U.S. Supreme Court

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

Illinois ex rel. McCollum v. Board of Education of School District

No. 71, Champaign County, Illinois

No. 90

Argued December 8, 1947

Decided March 8, 1948

333 U.S. 203

*APPEAL FROM THE SUPREME COURT OF ILLINOIS*

# Syllabus

With the permission of a board of education, granted under its general supervisory powers over the use of public school buildings, religious teachers, employed subject to the approval and supervision of the superintendent of schools by a private religious group including representatives of the Catholic, Protestant and Jewish faiths, gave religious instruction in public school buildings once each week. Pupils whose parents so requested were excused from their secular classes during the periods of religious instruction and were required to attend the religious classes; but other pupils were not released from their public school duties, which were compulsory under state law. A resident and taxpayer of the school district whose child was enrolled in the public schools sued in a state court for a writ of mandamus requiring the board of education to terminate this practice.

*Held:*

1. A judgment of the State Supreme Court sustaining denial of the writ of mandamus on the ground that the state statutes granted the board of education authority to establish such a program drew into question "the validity of a statute" of the State within the meaning of § 237 of the Judicial Code, and was appealable to this Court. P.333 U. S. 206.

2. As a resident and taxpayer of the school district and the parent of a child required by state law to attend the school, appellant had standing to maintain the suit. P. 333 U. S. 206.

3. Both state courts having ruled expressly on appellant's claim that the state program violated the Federal Constitution, a motion to dismiss the appeal on the ground that appellant failed properly to present that question in the State Supreme Court cannot be sustained. P. 333 U. S. 207.

4. This utilization of the State's tax supported public school system and its machinery for compulsory public school attendance to enable sectarian groups to give religious instruction to public school pupils in public school buildings violates the First Amendment of the Constitution, made applicable to the states by the Fourteenth Amendment. Pp. 333 U. S. 209-212.

396 Ill. 14, 71 N.E.2d 161, reversed. **[p. 204]** The Supreme Court of Illinois affirmed a denial of a petition for a writ of mandamus requiring a board of education to terminate the giving of religious instruction by private teachers in the public schools. 396 Ill. 14, 71 N.E.2d 161. On appeal to this Court, *reversed and remanded,* p. 333 U. S. 212.