



REPORT FROM THE CAPITAL

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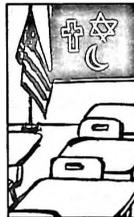
NewsMakers

◆ Sandy Ingram, Jennifer Peterson and Matt Newell have begun internships at the Baptist Joint Committee. Ingram and Peterson will provide administrative support. Ingram is a graduate of Bridgewater College in Virginia and will begin law school at Washington and Lee this fall. Peterson is studying psychology at the University of North Carolina in Asheville. Newell is working in the agency's general counsel's office on legal and legislative matters. He is a third-year law student at the University of Houston Law Center.

◆ Harry Lambert, principal of Westminster West Middle School in Westminster, Md., has apologized to students for temporarily halting their practice of praying aloud during recess. Lambert said he should have realized "if they were allowed to pray in small groups, they should be allowed to pray in a larger group."

◆ U.S. District Judge J. Thomas Greene has ruled that a Salt Lake City high school choir director did not unconstitutionally promote religion by having students sing Christian songs. Choir member Rachel Bauchman argued that the songs created a hostile environment for students who were not members of the Church of Jesus Christ of Latter-day Saints. Δ

Judge halts intercom prayers, Bible classes in public school



Bible classes and prayers broadcast over the intercom in a Mississippi public school district violate the Constitution, a federal judge ruled June 3.

The practices were challenged by Lisa Herdahl, whose five children attend class at the North Pontotoc Attendance Center in Ecu, Miss.

Judge Neal B. Biggers Jr. ruled largely in favor of Herdahl.

He rejected school officials' argument that permitting students to recite morning prayers and devotional readings over the intercom system is protected by the 1984 Equal Access Act. That measure bars secondary schools that allow voluntary student meetings before and after school from denying access to student-initiated religious groups.

"Although the student members of the Aletheia Club expressed their views voluntarily, the students to whom these views were broadcast did not voluntarily choose to be there," he wrote.

Biggers also refused to let teachers tell students they could conduct "the lunch blessing" in the classroom while the teacher and non-participating students waited in the hallway.

"Organized prayer in the classroom, where students have no choice but to participate or to conspicuously 'step out in the hallway,' is unconstitutional whether led by students or teachers," Biggers said.

Biggers, appointed to the bench by President Reagan, also invalidated the district's Bible class policy. For 50 years, a

community "Bible Committee" had sponsored the classes in public schools and hired teachers to provide the instruction.

The judge said the Bible classes violated all three prongs of the Lemon test, a legal yardstick that requires government actions to have a secular purpose, neither advance nor inhibit religion and avoid excessive entanglement with religion.

The purpose of the Bible class, he said, is to "inculcate students at North Pontotoc into the beliefs and moral code of fundamentalist Christianity — an admirable goal perhaps for some private citizens or for a private religious school, but a forbidden one for government."

The primary effect of the class, Biggers said, is to advance religion.

Also found unconstitutional was the district's authorization for a teacher to show videotapes such as "America's Godly Heritage" in the classroom.

Biggers approved prayers and devotional readings conducted by the Aletheia Club in the high school gymnasium and in an elementary school activity room before the start of the school day. The club started the pre-school programs after Biggers halted the intercom prayers. Herdahl had not complained about the pre-school activities for secondary school students but objected to the practice in elementary school, citing the impressionability of the younger students.

Biggers said the district's policy of requiring a written parental consent for elementary students put the younger students "on equal footing with secondary school students, who the Supreme Court has held are mature enough to differentiate between sponsorship and mere custodial oversight." Δ

Reflections

James M. Dunn

Executive Director



Rule A: *One who tooteth not one's own horn, the same shall not be tooted.*

Rule B: *It's amazing what good can be done if you don't care who gets the credit.*

We literally live by Rule B.

Look at the coalitions that have been housed, staffed, postaged and FAX-filled from our workplace.

Look at all the speeches, "talking points" and "careful studies" that have been written for politicians at 200 Maryland Avenue, N.E.

A common creed for ghosts, Democrat and Republican (we have been neither and both) is "the beseecher, not the ghost, claims credit for the besought."

Look at the times that "Baptist Joint Committee" has been one of a dozen *comici* on friend-of-the-court briefs, one of a score of applicants on a sign-on letter to a member of Congress, one in a crowded strategy session to avoid some evil or advance some good.

Look at the conferences held in the Rufus Weaver library with folks around the table who meet nowhere else.

Now comes a time for Rule A.

First, because you are genuinely wanted, urgently needed, warmly welcome for a rare event: our 60th Anniversary Religious Liberty Conference, October 6-8, 1996. The theme, "Proclaim Liberty: Celebrating the Past . . . Facing the Future," is no accident. We will whoop it up, have a good time, mark some victories before we dream and scheme and listen to you tell us what to do.

Thanks to you who read this rag and stand with us financially, free and faithful Baptists have played a big part in writing and distributing the guidelines re: What religious stuff can be done in public schools.

With your support we were partners with the Christian Legal Society off the floor and with Senator Mark Hatfield, Representatives Carl Perkins and Don Bonker on the floor in passing the Equal

Access Act, allowing proper prayers in public schools.

By God's Grace and your dogged determination the Religious Freedom Restoration Act was signed into law November 16, 1993 by President Clinton. A diverse crowd of doers met here over and over for more than three years, heard and heeded Buzz and Brent, our lawyers, held together despite dramatic differences and finally scaled Mt. Scalia restoring the standard that government must have "a compelling state interest" before meddling with religion.

Tooty, toot, toot: If there's an outfit in this town that has championed the constitutional free exercise of religion, it is the Baptist Joint Committee. That's why it would be funny, if it weren't mean and/or ignorant, to accuse us of being too strictly separationist.

October 6-8, will be a time for learning, laughing and lifting up our shared commitment to religious liberty.

We'll resonate with and respond to Gardner Taylor, America's favorite preacher; Tony Campolo of incisive wit and courageous challenge; and Walter (Buddy) Shurden, dean of Baptist distinctives. We'll be amazed at Richard Pierard, practitioner of history with a handle; Phil Wogaman who preaches to the president most Sundays; and A.E. Dick Howard, who writes constitutions for new democracies. We'll get to know the heartbeats of Joan Brown Campbell, eclectic, energetic ecumenism at it's best; Elenora-Giddings Ivory, Presbyterian prophet and partner in prodding the politicians; and A. James Rudin, rabbi who knows and acts in the struggle for religion responsible and free. Al Staggs is Dietrich Bonhoeffer, Wintley Phipps sings as no one else and Doug Marlette brings his creation, the Rev. Will B. Dunn, to the city.

Y'all come. We probably won't do this again for another 60 years and you might miss it. Δ

Quoting

The District's witnesses testified that the school prayers should continue because a majority of the students and parents are in favor of the practice and Mrs. Herdahl is the only person who opposes the practice; however the Bill of Rights was created to protect the minority from tyranny by the majority. Indeed, without the benefit of such a document, women in this country have been burned because the majority of their townspeople believed their religious practices were contrary to the tenets of fundamentalist Christianity. To say that the majority should prevail simply because of its numbers is to forget the purpose of the Bill of Rights. ...

The case law in this country has consistently recognized that the conduct of ... morning devotionals broadcast by students over a school intercom system is an unconstitutional practice. ... It is the act of turning over the "machinery of the State" to the students in the religious majority to broadcast their religion which violates the Constitution, and that act cannot be justified as accommodating the First Amendment rights of the students who wish to do so. ...

By informing students of the appropriate time to conduct a lunch blessing, the state is facilitating this prayer. The courts have clearly ruled that inviting or encouraging students to pray violates the First Amendment.

Judge Neal B. Biggers Jr.
Herdahl v. Pontotoc
County School District

June 3, 1996

1936-1996

Six Decades
of Securing
Religious Liberty



In 1961, the U.S. Supreme Court agreed to hear the case of *Engel v. Vitale* challenging the constitutionality of a prayer approved by New York officials for daily recitation in public schools. The prayer read, "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country."

On June 25, 1962, the Court announced a 6-1 decision prohibiting prescribed prayers in the nation's public classrooms, and public outcry was unprecedented. Although the Baptist Joint Committee played no active role in the deliberation of the case, it defended the court's decision in the face of the criticism that followed. In a resolution, the BJC concurred with the court "that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government." Δ

Florida governor vetoes school prayer measure

Florida Gov. Lawton Chiles vetoed legislation that would have let students pray at "voluntary" events sponsored by junior and senior high schools.

Chiles, a Democrat, former U.S. senator and a Presbyterian, said the May 31 veto was a reluctant one because he personally favored prayer in the schools, according to news reports.

He said listening to people who hold minority religious views gave him a different perspective.

The prayer provisions would have allowed district school boards to permit student-approved, student-led prayers at graduations, sporting events and voluntary assemblies.

Russian panel rejects ban on foreign missionaries

A Russian Parliamentary committee has rejected an appeal from the Russian Orthodox Church to ban foreign missionaries who do not have an invitation from Russia and do not work within the framework of a Russian religious organization.

The committee is working on a new religion law to replace a 1990 statute. Many government and Orthodox officials consider the current law too liberal because it allows preachers of all organizations and sects, both foreign and domestic, to operate in Russia.

Although the panel rejected the Orthodox Church's proposal, it agreed to a compromise requiring foreign religious groups to register with the government.

Historic Seattle church can be sold, court rules

The Washington Supreme Court has blocked enforcement of Seattle's Landmark Preservation Ordinance against a United Methodist church that wanted to raise money by selling its 87-year-old property.

In a 5-4 decision, the court ruled that the Seattle ordinance would impair the First United Methodist Church of Seattle's constitutional rights to free exercise of religion.

In an opinion written by Chief Justice Barbara Durham, the majority held that state and federal constitutions guarantee that "if United Methodist decides to sell

its property in order to respond to the needs of its congregation, it has a right to do so without landmark restrictions creating administrative or financial burdens."

BJC, others join brief opposing voucher plan

Religious, educational and civic organizations are asking an Ohio court to strike down the nation's first educational voucher program that would use public money to pay tuition at religious schools.

At issue is a "pilot" voucher program that will pay tuition at Cleveland private schools beginning this fall. It would provide quarterly tuition checks of \$2,250 for state-approved private schools, most of which are sectarian. To date, 1,500 students in grades K-3 have been approved for vouchers. Under the program, students approved for vouchers can receive them through the eighth grade.

A group of parents, taxpayers, clergy and the Ohio Federation of Teachers challenged the plan in court.

That challenge is supported by twenty-four organizations, including the Baptist Joint Committee, who joined a friend-of-the-court brief filed by the National Committee for Public Education and Religious Liberty (PEARL).

The Ohio voucher program violates the First Amendment "because it has the primary effect of directly advancing religion," the PEARL brief states.

Most of the schools benefiting from the \$5.3 million program, the brief argues, are pervasively religious. Forty-four of the first 54 private schools approved for the program are religious schools, including 30 affiliated with the Cleveland Diocese of the Roman Catholic Church.

The PEARL brief also argues that channeling grants to religious schools through parents does not avoid First Amendment problems.

"It is long-settled that direct payments of money or payment-in-kind from a state to religious schools in order to subsidize their educational function violates the Establishment Clause," the brief states.

The brief also disputes claims by Ohio officials that the tuition payments are made to parents, not the schools. While the parent is named as payee, the checks are mailed directly to the private schools where the parent must "endorse the check payable only to the school," the brief states. Δ

**Baptist Joint
Committee
Supporting Bodies**

- ◆ Alliance of Baptists
- ◆ American Baptist Churches In the U.S.A.
- ◆ Baptist General Conference
- ◆ Cooperative Baptist Fellowship
- ◆ National Baptist Convention of America
- ◆ National Baptist Convention U.S.A. Inc.
- ◆ National Missionary Baptist Convention
- ◆ North American Baptist Conference
- ◆ Progressive National Baptist Convention Inc.
- ◆ Religious Liberty Council
- ◆ Seventh Day Baptist General Conference
- ◆ Southern Baptist state conventions/churches

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When words deceive

The Parental Rights and Responsibility Act. Has a nice ring, don't you think? After all, who could be against parental rights?

If I'm sounding cynical, it's because I've watched Congress long enough to know there is often more than meets the eye. This American-as-apple pie sounding bill is a thinly veiled attempt to give parents — kooks and criminals included — a trump card over every decision a local school makes concerning its children. If lead sponsor Charles Grassley and company are successful, the most belligerent, most bigoted parent will be as influential as the principal of his child's school.

The sweeping language of the bill says no government official "shall interfere with or usurp the right of a parent to direct the upbringing of the child." (Similar measures are being pushed as state constitutional amendments.)

Suppose that Mr. Intolerant has a son or daughter at Fairplay Elementary. And, suppose that the teachers at Fairplay appropriately teach that in America, all races and religions are entitled to equal treatment under the law. If Mr. Intolerant thinks otherwise, he can sue for interfering with his parental rights and in some cases even seek attorney fees.

Multiply this example and you get an idea of what life would be like under this law. How many school children in my home-state of Tennessee would learn the prevailing scientific theory of origins if this bill passes? How many in Mississippi would learn that Martin Luther King was an American hero?



*Oliver
Thomas*

Yes, parents have the primary right to control the upbringing of their children, including education, but theirs is not the only right. You and I have a stake as well. We don't allow parents to deny their

children basic medical treatment, though some would do so in the name of religion. Nor, do we allow parents to deny their children a basic education. A parent's rights, though primary, are balanced against those of a civil society.

I am a parent. Enough of one, to brag that my offspring are A-students, talented musicians and committed Christians. But, I don't own them. And in education and health care, there are times when others know better than I — differential equations are just one example.

As a school board member, I am convinced that if this bill passes, it will inflict a near fatal blow on public education. If suddenly, every parent — no matter how irresponsible — is allowed to second-guess every decision of his child's school, public education will sink under the weight.

Admittedly, some schools have made mistakes such as forcing students to participate in AIDS prevention assemblies without parental consent. But, the answer to the occasional bureaucratic overstep is not more laws or lawsuits. It is parent involvement and participation.

Want to do something for your grandchild's education, Mr. Grassley?

Join the P.T.A. Δ

Oliver Thomas is special counsel, National Council of Churches of Christ.

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