



VOICE OF REASON

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Congress Defeats School Prayer Amendment, "Equal Access"

It might be remembered as the 90 days which almost shook the world of religious liberty in the public schools. Or as the punch and counterpunch of the Religious Right. Or, as it was known in Congress, "School Prayer and Son of School Prayer."

By whatever description, the events of this period culminated in defeat for the proposed school prayer constitutional amendment in the Senate and the so-called "Equal Access" bill in the House of Representatives.

On March 20, the Senate voted down an amendment which would have permitted government sponsored and organized vocal group prayer in public schools. With 56 senators voting for the amendment and 44 against, the amendment fell 11 votes shy of the two-thirds required for passage.

The 11 vote margin of victory, however, belies the closeness of the vote as well as the frenzied month that led up to the historic constitutional battle. That the Senate and the country eventually came to understand that the proposed amendment was neither innocuous nor necessary—truly voluntary individual prayer in the schools is permitted now—was a lesson arduously taught.

While its opponents were united against any prayer amendment, the complexities of the issue caused Senate supporters to debate one another for weeks on how an amendment ought to be worded. Who should select the prayers, students or public officials? With hundreds of denominations and sects in the U.S., who is to decide when a chosen prayer is to be recited? What happens to students who do not wish to participate in the ritual?

Dubbed the "Reagan Amendment," (S.J. Res. 73), the final version read: "Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any state to participate in prayer. Neither the United States nor any state shall compose the words of any prayer to be said in the public schools."



Congressional religious liberty defenders Sen. Lowell Weicker (R-CT) and Rep. Don Edwards (D-CA).

Pressure on the Republican-controlled Senate to pass the amendment was formidable. With veteran Senators Howard Baker (R-TN), Jesse Helms (R-NC), Strom Thurmond (R-SC), and Orrin Hatch (R-UT) backing the proposal, S.J. Res. 73 had considerable in-house lobbying firepower. President Reagan, who had erroneously characterized the Supreme Court's twenty-year

"We knew we couldn't win on school prayer [in Congress], but 'equal access' gets us what we wanted all along."

The Rev. Jerry Falwell

ban on mandated school prayer as an act where "God was expelled from the nation's classrooms" (a statement Episcopal Bishop John Walker called "blasphemy"), lobbied aggressively for the amendment's passage. At the March 6 National Association of Evangelicals' annual convention Reagan again confused the issue when he lambasted non-existent court rulings that allegedly "prevent our children from Bible study or the saying of a simple prayer in their schools." (In outlawing government sponsored school prayer, the Supreme Court permitted individual voluntary prayer and also approved of the academic study of religion and the Bible.) As the vote grew near, the President telephoned senators and invited 20 of them to the Oval Office for some eleventh-hour persuasion.

Many senators, however, did not appreciate the President's overtures and some felt that polls, rather than prayers, were on Mr. Reagan's mind.

In response to criticism that Reagan is using religion to court votes, Moral Majority head Jerry Falwell said, "It's not a matter of God being on our side. Reagan is on God's. . . . It is the voice of morality that people seek in their leadership. Is he wrong to give it to them?" (*Washington Post*, 3/6/84)

Falwell was but one of many TV preachers who worked for the amendment. In fact, the electronic ministries were in overdrive pushing for its passage. The "700 Club" and "PTL Club" urged viewers to contact their senators—supplying the Senate phone number on the screen—to tell them to return "voluntary" prayer to the schools. Senate offices were flooded with calls.

At this point opponents of the proposal began educating the Senate and the nation on the foolishness of the concept and the injurious results of government sponsored vocal group prayer in the public schools. The task fell to three sometimes overlapping groups: Religious leaders, civil libertarians, and legislators themselves.

The ninth inning victory would have been impossible without a broad coalition of religious organizations which emphasized the theological impropriety of the prayer amendment. On March 5, with amendment supporters holding a prayer vigil on its west

steps, 14 religious leaders addressed a rally on the east steps of the U.S. Capitol and spoke passionately against the amendment. The rally, planned by Maury Abraham (who later joined the ARL staff—see story), came at a time when the Radical Right seemed to be winning the propaganda war.

First to speak at the event was Edd Doerr, executive director of Americans for Religious Liberty. "If the proposed amendment is approved," Doerr said, "then prayer will no longer be the exclusive province of the individual conscience and the church and family, but a collective activity engaged in when and how the state decides." Doerr added that, "Those who are promoting school prayer amendments are showing not how much they think of religion, but how little they think of it. . . . They would tell our children that the state, a powerful plurality, or a transient majority knows best the time, place and manner of their prayers. They would replace our magnificent religious diversity with a deadening spiritual conformity."

Also speaking was the Rev. Barry Lynn. As a minister of the United Church of Christ and as legislative counsel for the ACLU, Lynn's work was invaluable in drawing attention to the vacuous nature of government directed prayer and to its poisonous effect on our pluralistic society.

The Rev. Charles Bergstrom of the Lutheran Council, U.S.A., who debated the prayer issue with Pat Robertson on "Face the Nation," said that to mandate devotional exercises or ask students to leave the room during such rituals would be divisive and would endanger the religious freedom of all Americans.

Also speaking at the rally against the amendment were representatives of the National Council of Churches, The National Council of Jewish Women, the United Methodist Church, The National Association of Catholic Laity, The Unitarian Universalist Association, the Seventy-day Adventists, The Presbyterian Church, The Friends Committee on National Legislation, and the Church of Christ.

The National Education Association and the American Federation of Teachers, whose members would have to administer government sponsored group prayers, both opposed the amendment. Said NEA president Mary Hatwood Futrell, "The diversity of religious beliefs brought into schools by students is a major reason why NEA believes the public schools should continue to

How the Senate Voted on School Prayer

The following is a list of the 44 Senate members who voted to defeat President Reagan's proposed school prayer amendment.

Andrews (R-ND), Baucus (D-MT), Biden (D-DE), Bingaman (D-NM), Boschwitz (R-MN), Bradley (D-NJ), Bumpers (D-AR), Burdick (D-ND), Chafee (R-RI), Cohen (R-ME), Cranston (D-CA), Danforth (R-MO), DeConcini (D-AZ), Dixon (D-IL), Dodd (D-CT), Durenberger (R-MN), Eagleton (D-MO), Evans (R-WA), Glenn (D-OH), Goldwater (R-AZ), Gorton (R-WA), Hart (D-CO), Hatfield (R-OR), Heinz (R-PA), Inouye (D-HI), Kassebaum (R-KS), Kennedy (D-MA), Lautenberg (D-NJ), Leahy (D-VT), Levin (D-MI), Mathias (R-MD), Matsunaga (D-HI), Metzenbaum (D-OH), Mitchell (D-ME), Moynihan (D-NY), Packwood (R-OR), Pell (D-RI), Riegle (D-MI), Rudman (R-NH), Sarbanes (D-MD), Specter (R-PA), Stafford (R-VT), Tsongas (D-MA), Weicker (R-CT).

The other 56 members voted for the amendment.

respect all people while refraining from promoting or teaching religion."

In the Senate, the undisputed champion of religious liberty was Lowell Weicker (R-CT). For nearly three weeks on the Senate floor, Weicker chipped away at the distortions created by the Radical Right. He recalled the sordid history of church-state unions and praised the wisdom of the First Amendment's prohibition against an establishment of religion. In the end, Weicker had helped not only to defeat the amendment, but also to change some fundamental mind-sets of his colleagues. The one clergyman in the Senate, John Danforth (R-MO) was also outspoken in opposing the Reagan amendment.

Before the dust had settled after the Senate defeat of the prayer amendment, "Equal Access" for religious groups in public schools came up in the House of Representatives.

On May 15, under an unusual procedure requiring a two-thirds majority for passage, and which restricted debate and prohibited amendments to the bill, the House defeated H.R. 5345, the "Equal Access Act." The 270 to 151 vote for the bill was eleven votes short.

Unlike the tremendous media attention received by the prayer amendment, the highly controversial issue of religious clubs in the schools drew little press coverage. The bill was complex, its implications not readily understood, and its title innocent sounding. (Some on Capitol Hill thought the bill would provide ramps for children in wheelchairs.)

Introduced by Rep. Don Bonker (D-WA), the "Equal Access Act" stipulated that a public secondary school "which generally allows groups which are initiated by and composed of students to meet during noninstructional periods" may not "discriminate on the basis of the religious content of the speech at such meetings." Schools violating the law would be subject to a cut-off of all federal funding to the school district by the Department of Education. The meetings must be voluntary and not sponsored by the school. (A chess club is an example of a non-school-sponsored group.) Teachers can be present but only in a "non-participating capacity."

While the bill seemed to many a reasonable accommodation to religious speech, it was in fact a far greater threat to religious neutrality in the public schools than the prayer amendment.

The bill would have permitted religious worship services to be held in public schools during regular school hours. Outside religious missionaries could be invited on campus to lead sectarian services or doctrinal instruction. Students as young as eleven could be proselytized and converted to various sects without their parents' knowledge or consent.

Further, the bill would not have provided for *equal* access, but only the rights of religious groups. Such preferential treatment by

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Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share that purpose. Annual dues are \$15 for individuals, \$20 for families, \$5 for students.

President: Anne Lindsay; Vice-President: Donald Field; Secretary: Bruce Southworth. Executive Committee includes the above Officers and Edward L. Ericson, Lynn Silverberg-Master, Sol Gordon, Sherwin T. Wine.

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Executive Director: Edd Doerr

Assistant Director: Maury C. Abraham

News Briefs

On May 12 President Reagan declared in a nationwide radio address that, "Our Administration will go forward with our efforts to . . . pass tuition tax credits and vouchers as well [for federal aid for parochial and private schools]. And . . . I'll continue working for the restoration of voluntary school prayer." Despite efforts by mainline religious groups to point out that public school students have never lost the right to "voluntary school prayer," Mr. Reagan has yet to acknowledge that fact.

According to recent studies of Catholic schools by the National Catholic Educational Association and the Search Institute—89.4% of students in Catholic schools are Catholic; only 8.8% of Catholic school students are black (compared to over 16% in public schools); enrollment for the 1983-84 school year dropped 58,000 from the previous year to 2.97 million; 95% of Catholic and 88% of non-Catholic students in Catholic high schools are required to attend liturgical services; 67% of Catholic high schools require students to attend religious retreats.

Catholic schools now receive well over half of the over one billion dollars per year spent by the federal and state governments for nonpublic education. Although 75% of Catholic students attend public schools, the Catholic bishops are among the strongest advocates of federal and state aid for denominational private schools.

Jerry Falwell's Moral Majority will try to register 2.5 million new voters for this fall's elections, largely through fundamentalist churches. Moral Majority will reportedly spend \$12.5 million on political action this year. . . . The so-called "Christian Voice," a Radical Right group based in Washington, reportedly plans to spend \$1 million to help President Reagan's re-election and congressional candidates congenial to their agenda. . . . Students from Falwell's Liberty Baptist College made up about a quarter of the 10,000 to 12,000 people who attended the Baptist Fundamentalism '84 conference in Washington in April. Over 25,000 had been expected. President Reagan, Vice President Bush, and Sen. Jesse Helms addressed the conference, which had at least an undertone of political purpose.

Anti-choice lawyers met in Chicago in March to plan strategies for overturning *Roe v. Wade*, the 1973 Supreme Court ruling recognizing a woman's constitutional right to choose whether or not to carry a problem pregnancy to term. While anti-choice lawyers, headed by veteran parochial advocate William B. Ball, hope that President Reagan will be reelected and add at least two anti-choice justices to the Supreme Court, they are discussing such alternatives as incremental chipping away at *Roe* with carefully selected cases. . . . In Congress, meanwhile, anti-choice forces are seeking to cut back on foreign aid under the State Department's "population assistance" program.

The Louisiana Senate voted 21 to 16 in May to repeal the two-year old law requiring equal treatment in science classes for "creationism" and evolution. The law is currently being challenged in federal court. Educational, religious, and community groups support the repealer, while fundamentalist forces mounted large-scale telephone and personal contact efforts to defeat it. The repealer's fate in the lower house cannot be predicted.

The U.S. Senate voted 81 to 13 on March 7 to confirm William Wilson as the first U.S. ambassador to the Holy See. The Senate and House subcommittees which handle State Department appropriations also approved reallocation of funds to support the new embassy. The votes came despite widespread opposition to U.S. diplomatic recognition of a single religious body. Although the Reagan administration tried to claim that the new relationship is with the Vatican as a state, Catholic Church authorities

made it clear that the Holy See is a religious entity.

A California federal court has ruled that the presidential proclamation and congressional resolution declaring 1983 the "Year of the Bible" do not have the force of law and therefore cannot be challenged in federal court. In *Zwering v. Reagan* 16 citizens representing a wide range of religious views and the ACLU had charged that the resolution/proclamation violated the First Amendment.

Frank Church

Frank Church, 59, U.S. Senator from Idaho for 24 years and an early member of ARL's National Advisory Board, died on April 7. Mr. Church lost his bid for a fifth Senate term in 1980 at least in part because of opposition from Radical Right interests.

Maury C. Abraham Joins ARL Staff



Maury C. Abraham, 29, joined the staff of Americans for Religious Liberty in April. He will serve as assistant director and as assistant editor of the ARL newsletter.

Mr. Abraham earned his B.A. in philosophy, religion, and English literature from Rollins College, and has nearly completed his M.A. in philosophy at Boston College. He has taught school in Boston and has been a manager of a family business in Washington, D.C.

Before joining the ARL staff, Mr. Abraham worked as a volunteer with religious groups opposed to the Reagan school prayer amendment in the Senate and the "Equal Access" bill in the House. He was the main organizer of the March 5 rally on the U.S. Capitol steps, at which ARL executive director Edd Doerr and a wide spectrum of Protestant, Catholic, Jewish, Unitarian Universalist, educational, and civil liberties leaders explained why government regimentation of children's devotions in school is inimical to religious liberty.

Resources

Available from ARL, P.O. Box 6656, Silver Spring, MD 20906.

A Delicate Balance: Church, State, and the Schools, by Martha M. McCarthy. An up-to-date, comprehensive yet concise (178 pp.) summary of Supreme Court and lower court rulings on religion in public education, government aid to religious schools, religious exemptions from public school programs, religious challenges to public school curriculum, and governmental regulation of parochial schools. An excellent basic resource for lawyer and layperson alike. \$6 plus \$1 for postage and handling.

American Freedom and the Radical Right, by ARL co-founder Edward L. Ericson. An excellent guide to the aims and methods of the

movement bent on "piecemeal repeal of the Bill of Rights." \$4.95 plus \$1 for postage and handling.

"Will Religious Liberty Survive the 1980s?" Address by ARL executive director Edd Doerr. \$1 each includes postage and handling.

Pamphlets

"Tuition Tax Credits: Threat to Religious Liberty and Public Education."

"A New Constitutional Convention: Threat to the Bill of Rights."

"Creationism, Evolution, and the Public Schools."

"Prayer and the Public Schools."

10 for \$1; 75 for \$5. Titles may be mixed.

Texas Creationists Lose a Round

In a victory for legitimate science instruction in public schools, the Texas Board of Education on April 13 reluctantly repealed a ten year rule that required that evolution be identified in textbooks "as only one of several explanations of the origins of mankind." The rule had also required that textbooks mentioning evolution must "ensure that the reference is clearly to a theory and not to a verifiable fact."

The rule accommodated the desire of many fundamentalists to have their interpretation of the Biblical story of creation, "creationism," included in the biology curriculum.

A month before the board's repeal, Texas Attorney General Jim Mattox had declared the rule an unconstitutional infringement of a particular religious belief on the state's "dedication to scientific truth."

In the worst instance, one text approved for Texas use, *Biology, An Inquiry into the Nature of Life*, mixes science, religion and politics when it says: "The issue of creationism versus evolution concerns you not just as a biology student but as a citizen and a prospective voter. You may have to help decide what should be taught in the schools of your state."

The book also presents a chart listing the positions of creationists and evolutionists.

Unfortunately, the triumph may for the time being amount to more on paper than in reality. In the coming months, the state board will adopt biology textbooks for the next eight years. Most of the books the board will choose from are completed and reflect the anti-evolution rules of the past decade.

"I doubt the publishers will change books this year unless the state board asks them to," said Steven Schafersman, president of the Texas Council for Science Education and Texas ARL leader. Schafersman, head of the council of 250 scientists and educators, said that all concerned citizens must, "go to the publishers and insist on high-quality textbooks."

People for the American Way, a national anti-censorship group which threatened to sue the board if it did not repeal the rule, has requested that the selection process be suspended for a year to allow publishers time to revise their textbooks. Said Texas PAW coordinator Michael Hudson: "Since the new books have already been written, the damage from the rules has been done. The issue is so serious that we think the process should be delayed one year."

State Board of Education head Joe Kelly

Butler, recently defeated for reelection, disagrees. "I don't think there's anything wrong with the books now. . . . I'm not going to raise the price of all the textbooks [due to the publisher's cost of revising them] just because some atheists and fellow travelers want it."

Even if the immediate effect in Texas is

minimal, the repeal of the anachronistic rule is good news for the nation's public school science programs. The \$65 million Texas textbook market is the fourth largest in the nation and the schoolbook policies of the Lone Star state pull considerable weight with publishers who provide books from Maine to Hawaii.

ARL in Action

Americans for Religious Liberty will join with other concerned groups in *amicus curiae* briefs to the U.S. Supreme Court in two important church-state cases to be heard by the Court during the fall term.

In *School District of Grand Rapids v. Ball* the Supreme Court will review lower federal court rulings against the Grand Rapids policy of providing public school teachers to 41 Catholic, Missouri Synod Lutheran, Christian Reformed, and other parochial schools, at a cost of \$6 million annually to taxpayers. The key figure in bringing the challenge to the Grand Rapids parochial plan is the Rev. Jay Wabeke, a member of the ARL Board of Directors.

In *Wallace v. Jaffree* the Court will hear an appeal to an adverse lower federal court ruling against an Alabama law mandating a moment for silent prayer in public schools. In accepting the silence case for review, the Court also affirmed a lower court ruling holding unconstitutional Alabama's law authorizing teachers to lead prayers in classrooms.

Executive director Edd Doerr spoke at 15 conferences, meetings, church services, and university classes in tours of California, New York, and Florida between mid-March and the beginning of May. The tour included more than 12 hours of appearances on television and radio talk and panel programs in California and Florida, including a 6-hour appearance on the Ray Briem Show on KABC in Los Angeles, which is syndicated nationwide.

In the Washington area Doerr debated church-state issues on WPFW-FM and on the Fred Fiske Show on WAMU-FM, in addition to speaking at a church forum in Maryland.

In May Doerr taped a one-hour television panel on religious liberty issues sponsored by the American Enterprise Institute. The panel also included ACLU attorney Barry Lynn, Rep. Henry Hyde (R-IL), and economist

Walter Berns. The program will be carried nationwide on public stations.

Assistant director Maury Abraham conducted a workshop on church-state issues at the American Humanist Association annual convention in Washington in April.

ARL's Detroit area chapter sponsored forums on three Monday evenings in May at the Birmingham Temple. ARL co-founder Sherwin Wine and Prof. Sylvia Hacker spoke on "A New Look at the Religious Right." Michigan ACLU executive director Howard Simon, attorney Susan Winshall, and Sherwin Wine discussed "Issues of Freedom: School Prayer and Beyond." Constitutional law expert Prof. Harold Norris, former State Senator Lorraine Beebe, and Sherwin Wine spoke on "Parties and Candidates—Reagan and the Alternatives."

The Kalamazoo, Grand Rapids, and Jackson, Michigan, chapters all sponsored programs on the implications of the calling of a new national constitutional convention. The Kalamazoo chapter, headed by Daniel Crampton, presented a program on the Con-Con issue on May 1 featuring Michigan Common Cause executive director Nancy Ring. The Jackson chapter, headed by Charles Curtis, held a debate on the issue. Grand Rapids chapter leader and ARL national board member Jay Wabeke testified at a legislative hearing on a Con-Con resolution before the Michigan legislature.

The *Grand Rapids Press* has published an article by Jay Wabeke on the development of church-state separation.

ARL's Doerr and Abraham will conduct a workshop on "Protecting Religious Liberty in the '80s" at the Unitarian Universalist Association General Assembly at Ohio State University in Columbus, Ohio, on June 28 at 1:00 p.m.

How the House Voted on "Equal Access"

The following members of the House of Representatives voted to defeat the proposed "Equal Access" bill.

Ackerman, Addabbo, Akaka, Anderson, Annunzio, Aspin, AuCoin, Barnes, Beilenson, Berman, Boland, Bonior, Borski, Bosco, Boxer, Brown (CA), Bryant, Burton (CA), Clay, Coelho, Coleman (MO), Collins, Conte, Conyers, Cooper, Coughlin, Coyne, Crockett, Dellums, Dicks, Dixon, Donnelly, Dorgan, Downey, Durbin, Dwyer, Dymally, Early, Edgar, Edwards (CA), Evans (IL), Fascell, Feighan, Fish, Florio, Foglietta, Foley, Ford (MI), Ford (TN), Frank, Frost, Garcia, Gejdenson, Gephardt, Gibbons, Gilman, Glickman, Gonzalez, Gradison, Gray, Green, Guarini, Hayes, Hertel, Howard, Hoyer, Johnson, Kastenmeier, Kennelly, Kildee, Kleczka, Kogovsek, Kostmayer, Lantos, Leach, Lehman (CA), Lehman (FL), Leland, Lent, Levin, Levine, Long (MD), Lowry (WA), Markey, Martinez, Matsui, Mavroules, McCollum, McGrath, McHugh, McKinney, McNulty, Mikulski, Miller (CA), Mineta, Mintsh, Mitchell, Moakley, Moody, Morrison (CT), Mrazek, Oaker, Oberstar, Obey, Ottinger, Owens, Panetta, Pepper, Porter, Rangel, Ratchford, Reid, Rodino, Roe, Roybal, Russo, Sabo, Savage, Scheuer, Schneider, Schroeder, Schumer, Seiberling, Shannon, Simon, Slattery, Smith (FL), Smith (IA), Stark, Stokes, Studds, Stump, Swift, Synar, Torres, Torricelli, Towns, Udall, Vento, Walgren, Waxman, Weiss, Wheat, Williams (MT), Wirth, Wolpe, Wyden, Yates, Young (MO), Zschau.

Not voting on the measure were Bates, Fazio, Ferraro, Hall (IN), Hance, Hansen (ID), Murtha, Rahall, Rostenkowski, Denny Smith, Solarz, Vandergriff. The remaining 270 members voted for the bill.

the federal government unequivocally advances religion, an activity inconsistent with the First Amendment. Not all religious groups, however, would have been protected by the bill. Schools could require minimum numbers of students for the formation of a club and so, in effect, exclude the small meetings of students of minority faiths.

These difficulties did not disturb Jerry Falwell. "We knew we couldn't win on school prayer," Falwell said. "But 'equal access' gets us what we wanted all along." (*Philadelphia Inquirer*, 4/27/84.) What the Moral Majority wants is carte blanche to spread its view of religion in public schools. Fundamentalist groups would have been the primary beneficiaries of "equal access." An estimated 4,500 fundamentalist Christian missionaries already operate in the

public schools. (See "Invasion of the Soul Snatchers," Fall 1983 ARL newsletter.)

The religious community was less united in opposition to the Bonker bill than to the school prayer amendment. Some who supported Bonker felt that it would appease the forces of the Radical Right. Others, like ARL, recognized the unacceptable dangers in the bill.

In his testimony before the House Education and Labor Committee, ARL's Edd Doerr warned that the bill, "contains no provision to protect young children from proselytization . . . and if conventional religious groups are allowed to meet in school, then unconventional groups, such as Rev. Sun Myung Moon's controversial Unification Church, would have to be allowed in under the same rules. . . . One likely outcome of passage of [the bill] is that many schools would simply forbid all non-school-sponsored groups from meeting as the best way to prevent the problems mentioned above."

Other organizations actively opposing the Bonker legislation included the American Civil Liberties Union, the National Education Association, Americans for Democratic Action, the American Association of School Administrators, and the National Association of State Boards of Education. Among religious groups opposed to the bill were the Lutheran Council, the American Jewish Congress, the Unitarian Universalist Association, the United Methodist Church, the National Association of Catholic Laity, and the American Jewish Committee.

Rep. Don Edwards (D-CA), Chairman of the House Subcommittee on Civil and Constitutional Rights, led the fight against the "Equal Access" bill. In the hearings before Edwards' Committee, many of the problems concerning religious group activity in the public schools were aired and once again Congress got an education in the dangers of government entanglement in religion.

While supporters of religious freedom can rejoice in the deaths of "School Prayer" and "Son of School Prayer," an heir will undoubtedly rear its head another day. Paul Weyrich, director of the ultra-right Free Congress Committee, insists that the Radical Right is willing to work for sixty years to realize its goal of government sponsorship of children's devotions.

Senate supporters of "Equal Access," meanwhile, plan to seek a Senate vote on the measure before the summer recess.

Editorial

Creche and State

The Supreme Court's 5 to 4 ruling on March 6 in *Lynch v. Donnelly*, upholding the city of Pawtucket, Rhode Island, in its policy of using tax funds to pay for a creche, or Nativity tableau, as part of a Christmas display, was bad for several reasons.

The ruling approved a municipal policy favoring Christianity over all other religions, and even favoring those Christian denominations which celebrate December 25 as the birth anniversary of Jesus over those which do not. Protestant and Jewish mainstream organizations had filed *amicus* briefs in opposition to the city's practice, while the fundamentalist Radical Right and the Catholic bishops sided with the city.

As Justice Blackmun pointed out in his

dissent, the tax-paid creche was justified by the Court's majority by being reduced to a commercial gimmick and by having its religious significance downgraded.

It is disturbing enough that the Supreme Court in *Lynch* did not rigorously apply its own three-part test of constitutionality—to

(continued on page 6)

ARL's Doerr Honored



Americans for Religious Liberty executive director Edd Doerr was honored with the Eric M. Steel Memorial Award in March by the Rochester, N.Y., Chapter of Americans United for Separation of Church and State. Doerr was also presented in April with the American Humanist Association's Humanist Pioneer Award. Both awards were made in recognition of Mr. Doerr's years of leadership in defending separation of church and state.

Defending Religious Liberty

Until rather recently the Supreme Court generally did such a good job of defending the First Amendment principle of separation of church and state that religious libertarians may have had it too easy. In dealing with parochialism, government sponsored group prayer in public schools, abortion rights, etc., the Court, like the *deus ex machina* of ancient Greek drama, stepped onto the stage and sorted things out, thanks, of course, to the Bill of Rights and our tradition of judicial review. We have been spared some of the hard fighting that defenders of religious liberty have had to endure in other countries.

Now, however, with the Supreme Court apparently shifting in the direction of accommodating the undemocratic, anti-libertarian demands of the religious and political Radical Right, mostly as a result of some of the appointments to the Court by Presidents Nixon and Reagan, concerned citizens will need to shift their reliance on the federal courts to other ways of defending basic rights.

In recent years various combinations of civil liberties, religious, educational, women's, labor, and other groups have through education and grass roots political work influenced Congress and state legislatures to defeat school prayer and anti-abortion amendments, and bills to allow sectarian groups access to public schools and to channel public funds to sectarian private schools. Similarly, concerned groups have blocked the invasion of science classes by fundamentalist "creationism" and won referendum elections against state tax aid for church schools.

The point is that informed, aroused citizens can still effectively defend the Bill of Rights even if the Supreme Court is changed from a watchdog to Jerry Falwell's lapdog. An informed, aroused public, especially when working through civil liberties, professional, religious, and other groups and coalitions, can counter the propaganda and pressure blitzkriegs of the Radical Right.

In the past several months Americans for Religious Liberty has reached large numbers of people through television and radio talk and panel shows, through personal appearances and publications, through direct mail and local chapter programs.

We are educating the public, but we can do so extensively and effectively only if we have an increasing base of support. We urgently need your financial support—especially at levels exceeding our nominal

dues—and your help in expanding our people base. Although our goal is ambitious, to double our membership in the next twelve months, it can be achieved if each ARL member-supporter would make a commitment to get just one other person to join ARL.

Also, ARL can supply you (or your professional group or church or synagogue, etc.) with our introductory brochure and other material (see our resource ad). We can supply literature in any quantity.

And we want to hear from you, with your

ideas, suggestions, constructive criticisms, etc., and with news, good or bad, about what is going on in your community.

At no other time has our nation more needed an organization like Americans for Religious Liberty to fight for our most basic liberties.

The Radical Right has built its sizeable force with the donations and support of ordinary, though misinformed, people. Informed citizens who care about basic liberties can create an even stronger force—if they choose to.

Creche and State, *continued from page 3*

be constitutional an act of government may not have a non-secular primary purpose or effect, and may not create the potential for excessive entanglement between religion and government. But even more disturbing is the fact that *Lynch* is another signal that the Court may be turning away from its pre-1980 strict construction of the religious clauses of the First Amendment. *Lynch* is the fourth Supreme Court ruling, the third by a mere 5 to 4 margin, since Ronald Reagan appointed his first justice that marks a weakening of the Court's support for church-state separation. Last summer the Court upheld a state legislature's appointing and paying a legislative chaplain, and a Minnesota law providing tuition tax deduction aid to private religious schools. In 1982 the Court ruled that ordinary citizen-taxpayers do not have standing to

challenge in federal courts federal government giveaways of surplus public property to sectarian institutions.

In the three 5 to 4 rulings, President Reagan's only appointment to the Court thus far, Justice Sandra O'Connor, cast the deciding votes against church-state separation.

Half of the Court's members are older than Mr. Reagan and will probably be replaced before 1988. Whoever is elected president in November, then, will determine what sort of Supreme Court will be on hand to interpret the Constitution until well into the twenty-first century. Replacing two of the older justices strongly committed to defending the liberties of all Americans with more justices like Rehnquist and O'Connor could have disastrous effects on religious and other civil liberties.

Americans for Religious Liberty P.O. Box 6656, Silver Spring, MD 20906

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