

State ex rel. Weiss and others vs. District Board, etc.

76 Wis. 177 (1890)

In this case, popularly known as the Edgerton Bible case, the Wisconsin Supreme Court unanimously determined that Bible reading in public schools was unconstitutional, reversing the Rock County Circuit Court. Until this point, the King James Bible had been recommended as a textbook by the state superintendent of public instruction. The opinion was written by Chief Justice William P. Lyon. Concurring opinions were issued by Justices John B. Cassoday and Harlow S. Orton.

In this case, the Wisconsin Supreme Court ruled that Bible reading in public schools constituted sectarian instruction, in violation of Article X, Section 3* and Article I, Section 18** of the Wisconsin Constitution.

The issue was brought before the Court after the petitioners—Edgerton residents, taxpayers and parents of children attending the public school—appealed to the district school board and Rock County Circuit Court without success. They were outraged by some teachers’ practice of reading the King James version of the Bible, without comment or instruction, to pupils during school hours. As members of the Roman Catholic Church, they viewed the King James version of the Bible as an incorrect and incomplete translation. They also believed the Catholic Church was the only “infallible” interpreter of the scriptures and feared the reading of the Bible by non-authorized teachers could lead to “dangerous errors.”

Because the Edgerton school was a public school, the parents argued that the Bible readings amounted to use of state funds to support a place of worship and that the readings violated the separation of church and state.

Responding to the petitioners’ concerns, the school board said students were not required to remain in the school during the Bible readings, but rather were “at liberty to withdraw during such reading if they desire to do so.” They also denied that the Roman Catholic Church is the only “infallible” interpreter of the Bible, stating “that every person has the right to read the Bible and interpret it for himself.”

The board said it had the right and authority, under state law, to determine which textbooks should be used. Furthermore, it argued that the King James Bible was a valid textbook for teaching a “universal” moral code and for general instruction because the state superintendent of public instruction recommended it for use in public schools.

Chief Justice Lyon’s majority opinion addressed the board’s argument that the drafters of the state Constitution did not intend to ban reading of the Bible in public schools. Lyon recounted the period and climate in which the Constitution was drafted. He suggested that the framers were eager to see the state develop and grow; therefore, the intent of the Constitution, and Article X, Section 3 in particular, was to ensure that:

* Wisconsin Constitution, Article X, Section 3: The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 40 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours.

** Wisconsin Constitution, Article I, Section 18: The right of every person to worship Almighty God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend, erect or support any place of worship, or to maintain any ministry, without consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

(I)n addition to the guaranties of the right of conscience and of worship in their own way, the free district school in which their children were to be, or might be, educated, were absolute common ground, where the pupils were equal, and where sectarian instruction, and with it sectarian intolerance, under which they had smarted in the old country, could never enter.

Lyon further stated that it is “universally known” that there is a difference between the King James and the Douay (adhered to by the Roman Catholic Church) versions of the Bible in that many details representing important components of various religious sects’ canons differ. Furthermore, certain passages read at the Edgerton school suggest the divinity of Jesus Christ, predestination and eternal punishment. These ideas are not accepted by all religious sects, thereby showing Bible reading as sectarian instruction.

Justice Cassoday’s and Justice Orton’s concurring opinions considered whether the reading of the Bible in public school forced taxpayers to support a place of worship and addressed the issue of the separation of church and state. They agreed with the petitioners that the only use of state treasury funds, by law, must be entirely secular. They stated that many, if not most, religious sects view the reading of the Bible as a part and even the essence of worship; therefore, the practice in question is a violation of the Wisconsin and U.S. Constitutions.

The Supreme Court concluded that even though the State Department of Public Instruction recommended the King James Bible as a textbook, the issue was a question of law, not to be decided by the “learned chiefs” of educational policy. They ruled Bible reading in public schools illegal and issued a writ of *mandamus*, ordering the district board to end Bible reading in the Edgerton public school.