

US Supreme Court orders state funding of religious education in Maine

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Yesterday, the US Supreme Court demolished more of what once stood as a “wall of separation between church and state,” embodied in the first clause of the first sentence of the First Amendment to the Constitution, the prohibition against government “establishment of religion.”

Chief Justice John Roberts, writing for the dominant six-justice right-wing bloc, ruled in *Carson v. Makin* that the State of Maine cannot deny religious schools public funds earmarked for secular education, even though the taxpayers’ money will be used to indoctrinate young people in fundamentalist Christianity.

The remaining three justices dissented.

Areas of Maine are so sparsely populated that public secondary school campuses are not feasible in more than half its school districts. To ensure that all youth have access to public education, as the state’s constitution requires, Maine provides tuition assistance to parents in those rural districts so children can attend qualified institutions that are “nonsectarian ... in accordance with the First Amendment of the United States Constitution.” The program affects about 5,000 youth.

Moderate Justice Stephen Breyer, in what will be among his final opinions before retiring at the end of this month, explained that one of the two plaintiff families sued for tuition assistance for Bangor Christian, a school with “educational objectives” that include teaching “each unsaved student to trust Christ as his/her personal savior and then to follow Christ as Lord of his/her life,” while developing “within each student a Christian world view and Christian philosophy of life.” Because Bangor Christian “does not believe there is any way to separate the religious instruction from the academic instruction,” social

studies class teaches “that God has ordained evangelism,” and science that atmospheric layers “are evidence of God’s good design.”

The other plaintiff family wanted the children to attend Temple Academy, the “educational philosophy” of which “is based on a thoroughly Christian and Biblical world view,” intended to foster “within each student an attitude of love and reverence of the Bible as the infallible, inerrant, and authoritative Word of God.” Like Bangor Christian, Temple uses the Bible for every subject, including mathematics, where students learn that “a creator designed the universe such that one plus one is always going to be two.”

Both schools “have admissions policies that allow them to deny enrollment to students based on gender, gender identity, sexual orientation and religion, and both schools require their teachers to be born-again Christians,” according to Breyer.

The majority reversed two lower court rulings. Roberts wrote that the state’s exclusion of such overtly sectarian and discriminatory instruction from its tuition assistance program, not only resulted in “stricter separation of church and state than the Federal Constitution requires,” but also “violates the Free Exercise Clause of the First Amendment.”

Turning the First Amendment on its head, Roberts ruled, “The State pays tuition for certain students at private schools—so long as the schools are not religious. That is discrimination against religion.”

In other words, the chief justice has declared that the Constitution not only *allows* state support for religious instruction, the Constitution *requires* it.

Roberts’ view was opposed by framers of the Constitution, the document Roberts and the five other right-wingers claim to interpret in light of its “originalist” meaning.

Breyer's dissent quotes Thomas Jefferson: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical." Little more needs to be said.

The framers perceived religious views as qualitatively distinct and uniquely reserved for the individual conscience. Following political independence from England in 1776, James Madison, who would later draft the Bill of Rights, wrote Virginia's Declaration of Rights, which, among other things, ended government payouts to the Virginia Episcopalian Church.

After the defeat of England, the Episcopalians' attempt to renew governmental support met with opposition from other religions. In 1784, the Virginia Legislature proposed a compromise "Assessment Bill" that imposed a tax to support religious education, but gave each taxpayer the right to designate the church to receive it.

Roberts' ruling is indistinguishable from the Assessment Bill, and would have been opposed by the framers just as vigorously.

Madison's famous "Memorial and Remonstrance Against Religious Assessments" made clear that state funding of religious instruction violated the fundamental Enlightenment principles underlying the American Revolution. "Religion ... of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable; because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men," Madison wrote.

According to Madison's Remonstrance, government sponsorship of religion violates "that equality which ought to be the basis of every law." He left no question about the strength of his opposition to the Assessment Bill. "Either then, we must say, that the will of the Legislature is the only measure of their authority; and that in the plentitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: Either we must say, that they may control the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and

hereditary assembly: or we must say, that they have no authority to enact into law the Bill under consideration."

So potent was Madison's Remonstrance that instead of enacting the Assessments Bill, the Virginia Assembly passed Thomas Jefferson's "Bill for Establishing Religious Freedom." This historic law provided "That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened, in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief."

Carson v. Makin is yet another expression of the ruling class's repudiation of the democratic principles on which the United States was founded. More will undoubtedly arrive as the Supreme Court wraps up its term before the Fourth of July, including rulings on prayers during public school athletic events and the elimination of the constitutional right to abortion.



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