

HISTORY OF PROVISIONS FOR RELIGIOUS INSTRUCTION
IN SELECTED PUBLIC ELEMENTARY SCHOOLS OF KANSAS

by

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TABLE OF CONTENTS

PREFACE	iii
CHAPTER I. RELIGION AND PUBLIC EDUCATION IN AMERICA	1
Historical Perspective	1
Legal Perspective	13
CHAPTER II. RELIGION AND PUBLIC EDUCATION IN KANSAS	20
Constitution, Statutes, and Judicial Interpretations . .	20
Released Time in Kansas	26
Religious Qualities in Public School Programs	34
Points of View of Some Educators	37
Summary	39
CHAPTER III. SUMMARY AND CONCLUSIONS	40
Separation of Church and State	40
Reaction to Secularized Education	41
Legal and Feasible Methods of Teaching Religion	44
BIBLIOGRAPHY	50
APPENDICES	52

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PREFACE

Interest in the subject as an area of research grew out of the writer's personal experiences and professional education. He had a sincere desire to learn more adequately about the actual practices in the public elementary schools of Kansas in regard to religious instruction for such knowledge is prerequisite to a basic opinion as to a feasible practice for public schools.

Research went forth with the purpose of ascertaining important facts that were not already available in assimilated form. These data were not to be used to argue for or against the legality or feasibility of any particular method of providing religious instruction in conjunction with public school education. The purpose was to ascertain the facts, describe the historical aspects, and evaluate the practices in light of modern concepts of education.

The public elementary school was chosen as the unit for study because this is an important phase of the educational system, and because it has been largely neglected in previous studies of religion and education. Since it did not seem necessary to examine every school in the state in order to discover the pattern of operation, the writer decided upon a more limited investigation.

An examination of the school systems in cities of the first and second classes along with other schools having 200 or more pupils provided data to indicate the prevailing methods of handling the problem of religion in connection with elementary public

education. These data were provided by means of a questionnaire answered by a large percentage of the school administrators to whom they were sent. The questionnaire briefly explained the purpose of the research and provided a selected list of carefully arranged questions. The forms that were completed and returned indicated where follow-up letters and personal interviews would be advisable. The follow-up letters were usually sent to ministers and ministerial alliances since the churches supervised the religious instruction programs. Personal interviews were held with at least one minister in each of the cities which had released-time programs.

Some of the information desired related to programs which might be considered by some as illegal; therefore, the cover letter which accompanied the questionnaire forms explained that the data would not be used in a way that would bring criticism of specific schools and individuals. For this reason quotations and references have been handled anonymously unless permission had been received for documentation.

The school personnel and ministers who provided the data necessary for this thesis rendered an indispensable service. Without this assistance the study could not have been satisfactorily effected. Not only the cooperative service, but the genuine interest and willingness to assist greatly encouraged the writer.

The writer also appreciates the pleasant relationship he has had with the members of the Department of History, Government,

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CHAPTER I. RELIGION AND PUBLIC EDUCATION IN AMERICA

Historical Perspective

Natural Unity of Democracy, Education, and Religion. Education has been an essential element of American democracy, and education in America was born and nurtured in an atmosphere of religion. Therefore, democracy, education, and religion had a natural unity in the early American way of life. Failure to recognize this led to practices that created unnatural divisions and inadequate emphases upon the parts of the whole. Particular views of democracy, of education, and of religion produced disharmony in their natural relations.

The minimum meaning of democracy is its political sense, the right of the people to vote and to hold public office. This has become the common definition, but a much more significant connotation is that expressed by Abraham Lincoln. He described the American government, to which the living are dedicated, as a "government of the people, by the people, and for the people".¹ He was saying that the form of government which is to be desired in the United States is social as well as political. It seeks, with God's help, the maximum good for the maximum number of people.

The central interest of democracy is, therefore, the welfare of the people as persons. Its aim is more than a government by

¹Gettysburg Address.

the people; it is by the good will of the people, and by the power of the people who constantly will the highest good for all. The problem in a democracy is that of developing the will, intent, and purpose that is in keeping with these social ideals; therefore, the problem is really one of education with these characteristics as its object.

The fathers of the American nation understood education and religion in much the same way as democracy in the sense that all of these concepts placed the emphasis upon human dignity, individual freedom, and a striving to preserve moral values in society. Genuine democracy sought to preserve trust in the moral judgment of the people and to demonstrate intelligent good will for others. It grew from motives that caused men to will the true rather than the false, to love rather than hate. The development of motives, powers, and habits that enabled all to live a common life of helpfulness and fellowship at life's highest levels was considered to be the function, not only of democracy, but particularly of education and religion in the democratic state.

This natural affinity of democracy, education, and religion was due to the fact that the colonial churches were largely planted by religious radicals. The following statement indicates the close relationship of political and religious views:

Political and religious radicalism naturally went hand in hand. A revolution in politics and religion was in progress at the very time American colonization was under way. The old political faith as well as the old ecclesiastical establishments were under attack from every quarter; the parliamentary party not only opposed

the divine right of kings; they likewise contested the divine right of bishops.¹

The insistence upon freedom which characterized the leadership of politics and religion resulted in a spirit of individualism that went beyond the general welfare of people to independent individualism. This spirit brought division and redivision in American Christianity. The tendency toward sectarianism in turn brought disharmony in both doctrine and the American way of life. Denominationalism and sectionalism brought a reaction to religion and an emphasis upon the secular which led to the complete separation of church and state.

This trend of thought has reversed itself in recent years. One prominent school of American educators has emphasized the need of developing the whole person in order to make happy people and good citizens. McDaniel declared that the purpose of education today "is to help individuals become increasingly self-directive and capable of creative and purposeful living".²

Arbuckle said substantially the same thing:

Probably all college administrators in the United States would say that their institutions aim to educate for democratic living.... The basic aim of American education is to help the student to become a mature and stable individual so that he can be responsible for his own actions and will need nothing in the way of outside control.³

¹William Warren Sweet, The Story of Religions in America, p. 2.

²Henry B. McDaniel, Guidance in the Modern School, p. 7.

³Dugald S. Arbuckle, Student Personnel Services in Higher Education, p. 258.

When religion has as its basic purpose the development of the whole person, it is a natural, effective, and essential aid to American education because it seeks what is desired in the American way of life. As Arbuckle pointed out, "Religion is an important factor in the lives of many students, and it cannot be ignored as if it did not exist".¹

Harner defined religion and education in common terms: "A profound belief that the plan and purpose of God are made known to man, and an earnest effort to conform thereto".² If this definition, and the above arguments, are accepted, it seems evident that democracy, education, and religion should not be separated. The history of education in American democracy, however, has had difficulty in integrating religion into general education.

Origin and Development of Education in the United States.

The Puritans of New England were zealous for education, being strongly motivated by religious attitudes. The Boston Latin School, established in 1635, came under city supervision and support in 1643. Education in the Middle Colonies was quite similar to that in New England, the first public school in New Amsterdam being established in 1638. Education was neglected in the South for many years, and then progressed slowly. Privately supported "field schools" date from the 1640's; some parents provided private tutors, but others provided no formal education for their

¹Ibid., p. 157.

²Nevin C. Harner, Religion's Place in General Education, p. 12.

children.¹

The early educational situation in the colonies was, therefore, under the domination of the church. It flourished best in New England with the dame schools under the ministers' Latin classes, and with a boys' finishing school. In the Middle Colonies education was left chiefly to the sects, and in the South it was supervised by parish rectors unless left to individual parents.

The Revolutionary War closed many schools, but education was recognized as the basis of democracy. Public schools were not well received in the South, but fared somewhat better in the West. The revolution in education began in 1823 when Samuel Read Hall established a little normal school in Vermont. The establishment of the Smithsonian Institution in 1829 brought an improvement in education, and by the 1850's the free school system had triumphed. Though the Civil War deterred progress in education, a renewal of effort followed this critical period.

With the acceptance of the principle of tax-supported public education came the controversy over the place of religious instruction in the school system. This issue was certain to emerge, whether the state supported education in public schools or aided private charity schools. The diversity of religious beliefs in the country seemed to make the elimination of sectarian instruction in the public school inevitable. The textbooks used in

¹Nelson Manfred Blake, A Short History of American Life, p. 83.

Massachusetts during the early national period preferred to stress moral aspects rather than the tenets of Calvinism, and sectarian instruction was forbidden in that state by law in 1927. According to Blake:

Conservatives lamented the trend, and as late as 1840, tried unsuccessfully to restore the old system. The religious indoctrination which had once been so characteristic of Massachusetts public education left as its sole vestige the custom of opening the daily session by reading a passage of the Bible without comment. In other states where public schools developed, a similar policy was usually adopted.¹

The state of New York took the lead in withdrawing public grants from parochial schools, and established general education in non-church tax-supported schools. The real fight on the issue came in the early 1840's, but New York determined the trend by refusing grants of public funds to sectarian schools and instead provided for the establishment and support of public schools. The principle of refusing aid to parochial schools was soon adopted by other states. Between 1840 and 1861 nine states placed in their constitutions provisions forbidding public support of religious schools.²

Experimental Approach to Integration. The separation of religious instruction from general education put the burden of teaching religion squarely upon the church and the home, but these institutions were never able adequately to meet this responsibility. The desire to integrate religious instruction with

¹Ibid., p. 298.

²Loc. cit.

general education persisted, and ways were sought for bringing this about within the bounds of state laws. This has proven a difficult and complex problem, and there have been a number of approaches of experimental nature.

The oldest approach to the problem is that of parochial schools. The basic assumption back of this approach is that religion is a necessary, and an integral part of education. It is further assumed that particular doctrines of sects should be taught by those who hold them. This method required that each parochial school provide its support not only for teaching its own tenets of belief but for the whole educational system.

Though the Supreme Court has upheld the right of parents to send their children to parochial schools that meet the educational standards set up by the states,¹ this method has not been generally endorsed by exponents of religious education, except those of a few religious sects. One of the opponents of this approach has declared:

It seems unsuited to a democracy which must rest upon the utmost sharing of ideals, purposes, knowledge, and experience, in that it makes for the separation of social groups and for class consciousness. Moreover, the type of education offered in the parochial school has not provided the best preparation for the functions involved in the modern state.²

¹Pierce v. Society of Sisters, 268 U.S. 510, as cited by Robert E. Cushman, Civil Liberties in the United States, p. 102.

²W. C. Bower, Religious Education in the Modern Church, p. 223.

Those who rejected the parochial school approach have varied a great deal in plans of their own for teaching religion. In 1903 an effort was made to put the teaching of religion on a broader basis than the Sunday School. The Religious Education Association planned improvements and published useful aids for religious instruction.¹

Vigorous support for reading the Bible in the public schools succeeded in getting laws passed in some states which required the reading of the Bible. Additional states permit the reading of the Bible, and only a few bar it from being read in the public schools. Anson Stokes summarized the extent of the practice as of 1934 and 1936:

Bible reading in the public schools was specifically permitted by statute in seven states, and allowed by court or administrative decisions in a few others; considered optional in 13 through the lack of any definite state law on the subject; prohibited in 11 - generally by interpretation by courts or educational authorities of state constitution guarantee of religious freedom, and/or the protection of public education from denominational instruction; and required in 11 and the District of Columbia. The required study clauses are mainly in Southern and Eastern states. In four cases the provision has been upheld in the state's highest court. Although no comprehensive statistics are available, it is believed that a majority of public schools in the country still open their daily sessions with reading without comment from the Bible, and that a substantial minority open with a hymn and the Lord's Prayer. The latest careful survey [1946]...showed that 13 states including the District of Columbia required Bible reading in all public schools; 25 states permitted it; and in eight states no public schools read the Bible.²

¹Henry K. Rowe, History of the Christian People, p. 413.

²Anson Phelps Stokes, Church and State in the United States, 2:551.

Commendable as reading the Bible in the public schools may appear, it has been seriously discredited as a feasible practice. Bower pointed out that the mere reading of the Bible is inadequate as a means of religious education, if it can be called this at all. Although the Scriptures are considered an invaluable source for religious instruction, the task of the teacher of religion is vastly more complex than the mere reading of the Bible. The possibility of the Bible being read perfunctorily, unwillingly, or by irreligious teachers is so great that many of the best friends of the Bible believe it should not be put in this unfortunate position.¹

The most significant approach to the teaching of religion was that of making religious instruction an actual part of the total educational program, being integrated with general education. A variety of plans have been proposed for accomplishing this.

One of these plans may be called the "common denominator" or "three faiths" plan whereby Protestants, Roman Catholics, and Jewish churches agree on certain fundamental content to be taught in an optional course. Virginia and other states have issued series of courses in the Old and New Testament in harmony with this plan. The pamphlets are prepared with specific directions for making the courses acceptable for high school credit for Bible study. The extent of the practice of giving credit for

¹Bower, op. cit., p. 224.

religious courses cannot be actually determined, but Anson Stokes claimed that in 1927 half of the states in the union were permitting credit to high schools if courses were reported by responsible groups.¹ Rudolph Tatsch, however, concluded for Texas in 1945 that the "diversity of findings regarding the Bible-for-credit program" showed that it had "alternated between a tendency toward success on the one hand and failure on the other, or else has been studied inadequately".²

The "Interdenominational Christian Education Plan" was started in 1937, and carried furthest in Elgin, Illinois. The work was carried on in the fourth through the eighth grades, a class being added for high school freshmen in 1941. The students were given religious instruction in classrooms under trained teachers, but on an interdenominational basis. The content of the instruction included the fundamental teachings of the Bible and Christianity. This was given one day a week and devotional services, led by one of the children, preceded the class period. The purpose of such instruction was to provide through religion a basis for strong character. This method of integrating religious instruction with general public education was prohibited by the decision of the United States Supreme Court in 1948.

The "historical method" was an objective approach which sought to give some religious instruction to all pupils in high

¹Stokes, *op. cit.*, 2:504.

²Rudolph Charles Tatsch, "The Status of the Bible-For-Credit Program in the Public High Schools of Texas", p. 4. Unpublished B.D. Thesis, Texas Christian University, 1945.

schools. The plan was for the purpose of securing recognition of the importance of the part that religion plays in the ethics and culture of modern life. There was to be no sectarian instruction, but credit would be given to the place religion has had in the formation of literature, history, government, art, and moral standards of American culture. This plan has received vigorous support from outstanding leaders in religion and religious journalism in the United States.¹

Another plan proposed the incidental study of religion through the general liberal arts courses. This plan has received recent support from responsible educational leaders who are seeking to retain elements of religion as a part of the program of general public education. A committee report of the American Council on Education read in part:

The exclusion of religion from the public schools which so largely prevails today results in its relegation in the minds of youth to a position of relative unimportance. This runs counter, we believe, to the intention of the American school system from the beginning. On the other hand, any educational innovation which would tend to identify public education with a particular body of sectarian beliefs and practices we hold to be not only impracticable but improper... We are unable to believe that a school which accepts responsibility for bringing its students into full possession of their cultural heritage can be considered to have performed its task if it leaves them without a knowledge of the role of religion in our history, its relation to other phases of the culture, and the ways in which the religious life of the American community is expressed. An educated person cannot be religiously illiterate.²

¹Stokes, op. cit., 2:508.

²Committee on Religion and Education, The Relation of Religion to Public Education. Summarized in Harner, op. cit., p. 161.

The committee which expressed this view of the relation of religion to general education was named in 1944 by the American Council on Education for the purpose of promoting such studies and educational activities that might seem desirable. The Committee saw the Judaeo-Christian tradition as an essential basis of American democracy and held that due regard should be paid to the Bible, not in special Bible classes, but as part of the literature program. A program of this type was begun in Indianapolis, Indiana, in 1940, and was favorably evaluated, not as a substitute for other types of religious instruction but as an aid to them.¹

Since morals have seemed to decline where religious instruction was absent, several states have enacted laws requiring instruction in morals and manners in the elementary schools. Florida, for example, attempts "to inculcate, by precept and example, the principles of truth, honesty and patriotism and the practice of every Christian virtue".² Whether this plan will be successful will remain to be seen, but it is an indication that educators and responsible citizens have tried to find some method of teaching the values of religion without becoming involved in the legal restrictions that govern the permissible relationship of church and state.

¹Stokes, op. cit., 1:511.

²Florida School Law, 1936, sec. 669. See Stokes, op. cit., 1:512.

Legal Perspective

The Constitution of the United States. That part of the Constitution which relates to this church-state relationship is included in the First and the Fourteenth Amendments. These articles are basic to the legal aspect of the relationship both from the standpoint of the United States and the individual states. In addition to these Amendments, however, each state must be governed by its own legal instruments, the state constitution, statutes, court decisions, and legal opinions.

The First Amendment to the Constitution of the United States reads in part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof". This restriction applied at the federal level; it was intended specifically to prohibit Congress from establishing a Church or interfering with the freedom religious pursuits according to conscience. Although the First Amendment did not apply to the States, the Supreme Court of the United States has on several occasions declared that the Fourteenth Amendment extended the elements of the First to them. For example, it said through Justice Sanford (1865-1930):

For present purposes we may and do assume that freedom of speech and of the press - which are protected by the First Amendment from abridgment by Congress - are among the fundamental personal rights and "liberties" protected by the due process clause of the Fourteenth Amendment from impairment.¹

¹Gitlow v. New York, 1924, 268 U.S. 652, 666, L. Ed. 1138. Quoted from Stokes, op. cit., 1:381.

The Fourteenth Amendment reads in part:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The principle is here recognized that "rights and liberties" included freedom for religion, not protection from religion. The background of the founding fathers shows them, with few exceptions, to be men of strong religious beliefs. They believed that religion should be completely freed from governmental control, but they did not lay down a principle of protection from religion.

All of the states have adopted constitutional provisions in harmony with the basic principles in the Constitution of the United States in regard to separation of church and state in order to guarantee religious freedom to individuals. Although these provisions vary from state to state, minimum provisions forbid legislation that would establish a particular religion, that would compel attendance upon religious worship, that would restrain the free exercise of religion according to one's conscience, or that would restrain the expression of religious belief.

Crucial United States Supreme Court Decisions. The plan which has been most used for religious instruction in connection with general education is that of released time. This plan has had two forms, religious instruction in the school building, generally as an option, and religious instruction by churches for pupils desiring it, outside public school buildings. In case of

instruction in the public school buildings, and during regular school hours, "released time" referred to the fact that the children were released from general education duties to be turned over to teachers of religion for a specified period. In case of instruction outside of the public school buildings, "released time" meant that the children were permitted to leave the school premises and go to churches for classes in religion. When pupils have gone to the churches for religious instruction at the close of the school day, the practice has usually been referred to as "dismissed time". The term "weekday school" has often been used to refer to any practice whereby the church provided religious instruction at some period during the week, on a cooperative basis, or at some period other than that which involved general education.

The Supreme Court of the United States has given opinions in regard to both methods of released time for religious instruction. The decisions on two particular cases established the now legal position of the Federal government in regard to such practices. These decisions are, therefore, crucial ones on the legal status of such methods.

The case of *McCullum v. Board of Education*, 333 U.S. 203 (1948), had reference to the school system of Champaign, Illinois, where students were permitted to take an hour a week from regular school duties and devote this time to religious instruction. Classes were held in the school building, attendance records were kept, and administrative machinery of the school system was

employed to assist the operation of the program. Attendance of the classes in religion was voluntary, and available only to those who had parental consent. The instruction was provided for children from the fourth to the ninth grades of the public schools by accredited teachers approved by the superintendent of schools. The courses, begun in 1940, were provided gratuitously by the Champaign Council of Religious Education. Pupils could attend classes of their own faith under Protestant, Catholic, or Jewish teachers.

Mrs. Vashti McCollum, the wife of a University of Illinois professor, objected to the religious instruction program on the ground that religious instruction in public schools, though optional to students, was contrary to the First and the Fourteenth Amendments of the United States Constitution. Three judges of the Sixth Illinois Circuit Court heard the case and rendered a decision in support of the Champaign school board as against Mrs. McCollum. The court agreed with the contention that the Fourteenth Amendment to the Constitution extended the provisions of the First Amendment to the state of Illinois, but nevertheless found nothing in any expression of the United States Supreme Court to indicate any constitutional objection to the Champaign system of religious instruction in the public school.

The Champaign case was carried to the United States Supreme Court with the support of the American Civil Liberties Union and various church and public service groups. After extensive deliberation, the court declared that the Champaign procedure was

unconstitutional. The decision was eight to one, Justice Hugo Black expressing the opinion of the court. Justices Frankfurter, Jackson, Rutledge, and Burton, while concurring in the basic opinion of the court, expressed the desire that this decision be not applied to all types of "released time" programs. The decision ruled out religious instruction in public school buildings, but did not necessarily relate to those outside of the school buildings.

The immediate effect of the Supreme Court ruling on the *McCullum v. Board of Education* case was evidenced throughout the United States as Education Boards of various states took steps to discontinue programs of religious instruction offered in connection with general public education. Within a few months the Michigan State Board of Education ordered all released-time classes stopped in the state, Oregon required religious education classes to be moved away from public school buildings, South Carolina discontinued granting credit for Bible Study, and Ohio reconsidered the whole matter, but left decisions to the discretion of local groups.¹ The continuation of this trend has greatly affected the provisions of the states for religious instruction in connection with general education.

The second of the crucial decisions of the Supreme Court of the United States relative to religious instruction in connection with general public education was made in the case of *Zorach v. Clauson*, 343 U. S. 306 (1952). This case originated in New York

¹Stokes, *op. cit.*, 2:523.

and was reviewed by the United States Supreme Court after the New York Court of Appeals had upheld the practice which had gone forth under the education laws of the state. Under the New York plan, children were excused from school, if they had parental consent, to go to neighboring churches or other places where classes provided religious instruction. Those who did not go to the religious classes were kept in school to study.¹

Objection to the program was based on the contention that it violated the United States Constitution. The Supreme Court's decision, by a vote of six to three, sustained the legality of the New York type of released time for religious instruction. The court said that the program did not violate the First Amendment, made applicable to the state by the Fourteenth. The decision read in part:

By this system, New York has neither prohibited the "free exercise" of religion nor made a law "respecting an establishment of religion within the meaning of the First Amendment... There is no evidence in the record in this case to support a conclusion that the system involves the use of coercion to get public school students into religious classrooms.²

The distinctive element in this case that made it different from the Champaign case was the fact that the children did not receive religious instruction in the school buildings. Furthermore, the majority of the Supreme Court held:

¹Cushman, op. cit., p. 103.

²United States Reports, October Session, 1941-1952, 342:306.

The Government must be neutral when it comes to competition between sects. It may not thrust any sect on any person. It may not make a religious observance compulsory. It may not coerce anyone to attend church, to observe a religious holiday, or to take religious instruction... But it can close its doors or suspend its operations as to those who want to repair to their religious sanctuary for worship or instruction. No more than that is undertaken here.¹

There have been a number of other cases before state and federal courts which have a bearing upon the relationship of church and state in particular ways, but these two are the crucial ones relative to teaching religion in connection with public education.

¹Zorach et al. v. Clauson et. al., U.S., 306. Requoted from John H. Ferguson and Dean E. McHenry, The American System of Government, p. 113.

CHAPTER II. RELIGION AND PUBLIC EDUCATION IN KANSAS

Constitution, Statutes, and Judicial Interpretations

Constitution. The constitution of Kansas states in its Bill of Rights, section seven:

The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of or interference with the rights of conscience be permitted, nor any preference be given by law to any religious establishment or mode of worship...

Statutes. This constitutional statement is substantiated by Kansas statute as indicated in the following:

No sectarian or religious doctrines shall be taught or inculcated in any of the public schools of a city; but nothing in this section shall be construed to prohibit the reading of the Holy Scriptures, without note or comment.¹

This law clearly prohibited sectarian teaching, but it did not define the term "sectarian", except to point out specifically that the reading of the Holy Scriptures (the Bible) without comment shall not be interpreted as sectarian teaching. This left for interpretation what other comments or teachings of a religious nature may or may not be considered sectarian. One may also conclude that this law did not intend to exclude religious instruction from the public schools unless such is clearly sectarian.

Two other statutes have restricted the teaching of religion and limited its legal integration into the public school

¹1955 Supplement to General Statutes of Kansas, 1949,
72:1628.

curriculum. One of these is the compulsory attendance law which requires children from seven to 16 years of age

... to attend continuously a public school or a private, denominational or parochial school taught by a competent instructor, in which all instruction shall be given in the English language only, each school year, for such period as the public school of the district in which the child resides is in session.¹

The other law defined what shall legally be considered as a school month: "A school month shall consist of four weeks of five days each, of six hours per day: Provided, that all legal holidays may be counted as part of such school month".²

Interpretations. Interpretations that determine the policies that prevail in the public schools of Kansas must of necessity be in harmony with the constitutional statement and these statutes. The interpretations include decisions of the Kansas courts and the opinions of the Attorney General's office.

Cases bearing upon religious instruction in public schools which have come before the Supreme Court of Kansas are few, and these are limited to specific elements inherent in them. The case of *J. B. Billard v. The Board of Education of the city of Topeka*³ related to the practice in a Topeka school where devotions included the reading of certain Bible passages. The general opening exercises of the school included the repeating of the Lord's Prayer and the Twenty-third Psalm along with reading from natural history and singing. Participation in the exercises

¹General Statutes of Kansas, 1949, 72:4801.

²Loc. cit.

³Kansas Reports, 1904, 72:1106.

was optional, but when one did not participate, he was required to refrain from regular studies and maintain order during the period. The time occupied was only two or three minutes for the Lord's Prayer and the Twenty-third Psalm and about fifteen minutes for the entire exercise.

Billard charged that this restriction on study and the demand for orderly behavior really constituted a form of worship. Thus Billard's son, Philip, was permitted to enter the schoolroom 15 minutes after the regular hour; however, after a period he began to enter at the regular time and continually disobeyed the rules. This conduct eventually led to Philip's expulsion from school. The Board sustained the principal's action, but agreed to reinstate the boy if he would promise to comply with the rules. Billard chose to carry his case to the courts because he believed that the practice violated section seven of the Bill of Rights.

Billard also claimed that the practice violated section eight of article six of the constitution which reads: "No religious sect or sects shall ever control any part of the common-school or university funds of the state". He further insisted the practice was in violation of the statute which reads: "No sectarian or religious doctrine shall be taught or inculcated in any of the public schools of the city...".

The court declared in its decision:

... there is nothing in the constitution or statute which can be construed as an intention to exclude the Bible from public schools. Section 2 of article 6 of the constitution imposes upon the legislature the duty to 'encourage the promotion of intellectual, moral,

scientific and agricultural improvement, by establishing a uniform system of common schools'. Every pupil who enters a public school has a right to expect, and the public has a right to demand, of the teacher that such pupil shall come out with a more acute sense of right and wrong, higher ideals of life, a more independent and manly character, a higher conception of his duty as a citizen, and a more laudable ambition in life than when he entered. The system ought to be so maintained as to make this certain. The noblest ideals of moral character are found in the Bible. To emulate these is the supreme conception of citizenship. It could not, therefore, have been the intention of the framers of our constitution to impose the duty upon the legislature of establishing a system of common schools where morals were to be inculcated and exclude therefrom the lives of those persons who possessed the highest moral attainments.¹

The teacher explained to the court that the exercises were used as a means of quieting the pupils. She further gave her opinion that the program was "religious to the children who were religious and to the others it was not".² The court concluded that the exercises

... were not a form of religious worship or the teaching of sectarian or religious doctrine. There was not the slightest effort on the part of the teacher to inculcate any religious dogma. She repeated the Lord's Prayer and the Twenty-third Psalm without response, comment, or remark. The pupils who desired gave their attention and took part; those who did not were at liberty to follow the wandering of their own imagination. The only demand made of them was that during these exercises they should demean themselves in the same orderly manner required during their general studies.³

All judges concurred in this decision, and it has continued to be used as a precedent for the legal basis for this type of practice in the public schools of Kansas.

¹Kansas Reports, 1904, 72:1106.

²Ibid., 69:57.

³Ibid., 69:57.

Another case upon which the Supreme Court of Kansas rendered a crucial decision showed that public school funds cannot be used for the support of religious instruction. In this case a taxpayer took action to stop a school board from using tax funds of the district to maintain a school controlled by a religious sect and for teaching sectarian doctrines. The court declared in its decision:

Under our constitution (Bill of Rights, #7, Art. 6, #8), our statutes (G.S. 1935, 72:1722, 72-1819), and our decisions (A.T. & S.F. Rld. Co. v. City of Atchison, 47 Kan. 53, 56, 76 Pac. 422), it is clear that no religious sect, or sect, can be taught in our public schools. For other authorities see 5 A.L.R. 866, 879, 57 A.L.R. 195. Appellees not only concede this to be the law, but assure the court they agree and are in absolute accord with these fundamental principles.

Appellees argue that plaintiff's real complaint is that sectarian doctrines are being taught, and point out that determining what is taught in a public school, and how such schools are conducted, are within the duties of the educational department of the state...¹

The Attorney General has been occasionally called upon to explain the legal status of the relationship of religion to public education. This is necessary because conditions and practices continually arise which occasion specific interest in this question. The constitution, statutes, and court decisions are not commonly known and understood, and their application to specific situations often call for expert interpretation.

The office of the Superintendent of Public Instruction is usually the one which has received the inquiries relative to

¹Kansas Reports of Cases Argued and Determined in the Supreme Court of the State of Kansas, 151:486.

teaching religion in connection with public education, but sometimes direct contact has been made with the office of the Attorney General. Although the Superintendent does receive the inquiries, he must seek the Attorney's opinion. This opinion has served, therefore, as the legal status of the matter.

The Attorney General has at various times advised private citizens, legislators, school personnel, and the Superintendent of Public Instruction on the relations of religious education to public education. He rested his opinion upon the constitution, the statutes, and court decisions relevant to the question under consideration. His opinion might not be sustained by the courts if tested by them, but it must be accepted until reversed by higher authority. Therefore, the opinion of the Attorney General has usually represented the basis upon which schools have proceeded in regard to religious instruction.

The opinion given by Attorney General Harold R. Fatzer at the request of the Superintendent of Public Instruction, Adel F. Throckmorton, has in recent years been used for advising those who have enquired of these state offices as to the legal status of "released time" for religious instruction in the public schools of Kansas.¹ This opinion has set forth the crucial aspects of the main question; however, every question must be dealt with according to its specific nature. For example, if one wants to know if special religious garb is to be interpreted as having

¹Appendix V.

religious significance, there has been no official position established on this question in Kansas. Likewise, if a legislator desires to introduce a bill that would, if enacted, give permission for released time for religious instruction in the public schools of Kansas, he must consider how his bill relates to existing statutes. Either the Attorney General's opinion must be shown to be fallacious, or the statutes upon which it rests must be repealed.¹

Released Time in Kansas

Indications from Questionnaires. Questionnaires returned from Kansas school personnel in 1956-57 indicated: (1) Twenty-five per cent of the first-class cities in Kansas currently had provisions for released time for religious instruction outside of public school buildings. (2) Ten per cent of the school systems of second-class cities currently had provisions for released time for religious instruction, four reports showing provisions for religious instruction within the school building. (3) Nine and one-half per cent of all public elementary schools with 200 or more pupils currently enrolled had provisions for religious instruction by means of released time, and nearly eight per cent more previously had such programs, though they had subsequently been discontinued.²

¹Letter in the files of the Attorney General of Kansas.

²Appendix IV.

Follow-up questionnaires returned from certain elementary schools which currently had or previously had provisions for released time for religious instruction indicated how such programs operated.¹

This data indicated: (1) Participation was usually voluntary; in most cases parental consent was required in writing. In one case the written permission not to participate was required since the program was well established and accepted in the community. One school which several years ago had a released-time program, but not at present, had required attendance of all. (2) The actual participation was reported to be nearly 100 per cent, except in one report which gave the participation as one-third. (3) Physical facilities, if not in the school building, were provided by the participating churches. In some cases adequate facilities were required by the school or church council, but in others this was entirely determined by the particular group which furnished them. (4) Teachers were furnished by the churches or community, usually without pay. Some of these had received special training in religious education; some had two or more years of college credit, and others had none. One report indicated that most of the teachers had public school teaching experience. Another report stated that the teachers were required to be "roughly equivalent in preparation and background to public school teachers". One program provided a director, with salary

¹Appendix II.

being paid by the cooperating churches through subscription; another paid both the supervisor and her assistant for each weekly session. (5) Subject matter or curriculum was provided by participating churches. Supervision was usually given by ministerial councils or council of churches. Some programs used standard interdenominational courses such as the "Virginia Curriculum" or "Graded Religious Education Booklets", but others permitted "teachers own arrangement" or used "Bible material". One report showed that the curriculum was made up by the superintendent, teachers, and curriculum committee working cooperatively. (6) The time given to religious instruction varied in the respective programs from 20 minutes to 90 minutes per week, the average being about one hour and ten minutes. The day of the week and hour of the day used for religious instruction was arranged in each school to best handle its program. Some schools released all students at the same period, and others released the grades at different periods of the day or on different days. (7) Released-time programs currently operating in Kansas were well established prior to the United States Supreme Court decisions in the Champaign and the New York cases. At least three of these programs were reported to be in operation for 30 years, another since 1928, and another since 1936. Some of the programs that have been recently discontinued had operated for only short periods before decisions were made for their discontinuance. Some reports indicated that plans for released-time programs had been considered, but had never been effected. (8) Where released-time programs have been

provided, nearly all of the Protestant churches in the community participated, and in some cases the Catholics also participated. Some of these communities were largely homogeneous in national, social, and religious background, but others had considerable diversity in these qualities. Questionnaires and follow-up data indicated a high correlation between harmonious cooperation among the churches and the successful operation of released-time programs.

Participation included sharing the responsibility of organizing the program, financing it, and in some cases providing teachers from the congregation. The church buildings used for the programs were determined by circumstances of proximity to the school or by other factors. Sometimes the respective churches cared for pupils that preferred them; others cared for a particular grade that had been assigned to them under the plan of operation.

Relevance of United States Supreme Court Decisions. The decisions of the United States Supreme Court in the Champaign and New York cases had the effect of causing some released-time programs in Kansas to be discontinued and others not to be started. For example, the returned questionnaires and follow-up letters indicated: (1) One program that had been in operation for only three semesters "was discontinued because of the Supreme Court decision /Champaign case/". The program was not carried on in the school building; therefore, this decision was not really relevant to this particular case, but this was not realized by

the community at the time. Another report declared: "The work was discontinued at the time of the supreme court decision against the use of public schools as a place for religious education". This program had been in operation for 25 years. The superintendent of the public schools in one first-class city of Kansas stated: "On August 9, 1948, Edward F. Arn gave an interpretation to Mr. Brooks, then St. Supt. of Pub. Inst., in which the U. S. Supreme Court had said religious instruction could not be given in the public schools". (This case had come before the United States Supreme Court in October the previous year.)¹ Another report stated that the schools in the city had considered a released-time program for one hour per week outside of the school building, but:

Before we could complete out [our] plans, the church attendance court case arose in New York, I believe, with a lot of adverse criticism of taking school time for this purpose. As a result we decided that we were not interested enough to carry through our plans and all plans were dropped immediately.

The subject has never been mentioned since.

Present Situation. Some released-time programs have continued to operate. One report relative to a released-time program stated: "We are able to operate due to the absence of any ruling in the state of Kansas, either for or against released time for public schools". (Reference here to "ruling" must mean court ruling, not that of the Attorney General.) Others have continued because the programs have been well accepted in the

¹Stokes, op. cit., 2:516.

communities where they exist and objections have not been made, at least in such way as to cause the practice to become an issue in which advice was sought from state offices. One minister stated in the follow-up data he provided for his community: "The cooperation of the school is wonderful, in fact the teachers and supervisors seem happy that we have the program". Another report stated in regard to a religious program which had been in the city's public school for many years that the city "has had a very fine Religious Ed. Program. There has been unusual unity in promoting the program".

Released-time programs, however, have been difficult to retain when objections have been raised by citizens of the community sufficient to cause the school administrator and board of education to face the question of the feasibility of continuing the program in light of current interpretations of the legal aspects of the practice. Such a situation occurred at Moundridge, Kansas, in the fall of 1956. When the practice in the school system occasioned complaints to the Superintendent of Public Instruction, correspondence between the local school officials and the state office of the Superintendent of Instruction prompted the Moundridge Board of Education to review the local operation of released time for religious instruction. Having considered the material provided by the office of the Superintendent of Instruction relative to the legality of the practice, and acting upon advice from the state office, the school board "voted unanimously to discontinue releasing children from school time for

Religious Education".¹ Milford E. Greer, Superintendent of Schools in Moundridge, therefore, informed the Ministerial Alliance in a letter of the action that had been taken. He explained that the decision was based on the state law and a legal opinion of Attorney General Harold R. Fatzer. The opinion had cited the compulsory attendance statute and that which defined a school month. Special attention had been called to the following statement, with certain parts being underscored:

This office has heretofore held that the statutes quoted above impose an obligation on every school district to provide a curriculum of instruction in public school subjects extending throughout six hours of each school day and further that an obligation is imposed upon each student to be present throughout such period unless excused for reasons specified in the statute. Inasmuch as religious instruction conducted away from the school premises may not be deemed a part of the public school curriculum, it is our opinion that the statutes bar school administrators from releasing students from the public schools for the purpose of receiving such instruction.²

Having found it necessary to discontinue the released-time program, the Moundridge Ministerial Alliance set up a program whereby the children could meet after school hours on Monday for about 45 minutes in the churches.

The attitudes of educators toward the question of religion in public education is vital to its actual place in the schools. These attitudes varied a great deal in the notations made on the

¹Appendix V.

²Letter: Harold R. Fatzer, Attorney General of Kansas, to Adel F. Throckmorton, State Superintendent of Public Instruction. Quoted from a copy sent to Milford E. Greer, Moundridge, Kansas.

questionnaires returned by superintendents, and principals. Although most of the administrators represented by the reports were favorably disposed toward spiritual and moral values being taught, the general view was that formal religious instruction is not the obligation of the school.

One superintendent stated: "I think that the public school can take on too many of these obligations and thus not do their primary one as well as it should". Another described the released-time program as it had operated in his own city with the comment that: "We, as a school system, were not at all satisfied with the operation of the plan and welcomed its discontinuance". Yet another frankly stated: "Our ministerial alliance have ask has asked that we allow religious instruction. However, they cannot agree on an instructor (i.e. Catholic-Protestant). Therefore we have not had to make a serious decision". This comment indicates that the heart of the difficulty is not primarily one of religious instruction, but the problem of sectarianism and the disharmony that is often associated with it.

The negative side of the question of the place of religious instruction in the public school is clearly indicated in this comment: "I hope we never have to do the work of the church in our school along with that of the family, home, and others". A more positive attitude is indicated in this statement: "We believe that our responsibility is to develop an open-mindedness on the part of pupils and that religious instruction as such is the responsibility of the home and the church".

Religious Qualities in Public School Programs

Although only a small percentage of elementary public schools in Kansas have provided for formal religious education, many of them have religious qualities in their educational programs. This was indicated by the returned questionnaires and the comments accompanying them.

Bible Reading and Bible Stories. Two-thirds of the questionnaires returned from first-class cities indicated the practice of reading from the Bible, and only one of these had restrictions with regard to comment. This compared with 40 per cent from second-class cities and an overall of 44 per cent of the returns which reported that reading from the Bible was practiced, with about one-fourth indicating that no comments were permitted. The number of reports which stated that reading from the Bible was not allowed was less than those permitting it, and most of those with restrictions prohibited only the comments, not the reading itself. The general practice as indicated by the questionnaires seemed to be that of allowing the Bible to be read, if the teacher desired it.¹

Prayer and Other Devotional Qualities. Only about half of the total returned questionnaires gave a positive indication that prayer was allowed in the classroom, but less than two per cent indicated that it was not. Forty-six per cent did not answer this question. In a few returns, the question was modified to

¹Appendix IV.

show specifically that it was the Lord's Prayer that was allowed, and one principal stated: "Several of my teachers give the Lord's Prayer every morning".

Explanatory comments on the returned questionnaires showed a prevailing practice of providing for prayer and other devotional qualities in the elementary public schools of Kansas. Some statements from school personnel declared:

We suggest some sort of prayer or Bible reading as part of opening exercise. About 75% of the teachers use one or both.

Classes are opened each morning with prayer and religious stories are read at periods during the year as Christmas, Easter, etc.

Religious stories such as the Christmas Story, Easter Story are permitted. Art work sometimes centers around these subjects.

Each class has a morning prayer - sometimes from the Bible. Noon prayers prior to lunch. Devotions part of every assembly program and clubs.

Grace at lunch & Lord's Prayer in the A.M. in some classes.

We have what we call a Spiritual Emphasis Assembly 6 times during a regular term. Members of the local Ministerial Alliance provide the speaker for the assembly. It is a member minister. The assembly is 30 minutes long. This is a policy approved by Bd. of Education. The only other exercise which consists of praying the "Lord's Prayer" and reading scripture without comment. Reading scripture is not common.

In the opening exercises of our school, we use patriotic or religious themes if we wish. Prayer as the Lord's Prayer, Beatitudes, 23rd Psalm, are often repeated in unison. Perhaps a portion of scripture is read and the comment given is to explain the meaning of the words or passage. No sectarian discussion is given from any church.

Each grade just before it is seated at lunch table sings a grace of its own choosing. These are taught by

the music teacher. As the other groups hear the children sing, they stop, bow their heads, remain quiet until children stop. Reverence, respect, plus understanding as to what to do - are being taught. Directed effort on the use of the Christmas story as the basis for the Christmas program is made. All children participate. This is another avenue for teaching religion in the schools - without comment.

Chapel assemblies twice each month conducted by the two Prot. ministers in town - also by Cath. Priest from another town once in a while.

We have a Bible in every room and several religious books.

The Lord's Prayer or some other sample prayer or prayer song is part of usual opening exercises in our elementary [school]. The kindergarten lunch period and noon lunch period for those bringing lunch, always pre-faced by prayer. Bible reading and Bible stories included, usually in opening exercises.

We make no provision for religious instruction as such, however we have several teachers having devotions and bible reading, particularly in the elementary grades. We also read scripture passages before assemblies in high school.

Extra-curricular Activities. Some schools have encouraged student participation in religious activities in the community. Most of these either took place at periods when public schools were not in session or were arranged so that no time was taken from the public school. One superintendent stated:

In the two Catholic schools in the system, the pupils go to church from 7:45 until 8:15 and then they return to their classrooms for religious instruction from 8:20 to 8:45. Our lease begins at 8:45. From 8:45 until 5:00 they are in public schools.

Another administrator stated:

We teach moral and ethical values in our schools. Students are encouraged to attend church. Teachers check on church attendance from each class room on Monday morning. Room with the highest per cent of church

attendance each week receives some form of recognition at the school assembly that week. In lower grades individual students are recognized.

Another superintendent explained: "In... we check each Monday morning the number of people in our elementary schools and our junior high schools in order to find out how many of them attended a religious service the previous Sunday". One report called attention to the fact: "Most of our pupils are in Sunday School and Church each Sunday". A principal of another school stated: "There are a few times (once or twice) during the year when we release Catholic children for 1 hr."

In some communities there are weekday church schools conducted between five and six o'clock on some particular day in the week. This after-school method avoids the controversial issue of having religious instruction related to the public school curriculum, but it has not been widely adopted as yet.

Points of View of Some Educators

Some of the superintendents and principals who filled out questionnaires relative to provisions for religious instruction in their respective schools expressed their personal views on the relationship of religion and public school education. These views naturally have some bearing upon the actual practices in the schools administered by these educators. Some of the points of view are as follows:

All of our teachers are urged and encouraged to incorporate moral and spiritual values in their daily teaching and example.

Some study of religions in History & Literature. Rather "instruction in religion" than "religious instruction", I think.

The teachers may read the bible in class if they wish, but no discussion of any denominational creed is allowed.

In matters that come up such as creation and evolution, etc. the teachers are free to comment and we have no criticisms because of any explanations.

In our teachers handbook given to each teacher we make no specific rules as to religious instruction. "Praying the Lord's prayer in the classroom is not to be considered teaching a particular religious doctrine but rather as a sign that ours is a Christian public school. Teachers should be encouraged to follow the dictates of their own conscience". We allow Catholic students to attend religious services outside school. This has been for special days and the children usually go first thing in the morning. We do not count them tardy.

Some negative attitudes on the issue were given, such as:

"We have no religious instruction - I do not believe it should be taught in school because of so many conflicting ideas". "Keep the schools (public) out of Religious Instruction". "The attorney general informed us several years ago that even released time on school hours, was illegal". "We do not have and do not expect religious instruction in our public schools - we have a Catholic parochial elementary school in town".

The desire to retain certain aspects of religion without teaching religion in a sectarian or even in a formal way is illustrated by the following comments:

Many schools offer prayer in the assemblies, programs, & morning exercises, however, I doubt whether you could class that as religious instruction, even though it is of a religious nature.

Discounting the teaching of doctrine and meaning the teaching of God in a very broad way, we might have

to answer this question yes. [Question 3e in the questionnaire - see Appendix]. All teaching of right and wrong of the best way, of proper relationship to one's fellows, has eventually a relationship to God. Without teaching creed or doctrine, the public schools have a tremendous function which we engage in to teach religion. Such teaching is not formal or routine, in many cases, but it is important and effective.

Summary

The historical relationship of religion and public education in Kansas has both a legal aspect and an existential one. The legal aspect has been determined to some extent by the United States Constitution and certain crucial interpretations of it as regards religion and public education in the United States, but it has been further determined by the constitution, statutes, and interpretations peculiar of Kansas. The legal status of the relationship, while fundamentally based upon the United States and Kansas Constitutions, is nevertheless one that has evolved through the years, and one that includes some decisions reached within the last decade by the United States Supreme Court. The existential aspect of the relationship of religion to public education has also evolved out of certain felt needs, and at the time seemed to be legal practices. These practices, being well established and accepted by the communities where they exist, have in some cases continued to operate where public opinion has not forced them to comply with recent court decisions and current legal opinion. Thus, the provisions for religious instruction in connection with public education in Kansas must be understood and evaluated against this twofold historical development.

CHAPTER III. SUMMARY AND CONCLUSIONS

The people of Kansas, like the citizens of other states, have faced the fundamental questions relative to the relationship of religion to public education and their answers have been reflected in both legal action and actual practice.

Separation of Church and State

The principle of separation of church and state emerged with the formation of America as a free and sovereign nation. The United States Constitution, in the First Amendment, provided a wall of separation between church and state as far as the control of one by the other was concerned; each institution was to be free within its own realm of existence and extension.

Although the First Amendment did not make disestablishment necessary in the states, it nevertheless made it advisable; therefore, the states one by one effected disestablishment in order to harmonize with the United States constitution. Kansas quite naturally began its existence as a state with a provision in its constitution (written in 1859) requiring the separation of church and state.

This wall of separation between church and state was not so rigid and absolute as to prevent cooperation in areas of common interest. By preventing the control of one institution by the other the principle made cooperation of some kind a necessity. Education was one of the areas in which church and state had a

common interest and a feasible means of cooperation had to be worked out.

Since education implies the inculcation of beliefs, and beliefs are often sectarian in nature, limitations had to be made in respect to what could be taught in tax-supported schools. Beliefs that were not common to the general supporters of the public school were not to be taught. With the prohibition of sectarian doctrines, however, many associated teachings of spiritual and moral value were also eliminated without consideration of their non-sectarian nature. The result was an unnecessary secularizing of education. This was not necessarily the desire of educators or public officials, but the natural result of doctrinal diversity represented in the churches and, therefore, in the school constituency.

Reactions to Secularized Education

The reaction to secularized education by the churches in the United States has varied from that of establishing and maintaining parochial schools to an acceptance of the secular situation without opposition. Only a few denominations have resorted to a self-supported educational program as a substitute for publicly offered education. According to Stokes:

Recent statistics (1947) of religious or parochial elementary and high schools in the United States show the principal groups to be:

Roman Catholics	2,607,879	pupils in	10,188	schools
Lutherans*	96,041	"	"	1,296
Seventh Day Adventists	35,219	"	"	970
Reformed Churches	21,175	"	"	120
Mennonites	2,106	"	"	35

*These are mainly in the Missouri and Wisconsin synods and the American Lutheran Church.¹

Parochial schools had existed in the United States as a substitute for public schools since early in the nineteenth century.² Although considerable opposition to their existence has been made, the courts have generally sustained their rights to do so as long as they observe all constitutional and legal requirements.³ The organization of parochial schools in Kansas naturally followed the established precedents.

Churches which did not find it feasible to substitute parochial for public schools either accepted the educational situation or sought other ways of providing a degree of religious instruction. Little was done, however, except that of using certain periods, such as opening exercises and seasonal programs. The right to read the Bible in opening exercises was sustained by the Kansas Supreme Court in 1904,⁴ but this was far less than many backers of religious education in relation to public education really desired.

A new method of providing religious instruction, the Weekday School, was begun in Gary, Indiana, in 1913 and spread rapidly

¹Stokes, op. cit., 2:645.

²"Parish Schools, Roman Catholic", Encyclopedia Americana, 21:322.

³Stokes, op. cit., 2:733ff.

⁴Billard v. Board of Education of the City of Topeka, Kansas Reports, 1904, 72:1106.

and widely over the United States. This method was first used in Kansas in 1922, at Salina, and by 1926 it had been introduced into about 50 schools.¹ Some of these early efforts were soon discontinued; others developed into substantial programs, some of which were still functioning in 1957.

The weekday school required released time on the part of the public school in order to give students an opportunity to go to churches for religious instruction. The practice naturally occasioned opposition from some who were not sympathetic with the movement. The test of the legality of the practice came when the Champaign, Illinois case reached the United States Supreme Court in 1948.² The court's decision against the constitutionality of the practice affected released-time programs all over the United States. Although the decision was not actually relevant to programs which were conducted outside of public school buildings, this fact was not recognized in many communities at the time. The result for Kansas was the discontinuance of many weekday schools and a general weakening of the overall program of religious instruction.

Four years later (1952) the United States Supreme Court sustained the practice of released time in New York where the religious instruction was not in public school buildings.³ This

¹Charles A. Hall, "A Survey of Week-day Religious Education in Kansas", p. 21. Unpublished M.A. Thesis, Kansas University, 1926.

²McCullum v. Board of Education, 333 U.S. 203 (1948).

³Zorach et al v. Clauson et al, U.S. 306 (1942).

decision seemed to validate the practice as it then existed in many Kansas communities; however, Attorney General Harold R. Fatzer explained why this was not the case. Fatzer admitted that released time in Kansas would not violate the United States Constitution, but such programs would violate Kansas statutes which defined a school month as consisting of "four weeks of five days each, of six hours per day".¹ This opinion has caused some released-time programs to be discontinued, but others have continued since the Kansas courts have not given a ruling on the practice. Other communities have continued their religious instruction programs on account of the general satisfaction which has been accorded them in the respective communities and the fact that the state officials have not initiated action in respect to them unless complaints are made against the existing practice. This situation is not a substantial one for the future, and this fact has deterred some communities from promoting released-time programs.

Legal and Feasible Methods of Teaching Religion

More is being done to inculcate religious qualities in pupils of public elementary schools than may be generally recognized, but much more can be done without violating the principle of church and state or legal restrictions relevant to teaching religion in the public schools. When religion is viewed from its

¹General Statutes, 1949, 72:1106.

broad aspect rather than from a sectarian one, it is a natural and desirable element in democracy and can be integrated with general education. More and more church leaders and educators have come to see this fact in recent years. That which is most desired in this day is the kind of education that makes for oneness of personality and integration of community forces for social development. An integration of religion and general education will best do this; any kind of sectarianism will work against it. For this reason, as well as that of the legal aspect, released-time programs for religious instruction away from the public school classroom does not seem to be desirable, if qualities of moral and spiritual value can be given in the regular curriculum.

The Bible is occasionally read in the public schools, but usually without comment. The law in Kansas relative to reading the Bible is often misunderstood. The legal position is that the reading of the Bible without comment is not to be considered sectarian,¹ but this does not indicate that reading the Bible with some kind of comment is prohibited. What is implied is that sectarian comments shall not be made; however, teachers who desire to do so can provide helpful and proper non-sectarian comments which will aid the pupils in understanding what the Bible actually says. Care given to selecting and reading Bible material is vital to its reasonable use and beneficial results to the

¹Kansas Reports, 1904, 72:1106.

listeners. The legal statement does not disallow such comments so long as they are not sectarian in nature.

The use of prayer and other devotional qualities at appropriate places in the curriculum is not uncommon in the elementary schools of Kansas. There is no reason why religious values can not be more widely provided in this way. There is no legal restriction on this practice except the basic one that such shall not be sectarian. While sectarian thoughts and emphases can easily be introduced through prayer and devotional thought, it is quite possible to refrain from doing so. Since the most important aspect of devotions is probably that of creating an attitude of reverence and thankfulness, this may be done without coloring the devotions with sectarian thoughts or impressions.

Schools can contribute toward the inculcation of religious values in their pupils by cooperating with the churches in the community in some plan to which schools and churches both agree. For example, many communities have observed one night each week, usually Wednesday, as church night and another, usually Friday, as school night. When this is done, each institution refrains from scheduling activities on the night allocated to the other's use. This creates both an attitude and an opportunity conducive to moral and spiritual teaching.

More important than any other factor for teaching religious values in the public schools is the teacher herself. Her character, personality, and attitude will do more to determine a moral and spiritual impact upon the pupils than anything else. Some

educators have indicated a recognition of this fact as the following statement shows:

"Moral, ethical, and spiritual values are an essential element of the public school program; the schools emphasize these values and also teach the role of religion in the development of our culture. The identification of moral, ethical, and spiritual values throughout the program is an essential step in curriculum development. The teaching of these values permeates the entire school program. History, biography, literature, and other subject matter areas continuously afford opportunities for character education. Assigning a special period of the school day for the express purpose of achieving these values, or developing separate instructional units divorced from the remainder of the curriculum, is not a satisfactory procedure. These values are integrated throughout the program.

"It is mainly, however, through the example and skill of the teacher that these moral, ethical, and spiritual values are most effectively implemented in the school program. Good teaching with its many examples of integrity and fair dealing leads pupils to accept and practice these values. The schools provide maximum freedom of choice consistent with acceptable standards of conduct. They avoid a policy of overprotection as well as overtemptation. Honesty is not taught by removing all opportunity to be dishonest. Through providing realistic opportunities for self-realization, the schools help pupils develop high moral standards and positive personal convictions by which they strive to live. This is a major objection of the public school program."¹

The comments which accompanied the returned questionnaires for this thesis, which have been quoted above, indicated that Kansas educators are not unaware of the significance of moral and spiritual values in the school curriculum. The provisions, however, that have been made for teaching religion in Kansas elementary public schools are not satisfactory, and in some cases they

¹"The Educational Platform for the Public Schools", quoted by Francis J. Brown, Educational Sociology, p. 448f.

are not even legal according to official interpretations of the law. Since educators generally recognize the relevance of moral and spiritual values to general education and since present methods are not satisfactory, school administrators, church leaders, and legislators need to rethink the problem of integrating public school education and religious instruction.

The Committee on Religion and Education of the American Council on Education has pioneered in a modern re-examination of this problem. The findings of the committee resulted in the recommendation that the factual study of religion is both possible and desirable in public schools. The committee concluded:

Religion is too basic to human needs, too vital to man's potentialities, and too fundamental to education to yield to superficial study. But to assume that a solution cannot be achieved is to evidence a lack of faith in the resourcefulness of the American people. A major part of the problem, we think, is the achievement of a fuller understanding on the part of the people at large of the inherent limitations with respect to religion under which tax-supported education institutions must operate.

We believe we have found the most promising approach to the further study of this problem, namely, factual study of religion when and where intrinsic to general education.¹

This thesis has shown that religion in the broad sense has an inherent and fundamental relationship with education in American democracy. Evidence has also been given to show that Kansas law has forbidden the teaching of sectarian doctrines and the control of public school funds by sectarian groups, but nothing

¹American Council of Education, The Function of the Public Schools in Dealing With Religion, p. 83.

in Kansas law prevents the factual teaching of non-sectarian religion. Existing programs in Kansas for teaching religion in connection with public school education demonstrate a certain desire for religious instruction to accompany general education. It is possible and feasible, therefore, for educators in Kansas to integrate factual studies of religion into the public school curriculum in harmony with the recommendation of the Committee on Religion and Education of the American Council on Education.

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APPENDICES

APPENDIX I

A QUESTIONNAIRE RELATIVE TO PROVISIONS FOR RELIGIOUS
INSTRUCTION IN THE PUBLIC ELEMENTARY SCHOOLS OF KANSAS

The purpose of this questionnaire is to secure information to be used in a Master's thesis on the HISTORY OF PROVISIONS FOR RELIGIOUS INSTRUCTION IN SELECTED PUBLIC ELEMENTARY SCHOOLS OF KANSAS. The thesis will be written under the supervision of the Department of History, Government and Philosophy in Kansas State College. It will be the first unit under a recently established fellowship for research in Kansas history.

The thesis will not argue for or against the legality of providing for religious instruction in conjunction with public school education nor for the feasibility of doing so. The sole purpose is to provide a historical record of practices in Kansas Elementary public schools.

Please check the following answers that apply to schools in your community.

	<u>Yes</u>	<u>No</u>
1. Do any of the elementary public schools under your supervision currently have specific provisions for instruction in religion such as indicated below in question three?	_____	_____
2. If the answer above is "no", have any of these schools, to your knowledge, had provisions for such instruction in some previous period?	_____	_____
3. If any of these schools now have provisions for religious instruction, under which method would the provisions be classified?		
a. Released time for instruction outside of public school buildings.	_____	_____
b. Classes allowed within the public school building	_____	_____
c. Religious instruction integrated with other instruction.	_____	_____
d. Reading the Bible with comment being allowed.	_____	_____
e. Reading the Bible with comment <u>not</u> being allowed.	_____	_____
f. Prayer in the classroom being allowed. . . .	_____	_____

- | | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| <p>4. Do you know of any school not under your supervision which has provisions for religious instruction in conjunction with the public school curriculum?</p> | _____ | _____ |
| <p>5. Please give below any information or comments relative to this questionnaire which would give a better understanding of the provisions for religious instruction in your school.</p> | | |

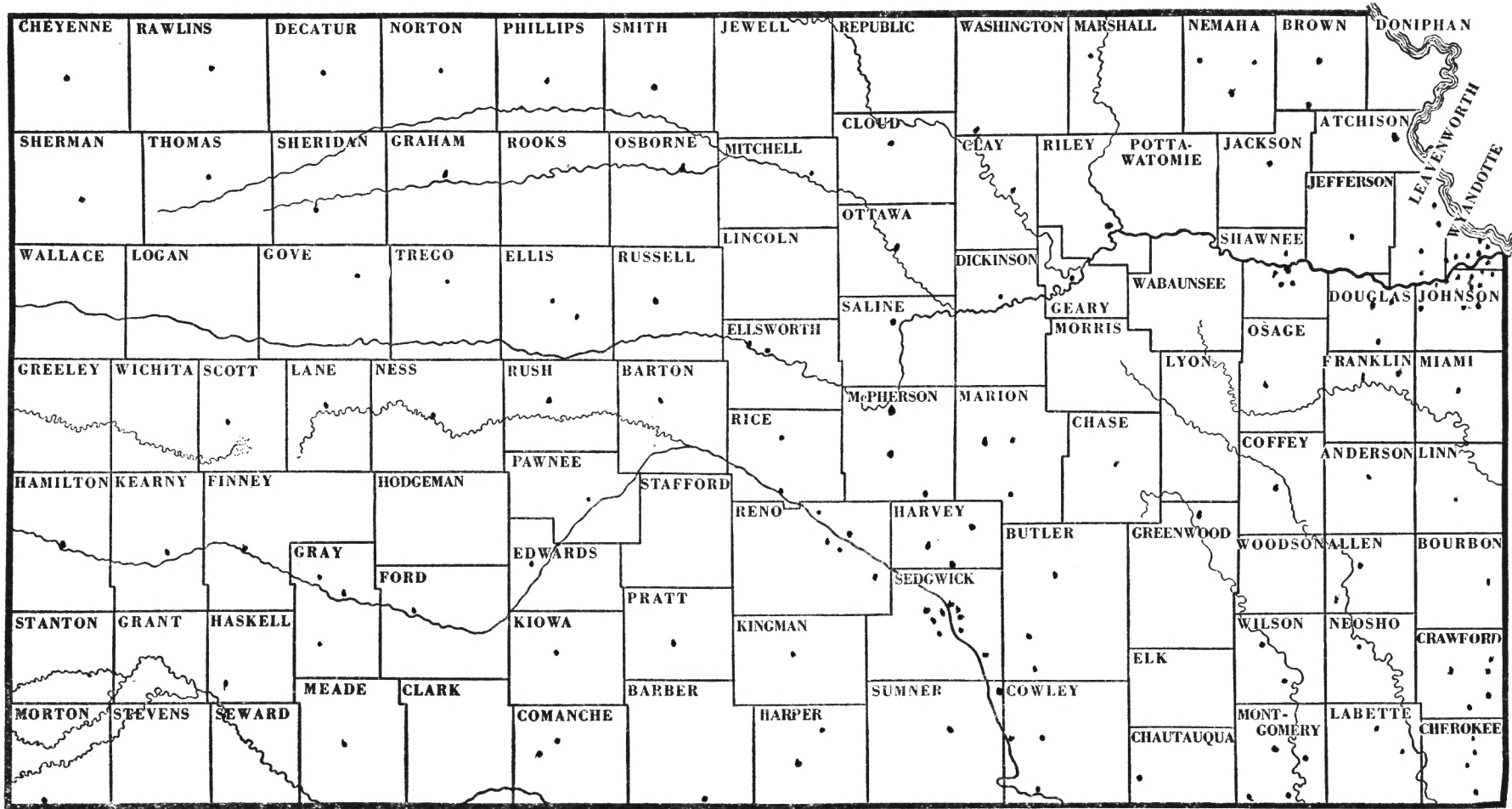
APPENDIX II

Information Relative to Provisions for Religious Instruction
(The follow-up form sent to ministers and some others)

1. Where do the students receive religious instruction? Public School building____. Churches____. Other_____.
2. On what basis are children permitted to participate? Student's choice____. Parent's written permission____. Other_____.
3. What are the provisions for religious instruction in regard to:
 - A. Physical facilities_____.
 - B. Teachers (source and preparation)_____.
 - C. Subject matter or curriculum_____.
 - D. Time: total per week____; time of day and week_____.
 - E. Other_____.
4. How long has the present program been in operation?_____.
5. About what proportion of the student body participates in the program?_____.
6. What churches participate in the program and on what basis?

7. Other information relative to the history or current aspects of the program.

APPENDIX III

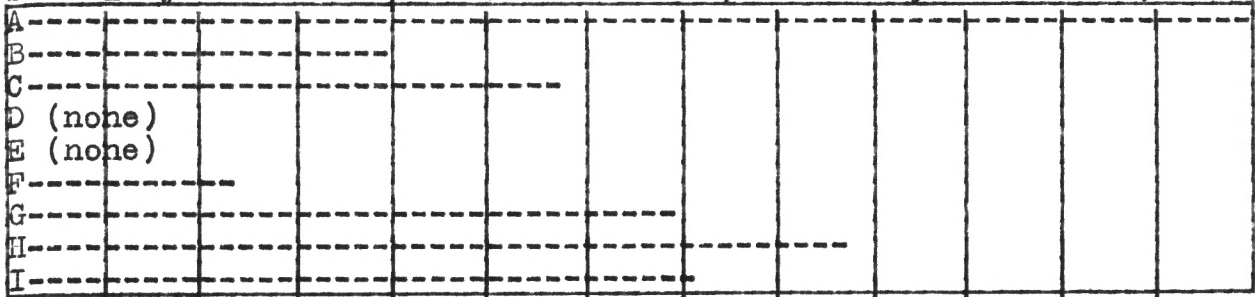


Distribution of Questionnaire Returns

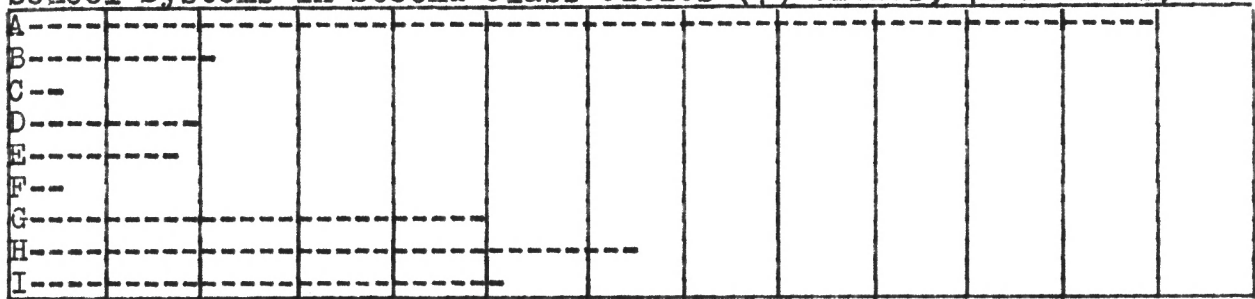
APPENDIX IV

POSITIVE PERCENTAGES SHOWN ON RETURNED QUESTIONNAIRES

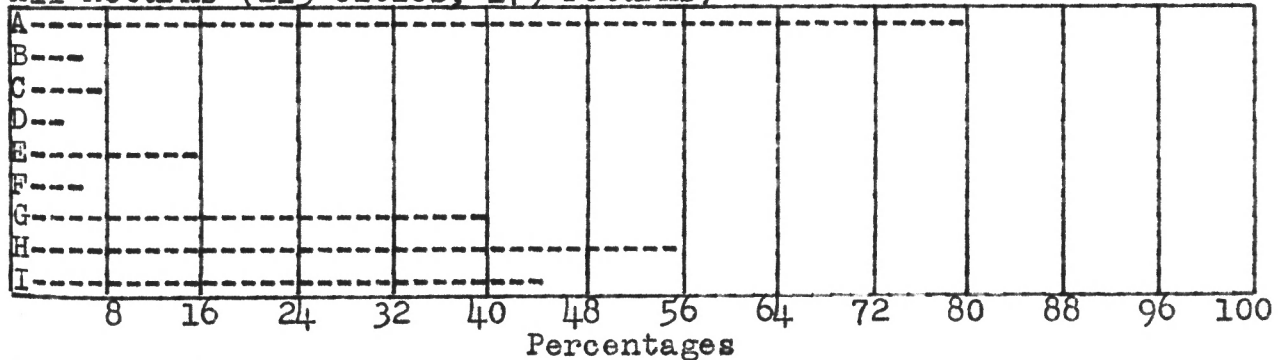
School Systems in First-Class Cities (12 cities; 12 returns)



School Systems in Second-Class Cities (79 cities; 76 returns)



All Returns (213 cities; 179 returns)



Key to Symbols:

- A. Responses
- B. Current Released-time Programs
- C. Previously had Released-time Programs
- D. Religious Instruction Classes in School Buildings
- E. Religious Instruction Integrated with Other Matter
- F. Bible Reading with Comments Being Allowed
- G. Bible Reading with Comments not Being Allowed
- H. Prayer Allowed in Classrooms
- I. Comments Accompanied Returned Forms

APPENDIX V

The following letter evidences the action taken at Moundridge, Kansas, to discontinue the program of released time for religious instruction. The letter is the last in a series of correspondence relative to the case; it is illustrative of what often happens when released time becomes a controversial issue in a community. The letter is used here by permission from its writer.

MOUNDRIDGE HIGH SCHOOL
Moundridge, Kansas
November 6, 1956

Reverend Harris Waltner, Chairman
Moundridge Ministerial Alliance
Moundridge, Kansas

Dear Reverend Waltner:

The Moundridge School Board of Education, sometime ago, received a word from the State Department of Education stating that letters had been received from local citizens protesting the plan of release time for Religious Education. The further correspondence with the department and court opinion of the State Attorney General follows this letter.

The Board in regular session last evening reviewed this material and voted unanimously to discontinue releasing children from school time for Religious Education. In doing so they recognized that the U. S. Supreme Court decision pertained only to the use of school facilities for religious education. The decision was based on the state law which is underscored in the following pages. The decision of the Board was based not upon whether released time for religious education is proper, but on the law. They felt that as the law reads, releasing time was definitely in violation of the law and that they could not do otherwise than discontinue the program.

They also voted to permit this continuance of the program through November 13 and 14 in order to give the Ministerial Alliance time to make whatever adjustment in the program they wish, which is in keeping with the Board's decision.

Very truly yours,

Milford E. Greer
Superintendent

HISTORY OF PROVISIONS FOR RELIGIOUS INSTRUCTION
IN SELECTED PUBLIC ELEMENTARY SCHOOLS OF KANSAS

by

Virgil Vester Hinds

A. B., Phillips University, 1934
M. A., Phillips University, 1935
B. D., Phillips University, 1936
Th. D., Central Baptist Theological Seminary, 1952

AN ABSTRACT OF A THESIS

submitted in partial fulfillment of the

requirements for the degree

MASTER OF SCIENCE

Department of
History, Government, and Philosophy

KANSAS STATE COLLEGE
OF AGRICULTURE AND APPLIED SCIENCE

1957

This thesis is a unit of research made possible by the Mueller Fellowship which was established at Kansas State College for research in Kansas history. It was written with the purpose of delineating the historical facts relevant to provision in selected public elementary schools of Kansas for reaching religion. The writer desired to ascertain the general practice in Kansas and to present this in comparison with the more general background of the relationship of church and state in the United States. This was done from the particular perspective of education as viewed from its natural relationship to American democracy and its comprehensive purpose of developing integrated persons.

The conclusions to which the writer came in the process of research and study were made within the following framework:

(1) the historical legal status of church and state in the United States, (2) the generally recognized significance of the value of moral and spiritual qualities to individuals and to society, (3) the actual practices existing in Kansas and the attitudes of educators and ministers of the state as signified in the research data.

Data relevant to actual provisions for religious instruction were secured by the following means: (1) A questionnaire was sent to school administrators requesting information relative to their respective school systems. A letter of explanation of the purpose and intent of the research accompanied each questionnaire and a self-addressed stamped envelope was provided for the educator's use in making reply. The explanatory letters assured the

addressee that no use of the data he furnished would put him or his school in a position of criticism or embarrassment. For this reason all citations and quotations in the thesis were handled anonymously unless specific permission had been received for documentation. These questionnaires and letters were sent to all cities of the first and second classes and to other school systems having 200 or more enrollment. Returns were received from 100 per cent of the first-class cities, 87 per cent of the second-class cities, and 84 per cent of all the cities to which requests went. (2) Follow-up letters were sent to communities where a program of religious instruction had been indicated on the returned questionnaires. Letters also went to communities that had had such a program in some previous period. These letters were usually sent to individual ministers or to ministerial alliances in the cities; in a few cases the follow-up letters were sent to school personnel. Personal interviews were also made with representatives of the cities which had active programs of religious education, usually with ministers known to the writer. These letters provided detailed information on the methods of operation.

The thesis was developed by first presenting the general historical background of religious instruction in relation to public school education in the United States. Particular attention was given to the two crucial cases that came before the United States Supreme Court which tested the constitutionality of "released-time" methods for religious instruction. The *McCullum v. Board of Education*, 333 U. S. 203 (1948) declared that

released-time program within the public school buildings were unconstitutional; the *Zorach v. Clauson*, U. S. 306 (1952) sustained the constitutionality of a particular released-time program in New York which was not conducted in public school buildings.

The second chapter of the thesis gave the general history of the relationship of religious instruction in the public elementary schools of Kansas. Special attention was given to the constitution, statutes, and judicial interpretations which had relevance to church and state. The data from the questionnaires were presented and interpreted, with special attention to the details of operation. The relation of these practices to law occasioned a clarification of applicability of the United States Supreme Court rulings and the currently used legal opinion which Harold R. Fatzner issued in 1952.

The third and final chapter presented a summary and conclusions. Emphasis was again placed upon justifiable interpretations of federal and Kansas laws. Attention was called to viewpoints of some current educators relevant to the feasibility of integrating moral and spiritual qualities into general education. The writer concluded that more effort could be legally and feasibly made in the public elementary schools of Kansas to provide moral and spiritual guidance along with general education. The American Council on Education was cited as having recommended the factual teaching of religion as both possible and desirable in the United States. The writer then concluded:

This thesis has shown that religion in the broad sense has an inherent and fundamental relationship with education in American democracy. Evidence has also been given to show that Kansas law has forbidden the teaching of sectarian doctrines and control of public school funds by sectarian groups, but nothing in Kansas law prevents the factual teaching of non-sectarian religion. Existing programs in Kansas for reaching religion in connection with public school education demonstrate a certain desire for religious instruction to accompany general education. It is possible and feasible, therefore, for educators in Kansas to integrate factual studies of religion into the public school curriculum in harmony with the recommendation of the Committee on Religion and Education of the American Council on Education.