

## Opinion of the Court

*School District of Abington Township v. Schempp* (1963)

SUPREME COURT OF THE UNITED STATES

**Main Investigation Question:** Did the county violate the petitioner's constitutional rights? Is the law in question constitutional?

### Precedents say...

What is a precedent?

a pattern

What is the court precedent for this case (name of the case)?

1) Engel v. Vitale

2) McCollom v. BOE

What was the finding of the court in that precedent?

1) It is unconstitutional because it violates the Establishment Clause.

2) Unconstitutional because they weren't keeping church and state separated.

### The Constitution says...

List the amendments cited in the case brief.

1st and 14th (Sec 1)

What text of the Constitution will your Supreme Court use in order to come to your verdict? Find 2 examples from the Constitution. Quote/cite the text below.

1st) "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, ..."

14th) "...nor deny to any person within its jurisdiction the equal protection of the laws."

# Supreme Court Trial Brief

## *School District of Abington Township v. Schempp (1963)*

### Origin of the Case:

Religion  
↓

The *Abington* case began when Edward Schempp, a Unitarian Universalist and a resident of Abington Township, Pennsylvania, filed suit against the Abington School District in the United States District Court for the Eastern District of Pennsylvania to prohibit the enforcement of a Pennsylvania state law that required his children, specifically Ellory Schempp, to hear and sometimes read portions of the Bible as part of their public school education. That law (24 Pa. Stat. 15-1516, as amended, Pub. Law 1928) required that "[a]t least ten verses from the Holy Bible [be] read, without comment, at the opening of each public school on each school day." Schempp specifically contended that the statute violated his and his family's rights under the First and Fourteenth Amendments.

Pennsylvania law, like that of four other states, included a statute compelling school districts to perform Bible readings in the mornings before class. Twenty-five states had laws allowing "optional" Bible reading, with the remainder having no laws supporting or rejecting Bible reading. In eleven of those states with laws supportive of Bible reading or state-sponsored prayer, the state courts had declared them unconstitutional.<sup>[3]</sup>

In the *School District of Abington Township v. Schempp (1963)*, Pennsylvania High School students were required to sit through the recital of ten Bible verses every morning. The Schempp family believed this was a violation of their Fourteenth Amendment right because the school provided only copies of the King James Bible and not any other holy books. The Schempp family decided to file a lawsuit against the school district.

## Precedents for *School District of Abington Township v. Schempp* (1963)

***Engel v. Vitale***, 370 U.S. 421 (1962), was a landmark United States Supreme Court case that ruled it is unconstitutional for state officials to compose an official school prayer and encourage its recitation in public schools.

The Court explained the importance of separation between church and state by giving a lengthy history of the issue, beginning with the 16th century in England. It then stated that school's prayer is a religious activity by the very nature of it being a prayer, and that prescribing such a religious activity for school children violates the Establishment Clause. The program, created by government officials to promote a religious belief, was therefore constitutionally impermissible.

The Court rejected the defendant's arguments that people are not asked to respect any specific established religion; and that the prayer is voluntary. The Court held that the mere promotion of a religion is sufficient to establish a violation, even if that promotion is not coercive. The Court further held that the fact that the prayer is vaguely worded enough not to promote any particular religion is not a sufficient defense, as it still promotes a family of religions (those that recognize "Almighty God"), which still violates the Establishment Clause.

***McCullum v. Board of Education***, 333 U.S. 203 (1948), was a landmark 1948 United States Supreme Court case related to the power of a state to use its tax-supported public school system in aid of religious instruction. The case was an early test of the separation of church and state with respect to education.

The case tested the principle of "released time", where public schools set aside class time for religious instruction. The Court struck down a Champaign, Illinois program as unconstitutional because of the public school system's involvement in the administration, organization and support of religious instruction classes. The Court noted that some 2,000 communities nationwide offered similar released time programs affecting 1.5 million students.

McCullum, an Atheist, objected to the religious classes, stating that her son James was ostracized for not attending them. After complaints to school officials to stop offering these classes went unheeded, McCullum sued the school board in July 1945, stating that the religious instruction in the public schools violated the Establishment Clause of the First Amendment—the principle of separation of church and state in the United States. McCullum also complained that the school district's religious education classes violated the Equal Protection Clause of the Fourteenth Amendment.