

The Inseparability of Education and Religion and Implications for Federal Involvement in Education

William F. Cox, Jr.

Key words: education, First Amendment, religious rights, Supreme Court

Abstract: Numerous factors support the Constitutionally relevant argument that education is a religiously oriented activity. One such factor is that the U.S. judiciary's operational definition of religion brings education within its jurisdictional boundaries. Another reason is that many judicial decrees regarding educational content and practice emanate solely from the First Amendment religion clauses where education is not even mentioned but is obviously subsumed by religious parameters. Moreover, the judiciary's double standard regarding proper parameters of religion keeps education dependent upon its religiously oriented decisions. Additionally, education invariably provides answers to questions typically considered within the realm of religion. The implication is that the federal government must be removed from control of education as with religion to fully restore the religious rights of U.S. citizens so long deprived.

Introduction

The commonly accepted purpose of the First Amendment religion clauses in the Constitution of the United States is that they are for the protection of citizen's religious liberty.¹ This constitutional right to pursue or not to pursue a religious faith free of civil government interference is honored across most if not all public arenas with one notable exception--the field of public education. And paradoxically, judicial interpretations of the purposefully protective religion clauses of the Constitution are largely the cause for the deprivation of religious freedoms in education.²

This paper will analyze the applicability of the religion clauses to the field of education by discussing the predominate definitional approaches to "religion" currently employed by the U.S. Supreme Court. These definitional approaches will be analyzed against the backdrop of traditional definitions and concepts of religion. This article will next posit that education is an inherently religious activity and therefore cannot be sterilized of religious content. The article concludes by discussing the implications of government involvement in the inherently religious activity of education. To acquaint the reader with this view

¹ Davis, Derek. *Original intent*. Buffalo, NY: Prometheus Books, (1991).

² Fischer, John. Separation of church and state: The Supreme Court's misleading metaphor. *First Amendment Law Review*, (2003), 53-84.

of education and religion that may initially sound unorthodox, consider these introductory words by Hodgson³ in his book on this very same topic:

[A] widespread assumption of the ancient, medieval, and early modern worlds was that education was an essentially religious activityemergent themes in modern and especially postmodern pedagogical theory may be pointing in the direction of a recovery of the religious dimension of education..

One word of caution to the reader is that this article is not attempting to identify steps in the Supreme Court's analytical process, nor is this article attempting to analyze the motives of individual Supreme Court justices. Rather, this article merely identifies a trend, perhaps an unconscious one, in the Court's analysis of religious issues under the First Amendment and the effects of this trend on the field of education.

WHAT IS 'RELIGION'?

The most obvious way to begin any analysis of the religion clauses of the First Amendment is to first define what is meant by the term "religion". Unfortunately, this is precisely where the problem begins. The authoritative source, *The Encyclopedia of Religion*⁴ defines the word "religion" as a bond for those of similar belief. *Webster's Collegiate Dictionary*⁵ defines religion as "a cause, principle, or system of beliefs held to with ardor and faith." For all its universality, the term religion has never acquired a commonly recognized definition,⁶ likely because it is so subjectively experienced. Leuba,⁷ a psychologist of religion, identified at least 48 different definitions of the term; others claim the legitimacy of even more. Whitehead's observation sums up the matter: "There is no agreement as to the definition of religion in its most general sense, including true and false religion; nor is there any agreement as to the valid [sic] religious beliefs, nor even as to what we mean by the truth of religion".⁸

The U.S. Supreme Court has had no less difficulty defining the term, utilizing at least two different approaches for determining what is, or is not, a religion. One interesting pattern that has appeared in the Court's jurisprudence is the double standard under which the Court defines religion in functional terms when considering a Free Exercise issue, and in content terms when considering

³ Hodgson, Peter. *God's wisdom: Toward a theology of education*. Louisville, KY: Westminster John Knox Press, (1999).

⁴ *The encyclopedia of religion*, Vol. 12. New York: Macmillan, (1987), 283.

⁵ *Webster's Collegiate Dictionary*, Chicago, IL: G&C Merriam Co., (2002).

⁶ Clouser, Roy. *The myth of religious neutrality*. Notre Dame: University of Notre Dame Press, (1991).

⁷ Leuba, James. *A psychological study of religion*. New York: AMS Press, (1912).

⁸ Whitehead, Alfred. *Religion in the making*. New York: Meridian, (1960).

an Establishment issue. This function/content dichotomy does not specifically define religion but, rather, serves as an explanatory or analytical approach toward making decisions involving religion.

Interestingly, the content approach tends to carry a higher level of scrutiny than the functional approach. Thus, if the Court seeks to closely scrutinize the role of religion in a given area, it has generally applied a content-based definition to what is “religion”, whereas if the Court seeks to apply a less exacting level of scrutiny it has tended toward a functional definition of the term. Aside from confusing most First Amendment scholars and making this area of the law tremendously unpredictable, the problem with employing two different definitional approaches is that the Court finds itself engaging in precisely the type of religious discrimination that it purportedly is attempting to prevent—it is employing a double standard as to what is and is not “religion”.

What is particularly vexing is that the Court consistently applies the stricter, content-based, interpretation when hearing cases involving education. The Court, itself, has stated that it has chosen to show “particular ‘vigilant[ce] in monitoring compliance with the Establishment Clause in elementary and secondary schools.’”⁹ The prohibition against official school prayers,¹⁰ against posting the Ten Commandments,¹¹ against honoring the religious consciences of Christian parents¹² yet favoring the religious consciences of non-Christians,¹³ constitutes only a part of the large number of religious strictures in education that have arisen out of this more exacting content definitional approach.

The result of this exacting process, however, is not a religion-free zone, but a judicially-selective zone in which some creeds are welcomed while others are prohibited. The selective allowance in public schools of “permissible” content that answers the same questions as those addressed through “impermissible” parallel or substitutional content (as in private parochial schools) shows clearly that it is not a matter of whether education is religiously oriented but instead of which religious content is permissible. Thus, rather than propagating religious neutrality in education--the asserted aim of the Court--the judiciary has engaged in the worst sort of content-based discrimination as it arbitrarily discerns what is and what is not, at the moment, permissible content. In other words, the Court, itself a branch of the Federal government, has “established” the proper religious content to be taught in public schools quite contrary to the Constitutional impermissiveness regarding a federal establishment of religion.

⁹ *Westside Community Bd. Of Ed. v. Mergens*, 496 U.S. 226 (1990) quoting *Edwards v. Aguillard*, (1987), pp. 583-584.

¹⁰ *Engle v. Vitale*, 370 U.S. 421 (1962).

¹¹ *Stone v. Graham*, 449 U.S. 39 (1980).

¹² *Grove v. Mead School District*, No. 354, 753 F.2nd 1528 (5th Cir.) cert. denied, 474 U.S. 826 (1985).

¹³ *Murray v. Curlett*, 374 U.S. 203 (1963).

The Content Approach

Under the content approach to defining religion, the Court tries to discern the specific content of the activity or dogma being propounded. Once this content is identified, the Court instinctively attempts to discern whether that content qualifies as a “religion”. However, because the first step to establishing a proper definition of religion is ascertaining what constitutes proper belief content, the Court immediately finds itself in the throws of a circular argument.¹⁴

The characteristics that a religion must have (for example, doctrine, ritual, priesthood, sacrifice) and the particular belief content within these essential characteristics (for example, one god, no god, many gods) are perpetually debated by both scholars and non-academicians alike. For instance, Hegel claims that religion places man in relation to God,¹⁵ whereas, for Santayana, “God is only a symbol for human ideals”.¹⁶ Potter, a humanist, maintains that to insist that belief in the supernatural is necessary to religion “may defeat the purpose of religion”.¹⁷ Religion has even been confusingly characterized in such a way that “what is traditionally thought to constitute a religion...fails to satisfy the analysis of what it is to be a religion” at least according to some interpretations.¹⁸ Pratt captured the futility of this dilemma as follows--“[T]he striking thing about these definitions is that, persuasive as many of them are, each learned doctor seems quite unpersuaded by any but his own. And when the doctors disagree what are the rest of us going to do?”¹⁹

Although the Court has acknowledged the legal viability of “256 separate and substantial religious bodies” operative in the United States,²⁰ the members of the Court did not state what qualified those 256 separate religious bodies to be, in its mind, “religious bodies”. Moreover, on a case by case basis, the members of the Court do not purport to research every philosophy in the world to determine whether the belief in question qualifies as a religion; nor do they survey every mainline religion to determine whether the content of concern falls under the specific tenets of any of those hundreds of religions. Rather, the justices generally confine themselves to fitting the content into the limited field of predominate religious doctrines with which they are familiar. As a result, if the content is that of a well- known religious tradition, the Court is likely to categorize it as “religious” and rule accordingly.

Because of this familiarity limitation, the teachings of a more obscure religion may never qualify as a religion if it does not contain content recognized as religious. It may then be taught for years in a public school and pass scrutiny

¹⁴ Whitehead, (1960).

¹⁵ Leuba, (1912).

¹⁶ *New Catholic Encyclopedia*. Vol. 12, New York: McGraw-Hill, (1967), 256.

¹⁷ Potter, Charles. *Humanism: A new religion*. New York: Simon and Schuster, (1930), 9.

¹⁸ Hestevold, H. Scott. The concept of religion. *Public Affairs Quarterly*, 5(2), (April 1991), 157.

¹⁹ Pratt, J.B. *The religious consciousness*. New York: Macmillan, (1926), 1.

²⁰ *McCollum v. Board of Education*, 333 U.S. 203 (1948).

under an Establishment Clause challenge because it is not considered a “religion”, whereas the tenets of a well known religion are struck immediately as being an establishment of religion. Some may argue that it is inaccurate to claim that the allowance of the teaching of such an obscure dogma could “establish” that dogma as a religion, and others may argue that even if it did happen, it would merely level the field between little known religions and those of great notoriety. In principle, the danger is not so much that an obscure, non-recognized religious teaching is currently being taught, but that this obscure religion has not been recognized as a religion.

The implications of this are twofold. First, there is no guarantee that this obscure religious tradition will always remain obscure.²¹ In a legal tradition that is based heavily on precedent, the danger that today’s obscure philosophy may become tomorrow’s established religion is not all that far-fetched. Judaism has been considered to be obscure, strange and illegitimate at many points in human history, yet no person would attempt to argue that it is not now a major religion. Likewise, Christianity was considered to be merely an obscure cultic offshoot of Judaism and to be unscientific and irrational in its tenets during the first two centuries of its existence.²² Under the current interpretative paradigm, elevation of a formerly “non-religious” content to the status of religious potentially opens it to judicial discrimination as currently practiced by the Court and makes the entire definitional process rather suspect.

Second, the decision that an obscure belief does not qualify as a religion because it does not contain certain content qualities (e.g., acknowledgement of a supreme being) is dangerous because a prime tenet of religious freedom is that the freedom to believe is absolute; one person’s religious conscience cannot be beholden to another’s²³ (see also I Corinthians 10:29). Thus, because the belief has been defined as a nonreligion, the essential purpose of the First Amendment’s religion clauses has failed--the adherents of that doctrine may be seminally deprived of the Constitutional freedom and protection afforded to religions and religious adherents. Conversely, failure to recognize religious content in education as exactly that may result in an unencumbered “establishment”, again much to the detriment of religious liberty. As we will see, this latter instance is the predominant form of religious discrimination operative in U.S. public education.

The Functional Approach

The functional approach encompasses the view that beliefs that *function* as religions should be nondiscriminatorially honored as such. Thus, a belief would be considered religious if it sincerely and meaningfully occupies a place in the

²¹ Josephus, Flavius. *Thrones of blood: A history of the times of Jesus*. Uhrichsville, OH: Barbour and Co., (1998).

²² Thielman, Frank. *Paul & the law: A contextual approach*. Downers Grove, IL: InterVarsity Press, (1994).

²³ *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

life of its possessor parallel to that filled by the orthodox belief of one who is considered “religious”. Any belief that occupies the same place as that held by believers in traditional religion can be honored, be it a “nation, science, a particular form or stage of society, or a highest ideal of humanity”.²⁴

When considering the Free Exercise Clause challenges of non-theistic believers applying for conscientious objector status, the U.S. Supreme Court applied the functional approach. Under the functional approach, a religion is “a given belief that is sincere and meaningful [and] occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption”.²⁵ As Justice Black said in speaking for the Court:

*Because his beliefs function [emphasis added] as a religion in his life, such an individual is as much entitled to a ‘religious’ conscientious objector exemption . . . as is someone who derives his conscientious opposition to war from traditional religious convictions.*²⁶

Thus, in terms of defining religion under the Free Exercise Clause, extant statutory content requirements were modified by the highest court of the land in favor of functional qualities as the only reasonable way for justice to prevail.

In both the 1965 and 1970 decisions of *Seeger* and *Welsh*, respectively, Tillich's functional definition prevailed: “Religion is the state of being grasped by an ultimate concern, a concern which qualifies all other concerns as preliminary and which itself contains the answer to the question of the meaning of our life”.²⁷ More recently, Clouser²⁸ has refined the idea of ultimacy to mean nondependency or dependent on nothing but upon which all else depends. Similarly it is only from this functional orientation that the U.S. Supreme Court could claim that “religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism and others”.²⁹ In the same way, Justice Douglas declared that freedom of religion “embraces the right to maintain theories of life and death and of the hereafter which are rank heresy to the followers of the orthodox faiths. Heresy trials are foreign to our Constitution”.³⁰

²⁴ Tillich, Paul. *Christianity and the encounter of the world religions*. New York: Columbia University Press, (1964), 5.

²⁵ *United States v. Seeger*, 380 U.S. 181 (1965).

²⁶ *Welsh v. United States*, 398 U.S. 333 (1970).

²⁷ Tillich, (1964), 4-5.

²⁸ Clouser, (1991).

²⁹ *Torcaso v. Watkins*, 367 U.S. 488 (1961).

³⁰ *United States v. Ballard*, 322 U.S. 78 (1944).

THE IMPACT OF THESE APPROACHES ON EDUCATION

Even while affirming the right of individuals to decide for themselves what is religious using functional rather than content criteria, the U.S. Supreme Court selectively contradicted itself by using the content approach as the definitional standard with respect to the Establishment Clause. This contradiction is especially pronounced in the Court's decisions regarding religion in schools, where the Court has assumed the responsibility of telling citizens which religious content orientation is educationally permissible. As a result, although the Court considers secular humanism to be a "religion" under the functional approach of its Free Exercise Clause jurisprudence, it allows secular humanism to be practiced and taught in public schools to the exclusion of certain other contending content orientations under its Establishment Clause jurisprudence. This is indeed problematic because in this case the Court has gone beyond its already troublesome double standard of rendering decisions via discriminatorial definitions to treating as non-religious what it has already classified as a religion.

To rightly analyze the impact of these approaches on education, one must first analyze the interaction between education and religion. An analysis of this interaction between education and religion logically should start with a clear explication of the meaning of the First Amendment's two religion clauses. However, while there is "nearly universal agreement that the paramount concern of both Religion Clauses is to protect religious freedom"³¹ there is little agreement as to how these clauses are to be interpreted --either in terms of original meaning or contemporary application. Davis concludes: "No respected church-state scholar of today is so bold as to declare, with unqualified conviction, the exact meaning of the religion clauses at the time of their passage".³²

From even a cursory understanding of the First Amendment religion clauses, it is obvious that the Court's decisions regarding religious freedom in education is confusing at best. Summarizing U.S. Supreme Court decisions in this regard, its own Chief Justice, William Rehnquist, stated:

. . . a state may lend to parochial school children geography textbooks that contain maps of the United States, but the state may not lend maps of the United States for use in geography class. A state may lend textbooks on American colonial history, but it may not lend a film on George Washington, or a film projector to show it in a history class. A state may pay for bus transportation to religious schools but may not pay for bus transportation from the parochial school to the public zoo or natural history museum for a field trip. A state may pay for diagnostic services conducted in the parochial school but therapeutic services must be given in a different building; speech

³¹ Choper, Jesse. *Securing religious liberty*. Chicago, IL: University of Chicago Press, (1995), 11.

³² Davis, (1991), xvi.

*and hearing “services” conducted by the state inside the sectarian school are forbidden, but the state may conduct speech and hearing diagnostic testing inside the sectarian school. Exceptional parochial school students may receive counseling, but it must take place outside of the parochial school, such as in a trailer parked down the street. A state may give cash to a parochial school to pay for the administration of state written tests and state ordered reporting services, but it may not provide funds for teachers-prepared tests on secular subjects. Religious instruction may not be given in public school, but the public school may release students during the day for religion classes elsewhere, and may enforce attendance with its truancy laws.*³³

Obviously, there is no consistency in the way the First Amendment is applied to education. Monihan summarized the matter with this gibe: “Backward reels the mind. Books are constitutional. Maps are unconstitutional. Atlases, which are books of maps, are unconstitutional. Or are they? We must await the next case”.³⁴

Hardly insignificant, the vast majority of the Court’s decisions that Justice Rehnquist cited did not at all relate to formal religion. Textbooks, remedial services, and testing activities do not fit the typical orientation of things religious yet they are treated as if residing within the jurisdiction of the First Amendment’s Religious Establishment Clause. This mutuality of education and religion can hardly be denied.

A Working Definition

The highly problematic matter of defining religion by way of content without discriminatorily excluding belief systems considered fully religious by their adherents makes functionally oriented definitions far more practical and realistic. Functionally oriented definitions have the greater possibility (than content oriented definitions) of respecting the right of each person and each self-consciously declared religious group to decide what is personally religious for them. This right of freedom of religious conscience is nothing short of one of humanity’s most cherished and inviolable freedoms.³⁵ It is, in fact, the bedrock freedom that motivated passage of the religion clauses of the First Amendment³⁶ - the relevant statutory provisions in this article. Conceptually, the right of religious freedom must include not only the right to believe but also what to believe else religion become a tool of repression rather than a vehicle of hope.

³³ *Wallace v. Jaffree*, 105 S. Ct. 2479 (1985).

³⁴ Monihan, Daniel. *Government and the ruin of private education. Harpers*, (April 1978), 36.

³⁵ Otteson, James. *Freedom of religion and public schooling. The Independent Review*, IV(4), (2000), 601-613.

³⁶ Dreisbach, Daniel. *Real threat and mere shadow*. Westchester, IL: Crossway Books, (1987).

This is not to say that content is totally irrelevant in terms of defining religion. In general terms, a constant theme in any and all religious beliefs seems to be that there is a reverential allegiance to something or someone thought to provide ultimate meaning and purpose to life. Thus content seemingly must address this dimension to fit within what seems to be an inherent quality of religious belief systems.

Taking our cue from the functional perspective presented above, we adopt the view that a belief is religious if it functions for anyone as traditional religions do for their adherents. The traditional religious standard thus gives a content baseline, but it is ultimately the functional quality that prevails for it and all parallel perspectives. Quite obviously then, an offensive and patently wrong belief from a traditional religious perspective can nonetheless be religious for someone who holds it in a parallel or substitutionary way to that traditional perspective.

Consider the First Commandment in the traditional Christian religion that God's people shall have no other gods (Exodus 20:3), whether they be, for instance, Baal (Judges 6:28-31; I Kings 18:20-40) or the Queen of Heaven (Jeremiah 44:25-30). False, not supreme, and impotent as these gods were, they functioned as gods for their religious adherents yet without possessing all content dimensions (for example, supreme omnipotent being) thought essential by some content proponents. Even so, they functioned as decidedly religious alternatives to God. As our functional approach fits traditional religions such as Christianity and Buddhism, it likewise fits the secular humanist religion and reciprocally so for their adherents. In this way, whether America's Christianity, for instance, or Haiti's Voodoo religion is the traditional religion of either respective country, the other functions in the same way for its nation's adherents and so is a religion for them regardless of whether the contrasting nation sees it as religious or not. Thus our working definition is that *religion is what is recognized by a society as a traditional religion plus all functionally equivalent ideologies.*

THE INEXTRICABLE LINK BETWEEN EDUCATION AND RELIGION

The mere fact that the Court has found a substantial application of the religion clauses to the field of education is, itself, *prima facie* evidence that education and religion are inherently interrelated. As discriminatory as it may be, the Court's double standard paradoxically, but revealingly, captures the breadth of religion's connection to education. There are, in fact, at least four ways that education qualifies as a religiously-oriented activity: educators and theologians say that education is a religious activity; education content answers religious questions; there is no moral/religious neutrality in educational content; and, educational content ultimately rests on faith statements. Recognition of the multiple and functional ways that education serves religious purposes is important because it leads to elimination of the double standard that characterizes contemporary thinking about education and religion.

Experts say education is religious. Church historian Sidney Mead says that the “public education system is and always has been teaching the religion of democracy.”³⁷ Theologian/historian George Marsden says that because of the intensity of America’s faith in democracy, its “democratic state is a sort of religion with public education as its church.”³⁸ Educator John Dewey, in his article “Education as Religion”,³⁹ considered education to be salvific in nature. Educational philosopher Alfred North Whitehead⁴⁰ similarly holds that education is religious because it promotes the control of ones’ eternal destiny and a reverence for self-determination. Ivan Illich, noted educational philosopher, claims that education is the church of North America.⁴¹ Because of America’s devotion to and faith in education, historian Henry Steele Commanger calls it the American religion.⁴² Catholic theologian John Neuhaus contends that the ban on the teaching of religion on public school property in the 1948 *McCullum v. Board of Education* case promoted the teaching of “religion under another name”.⁴³ This is so say he and others because humanism, the current content orientation in education, is religious.⁴⁴ As we have already seen, the U.S. Supreme Court said that humanism is a religion in its *Torcaso v. Watkins*⁴⁵ decision. Even the humanists themselves declare in both *Humanist Manifesto I* of 1933 and *Humanist Manifesto II* of 1973 that humanism is their religion.⁴⁶ Thus, who can rightly tell these humanists that it is not a religion when they vocally and ardently proclaim that it is? This belief in humanism is not characterized as just their preference, but they declare it universally a religion. Furthermore, humanists do not take the functional approach to validating their beliefs as religious. They claim the content of humanism to be the standard over against the content of the traditional religion of Christianity. So even here, content based definitions, with their traditional emphasis on the necessity of a supreme being, do not do justice to this self-professed religious group.

In further examining the relationship between education and religion, critics of Thomas Jefferson’s public school proposal claim that he, in effect, promoted the teaching of religion in Virginia’s public schools. While trying to rid public schools of Christian ideology, Jefferson sought to promote its replacement, natural religion. This natural religion was founded in Jefferson’s views on Enlightenment with its strong emphasis on human reason. While Enlightenment-

³⁷ Mead, Sidney. *The lively experiment*. New York: Harper & Row, (1963), 68.

³⁸ Marsden, George. *The soul of the American university*. New York: Oxford University Press, (1994), 393.

³⁹ Dewey, John. Education as a religion. *The New Republic*, Sept. 13, (1922), 63-65.

⁴⁰ Whitehead, Alfred. *The aims of education*. New York: Macmillan, (1957).

⁴¹ Neuhaus, Richard. No more bootleg religion. In Allen, D.W., *Controversies in education*. Philadelphia, PA: W.B. Saunders Co., (1974), 78.

⁴² Adams, Blair. *Who owns the children?* Waco, TX: Truth Forum, (1991), 9.

⁴³ Neuhaus, (1974), 74.

⁴⁴ Potter, (1930).

⁴⁵ *Torcaso v. Watkins*, 367 U.S. 488 (1961).

⁴⁶ Kurtz, Paul. *Humanist manifestos I & II*. New York: Prometheus Books, (1973).

type thinking promoted a hope in reason, the scientific method, and the democratic process, it was not at all based in the same. In spite of their intellectual acumen, advocates of the Enlightenment perspective, Jefferson notwithstanding, did not and do not see that this perspective is not substantiated through reason, science, and democracy but through faith in unsubstantiated assumptions. Thus far, Enlightenment ideas have not solved the moral dilemmas, foibles, and selfish tendencies of human nature that its advocates believe by faith, but certainly not by evidence, that they will. Thus, according to McCarthy, Skillen, & Harper, “the public school system in America, becomes, in the Jeffersonian framework, the established church of the republic”.⁴⁷

Education reformer D. Bethune Duffield claims that removal of religious instruction from public education creates “just what the constitution forbids; viz., a sectarian establishment, consisting of schools, in which the tenets and dogma of a sect are taught; for Infidels and Deists are as much a sect as Presbyterians, Catholics, or Quakers”.⁴⁸ Similarly, Justice Stewart noted in *Abington v. Schempp*⁴⁹ that a likely effect of removing Christianity from schools will be the “establishment of a religion of secularism” in education. New York Secretary of State John C. Spencer said, when addressing this issue, “No books can be found, no reading lessons can be selected which do not contain more or less some principles of religious faith, either directly avowed or indirectly assumed”.⁵⁰ Similarly, humanist Dunphy wrote that public school teachers are “the proselytizers of a new faith; a religion of humanity” (i.e., secular humanism). Teachers in public schools, he said, “will be ministers of another sort utilizing a classroom instead of a pulpit to convey humanistic values in whatever subject they teach, regardless of the educational level--preschool day care or large state universities”.⁵¹

Without a doubt, education serves a religious function for many if not all formal religions. Christianity, for instance, makes education the method for equipping the youth for holy living. The Book of Colossians indicates (3:17) that all human activities have religious implications. From this perspective, education, for Bible adherents, is without doubt a religious activity. Parents are held accountable by the Holy Author of the Christian religion to educate their children in God’s ways (Ephesians 6:4) and at all times (Deuteronomy 6:7). Christian writers on this topic openly declare that education is a decidedly religious activity.⁵² Biblical Christianity is in fact the traditional religion in the U.S. against

⁴⁷ McCarthy, Rockne, Skillen, James, & Harper, William. *Disestablishment a second time*. Grand Rapids, MI: Christian University Press, (1982), 41.

⁴⁸ Duffield, D. Bethune. Education – A state duty. *American Journal of Education*, March, (1857), 97.

⁴⁹ *Abington v. Schempp*, 374 U.S. 203 (1963).

⁵⁰ McCarthy, Rockne, Oppewal, Donald, Peterson, Walfred, & Spykman, Gordon. *Society, state, and schools*. Grand Rapids, MI: Eerdmanns, (1981), 91.

⁵¹ Dunphy, John. A religion for a new age. *The Humanist*. Jan/Feb, (1983), 26.

⁵² Edlin, Richard. *The cause of Christian education* (2nd ed.). Northport, AL: Vision Press, (1998).; Titus, Herbert. Education – Caesar’s or God’s: A constitutional question of

which other beliefs are measured to successfully obtain conscientious objector status. Yet traditional beliefs, such as Christianity and Judaism, are denied legitimate expression in America's public schools while functionally equivalent, even competitor, ideologies enjoy legal favoritism. All the while, both traditional beliefs and their competitor ideologies similarly provide answers to questions typically considered as religious in nature.

Just as predicted earlier, the Court's double standard has permitted, even established, content in education that lacks traditional religious qualifications but functionally serves as religion anyway. Conversely, it has denied parallel content that aligns with traditional religions and thus discriminatorily skews religious content in education.

Education answers religious questions. Both the content and the purpose of education speak to religious questions of ultimacy⁵³ like the nature of reality, the purpose of life, the origin of mankind, the morality of beliefs and actions, and the appropriate content for informing conscience. Public and private/parochial schools alike make claims about the nature of the universe (for example, material only or spiritual and material) and even what epistemological methods are appropriate for understanding this reality (for example, revelation, the scientific method). These beliefs "by which people live and to which they try to convert others"⁵⁴ are thus religious in nature. Said differently, the typical religious practice of proselytizing or of converting others to a particularly view of ultimate issues, such as the why and ways of thinking and living, is also the business of education. Education professionals accept assumptions and content from formal religions (for example, the universe has order and purpose from an intelligent creator) or they substitute some other assumptions and content (for example, the universe is without order, purpose, and a creator) to the same issues and questions. Likewise, some schools or school systems speak to civic and personal responsibilities as if this present world is the sum of our existence while others speak to this world as a preparation for another world through, for instance, sacrificial living or self-emulation. Again, both orientations, though different and sometimes even oppositional in content, address issues which are at heart, religious in nature.

Furthermore, through its double standard, the religious function of education has been substantiated by the judiciary through, for instance, declaring one origin explanation (that is, biblical creation) as invalid and another (for example, evolution) as perfectly appropriate for public school instruction.⁵⁵ As another example, the booklet "Just the Facts About Sexual Orientation and Youth," which is endorsed by the National Education Association, teaches that homosexuality is

jurisdiction. *Journal of Christian Jurisprudence*, (1982), 101-180.; Wilson, Douglas. *Excused absence*. Mission Viejo, CA: Crux Press, (2001).

⁵³ Tillich, (1964).

⁵⁴ Midgley, Mary. *Evolution as religion*. London: Methuen, (1985).

⁵⁵ *Edwards v. Aguillard*, 482 U.S. 578 (1987).

normal and healthy quite contrary to numerous religious teachings; yet the very assertion of normalcy and healthfulness is non-empirically derived and therefore is a declaration of morality by faith— defacto, a religious teaching.⁵⁶ In spite of the faith-leveling perspective above and in spite of the fact that the First Amendment religion clauses hold all faith perspectives as equivalent, the courts regularly promote religious inequalities in education.

Morality is another educational content area that is clearly rooted in religious doctrine. Schools teach, for instance, that moral absolutes do or do not exist, that morality is self or other (including God) determined, and which standards of morality are and which are not correct. In fact, the factor that led to the removal from some public schools a popular, seemingly non-religious text ("read by 6.8 million pupils in 7,000 U.S. schools" since 1981) on morals and values was the fact that it was authored by Scientology founder, L. Ron Hubbard to promote his religious views. Reflective of the indeterminant religious standard mentioned earlier, the book was considered non-religious until the religious orientations of its author were discovered, at which point it was labeled a religious text.⁵⁷ True to the double standard paradigm, the "chameleon" non-religious text became religious not because its content changed but simply because its author declared it to be religious.

In speaking to the issues above, courts in the U.S. have violated the functional criterion and instead adopted content as the criterion for determining what is religious in education. In this way, the courts have in effect decreed not only that educational content is, in fact, religious but, beyond that, they have decreed which educational content is and which is not appropriate to teach. In this regard, James Madison noted in his *A Memorial and Remonstrance of 1785* that it "is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages" to think that "the Civil Magistrate is a competent Judge of Religious Truth . . .".⁵⁸

This task of determining religiously-based truth, difficult enough as it is for those so trained, has now become the self-appointed responsibility of judges who typically lack such content related training. An even more regrettable consequence is that the citizenry has been successfully educated to believe that there is no contradiction in the courts deciding, via Constitutional clauses addressing only religion, what is and what is not appropriate educational content while at the same time denying that education is religious in nature. Moreover, the courts have assumed this decisional role while condemning decision-making by other branches of the government regarding religion and religious freedom in education.

⁵⁶ *World*. Public-school effort promotes gay life: The young and the impressionable, (1999, Dec 25/Jan 1, 2000), 13.

⁵⁷ Woodward, Kenneth, & Fleming, C. Scientology in the schools. *Newsweek*, (1993, June 14), 76.

⁵⁸ Davis, (1991), 177.

Non-neutrality. The oppositional argument that education is not religious if it does not expressly teach formal religious dogma is fallacious⁵⁹ because even the total absence of teaching on God still communicates a religious perspective about God, i.e., that God is either non-existent or non-relevant.⁶⁰ Thus, even when religious content in education is supposedly absent or is denied, a religious orientation prevails because education invariably rests on religiously oriented presuppositions. Either way, there is no neutrality on this matter. Parents whose children are converted away from their religious values via a so-called non-religious curriculum understand well this claim about non-neutrality. So-called non-religious curricula serve a religious function when they support a parent's religious values just as when they stay silent on issues - no answer is an answer. Said differently, attempts to avoid sectarianism or religious instruction by abolishing it "would be in itself sectarian, because it would be consonant to the views of a particular class, and opposed to the opinions of other classes".⁶¹

When content that is actually taught addresses the same issue as that addressed by legally impermissible religious content, it is equally religious in nature. This essentially parallels the situation with religious conscientious objectors who did not base their stand on traditional religious teachings yet qualified for religious exemption. Said the U.S. Supreme Court, if the nontraditional belief occupies the same role for the "nonbeliever" as it does for the believer it is religious in nature. In this regard, theologian Marty declares that the "culture of unbelief" is in reality the "culture of other belief".⁶²

Whenever a particular religious content is not permitted in education but some other view substitutes for it, that substitute is equally religious in nature. Judge Hand, affirming this view, said that the denial of a belief "will result in the affirmation of a contrary belief and result in the establishment of an opposing religion."⁶³ Accordingly former Harvard President Nathan Pusey said of secularism: "The object and content of Secularism's faith may be, and indeed are, very different from the object and content of the faith possessed by a Catholic or a Protestant or a Jew, but a faith it is and a religion it is."⁶⁴

Faith basis of education. Faith is so inherently foundational to life that, as Tolstoy said, "the question is not whether to be religious, but how to be religious."⁶⁵ As mentioned earlier, the Christian Bible considers all activities, and

⁵⁹ Baer, Richard, Jr. American public education and the myth of value neutrality. In Neuhaus, R.J. (Ed.) *Democracy and the renewal of public education*. Grand Rapids, MI: William B. Eerdmans Publishing Co., (1987).

⁶⁰ Lewis, Clive. *The abolition of man*. New York: Macmillan, (1947).

⁶¹ McCarthy, et.al., (1981), 91.

⁶² Marty, Martin. *Religion and republic*. Boston, MA: Beacon Press, (1987), 21.

⁶³ Hand, W.Brevard. *American education on trial*. Cumberland, VA: Center for Judicial Studies, (1987), 54.

⁶⁴ Blum, Virgil. Secularism in public schools. *Crisis*, (1987, March), 22-24.

⁶⁵ Creel, Richard. *Religion and doubt: Toward a faith of your own*. Englewood Cliffs, NJ: Prentice Hall, (1977).

particularly education, to be religious (Deuteronomy 6:7; Colossians 3:17; Ephesians 6:4). Educational theologian Phenix declares that “faith and learning are not mutually exclusive alternatives. On the contrary, they are necessarily inclusive of one another. Faith can have no significant content without learning, and learning can have no direction or motive without faith.”⁶⁶

A predominant instructional content in public schools and one argued to be empirically rather than faith based is the Darwinian theory of the evolution of the species. Yet as a number of avowed evolutionists reluctantly but honestly admit, it takes faith to believe in this theory, perhaps even more faith than a belief in biblical creationism,⁶⁷ since essential ideas like that of transitional life forms are rooted in faith rather than in demonstrated fact.⁶⁸ Stephen Jay Gould’s oft-publicized contention that human origins are without purposeful design is actually “a profession of his religious beliefs, not a finding of science.”⁶⁹

Ultimately, both of these origin orientations (that is, creationism or evolution) are rooted either in empirically unproven or scientifically unprovable assumptions taken by faith as true by proponents of each respective position.⁷⁰ In truth, “neither special creation nor macro evolution is science”⁷¹ because both deal “with past singularities and not recurring patterns which can be observed in the present.”⁷² As Matthews said in his *Introduction* to Darwin’s *The Origin of the Species*, “Belief in the theory of evolution is exactly parallel to belief in special creation – both are concepts which schools know to be true but neither, up to the present, has been capable of proof.”⁷³ The atheist Australian microbiologist, Michael Denton, after exploring the complete lack of any transitional forms at the molecular level, writes:

*The Darwinian theory of evolution is no more nor less than the great cosmogenic myth of the twentieth century. Like the Genesis based cosmology which it replaced, and like the creation myths of ancient man, it satisfies the same deep psychological need for an all embracing explanation for the origin of the world which has motivated all the cosmogenic myth makers of the past, from the shamans of primitive peoples to the ideologues of the medieval church.*⁷⁴

⁶⁶ Phenix, Philip. *Education and the worship of God*. Philadelphia, PA: The Westminster Press, (1966), 14.

⁶⁷ Eiseley, Loren. *The immense journey*. New York: Vintage Books, (1957).

⁶⁸ Johnson, Philip. *Darwin on trial*. Downers Grove, IL: InterVarsity Press, (1993).

⁶⁹ Cartmill, Matt. Oppressed by evolution. *Discover*, (1998, March), 83.

⁷⁰ Townes, Charles. The convergence of science and religion: Keynote address. American Scientific Affiliation Conference, Malibu, CA: Aug 2-5, 2002.

⁷¹ Geisler, Norman, & Anderson, J.K. *Origin science*. Grand Rapids, MI: Baker Book House, (1987), 36.

⁷² *Ibid.*, 26.

⁷³ Matthews, L.Harrison, *Introduction*. In Darwin, C. (1972), *The origin of the species*. London, England: J.M. Dent & Sons, Ltd., (1971), xi.

⁷⁴ Denton, Michael. *Evolution: A theory in crisis*. New York: Adler & Adler, (1986), 358.

Not only is the theory of evolution rooted in faith rather than in science, even science itself has religious roots. As Albert Einstein said, "Science can only be created by those who are thoroughly imbued with the aspiration towards truth and understanding. This source of feeling however springs from the sphere of religion."⁷⁵ As a case in point, even the teaching of $1+1=2$ has religious significance. This simple arithmetic fact of $1+1=2$ presupposes answers to religiously oriented and faith based questions. That is, the above arithmetic fact both assumes and answers the question about whether the universe has order and purpose. A universe of chaos and randomness would not allow $1+1$ to always equal 2. To accept this arithmetic fact as true is to accept, by faith, its underlying but unproven presupposition just as when the presupposition is denied.

Since questions of what revert to questions of why which revert to questions of who, the assumption of order and regularity in the universe rests on the prior assumption that the universe has purpose and thus an intelligent designer.

In addition to the fact that mathematics rests on religiously based assumptions, for some people it actually does constitute a specific religious belief. The ancient Pythagoreans, for instance, believed that numbers were divine and thus religiously based because all things supposedly generated out of, and thus were ultimately dependent on, number combinations. Hence all of mathematics and ancillary disciplines were rooted in the religious beliefs of these people.⁷⁶ Cosmologist John Barrow likewise takes the stronger stand that mathematics is not just religiously significant but that it is a religion:

*One would normally define a "religion" as a system of ideas that contains statements that cannot be logically or observationally demonstrated. Rather, it rests either wholly or partially upon some articles of faith. Such a definition has the amusing consequence of including all the sciences and systems of thought that we know; Godel's theorem not only demonstrates that mathematics is a religion, but shows that mathematics is the only religion that can prove itself to be one.*⁷⁷

As we have argued thus far, proponents of exclusiveness of content-based rules for defining religion and disbelievers in Pythagorean's theory can frame their protestations any way they want but the fact remains - the entire field of mathematics rests on religiously based propositions and for some even constitutes a religious belief. On a humorously poignant note, the cartoon character in the Calvin and Hobbes strip says that math books are full of things that have to be taken on faith like when two numbers added together magically become one new

⁷⁵ Torrance, Thomas. *Christian theology and scientific culture*. New York: Oxford University Press, (1981).

⁷⁶ Clouser, (1991).

⁷⁷ Barrow, John. *The world within the world*. Oxford: Oxford University Press, (1988), 257.

number. "No one can say how it happens, you either believe it or you don't." Claiming to be a math atheist, he wanted to be excused from this religious teaching that the government insists he learn anyway.

EDUCATION IS A RELIGIOUS ACTIVITY

Education is centrally a religious inculcation activity since its very purpose is to transmit and convert others to a particular perspective regarding world or life-views. And consistent with our working definition, these world or life-views typically speak to questions that traditional religions claim to answer. The very fact that there have been massive administrative and court intrusions into education on the basis of religious liberty demonstrates that education is inherently a religious activity. These intrusions, by their multiplenous nature, unequivocally admit to it. Yet even while these religiously motivated intrusions are commonplace, the full implications of First Amendment applicability to education remain shrouded in the denial of education's decidedly religious nature.

The question of whether or not education is a religious inculcation activity is, in reality, not even a debatable matter. Even if theologians would say that education is not a religious activity, court decisions and their inevitable practical outcomes undeniably affirm that it is. For instance, Court decisions regarding teaching human origins,⁷⁸ displaying symbols of cultural and religious heritage,⁷⁹ and non-exemptions from religiously offensive curriculum,⁸⁰ while based in a First Amendment Religion Clause, are all intimately and inextricably related to the teaching/learning process. In fact, all of the above judicial decisions restrict educational activities that were heretofore evaluated as pedagogically appropriate by the education establishment. Most importantly, the judicial rationale for superseding professional educators' decisions about instructional matters was based entirely on religious rather than pedagogical concerns. For instance, in each of the above cases, the courts did not focus on whether there was a rational pedagogical need for the instructional materials. Rather, they focused on whether they were being taught with the "right" content and from the "correct" viewpoint. Since these decisions were based on content and viewpoint, and since content and viewpoint ultimately arise from one's faith perspective or worldview, these court decisions emanated from the religiously held worldviews of the Justices. In other words, these decisions were based on which worldview the Justices thought should be taught in school. From this perspective, education cannot not be religious.

The real question then is not whether education is or is not a religious activity but instead to what extent it is. Our four-pronged argument says that

⁷⁸ *Edwards v. Aguillard*, 482 U.S. 578 (1987).; *Epperson v. Arkansas*, 393 U.S. 97 (1968).

⁷⁹ *Stone v. Graham*, 449 U.S. 39 (1980).

⁸⁰ *Mozart v. Hawkins County School District*, 56 U.S.L.W. 3569 (1988).; *Williams v Board of Education of County of Kanawha, West Virginia* 388 F. Supp. 93 (S.D. W. VA.), *affirmed*, 530 F. 2nd 972 (4th Cir. 1975).

education is ultimately a religious activity. To reiterate, most instructional content ultimately relies on religiously-relevant faith presuppositions and most instructional content invariably addresses and/or gives answers to religious questions. This applies, for instance, to history which ultimately speaks to whom or what (for example, people or gods or God) controls history; to mathematics which is based on the faith assumption of an intelligently designed universe of regularity and order (not chaos or chance); and to the teaching of values and character which presuppose answers to questions about issues of right and wrong, objective versus subjective truth, and the proper resolution of guilt (for example, by repentance versus denial).

Differences in educational content reflective of different worldview orientations are, says curriculum developer Marzano, based on assumptions which "are as unprovable as the assumptions on which my worldview (and that of most educators) are based."⁸¹ To be sure, any given lesson (for example, physical education exercises) may not specifically address religious issues but it nonetheless still fits into a religious framework (for example, care of the body made either in God's image or as the highest point in the evolutionary scale). Furthermore, the entire purpose of education is not merely the training of skills as for employability; education is for the propagation of truth so that the student will, says Aristotle, "like and dislike what he ought."⁸² And the question of what ought to be liked and disliked is ultimately based on religiously founded issues of morality and aesthetics.

Furthermore, if conscientious objectors to war are classified as religiously motivated because their beliefs, no matter how nontraditional, serve the same function as those of traditional believers, then the same principle regarding parallel function must apply to other areas of jurisprudence. That is, whatever the instructional content, if it speaks to the same question (that is, serves the same function) that religions are typically expected to answer, then it is a religion for those who believe and promote it. Obviously, schools and teachers do not teach students for belief adherence to what they themselves do not believe--they teach for student inculcation, be it content (for example, mathematics) and/or process (for example, democratic procedures). Thus, the educational act is an act of providing answers to questions that religions ask and accordingly needs to be recognized as such by the judiciary according to its own ground rules as to what serves as religion. In agreement with Tillich, the Supreme Court admits that religion may include objects like a "nation, science, a particular form or stage of society, or a highest ideal of humanity." In fact, the U.S. Supreme Court has characterized secular humanism, which is typically the description for public school content, as one of the nontheistic religions of the United States.⁸³

⁸¹ Marzano, Robert. When Two Worldviews Collide. *Educational Leadership*, (1993 Dec/Jan 1994), 11.

⁸² Lewis, (1947), 26.

⁸³ *Torcaso v. Watkins*, 367 U.S. 488 (1961).

IMPLICATIONS REGARDING FEDERAL INVOLVEMENT

First, because all education, be it private, parochial, or public, is religiously oriented, it must be protected by the religion clauses of the First Amendment to the U.S. Constitution. This means that the federal government must neither involve itself in specifying content nor collecting taxes for its support. This is so for several reasons. One, since the government admittedly cannot endorse or in other ways determine the doctrinal content of religions, then it similarly cannot determine content of education.⁸⁴ Two, since the federal government cannot collect taxes to support religious doctrine or procedures, then neither can it collect taxes to support educational content or process. The same judgments that apply to religion should apply to education, which, at this point, they obviously do not even while they both are adjudicated under the same constitutional provision addressing, exclusively, religion.

The counter argument, that in favor of federal control of and taxation for education, is untenable for several reasons. First by its own rules, the Supreme Court has characterized religion such that it must acknowledge that education is a religious activity. Accordingly, the federal government is then restricted by the prevailing interpretation of the First Amendment from making laws about education in the same way it is restricted from making laws "which aid one religion, aid all religions, or prefer one religion over the other."⁸⁵ Plainly, this means that federal laws cannot be made that aid one, aid all, or that prefer one educational content, process, or institution over any other.

If one were instead to adopt the alternative interpretation of the First Amendment⁸⁶ that only excludes the federal government from establishing a national religion, then it likewise cannot mandate educational standards nationally, (that is, across the states) because it contributes to forming a national religion since education is ultimately a religious activity. This generally closes the door on all federal activities toward national educational involvement. At any rate, by either of the two prevailing interpretations of the First Amendment, the federal government's hands are tied regarding its right to control and tax for education.

The case against federal control of education was made at the outset by those who actually participated in writing the U.S. Constitution and thus who best knew its meaning. Its chief designer, James Madison, said that the federal government "may take into their own hands the education of children, establishing in like manner schools throughout the Union" only if the provisions of the Constitution's general welfare clause are misinterpreted to mean something "never before

⁸⁴ Otteson, (2000).

⁸⁵ *Everson v. Board of Education*, 330 U.S. 1 (1947).

⁸⁶ Cox, William. The original meaning of the Establishment Clause and its application to education. *Regent University Law Review*, 13(1), (2000-2001), 111-143.; Loss, Richard. (Ed.) *Corwin on the constitution*. Vol. III. Ithaca, NY: Cornell University Press, (1988).

entertained by friends or enemies of the Government."⁸⁷ Ironically, it is this very same general welfare clause that is used to justify the existence of the cabinet level Federal Department of Education.⁸⁸ Similarly, when asked as President to apply public funds to several activities including education, Thomas Jefferson (promoter of the First Amendment religious clauses) said, in his Sixth Annual Message to Congress, "an amendment to the Constitution, by consent of the States, [is] necessary, because the objects [e.g., education] now recommended are not enumerated in the Constitution . . .".⁸⁹ Contrary to Jefferson's admonition, federal involvement in education has obviously circumvented the legal need for such an amendment to be added to the U.S. Constitution.

A deeper level of implication would include applying to secular humanism and other such religious content orientations in schools the same restrictions that have been applied to formal religious practices in the classroom. But this deeper level of implication needs no further development because the above mentioned across-the-board restriction against federal involvement in education excludes the need to address such implications.

Regarding government involvement in education at the state level, the 14th Amendment is thought by some to incorporate First Amendment provisions to the state and even local level. If the 14th Amendment truly does apply the religion clauses of the First Amendment to the states (this is debatable), then the restriction argued herein against the federal government's involvement in religion and in education invariably has to restrict state governments in the same way. Just as state governments cannot, by way of the incorporation doctrine, mandate religious exercises, they equally cannot mandate education exercises.

If the incorporation doctrine is not a valid principle, as some maintain, the argument against state control of education is in no way diminished. The fact that education is an overtly religious activity causes an internal conflict in most state constitutions. That is, the freedom of religion provisions contained in most states' constitutions conflict directly with either mandatory education or mandatory school attendance requirements that were usually added at a chronologically later time. Here we have the same anachronistic conflict as demonstrated at the federal level. The historically earlier provision for religious and thus educational freedom is superseded by historically later, disconnected and even contradictory provisions and interpretations. Since it would be unthinkable, under the states' freedom of religion provisions, to mandate religious events and content, it is equally unthinkable to mandate any aspect of that particular dimension of religious activity known as education.

⁸⁷ Hyneman, Charles & Carey, G.W. *A second Federalist*. Columbia, SC: University of South Carolina Press, (1967).

⁸⁸ Public Law 96-88, U.S. Department of Education Organization Act – *United States Code*, (1979).

⁸⁹ Richardson, James. *A compilation of messages and papers of the Presidents*, Vol I. New York: Bureau of National Literature, Inc., (1897).

While the conflict at the state level between freedom of religion and mandatory education or attendance may appear so monumental as to be beyond easy remedy, the remedy is nonetheless easy. Because education is a religiously oriented activity and since the freedom of religion provisions generally predate, chronologically, the mandatory education/attendance requirements, the latter must defer to the former, especially since the latter writings contain no superceding provisions over the former. The converse application would certainly be untenable given the history of the United States regarding the safeguarding of religious freedom. In fact, abolishing the state constitutions' mandatory education or attendance provisions would actually be compatible with this country's predominant educational history. As Blumenfeld chronicles, early American education was originally controlled by parents and church, but not the state. When the state did enter the education scene it was, as accounts particularly of the education trend-setting state of Massachusetts reveal, to promote religious interest in education. One of the earliest (1647) education statutes in Massachusetts was even entitled "Ye Olde Deluder Satan" law in recognition of the fact that Satan would try to "keep man from the knowledge of the Scriptures," hence the requirement that townships teach children to read.⁹⁰

Coincidentally, the history of state control of education in the vanguard state of Massachusetts serves to confirm the thesis that education is a religiously oriented activity. Specifically, when the Massachusetts Unitarians wrested control of education from the Calvinists, the content of official education changed from Christianity to Unitarianism - it was not for the purpose of making it any less religiously oriented. According to Brownson, a defector Unitarian of that time:

The great object was to get rid of Christianity... to establish a system of state--we said national--schools, from which all religion was to be excluded, in which nothing was to be taught but such knowledge as is verifiable by the senses, and to which all parents were to be compelled by law to send their children... The first thing to be done was to get this system of schools established. For this purpose, a secret society was formed, and the whole country was to be organized... How far it was extended in other states, or whether it is still kept up, I know not, for I abandoned it in the latter part of 1830... but this much I can say, the plan has been successfully pursued, the views we put forth have gained great popularity, and the whole action of the country on the subject has taken the direction we sought to give it.⁹¹

This movement obviously continues in light of Dunphy's 1983 published article (partially cited earlier) about replacing "the rotting corpse of Christianity" in public schools with "the new faith of humanism."⁹²

⁹⁰ Blumenfeld, Samuel. *Is public education necessary?* Boise, ID: The Paradigm Co., (1985).

⁹¹ *Ibid.*, 95-96.

⁹² Dunphy, (1983).

Make no mistake about it, the attempt to remove Christianity from early Massachusetts classrooms was not a religiously neutral effort. It was motivated from the teachings of the Unitarian religion and its proposed content of naturalism and humanism was and is a religiously aligned content. It was religiously aligned for all the reasons described earlier in this essay, not the least of which is that it took the place of already existing religious content and also because it was considered by its advocates as their religion. Thus, the argument against government control of education at the state level is as forceful as it is against government control at the federal level.

One of the most perplexing aspects about the matter is the contrast between how fervently the patriots of this country fought for religious freedom and, conversely, how pathetically Americans have surrendered its application to education. Even so, the perplexity inherent to this contrast actually strengthens the thesis that education is a religious activity. As Read⁹³ stated, "the confidence that Americans put into their public school system even as it has degraded to its current level of illiteracy and immorality can only reasonably be explained as an act of religious faith." To attack the American public school system is akin, in the public's eye, to attacking motherhood, the flag, and apple pie. All the more reason to think that the cause of educational freedom may even be our next great civil rights battleground.⁹⁴

CONCLUSION

Obviously, the implications of this perspective regarding education are very unsettling of the status quo. The argument presented here is not to make a different religion preeminent in education but to release all education, as with formal religion, from government control. Those who take exception to this perspective on education need, nonetheless, to come to grips with the hard reality that the U.S. Supreme Court has contradicted itself in the way it has differentially defined religion for purposes of the Free Exercise clause and the Establishment clause. Clearly, what serves as religious in one dimension of public life (for example, free exercise rights of conscientious objectors) should apply equally to all dimensions of public life (for example, education). To maintain consistency of judiciary decisions, education has to be seen either as a subset of religion or unrelated to religion. If unrelated, many education related Court decisions would be invalid in as much as they are outside the jurisdictional authority of the First Amendment. If related, many Court decisions would still be invalid from the perspective that such decisions violate the First Amendment prohibition against

⁹³ Read, Leonard. *Anything that's peaceful*. Irvington-on-Hudson, NY: Foundation on Economic Education, Inc., (1964).

⁹⁴ Jacob, B.P. *Storming the stronghold: Why the government education monopoly will come tumbling down. Essays on our times*. Washington, DC: Free Congress Foundation, (no date).

nationalizing a religion. At any rate, to maintain the status quo is to perpetuate educational/religious injustice.

As a concluding comment, the matter of turmoil here is the impossibility of defining for others what is religious for them. Ultimately, if someone's belief system determines their ultimate outlook on life that system is that person's religion. Saying it is not religious does not alter the fact one iota. Detractors may not believe in the content of that religious system, but they cannot deny that it is a religion when, in fact, it functions as one for the believer. Merely saying that education is not a religious activity does not divest it of its inherently religious nature and function.

Even for those who purposely do not allow the content of any educational system to serve as their religion the point still remains. That is, formal education self-consciously speaks to religiously oriented issues and thus serves a religious purpose. As Clouser contends, "it is only possible for a person to have no religious belief whatever if he or she does not believe any theory whatever."⁹⁵ This of course is impossible for anyone who is living and breathing!

We have demonstrated a number of anomalies and double standards that result in the courts viewing education as non-religious in nature but all the while intervening in education to shelter and protect its provincial religious orientation. For instance, the U.S. Supreme Court recognizes the religion of Secular Humanism as a religion in substance but not by its prevailing influence in public school educational practice. Likewise, the alternate or parallel education content to that which is considered religious and thus prohibited in public school is allowed and even protected as non-religious by the courts. Beyond that the First Amendment religion clauses are used as jurisdictional authority to make religiously based decrees in education even though education is not considered by the U.S. Supreme Court as being in the category of religion.

It is time to abandon the double standard regarding religion in education. The perspective of this article is that education is a religiously based activity and as such must be protected from federal control and taxation just as is constitutionally the case with traditional religious activities.

Author's Note. The author thanks William Harty, Bob Gable, and Mary Scarlato for helpful comments, Gloria Ross, Rebecca Rodgers, Elizabeth Beachy, and Trish Tarpley for typing the manuscript. An earlier draft of this paper was presented at the Separation of School and State Conference, Colorado Springs, Colorado.

William Cox (Ph.D. Florida State University) is Professor of Education at Regent University, Virginia Beach, and Director of Christian Education Programs.

⁹⁵ Clouser, (1991), 4.