "Champaign Case Is Attack on God." There is something in every sentence of every column open to question, both as to fact and opinion (as to fact, Sokolsky credited Ed Borman of the *News-Gazette* with

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supplying the “facts”). Typical, however, was the opening sentence of one column: “I was minded of the Book of Esther in which Queen Vashti is portrayed as an angry and vengeful woman, when I read of Mrs. Vashti McCollum,” et cetera, et cetera. Schug, in this case, wrote a letter to the editor in which he pointed out that Vashti, according to most Bible translations, is scarcely an “angry and vengeful woman.” The accuracy of that statement is typical of the accuracy of Sokolsky’s other information.

Religious publications differed as much as others in their attitudes toward me. The Catholic publications were uniformly bitter throughout the fight, the Lutheran and many others in my favor. The Religious News Service, which reported in a factual way, did a good job of treating the case fairly and always sent me advance copies of their news to check for error.

The *Christian Science Monitor* asked me to write an article for them. We compromised on a “Letter to the Editor,” in reply to which I received considerable correspondence from its readers. The *Churchman* headed its interview with me, “Mrs. McCollum Had Convictions”; my mother couldn’t have written a finer tribute.

Dr. Northcott’s article in *The Christian Advocate*, in which he said our case proved the need for legislation favoring religious education, met with some opposition. One of the best letters on the subject was written by an Ezra Parker Whitton of Los Angeles, California, who had been fighting the problem of religious education in public schools for fifteen years and wrote, in part:

“Dr. Northcott assumes to have the world believe that the teaching of religion in the public schools is non-sectarian yet he knows that the Roman Catholic priest who sat near him in

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your trial would not tolerate the use of the Bible in the public school. Since the only cure for sectarianism is the Bible itself, Dr. Northcott's whole article is strong for sectarianism. He wants religious teaching that is not according to the Bible and which the Bible condemns. Dr. Northcott would brand Jesus Christ as a member of 'a godless minority,' for Jesus refused to join Himself to any earthly state. He has instructed His followers to be good citizens but not to join His church with any state."

As the trial went on, the *News-Gazette* continued its standards of headlining and reporting. Just before the decision they headlined a story, "Pagan, Atheistic Schools Decision Up to Judges." When Phil Schug advocated the use of a marriage service which made no reference to God, for those persons who desired it, the *News-Gazette* misinterpreted him with the head, "Schug Would Eliminate God From Marriage Ceremony." When the Latimer Case, a Chicago case similar to ours and running more or less concurrently, went down in defeat before the Illinois Supreme Court, they headlined it, "Court Upholds Religious Education Classes," and subheaded it, "Seen as End to M'Collum Contention."

All of this prejudice and emotional toning was irritating, but occasionally there was some misstatement so ludicrous, so ridiculous as to lighten the entire dreary picture of misrepresentation. Such a one was the report of my being asked, "Then you are an atheist?" to which, according to them, "Mrs. McCollum replied, 'I praise God that I am.'"

Honest, I never said it. Honest.

13

Fan Mail

You slimy bastard
May your rotten soul roast into hell
Your filthy rotten body produced three
children so that you can pilot them all
safely to hell
You are as stinking as a load of —.

THAT was one of my fan letters. It wasn't the worst one, by any means. Some of them were not only unprintable, but unspeakable, unwhisperable, unimaginable. Filth, bitterness, sadism, hatred—and all of it in the name of Christianity.

During and after the trial we were swamped with letters, sometimes as many as two hundred a day. We opened them and sorted them in piles of "pros" and "cons," and in the beginning I tried to answer them all. Finally it got so hectic I could answer only the "pros," and then it got still worse, so with the aid of a girl, who had asked if there was anything she could do to help, I sent out a form letter to the "pros," thanking them for their interest, explaining the issue and the com-

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plications, and leaving enough margin at the bottom of the letter to write in answers to specific questions.

Letters came addressed to me in every way imaginable, some vulgar, some laughable. To list a few:

Mrs. Vashti McCollum, atheist, wife of Univ. of Illinois Professor; Mr. James Terry; Prossifor Vashti McCollum; Mrs. Vashti McCollum Mandamus; Mrs. Vashti McCollum, one who has case in court to bar the Holy Bible Being taught in school; Prof. Vashti McCollum, U. of I. Chi or Urbana, If Not U. of Ill try & locate; Mrs. Vashti McCollum, atheist parasite on a Christian culture; Mrs. McCullum, Famous for the Suit against the School Board; Mrs. Fanatic McCollum; Vass tie McCollum; Mother of embarrassed school boy; et cetera, et cetera.

In addition, they were addressed in care of the University, Chicago Action Council, Board of Education, Circuit Court, Rev. Philip Schug, Arthur Cromwell, School of Agriculture, Post Master, News-Gazette, Society of Free Thinkers, Landon Chapman, The County Judge, Professor McCollum, and the Reverend Ray Cartlidge.

"I wonder," Pappy said one day, "what would happen if you got a letter addressed in care of John Franklin."

"We'd probably never know," I laughed.

That very day a letter that had been addressed in care of John Franklin was forwarded to me.

The poor mailman whose unfortunate lot it was to cover our block tottered up to the door each day with our mail held together by a strap.

"I'm so sorry," I would say futilely to him.

"Well," he said philosophically, "it won't keep up forever."

"I certainly hope not," I'd say wearily.

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Frequently there was postage due on letters, once I recall, as much as sixty cents on a single batch of mail.

It is impossible to cover all of the more than six thousand letters I received on the case—ranging from billet-doux to dilly boos. But perhaps we can hit the highlights.

To begin with, there was a certain definite pattern that many of them followed. I noticed, for example, that whenever I received a letter that was neatly written or typed, on good stationery, with a return address or a signature, it was very likely to be a letter in favor of my stand, written by a doctor, a lawyer, an educator. When the letter was scribbled in pencil on ruled notebook manila or on a dirty scrap of paper, put in an unmatching lavender envelope, and anonymous, chances were it would be a vitriolic attack, not on the merits of the case or the real issue, but on my lack of religion.

There were more letters in my favor than opposed to me; in fact, three-fifths pro to two-fifths con, but since it was the “con” letters which horrified and agitated me most, I’ll deal with them first.

For example, there were such communications as the one from a kind Christian who said:

“I hope you loose every cent you and your husband have, and are tared and feathered and rode out of your community on a broom stick.” It was always “tared” and feathered, for some strange reason. And as simple as their spelling was, their punctuation was even more so, to the point of being non-existent. Thus a typical continuous condemnation:

“Rats like you should be put on the firing line to be shot you are a disgrace to our nation you dare to raise your ugly voice in protest you should be run out your whole family you pug nose ugly face you your old man kid and husband and

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every other communist should be driven out of this country at once you the scum of the world you ungrateful unworthy this country is not for you you dirty lousy thrash out with you."

A raving, ranting letter began:

"To Vashti, Judges, Protestors, of any species

"There is no room for you nor yours here.

"God damn you sons and daughters of bitches

"Our Public schools, courts, governments belong to the abused tax paying parents. We are Ruled By Our God. We Live By Him, work, eat, sleep, and die For Him! If you think you can boss us around. What fun We are going to have.

"You would look so cute without an eye to offend you and without a tongue to offend me and mine . . . We will make some lovely incisions in your filthy bellies and pull out those nervy Guts one by one, slow and easy. Just like the awful treatment you worldly ones have meted out to us generation after generation."

There was much more of this insanity, and it ended:

"Go to hell! Do you know us? We are the Catholics Of This World. Viva Jesu!"

A woman evangelist had the habit of dropping in to see me occasionally and talking to me. She'd "Honey" and "Dear" me, and when she thought I was softened up, she'd try to convert me. One day I showed her some of the letters I'd received from some of these "religious" people, including many that were unprintably obscene. I watched her face turn a dull brick red as she went through them.

"Oh, honey," she said finally, in a shocked voice, "no Christian ever wrote these letters."

"Well, it's a cinch no atheist wrote them," I laughed.

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"Satin has a reward for Sin," wrote another. "The wadges of Sin is Death.

"Only fault with America," it continued, "is our Forefathers did not Put in our constitution that all living in this country worship the God of Heaven and Earth Radeating the Lord Jesus Christ."

Like John Franklin, many people seemed to be under the erroneous impression that the Christian religion was established for this country.

"Anyone who tries to hinder our basic rights should return to the country from which they came," wrote another. "In your case, Palestine ought to be the ideal place."

A letter from St. Cloud, Minnesota, urged me to go to an educational institution and absorb some elementary education. It ended with a P.S., a message with an arrow directed at a square which had been cut out of the page. The message read: "We took the liberty of cutting out the above signed names, because a stupid individual like yourself would probably take this letter to the Supreme Court to sue for *liable*."

A "Christian School Teacher" from Peoria, Illinois, wrote, "I would like to ask you why you don't file suit against the United States for allowing the words 'In God we trust' to be stamped on the money you and your kids have to use."

Chapman, whenever that particular question about the motto on money came up, as it did regularly, used to delight in saying, "You notice that motto is only on the silver money, which is good anyway. On the paper money, where trust is needed, we rely on the United States Government."

As ignorant as some were of the actual provisions of the Bill of Rights, many were even more appallingly ignorant of the facts of the case itself. It was not a "law suit between God and the Devil," as a man from Rockford, Illinois, insisted, but

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most adverse letters assumed it was. I can honestly say that there were in these letters no arguments against the actual merits of the case, nor any intelligent discussion of the advisability of religious instruction in the schools or its constitutionality or unconstitutionality. On the other hand, the ideas they misconstrued!

"What is your motive in getting this law passed?" asked a high-school student in Throckmorton, Texas. "What made you do such a thing as appeal to Congress?" another asked. "I am surprised at Washington's Justice of the Peace," said a third.

"We are a Democracy and in a Democracy the majority rules. The majority of people believe in Religious Education so why don't you shut your big mouth you old bag." (The majority of the people of this country do not attend church; whether or not they would approve of religion taught in the public schools should not alter the Bill of Rights, designed to protect minorities.)

There were, of course, many writers who believed—also with no basis of fact—that lack of religion goes hand in hand with crime. There were letters comparing me to Hitler ("And Ware is he today?" the writer asked indignantly), to Tojo, Mussolini, and Stalin.

The form of some letters was as fantastic as the contents. A man from British Columbia wrote a thirty-five-page letter in green ink, punctuated and underlined in red ink. An interior decorator in New York wrote me in fashionable, back-slanting handwriting on expensive stationery, telling me that on the twenty-fifth of each month a mass would be said for me at her request. And a letter from St. Petersburg, Florida, was signed by seventy women, telling me they were praying that I would

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repudiate my views. A man from Newark, Ohio, whose strange symbolism I never did fathom, wrote:

My dear People——

I will say a hello to (You), I write this letter
to (You) because I want to send (You)
(—→GOD'S HOLY WORDS.)

Do (You) go to Church?? Do (You) go just to (—→
HEAR)——

God's Holy Words? ?
Can (You) say (You) are SAVED?
Can (You) say (You) are a Christian?

Frankly, (I) never could figure it out.

A fancy card that took much thought and labor had the entire front covered with the Bible verses about Vashti. On the address side was a picture of me, a cross, and a religious symbol, and my name neatly clipped from a newspaper article. Under my name it said, accusingly: "Vashti—one who drinks."

My appearance, my intelligence, and every phase of my personality was subject to insult. A Los Angeles "fan" wrote, "I cannot expect much intelligence to lurk behind those vapid eyes of yours, nor your wide and slightly silly mouth." From Chicago someone wrote, "I note by your photograph that your face is as ugly as your nature. I suppose like other atheists you are the type that must broadcast their 'superior' intellect."

There were many who wished me ill. Said a writer from Ocheyedan, Iowa, who wanted to take care of all possibilities: "On you I place a CURSE for all time. God will soon punish you with SICKNESS, PAIN, POVERTY, great UNHAPPINESS, and terrible REVERSES." Aside from the poverty, which is a fairly regular condition with the families of university faculty members everywhere, none of these conditions have materialized.

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A great many critics cast aspersions on my marital status and my son's legitimacy.

"I wonder if you are married legally or common law," one such letter asked. "You probably had your child before you married if you are married. What you need is someone to beat the hell out of you."

On a homemade postcard, a cut-out scrap of paper, scribbled in pencil, came a suggestion for James McCollum advising him, "Your mother is no good. Run away to another city. Take another name. Go to the Y.M.C.A. they will give a good home to you."

"May your skin burn with an itching you cannot overcome," said still another ill-wisher from Camden, Arkansas. This one, I must confess, had more significance than any of the other curses. You see, I was suffering from hives at the time it arrived!

Not all the "con" letters were vicious. Some complimented me in peculiar ways. "I think you crave being before the public—to flout what you think is an attractive body," wrote a "Well Wishing Friend" from Madison, Wisconsin.

"Like the old woman that kissed the cow, everyone has a right to their own notions," a sweet old lady of eighty-eight in Cornwallis, Oregon, wrote. "But as I see it, if in the end I am wrong I still will be as well off as you, but if I'm right I will be miles ahead of you. Better be safe than sorry. I wish you well."

A small boy from North Carolina wrote me twice, once advising me to go to Russia from which I could go to hell. The second letter was touching: "I want to apologize for the letter you may not have gotten I wrote you yesterday. Now I am sorry I wrote it as I was not thinking how insulting it was to write such a letter when I wrote it. After I wrote it I told my

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father and mother what I had done. I am a small schoolboy and they gave me a whipping for writing the letter."

Even after the Supreme Decision was handed down, many people wrote assuring me that religious classes would continue in the schools.

"I am quite sure that ways will be worked out whereby the children can still get the instruction they need," read one such letter. "I don't look for the ministers and church people to take the court ruling sitting down."

"Please don't take our Bible away," wailed some obviously planned and promoted letters from school children in Elkhart, Indiana, as if I had wiped out all religion everywhere.

But perhaps most amusing to me of all the letters that mentioned the constitutionality or unconstitutionality of religious instruction in the schools was a letter from St. Louis that also came after the Supreme Court decision.

". . . you have managed to uncover a phrase in our constitution which *no doubt would have gone unnoticed throughout the centuries!*"

Determined as I was to carry our case all the way to the United States Supreme Court, I probably would not have been dissuaded by all the damning, insulting letters in the world, but it was consoling to me that I had a great many fan-mail writers who were in agreement with me.

There were beautifully written, beautifully phrased letters of encouragement, and I wish I could quote them all. Some people wrote me, not once, but time after time. The record was held by a man in New Orleans, who sent me over seventy-five letters. A man from Houston, Texas, sent me twenty-two postcards, another man in Texas, thirteen letters, a man in Birmingham, fourteen. There were letters from citizens of many foreign countries supporting my views.

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The most noticeable thing about the "pro" letters was the apparently high average intelligence of the authors. A large percentage of them were neatly typed letters, often on impressive business stationery with secretarial initials in the corner. Doctors, lawyers, schoolteachers were widely represented. Often I would receive such a brisk and businesslike letter as this one:

DEAR MADAM,

In the Omaha *World-Herald's* evening paper I saw a brief mention that you have instituted mandamus proceedings looking to eliminate sectarian teaching in the public schools.

I am glad that such a case has been filed. Sectarian instruction should have no place in schools supported by taxes contributed by people of all shades of religious belief and agnostics and rationalists who are not interested in the popular superstitions of the day.

Therefore you are to be congratulated on your action in this matter.

Many of the "pro" letters were brief and pointed and rather more reasonable than emotional in tone. Moreover, they often mentioned the legal angle involved, unlike the "cons," who rarely reasoned.

From Decatur, Georgia: "It does not matter who pays the teachers or whether or not the regular classes are dismissed during the so-called 'free time' especially provided for religious teaching. When, under whatever pretext, religion is permitted to be taught in the public schools, theology and superstition have gained a foothold in our free school system and the principle of separation of church and state has lost ground."

From Cumberland, Maryland: "Those who desire the indoctrination of religious ideas in our susceptible youth have the inherent right of free people to do this in homes, churches,

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or private schools; but they have no authority whatever by law, in my humble opinion, to do this in any way, shape, or form in our public institutions of learning. I sincerely hope you win this law suit."

From St. Louis: "In these chaotic and dark times, it is encouraging to witness such noble heroism displayed by a woman. May success be yours."

From a San Francisco lawyer: "We need more women like you in these United States, women who will have the courage of their convictions . . ."

From the president of a large national firm: "You are not the only one who feels there is something wrong with these shepherd's stories that have to be pounded into children's skulls."

From an author: "I think your son is a fine American boy with an intelligence far superior to his critics."

And one from a Colorado man, which naturally delighted me: "I must confess that while reading in the *Denver Post* of the sorry adjudication of your case, I shattered one of the ten commandments to smithereens because I certainly envied your husband his good fortune in the selection of a wife."

Another which pleased me, not only financially but because it came from Champaign, enclosed ten dollars and read: "With best wishes in your prosecution of the test case. I hope that you win, but even if you lose, it will be more than worth it for the promotion of freedom of thought. A member of the faculty."

One interesting sidelight on the "pro" letters was that many of them came from persons professing religious belief. A couple of Albany, New York, wrote:

"We want you to know that, like Voltaire, we disagree with you, but would fight till death for your right to your belief. We admire your stand and we say, give 'em hell."

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A Lutheran minister wrote: “. . . I am entirely in support with the principle which you are espousing. The Lutheran church has always been alert to the danger and the un-Americanism of mingling the Church and the State in any way whatever and has often been criticized for its stand . . . It is almost beyond comprehension that so many people who should be better informed on the letter and spirit of our Constitution and the Bill of Rights will nevertheless fail to see the inconsistency of teaching religion of any kind in the public schools.”

“I believe your personal views have nothing to do with your court case,” a soldier wrote. “Were you a Catholic or Hebrew, your stand would be entirely ethical on the grounds that you send your son to school to learn reading, writing, and arithmetic, and that you expect him to spend all his time at those studies.”

Many who mentioned the religious angle of the case stressed the dangers of one large church gaining too much control.

“In my opinion there is more back of this than appears on the surface,” wrote one businessman. “I think the Church is trying in this subtle way to gain control of our lives—and their record from my reading of history is such that I want none of their Inquisitions visited upon us again.”

Unitarians were numerous in the ranks of enthusiastic letter writers. The wife of a Unitarian minister wrote: “I also want my children's minds ‘unfettered and open to scientific proof.’ And I would raise as big a howl as you about classes in religion.”

Some of my writers were frankly atheists and approved my assumed beliefs as well as my legal rights. Wrote one:

“Very hearty congratulations on that beautiful fight you're making against the bigots who are attempting again to ram

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their preposterous, theological nonsense into the impressionable minds of youth.

"I have watched the growth of that cancer down in Champaign from the time I was a student at the University; and while there is nothing anyone can do about those various 'foundations' that now pollute the environs of the campus, I am glad that the Puritan population of Champaign county has at least one person who dares to flaunt the stupid rustics . . ."

"In the name of Erasmus, Voltaire, the Sozzini, Tom Paine, Ingersol, Darwin, Clarence Darrow, and H. L. Mencken, I salute you!"

Another happy atheist wrote a letter to James Terry, enclosing a picture of his large and fine-looking family.

"Hi Terry," the letter began, "Here we come the whole gang of us, my wife and I and five little atheists . . . See that big fellow on top? That's my oldest boy Clark. He's in the Air Corps of the U.S. now and he says he never saw any spooks up in the sky. That sailor boy is quartermaster on an L.C.T. near Japan. He's my second boy. I received a letter from him today with a clipping from the New York News with your mama and you pictured and the story. He says he's right there with you.

"Say boy, with all the publicity you and your wonderful Ma get, you are doing a lot of good to help people get rid of the poison in their brain. You lucky kid. A lot of fellows like you don't have a Mom like yours who tells you the truth about everything. But look fellow, there are thousands and yes, millions in the world that don't believe in the funny book called the Bible. You just happen to be in school with a bunch of kids who were not as fortunate as you. Don't you pity them?

"The girl on the right side of the picture is Mary and now she is married to a great big Air Corps man and next December

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she's going to have a brand new baby and I don't think that God nor the stork had anything to do with it. Clark and his wife Louise have a three year old son and what do you know, he never says his prayers. Walter (front) is 16 now and plays with chemistry. Donald is the little guy and he's my pal. . . .

"Now that we're acquainted, send me a little note sometime and say hello. Tell Mom she's grand. You better give her an extra kiss every day."

A seventy-seven-year-old man brought up in the Presbyterian faith "in bonnie Scotland" told me he'd been an atheist since a "wee, wee boy."

Another letter to Jim was unsigned and read:

"Dear Boy, Here is five dollars. Please buy with it the article or service that will give the most pleasure or fun to you. Congratulation to your parents. This country needs many people of their type."

The religious contended that there were no atheists in foxholes, but my mail did not bear this out, as many servicemen who were atheists wrote to me. One letter was signed, "A fellow atheist, who although he's never lived in a foxhole has spent many a night in a Burmese slit trench."

Another one wrote: "When I objected to making a choice between P, C, and J (Protestant, Catholic, Jew) for my identification tags, I was told I must be one of the three—that according to army regulations there was no such thing as an agnostic. Isn't it marvelous how war can simplify philosophy?"

Seven men from a naval hospital wrote: "No religion has ever accomplished anything nor has it had success in ending wars and slaughter. But look at what science has done in the last 200 years."

Along with letters, we had some unusual visitors from time to time. One summer day when I was working around the

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house in shorts, hardly fit to go to the door, the doorbell rang. There stood a quaint gentleman, in old, not too neat clothing. He had a satchel, a saw, and a fiddle bow to play the saw. He was one of my great admirers, he explained, and had traveled halfway across the country to meet me.

After considerable chattering, a little bit senseless, he sat down on our front lawn and proceeded to play his saw for us. The boys were charmed and kept asking him to play number after number for them. We were kind and courteous to him, but I couldn't help looking over my shoulder uneasily every now and then to see how the neighbors were taking this peculiar command performance. When you've been in the critical public gaze for any length of time you get sensitive about such things.

Another great classification in the "pro" letter writers were those who had had similar experiences. And they were numerous.

"Three years ago," a Michigan woman wrote, "I was included in an impromptu panel discussion here on the question, 'What can my community do to prevent future wars—in case you believe they can be prevented.' After about the fourth dear soul had stood up to propound the comfortable theory that those countries responsible for war were the back-slidden of the world and that would we but pray enough the world would eventually be a sphere of light and goodness, I lost all inhibitions and spoke. I said that when humanity quit kidding itself and leaving the responsibility with heaven and used the mental and moral vigor on the world peace question that they would use on building and buying a home we would begin to have peace. And I recalled that Woodward in commenting in his *New History of the United States* on the great preachers of the Civil War time said, 'As usual God was on both sides'

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. . . I thought I was brave. But your bravery in going to bat for all American childhood is the superlative essence of free American womanhood at the best that parenthood can bring to it."

From San Francisco: "Recently in our city this same proposal was defeated five to three but it comes up every year. If it becomes necessary we will do as you have done. Our children will sit in the halls, too. But I am sure after your great courage, they will not be alone."

A Columbus, Ohio, mother wrote: "We are opposed to it yet even have to support it financially because of my husband's position in the community and because we do not wish our children to be isolated from the others." Apologizing because her letter was written anonymously, she ended, "I am merely registering my secret ballot against religious education in the public schools."

A widower explained he had moved his son from a small Pennsylvania town to New Orleans because in the Pennsylvania town, "He had to listen every morning to the reading of the Bible. When I wanted to protest, I was prevailed upon by my brother-in-law not to do so because of the unfavorable position he thought we would be put in as the only Jews in the community."

A Kansas City man wrote: "I want you to know I am giving you moral (or in some quarters it might be regarded as immoral) support in your fight. I groan inside when I think of children being taught in the public schools by an ex-Presbyterian missionary. In Kansas City they allow children time off twice a week to attend religious instructions outside of school by request of parents. Only 10% of parents request. This shows the system in your town is a vicious blackmail of parents. Very few would dare to protest but very few in Kansas City feel strong enough about it to request."

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A Jewish man whose children had been discriminated against wrote: "I am a carpenter by trade and I wish I could build human understanding and fellowship as easily as I build a house."

From Arkansas a teacher protested that his teaching of science had been hampered by religious educators and said, "Soon we will have astronomy according to St. Augustine, geology according to Moses, and history according to St. Paul . . . What the demand for religious teaching in public schools amounts to is a tacit admission that Sunday School attendance is so bad that the clergy must call in the truant officer as an ally."

A letter from a Michigan woman told how her son had brought home a crucifix bookmark from his "public school." Other letters from Michigan told of nuns as teachers, and Catholic textbooks, baptismal fonts, statues, icons, and religious pictures in public schools. One from Pennsylvania told of a man who was arrested when he complained to the school superintendent that his son had been forced to participate in the religious Easter celebration.

A teacher wrote, "I fought it—not very successfully—while I was a public school teacher in the state of Virginia. Needless to say, I felt it wise to leave the field of education."

And so from California, from Ohio and Pennsylvania, from Georgia and St. Louis and Rhode Island.

Many adults recalled experiences of their youth in religious segregation.

"I am only 18 years old," a soldier wrote, "and I remember quite clearly how I used to sit in the classroom by myself when I was still in grade school a few years ago."

"I was an early victim of the Gary [Indiana] school-church set-up," a woman lawyer wrote, "was almost expelled from

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grammar school because I refused to attend religious classes, shocked my teachers and fellow students but weathered the storm."

Another woman wrote me that she had almost left school in the seventh grade because a teacher was prejudiced against her because she did not bow her head in prayer.

"More power to you," she wrote.

And the more I read, "More power to you," "We're with you," the more I knew I had to go on.

14

The First Decision

THE morning of January 27, 1946, when the decision was read, the courtroom was packed. Chapman came down from Chicago and sat up front with the lawyers, and the ringside seats were taken by the big potentates on the School Board's side. Phil Schug and I sat near the back of the room, and before the reading began, Phil was far more confident than I. The length of time it had taken to prepare the decision had only added to my doubts; I thought that they wouldn't have needed so much time to decide in my favor. But Phil was still sure.

"The law is so clear," he would say. "No matter how much they might want to decide the other way, the law is so clear."

But they hadn't been reading the Finding of Fact two minutes when we knew which way the case was going. I glanced at Phil and I thought he was going to faint. He looked as if he were in a trance, as if he could not comprehend that, no matter how clear the law seemed, the decision was against us.

The reading of the Finding of Fact was first, and it was clear from the beginning that the facts found were against us. Para-

graph after paragraph contained half-truths, untruths, twisted misstatements.

As Phil pointed out later in his paper to his congregation, the Finding of Fact could only lead us to ask, "When is a fact not a fact?"

Phil reviewed Jim's experience, the incident of his teacher telling me it would be better to take the course, his begging to take it, and followed it up with the Court's "finding of fact" that there was "no compulsion exercised."

Commented Phil grimly: "The decision leaves considerable room for doubt that anything short of tying him to his seat would have been compulsion."

The Court also found that "Mrs. McCollum was not harassed," except by Jim's asking to take the course.

Commented Phil, again: "What more is needed to constitute harassment?"

The Court found that the Champaign system was "not sectarian."

Commented Phil: "Ministers and teachers testified that the children were divided four ways at present and that Lutherans and Jehovah's Witnesses want to divide them six ways. These same people testified that each religious teacher teaches his own faith and does not teach the faith of any other group. The judges say, 'not sectarian.'"

I had still other complaints against the so-called "Finding of Fact." One prize misrepresentation was the statement:

"What it all amounts to is that the pupils who take religious education use a thirty-minute study period which otherwise would have been devoted to study for recitation in their regular lessons; that on this released time they study religious education; while those who do not take religious education simply have a thirty-minute study period while waiting for the pupils

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in religious education classes to rejoin them for the regular secular studies.”

Now, to my way of thinking, if pupils arrive at school at nine o'clock every morning and have their arithmetic regularly at ten o'clock every morning, except Tuesday when they have religious instruction at ten o'clock, that definitely is not using a “study period” or a “released time” period at all. It is using part of the time when arithmetic would ordinarily be taught.

The Finding of Fact further stated: “The evidence shows that the courses in religious education are similar to the extra-curricular activities, such as music and art, which are taken with the parents’ permission in so many of our public schools today.”

They weren’t similar at all. The students didn’t have to get permission from home to study music and art. They weren’t divided into labeled groups. They weren’t required to move and change around. They were all in the room and the music or art teacher arrived and taught the class intact.

The Finding went on to say: “If a majority of the pupils in the class have signed up . . . to take religious education, at the beginning of the class period the secular teacher leaves the room and takes with her the pupils whose parents have not requested such religious education to an extra room.” In the next paragraph: “In those rooms where a majority of the students had not signed up for religious education, the religious education group left the room and went to a music room or other extra class room, and pursued their religious education classes . . . while the majority . . . remained under the supervision of their regular secular teacher.”

This would imply that there were two distinct situations, classes in which a majority took religious education and other

classes in which a minority took it. This was not true. The majority and minority referred to were Protestants and Catholics, respectively, in the same classes. On the days when Catholic instructions were given, the Catholic children, being in the minority, left the room, but on the day Protestant instructions were given, the classes were held in the room. And, of course, the reference to an "extra class room" was fantastic in view of the crowded schools.

Furthermore, the Finding of Fact pointed out, "The defendant school district has been willing to grant its permission for the similar, free and equal use of rooms in the school buildings when not in use for school purposes, to any other faith or group which desires to make use of the school rooms belonging to the defendant, for instruction in the tenets or belief or unbelief of such faith or group."

Again they are implying that religious instruction was given when the school buildings were "not in use for school purposes." If the school buildings are not in use for school purposes at nine-thirty and ten o'clock in the morning, when are they in use?

The Finding also stated there was no expenditure of public funds in giving religious instruction in the public schools. It is interesting to note, however, that the classes, when no longer given in the public schools, cost three times as much for fewer people than they had cost in those days.

The Court denied, in addition, that there was any discrimination against any groups except on matters of the grammar of their proposed teachers. But, they added, before any group could obtain permission, application must be made to the superintendent, "who in turn will determine whether or not it is *practical* for said group to teach in said school system." We were back again to the issue of the school superintendent

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having the authority to pick and choose among religious groups.

The Finding of Fact never did clarify the position of the regular secular teacher; in one place it has her sitting in on the course in religious instruction, and in another states, "At all times the secular teacher supervises the study of those who do not take religious education."

And, of course, as a mother, I could never forgive their finding of fact on James Terry.

"Without reviewing all the evidence," it read, "the court believes the great preponderance of the evidence shows that James Terry McCollum was not subjected to any humiliation, ridicule, ostracism, or embarrassment because of his religious opinions, but that his difficulties were due to his own personality problems, entirely disconnected from any question of religion. On the witness stand he was plainly nervous and excitable. His whole demeanor on the witness stand supports the testimony of his teacher, Mrs. Bessie Taylor, that his behavior problems were not connected with the religious controversy as set forth in the petition."

Perhaps Jim did seem "nervous and excitable" on the witness stand. If so, I didn't notice it. He was on the stand for four hours, and in that time he swiveled around in his chair frequently, but I don't know what ten-year-old wouldn't have. He answered the questions promptly and unhesitatingly, which to my mind would be a sign of intelligence and quick thinking rather than nervousness and an inability to adjust.

So much for the "Finding of Fact." It is impossible to introduce here all the legal details of the actual decision. In substance, the Court concluded that, "So far as federal constitutional provisions are concerned . . . there is nothing in any expression of the federal Supreme Court that remotely suggests

there is any constitutional objection to the Champaign system of religious education."

It was held that our allegations based on the Ring Case (in which Catholic parents had successfully opposed use of the Lord's Prayer in public schools) were inapplicable because, while the Ring Case stated, "The exclusion of a pupil from this part of the school exercise in which the rest of the school joins separates him from his fellows, puts him in a class by himself, deprives him of his equality with other pupils, subjects him to a religious stigma, and places him at a disadvantage in the school," Jim was "not subjected to religious stigma."

Also they said, "No prayers were offered in any way in the religious classes and no hymns were sung. The Bible was used as a text book and outlines and other reading material founded on the Bible were taught."

No mention was made of the ruling in the Ring Case to the effect that the King James version of the Bible is sectarian.

They finished the reading with, "Believing as we do that no constitutionality or statutory rights of the relator or her son, James Terry McCollum, have been violated . . . the petition for mandamus will be denied."

Phil and I got up to leave immediately. I had promised Pappy I'd phone and tell him the outcome right away, but as we started out in the hall a photographer and a reporter stopped us.

"Are you disappointed?" they asked inanely.

"Disappointed?" I repeated. "I wouldn't have brought this case if I hadn't wanted to win."

I gave them a more formal statement, of course. Pappy and Phil had tried to get me to prepare such a statement in advance—in fact, to prepare two, for either eventuality. I tried to do so but couldn't get down to it, so while the judges were reading,

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I wrote my statement and had it all ready. I wrote just the one. I knew which way it was going.

The statement read, in part:

"This decision is a blow to the guarantee of personal liberty . . . it tends to limit the freedom of religion to the mere choice between the larger and more aggressive sects and makes the separation of church and state little more than an empty phrase . . . We most certainly shall take an appeal."

The *News-Gazette* printed the statement in the text of their story, which, with the now familiar epithet, was headed, "American Law Protects Voluntary Religion, Three Circuit Judges Tell Atheist Mother."

The *Chicago Tribune*, however, while criticizing "some of the people connected with the case," and criticizing the issue of atheism which, they said, was dragged in "like the thunderings of an Arkansas Bible slapper," said:

"One very sound objection to such a program is that it is unlikely to accomplish, to any large extent, the good things expected of it. Religious education is peculiarly a private thing. If parents and ministers, priests and rabbis can't carry out that function successfully, it is hardly likely that better results will be accomplished by shifting the burden to the public school system. The schools already are being asked to do many things that ought to be done in the home."

The *Chicago Sun* said:

"The basis of the suit was a test of the constitutional guarantees of the separation of church and state. The ruling of the three-judge court, upholding religious teaching in public schools on a voluntary basis, has failed to come to grips with this issue . . . In addition, the court skimmed over the fact that the injection of such instruction inevitably results in an

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undemocratic division of schoolmates as Protestants, Catholics, Jews, and 'nonbelievers.' ”

The *Sun* concluded—and so did we—that, “The provocative issue raised by the suit to halt the teaching of religion in the Champaign public schools is still unsettled.”

15

We Change Lawyers in Midstream

IN THE early days of the case it looked as if almost everyone and everything was against us, not only the writers of those vituperative letters, but some of our supporters as well. During the trial we had received many comments and much unsolicited advice, most of it criticism from well-meaning friends. The friendly criticism did much to undermine my shaky morale.

“You should never have had all that atheism in the case,” they would tell me. “You never should have brought your father’s pamphlet into it . . . you shouldn’t have filed a mandamus . . .” At times I almost thought I was doing more harm than good to the cause by bringing the suit at all.

It wasn’t that we needed to be told of the mistakes we had made; they were pretty evident. I always regretted that the trial made as many sensational headlines as it did, that it became the three-ring circus it did, and even now I feel it could have been conducted on a much quieter plane and still have reached the attention of the highest court of the land. With a

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great deal of simplification, and sticking to the real issues, the cost would probably have been closer to five thousand dollars than to the twenty-five thousand dollars it actually was.

From the time things first got under way I felt that my conception of the case was entirely different from Landon Chapman's and Ira Latimer's. Under them it became a civil-liberties fight in the form of the McCollum Case, while I wanted to keep it to a simple legal case of using public-school buildings for sectarian purposes. I felt that the law was clearly on my side. We didn't have to have all the trimmings of a Scopes trial. My religious convictions, it seemed to me, were of less importance than the legal rights involved. I could have filed the same suit had I been a member of almost any church.

However, aside from our differences of approach, we also differed over money matters. It seemed there was continuous wrangling over who should pay the bills—Latimer's Chicago Civil Liberties Committee or the Chicago Action Council. And it ended up with the Chicago Action Council assuming the bulk of the financial responsibility, some twenty thousand dollars, while the other organization's contributions totaled \$94.

We also differed over such things as soliciting funds from interested persons who wrote to encourage me on my stand. I felt that these people were offering us a great deal of moral encouragement and that we should write to them, thanking them for their support, but not—as was occasionally done—write and ask for more tangible support to continue the case.

Incidentally, in the matter of raising funds through organizations for the case, there was a great deal of haphazard handling involved. Frequently I would receive letters from persons saying, "I have read about your case in so-and-so's pamphlet. They say you are in need of funds so I have sent them a contribution." In most cases I never heard of them.

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Not all the organizations were like that. In Portland, Oregon, for example, the Free Mind organization asked for contributions in my behalf, and the man in charge not only sent them but sent the names and addresses of those who contributed, so that I could express thanks and they would know I received them. In addition, he furnished the postage himself.

The money differences led to a climax, and Phil Schug and I met with Chapman and Latimer and the men from the Chicago Action Council in Chicago. The differences were ironed out, because the Chicago Action Council men were always willing to co-operate and go more than halfway, but it confirmed my decision to get a new attorney after the last brief was filed.

Shortly after that, while we were still awaiting our decision, a small bombshell was released. The Latimer Case was filed in Chicago. It also was a case against religious education in the public schools, particularly against the released-time system conducted in Chicago.

There was no doubt that their case weakened mine all the way through. It was not a three-ring circus. It had a brief hearing and a short record. It was heard on November 5, and on November 17 the Superior Court in Chicago ruled against them. They had filed five months after I had, but got their decision first. The decision was sent down to Champaign to Judge Leonard, and he quoted it and used it. It was a big factor in my defeat in the Circuit Court.

Even so, we had hopes that the Illinois Supreme Court might hear the two cases together. They might have been able to rule *against* the Latimer Released-Time Case—as they did—and yet *for* the McCollum Case by distinguishing that in the McCollum Case the *public-school buildings* were used during school hours. We felt there would be an advantage in their

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hearing and contrasting the two cases, but in our case there was such a tremendous record to make up that we were far behind. Their case was heard in the Illinois Supreme Court's May 1946 term, ours in the September term.

Chapman was more interested in the Latimer Case than in ours. After the Circuit Court decision he was quoted as saying:

"I am more interested right now in the Latimer Case. If we win that one, it will knock the bottom out of the Champaign Case."

Even so, we parted amicably. Schug and I went to Chicago to tell Chapman we were hiring a new attorney.

In some ways, however, I felt that I had the last grin, at least. The following May a member of the Action Council told me that the Chicago Civil Liberties Committee was having a board meeting and Chapman was going to explain his connection with my case. Interest among the committee members was very high, as they were by that time awaiting the decision of the Illinois Supreme Court. The Action Council man thought that in my own interest I should attend the meeting to answer any questions or misstatements that were made.

I arrived early at the meeting and, fortunately, sat near the door, for a waitress came and asked if I were the Mrs. McCollum for whom there was a long-distance call from Champaign.

I went to the phone, and it was a reporter from the *News-Gazette* who had tracked me down from my hotel to the meeting. He said they had just had word that the Latimer Case had lost in Springfield and he wanted my comment.

"Are you concerned?" he asked. "Do you think this means your case will go down in defeat?" (Practically all the papers predicted that it did.)

I gave him a statement of some kind, then went back to the

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table. The meeting started, and it was announced that Chapman would not make his report after all. That meant that my visit had been in vain. I sat there while they conducted other activities, but when there was a brief lull I decided to make myself known. I stood up and asked if I could say a few words. The men at the head table looked at each other, finally said yes.

I explained that I wanted to introduce myself. I was there because I had understood that Mr. Chapman was going to discuss his connections with my suit and I had thought I might be able to add to the discussion.

Then I dropped my bombshell.

"First of all," I said, "I want to tell you how sorry I was to hear the Latimer Case lost at Springfield."

They were sitting there, very calm, very composed, and suddenly it hit them between the eyes. They hadn't known it! To this day they're probably wondering how I found out before they did.

"We've lost one battle in the fight," I continued, "and it's an important fight. In the second place, it goes without saying, this will hurt my case."

Apparently my few words made an impression, for many people came over to shake my hand and express good wishes. I left the meeting happily.

Only one thing worried me: the fear that perhaps the Latimer Case would reach the United States Supreme Court before mine. My interest was not a selfish one; I felt the stronger case should go first.

"Isn't there any way we can be first?" I asked the Chicago Action Council men.

"It's not necessary to worry," they told me. "Chapman and Latimer are not carrying their case any further. Your speech

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must have really made an impression on the board members.”

I was quite busy that spring of 1946, just after the adverse Circuit Court decision. Like housewives everywhere, whether they are involved in momentous court battles or in any other world-shaking events, I still had my regular work to do on the domestic front, and in addition I had undertaken the making of a room-size braided rug, a project which took up a great part of that year.

When I wasn't crawling around on the floor, braiding the brightly colored strips together, I was going up to Chicago, making plans with my new attorney for the Illinois Supreme Court appeal on my case.

With the aid of the Chicago Action Council, we were raising funds to continue the fight. The other side was equally active, working with David Lindstrom and the other eager supporters to see that “justice was done.”

In March, three months after the Circuit Court defeat, the newspapers announced that we were retaining a new lawyer, and with this announcement we opened a new phase of our endeavor. Our new lawyer was Walter F. Dodd, Chicago constitutional lawyer and professor of political science at the University of Illinois from 1908 to 1915. The selection turned out to be an excellent one, as Dodd was an authority on constitutional law, author of numerous textbooks known to all law students, a former professor of constitutional law at Yale University, legislative draftsman, and known to and respected by the justices of the United States Supreme Court.

He was recommended to us by a faculty member of the university. When we first decided to hire another man, Phil Schug and I called on our faculty friend, a lawyer who supported Phil's church, for advice. He told us he would have to think it over for a few days, that he would consult a colleague,

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and that between the two of them they would make some suggestions for a new attorney. A few days later he presented me with a list of possibilities.

All the lawyers they recommended were capable and highly respected, but in all the other instances they were members of Chicago's biggest law firms, and we knew by now that "big" also meant "expensive." Dodd, on the other hand, practiced by himself. We were told he didn't take many cases and was more interested in his few cases from a legal and scholarly point of view than from a remunerative one. If we couldn't have persuaded Dodd to take the case, I suppose we would have agreed to take a lesser man at a higher fee, because we were determined to continue the case.

The day we went to Chicago we mentioned to Ted Raynor that we had an appointment with Dodd to discuss the case.

"Why, that name sounds like a prof I had at college," Raynor said, "but he doesn't practice law."

He turned out to be the same one, however, and, coincidentally, his office was right across the street from Raynor's.

It was a small, unpretentious office, and Dodd was a small, unpretentious-looking man. White-haired and somewhat shriveled, Dodd has a brilliant mind. He has a tendency to stutter and stammer in a somewhat crackly voice, and later his stage presence did not impress the Illinois Supreme Court, but then I doubt that they would have been impressed by anyone less than radio's Mr. District Attorney. In conversations Dodd has a tendency to go off on tangents and to refight the old maritime cases of his early career. I like to think my case gave him a new subject of conversation.

But he was and still is a constitutional brain-truster, and he and I got along together pretty well for an older, deliberating male legal mind and a harebrained, impetuous female crusader.

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Dodd was interested in the case and said he'd been following it in the papers and hadn't approved of the way it had been fought. It was difficult to decide to enter a case that had been so involved, he said frankly, and he'd "have to do some thinking about it."

Luckily for us, he was convinced of the legal validity of our side. Later we felt that he was impressed by the moral and ethical side as well. In my opinion, his United States Supreme Court appeal was infinitely better than his Illinois Supreme Court appeal, and I believe it was because he had a better grasp of the case by that time and, also, because he had come to believe in it completely.

He didn't give us an answer that first day. He said he'd have to talk it over with his daughter, because she attended a sectarian school and he'd have to see how she felt about it. Also he still did some work for the university and he wanted to be sure his taking the case wouldn't jeopardize his academic position. In both cases the answers were in our favor. The daughter had no objections, and for a university opinion, he turned to a university counsel, who happened to be the man who had recommended him to us in the first place. Dodd notified us that he would take the case.

We were pleased because, although he had no feeling for or against religious education himself, he was convinced that from a legal and constitutional standpoint we were right. The fact that we convinced him was our good fortune. His acceptance marked more or less of a turning point in the case, and from then on our legal associations were comparatively free from friction.

16

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ONE Sunday a matronly member of a Southern Unitarian Church approached the minister after services and said, "What are we going to do about that horrible woman?"

The minister racked his brain, trying to think which member of the congregation she meant.

"What horrible woman?" he was finally forced to ask.

"Oh, you know," she said. "That woman up in Champaign. That McCollum woman."

"Mrs. McCollum?" he repeated in some surprise. "But we're on her side."

"Oh!" It was the woman's turn to look wide-eyed. "Are we?"

Many church members might not have known, until officially informed, that they were on our side, but many of the churches were with us nevertheless. And one of the things we worked on in our preparations for the Illinois Supreme Court hearing was to get them to go on record to that effect.

When we let it be known that Walter Dodd intended to emphasize the legal rather than the religious aspects of the

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case, John Franklin announced that the School Board did not intend to "let Mr. Dodd whitewash the facts just because he is a new face in this case" and indicated that they would insist that the case be tried in the Supreme Court on the evidence heard in the Circuit Court and on the law as it applied to that evidence.

Nevertheless, we had lost the case in that lower Circuit Court and we intended to do everything possible to improve our argument. We knew there were religious groups on our side and we hoped to secure their help, openly as well as privately.

Some of the groups were in a difficult position, however. In Champaign many Jewish persons, for example, supported me but were afraid to come out into the open. Like most Jews, they did not approve of religious instructions in the public schools. I have in my files a pamphlet titled, *Religious Instruction in the Public Schools of Ontario*, which sets forth the Jewish position very ably. Jews rarely receive an even break in public-school religious instruction, and often they are openly harmed as a result of classification. Yet, as we related previously, Rabbi Golden begged the question during the trial, and other Jews were equally reluctant to take a public stand.

Just before the Circuit Court decision, one Jewish couple we knew held a meeting which was addressed by members of the Chicago Action Council. Phil Schug, who didn't know that the meeting was to be a secret one, told the newspapers about it. The next Sunday morning it was in the papers, and as he was leaving the church the woman who had sponsored the meeting met him at the door with angry reproaches for giving out the news. They had been severely censured by Jewish leaders, she said, for sticking their vulnerable necks out.

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Although the Jewish people were in an unfortunate position, there were other groups more open in their support, and we thought it might be a good idea to have some *amici curiae* (friends of the court) file briefs in our behalf. Many of our friends, both Humanists and Unitarians, concurred on this. Dodd thought it would be a good idea if we could get the support of some conservative religious groups and organizations and other bona fide religious or educational leaders. With this thought in mind, we went to see Dr. V. T. Thayer, educational director of the Ethical Culture School in New York, when he was in Chicago.

He was sure we could line up the Ethical Culture Society. We contacted Dr. John DeBoer, president of the American Education Fellowship, which went on record as opposing religious education in public schools. When Schug went to Boston for a meeting of the American Unitarians, some of the people there discussed the possibility of joining us. We also conferred with the Chicago Citizens Schools Committee, which had been publishing literature upholding our position, and they too supported us.

We ran into a less cordial atmosphere when we tried to enlist the help of the Lutherans. Phil and I went to Chicago on this mission. We called at a few places and finally were told that the man we should see was attending a meeting of Lutheran ministers and that if we got to the meeting early we might be able to see him before he was too busy.

It was close to lunch time, but we skipped lunch, grabbed a cab, and rode halfway across town to the hotel where the ministers were meeting. We found our man, a very pious-looking, stern, and rather aloof young minister in clerical garb.

Phil explained our mission and told him who I was. The

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name seemed to hit him right between the eyes. Phil went on to say that we felt our case would be more effective if sympathetic organizations would enter the case.

"Well," the young man said, "you understand our church has always been for strict separation of church and state; it is a principle on which we do not compromise. However, under the circumstances . . ." He eyed me up and down—my up-swept hair-do, my fairly dressy ensemble, my make-up, my entire appearance—and said that he couldn't join our company.

That was our first and only encounter with one of the more conservative Protestant churches, and it sort of squelched us. Had we gone on to some of the more liberal ones, it might have been a different story.

After we had made some headway in our search for religious support, Dodd decided it wasn't the best method after all. If we took one group we couldn't turn down others, and some of the organizations might seem too liberal in the eyes of the Court. Also we'd just be giving the Illinois Supreme Court twice as much material to read.

We had no supplementary briefs filed in our behalf until the case reached the United States Supreme Court, but religious and other groups continued to come out in support of us. Only recently I received a letter from *The Churchman*, an Episcopalian magazine, which began, "Dear Mrs. McCollum, Perhaps you never heard of *The Churchman*, but it has been a champion for your side in this school-religion issue, and we have run many a story mentioning your name."

One of the most pleasant associations that came out of our search for champions of our case was my association with the Czechoslovakian organizations of Chicago. My correspondence with them began as soon as the suit was filed, when I received a letter which read:

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"The Executive Committee of the Czechoslovak Rationalist Federation of America salutes you as a brave woman in the fight of our common cause. . . . We assure you that we would like to get acquainted with you personally and if, perhaps, sometime in the fall you should come to Chicago, you would be welcome in our public gathering which would be anxious to hear your message."

After the trial in Champaign, V. J. Miniberger, secretary of the organization, wrote and again invited me to come to Chicago and talk to them on Sunday, November 25. We made the arrangements, and although I was still suffering from the same bad cold I'd had that horrible Halloween Eve, I swallowed a great deal of sulfa and set out for Chicago.

Two members of the delegation came in from Berwyn and had dinner with me the night I arrived. They insisted that I spend the night at their home so I would be near the radio station where I was to make my early morning address.

I made my radio address in the morning and then addressed an audience of six hundred at an afternoon meeting. Only a small fraction of them were members of the Rationalist group. The others represented many different churches, including the Roman Catholic, but all had one thing in common. Most of them were immigrants from Europe, or first-generation Americans, and the European system was fresh in their minds. Whereas we Americans take our liberties for granted, they realized how quickly and surely liberty could be lost. To them, domination by a church was as surely domination as if it were by a totalitarian government. Whenever the words "separation of church and state" were mentioned, whether in English or in Bohemian, a roar of applause arose from the churched as well as from the unchurched.

But my experiences with friendly and supporting religious

groups were matched by less pleasant experiences with religionists, perhaps also well-meaning, in their own way.

The urge to convert is, I believe, one of the strongest urges in the human breast. The newly married couple cannot rest as long as one of their friends is still a bachelor or maiden. The newly landed country squire wants everyone he knows to get the feel of the good earth, the spading fork, and the spray gun. In our politics, in our personal views, and especially in our religious beliefs, we want to get everybody possible on our side. Perhaps some of those less sure of themselves feel an added security in an increase of their "own kind"; perhaps others are motivated by a genuinely sincere desire to do good. At any rate, anyone who is in the public eye, as I was, because of the character of his beliefs finds that there are more fishers of men than he could possibly imagine.

The religious pamphlets and tracts which I received among my six thousand pieces of fan mail were incredible, and I use the word in its truest sense. Incredible, some of them, in their bitterness, in their naïveté, in their wide variety of approaches, some laughable, some as fantastic as the fiction in the pseudo-scientific magazines. Perhaps the only characteristic common to all of them was narrowness: almost without exception, each of the pamphleteering sects had the "only" road.

It was also a distinct surprise to me, brought up as I was in a semiconservative, semiliberal upper-middle-class fashion (with the idea that theft and murder were grave sins, with adultery, perversion, wife beating, and swindling widows and children also unacceptable social practices, though in a lesser way), to learn how many black and horrendous sins exist in some religious cultures.

Drinking and smoking, as you might have expected, headed the list of social sins, with considerably more emphasis on

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smoking than I would have believed. But neck and neck with these deep-dyed transgressions were education, especially college education, the reading of novels, going to horse races, rolling dice, playing cards and/or playing games or indulging in any kind of entertainment on Sundays, the enjoyment of good food, the use of profanity, dancing, going to motion-picture shows or the theater, and, of course, as deadly as any of these, unbelief, or belief in the wrong religion.

The techniques of the pamphleteers are varied. Some use the tricky, eye-arresting approach to an extent undreamed of by the most imaginative of hucksters. What could be more timely and attention-getting than this headline:

FREE! Beautiful Homes to be Given Away in a Perfect City!

WITH
100% PURE WATER FREE
NO LIGHT BILLS
PERPETUAL LIGHTING
PERMANENT PAVEMENT
NOTHING UNDESIRABLE
EVERYTHING NEW
PERFECT HEALTH
IMMUNITY FROM ACCIDENTS
THE BEST OF SOCIETY
BEAUTIFUL MUSIC
FREE TRANSPORTATION
SECURE A CONTRACT TODAY
See Full Information Inside

Inside, of course, are biblical quotations, describing the City of Heaven, the "pure river of water of life," "And there shall be no night," "In my father's house are many mansions," et cetera, et cetera.

Another novel approach that would do credit to a political

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candidate is the blotter with the legend, "Use this to Blot your writing, BUT REMEMBER only the BLOOD OF CHRIST can blot out your SINS."

Others, in the classification of teasers, have such headings on the front cover as, "Don't eat, Don't sleep!"

During the war years the advertisers, from soup to soap, printed pseudo "messages" from servicemen to the effect: "Keep Main Street and Free Enterprise the way it was when I left." The religious organizations were not averse to waving the flag either. There were numerous true-experience stories in pamphlet form: *One Month in a Lifeboat*; *I Came Out Alive*; *Private Overrules Marshal* (explaining how an air marshal had to have a pass to get by a private guard, and how to get your pass for heaven).

The true stories were not limited to war experiences; they came in leaflets of all periods, some of them obviously printed a long time ago, from their dated language and expressions. Something that particularly fascinated me about true stories was the frequency with which I received letters purporting to tell me an "honest-to-goodness true story" that happened to the writer's sister or neighbor. Invariably the story would show up later, word for word, in a pamphlet.

There were other testimonials, as numerous as those at a lively revival meeting. The true stories directed especially at me were often about the anguish and remorse of parents who neglected their children's spiritual needs: the Dutch girl from an atheist family who died of a lung hemorrhage a few hours after her marriage and prayed that her family repent; the young girl who was rebuked by her father for trying to go to the altar at a revival meeting only to die a few days later with a raging fever, crying, "Papa, hell is so hot." Leaflets headed, "We Ain't Got No Bible at Our House," "I Accuse My Parents," and—

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a real tear-jerker—a picture of a bearded, disconsolate bum, superimposed over a happy, laughing baby, and titled, “He was — **SOMEBODY’S BABY.**”

No manner of sin escapes the pamphleteers. More to be censured than pitied is the “Repeal Female,” who tells her story (the illustration of this lady barfly would make an A.A. of any girl tippler). Her story tells how she was once “innocent, beautiful, virtuous, Christian, ambitious.” But, alas, she caught the “Repeal Fever” and yielded to sin.

“I bobbed my hair, rolled my stockings, cut off my skirts, penciled my eyebrows,” she says, sparing the reader nothing. “I was made to believe that happiness depended on being **SMART**, and that pleasure and a sporty life were ideal.

“Now I had my fling. I have been a Modern Girl. My virtue is gone, my religion is gone, my beauty is gone . . . My body is diseased, my sad heart broken . . . my ambition gone, like my poor Soul damned forever. My past is evil, my present is Hell, and my future looks dark . . . Here I am waiting for death to end this life but after death the judgment. For I am nothing now but just **A REPEAL FEMALE.**”

Perhaps because I live in a university town I was especially shocked and disgusted at the many religious attacks on higher education. A weeping young man waylays an evangelist to tell of his story. He has come from a small town, a Christian home, and his mother had given him a Bible to take to college. Out of her meager earnings she had scrimped and saved to send him to a big university. But when he arrived there, the other students made fun of his Bible. The biology teacher and scientists destroyed his faith. Says he:

“I have lost the power to be good. I have gone out with the boys. I have lived in awful sin. I have been drunk for six weeks. I have gambled away the money that mother saved. I have

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gone with wicked women. Today I had a letter from my mother. She will be here tomorrow. I can't see her. I couldn't look into her eyes. I couldn't kiss her for I have an unspeakable disease. [Unspeakable and loathsome diseases are rife in these true stories.] I am going downtown in the morning and buy a gun and kill myself."

Preaching against the temptations of this world is understandable enough. Less understandable are the preachments against other religions. Catholic pamphlets were numerous, and one on religion had the foreword, "It is only just and fitting that by 'Religion' the author has in mind *only* The Catholic Religion." And it would amaze the diligent and conversion-minded Catholics to read the hundreds of pamphlets which begin, "I was born and reared a Roman Catholic," and go on to tell how the writer was saved from this iniquity and brought to another church.

A great many of the pamphlets excelled not only in bile and anger but in sadism as well. They took particular relish in describing the horrors of Hell. This was done either imaginatively or through the eyes of a saved sinner who had *actually* spent twelve hours or twenty-four or forty-eight hours in Hell!

Some pamphlets seemed to take the same sadistic satisfaction in describing the passion story of Christ. "Did you hear the blow of hammers against the spikes as they tore their way through the living flesh?" the author asked gleefully after his lustful description. The front cover, incidentally, bore the words, "You never read anything like this!" The author was pretty close to right.

Needless to say, none of the pamphlets succeeded in converting me. But, ironically and unintentionally, I became a missionary in a small way.

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One day I had a letter from a soldier who wrote that as soon as he had leave he would come to visit us and talk atheism all evening. I wrote back and told him we knew very little about atheism or any kind of theology and we never talked about it, so I was afraid he'd be awfully disappointed in us.

A few days later I received a phone call and it was the soldier, downtown waiting for me to come pick him up. I was in the midst of a terrific whirl of housework, but I got in the car and went downtown after him. I happened to remember that Phil Schug was having a lot of trouble getting out his church paper, *The Modern*, so before the soldier knew what we were doing I had him over at Phil's church.

He was quite bitter against all churches and couldn't understand what I meant by taking him to one. But I introduced him to Phil anyway, and in a little while he was helping turn the mimeograph machine and getting out *The Modern*. Phil's wife was out of town and he was "baching," so he took the soldier in and they got along beautifully.

Later on, when the soldier was discharged, he went to the University of Wisconsin and joined the Unitarian Church on the campus there. He wrote me about it and ended up with, "If anyone had ever told me I'd end up joining a church I'd have said they were crazy. But I certainly like this group."

17

Trials and Tribulations

WE HAD many trials and tribulations that spring of 1946 as we prepared our appeal. First of all, there were legal difficulties.

When an appeal is made to the Supreme Court the appellant must have a record made up of all previous questions and testimony. In a trial that lasts five and a half days and makes use of forty-three witnesses, there's an awfully long record to prepare. All the notes were still in shorthand, for although at the start of the case both our side and the School Board had threatened to carry it on to higher courts, no one had taken it seriously.

The notes weren't written up immediately, and when I knew the Latimer Case had been scheduled for the May session I kept trying to hurry along the court reporter. Both Dodd and I were getting jittery for fear the time to file our appeal might lapse. One day I happened to mention our predicament to a newspaperman.

"That's very interesting," he said. "I wonder why it's so difficult to get records from Judge Leonard's court. Maybe

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you ought to call him about it direct. Ask his advice on hurrying it up."

So I called Judge Leonard.

"I wonder if you might be able to give me some advice," I said. "We're very worried because the stenographer hasn't had the records typed up for us. We're anxious to get our appeal in as soon as possible, and we're afraid our time might lapse.

"I was just talking to a newspaperman," I added, "and he seemed to think it was unusual too. He suggested I talk to you personally and see if you could help."

We received the record in nothing flat.

A few months later Judge Leonard suffered a heart attack in church one Sunday morning and died in a few days.

Once we had the transcript, we had to have an abstract of it made. So, as soon as the parts of the record were finished, I would take it volume by volume to Chicago, and as the abstract was finished I would carry it volume by volume back to Champaign. It was almost as if I were patronizing a distant lending library. Since we had no extra copies, we dared not trust our only ones to the mails.

At the time I was under the impression that the work was being done by a professional abstractor. Only recently did I learn that Ted Raynor had been the "abstractor." Slowly and painstakingly, sandwiching the job in between his other numerous professional tasks, he had ground out our abstract—another mammoth undertaking for which our cause is everlastingly in his debt.

After the completion of the abstract, Pappy, the children, and I went South to his home and East to my home, as we do almost every summer.

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My husband comes from a large family residing in a very small community of Arkansas. The family home is about half-way between Magnolia, Arkansas, and Shreveport, Louisiana. There are eleven children in the McCollum family, and every year they come from all over the country for their father's birthday on July 4. It is a very ordinary occurrence for as many as twenty-five or thirty people to be staying overnight at the house at that time of the year.

My mother-in-law is very devout but was nevertheless interested in the suit, and my father-in-law always asked for the details. Great-grandmother Paschal was still living—she was in her late eighties—and she was vitally interested in the suit.

Pappy is no more orthodox than I. He has often told me how in his childhood Grandad McCollum would take him to church each Sunday and he'd sit there on the hard benches, waiting for Grandad's head to nod. When he was sure his father was asleep, he'd tiptoe down the aisle and outside to play. Grandad would wake up, see the empty seat, and go right back up the aisle to drag him back in. Then they'd start all over again.

Besides visiting our two families that summer, I continued to work on my rug, and while I was East I bought some secondhand coats, washed and cut them up. I collected other woolens while we were down South.

Back in Champaign after our vacation trips, I took the boys to a series of free swimming lessons. Before I knew it, the summer was over. It was September and we were ready to file our appeal.

Our new brief made seven major points and cited court decisions and statutory or constitutional provisions in support of each. The points were:

1. The issue in this case is not limited to a school district of

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Champaign County nor to the embarrassment of the plaintiff's son.

2. All persons are entitled to freedom of religion, and religious independence is guaranteed by both federal and state constitutions.

3. Publicly segregating students in public schools into sectarian groups for religious education in the schools and in school hours is violative of constitutional guarantees of freedom of religion and is not validated by providing that children may be excused from religious education.

(The argument section of the brief then pointed out that the trial court recognized that there is a "natural embarrassment" of any child in being different from his fellows, as was the case with Jim, and added that this was precisely the kind of embarrassment indicated by this court in the Ring Case.)

4. Use of public funds for sectarian education violates Article II, Section 3, and Article VII, Section 3, of the Constitution of Illinois and Sections 15-14 of the Illinois School Code.

5. Sectarian teaching of public-school students in public-school buildings during school hours is violative of Sections 6-43 of the Illinois School Code.

6. The discretion vested in this case (to an administrative body and officer) constitutes a delegation of legislative power in violation of Article II, Section 2, and Article III of the Constitution of Illinois and a violation of the Fourteenth Amendment of the Constitution of the United States.

7. The appellant's position in this case does not conflict with the Court's opinion in *People ex rel Latimer vs. Board of Education, City of Chicago*, nor does it seek to defeat religious education of children who may go to public schools who may also desire such education.

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On this last point, Dodd felt that we had to distinguish between our case and the Latimer Case which had been lost, and he didn't want to tell the Illinois Supreme Court they'd been wrong in the Latimer Case. I was inclined to disagree somewhat on this point. I didn't want to draw so fine a line for the Court that they could easily overstep it. I didn't feel we had to polish any apples and say they were perfect. We didn't have to antagonize them, but I didn't like our saying the Latimer decision was all right.

About the same week that we filed our appeal, the local newspaper came out with the big headlines, "Registration of Religious Classes Gains," and a story that enrollment in the Champaign religious-education classes totaled 962, an increase of 173 over the year before. Then, farther down in the story, in small type, the salient fact was printed that classes had been extended to take in not only the fourth grade but the third grade as well, "which accounted for the increase," they admitted.

Late in November we went down to Springfield for our hearing before the state Supreme Court. Briefs and records are submitted in advance, and the Court then hears cases and holds sessions for a period of several weeks, scheduling one case right after another.

The system of the state Supreme Court is vastly different from that of the United States Supreme Court, and, in my opinion, vastly inferior. For one thing, the judges are not familiar with the individual cases before they come up. Twenty cases a day on the docket, and the judges don't know until the morning the case is heard what is on the docket for oral argument that day. There is little, if any, advance reading, study, or discussion.

Each side is given an hour to argue. After the attorneys on

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both sides have argued, the next case is called immediately and the attorneys involved in the new case argue something entirely different. In one day the Supreme Court may hear cases on bus franchises, religious education, restricted covenants, a variety of subjects. Most of the cases are extremely complicated, and I found them very boring.

The courtroom was terribly hot the day we were there, and every now and then one of the judges would start to nod and fall asleep. Not that you could blame them. Even if they'd read each case thoroughly, it would be humanly impossible to keep them separated when they hear case after case day after day.

There are very few dissenting opinions written in this court. The assignment of writing the decision is almost automatic. The judges go home and come back for the next session. They submit their opinions, which are sent to each of the other judges. There is very little opportunity to write any dissenting opinions. In effect the result is a one-man opinion. To me this is a sloppy and inefficient system, far inferior to work of the federal Supreme Court.

I drove over to Springfield with a girl friend. Phil Schug had been in Chicago and took the train directly to Springfield and rode back with us the next day. On the way there we ran out of gas and I just barely managed to coast to a pump on the highway. When we neared Springfield, I pulled off the road to look at a map for further directions, and while we were sitting there a big car whizzed by. It was John Franklin with some men from the churches, so we pulled out quickly and, without their knowledge, let them escort us all the way to the Supreme Court Building.

My friend and I went to look at the chambers in the Legislature and then over to the Supreme Court chamber. This is

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a large room with more seating capacity perhaps than the United States Supreme Court, but somehow I wasn't at all impressed. From the moment I came into that hot courtroom and saw all those old men wheezing and sneezing and occasionally nodding, and realized that not only my case but many of our rights and liberties depended on them, I felt more than slightly uneasy.

Like many state courts, the Illinois Supreme Court is an elective tribunal. At least one member is up for re-election every two years, and they serve nine-year terms. Most of them come from small, conservative communities and have to play politics in order to be elected. Moreover, the state is divided, not according to population but by geographical districts, and some Supreme Court justices come from sparsely settled rural areas where few lawyers with much ambition or ability would locate. As a Supreme Court it has experienced more than one "bawling out" from the United States Supreme Court.

They weren't able to get to our case the afternoon it was scheduled. The case on the docket right before ours involved a number of parties and took so long that ours was postponed until morning. Finally, the moment arrived.

Both attorneys presented their oral arguments, which actually mean very little. Franklin, not we, requested time to present an oral argument.

Once again it seemed the law was so clearly on our side that no oratory would sway them, but Franklin pulled out all the stops. Eloquently he told them what an awful woman I was, how I had shown a "lack of faith" by sending my children to a school where they sang hymns while in the meantime I was opposing religious instruction in other schools. What this argument referred to was the fact that I'd sent Errol to a

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private school for the first grade, because he was too young to go to public school, and Jim to a summer class at the university where they read stories from the Bible along with other literature.

The argument wasn't pertinent to the case. One school was private and one was public, but he insisted it proved I wasn't honest. It was typical of the type of argument used by the defense. Schug said that from a debate point of view, Dodd was much better, as he stuck to the point. But he didn't give them the same brand of fireworks. The Court asked him very few questions, nothing like the fine points of questioning used later in the United States Supreme Court, but it seemed that every time they did question him Dodd got rattled or lost his notes. I had completely shredded my handkerchief before the hearing was over.

I had had hopes of winning before we went to Springfield, but once I saw the inefficient setup and heard the oral arguments, my hopes sank down again. It just didn't seem to me to be a fair hearing. As for Phil, he was by this time completely disillusioned with the Illinois courts.

Even Dodd didn't have too much hope of winning. The way the case had been presented originally, the failure of the Latimer Case, the nature and operations of the high court of Illinois were all against us, he felt.

Two months to the day after the hearing, on January 22, 1947, to be exact, the Court handed down its decision, and the headlines stretched across the page of the Champaign papers again. In the *Courier*, "Local Religious Education Sustained"; in the *News-Gazette*, "Supreme Court Refuses To Halt Religious Classes."

And John Franklin confidently declared, "We're over the biggest hill now."

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The New Jersey Bus Decision

ON FEBRUARY 10, 1947, the United States Supreme Court handed down a decision in which we were much interested. It involved a problem of church, state, and school, and we thought it might have some bearing on our case or at least indicate some of the Court's sentiments on the problem.

This was the New Jersey Bus Case, and in its decision, by a vote of 5-4, the Supreme Court upheld the New Jersey law authorizing payments to parents for the cost of transporting children to Catholic schools as well as to public schools. A man named Arch R. Everson had brought the suit and had challenged the right of the state to provide transportation for students attending private parochial schools in which, in addition to secular education, they received religious instruction. He protested—and rightly so, in my opinion—that such use of money raised by taxation amounted to public support of a religious establishment. He contended that this was a violation of the fundamental American principle of the separation of church and state.

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This decision was widely applauded by Catholics and viewed with alarm by many commentators, including some of the newspapers that were supporting me. The *Chicago Tribune*, in an editorial, said:

"The teaching of religion should be encouraged in every way so long as it is carried out by the citizen himself in his home or through his church. It is not a matter with which any public body can safely concern itself, however indirectly."

The *Toledo Blade* said:

"Though last week's decision is applicable to only one church and draws the line at which a church can receive support from the state, it lets down a historic barrier. From now on, all churches, creeds, and sects can scramble for public funds and set up schools to justify them. In which case, the American public school system could be sadly disrupted. And the consequences to American democracy might be disastrous."

Religious publications objected too. The St. Louis *Lutheran* said:

"A blow has been struck at the American principle of separation of Church and State from a source from which it has been least expected . . .

"A church school, we repeat, aims to propagate religion, and that aim and purpose cannot be circumvented by channeling state aid for church schools to the parents of parochial school children . . . Whether state funds are contributed directly to church schools or to the parents or children, the fact remains that such aid is for a religious purpose. For the state to serve that purpose militates against the traditional American conception of a 'permanent separation of the spheres of religious activity and civil authority.'"

The Lutherans, I might add, live up to their views and have

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never to my knowledge accepted government aid for any purpose in their schools.

The Episcopal paper, *The Churchman*, reported the dissenting opinions of several outstanding religious and educational leaders. It also quoted the chairman of the legislative committee of the New Jersey Taxpayers' Organization to Preserve Separation of Church and State, as saying, "This is not an issue of Protestant versus Catholic . . . There are about 256 religious denominations in the United States. Imagine the spectacle of all these groups scrambling for public funds and, necessarily, for the political power which holds the purse strings."

The Christian Century, a non-denominational Protestant weekly, opposed the decision and was denounced by Cardinal Francis Spellman for leading an attack on the Roman Catholic Church, to which the publication replied that there was no attack being made, adding:

"There is, however, the beginning of a spirited defense against certain aggressive policies by which Roman Catholics are trying to get for their church certain special advantages from the government. In that defense, *The Christian Century* is glad to play its part."

Awake!, a Jehovah's Witness publication, printed a cartoon which, I thought, was particularly applicable. It showed the Public School building being pried from its foundations by a cross labeled "religion," balancing on the rock labeled "Politics."

While this storm of protest and controversy (over the decision) was being stirred up across the country, the two sides in Champaign took special notice of the situation. John Franklin made a statement that the Bus Decision had much

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bearing on our case, though he admitted he was disappointed that the decision had not been unanimous.

For our part, although we were displeased at the decision and felt that it set a bad precedent, we saw in the wording of both the majority and the minority opinions hope for our own case. Because the Supreme Court in the New Jersey Bus Decision did not grant the decision on the grounds that the First Amendment did not intend a separation of church and state, we had reason to believe they would still rule in our favor. Even the majority did not interpret the First Amendment in that way, and the minority opinion was still stronger on the subject.

In brief, the majority opinion, written by Justice Hugo L. Black with the concurrence of Chief Justice Vinson and Justices Reed, Douglas, and Murphy, ruled that the New Jersey law was social or public-welfare legislation, that in providing bus fare the township was engaging in a public-welfare service and that to deny this to students in parochial schools would constitute a discrimination against them because of their religion. It contended that the benefit to the church was incidental.

We took heart from the fact that this majority opinion stressed that the bus service was a public-welfare service, that had the tax money been considered as aiding any sectarian purpose, the Court would not have allowed it. In addition the majority said:

“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 non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may 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 establishment of religion by law was intended to erect 'a wall of separation between Church and State' . . .

"That Amendment [the First] requires the state to be neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State power is no more to be used so as to handicap religions than it is to favor them . . .

"The First Amendment has erected a wall between Church and State. That wall must be kept high and impregnable. We could not approve the slightest breach. New Jersey has not breached it here."

That was the opinion of five of the judges. The other four were even more insistent that there should be no breach in the wall of separation. The minority opinion, written by Justice Rutledge with the concurrence of Justices Frankfurter, Jackson, and Burton, said:

"Two great drives are constantly in motion to abridge, in the name of education, the complete division of religion and civil authority which our forefathers made. *One is to introduce religious education and observances into the public schools.* The other to obtain public funds for the aid and support of various private religious schools. In my opinion both avenues

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are closed by the Constitution. Neither should be opened by this Court. The matter is not one of quantity to be measured by the amount of money expended. Now as in Madison's day it is one of principle, to keep separate the separate spheres as the First Amendment drew them; to prevent the first experiment upon our liberties; and to keep the question from becoming entangled in corrosive precedents."

The minority justices referred to the history of religious freedom in America and to the belief of our early leaders that only through separation of church and state could complete religious liberty be assured to every citizen. In his separate dissenting opinion, Justice Jackson wrote:

"It was intended not only to keep the states' hands out of religion, but to keep religion's hands off the state and, above all, to keep religious controversy out of public life by denying to every denomination any advantage from getting control of public policy or the public purse.

"This policy of our federal Constitution has never been wholly pleasing to most religious groups. They are all quick to invoke its protections; they are all irked when they feel its restraint. This Court has gone a long way, if not an unreasonable way, to hold that public business of such paramount importance as maintenance of public order, protection of the privacy of the home and taxation may not be pursued by a state in a way that even indirectly will interfere with religious proselyting.

"But we cannot have it both ways. Religious teaching cannot be a private affair when the state seeks to impose regulations which infringe on it indirectly, and a public affair when it comes to taxing citizens of one faith to aid another, or those of no faith to aid all."

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Like John Franklin, I, too, felt this decision had great bearing on the McCollum Case. I, too, regretted the split decision and especially the fact that one vote caused such a decision at all. But I felt that at least we had four men on our side. Our job was to convince the other five.

19

We Send Jim Away to School

IN THE spring of 1947, right after the Illinois Supreme Court decision, we reached a decision of our own, to send James Terry away to school.

That summer of 1945, after the suit was filed, I met so much bitterness—and to me it was shocking—that I kept thinking, “What will happen to Jim when he goes back to school this fall?” It worried me a great deal.

Pappy was inclined to brush off all my worries and didn’t seem to think there’d be any repercussions. When Jim returned to the South Side School rather than to the Dr. Howard School, there wasn’t a great deal of difficulty. The teachers there managed to control things pretty well, and although Jim came home badly beaten up one day, it happened only once.

In September 1946, the following year, after our Circuit Court decision and the news that we were to file an appeal, Jim entered junior high school. There he was together with not only his classmates from South Side but also with some of the children he’d known at Dr. Howard School, and that’s

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where the trouble started. They ganged up on him and began to make life miserable for him.

Every few nights he would come home with bruises and bumps. We had a membership at the local "Y," but he couldn't even enjoy a swim there after school without being picked on. They'd take his books and toss them back and forth to each other, hide his clothes, do all the million and one things cruel young savages can do to punish the outsider. Jim had a zipper-bound notebook we'd given him for Christmas; it disappeared. We bought his schoolbooks; they disappeared and had to be replaced. One winter night he walked part of the way home in his stocking feet because the boys had hidden his shoes. I happened to meet him on his way home, and we went back to the "Y" to look in his locker and found the shoes had been returned.

Occasionally I complained, without arousing much sympathy on the part of the authorities, but we didn't like to place too much emphasis on the unpleasantness. We figured that some of the scraps might be Jim's fault. We told ourselves he'd have to learn how to get along with people peaceably.

Then one night he didn't come home until quite late, and when he finally did arrive, long after dark, he was deathly pale and his face was smeared up. Finally he told us that when he had walked down to get the bus a boy had come up to him and, without any words, argument, or provocation, had hit him and made his nose bleed. He'd stayed downtown in the shadows of a building until his nose stopped bleeding, because he didn't want us to see it.

I was so mad I wanted to call the police, but Pappy said I should call the school first and see if they knew anything about the boy and investigate whether Jim could have been a contributing factor. The school principal said it didn't sound

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like a likely story to him. He knew Jim wasn't a fighter, but he couldn't imagine the other kid just walking up to him and hitting him. But he called the other boy in, and the boy calmly said of course it was true. Jim hadn't said a word to him; he'd hit him because he didn't like him.

From then on Jim seemed to be in a kind of daze. He couldn't concentrate on his work; he looked like a haunted individual.

Then came the last straw. One day he was stuck at the "Y." He'd lost his nickel, and he telephoned to ask me how he could get home from the other side of town. I couldn't go after him, because I didn't have the car that day, so I said, "Isn't there someone there that you could borrow the nickel from and pay him back tomorrow?" Ordinarily we don't approve of the boys borrowing money, but it seemed like the only solution.

He hesitated a minute and looked around, then said, "Just a minute, here's a boy now. I think he'll lend me a nickel." The boy did, so he came on home.

The next day I gave Jim a dime and said, "Give this to the boy who loaned you the nickel last night. He deserves an extra nickel as interest. It was nice of him to lend it to you."

"Yes," Jim said. "He's a nice boy. He's just moved to town and I like him. He's my friend. But," he added with more cynicism than bitterness in his voice, "in another week he won't be. The others will turn him against me."

With that, tears welled up inside me. I couldn't expect any child to put up with that sort of thing. That night I called my mother long distance and asked her to inquire about a private school in Rochester. By Sunday, Jim was on his way, and on Monday he enrolled in the Harley School.

There was one other factor that entered into this final

decision of ours. Whether truth or rumor, we were never able to discover, but a friend of ours had heard, on fairly substantial authority, that in the Halloween attack on our house not only students but some of the junior-high-school teachers had participated. I think that this rumor, too, strengthened our resolve not to have Jim remain in a town where he had to battle not only his fellow students but even the authorities, who should have known better and have set a higher example than that of engaging in mob hoodlum violence.

Of course it was expecting too much to think that Jim could leave town quietly. The morning I went over to school to get Jim's books a reporter from the *Courier* saw me, and I told him of our decision but asked him not to say anything about it, and he agreed. The *News-Gazette*, however, had an item the next day in their "Postscripts" column, telling of his departure "according to his parents."

I called the editor and said, "I've never tried to crash your society columns and I'm not picking this time to try. You know I didn't send you that information and it wasn't given 'according to his parents.' The least you could have done was to call me and verify it." In the next edition, I noticed, they changed it to "according to school authorities," which was closer to the truth.

Jim came home later to attend University High School in Urbana, but I think his year and a half at the Harley School did him a great deal of good. It's a fine progressive school, regarded as one of the best in the country. It was established by a group of individual businessmen, most of them from wealthy families in Rochester, who felt their children were being too pampered by nursemaids and not learning to do enough for themselves. The democratic result is that the son of the president of Eastman Kodak or some other large firm

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wipes dishes and the daughter of some industrialist cleans her own room.

The school authorities at Harley said they'd be glad to take Jim.

"But," they said, "if he's antisocial or any kind of a problem, we can't keep him, because this is a school for normal children. But we'll try him for three weeks."

At the end of one week they reported on him.

"He's not antisocial," they said. "He's just hungry for friends."

So all the time he was there both faculty and students did their best to make him feel wanted. It turned out to be a wise and fortunate move for us.

If I'd had any doubts that I was doing the right thing after we made our quick decision to send him away, they all disappeared on the night we put Jim on the train for Rochester. Jim's not the demonstrative type, but as we were about to leave he threw his arms around me and said, "Thanks, Mom, thanks a million." It was as if the weight of the world had been lifted off his shoulders.

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THE biggest thrill of our entire case came on June 2, 1947, when the United States Supreme Court agreed to review, or, to use their language, had “noted probable jurisdiction” on our case.

I believe that our success in this was due entirely to Mr. Dodd’s skill and knowledge as an authority on constitutional law. I have heard that the Court turns down far more appeals than it ever accepts. The same jolly crew of well-wishers who had been happy to tell me what was wrong all the way through were equally delighted to tell me we hadn’t a chance to be heard. “They’ll never rule on such a controversial question,” was the attitude of the debunkers. And the more discouraging they were, the more determined I was that we must get a hearing. I was convinced that the highest court in the land was the one place where we should have a fair and impartial hearing.

It was here that Mr. Dodd’s training in constitutional law paid off. Rather than a *certiorari*, he argued for a direct appeal.

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We had nothing to lose in taking that road, because if the Court didn't consider our case for a direct appeal, it would still be grouped with the *certiorari* cases and ruled on with them.

Dodd's ground for terming it a direct appeal was that it involved a statutory complaint, and he based his contention on the definitions of "statutory" that the Supreme Court had made in past instances. Ordinarily you would think of "statutory" as referring to an act of a legislature or other lawmaking body, but the Supreme Court had ruled that "statutory" might mean more than that, that it might involve anything legislative in character; a municipal or county-elected body, or a *school board*, would be legislative in character. Its principal purpose might not be legislative, but some of its acts might be statutory in nature. Our case was definitely in that category, but it reached right down to the limit of what the Court had included in the term. I imagine many attorneys would have taken it for granted that we had to go up on a *certiorari* and would never have considered the other possibility, and for that I did give Mr. Dodd a great deal of credit.

When the *News-Gazette* reporter called to tell me we would get a hearing, probably in October or November, I was too excited to comment. I was amused, however, at Franklin's comment; he declared that the Court's action was "more or less routine." Equally amusing was the revelation that, although he had previously proclaimed that he welcomed the opinion of the highest court and would do nothing to prevent it, he had, nevertheless, filed a motion to dismiss our appeal, contending we had not raised a federal constitutional question before the state courts. This motion, he told reporters, had been merely "procedural."

Even the opposition agreed, however, that the Supreme

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Court decision would be a significant one. The brief submitted by the Champaign School Board stated that the Court's interpretation of the First Amendment would affect the entire nation. Their brief further contended that this was a religious nation, that the term "establishment" with regard to religion in the First Amendment was not synonymous with "promotion" or "assistance," that the teaching of religion had outgrown the home, and that religious teachings would create tolerance.

Our brief replied that religious education would make the public-school system the organ of the churches and would restore the religious situation of the colonies before the American Revolution.

"The church properly has and must continue to have an important share in the life of our people," it read, "but if it takes over the public-school system as the organ of religious education, it will—unless human characteristics fundamentally change—place the large denomination or group in control within its area."

Meanwhile many events had contributed to help our case. Even the school news encouraged us. One of the arguments we had used was that the schoolrooms were needed for secular work; the other side maintained that classes in religion were held on "released" time, time when the rooms weren't needed. Yet early in the fall of 1947 more and more local headlines attested to the crowded conditions of the schools. Dr. Howard School acquired a third first-grade class to take care of beginners. Dr. Mellon, the superintendent of schools, urged that new buildings be constructed to ease crowded conditions. Father Higgins, in describing to the Circuit Court the room given to his Catholic class, had deprecatingly remarked that they had retired to "a basement room," intimating it was an

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out-of-the-way corner. This “basement room,” however, was on the same level as the kindergarten, community room, and first and second grades, and later on all of these, including Father Higgins’s “little basement room,” were used as regular classrooms.

And all of a sudden we began to acquire friends. From the day our case was accepted by the Supreme Court a number of groups approached us requesting permission to file in our behalf. In the beginning we turned all these groups down. Dodd said that while these *amici curiae* briefs might have helped in the state court, in the Supreme Court, right, not strength, was the important thing. He felt that the fact that I, one woman, felt strongly enough about this situation to go all the way to the United States Supreme Court would be impressive. Why give the Court a lot of extra briefs to go through?

One of the groups most eager to enter the case was the Synagogue Council of America, representing thirty-six Jewish organizations. We declined their offer, but they successfully petitioned the Supreme Court for permission to file in our behalf. They filed a brief that emphasized the increase in racial conflicts resulting from religious education in the schools and terming “the principle of separation of church and state as one of the foundations of American democracy.”

Champaign has an anti-Semitic element, and as soon as the news got around that Jewish groups were supporting us, phone calls and letters began pouring in: “You dirty Jew . . . we knew the Jews were in back of this all along,” et cetera, et cetera.

I chewed over the headlines a day or two and then called the *Courier*.

“It isn’t only the Jewish groups who want to come into this case,” I told them. “The Seventh-Day Adventists, Baptists, and many other groups want to enter in our behalf.”

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"The Baptists?" they said quickly. "Tell us more."

And so the story came out that, "according to Mrs. McCollum," the Baptists wanted to file in her behalf. The interest of the Baptists was true, nationally, but the local Baptists descended instantly with howls of rage and denial.

Actually I was taking a big chance in provoking this controversy, and I knew it, because, although the Baptists had considered supporting us, they hadn't yet filed a brief. But I knew that if we were to win our case in the court of public opinion as well as in the court of law, we had to let people know that this was neither an anti-religious nor an anti-Christian case. I wanted to circulate the information that Protestant groups were behind us. I explained my action to Mr. Dodd and he agreed. Since we couldn't keep everyone out, he said, we might as well let everyone in. So he sent a letter to the Supreme Court stating he was removing his objections to briefs filed by *amici curiae*.

Still the local Baptists kicked up a trail of headlines in their wake. They petitioned Chicago, they petitioned Washington; the five Champaign-Urbana Baptist ministers insisted that "no one was authorized to speak for Baptists as a whole." I kept thinking, "Oh-oh, if I'd only kept my big mouth shut!" But I knew I had only done what I had to do, and now I could only hope that the national Baptists would maintain their original interest and not be scared off. Later on, when I met E. Hilton Jackson, the attorney who filed the Baptist brief, I realized that he wasn't the type to be easily scared.

Another group that aided in forming public opinion in our behalf was the organization called Protestants and Other Americans United for Separation of Church and State. This group, called into being by Bishop G. Bromley Oxnam of the Methodist Church, met in Chicago in November 1947. Al-

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though they did not intervene in our suit, they did issue a manifesto declaring that they were opposed to the violation of the separation of church and state. I wanted to attend their meeting but felt that my interest might be a “kiss of death.” Phil attended, as a representative of the American Humanist Association, and from later reports I learned that many had wanted the manifesto to include a statement that they were opposed to religious education in public schools and also opposed to tax-free church property. They finally omitted those two statements, for fear of alienating their more conservative members. Only the measures on which all members agreed were included, but many of the more liberal groups hoped to be able to include their opposition to those two conditions at a later date.

Although the Protestants United did not join us, other *amici curiae* continued to join the fold. Our case, which was originally to have been heard on November 10, was postponed to December 8, quite possibly because some groups had indicated their desire to file briefs. The American Civil Liberties Union, the American Unitarian Association, the Ethical Culture Society, and others were filing up to the very last minute. In the end there were six *amici curiae* who filed in our behalf: the Synagogue Council of America and the National Community Relations Advisory Council; the American Civil Liberties Union; the American Unitarian Association; the American Ethical Union; the General Conference of Seventh-Day Adventists (allegedly “representing more than 200,000 members of the Denomination in the United States”); and the Joint Conference Committee on Public Relations set up by the Southern Baptist Convention, the Northern Baptist Convention, the National Baptist Convention, Inc., and the National Baptist Convention.

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Franklin remarked that it was "beginning to look like a poll of public opinion." He also protested that he had not had time to file answers to the *amici curiae* briefs. The Court granted him permission to file a supplemental brief, to which Dodd replied that he had not been a party to these last-minute briefs nor had he had time to read them over, so he, too, was granted permission to file a supplemental brief.

There were some briefs filed on the other side too. A teacher I'd had in Rochester wrote me, "It appears they're lining up against us, Vashti," and sent a clipping from the Rochester paper to the effect that the churches there had contributed fifty dollars to hire a firm of attorneys. Later they filed a brief, but only to state that religious instruction given in the New York schools differed from the Champaign plan. Neither their brief nor their action scared me. I figured if all they could get from a city of three hundred and fifty thousand was fifty dollars, they weren't very formidable.

In addition, we kept hearing a persistent rumor that Attorney General George L. Barrett of the state of Illinois would file a brief in behalf of the School Board. Barrett denied the rumor on November 13, but on December 6 he filed a brief asking the Supreme Court "not to banish the Bible." Moreover, we learned he had filed a brief in behalf of the Catholic stand in the New Jersey Bus Case, but, as far as I know, this was never publicized. It certainly would have been of interest to the population of the state he represented. Under those circumstances, his opinion in my case wasn't so hard to understand.

The lawyer who prepared Barrett's brief saw Dodd after the case and said, "Well, our brief didn't hurt you any, did it?"

It didn't, and we hadn't been afraid that it would. The additions to the opposition were no more harmful than gadflies,

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whereas the additions to our side kept looming larger and larger.

A significant incident occurred just before our case was heard. Dr. Isaac Bildersee, assistant superintendent of schools in Brooklyn, New York, decided that Christmas carols were too religious to be sung in Brooklyn Schools, which are predominantly Jewish. This naturally evoked a storm of protest, but the *Washington Post*, in a fine editorial, pointed out that Protestants and Catholics had only themselves to blame for building up a large released-time program.

“What the released-time program does is to emphasize religious animosities and make them more acute,” it said. And in another paragraph, “If a minority group now begins to assert its influence in Brooklyn, where it happens to predominate, that is exactly what should have been anticipated. For the majority groups do the same thing throughout the country wherever they have the upper hand.”

Commenting on the imminence of my appeal, they concluded, “We hope the religious groups who still advocate the released-time program will withdraw from the public schools before court decision or popular indignation subject them to the damaging effects of an enforced retreat.”

Just a week before we went to Washington, I was encouraged to hear of the fine and intelligently presented speech made before the annual convention of the Texas State Teachers Association by Agnes E. Meyer, wife of Eugene Meyer, Washington publisher. This speech was later reprinted by many magazines, including *Reader's Digest*, and presents the case against religious instruction in the public schools as eloquently as I could ever hope to do. I wish it were possible to reprint the entire article, but in part Mrs. Meyer said:

“We find both Protestant and Catholic clerics battering

down the public school doors in order to get a hearing from children whom they cannot attract to their churches. In some communities they enter the schoolroom to teach sectarian religions while the public school teacher stands by; in others they fall back upon the discipline of the school to herd the children into church classrooms. . . .

"The program is supposed to be voluntary because parents may have their children excused. But it isn't voluntary for the excused child, whose failure to attend brands him as an outsider.

"Whatever the moral inadequacies of our public school may be, we have the right to ask what proof the religious groups have to offer that their influence has been ethically more effective. What example are the sectarian groups giving at this very moment of moral leadership in our own country? They are engaged in a war with each other of such violence and mutual vituperation that Dr. Reinhold Niebuhr of Union Theological Seminary has called it a 'scandalous' exhibition. . . .

"If we are convinced that the public school system is worth preserving, we should persuade the Churches to withdraw voluntarily from the public school system. If they will not see reason, public opinion must be mobilized to hasten this retreat. For the school system is the one broad area left in our country where religious intolerance could be overcome. It is the one place where the child is not yet primarily a Protestant, a Catholic, or a Jew but an American among Americans."

On a recent trip to Washington, I had the honor to meet Mrs. Meyer, who continues to speak eloquently for non-sectarian public-school education. I hope that I adequately expressed my thanks to her. And at the time I hoped that the United States Supreme Court would put its official stamp of approval on her opinion.

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A Fair Hearing—and a Decision

AS DECEMBER 8, the final date set for our Supreme Court hearing, approached, I was torn by hope, joy, apprehension. I was also, however, plagued by one annoying thought that only a woman can understand. I hadn't a thing to wear.

Clothes have never been a major interest in my life, but I felt that for this big moment I should endeavor to achieve a happy balance between chic and respectability. To achieve this delicate balance, what I needed more than anything else was a new winter coat. That was how the coat that was to be photographed and reproduced by almost every major paper across the country came into my life.

It was a black cloth coat with an ermine collar and ermine bands on the pockets, and I felt terribly extravagant buying it. I went back to the store time after time to try it on, only to get cold feet at the last minute and leave it hanging beautifully on the rack, my heart definitely on its sleeve. Pappy would say to me, "Vashti, if you want it, get it," but I just didn't feel we could afford it. Finally I said to the proprietor

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of the store the Saturday before I was to leave, "Let me take it home over the week end. If I decide not to keep it, I won't take it to Washington, and Pappy can bring it in Monday after I've left."

"No indeed," my friend laughed. "I won't enter into any such agreement. A girl who can make up her mind to file a lawsuit and take it all the way to the Supreme Court ought to be able to make up her mind about a coat."

Along with my expensive new look I also had a new deal in traveling comfort. An attorney in the state who had taken great interest in the case had offered at one time to volunteer his legal assistance and to pay for any other legal help I might need. We couldn't take him up on that, so he then volunteered to pay all my personal expenses from then on, including the trip to Washington. So, for the first time in my life, I traveled first class on the Capitol Limited.

A reporter from the *Courier* called to ask when I was leaving and where I'd be staying, so they could get in touch with me. When he learned I was going on the Capitol Limited he said, "You'll be in good company. That's the train John Franklin's taking."

The day before I left I was desperately sick with migraine. I had my hair done, which didn't help the migraine any, and then crawled around the house trying to get my clothes packed. As soon as Pappy came home he took over the management of the house and I went to bed. A *News-Gazette* reporter called, and when I managed to get up I called him back. He asked if I had any "last-minute battle statement."

"I suppose so," I said, "but I can't think, let alone talk coherently, because I have such a bad migraine headache."

"Is there any chance that will keep you from going to Washington?" he asked eagerly.

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“Not a chance in the world,” I said.

In the statement I gave him I pointed out, as we had stressed all along, that only twenty-five per cent of a child’s waking hours are spent in school.

“With seventy-five per cent of a child’s time available for churches and homes to give religious education,” I told him, “it seems to me that those who insist religious training in the public schools is essential are either (1) admitting the churches can’t get the children there or (2) that the public-school system has failed in its ethical and moral training. The first premise may be correct. The second is not. Correlation between religious education and ethical and moral behavior has never been proved.

“This country’s greatness,” I said, “was built on the principle of separation of church and state. If that wall is broken down, with the public treasury on the other side, there will be an attempt by all religious groups to get control. Smaller denominations will be crowded out, and the process will be continued until one is predominant.

“I’m trusting to you to make that sound all right,” I apologized.

“You can see it in tomorrow’s paper,” he said. “I’ll be on the train going to Chicago with you and I’ll give you a copy.”

He didn’t give me a copy the next day, but he was sitting near by, so when he fell asleep I reached over and filched his copy.

As soon as I arrived in Washington, I called a college classmate now living there. She and her husband came to the hotel to see me and wanted to take me to breakfast, as it was just ten o’clock. But I said no, I was too excited. Besides, I wanted to be sure to get a seat for the hearing, so we went to the Supreme Court Building.

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It is a beautiful building, and I doubt that anyone could walk into it without being overcome with awed solemnity. As many tourists and sight-seers do daily, we walked through the main door and straight back to the room where hearings are held. It is a small room with little space for spectators. The first rows of seats are reserved for attorneys who have been admitted to the Supreme Court. In back of that is a section of reserved seats, and at the rear is a section for spectators. My friend looked in and said, "Oh, there's still plenty of room. Only the seats at the back are taken." But I insisted on going in, and we did. That's when we found out that only the back seats were available to the public, and they were already almost filled. I knew I'd never be able to hear way back there.

We explained our connection with the case to the bailiff, and he gave us two seats in the last row of the roped-off section. Several rows ahead of us was a group of men from the Church Council, and that irked me a little, as I thought I had more right to a good seat than they did. My friend's husband, as an attorney admitted to Supreme Court practice, sat in the front section.

While we were still waiting, the *News-Gazette* reporter came up the aisle and called to me that some photographers were outside and wanted my picture.

So I squeezed out through the aisle and went outside. The photographers were from the news services, and when I'd finished posing for them, sitting on the step of the building with the Capitol silhouetted in the background, one of the photographers came up to me and said, "I'm awfully glad to meet you, little lady, and I sure wish you luck." I was certainly glad I'd put myself out for him.

When I returned to the courtroom my friend's husband was talking to an attorney for one of the *amici curiae*, and he asked

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us to join them. We went on down and got a good ringside seat. My stock was going up, and I began to feel much brighter.

At twelve noon Court convened and they admitted the attorneys who had never practiced before the Supreme Court, including John Franklin. At twelve-thirty Dodd stepped forward to present our case. He was hardly under way, speaking in his low-voiced, cautious manner, when Justice Reed interrupted with a question. He wanted to know whether the parents asked the school to permit their children to attend religious-education classes. Dodd started to answer, and this time Frankfurter interrupted, impatient for a direct reply. It was obvious that the justices weren't going to listen to a mere prearranged oral argument but were going to get down to facts and themselves bring out the real issues in the case.

Although it was nerve-racking at the time, in the end I was completely lost in admiration at the thorough and complete way in which the United States Supreme Court reviews a case. To begin with, unlike the Illinois Supreme Court, the members of the Court have some knowledge of the case before it reaches them. They convene for two-week periods and are in recess two weeks, and during the recess time they discuss cases they've heard and read the records of those to be heard. One justice is responsible for being completely familiar with each case, and that thoroughness is close to perfection. At one point Franklin was asked for some bit of evidence given by the Lutheran minister, and to save time he and the Chicago attorney on their side, Owen Rall, were hurriedly thumbing through the transcript, when one of the justices leaned forward and said laconically, "You'll find that on this page, your honor," giving the exact page number without even consulting the transcript. The justices were familiar with every detail of

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the case, and when any minute point was in doubt they asked questions.

All the questions were to the point. If I'd planned them myself, I don't think I could have outlined a review more to my advantage.

The justices themselves composed an interesting study in personalities. Frankfurter, as I have said, impressed me as a man who is mentally keen as a whip and impatient of slow thinkers and slow talkers. I was partial to Rutledge, who had written the minority opinion in the New Jersey Bus Case, and it seemed to me that he asked the most pertinent questions, questions regarding our case that had never before been properly presented to a court. Douglas wasn't on the bench part of the time, and Murphy was absent entirely, which we regretted, as he was one of the men we had hoped to convince. Chief Justice Vinson and Justice Reed asked questions that were revealing and to the point. I liked Jackson and Burton, whose distinguished presence impressed me.

In discussing the practicality of religious education in schools, the justices asked Franklin how he would feel if it had been his son who was forced to sit in the hallway, and whether he thought it was wise to stress varying religious beliefs in schools. Apparently the many questions on the practical aspects of the case annoyed Franklin, for he said finally:

"We are not here as legislative censors. We are arguing the legality and constitutionality of this case."

"Mr. Franklin," Frankfurter boomed, "the Constitution is not something up there in the blue. It's down here, and we're living it and making it every day."

Franklin again brought up the subject that so many of my derogatory letter writers had mentioned, the legend "In God We Trust" on coins. He told the justices they would have to

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strike off those words if they denied the constitutionality of religious instruction on school time.

"You cannot strike down the American people's interest in religion or their opportunity for its public expression," he said.

"I think you're going a little far," Justice Jackson told him, "to say we are irreligious if we do not hold these classes constitutional."

All in all, Franklin argued so long and so eloquently that he used up most of the time that had been allocated to him and Owen Rall, the attorney representing the Illinois Church Council, and in conclusion he apologized for leaving only five minutes' time for argument by his colleague.

"That," snapped one of the justices, "is entirely between you and your colleague."

For a change, we, too, had a colleague. Edward Burke, former senator from Nebraska, had been chosen by common consent to represent the *amici curiae* and made the closing speech. This confused the Champaign reporter from the *News-Gazette*, and after the hearing he said to me, "Mrs. McCol-lum, we don't understand. Who was this other man and whom did he represent?" He seemed to find it hard to believe that there was someone who supported me in the case.

"He represents the *amici curiae*," I said, "but," I added with a laugh, "he didn't do a bad job representing me."

I was in wonderful spirits by the end of the hearing. All during the intermissions people kept coming up and wanting to meet me, important and well-informed men, high in religious, fraternal, and educational organizations, men from the Baptists' group, the Seventh-Day Adventists, the Jewish groups, the Scottish Rites organization, the Ethical and Unitarian societies. It was a far cry from those earlier hearings when Phil Schug and I were a committee of two.

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One man congratulated me as the hearing ended.

"You've done a wonderful job," he said, "and I'm confident that you've won. Of course just a short time ago I left this very courtroom just as confident, and in that case [the New Jersey Bus Case] we lost, but I feel your victory will offset that."

Dodd was elated also as the hearing ended. Before it began he had testily refused to see reporters or photographers, but as we left the courtroom he posed happily for the photographers.

"At last," I said as we walked down the steps and out into the bright snowy day, "I feel I've really had my day in court."

My friend, her husband, and I went back to the Mayflower Hotel, where I was staying, and then I really ate.

The rest of the week in Washington, I spent in what might be called rigorous relaxation, mainly sight-seeing.

Back home I was glad to have a chance really to rest.

Dodd and Franklin both filed their supplemental briefs to the *amici curiae* briefs, and Dodd, in his brief, concluded:

"Even if it were possible to establish state religion supported by taxation and with an effort in good faith to apply equal treatment to all sects, an equality cannot be maintained in any area in which a religious group has stronger organization and larger membership than others. Our Constitution has forbidden both state and national religion for this reason. From the beginning of our civilization, religion has been the primary basis for war and other human friction, and public schools should not be employed to continue religious friction."

To which Franklin said, "She ended up just as she started, with a vicious attack on religion."

The *Courier* ran stories on both Franklin and me with regard to our experiences in the Washington wonderland. At the end of the year the *News-Gazette* asked the various departments of their paper to name the top-ranking headline stories

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of the year, and mine was right in there along with the local murder and the Rose Bowl game.

The newspapers weren't referring to it as an "atheist" case any more, incidentally. We had gained respectability almost overnight as soon as the Supreme Court had agreed to hear the case, and from that time the press was far more respectful to us.

Our status in the judicial world hadn't changed the opinion of some of the townspeople, however. In the spring of 1948 an out-of-town newspaperwoman came to interview me, and in the course of collecting material for her story, she called on university representatives to find out what the official reaction to my case had been.

One of her informants deluged her with facts about the eminently religious character of the university, she said, and gave her statistics on those students who expressed religious preference on their entrance forms (on which they are asked for them). He insisted that no university of any standing would have allowed itself to be prejudiced against a faculty member because of the actions of that member's wife.

"We'd never dismiss a faculty member for such a reason," he said. "Something similar happened a number of years ago when the wife of one of the faculty members was having an affair with a Champaign resident.

"Her husband became suspicious, so one day he told her he was going out of town. Instead he got on the train at Urbana and got off at Champaign and trailed her. There was quite a big to-do over it; the divorce suit identified the faculty man and it was quite a scandal. But the university let the man stay on, and he remained a highly useful faculty member for many years.

"That case was very similar to this one," he concluded.

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Frankly, both the newspaperwoman and I failed to detect the similarity between this Casanova and my legal objections to religious instruction in public schools, but apparently that was the way certain members of the faculty felt. Both cases had resulted in "embarrassing publicity," and they lumped them in the same category.

Franklin expected a split decision, favorable to him. The churchmen in Champaign, however, weren't overly confident, as was apparent by their action in February 1948. Reorganization of the school districts was under way, and the men behind the religious-instruction program were hastily making plans for a substitute method in case I was upheld by the Supreme Court.

What they finally decided to do was distribute a Religious Census Card to the school children to be filled out in the schoolroom, not taken home. The card requested the following facts:

Name	Age
Address	Telephone
I am in the ____ grade of ____ Public School.	
I attend the ____ Sunday School or Church.	
My father attends ____ Church.	
My mother attends ____ Church.	
I do not go to Sunday School or Church but if I were to go	
I would prefer ____ Sunday School or Church.	

I called Mellon when I learned of this and asked if the children would be permitted to take home the cards. He said he thought the churchmen preferred to have them filled out in school. When I asked if the School Board had granted permission, he told me he had done so.

"How about children who are too young to fill out the cards?" I asked.

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“In that case the teacher will help them.”

“And is that all the teachers have to do, help children spell the word ‘Methodist?’”

No reply.

I asked what the objections were to sending the cards home for filling out, and he explained that too many would never be returned.

Many people did protest against the census cards. One Jewish university student objected that it would have the undesirable effect of putting children into groups and calling attention to differences. The minister he called said he was sure it wouldn't.

Other parents got wind of the plan and told their children to bring the cards home, and in the lower grades children were permitted to take them home. The mother of one small girl took the card and didn't return it. The teacher badgered and badgered the child until the mother was forced to call the teacher and tell her the card would not be returned and not to scold her about it. Our boys brought the cards home but weren't subjected to any such inquisition. In fact, Danny was even a bit disappointed and finally approached the teacher.

“My mother says we aren't to return those cards,” he said.

“That's perfectly all right,” she shushed him hurriedly.

But the project did have the effect of calling attention to differences. A university professor told me that his daughter in the first grade, who had never been conscious of any racial differences in children, came home from school that very noontime and asked thoughtfully, “Daddy, what's a Jew?” After the decision another man told me of his child's experience. She had come home in tears after her best friend had turned on her in the schoolyard and said in front of the other

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children, "I don't like you. You're not an American, you're a Jew."

It was too late to eliminate the feelings of differences already widespread in Champaign schools, but we hoped the Court would vindicate us at least.

Ever since the hearing I had been very optimistic about our chances, so much so that I didn't dare breathe to anyone, even to Pappy, just how confident I felt. Mr. Dodd was the same. He kept saying, "I won't predict, I won't predict," but I could tell he was gleeful.

Others on our side were less reticent about predicting victory, and all of us tried to guess what the split-up of the Court would be. We believed that the minority in the Bus Case was committed to our side, and since the majority in that decision had emphasized so strongly that they would not have ruled that way had it been a tax for religious purpose rather than for public welfare, it seemed we must have most of them too. Various people told me they expected a 6-3 or 7-2 decision in my favor; 7-2 they said would be a great triumph. We hoped it would be better than 5-4, anyway.

And so we lived from Monday to Monday. The Supreme Court decisions apparently are handed down in no particular order, but we knew that decisions are handed down on the Mondays the Court is in session. On Mondays every time the phone rang I'd break my neck to answer it. Every Monday except one.

On Monday, March 8, Pappy was home sick in bed and I was taking a nap before going out collecting on Danny's paper route. We'd had bad weather, slushy and cold, and he hadn't been able to get around to collect, so I was going to help him. I thought the exercise would be good for me.

I was sound asleep when the *Courier* called me, the only

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time a reporter from that paper was first to call me with a piece of news about the case. But they had caught the date line "Washington, D.C." on the teletype and jumped for the phone to call me instantly, even before they knew what the news was going to be. As it came in, they read it off to me:

"The Supreme Court ruled today that public school systems may not be used to assist religious groups in giving religious instruction.

"The decision was 8 to 1."

According to the papers, I said, "Oh—oh—" several times, "brokenly." I honestly don't remember. I do remember saying, "I must tell Pappy," and I hung up the receiver and ran upstairs. I opened the door and stood there, trying to look very nonchalant.

"Pappy," I said, "guess what happened?" Sick as he was, Pappy grinned broadly. "You needn't tell me," he said. "I know."

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FOR the rest of the day and night I was running around like a hen without a head. The phone rang and rang. Everyone wanted to be the first to tell me the good news. The *Courier* photographer came over to take my picture, and the phone rang so continually that he finally decided to take it at the phone because that pose was most typical of that hectic afternoon.

As usual, one of my first concerns was for the appearance of my hair, and one of my first responses to the news was to make an appointment at the hairdresser. I asked the *News-Gazette* photographer to come over that evening, after I'd been all fixed up, and of course, as it turned out, the earlier picture, made without benefit of fixing, was infinitely better than the later one.

That night we had long-distance calls from Los Angeles, New York, Chicago, and wires from everywhere in the country. Phil Schug, who'd been moved to Lincoln, Nebraska, and

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wasn't with us at our final victory, sent a wire: "Congratulations. Watch that hang-over. Save local papers for me."

I talked to my parents in Rochester, and Mother told me the news had caught them by surprise too. Dad had been glued to the radio every Monday, but that Monday afternoon he had gone out with Jim to the barber. Mother was home alone ironing when the news came over the air. As soon as she caught the words "Supreme Court," she stopped everything to listen. When Dad and Jim returned she met them at the door with the news, and she said Jim almost leaped to the ceiling.

"I knew Mom was right," the papers later quoted him as saying. "Everybody thought Mom and I were wrong, but now they can't think that unless they think the justices are wrong too."

A great many people, of course, still thought Mom and the justices were wrong, but there wasn't much arguing with that decision that I could see.

Justice Hugo Black, who delivered the majority opinion, said the facts in the case "show the use of tax-supported property for religious instruction and the close co-operation between the school authorities and the religious council in promoting religious education." He added:

"The operation of the state's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects. Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question a utilization of the tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the (Constitution's) First Amendment

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(made applicable to the states by the Fourteenth Amendment)."

Justice Stanley Reed, in his dissent, said that the decision raised a bar against practically all forms of religious instruction connected in any way with school systems. He added:

"Devotion to the great principle of religious liberty should not lead us into a rigid interpretation of the constitutional guarantee that conflicts with accepted habits of our people."

Justice Jackson, in an opinion concurring with the majority, warned the Court that to set up a "rigid" and "uniform" standard for school boards would be to "allow zeal for our own ideas . . . to induce us to accept the role of a super-board of education for every school district in the nation."

In the fourth opinion, Justice Frankfurter, joined by Jackson, Rutledge, and Burton, said:

"We find that the basic constitutional principle of absolute separation was violated when the state of Illinois, speaking through its Supreme Court, sustained the school authorities of Champaign in sponsoring and effectively furthering religious beliefs by its educational arrangement. Separation means separation, not something else."

The night of the decision the wife of one of the Action Council men called to congratulate me, just as if I'd done it all by myself without any help from them. They asked me to come to Chicago the next day for a press conference, which I did. I was excited all the way up on the train, and I had a wonderful time there. The Chicago papers had me all over the front page, and on the front page of the Chicago *Sun-Times* my picture was one of three sharing honors that day; the other two—President Truman and General MacArthur.

Naturally the news made the front page of the Champaign papers, and even the *News-Gazette* gave the story fair treat-

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ment for two days. But on the third day they headlined an article, "Mrs. McCollum Wins Three Year Fight By Force Against 'Robed Hypocrites,'" once again bringing up my father's pamphlet and all the atheistic arguments. Up to that time I hadn't had much crank reaction, but then the letters and phone calls started again. As usual, none of the lunatic fringe gave their names. One, we were sure, lived within sight of our house, because the phone rang faithfully each night as soon as the lights went out. As usual, the crank letters took no cognizance of the legal ruling in the case. They seemed to know nothing of the real issue involved, even after three years of publicity. They only knew that my father's pamphlet preached atheism, and they just couldn't understand that the highest court in the land would uphold such statements.

From the time of the decision on, day after day, it seemed there was a new headline, a new crisis. We had a university student rooming with us, who returned home each night at ten, and each night he'd say the same thing: "Well, let's hear the latest episode." It was almost like a continuous soap opera.

One "episode" involved a petition from the Sullivan Christian Church Sunday-school class in Sullivan, Illinois, requesting the dismissal of Pappy from the university faculty as associate professor of vegetable crops. The *Daily Illini*, the university newspaper, had a very fair and heartening front-page editorial on this subject. Referring to the fact that the Sunday-school class had asked Park Livingston, former president of the board, to "use your influence" to have Pappy ousted, it went on to say:

"The *Daily Illini* fails to see the connection between ability to instruct students in vegetable crops or any other subject and the two points above—religious education and atheism.

"The private affairs and actions of a man's wife should be

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no indication of his capability to instruct. We cannot believe that McCollum is quietly inserting religious or atheist principles into the pages of his lectures on agriculture.

"It is unfortunate that such typical 'small-town' thought should come up at this time to embarrass McCollum.

"The Sunday School has asked Livingston to use his 'influence.'

"The *Daily Illini* also asks the board president to use his 'influence'—to see the petition gets the fleeting attention which it deserves.

"If we are to begin housecleaning among University instructors, as the petition intimates, let's make it on the basis of their ability, knowledge, and interest in classes—not on the religious views of their relatives."

A friend of ours wrote a letter to the Sunday-school group censuring them and asking, "Of what value is the principle of religious and political freedom if it does not carry with it economic security? How many of you would dare support publicly your most sacred belief if your or your husband's employment would thus be jeopardized? I am sure you will reconsider upon sober second thought a petition circulated so ill-advisedly."

Needless to say, our enemies didn't become our friends overnight just because the Supreme Court had said we were right. A friend of mine who worked in a downtown store one day overheard a young man say that a gang at the university was going to lynch me. She was terrified and called me right away and said, "Oh, Vashti, have you heard the terrible thing they're going to do?"

"Oh no," I said. "They're not going to sue me, are they?"

I was so sick of lawsuits I thought I couldn't stand the ordeal of another one. When I found out they only wanted to lynch me, I was quite relieved.

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"Oh, is that all?" I said.

My friend couldn't understand my attitude. It was an attitude based partly on my reaction to such articles as the one written by Milton Mayer in the *Progressive*, entitled "Come, All Ye Faithless." He wrote:

"The Supreme Court has just upheld the Constitutional right of Jimmy McCollum, age 12, to go to hell. Americans everywhere will rejoice and the reason they will rejoice is that the Court has saved Jimmy, not from damnation but from knowing about it. The Court holds, in effect, that ignorance of beatitude is bliss and so do Americans everywhere. We are now, under the First Amendment, squarely committed to the free exercise of the pagan materialism we oppose when Hitler and Stalin exercise it."

He referred to me throughout as Ma McCollum, brushed off Justice Jackson as "This baby Jackson whose Christian specialty is hanging defeated generals," and with his cheap flippancy lent only confusion to the discussion.

But, as always, there were bright spots along with the dark. A flood of congratulatory mail balanced the crank and the crackpot; there were requests for information for use in panel discussions, for term papers, and for other serious purposes.

"Your heroic form should be cast in deathless bronze," wrote one enthusiastic letter writer.

"No Catholic can adore the Virgin Mary more than I adore Vashti McCollum," an outspoken atheist wrote my parents.

A retired Presbyterian minister, the Reverend Mr. Thomas of Lyons, New York, proposed to the town newspaper that they start a drive to buy the house in which I was born and make it a shrine.

"That the gigantic task of safeguarding religious freedom in the United States should be left to one lone but brave little

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lady is an indictment of the manhood of this country and places you in a class with Joan of Arc," said another letter writer.

A Vermont newspaperman who had handled the wire service on my case told of his interest and added, "It appears to me during the past decade the wall between church and state has been crumbling bit by bit; it took your case to focus all of the nation's attention on this vital issue."

A housewife in a small Illinois town took time out between the family ironing and the dinner dishes to write, "The mere fact of being right is seldom enough. You can take such a beating that the cost in inconvenience, unhappiness, time consumed, loss of money may seem too high. That is why it is such a real pleasure to read about you, who refused to be budged from the basic principle of separation of church and state, in spite of considerable personal discomfort, to put it mildly."

Many of the congratulatory messages expressed a feeling of guilt for the writers' own inertia in the matter.

"Good luck and thanks for being the whipping boy for those others (me) who think as you do but do not do as you have done," a doctor wrote.

"You have been carrying the ball for 75 million unchurched Americans even if a lot of them don't know it," said another letter. "And this one not only knows it but is grateful."

A postcard from Philadelphia with a picture of the Liberty Bell contained the message, "On behalf of the Grand Old Bell—congratulations to a grand, young belle! If the *News-Gazette* had the brains of a gazelle, it would run you for President. For those of us who love America, you've been a Champaign cocktail. Long may you fizz!"

Another enthusiastic supporter was Walter M. Edwards,

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of St. Louis, Missouri, a fellow Cornellian, class of '93, who reported his delight at the decision at his class's fifty-fifth reunion, and termed it, "The most important decision since the Dred Scott Case."

Many of the newspapers followed the decision with friendly comments, friendly editorials, friendly cartoons. The St. Louis *Post-Dispatch* rejoiced with us, and its great cartoonist, D. J. Fitzpatrick, drew as his cartoon interpretation a huge stone base, engraved, "Congress Shall Make No Law Respecting An Establishment of Religion Or Prohibiting the Free Exercise Thereof." At the foot of this monumental utterance was a small flagpole and a pennantlike flag waving from it, labeled, "McCullum Decision." The caption read, "Reaffirming the Things that are Caesar's and the Things that are God's."

I was so pleased with this wonderful cartoon that I wrote to Mr. Fitzpatrick and asked if I might purchase the original. He countered by sending it to me as a gift, with suggested instructions for proper framing. It is now one of my most cherished possessions.

As a result of the decision, I made a great many trips to appear before organizations and express my views. In the spring of 1948, I spoke from the pulpit of the Unitarian church in Rochester, New York, wearing a black robe for the occasion. On a trip to New York, I spoke at the National Liberal League banquet and before Dr. Charles Francis Potter's First Humanist Society of New York. On May 27, 1948, I appeared in a debate sponsored by the American Jewish Congress. Everywhere I was interviewed by the press and radio. In June of 1948, I appeared on Bob Elson's "On the Century" program and again had an opportunity to tell my story.

During my spring trip to New York, I was interviewed by a

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reporter from the daily newspaper *PM*, who wrote a most interesting and sympathetic story, which brought a great deal of response. One result of the *PM* story was that the American Civil Liberties Union wrote me with regard to my statement that the case had cost twenty-five thousand dollars, and that it had cost me five thousand dollars personally. This, they said, seemed an excessive charge "for establishing principles in a case in which we would assume that lawyers' services were largely volunteered" (they were not), but if I would send them a statement of my expenses they would consider sharing in them.

I wrote immediately, explaining the distribution of the money, why our early mistakes had added to later expenses, how my loss of employment at the university, Jim's private-school tuition, our long-distance and correspondence bills, and my traveling expenses had been a burden to us. I didn't feel like a martyr, I explained, and I would have done it over again, gladly.

We had managed to meet the expenses by taking in roomers, by borrowing a thousand dollars from an aunt of mine, by paying off less on our mortgage, and generally by tightening our belts. In reply, the Union sent me five hundred dollars, and I endorsed it right over to my aunt on our debt. I felt it was splendid of the American Civil Liberties Union, especially because the case had already been won.

Another result of the *PM* story was a great interest in the decision among foreign-born persons in the Manhattan area. Many of them wrote, telling of similar experiences.

"Pardon me for disturbing you with my English poor letter," a typical one began, "but I am so proud of you and your action against teaching so-called religion in public schools. I was reared in Lithuania under Roman Catholic Domination and I know what it is to be enslaved."

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"I was born in Denmark," read another, "and from the first day I entered school it was a Bible lesson each day. It was by far my most important lesson. I soon learned to dread it, as punishment followed if I forgot any part of it . . . I know it will be said here that it will not go to that extreme but I am thinking that Americans move fast and are not entirely adverse to extremes. The same force that is taking religion into the schools will keep right on pushing."

But by far the most touching of them all was a letter from a man in Brooklyn. It read:

"Your case has a striking similarity with my own though mine happened in 1933 in Poland.

"I had a son. In 1933 he was eight years old, a handsome boy with blond hair and blue eyes, intelligent and in knowledge far ahead of his schoolmates. He knew that he was Jewish though he did not understand why.

"When he was six I took him to a religious ceremony in our family. There he saw a rabbi, an old man with a long beard, in his orthodox attire. He asked me: Who is this man? Answer: A rabbi. What is a rabbi? A: A rabbi is a man who teaches the laws given by God to make people good and kind and virtuous. Why do people need religion to be good? A: Because there hasn't been anything better so far. There were many more 'whys' asked by the lad which I couldn't answer to his satisfaction.

"Several weeks later a Catholic procession was moving along the street. My boy was with me. He saw the priest in his religious attire which was different from the one he saw before.

"Who is this man? pointing at the priest. I repeated the same answer given about the rabbi—He is a religious leader to make people good and virtuous. Why isn't he a rabbi? What is a Jew and what is a Catholic? A dozen more 'whys' followed.

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I did not know the answers that would satisfy my boy. Today, fifteen years later, I still don't know the answers.

"1935. I moved into a Gentile neighborhood. My son changed school. He was enthusiastic about the new buildings, the different environment, and had acquired new friends from the neighborhood. With some of them he became a good friend, was visiting them at their homes. Very often I saw the youngsters in my home. Usually my wife served afternoon tea or milk for the boys. They were cheerful and harmonious and happy.

"One day I learned from my son quite accidentally that once a week for one full hour he was playing ball by himself in the schoolyard instead of being in class. There hadn't been enough Jewish children to make religious instruction for a minority obligatory.

"For several weeks my son had to leave the classroom before religious instruction was about to begin. It was fall, and my son—rain or shine, warm or cold—had to spend one hour in the schoolyard. There was no teachers' restroom for him; it was reserved for teachers only.

"When the rest of the children in his class became aware that my son was of a different faith, they became hostile to him. Several times he was beaten up and spat in his face. To them he was no more Gustave but dirty, lousy Jew and Jewish brat. School life had become unbearable and it became necessary to transfer him to another school.

"I could not fight against religious instruction as you so gallantly and courageously did. There was a concordat in Poland which made the Catholic Church a partner of the state, in school as well as all other branches of social, political, and economic life.

"In 1939 my son was a high-school student, brilliant in his

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scholastic achievement, hopeful in his naïveté, but in fact without any prospect of being accepted by any Polish university due to what the Catholics of Poland called proudly ‘*numerus clausus*.’ Wasn’t my son right when he at the age of six asked, ‘why do we have rabbis and priests and Catholics and Jews?’

“In 1942 my son was a slave laborer to the Germans who occupied Poland. There he was murdered by the Nazis. My wife was cremated in another labor camp. Why? Because they were Jews. Murdered by whom? By the Germans who belonged to a different religion.

“After the last war was over, one of the GIs brought an army belt from Germany. There was an emblem with an inscription within the frame of a swastika, ‘GOTT MIT UNS.’ With whom is Gott and against whom and why? If I had another son, six years old, perhaps he would ask me that question but I couldn’t answer.

“When I read yesterday’s paper I felt the need to congratulate you on your successful fight against the forces of evil which try to invade our school system against the interest of all of us.

“Permit me, dear Mrs. McCollum, to wish you many more successes in all your undertakings for a better and happier world. Please accept my friendliest regards.”

If I had ever had any doubts, this letter would have reminded me what I was fighting for and what I was fighting against.

Epilogue: The McCollums in the 1990's

FOLLOWING the decision, the McCollum family resumed a more normal routine. I returned to the University and completed my master's degree in communications. Much of my research was directed towards religious censorship of books and motion pictures. When the opportunity presented itself, I shared this information with audiences throughout the United States. My continuing interest in civil liberties and freedom of thought helped connect me with the American Humanist Association. I subsequently served as board member, and later, two terms as president of the AHA.

Pappy continued on at the University of Illinois, eventually being promoted to full professor. In addition to his devotion to his family, he increasingly found time for his favorite pastimes, fishing and photography.

Our children, James Terry, Dannel and Errol, all finished high school in Champaign-Urbana. Jim and Dan also graduated from the University of Illinois, Jim in geology and law, Dan in political science and education. Errol received his

engineering degree from Southern Illinois University. Today, Jim is a lawyer in Rochester, New York, Dan is the mayor of Champaign, Illinois, and Errol is a partner in a bicycle business in Moline, Illinois.

There is a third generation as well. Jim has two children, Vashti Elizabeth and George Angus; Dannel has one, Dannel Jr.; and Errol has two, Scot and Craig. All are college graduates but the youngest, Angus, who is still a struggling student.

Pappy retired from the University in 1971. We sold our home in Champaign, in which we had lived since 1937, and moved to Springdale, Arkansas. Pappy never liked to shovel snow yet wanted to remain close to a university setting—the University of Arkansas in Fayetteville was but a few miles down the road.

Even before the move to Arkansas, I had developed interests in photography and world travel. All of my many trips were recorded in pictures and I have developed numerous slide shows which I present to schools and civic groups.

All things are in transition and so it is with our family. We lost our beloved Pappy in 1984 at the age of 79. His 14 years of retirement after leaving the University of Illinois were rewarding. By common agreement among family members, he had been as fine a husband and father as nature could devise.

It has been nearly a half century since I initiated my action against the released time religious education program in the Champaign Schools. Initially, it seemed to me that the direction was generally in the direction of sustaining the wall of separation between church and state.

As are other liberals and human rights advocates, I am dismayed over the drift of the United States Supreme Court away from the great decisions of the Roosevelt, Truman and Eisenhower courts. It is hard to imagine that so much mischief

could have been done by Presidents Nixon, Reagan and Bush. Now no former decision affirming civil liberties, including the McCollum Decision, is safe.

The McCollum Case and its aftermath definitely led to a major disruption in my life and that of my family. However, I felt that it was one of those causes in life that could be justified as being the right thing to do irrespective of the personal costs. But today, when that great affirmation of religious liberty—"Congress shall make no law respecting an establishment of religion . . ."—seems at the edge of an abyss, the thought does arise, was it worth the effort?

Actually, I have never really doubted the wisdom of my decision those many years in the past. "Eternal vigilance is the price of liberty," and the McCollum Case represents only one of many bricks in the wall separating church and state. But now that I am eighty years old, others must step forward to lay the bricks and defend the wall.

I am grateful for a long life that I can look back upon as having been both useful and interesting. My sons have all gone forward to widely different pursuits in life. None of them has ever expressed regrets. A strong sense of family, as well as a belief in the cause, was the key to our survival through those traumatic years.

We are grateful to the Freedom From Religion Foundation for the republication of our story.

Vashti Cromwell McCollum

Full Text of the Supreme Court Decision in the McCollum Case

EXCLUDING FOOTNOTES

Mr. Justice BLACK delivered the opinion of the Court.

This case relates to the power of a state to utilize its tax-supported public school system in aid of religious instruction insofar as that power may be restricted by the First and Fourteenth Amendments to the Federal Constitution.

The appellant, Vashti McCollum, began this action for mandamus against the Champaign Board of Education in the Circuit Court of Champaign County, Illinois. Her asserted interest was that of a resident and taxpayer of Champaign and of a parent whose child was then enrolled in the Champaign public schools. Illinois has a compulsory education law which, with exceptions, requires parents to send their children, aged seven to sixteen, to its tax-supported public schools where the children are to remain in attendance during the hours when the schools are regularly in session.

Full Text of the Supreme Court Decision

Parents who violate this law commit a misdemeanor punishable by fine unless the children attend private or parochial schools which meet educational standards fixed by the State. District boards of education are given general supervisory powers over the use of the public school buildings within the school districts. Ill.Rev.Stat. ch. 122, §§ 123, 301 (1943).

Appellant's petition for mandamus alleged that religious teachers, employed by private religious groups, were permitted to come weekly into the school buildings during the regular hours set apart for secular teaching, and then and there for a period of thirty minutes substitute their religious teaching for the secular education provided under the compulsory education law. The petitioner charged that this joint public-school religious-group program violated the First and Fourteenth Amendments to the United States Constitution. The prayer of her petition was that the Board of Education be ordered to "adopt and enforce rules and regulations prohibiting all instruction in and teaching of all religious education in all public schools in Champaign District Number 71, * * * and in all public school houses and buildings in said district when occupied by public schools."

The board first moved to dismiss the petition on the ground that under Illinois law appellant had no standing to maintain the action. This motion was denied. An answer was then filed, which admitted that regular weekly religious instruction was given during school hours to those pupils whose parents consented and that those pupils were released temporarily from their regular secular classes for the limited purpose of attending the religious classes. The answer denied that this coordinated program of religious instruction violated the State or Federal Constitution. Much evidence was heard, findings of fact were made, after which the petition

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for mandamus was denied on the ground that the school's religious instruction program violated neither the federal nor state constitutional provisions invoked by the appellant. On appeal the State Supreme Court affirmed. 396 Ill. 14, 71 N.E.2d 161. Appellant appealed to this Court under 28 U.S.C. § 344(a), 28 U.S.C.A. § 344(a), and we noted probable jurisdiction. 67 S.Ct. 1524.

[1-3] The appellee presses a motion to dismiss the appeal on several grounds, the first of which is that the judgment of the State Supreme Court does not draw in question the "validity of a statute of any State" as required by 28 U.S.C. § 344(a), 28 U.S.C.A. § 344(a). This contention rests on the admitted fact that the challenged program of religious instruction was not expressly authorized by statute. But the State Supreme Court has sustained the validity of the program on the ground that the Illinois statutes granted the board authority to establish such a program. This holding is sufficient to show that the validity of an Illinois statute was drawn in question within the meaning of 28 U.S.C. § 344(a), 28 U.S.C.A. § 344(a). *Hamilton v. Regents of University of California*, 293 U.S. 245, 258, 55 S.Ct. 197, 202, 79 L.Ed. 343. A second ground for the motion to dismiss is that the appellant lacks standing to maintain the action, a ground which is also without merit. *Coleman v. Miller*, 307 U.S. 433, 443, 445, 464, 59 S.Ct. 972, 978, 986, 83 L.Ed. 1385, 122 A.L.R. 695. A third ground for the motion is that the appellant failed properly to present in the State Supreme Court her challenge that the state program violated the Federal Constitution. But in view of the express rulings of both state courts on this question, the argument cannot be successfully maintained. The motion to dismiss the appeal is denied.

Although there are disputes between the parties as to

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various inferences that may or may not properly be drawn from the evidence concerning the religious program, the following facts are shown by the record without dispute. In 1940 interested members of the Jewish, Roman Catholic, and a few of the Protestant faiths formed a voluntary association called the Champaign Council on Religious Education. They obtained permission from the Board of Education to offer classes in religious instruction to public school pupils in grades four to nine inclusive. Classes were made up of pupils whose parents signed printed cards requesting that their children be permitted to attend; they were held weekly, thirty minutes for the lower grades, forty-five minutes for the higher. The council employed the religious teachers at no expense to the school authorities, but the instructors were subject to the approval and supervision of the superintendent of schools. The classes were taught in three separate religious groups by Protestant teachers, Catholic priests, and a Jewish rabbi, although for the past several years there have apparently been no classes instructed in the Jewish religion. Classes were conducted in the regular classrooms of the school building. Students who did not choose to take the religious instruction were not released from public school duties; they were required to leave their classrooms and go to some other place in the school building for pursuit of their secular studies. On the other hand, students who were released from secular study for the religious instructions were required to be present at the religious classes. Reports of their presence or absence were to be made to their secular teachers.

[4-9] The foregoing facts, without reference to others that appear in the record, show the use of tax-supported property for religious instruction and the close cooperation between

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the school authorities and the religious council in promoting religious education. The operation of the state's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects. Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment (made applicable to the States by the Fourteenth) as we interpreted it in *Everson v. Board of Education*, 330 U.S. 1, 67 S.Ct. 504. There we said: "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 or influence a person to go to or to 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 may 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, and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between Church and State.'" *Id.*, at pages 15, 16 of 330 U.S., at page 511 of 67 S.Ct. The majority in the *Everson* case, and the minority as shown by quotations from the dissenting views in our notes

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6 and 7, agreed that the First Amendment's language, properly interpreted, had erected a wall of separation between Church and State. They disagreed as to the facts shown by the record and as to the proper application of the First Amendment's language to those facts.

[10] Recognizing that the Illinois program is barred by the First and Fourteenth Amendments if we adhere to the views expressed both by the majority and the minority in the *Everson* case, counsel for the respondents challenge those views as dicta and urge that we reconsider and repudiate them. They argue that historically the First Amendment was intended to forbid only government preference of one religion over another, not an impartial governmental assistance of all religions. In addition they ask that we distinguish or overrule our holding in the *Everson* case that the Fourteenth Amendment made the "establishment of religion" clause of the First Amendment applicable as a prohibition against the States. After giving full consideration to the arguments presented we are unable to accept either of these contentions.

To hold that a state cannot consistently with the First and Fourteenth Amendments utilize its public school system to aid any or all religious faiths or sects in the dissemination of their doctrines and ideals does not, as counsel urge, manifest a governmental hostility to religion or religious teachings. A manifestation of such hostility would be at war with our national tradition as embodied in the First Amendment's guaranty of the free exercise of religion. For the First Amendment rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere. Or, as we said in the *Everson* case, the First Amendment has

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erected a wall between Church and State which must be kept high and impregnable.

[11] Here not only are the state's tax-supported public school buildings used for the dissemination of religious doctrines. The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the state's compulsory public school machinery. This is not separation of Church and State.

The cause is reversed and remanded to the State Supreme Court for proceedings not inconsistent with this opinion.

Reversed and remanded.

Mr. Justice FRANKFURTER delivered the following opinion, in which Mr. Justice JACKSON, Mr. Justice RUTLEDGE and Mr. Justice BURTON join.

We dissented in *Everson v. Board of Education*, 330 U.S. 1, 67, S.Ct. 504, 512, because in our view the Constitutional principle requiring separation of Church and State compelled invalidation of the ordinance sustained by the majority. Illinois has here authorized the commingling of sectarian with secular instruction in the public schools. The Constitution of the United States forbids this.

The case, in the light of the *Everson* decision, demonstrates anew that the mere formulation of a relevant Constitutional principle is the beginning of the solution of a problem, not its answer. This is so because the meaning of a spacious conception like that of the separation of Church from State is unfolded as appeal is made to the principle from case to case. We are all agreed that the First and the Fourteenth Amendments have a secular reach far more penetrating in the conduct of Government than merely to forbid an "established church." But agreement, in the abstract, that the First Amendment was designed to erect a

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“wall of separation between Church and State,” does not preclude a clash of views as to what the wall separates. Involved is not only the Constitutional principle but the implications of judicial review in its enforcement. Accommodation of legislative freedom and Constitutional limitations upon that freedom cannot be achieved by a mere phrase. We cannot illuminatingly apply the “wall-of-separation” metaphor until we have considered the relevant history of religious education in America, the place of the “released time” movement in that history, and its precise manifestation in the case before us.

To understand the particular program now before us as a conscientious attempt to accommodate the allowable functions of Government and the special concerns of the Church within the framework of our Constitution and with due regard to the kind of society for which it was designed, we must put this Champaign program of 1940 in its historic setting. Traditionally, organized education in the Western world was Church education. It could hardly be otherwise when the education of children was primarily study of the Word and the ways of God. Even in the Protestant countries, where there was a less close identification of Church and State, the basis of education was largely the Bible, and its chief purpose inculcation of piety. To the extent that the State intervened, it used its authority to further aims of the Church.

The emigrants who came to these shores brought this view of education with them. Colonial schools certainly started with a religious orientation. When the common problems of the early settlers of the Massachusetts Bay Colony revealed the need for common schools, the object was the defeat of “one chief project of that old deluder, Satan, to keep

men from the knowledge of the Scriptures." *The Laws and Liberties of Massachusetts*, 1648 edition (Cambridge 1929) 47.

The evolution of colonial education, largely in the service of religion, into the public school system of today is the story of changing conceptions regarding the American democratic society, of the functions of State-maintained education in such a society, and of the role therein of the free exercise of religion by the people. The modern public school derived from a philosophy of freedom reflected in the First Amendment. It is appropriate to recall that the Remonstrance of James Madison, an event basic in the history of religious liberty, was called forth by a proposal which involved support to religious education. See Mr. Justice Rutledge's opinion in the *Everson* case *supra*, 330 U.S. at pages 36, 37, 67 S.Ct. at pages 521, 522. As the momentum for popular education increased and in turn evoked strong claims for State support of religious education, contests not unlike that which in Virginia had produced Madison's Remonstrance appeared in various form in other States. New York and Massachusetts provide famous chapters in the history that established dissociation of religious teaching from State-maintained schools. In New York, the rise of the common schools led, despite fierce sectarian opposition, to the barring of tax funds to church schools, and later to any school in which sectarian doctrine was taught. In Massachusetts, largely through the efforts of Horace Mann, all sectarian teachings were barred from the common school to save it from being rent by denominational conflict. The upshot of these controversies, often long and fierce, is fairly summarized by saying that long before the Fourteenth Amendment subjected the States to new limitations, the prohibition of

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furtherance by the State of religious instruction became the guiding principle, in law and feeling, of the American people. In sustaining Stephen Girard's will, this Court referred to the inevitable conflicts engendered by matters "connected with religious polity" and particularly "in a country composed of such a variety of religious sects as our country." *Vidal et al. v. Girard's Executors*, 2 How. 127, 198, 11 L.Ed. 205. That was more than one hundred years ago.

Separation in the field of education, then, was not imposed upon unwilling States by force of superior law. In this respect the Fourteenth Amendment merely reflected a principle then dominant in our national life. To the extent that the Constitution thus made it binding upon the States, the basis of the restriction is the whole experience of our people. Zealous watchfulness against fusion of secular and religious activities by Government itself, through any of its instruments but especially through its educational agencies, was the democratic response of the American community to the particular needs of a young and growing nation, unique in the composition of its people. A totally different situation elsewhere, as illustrated for instance by the English provisions for religious education in State-maintained schools, only serves to illustrate that free societies are not cast in one mould. See the Education Act of 1944, 7 and 8 Geo. VI, c. 31. Different institutions evolve from different historic circumstances.

It is pertinent to remind that the establishment of this principle of separation in the field of education was not due to any decline in the religious beliefs of the people. Horace Mann was a devout Christian, and the deep religious feeling of James Madison is stamped upon the Remonstrance. The secular public school did not imply indiffer-

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ence to the basic role of religion in the life of the people, nor rejection of religious education as a means of fostering it. The claims of religion were not minimized by refusing to make the public schools agencies for their assertion. The non-sectarian or secular public school was the means of reconciling freedom in general with religious freedom. The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and most bitterly engendered. Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must keep scrupulously free from entanglement in the strife of sects. The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice.

This development of the public school as a symbol of our secular unity was not a sudden achievement nor attained without violent conflict. While in small communities of comparatively homogeneous religious beliefs, the need for absolute separation presented no urgencies, elsewhere the growth of the secular school encountered the resistance of feeling strongly engaged against it. But the inevitability of such attempts is the very reason for Constitutional provisions primarily concerned with the protection of minority groups. And such sects are shifting groups, varying from time to time,

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and place to place, thus representing in their totality the common interest of the nation.

Enough has been said to indicate that we are dealing not with a full-blown principle, nor one having the definiteness of a surveyor's metes and bounds. But by 1875 the separation of public education from Church entanglements, of the State from the teaching of religion, was firmly established in the consciousness of the nation. In that year President Grant made his famous remarks to the Convention of the Army of the Tennessee:

"Encourage free schools and resolve that not one dollar appropriated for their support shall be appropriated for the support of any sectarian schools. Resolve that neither the state nor the nation, nor both combined, shall support institutions of learning other than those sufficient to afford every child growing up in the land the opportunity of a good common school education, unmixed with sectarian, pagan, or atheistical dogmas. Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contributions. Keep the church and state forever separated." "The President's Speech at Des Moines," 22 *Catholic World* 433, 434-35 (1876).

So strong was this conviction, that rather than rest on the comprehensive prohibitions of the First and Fourteenth Amendments, President Grant urged that there be written into the United States Constitution particular elaborations, including a specific prohibition against the use of public funds for sectarian education, such as had been written into many State constitutions. By 1894, in urging the adoption of such a provision in the New York Constitution, Elihu Root was able to summarize a century of the nation's his-

tory: "It is not a question of religion, or of creed, or of party; it is a question of declaring and maintaining the great American principle of eternal separation between Church and State." Root, *Addresses on Government and Citizenship*, 137, 140. The extent to which this principle was deemed a presupposition of our Constitutional system is strikingly illustrated by the fact that every State admitted into the Union since 1876 was compelled by Congress to write into its constitution a requirement that it maintain a school system "free from sectarian control."

Prohibition of the commingling of sectarian and secular instruction in the public school is of course only half the story. A religious people was naturally concerned about the part of the child's education entrusted "to the family altar, the church, and the private school." The promotion of religious education took many forms. Laboring under financial difficulties and exercising only persuasive authority, various denominations felt handicapped in their task of religious education. Abortive attempts were therefore frequently made to obtain public funds for religious schools. But the major efforts of religious inculcation were a recognition of the principle of Separation by the establishment of church schools privately supported. Parochial schools were maintained by various denominations. These, however, were often beset by serious handicaps, financial and otherwise, so that the religious aims which they represented found other directions. There were experiments with vacation schools, with Saturday as well as Sunday schools. They all fell short of their purpose. It was urged that by appearing to make religion a one-day-a-week matter, the Sunday school, which acquired national acceptance, tended to relegate the child's

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religious education, and thereby his religion, to a minor role not unlike the enforced piano lesson.

Out of these inadequate efforts evolved the week-day church school, held on one or more afternoons a week after the close of the public school. But children continued to be children; they wanted to play when school was out, particularly when other children were free to do so. Church leaders decided that if the week-day church school was to succeed, a way had to be found to give the child his religious education during what the child conceived to be his "business hours."

The initiation of the movement may fairly be attributed to Dr. George U. Wenner. The underlying assumption of his proposal, made at the Interfaith Conference on Federation held in New York City in 1905, was that the public school unduly monopolized the child's time and that the churches were entitled to their share of it. This, the schools should "release." Accordingly, the Federation, citing the example of the Third Republic of France, urged that upon the request of their parents children be excused from public school on Wednesday afternoon, so that the churches could provide "Sunday school on Wednesday." This was to be carried out on church premises under church authority. Those not desiring to attend church schools would continue their normal classes. Lest these public school classes unfairly compete with the church education, it was requested that the school authorities refrain from scheduling courses or activities of compelling interest or importance.

The proposal aroused considerable opposition and it took another decade for a "released time" scheme to become part of a public school system. Gary, Indiana, inaugurated the movement. At a time when industrial expansion strained the

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communal facilities of the city, Superintendent of Schools Wirt suggested a fuller use of the school buildings. Building on theories which had become more or less current, he also urged that education was more than instruction in a classroom. The school was only one of several educational agencies. The library, the playground, the home, the church, all have their function in the child's proper unfolding. Accordingly, Wirt's plan sought to rotate the schedules of the children during the school-day so that some were in class, others were in the library, still others in the playground. And some, he suggested to the leading ministers of the City, might be released to attend religious classes if the churches of the City cooperated and provided them. They did, in 1914, and thus was "released time" begun. The religious teaching was held on church premises and the public schools had no hand in the conduct of these church schools. They did not supervise the choice of instructors or the subject matter taught. Nor did they assume responsibility for the attendance, conduct or achievement of the child in a church school; and he received no credit for it. The period of attendance in the religious schools would otherwise have been a play period for the child, with the result that the arrangement did not cut into public school instruction or truly affect the activities or feelings of the children who did not attend the church schools.

From such a beginning "released time" has attained substantial proportions. In 1914-15, under the Gary program, 619 pupils left the public schools for the church schools during one period a week. According to responsible figures almost 2,000,000 in some 2,200 communities participated in "released time" programs during 1947. A movement of such scope indicates the importance of the problem to which the

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“released time” programs are directed. But to the extent that aspects of these programs are open to Constitutional objection, the more extensively the movement operates, the more ominous the breaches in the wall of separation.

Of course, “released time” as a generalized conception, undefined by differentiating particularities, is not an issue for Constitutional adjudication. Local programs differ from each other in many and crucial respects. Some “released time” classes are under separate denominational auspices, others are conducted jointly by several denominations, often embracing all the religious affiliations of a community. Some classes in religion teach a limited sectarianism; others emphasize democracy, unity and spiritual values not anchored in a particular creed. Insofar as these are manifestations merely of the free exercise of religion, they are quite outside the scope of judicial concern, except insofar as the Court may be called upon to protect the right of religious freedom. It is only when challenge is made to the share that the public schools have in the execution of a particular “released time” program that close judicial scrutiny is demanded of the exact relation between the religious instruction and the public educational system in the specific situation before the Court.

The substantial differences among arrangements lumped together as “released time” emphasize the importance of detailed analysis of the facts to which the Constitutional test of Separation is to be applied. How does “released time” operate in Champaign? Public school teachers distribute to their pupils cards supplied by church groups, so that the parents may indicate whether they desire religious instruction for their children. For those desiring it, religious classes are conducted in the regular classrooms of the public schools by teachers of religion paid by the churches and ap-

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pointed by them, but, as the State court found, "subject to the approval and supervision of the Superintendent." The courses do not profess to give secular instruction in subjects concerning religion. Their candid purpose is sectarian teaching. While a child can go to any of the religious classes offered, a particular sect wishing a teacher for its devotees requires the permission of the school superintendent "who in turn will determine whether or not it is practical for said group to teach in said school system." If no provision is made for religious instruction in the particular faith of a child, or if for other reasons the child is not enrolled in any of the offered classes, he is required to attend a regular school class, or a study period during which he is often left to his own devices. Reports of attendance in the religious classes are submitted by the religious instructor to the school authorities, and the child who fails to attend is presumably deemed a truant.

Religious education so conducted on school time and property is patently woven into the working scheme of the school. The Champaign arrangement thus presents powerful elements of inherent pressure by the school system in the interest of religious sects. The fact that this power has not been used to discriminate is beside the point. Separation is a requirement to abstain from fusing functions of Government and of religious sects, not merely to treat them all equally. That a child is offered an alternative may reduce the constraint; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain. The law of imitation operates, and non-conformity is not an outstanding characteristic of children. The result is an obvious pressure upon children to attend. Again, while the Champaign school population represents

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only a fraction of the more than two hundred and fifty sects of the nation, not even all the practicing sects in Champaign are willing or able to provide religious instruction. The children belonging to these non-participating sects will thus have inculcated in them a feeling of separatism when the school should be the training ground for habits of community, or they will have religious instruction in a faith which is not that of their parents. As a result, the public school system of Champaign actively furthers inculcation in the religious tenets of some faiths, and in the process sharpens the consciousness of religious differences at least among some of the children committed to its care. These are consequences not amenable to statistics. But they are precisely the consequences against which the Constitution was directed when it prohibited the Government common to all from becoming embroiled, however innocently, in the destructive religious conflicts of which the history of even this country records some dark pages.

Mention should not be omitted that the integration of religious instruction within the school system as practiced in Champaign is supported by arguments drawn from educational theories as diverse as those derived from Catholic conceptions and from the writings of John Dewey. Movements like "released time" are seldom single in origin or aim. Nor can the intrusion of religious instruction into the public school system of Champaign be minimized by saying that it absorbs less than an hour a week; in fact, that affords evidence of a design constitutionally objectionable. If it were merely a question of enabling a child to obtain religious instruction with a receptive mind the thirty or forty-five minutes could readily be found on Saturday or Sunday. If that were all, Champaign might have drawn upon the French sys-

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tem, known in its American manifestation as "dismissed time," whereby one school day is shortened to allow all children to go where they please, leaving those who so desire to go to a religious school. The momentum of the whole school atmosphere and school planning is presumably put behind religious instruction, as given in Champaign, precisely in order to secure for the religious instruction such momentum and planning. To speak of "released time" as being only half or three quarters of an hour is to draw a thread from a fabric.

We do not consider, as indeed we could not, school programs not before us which, though colloquially characterized as "released time," present situations differing in aspects that may well be constitutionally crucial. Different forms which "released time" has taken during more than thirty years of growth include programs which, like that before us, could not withstand the test of the Constitution; others may be found unexceptionable. We do not now attempt to weigh in the Constitutional scale every separate detail or various combination of factors which may establish a valid "released time" program. We find that the basic Constitutional principle of absolute separation was violated when the State of Illinois, speaking through its Supreme Court, sustained the school authorities of Champaign in sponsoring and effectively furthering religious beliefs by its educational arrangement.

Separation means separation, not something less. Jefferson's metaphor in describing the relation between Church and State speaks of a "wall of separation," not of a fine line easily overstepped. The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny. In no activity of the State is it more vital to keep out divisive forces than in its schools, to

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avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart. "The great American principle of eternal separation"—Elihu Root's phrase bears repetition—is one of the vital reliances of our Constitutional system for assuring unities among our people stronger than our diversities. It is the Court's duty to enforce this principle in its full integrity.

We renew our conviction that "we have staked the very existence of our country on the faith that complete separation between the state and religion is best for the state and best for religion." *Everson v. Board of Education*, 330 U.S. at page 59, 67 S.Ct. at page 532. If nowhere else, in the relation between Church and State, "good fences make good neighbors."

Mr. Justice JACKSON, concurring.

I join the opinion of Mr. Justice FRANKFURTER, and concur in the result reached by the Court, but with these reservations: I think it is doubtful whether the facts of this case establish jurisdiction in this Court, but in any event that we should place some bounds on the demands for interference with local schools that we are empowered or willing to entertain. I make these reservations a matter of record in view of the number of litigations likely to be started as a result of this decision.

A Federal Court may interfere with local school authorities only when they invade either a personal liberty or a property right protected by the Federal Constitution. Ordinarily this will come about in either of two ways:

First. When a person is required to submit to some religious rite or instruction or is deprived or threatened with deprivation of his freedom for resisting such unconstitutional requirement. We may then set him free or enjoin his

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prosecution. Typical of such cases was *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 63 S.Ct. 1178, 87 L.Ed. 1628, 147 A.L.R. 674. There penalties were threatened against both parent and child for refusal of the latter to perform a compulsory ritual which offended his convictions. We intervened to shield them against the penalty. But here, complainant's son may join religious classes if he chooses and if his parents so request, or he may stay out of them. The complaint is that when others join and he does not, it sets him apart as a dissenter, which is humiliating. Even admitting this to be true, it may be doubted whether the Constitution which, of course, protects the right to dissent, can be construed also to protect one from the embarrassment that always attends nonconformity, whether in religion, politics, behavior or dress. Since no legal compulsion is applied to complainant's son himself and no penalty is imposed or threatened from which we may relieve him, we can hardly base jurisdiction on this ground.

Second. Where a complainant is deprived of property by being taxed for unconstitutional purposes, such as directly or indirectly to support a religious establishment. We can protect a taxpayer against such a levy. This was the *Everson Case*, 330 U.S. 1, 67 S.Ct. 504, as I saw it then and see it now. It was complained in that case that the school treasurer drew a check on public funds to reimburse parents for a child's bus fare if he went to a Catholic parochial school or a public school, but not if he went to any other private or denominational school. Reference to the record in that case will show that the School District was not operating busses, so it was not a question of allowing Catholic children to ride publicly owned busses along with others, in the interests of their safety, health or morals. The child had to travel to and

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from parochial school on commercial busses like other paying passengers, and all other school children, and he was exposed to the same dangers. If it could, in fairness, have been said that the expenditure was a measure for the protection of the safety, health or morals of youngsters, it would not merely have been constitutional to grant it; it would have been unconstitutional to refuse it to any child merely because he was a Catholic. But in the *Everson Case* there was a direct, substantial and measurable burden on the complainant as a taxpayer to raise funds that were used to subsidize transportation to parochial schools. Hence, we had jurisdiction to examine the constitutionality of the levy and to protect against it if a majority had agreed that the subsidy for transportation was unconstitutional.

In this case, however, any cost of this plan to the taxpayers is incalculable and negligible. It can be argued, perhaps, that religious classes add some wear and tear on public buildings and that they should be charged with some expense for heat and light, even though the sessions devoted to religious instruction do not add to the length of the school day. But the cost is neither substantial nor measurable, and no one seriously can say that the complainant's tax bill has been proved to be increased because of this plan. I think it is doubtful whether the taxpayer in this case has shown any substantial property injury.

If, however, jurisdiction is found to exist, it is important that we circumscribe our decision with some care. What is asked is not a defensive use of judicial power to set aside a tax levy or reverse a conviction, or to enjoin threats of prosecution or taxation. The relief demanded in this case is the extraordinary writ of mandamus to tell the local Board of Education what it must do. The prayer for relief is that a

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writ issue against the Board of Education "ordering it to immediately adopt and enforce rules and regulations prohibiting all instruction in and teaching of religious education in all public schools * * * and in all public school houses and buildings in said district when occupied by public schools." The plaintiff, as she has every right to be, is an avowed atheist. What she has asked of the courts is that they not only end the "released time" plan but also ban every form of teaching which suggests or recognizes that there is a God. She would ban all teaching of the Scriptures. She especially mentions as an example of invasion of her rights "having pupils learn and recite such statements as, 'The Lord is my Shepherd, I shall not want.'" And she objects to teaching that the King James version of the Bible "is called the Christian's Guide Book, the Holy Writ and the Word of God," and many other similar matters. This Court is directing the Illinois courts generally to sustain plaintiff's complaint without exception of any of these grounds of complaint, without discriminating between them and without laying down any standards to define the limits of the effect of our decision.

To me, the sweep and detail of these complaints is a danger signal which warns of the kind of local controversy we will be required to arbitrate if we do not place appropriate limitation on our decision and exact strict compliance with jurisdictional requirements. Authorities list 256 separate and substantial religious bodies to exist in continental United States. Each of them, through the suit of some discontented but unpenalized and untaxed representative, has as good a right as this plaintiff to demand that the courts compel the schools to sift out of their teaching everything inconsistent with its doctrines. If we are to eliminate everything that is

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objectionable to any of these warring sects or inconsistent with any of their doctrines, we will leave public education in shreds. Nothing but educational confusion and a discrediting of the public school system can result from subjecting it to constant law suits.

While we may and should end such formal and explicit instruction as the Champaign plan and can at all times prohibit teaching of creed and catechism and ceremonial and can forbid forthright proselyting in the schools, I think it remains to be demonstrated whether it is possible, even if desirable, to comply with such demands as plaintiff's completely to isolate and cast out of secular education all that some people may reasonably regard as religious instruction. Perhaps subjects such as mathematics, physics or chemistry are, or can be, completely secularized. But it would not seem practical to teach either practice or appreciation of the arts if we are to forbid exposure of youth to any religious influences. Music without sacred music, architecture minus the cathedral, or painting without the scriptural themes would be eccentric and incomplete, even from a secular point of view. Yet the inspirational appeal of religion in these guises is often stronger than in forthright sermon. Even such a "science" as biology raises the issue between evolution and creation as an explanation of our presence on this planet. Certainly a course in English literature that omitted the Bible and other powerful uses of our mother tongue for religious ends would be pretty barren. And I should suppose it is a proper, if not an indispensable, part of preparation for a worldly life to know the roles that religion and religions have played in the tragic story of mankind. The fact is that, for good or for ill, nearly everything in our culture worth transmitting, everything which gives meaning to life, is saturated

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with religious influences, derived from paganism, Judaism, Christianity—both Catholic and Protestant—and other faiths accepted by a large part of the world's peoples. One can hardly respect a system of education that would leave the student wholly ignorant of the currents of religious thought that move the world society for a part in which he is being prepared.

But how one can teach, with satisfaction or even with justice to all faiths, such subjects as the story of the Reformation, the Inquisition, or even the New England effort to found "a Church without a Bishop and a State without a King," is more than I know. It is too much to expect that mortals will teach subjects about which their contemporaries have passionate controversies with the detachment they may summon to teaching about remote subjects such as Confucius or Mohamet. When instruction turns to proselyting and imparting knowledge becomes evangelism is, except in the crudest cases, a subtle inquiry.

The opinions in this case show that public educational authorities have evolved a considerable variety of practices in dealing with the religious problem. Neighborhoods differ in racial, religious and cultural compositions. It must be expected that they will adopt different customs which will give emphasis to different values and will induce different experiments. And it must be expected that, no matter what practice prevails, there will be many discontented and possibly belligerent minorities. We must leave some flexibility to meet local conditions, some chance to progress by trial and error. While I agree that the religious classes involved here go beyond permissible limits, I also think the complaint demands more than plaintiff is entitled to have granted. So far as I can see this Court does not tell the State court where

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it may stop, nor does it set up any standards by which the State court may determine that question for itself.

The task of separating the secular from the religious in education is one of magnitude, intricacy and delicacy. To lay down a sweeping constitutional doctrine as demanded by complainant and apparently approved by the Court, applicable alike to all school boards of the nation, "to immediately adopt and enforce rules and regulations prohibiting all instruction in and teaching of religious education in all public schools," is to decree a uniform, rigid and, if we are consistent, an unchanging standard for countless school boards representing and serving highly localized groups which not only differ from each other but which themselves from time to time change attitudes. It seems to me that to do so is to allow zeal for our own ideas of what is good in public instruction to induce us to accept the role of a super board of education for every school district in the nation.

It is idle to pretend that this task is one for which we can find in the Constitution one word to help us as judges to decide where the secular ends and the sectarian begins in education. Nor can we find guidance in any other legal source. It is a matter on which we can find no law but our own prepossessions. If with no surer legal guidance we are to take up and decide every variation of this controversy, raised by persons not subject to penalty or tax but who are dissatisfied with the way schools are dealing with the problem, we are likely to have much business of the sort. And, more importantly, we are likely to make the legal "wall of separation between church and state" as winding as the famous serpentine wall designed by Mr. Jefferson for the University he founded.

Mr. Justice REED, dissenting.

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The decisions reversing the judgment of the Supreme Court of Illinois interpret the prohibition of the First Amendment against the establishment of religion, made effective as to the states by the Fourteenth Amendment, to forbid pupils of the public schools electing, with the approval of their parents, courses in religious education. The courses are given, under the school laws of Illinois as approved by the Supreme Court of that State, by lay or clerical teachers supplied and directed by an interdenominational, local council of religious education. The classes are held in the respective school buildings of the pupils at study or released time periods so as to avoid conflict with recitations. The teachers and supplies are paid for by the interdenominational group. As I am convinced that this interpretation of the First Amendment is erroneous, I feel impelled to express the reasons for my disagreement. By directing attention to the many instances of close association of church and state in American society and by recalling that many of these relations are so much a part of our tradition and culture that they are accepted without more, this dissent may help in an appraisal of the meaning of the clause of the First Amendment concerning the establishment of religion and of the reasons which lead to the approval or disapproval of the judgment below.

The reasons for the reversal of the Illinois judgment, as they appear in the respective opinions may be summarized by the following excerpts. The opinion of the Court after stating the facts, says: "The foregoing facts, without reference to others that appear in the record show the use of tax-supported property for religious instruction and the close cooperation between the school authorities and the religious council in promoting religious education. * * * And it

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falls squarely under the ban of the First Amendment (made applicable to the States by the Fourteenth) as we interpreted it in *Everson v. Board of Education*, 330 U.S. 1, 67 S.Ct. 504." Another opinion phrases it thus: "We do not now attempt to weigh in the Constitutional scale every separate detail or various combination of factors which may establish a valid 'released time' program. We find that the basic Constitutional principle of absolute separation was violated when the State of Illinois, speaking through its Supreme Court, sustained the school authorities of Champaign in sponsoring and effectively furthering religious beliefs by its educational arrangement." These expressions in the decisions seem to leave open for further litigation variations from the Champaign plan. Actually, however, future cases must run the gantlet not only of the judgment entered but of the accompanying words of the opinions. I find it difficult to extract from the opinions any conclusion as to what it is in the Champaign plan that is unconstitutional. Is it the use of school buildings for religious instruction; the release of pupils by the schools for religious instruction during school hours; the so-called assistance by teachers in handing out the request cards to pupils, in keeping lists of them for release and records of their attendance; or the action of the principals in arranging an opportunity for the classes and the appearance of the Council's instructors? None of the reversing opinions say whether the purpose of the Champaign plan for religious instruction during school hours is unconstitutional or whether it is some ingredient used in or omitted from the formula that makes the plan unconstitutional.

From the tenor of the opinions I conclude that their teachings are that any use of a pupil's school time whether that use is on or off the school grounds, with the necessary

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school regulations to facilitate attendance, falls under the ban. I reach this conclusion notwithstanding one sentence of indefinite meaning in the second opinion: "We do not consider, as indeed we could not, school programs not before us which, though colloquially characterized as 'released time,' present situations differing in aspects that may well be constitutionally crucial." The use of the words "cooperation," "fusion," "complete hands-off," "integrate" and "integrated" to describe the relations between the school and the Council in the plan evidences this. So does the interpretation of the word "aid." The criticized "momentum of the whole school atmosphere," "feeling of separatism" engendered in the non-participating sects, "obvious pressure * * * to attend," and "divisiveness" lead to the stated conclusion. From the holding and the language of the opinions, I can only deduce that religious instruction of public school children during school hours is prohibited. The history of American education is against such an interpretation of the First Amendment.

The opinions do not say in words that the condemned practice of religious education is a law respecting an establishment of religion contrary to the First Amendment. The practice is accepted as a state law by all. I take it that when the opinion of the Court says that "The operation of the state's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects" and concludes "This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith," the intention of its author is to rule that this practice is a law "respecting an establishment of religion." That was the basis of *Everson v. Board of Education*, 330

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U.S. 1, 67 S.Ct. 504, 508. It seems obvious that the action of the School Board in permitting religious education in certain grades of the schools by all faiths did not prohibit the free exercise of religion. Even assuming that certain children who did not elect to take instruction are embarrassed to remain outside of the classes, one can hardly speak of that embarrassment as a prohibition against the free exercise of religion. As no issue of prohibition upon the free exercise of religion is before us, we need only examine the School Board's action to see if it constitutes an establishment of religion.

The facts, as stated in the reversing opinions, are adequately set out if we interpret the abstract words used in the light of the concrete incidents of the record. It is correct to say that the parents "consented" to the religious instruction of the children, if we understand "consent" to mean the signing of a card like the one in the margin. It is correct to say that "instructors were subject to the approval and supervision of the superintendent of schools," if it is understood that there were no definitive written rules and that the practice was as is shown in the excerpts from the findings below. The substance of the religious education course is determined by the members of the various churches on the council, not by the superintendent. The evidence and findings set out in the two preceding notes convince me that the "approval and supervision" referred to above are not of the teachers and the course of studies but of the orderly presentation of the courses to those students who may elect the instruction. The teaching largely covered Biblical incidents. The religious teachers and their teachings in every real sense, were financed, and regulated by the Council of Religious Education, not the School Board.

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The phrase "an establishment of religion" may have been intended by Congress to be aimed only at a state church. When the First Amendment was pending in Congress in substantially its present form, "Mr. Madison said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observance of it by law, nor compel men to worship God in any manner contrary to their conscience." Passing years, however, have brought about acceptance of a broader meaning, although never until today, I believe, has this Court widened its interpretation to any such degree as holding that recognition of the interest of our nation in religion, through the granting, to qualified representatives of the principal faiths, of opportunity to present religion as an optional, extracurricular subject during released school time in public school buildings, was equivalent to an establishment of religion. A reading of the general statements of eminent statesmen of former days, referred to in the opinions in this and *Everson v. Board of Education*, *supra*, will show that circumstances such as those in this case were far from the minds of the authors. The words and spirit of those statements may be wholeheartedly accepted without in the least impugning the judgment of the State of Illinois.

Mr. Jefferson, as one of the founders of the University of Virginia, a school which from its establishment in 1819 has been wholly governed, managed and controlled by the State of Virginia, was faced with the same problem that is before this Court today: The question of the constitutional limitation upon religious education in public schools. In his annual report as Rector, to the President and Directors of the Literary Fund, dated October 7, 1822, approved by the Visitors of the University of whom Mr. Madison was one, Mr.

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Jefferson set forth his views at some length. These suggestions of Mr. Jefferson were adopted and ch. II, § 1, of the Regulations of the University of October 4, 1824, provided that:

“Should the religious sects of this State, or any of them, according to the invitation held out to them, establish within, or adjacent to, the precincts of the University, schools for instruction in the religion of their sect, the students of the University will be free, and expected to attend religious worship at the establishment of their respective sects, in the morning, and in time to meet their school in the University at its stated hour.”

Thus, the “wall of separation between church and State” that Mr. Jefferson built at the University which he founded did not exclude religious education from that school. The difference between the generality of his statements on the separation of church and state and the specificity of his conclusions on education are considerable. A rule of law should not be drawn from a figure of speech.

Mr. Madison’s Memorial and Remonstrance against Religious Assessments relied upon by the dissenting Justices in *Everson* is not applicable here. Mr. Madison was one of the principal opponents in the Virginia General Assembly of A Bill Establishing a Provision for Teachers of the Christian Religion. The monies raised by the taxing section of that bill were to be appropriated “by the Vestries, Elders, or Directors of each religious society, * * * to a provision for a Minister or Teacher of the Gospel of their denomination, or the providing places of divine worship, and to none other use whatsoever * * *.” The conclusive legislative struggle over this act took place in the fall of 1785 before the adoption of the Bill of Rights. The Remonstrance had been is-

sued before the General Assembly convened and was instrumental in the final defeat of the act which died in committee. Throughout the Remonstrance, Mr. Madison speaks of the "establishment" sought to be effected by the act. It is clear from its historical setting and its language that the Remonstrance was a protest against an effort by Virginia to support Christian sects by taxation. Issues similar to those raised by the instant case were not discussed. Thus, Mr. Madison's approval of Mr. Jefferson's report as Rector gives, in my opinion, a clearer indication of his views on the constitutionality of religious education in public schools than his general statements on a different subject.

This Court summarized the amendment's accepted reach into the religious field, as I understand its scope, in *Everson v. Board of Education*, *supra*. The Court's opinion quotes the gist of the Court's reasoning in *Everson*. I agree as there stated that none of our governmental entities can "set up a church." I agree that they cannot "aid" all or any religions or prefer one "over another." But "aid" must be understood as a purposeful assistance directly to the church itself or to some religious group or organization doing religious work of such a character that it may fairly be said to be performing ecclesiastical functions. "Prefer" must give an advantage to one "over another." I agree that pupils cannot "be released in part from their legal duty" of school attendance upon condition that they attend religious classes. But as Illinois has held that it is within the discretion of the School Board to permit absence from school for religious instruction no legal duty of school attendance is violated. 396 Ill. 14, 71 N.E.2d 161. If the sentence in the first opinion, concerning the pupils' release from legal duty, is in-

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tended to mean that the Constitution forbids a school to excuse a pupil from secular control during school hours to attend voluntarily a class in religious education, whether in or out of school buildings, I disagree. Of course, no tax can be levied to support organizations intended "to teach or practice religion." I agree too that the state cannot influence one toward religion against his will or punish him for his beliefs. Champaign's religious education course does none of these things.

It seems clear to me that the "aid" referred to by the Court in the *Everson* case could not have been those incidental advantages that religious bodies, with other groups similarly situated, obtain as a by-product of organized society. This explains the well-known fact that all churches receive "aid" from government in the form of freedom from taxation. The *Everson* decision itself justified the transportation of children to church schools by New Jersey for safety reasons. It accords with *Cochran v. Louisiana State Board of Education*, 281 U.S. 370, 50 S.Ct. 335, 74 L.Ed. 913, where this Court upheld a free textbook statute of Louisiana against a charge that it aided private schools on the ground that the books were for the education of the children, not to aid religious schools. Likewise the National School Lunch Act aids all school children attending tax exempt schools. In *Bradfield v. Roberts*, 175 U.S. 291, 20 S.Ct. 121, 44 L.Ed. 168, this Court held proper the payment of money by the Federal Government to build an addition to a hospital, chartered by individuals who were members of a Roman Catholic sisterhood, and operated under the auspices of the Roman Catholic Church. This was done over the objection that it aided the establishment of religion. While obviously

in these instances the respective churches, in a certain sense, were aided, this Court has never held that such "aid" was in violation of the First or Fourteenth Amendments.

Well-recognized and long-established practice support the validity of the Illinois statute here in question. That statute, as construed in this case, is comparable to those in many states. All differ to some extent. New York may be taken as a fair example. In many states the program is under the supervision of a religious council composed of delegates who are themselves communicants of various faiths. As is shown by *Bradfield v. Roberts*, *supra*, the fact that the members of the council have religious affiliations is not significant. In some, instruction is given outside of the school buildings; in others, within these buildings. Metropolitan centers like New York usually would have available quarters convenient to schools. Unless smaller cities and rural communities use the school building at times that do not interfere with recitations, they may be compelled to give up religious education. I understand that pupils not taking religious education usually are given other work of a secular nature within the schools. Since all these states use the facilities of the schools to aid the religious education to some extent, their desire to permit religious education to school children is thwarted by this Court's judgment. Under it, as I understand its language, children cannot be released or dismissed from school to attend classes in religion while other children must remain to pursue secular education. Teachers cannot keep the records as to which pupils are to be dismissed and which retained. To do so is said to be an "aid" in establishing religion; the use of public money for religion.

Cases running into the scores have been in the state courts of last resort that involved religion and the schools. Except

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where the exercises with religious significance partook of the ceremonial practice of sects or groups, their constitutionality has been generally upheld. Illinois itself promptly struck down as violative of its own constitution required exercises partaking of a religious ceremony. *People ex rel. Ring v. Board of Education*, 245 Ill. 334, 92 N.E. 251, 29 L.R.A., N.S., 442, 19 Ann. Cas. 220. In that case compulsory religious exercises—a reading from the King James Bible, the Lord's Prayer and the singing of hymns—were forbidden as "worship services." In this case, the Supreme Court of Illinois pointed out that in the *Ring* case, the activities in the school were ceremonial and compulsory; in this, voluntary and educational. 396 Ill. 14, 20, 21, 71 N.E.2d 161.

The practices of the federal government offer many examples of this kind of "aid" by the state to religion. The Congress of the United States has a chaplain for each House who daily invokes divine blessings and guidance for the proceedings. The armed forces have commissioned chaplains from early days. They conduct the public services in accordance with the liturgical requirements of their respective faiths, ashore and afloat, employing for the purpose property belonging to the United States and dedicated to the services of religion. Under the Servicemen's Readjustment Act of 1944, eligible veterans may receive training at government expense for the ministry in denominational schools. The schools of the District of Columbia have opening exercises which "include a reading from the Bible without note or comment, and the Lord's prayer."

In the United States Naval Academy and the United States Military Academy, schools wholly supported and completely controlled by the federal government, there are a number of religious activities. Chaplains are attached to

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both schools. Attendance at church services on Sunday is compulsory at both the Military and Naval Academies. At West Point the Protestant services are held in the Cadet Chapel, the Catholic in the Catholic Chapel, and the Jewish in the Old Cadet Chapel; at Annapolis only Protestant services are held on the reservation, midshipmen of other religious persuasions attend the churches of the city of Annapolis. These facts indicate that both schools since their earliest beginnings have maintained and enforced a pattern of participation in formal worship.

With the general statements in the opinions concerning the constitutional requirement that the nation and the states, by virtue of the First and Fourteenth Amendments, may "make no law respecting an establishment of religion," I am in agreement. But, in the light of the meaning given to those words by the precedents, customs, and practices which I have detailed above, I cannot agree with the Court's conclusion that when pupils compelled by law to go to school for secular education are released from school so as to attend the religious classes, churches are unconstitutionally aided. Whatever may be the wisdom of the arrangement as to the use of the school buildings made with The Champaign Council of Religious Education, it is clear to me that past practice shows such cooperation between the schools and a non-ecclesiastical body is not forbidden by the First Amendment. When actual church services have always been permitted on government property, the mere use of the school buildings by a non-sectarian group for religious education ought not to be condemned as an establishment of religion. For a non-sectarian organization to give the type of instruction here offered cannot be said to violate our rule as to the establishment of religion by the state. The prohi-

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bition of enactments respecting the establishment of religion do not bar every friendly gesture between church and state. It is not an absolute prohibition against every conceivable situation where the two may work together any more than the other provisions of the First Amendment—free speech, free press—are absolutes. If abuses occur such as the use of the instruction hour for sectarian purposes, I have no doubt, in view of the Ring case, that Illinois will promptly correct them. If they are of a kind that tend to the establishment of a church or interfere with the free exercise of religion, this Court is open for a review of any erroneous decision. This Court cannot be too cautious in upsetting practices embedded in our society by many years of experience. A state is entitled to have great leeway in its legislation when dealing with the important social problems of its population. A definite violation of legislative limits must be established. The Constitution should not be stretched to forbid national customs in the way courts act to reach arrangements to avoid federal taxation. Devotion to the great principle of religious liberty should not lead us into a rigid interpretation of the constitutional guarantee that conflicts with accepted habits of our people. This is an instance where, for me, the history of past practices is determinative of the meaning of a constitutional clause not a decorous introduction to the study of its text. The judgment should be affirmed.