

City's Board of School Commissioners violated the Establishment and Free Exercise Clauses of the First Amendment. The suit was brought by an avowed atheist. Maryland's Court of Appeals, in reversing the trial court, found that bible reading did not violate the Constitution, in view of the fact that the amount of time and public funds expended was negligible, and that any student who did not wish to participate could be excused upon presentation of a written note from his parents.¹³⁷

The Supreme Court again disagreed, and reversed:

"The conclusion follows that . . . the laws require religious exercises and such exercises are being conducted in direct violation of the rights of the . . . petitioners. Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause . . . Further, it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, 'it is proper to take alarm at the first experiment on our liberties.'" ¹³⁸

At the same time, however, the Court said that "the State may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion, thus 'preferring those

who believe in no religion over those who do believe.'" ¹³⁹

In 1964 the General Assembly passed a law allowing for a period of silent meditation in the opening exercises on each morning of a school day.¹⁴⁰ The statute was immediately challenged, but before the case could be decided the complainant (Mrs. Murray) left the State. The cause remains on the docket of the Federal District Court in Baltimore. An independent survey has indicated that more than one Maryland county has ignored the *Murray v. Curlett* decision, and permitted school prayer, and that such defiance has yet to be challenged in the courts.¹⁴¹

In *Schowgurow v. Maryland*,¹⁴² a Buddhist convicted of homicide attacked the requirement in Article 36 of the Declaration of Rights that jurors profess a belief in the existence of God. Largely on the basis of *Torcaso, supra*, the Court of Appeals reversed:

"If, as was held by the Supreme Court in *Torcaso*, a notary public cannot constitutionally be required to demonstrate his belief in God as a condition to taking office, it follows inevitably that the requirement is invalid as to grand and petit jurors, whose responsibilities to the public and to the persons

¹³⁹ *Ibid.* A constitutional amendment to permit school prayer would take the policy determination from the purview of the Supreme Court. Such an amendment has been proposed. See Baltimore Morning Sun, Aug. 10, 1966, p. 1, col. 7.

¹⁴⁰ MD. CODE ANN. art. 77, §98A (1965).

¹⁴¹ Survey conducted by Robert Dugan, third-year student at the University of Maryland School of Law, as part of project for a seminar on Constitutional Law.

¹⁴² 213 A.2d 475. See Note, 17 S.C.L. REV. 778 (1965).

¹³⁷ 179 A.2d 698 (1962).

¹³⁸ 374 U.S. 203 at 225.