



VOICE OF REASON

Winter-Spring 1986

The Newsletter of Americans for Religious Liberty

No. 19

Supreme Court to Hear Creationism Case

The U.S. Supreme Court on May 5 agreed to hear an appeal in *Aguillard v. Edwards*, a case involving Louisiana's 1981 law mandating "balanced treatment" for "creation science" and "evolution science" in public school sciences classes. The law was ruled unconstitutional by a federal district court on the ground that it violated the church-state separation provision of the First Amendment. The Fifth Circuit U.S. Court of Appeals upheld the lower court ruling twice in 1985, but the state appealed to the Supreme Court.

Americans for Religious Liberty is involved in the suit as a member organization of the National Coalition for Public Education and Religious Liberty, one of the groups which brought the suit against the Louisiana law.

Arkansas's very similar "creationism" law was ruled unconstitutional in early 1982, but the state chose not to appeal.

Opposition to inclusion of so-called "balanced treatment" of "creationism" in public school science classes stems from the fact that "creationism" is primarily a religious doctrine, adhered to by fundamentalists but not by mainstream Christians and Jews. "Creationism" posits a universe less than ten thousand years old, with animal and plant "kinds" (which creationists do not define) separately created and humankind not related to other species of primates.

The overwhelming majority of scientists accept evolution as fact and calculate the age of our planet and the universe to be around 4.5 billion and 15 billion years respectively.

Argument will be held before the Court in *Aguillard* sometime after October.

Massachusetts Voters to Face Parochial, Abortion Referenda

In November Massachusetts will face not one, but two major church-state issues on the ballot. The state legislature this spring passed proposed amendments to the state constitution to allow state tax aid to sectarian private schools and to allow the legislature to sharply limit abortions in the state.

In 1982 Massachusetts voters defeated a similar parochial amendment 63% to 37%.

Both proposed amendments had strong backing by the Catholic bishops of the state.

In other action, the South Dakota legislature approved a state constitutional amendment to provide state aid to parochial schools in the form of tax-paid textbooks.

Other Supreme Court Action

By a 5-4 vote, the Supreme Court on March 25 avoided ruling on the constitutionality of student religious groups meeting in public schools. The Court dismissed the *Bender v. Williamsport Area School District* case on the ground that school board member and parent John C. Youngman did not have the necessary standing to appeal a lower court ruling favorable to the practice. The *Bender* non-decision leaves the question of "equal access" for religious groups in public schools unsettled, though all federal appellate courts which have considered the plan have ruled it unconstitutional.

By another 5-4 vote on the same day, the Supreme Court held that the armed services may enforce dress codes even when religious liberty is at stake. The case concerned Captain S. Simcha Goldman, an Air Force psychologist who is also an Orthodox rabbi. Justice Rehnquist's ruling held that the armed services have no obligation to accommodate members whose religious beliefs require the wearing of special garb, in *Captain* (continued on page 3)

Reagan Administration Bashes Public Education

On April 24, in Room 106 of the Dirksen Senate Office Building, the Reagan administration sponsored an all-day Schlagfest, an orgy of ill-tempered attacks on American public education and the Supreme Court's rulings on church-state separation.

As many of the speakers suggested none too subtly, our public schools are as much enemies of God and country as a planeload of Libyan terrorists. But you won't have read or heard anything in the media about the "Symposium on Content, Character, and Choice in Schooling" because they didn't bother to cover it.

Education Secretary William Bennett, a parochial educated advocate of government regimented prayer in public schools and tax support for sectarian private schools, opened the symposium with the assertion that our public schools are adequately funded, despite expert opinion to the contrary and the fact that the Reagan administration has made significant cuts in school funding. He also made a plug for the administration's tuition tax credit and voucher plans for federal aid to parochial schools.

In one of the very few opportunities for questions from the floor, Americans for Religious Liberty executive director Edd Doerr asked Bennett if, although he said he opposed tax support (continued on page 2)

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for schools which practice racial discrimination, he would approve of tax support for the religious, ideological, and other forms of discrimination common in nonpublic school admission and hiring. Yes, he said, because to require tax supported private schools to operate by the same rules as public schools would be to "unfairly" force them to change their character.

Psychologist Paul Vitz, the Radical Right ideologue who analyzed public school textbooks for religious content for the Reagan administration, reported his finding that history and literature textbooks contain very few references to religion, but failed to shed any light on why this might be so. Vitz leaped from this "finding" to the conclusion that the U.S. should provide tax support for sectarian private schools. He denounced what he called the "coercive" public school "monopoly."

In the conference's only other brief period for questions, ARL's Doerr asked Vitz the following: Did he question textbook publishers, authors, and editors as to why they rarely mention religion? Wasn't he aware that there are many courses, mini-courses, course units, and textbooks about religion in use in many public schools, often obviating the need to deal with religion in other texts? Wasn't he aware that, despite the availability of numerous textbooks about religion, there is really very little public demand for constitutional, objective, neutral teaching about religion? Wasn't he aware of the great difficulties involved in deciding what, at which grade levels, how, etc., to teach objectively and neutrally about religion, and that these difficulties (such as how to deal with unpleasant facts about religion) probably accounted for the reluctance of publishers to put much about religion into regular course textbooks? Didn't he know that most states have not confronted the thorny problems of training and certifying teachers to deal properly with religion? And, finally, didn't he know that the best example of the consequences of providing tax support to sectarian schools is Northern Ireland?

Vitz evaded the questions with an emotional outburst.

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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 its purposes. Annual dues are \$20 for individuals; \$25 for families; \$10 for students and limited income.

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Richard A. Baer, Jr., a professor of environmental ethics at Cornell linked with the Catholic League for Religious and Civil Rights, a pro-parochial and anti-choice organization not sponsored by the Catholic Church, followed Vitz with a slashing, hellfire-and-damnation assault on public education. Echoing several voucher parochial theoreticians, Baer insisted that the word "public" be attached to any "government" or private school which "meets the state's minimum compelling interest in education." He strongly implied that sectarian private schools should receive full public funding, though they would be able to continue to practice religious, ideological, and other forms of discrimination, except racial, in admissions and hiring. He asserted that parental and local control of schools is a "myth" (despite the fact that public schools are run by locally elected boards), that there is no free market of ideas in "government schools," that no curriculum can be neutral with regard to religion, and that a semi-established "secular humanism" had replaced traditional religious values in public schools.

Baer was followed by William B. Ball, a Pennsylvania attorney whose defenses of parochial have been repeatedly rejected by the Supreme Court. Ball claimed that the administration's voucher parochial plan is constitutional, and went on to add that nonpublic school parents should be exempted from taxes to pay for public schools. He neglected to say how his idea would help poor people attend parochial schools if they paid little or no taxes on which to get rebates.

Thomas R. Ascik, who heads the Clearinghouse on Educational Choice, continued the attack on public schools. He decried the Supreme Court's "unconstitutional fabrication" of the principle of separation of church and state in 1947, slashed at Horace Mann and John Dewey, denounced the idea that public education is the "glue" holding society together, condemned public education as hopelessly bad, and denied that local school boards really control local schools.

We have gone into condensed though still boring detail on this symposium to show the strength of fanatical commitment in the Reagan Administration and its Education Department to tearing down American public education and the constitutional principle of church-state separation. Instead of working to improve the public schools serving nine out of ten American children, the Reagan-Bennett Education Department is fiercely dedicated to undermining our great educational enterprise, which, despite all the denials, is democratically run by local parents and taxpayers. The Education Department, on the other hand, is run by and for narrow sectarian, "moral majoritarian" groups which want to unite religion and government, to fragment education into a multiplicity of feudal enclaves, to replace democratic, pluralistic education with sectarian and ideological indoctrination.

Now more than ever Americans of all persuasions, parties, and walks of life need to rally round our public schools, besieged as they are by their own federal government. ■

Where There's a Will . . .

Including a bequest to Americans for Religious Liberty in your Will is a good way to ensure that future generations will have the tools to defend our most basic freedoms. You can always add ARL to your Will.

AMERICANS FOR RELIGIOUS LIBERTY
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NEWSBRIEFS

House Committee Scores Vouchers

"A deception for parents and a disaster for public policy." That's the way a staff report for the House Education and Labor Committee describes the Reagan administration's voucher bill for diverting federal aid from public to parochial schools (H.R. 3821 in the House, S. 1875 in the Senate).

The 16-page report concludes that the voucher plan would "harm public education by transferring public money to private schools at a time when federal resources for education are shrinking," and cites Education Undersecretary Gary Bauer's statement that the bill would be just a "first step" toward a much more ambitious voucher diversion of federal funds to nonpublic schools.

According to the Committee report, the voucher plan, touted as an aid to poor children by Education Secretary William Bennett, would actually perpetrate a hoax on poor children, as it would not assure them a place in a parochial or private school, would not cover the costs of any but the cheapest sectarian schools (and even then would not protect their families from add-on tuition charges), and would not protect poor children from discrimination based on religion, age, sex, or handicapping condition. Further, the report concludes, the plan would needlessly disrupt a program that, though seriously underfunded, is working well (Chapter I program for remedial educational services to disadvantaged children), would cut the number of students being served, would disperse federal funds without public accountability, and would increase administrative costs, create administrative nightmares, and disrupt local educational planning and budgeting.

Radical Right Update

TV evangelist and faith healer Pat ("700 Club") Robertson is running hard as an undeclared candidate for President. On May 8 he drew 3,500 supporters to a hall in Detroit, from which his rally was televised to ten other Michigan cities. Robertson's tax-exempt (sic!) Freedom Council is seeking to line up 7,000 to 8,000 people to run for Republican precinct delegate positions in the August 5 primary, a

Bernard Malamud

Novelist Bernard Malamud, a member of the Americans for Religious Liberty National Advisory Board, died on March 18 at age 71. Mr. Malamud, author of *The Fixer*, *the Tenants*, *Dubin's Lives*, *God's Grace*, and other acclaimed novels, won a Pulitzer Prize once and a National Book Award twice.

contest which will be the earliest test of 1988 GOP presidential contenders. Robertson is reported to be spending \$300,000 to \$400,000 in the Michigan races, twice as much as the George Bush and Jack Kemp forces combined.

That Robertson is serious about a run for the White House is suggested by a *TV Guide* report that his "700 Club" is looking for a replacement host. If Robertson officially declares, the FCC's "equal time" rule would force his show to give equal time to rival candidates.

On May 16 about 130 people attended a \$1,000 to \$25,000 per couple fund-raiser for Robertson at the Washington Sheraton. Up to \$5,000 of larger donations is to go to Robertson's political action committee, the Committee for Freedom, with the rest going, tax deductible, to Robertson's Freedom Council. Among the guests were Sen. Jesse Helms and *Saturday Evening Post* editor/publisher, Cory SerVaas.

Columnist George Will writes that Robertson is in a "win-win" situation in his presidential race: "If he wins, bingo. If he loses, the attempt 'would still bring unity to the body of Christ'."

But while Robertson's political campaign is clicking along, fund-raising for the rest of his \$230 million per year empire is below expectations. Donations in 1986 are up only 7%, not 22% as expected. His Christian Broadcasting Network has laid off 41 employees and cancelled its toll-free phone lines to save \$24 million. CBN is also trying to sell off TV stations in Virginia, Massachusetts, and Texas.

...

Jerry Falwell has also had to lay off staff due to lower than expected

ARL IN ACTION

ARL president John M. Swomley was a featured speaker at the April 10 joint conference in New York of the National Coalition for Public Education and Religious Liberty (PEARL) and the New York Committee for PEARL (Former Supreme Court justice Arthur Goldberg was the principal speaker at the conference.) Dr. Swomley has also spoken recently at the Boston University Law School and a conference of the Nebraska Religious Coalition for Abortion Rights.

ARL board member Faith Evans has been elected president of the Religious Coalition for Abortion Rights. Mr. Evans serves as the United Church of Christ Associate for Constituency Empowerment and has been a leader of the National Welfare Rights Organization.

Thanks to the efforts of ARL board member Jay Wabeke, the Holland, MI, public schools will discontinue the practice of allowing the Gideons International to distribute Bibles to fifth grade students.

The New Jersey chapter of ARL is protesting the practice in Bergen County of spending a quarter million dollars annually in public funds to support chaplains at the county jail and a county hospital. The chapter is also investigating the use of public funds to erect a creche on public property in Essex County. Chapter president Leon Smith appeared on a cable TV talk show in February. The chapter has also opposed anti-cult and parochial bills in the state legislature.

Voice of Reason, the ARL chapter at the University of Michigan in Ann Arbor, produces an excellent 22-page newsletter. The most recent issue has reports on censorship, abortion rights, the campaign for a constitutional convention resolution in the state

legislature, the creationism-evolution controversy, and the "Accuracy in Academia" campaign. The chapter celebrated "Banned Books Week" last fall by producing and distributing "censorship kits" which included lists of the best books, periodicals, and films censored in 1983 and 1984. The chapter is also active in distributing ARL literature and in opposing the constitutional convention resolution.

ARL associate director Maury Abraham submitted testimony to the Maryland legislature urging repeal of that state's 1975 resolution calling for a constitutional convention.

Since our last newsletter, ARL executive director Edd Doerr has spoken at the Rutgers University Law School and at 23 conferences (American Humanist Association), meetings (ACLU, National Council of Jewish Women, Unitarian Universalist Youth Fellowship), and church and synagogue services in California, Illinois, Florida, Maryland, and the District of Columbia. In addition Mr. Doerr has been a guest on radio talk shows on KABC in Los Angeles, WAMU in Washington, WJNO in West Palm Beach, WFXW and WBEZ in Chicago, WPLP and WMNF in Tampa, WMCA in New York, KOA in Denver, and WDVT in Philadelphia. In June he will speak at the Unitarian Universalist Association General Assembly in Rochester, NY, and at an ACLU meeting in Maryland.

Mr. Doerr's article on "Anti-Catholicism in America," an analysis of the roots and meaning of the problem, was published in the March issue of *USA Today* magazine. Reprints are available from ARL for one dollar each.

income, due in part, according to Falwell, to a "campaign" against him by homosexuals. To save \$5 million, Falwell's various enterprises laid off 225 employees, cancelled toll-free phone lines, fired Liberty University students from part-time jobs, and cut back on student scholarships. Meanwhile, Falwell personally will get an estimated \$1 million from publisher Simon and Schuster for his autobiography.

Despite financial cutbacks, however, the Moral Majority guru plans to spend several hundred thousand dollars on selected Senate races this year, including Paula Hawkins' reelection bid in Florida.

In other action, Falwell has purchased a Florida satellite TV network, on which he is broadcasting weekly 15 hours of live programming plus reruns of his church services and late night talk shows.

In April U.S. Education Secretary William Bennett made the pilgrimage to speak at Falwell's Lynchburg, VA, college which is *de rigueur* for Reagan administration biggies.

Abortion Rights

On April 30 the Supreme Court unanimously dismissed on procedural grounds one of the two abortion cases it heard last November. *Diamond v. Charles* was an appeal of a federal appellate court's ruling striking down an Illinois law restricting abortion rights. The appeal had not been filed by the state, but by a private pediatrician who supported the law. The Court held that the anti-choice physician had no legal standing to bring the appeal. The Court also rejected a Reagan administration *amicus* brief which had urged the Court to overturn its 1973 ruling upholding the constitutional right to choice.

Between 80,000 and 125,000 people marched and demonstrated for free choice on abortion on March 9 in Washington. The March for Women's Lives was sponsored by the National Organization for Women. A similar march a week later drew more than 20,000 in Los Angeles. The Washington march for choice brought out far more people than the anti-choice march on January 22, which attracted only about 36,000, many of whom were parochial school students bussed in by their parishes. After the January rally, President Reagan met privately with 25 anti-choice leaders, two of whom, Paul Brown and Joseph Scheidler, asked Reagan to pardon people convicted of bombing health centers. The largest anti-choice rally held in Washington was in 1979, when 60,000 marched.

In other action, Cleveland federal judge Ann Aldrich in April struck down an Ohio law requiring physicians to notify parents of unmarried minors who seek abortions. Aldrich said the law violates the Fourteenth Amendment's "due process" clause. Utah federal judge J. Thomas Greene ruled in May that the state may not prohibit Medicaid reimbursements to agencies that do not comply with the state's parental consent law.

Police in Pensacola, FL, in March arrested six anti-choice protesters who stormed into an abortion clinic, injuring two women and damaging equipment. The clinic had been bombed twice in 1984. In Tucson, AZ, Rev. Edward Markley, a Catholic priest, was arrested for probation violation when he failed to obey a court order to pay \$2,400 restitution to a clinic he had damaged.

The Religious Coalition for Abortion Rights is calling attention to the nearly 3,000 "bogus clinics" operated by anti-choice volunteers and designed to appear as legitimate abortion or family planning clinics. Women are lured to the clinics with offers of free pregnancy tests. While waiting for the results for a half hour (the tests really take only three minutes), the women are shown anti-abortion films or slide shows and given anti-choice literature. RCAR charges that the bogus clinics use false advertising and deliberate misrepresentation.

Controversy is erupting over the placement of comprehensive health care and family planning clinics in public schools. There are about fifty such clinics in schools around the country. With teenage pregnancies in the U.S. running at about one million per year, twice the rate in Canada,

RESOURCES

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

Religion, the State and the Burger Court, by Leo Pfeffer. A comprehensive up-to-date examination of the whole range of church-state issues by the dean of constitutional authorities on religious liberty. An indispensable resource for layperson and lawyer alike. (\$22.95 plus \$2 for postage and handling.)

James Madison on Religious Liberty, edited by Robert S. Alley. (\$20.95 plus \$2 for postage and handling.)

Religion and the State: Essays in Honor of Leo Pfeffer, edited by James E. Wood, Jr. (39.95 plus \$2 for postage and handling.)

Our Right to Choose: Toward a New Ethic of Abortion, by Beverly Wildung Harrison. A brilliant treatment of our culture's attitudes toward women, religion, law, and medicine by a noted theologian. (\$9.95 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.)

A Delicate Balance: Church, State, and the Schools, by Martha M. McCarthy. A concise summary of Supreme Court and lower court rulings on religion in public education, government aid to religious schools, religious exemptions from public school curriculum, and governmental regulation of parochial schools. \$6 plus \$1 for postage and handling.

Science and Creationism. The National Academy of Sciences' statement on the important school controversy. \$4 plus \$1 for postage and handling.

Britain, and France, many authorities believe that the school clinics are necessary to reduce the teenage pregnancy and abortion rates. U.S. Education Secretary William Bennett and other "moral majoritarians" are opposed to the clinics. Bennett charged in April that the clinics would encourage teen sexual activity. Judith Senderowitz of the Center for Population Options, however, points out that the clinics "always encourage kids to delay sexual activity" and that experience has shown that in some schools clinics have cut the teen pregnancy rate by as much as 50%.

Cardinal John O'Connor, Catholic archbishop of New York, is threatening to cut off support for New York Medical College, the third largest private medical school in the country, if two municipal hospitals affiliated with the school do not quit providing their already low level of abortion services. The archdiocese's hold on the medical school comes from a \$10 million loan it made to the school in 1978. New York mayor Edward Koch and New York City Health and Hospitals Corporation Chair Victor Botnick are reported to affirm the city's policy that city hospitals will continue to provide abortions as a valid and needed medical service. If O'Connor withdraws the medical college connection with the two hospitals, other medical schools have expressed interest in taking over the affiliations with the hospitals.

New York Parochial Vans

Although the U.S. Supreme Court ruled in July 1985 that public school teachers could not be assigned to parochial schools under Chapter I of the Federal Elementary and Secondary Education Act, a federal district court in New York gave the city school board until September 1986 to comply with the ruling. About 85% of the eligible parochial students will be accommodated in public schools, but the New York City Board of Education plans to spend up to \$7 million to acquire and park 70 vans outside parochial schools to handle the remaining 15%. Lisa Thurau, executive director of the New York Committee for Public Education and Religious Liberty, said that the

MOVING?

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State of the Union

In his State of the Union message in February, President Reagan reiterated his support for outlawing freedom of conscience on abortion, urged Congress to pass his voucher plan for federal aid to sectarian private schools, and repeated his nonsensical notion that American children need a constitutional amendment to "restore" their "lost" right "to acknowledge God in their classrooms." The very next day he urged Congress to provide federal income tax credits to reimburse tuition at parochial schools, despite the horrendous budget deficit and a series of Supreme Court rulings against the plan.

What can we say? Here is a President who waves the flag while seeking to gut the First Amendment; who complains about taxes while urging that all Americans be taxed to support parochial and private schools over which they have no control; who claims that he wants to shrink government and get it off people's backs while insisting that government be empowered to force every woman to adhere to the sectarian doctrine of "ensoulment at conception" and to regiment children in daily devotions in public schools; who speaks of freedom while his administration applies what amounts to a religious test in selecting federal judges; who scorns our constitutional arrangement of separation of church and state by establishing formal diplomatic ties with one church; who projects a pious image and speaks warmly of family and church while pushing to have government usurp a significant part of the role of the family and religious institutions; who claims to be conservative while attacking Supreme Court rulings upholding basic constitutional rights.

Americans of all religious persuasions, Democrats and Republicans, liberals and conservatives and moderates, rich and poor and middle class, all need to take alarm, as Madison put it, at these experiments on our liberties. Popular or not, perceived as a nice guy or not, President Reagan is dead wrong, dangerously wrong on the main religious liberty issues. If he will not cease his efforts to undermine the principle of separation of church and state which is the indispensable foundation of our liberties, then Americans who do care about our essential freedoms will have to stand taller and declare—Enough is enough! ■

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Goldman's case, a yarmulke. In dissent, Justice Brennan said that "under the guise of neutrality and evenhandedness, majority religions are favored over distinctive minority faiths." Brennan added that "the Court and the military services have presented patriotic Orthodox Jews with a painful dilemma—the choice between fulfilling a religious obligation and serving their country."

On January 27 the Supreme Court ruled unanimously, in *Witters v. Washington Department of Services for the Blind*, that state financial aid for a blind divinity student would not violate the First Amendment. The case was referred back to the Washington State courts, where the state supreme court has already held that the aid would violate the "far stricter dictates" on church-state separation of the state constitution.

BOOKS, ETC.

Evolution versus Creationism: The Public Education Controversy, edited by J. Peter Zetterberg (Oryx Press, Phoenix, 516 pp., \$37.50), and *Crusade of the Credulous*, by William J. Bennetta (California Academy of Sciences Press, Golden Gate Park, San Francisco, CA 94118, 36 pp., \$2.00) are very useful treatments of the controversy over "moral majoritarian" attempts to get the fundamentalist doctrine of "creationism" into public school classes and evolution either out or sharply diluted.

The Zetterberg volume is comprehensive and thorough. While it allows leading creationists to present their case, such as it is, most of the book is devoted to excellent analyses of and responses to that movement. The book also contains the texts of the Louisiana "creationism" law, which the Supreme Court agreed in May to review, and of the landmark 1982 federal district court ruling against the Arkansas "creationism" law.

Bennetta's small book, both concise and comprehensive, is equally valuable. Bennetta makes the point that while "creationism" is not intellectually respectable and so far has been losing in the courts, it has nonetheless succeeded in getting evolution purged from or attenuated in public school textbooks and in reducing much science teaching to mediocrity. The author makes clear that merely defeating creationist laws in court is not enough; the battle needs to be won in each school district and each publishing house.

Abortion: The New Militancy, by Rochelle Sharpe (Gannett News Service, 20 pp.), *Six Ethical Questions*, by John M. Swomley (Religious Coalition for Abortion Rights, 12 pp.), and *A Theological Response to Fundamentalism on the Abortion Issue*, by Paul D. Simmons (Religious Coalition for Abortion Rights, 20 pp.) are all worthy contributions to the pro-choice literature. Sharpe's piece is a collection of her journalistic coverage of the terrorism and harassment directed at abortion clinics (which generally provide pregnancy testing, counseling, and other services) and their patients and staffs. The pamphlet by Swomley, president of ARL and professor of Christian Social Ethics at the St. Paul School of Theology, is the text of an address in defense of abortion rights which he made at an anti-choice conference in Florida in 1984. Simmons, professor of Christian Ethics at the Southern Baptist Theological Seminary in Louisville, shows that the fundamentalist anti-abortion stance "lacks a strong theological base" and therefore leads them to resort to heavy-handed "political strategies to legislate their moralistic judgmentalism." The Sharpe, Swomley, and Simmons pieces are available from ARL for \$1 each to cover postage and handling.

ARL participated in *amicus* briefs in *Bender* and *Witters*.

In other action, the Supreme Court has heard argument in *Ohio Civil Rights Commission v. Dayton Christian School*. The case pits Ohio's law against sex discrimination against a private school's religious teaching that mothers of young children should not work outside the home. The Court has also agreed to decide whether Connecticut school officials must accommodate a teacher's religious beliefs to the extent of granting him more religious holidays than other employees receive. ■

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Religion and Public Education**

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school board's plan would cost about \$2,400 for each parochial student served, a figure far higher than the average for public school students. Actually, the parochial students can be served only by taking funds away from eligible children in public schools.

School Prayer

The New Jersey legislature decided in April not to appeal to the Supreme Court its law setting aside a daily moment of silence in public schools. The lower federal courts had ruled the law unconstitutional. One reason for not appealing was that the suit had already cost the state at least \$230,000. The silence law had been challenged by the ACLU of New Jersey.

In other action, officials of Christian and Jewish bodies sent a letter to the U.S. Senate in March urging defeat of a proposed amendment to the U.S. Constitution to authorize "group silent prayer" in public schools. The statement, signed by representatives of the Lutheran Council, the Presbyterian Church in the U.S.A., the Episcopal Church, the American Baptist Churches, the United Methodist Women's Division, the Church of the Brethren, the Synagogue Council of America, and the Union of American Hebrew Congregations, condemned the amendment, proposed by Sen. Orrin Hatch (R-UT) as an attempt to get "government to usurp the role of home, church and synagogue."

In North Carolina more than one-third of local school districts have not decided whether to implement a 1985 state law which authorizes a daily moment of silence. In Alabama, meanwhile, the legislature is considering a bill to provide a daily minute of silence for "voluntary silent prayer or voluntary silent meditation," and another to authorize reading in the classroom of the prayers used to open each session of Congress. An earlier Alabama moment of silence law was ruled unconstitutional by the Supreme Court in 1985.

Con-Con

The Kentucky legislature on March 11 defeated an attempt to make that state the thirty-third to pass a resolution calling for a national constitutional convention ostensibly for the single purpose of adding a balanced budget amendment to the Constitution. The West Virginia legislature defeated the resolution earlier, as did the Michigan legislature last November.

On March 25 the U.S. Senate defeated a balanced budget amendment by a single vote, following which White House spokesman Larry Speakes indicated that President Reagan may campaign to get two more state legislatures (34 state resolutions are needed) to pass constitutional convention calls. Speakes did not explain why Reagan had never submitted a balanced budget to Congress so that it and the country could see what one looks like.

Support for a convention appears to be diminishing. According to a recent Roper poll, a convention is opposed by Americans 37% to 33%, with 30% undecided, down from 43% to 35% in favor in 1979.

Following Speakes' remarks, both the moderately liberal *Washington Post* and the ultraconservative *Washington Times* agreed editorially

that a convention, the first since 1787, would be a Pandora's box. Constitutional experts generally agree that, once called by Congress at the request of 34 state legislatures, the convention could revise and seriously weaken the Constitution and Bill of Rights. Radical Right and sectarian pressure groups would try to get the convention to outlaw abortion, institute government regimented prayer in public schools, and end the constitutional prohibition against tax aid for sectarian schools.

Holy See Ambassador OK'd

ARL executive director Edd Doerr and other individual and organizational plaintiffs have no standing in court to challenge President Reagan's establishment of diplomatic relations with the Holy See (relations are with the headquarters of the Roman Catholic Church, qua church, and not with the sovereign microstate, Vatican City), according to a March 21 ruling by the Third U.S. Court of Appeals in Philadelphia. The court also held that the President is immune to First Amendment challenge in the conduct of international affairs. The ruling is being appealed to the Supreme Court.

Meanwhile, it was disclosed in March that the U.S. ambassador to the Holy See, William Wilson, met secretly with Libyan officials in January without the knowledge or approval of the White House or State Department. Secretary of State George Shultz reprimanded Wilson but took no further action because of Wilson's close personal relationship with President Reagan.

Bishops Cited for Contempt

New York federal court judge Robert Carter ruled May 9 that the National Conference of Catholic Bishops and the U.S. Catholic Conference are in contempt of court for refusing to submit documents in a suit against the Internal Revenue Service seeking a cutoff of the bishops' federal tax exemption. The suit, brought by the Abortion Rights Mobilization (ARM) and twenty other pro-choice groups, asks the Treasury Department to end the bishops' tax exemption on the ground that the Internal Revenue Code does not allow organizations to retain tax exempt status if they engage in significant amounts of political activity. The suit charges that the bishops violated IRS guidelines through extensive abortion-related partisan political activity.

Judge Carter, holding that the bishops' conference and its action arm, the U.S. Catholic Conference, "have willfully misled the court and the plaintiffs and have made a travesty of the court process," ordered the organization to pay a daily \$50,000 fine until the records are submitted and to pay the plaintiffs' costs. The fines are stayed pending appeal.

Americans for Religious Liberty

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