

Against the slander—similar to that heard today—that parochial and private schools are somehow “un-American,” the American Jewish Committee brief stated:

There is no foundation in truth for this statement. The private and parochial schools which exist throughout the country are conducted on the same patriotic lines as are our public schools.⁸⁴

Moreover:

Among the advantages of private and parochial schools is the fact that there prejudices are apt to be mitigated. At all events they are not stimulated in a truly religious atmosphere or in a genuine cultural environment.⁸⁵

Marshall inveighed against the exponents of uniformitarian education:

All of these statements combined lead to the conclusion in the minds of those responsible for this species of argumentation, that by the education of the youth of the nation in our public schools “all shall stand upon one common level.” By that doubtless is meant the dead level of uniformity. God forbid that that shall be the case!⁸⁶

But the most trenchant criticism of the statute and of the philosophy of those who defended it Marshall reserved for the conclusion of his brief. The point is most pertinent in view of charges made today that church-related schools are “divisive.” Backers of the statute had stated: “Our children must not under any pretext, be it based upon money, *creed* or social status, be divided into antagonistic groups, cliques or cults there to absorb the *narrow views of life* as they are taught.”⁸⁷ This view Marshall castigated:

Here those who send their children to private and parochial schools because of their creed are charged with constituting antagonistic groups and as absorbing ‘narrow views of life.’ In other words, parents who are anxious for the future welfare and happiness of their children, and who seek to dedicate them to moral, ethical and religious principles, are denounced for sending their children to private and parochial schools, because, forsooth, the views of life which they there absorb are characterized as ‘narrow’.

What does that mean but an attempt on the part of the protagonists for this law to sit in judgment upon their fellow-citizens whose ideals differ from theirs? How does such a mental attitude differ from that which prevailed when governments sought to enforce uniformity of religious beliefs and punished nonconformists as criminals?⁸⁸

⁸⁴ Id. at 618.

⁸⁵ Id. at 619.

⁸⁶ Id. at 620.

⁸⁷ Id. at 621. (Emphasis added.)

⁸⁸ Id. at 621-22.