



VOICE OF REASON

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Child Care Bill Raises Church-State Issues

Rising demand for federally aided day care for preschool children and for students up to age 15 has led to introduction in Congress of the Act for Better Child Care Services. Introduced in the Senate by Sen. Christopher Dodd as S. 1885 and the House by Rep. Dale Kildee as H.R. 3660, the ABC bill would spend about \$2.5 billion per year to start. The program would fund child care through a mixture of grants to public and private institutions and vouchers ("certificates") to parents for the purchase of child care services.

Anticipating church-state legal problems, Section 19 of the bill provides that no funds may be spent for "sectarian purposes or activities," that federal funds may not be spent for care in religious institutions "unless all religious symbols and artifacts are covered or have been removed," and that a private institution accepting vouchers would be forbidden to discriminate against any child on the basis of "race, color, national origin, sex, religion, or handicap."

Because about 50 percent of non-home child care services occurs in religious institutions, a number of religious organizations are demanding removal of the Section 19 provisions that child care be carried out in a secular or religiously neutral setting. Some fundamentalist extremists have called Section 19 "anti-religious," even though without it federal funds could be used directly, and unconstitutionally, for religious instruction.

But even if Section 19 is left in the bill, serious church-state problems remain, according to an analysis of the bill by ACLU church-state specialist Barry Lynn, a member of the ARL advisory board. The following are excerpts from Lynn's report analyzing the bill.

"First, the limitations on the advancement of religion set forth in the bill do not represent a sufficient basis for avoiding problems under the Establishment Clause. Second, institutions receiving funds may not be capable of 'self-policing' activities which could run afoul of the Establishment Clause. Third, the level of surveillance of religious institutions required under this legislation is inappropriate and would represent excessive governmental entanglement with religion. . . .

"... a great percentage of the intended beneficiaries of this bill are in fact religious organizations or parents who would receive 'child care certificates' to pay for services in institutions operated by religious organizations. . . . Congress should consider the practical effect of a funding proposal which can be reasonably expected to primarily benefit religious institutions. Where alternatives exist, as is clearly the case here, they should be preferred to avoid Establishment Clause problems."

Lynn shows that, because "child care has a significant, if not overwhelming, educational component," the ABC bill's direct or indirect aid to religious schools would violate the Supreme Court's principal rulings in the parochial cases.

"Notwithstanding a sizeable and wholly legitimate state interest in providing safe child care facilities for young children, these bills

also have as a 'primary effect' the advancement of religion. A very sizeable percentage of these funds would go to 'an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission.'

"It is hard to imagine a child care program in a religious setting where there would not be either an intentional or inadvertent inculcation of religious tenets or beliefs. How can one expect to have three year olds, in child care, on one floor of a Presbyterian or Roman Catholic Church not be aware of, and quite likely influenced by, overtly religious activity occurring around them on other floors. They will see religious symbols on the edifice itself, will hear religious music through the walls and may routinely encounter persons in religious garb in the hallways or play area. This cannot help but reinforce the character of what is going on as sectarian. As one commentator noted, 'a pervasive [religious] atmosphere makes on the young student's mind a lasting imprint that the holy and transcendental should be central to all facets of life.' . . . [t]he symbolism of a union between church and state is most likely to influence children of tender years, whose experience is limited and whose beliefs consequently are the function of environment as much as free and voluntary choice.' [U.S. Supreme Court in 1985 in *Grand Rapids School District v. Ball*]

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The Williamsburg Charter: Fatally Flawed

Too few Americans, unfortunately, understand and appreciate our constitutional heritage of religious liberty. Many people were heartened when the Williamsburg Charter Foundation, founded in late 1986, announced that it was developing a "charter" to "forge a new consensus on the place of religion in public life," and "to celebrate the genius and wisdom of the First Amendment Religious Clauses, to reaffirm religious liberty for citizens of all faiths, to chart the principles and pitfalls of the relationship of religion and public life, to help sustain a constructive understanding of these issues in our time."

After more than a year of drafting and redrafting, the Williamsburg Charter has been completed and is to be signed with great fanfare in Williamsburg, Virginia, on June 25. Among the diverse group of signers are Chief Justice William Rehnquist, former presidents Ford and Carter, several conservative members of Congress, and a number of religious, civic, and business leaders. Absent from the charter are the names of the most prominent church-state separationists.

While the charter, which runs to over 6,000 words, contains some lofty ideas with which nearly everyone could agree, it is also

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"On the other hand, it does not require a conspiratorial mindset to envision actions by a child care provider to be influenced by the environment in which the care is given. As the [Supreme] Court noted in *Wolman v. Walter*, the danger is not deliberate action 'but rather because the pressure of the environment might alter his behavior from its normal course.' Indeed, in *Lemon* the [Supreme] Court distinguished a textbook content which was 'ascertainable' from a counselor's handling of a subject which was not facially ascertainable: 'We cannot ignore the danger that a [counselor] under religious control and discipline poses to the separation of the religious from the purely secular . . . ' The conflict is present where a religious institution hires and controls a child care employee. To act in accord with religious precepts is likely to be accurately perceived as a prerequisite to continued employment, even though any overt religious conduct would be 'sectarian' under the statute.

"As the Supreme Court noted in *Grand Rapids*, . . . it is forbidden for a program to 'provide a crucial symbolic link between government and religion, thereby enlisting, at least in the eyes of youngsters, the powers of government to the support of the religious denomination that provides such services.' These extremely young and impressionable children can hardly be expected to know that there is a difference between the government and the religious institution, faced with the overwhelming overt evidence of their connection.

"The 'advancement' of religion, however, goes beyond the subtle environmental pressures discussed above. If a religious institution is now engaged, without federal funding, in child care because it views such work as a part of its religious mission, how can it be anything but an 'advancement' of that mission to have that mission now funded with new federal dollars. To the extent that these funds relieve the institution of its self-perceived 'religious duty' to manage child care without federal funds, it makes the 'duty' that much easier to manage by being tax-supported.

"For the government to be sure that sectarian influence is not present in the child care program would involve government

officials in an ongoing and continual governmental monitoring with religious institutions. This is forbidden by the Establishment Clause. One glance by a federal official at a child care facility will not be sufficient to determine if sectarian activity is occurring."

"The constitutional problems here are present both in regard to grants and so-called 'child care certificates.' The certificates are as constitutionally defective as the tuition reimbursements for religious schools in *Sloan v. Lemon* (1973) and *Committee for Public Education v. Nyquist* (1973). That the funding goes to parents and not necessarily directly to the child care facilities is irrelevant.

"It is also clear that there are great pressures on Congress to eliminate the modest protections against sectarian [promotion] which are now present in the bill. Removal of these strictures now would effectively foreclose any regulatory interpretation of any general prohibition as to include specific limitations like not having child care occur in rooms including religious symbols or not allowing staff who 'teach' part-time in a religious school to also engage in part-time child care. Indeed, it would invite religious institutions to be even less careful about indoctrination."

The use of vouchers or "certificates" for child care services would also tend to lead toward adoption of vouchers for the support of sectarian elementary and secondary education.

Organizations interested in maintaining church-state separation are urging their members to contact their members of the Senate and House to insist on removal of denominational child care facilities from the Child Care bill.

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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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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Religion and Politics

Although the Rev. Pat Robertson's presidential campaign has ignominiously fizzled out, at least for 1988, we have not seen the last of the injection of religion into politics this year.

Pressures are being brought to bear on both major parties to adopt platform planks favoring the outlawing of freedom of conscience on abortion, use of tax funds to aid sectarian private schools, and government sponsorship and regimentation of student prayer in public schools. It is likely that the Republican Party will adopt such planks, as it did in 1980 and 1984, and just as likely that the Democrats will not. But we won't know until the party conventions.

Meanwhile, a particularly nasty religious attack on probable Democratic candidate Michael Dukakis has surfaced.

One Dimitrios Iatreidis, a.k.a. James George Jatras, an employee of Sen. William Armstrong (R-CO) on the Senate Republican Policy Committee, has circulated an "open letter" widely among conservatives and Greek-Americans attacking Dukakis. The 10-page letter demands that Dukakis "announce, publicly and categorically, that you are an apostate from the Orthodox Christian faith and a pagan, having by your own word and deed demanded that your name be stricken from the Book of Life." Iatreidis/Jatras calls upon Greek Orthodox clergy and laity to "pronounce this man Michael *anathema*" and to regard him as "a traitor and a renegade, an outcast, a member of the foul tribe of Cain and Judas." Iatreidis/Jatras is worked up because Dukakis married his Jewish wife outside the Orthodox Church and is pro-choice on abortion.

The smear has been spread by syndicated columnists Rowland Evans and Robert Novak, *Washington Times* (connected to Rev. Moon's Unification Church) columnist Lawrence Uzzell, *Wanderer* (extreme conservative Catholic weekly) columnist Frank Morris, *Human Events*, and William Buckley protege columnist Joseph Sobran.

In a letter in the *Washington Post* on June 4 Iatreidis/Jatras claimed that an Orthodox bishop in Europe, Bishop Kallistos of Diokleia (a.k.a. Timothy Ware, an Oxford professor of church historian), supports his view that Dukakis "has no right to present himself to the American public as a member of the Orthodox Church."

However, Archbishop Iakovos, head of the two-million member Greek Orthodox communion in the U.S., has denounced the attack on Dukakis as "extremely unjustified." Iakovos told Associated Press correspondent George Cornell in June that Dukakis "is a member of the church, was baptized in it, and he has never left it. . . . He has embraced it all these years. . . . Many times, he has said I was his spiritual father."

We hope that Republican presidential hopeful George Bush will condemn the Iatreidis/Jatras smear. Respect for the constitutional principle of separation of church and state should characterize both parties, their platforms, and their campaigns.

Pot and Kettle

While the Soviet Union certainly has a great deal of room for improvement in the way it deals with religion, President Reagan is hardly the right person to lecture anyone on the subject, as he did during his recent trip to Moscow. It was a case

of the pot lecturing the kettle about its blackness.

Mr. Reagan and his administration have strongly advocated policies inimical to religious liberty and to the constitutional principle of separation of church and state, which our country pioneered to defend that liberty.

Mr. Reagan and the Reaganauts have long advocated having government bureaucrats regiment religious devotions in public schools, taxing all Americans for the support of sectarian private schools which are not under any meaningful public control ("taxation without representation"), and denying women freedom of conscience on abortion.

In actual practice Mr. Reagan and his crew have shifted the federal judiciary away from church-state separation. They have done everything possible to align U.S. government policy with the anti-choice, anti-contraception views of the Vatican. They have shown their contempt for the First Amendment by granting actual diplomatic recognition to one church, thus favoring it and disfavoring all other persons and groups.

Mr. Reagan has personally expressed support for the teaching of fundamentalist "creationism" in public schools, which some have analogized to Stalin's support for Lysenkoist biology in the USSR, and certainly presented a poor role model image with his and his wife's dabbling with astrology.

It is a tribute to our system that religious liberty in our country has suffered as little damage as it has during the 1980s.

Doerr Book Covers Church-State Issues

Americans for Religious Liberty executive director Edd Doerr's new book, *Religious Liberty in Crisis*, is a succinct, readable introduction to today's major church-state controversies. Following an introductory chapter defining religious liberty, Doerr explains the controversies over tax aid for sectarian private schools, religion in public education, abortion rights, U.S. diplomatic recognition of the Catholic Church, and the proposed national constitutional convention.

Throughout the book the author upholds the strict separation of church and state position espoused by Americans for Religious Liberty since its foundation. The book also contains an article on anti-Catholicism, reprinted from *USA Today*, with insights seldom articulated elsewhere.

The book's clear, non-technical presentation makes it suitable for use in high school or university classes, religious education programs, and for the general reader who wants a brief introduction to a thorny but neglected subject. Indeed, there is no other short introduction to the subject on the market today from the separationist point of view. It contains a short bibliography and a five page list of the principal U.S. Supreme Court rulings on church-state and freedom of conscience issues.

Doerr, in addition to being executive director of ARL, is a member of the American Civil Liberties Union's church-state committee and serves on the boards of the ACLU of Maryland, the Religious Coalition for Abortion Rights, and the National Coalition for Public Education and Religious Liberty. He is also a former editor of *Church & State* magazine, a former teacher (history, government, Spanish, English), and author of four other books, including a recently published collection of short stories, *A Hitch in Time and Other Tales* (Rocinante Press, \$5.95, may be ordered from the author through ARL).

Religious Liberty in Crisis is available from Americans for Religious Liberty, P.O. Box 6656, Silver Spring, MD 20906 (\$5.95 paperback, plus \$1.50 for postage and handling; quantity prices on request.)

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excessively vague and ambiguous, and, upon close examination, is seen to contain some not too subtle attacks on the constitutional principle of separation of church and state and its defenders. This is not surprising, since the principal drafters included a disproportionately large number of people known to be unfriendly to church-state separation, and the leading experts on separation seem to have been excluded.

ARL president John M. Swomley and ARL executive director Edd Doerr have analyzed the charter carefully and concur that it is seriously flawed.

It lacks a clear endorsement of the constitutional principle of separation of church and state. The phrase itself was only inserted in the charter at the last minute at the insistence of Swomley, Doerr, and other separationists, and then only rather clumsily and half-heartedly near the end. Indeed, charter implies that strict separationists are "extremists." (The Foundation's attitude was revealed in an opinion poll it released in February: one question asked, do you think "the ACLU files too many lawsuits regarding religion?" which is analogous to asking if the fire department responds to too many alarms.)

The charter seems to endorse the "moral majoritarian" view that "constitutional jurisprudence has tended . . . to move toward a *de facto* semi-establishment of a wholly secular understanding of the origin, nature, and destiny of humankind and of the American nation." It then makes the astonishing claim that some undefined "secularist" movement now treats all Christians the way Protestants treated Catholics during the nineteenth century. No evidence for this claim is presented.

The charter does not mention public education except for a single reference to "state-supported education," a buzzword used almost exclusively by opponents of public education and advocates of tax support for sectarian private education. It ducks the question of tax aid to religious institutions by using the word "preferment," thus shifting the church-state debate away from government aid to church schools, hospitals, charities, and social services, as if such aid had nothing to do with religious liberty.

It gives equal attention to, and therefore validates, government accommodation to religion, and church-state separation as though the First Amendment and Supreme Court rulings are up for grabs.

The charter intimates that "naturalistic philosophies" are somehow unfriendly to religious liberty, when in fact persons holding "naturalistic philosophies" have long been the strongest advocates of religious liberty and freedom of conscience. It ignores the fact that some traditional religious forces have been and in some cases still are in varying degrees hostile to religious liberty and church-state separation. It ignores the fact that the Hindu-Muslim riots in India, the Catholic-Protestant mess in Northern Ireland, the Turk-Armenian conflict, anti-Jewish pogroms, and European religious wars did not involve "secularists."

The vaunted Williamsburg Charter, then, is a seriously flawed document. Its signing by a group of largely well meaning but naive organizational leaders, though not by very many church-state separationists, could well be used as a propaganda tool by people and groups dedicated to undermining separation.

In addition to the charter, the Williamsburg Charter Foundation sponsored a conference in mid-April at the University of Virginia, which revealed a lot about the Foundation's attitudes. While a few of the speakers (Robert S. Alley, William Lee Miller, Samuel Rabinove) supported church-state separation, most of the speakers were either not on point or were hostile to

Sewall Wright

Sewall Wright, a member of the ARL National Advisory Board and the country's leading evolutionary theorist, died in Madison, WI, in March at 98 as a result of complications from a fall. Dr. Wright, a geneticist known for his pioneering studies of genetic changes in evolving species, was best known for mathematical formulations he developed to illustrate and prove the theories of Darwin and Mendel. He taught at the University of Chicago from 1924 to 1954 and then joined the faculty of the University of Wisconsin.

separation.

The first speaker, Canadian political science professor Charles Taylor, showed little understanding of the First Amendment and was critical of the U.S. institution of judicial review. (ARL's Doerr responded that the Canadian Supreme court has now adopted the principle of judicial review.) Harvard government professor Michael Sandel said that a Supreme Court concerned to avoid "social discord" would have decided the 1960s prayer cases differently.

Federal judge John T. Noonan avoided discussing church-state cases, while Emory University law professor Harold Berman showed a disturbing unfamiliarity with public education. Theologian George Weigel took the line of the Catholic bishops and moral majoritarians that since 1947 the Supreme Court has promoted "secularism." Weigel also labelled sectarian schools "public," a propaganda gimmick used to promote tax aid for parochial schools.

Herbert Titus, president of Pat Robertson's CBN University, attacked public education as "anti-Christian" and called for ending government support for schools, research, and the arts.

By far the least civil speaker was theologian Richard John Neuhaus, one of the charter's drafters, who attacked church-state separation, the Supreme Court's rulings against parochialism, freedom of conscience on abortion, and ARL adviser Leo Pfeffer, the country's most distinguished church-state expert. He echoed the Falwell-Bork view that "moral majorities" should have the right to override constitutional limits or government action.

ARL's Swomley, Doerr, Anne Lindsay, and Edward Ericson attended the University of Virginia conference, and Doerr on several occasions sought to influence the development of the charter, but the church-state "accommodationist" influences were too strong for separationists to have much success.

Whether the Williamsburg Charter Foundation's leaders, headed by British sociologist Os Guinness, are naive about the church-state arrangement in the U.S. or whether they are knowingly working to weaken church-state separation is not clear and not important. What is important is that their well publicized efforts could have the effect of undermining separation and religious liberty. This makes it clear that Americans for Religious Liberty and other defenders of church-state separation have a great deal of work to do.

MOVING?

Send both old and new addresses with both old and new zip codes, to ARL, Box 6656, Silver Spring, MD 20906.

ARL in Action

New Lawsuits

Since our last report, ARL has joined in *amicus curiae* briefs in four important cases involving censorship and abortion rights. Details below:

Virgil v. School Board of Columbia County, Florida. ARL joins with People for the American Way and more than 30 other *amici*, state departments of education and educational, civil liberties, and religious organizations, in asking the Eleventh Circuit U.S. Court of Appeals to overturn a lower federal court ruling which allowed a local school board to remove a textbook anthology, *The Humanities: Cultural Roots and Continuities*, from classroom use. The book is the sole textbook approved by the Florida Department of Education for use in upper secondary Humanities classes. The school board censorship action followed a complaint that the book contained two "offensive" selections, "The Miller's Tale" from Chaucer's *Canterbury Tales* and Aristophanes' *Lysistrata*. The *amici* argue that the lower court ruling upholding the censorship misread Supreme Court precedents.

Massachusetts v. Bowen is the challenge to the Reagan administration regulations which attempt to prohibit federally funded family planning programs from providing abortion information or referral and deny federal funding to family planning programs that do not maintain physical and financial separation from hospitals, clinics, or other facilities where abortion information or services are provided. The Reagan regulations, issued on January 29, were aimed at the 17-year-old Title X Public Health Service program, which provides about \$140 million annually to 4,000 family planning clinics serving 4.3 million women per year, 85% of them poor. When the regulations were challenged by the State of Massachusetts, the federal district court in Boston enjoined their enforcement. The Reagan administration appealed. ARL has joined in an *amicus curiae* brief with the National Organization for Women Legal Defense and Education Fund, the National Abortion Rights Action League, and other groups in urging the First Circuit U.S. Court of Appeals to uphold the lower court ruling on the grounds that the regulations distort information given to family planning patients in order to unduly influence decisions regarding abortion, require physicians to violate ethical and legal standards for care, violate the intent of Congress to provide comprehensive health care to low income women, and arbitrarily impair access to reproductive health care.

In *Northeast Women's Center v. McMonagle* a lower federal court in Philadelphia found that a campaign of violence and harassment by defendants McMonagle et al. against the Women's Center constituted "an unlawful criminal enterprise" in violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO). Yet the court declined to provide adequate injunctive relief for the Center. ARL has joined with the National Abortion Rights Action League, the National Abortion Federation, and 30 women's, civil liberties, and reproductive rights groups in an *amicus curiae* brief asking the Third Circuit U.S. Court of Appeals to provide adequate injunctive relief in order to protect women exercising their constitutional right to freedom of conscience on abortion from violence and intimidation. The brief notes that the actions of the anti-choice agitators have regularly endangered women's health and sometimes their lives.

In *the Matter of Unborn Child "H"* is an Indiana case in which a state circuit court judge ordered a young woman not to terminate a pregnancy on the ground that the putative father has a constitutional interest in having the pregnancy come to term.

ARL has joined with the National Organization for Women Legal Defense and Education Fund and two dozen women's, reproductive rights, civil liberties, and religious groups in an *amicus curiae* brief asking a state appellate court to reverse the lower court ruling on the ground that it is inconsistent with the Supreme Court decision upholding a woman's constitutional right to freedom of conscience on abortion.

Swomley, Doerr Active

ARL president John M. Swomley received the American Association of University Women Thorpe Menn Book Award in April for the best book of 1987 (his *Religious Liberty and the Secular State*) by a Greater Kansas City area author.

Swomley has also been active in fighting censorship in the Kansas City area. He led a campaign to stop censorship of the Ku Klux Klan on TV, and then marched in a Black United Front parade, carrying an ACLU banner, protesting against the Klan and against apartheid in South Africa. Swomley articles on pornography and censorship have appeared recently in *Christian Century* magazine and the *St. Louis Journalism Review*. He has recently lectured at Wright State University in Dayton, Ohio, at Kansas State University, and at Kansas City (Kansas) Community College, and has spoken at Friends, Unitarian Universalist, Methodist, Brethren, and Lutheran churches and conferences in Iowa, Ohio, Missouri, and Kansas. In addition to being president of Americans for Religious Liberty, Swomley is chair of the ACLU national church-state committee, a member of the ACLU national executive committee, and professor emeritus of ethics at St. Paul School of Theology, a United Methodist seminary.

Since our last newsletter ARL executive director Edd Doerr has lectured at American University in Washington, D.C., Dundalk College in Baltimore, George Mason University in Virginia, and the University of Maryland; spoken at ACLU meetings in St. Charles, Ill., and Gary, Ind.; spoken at conferences and church services in Pennsylvania, Maryland, New Jersey, Washington, D.C., Texas, California, and Virginia; and appeared as a guest on radio stations WHIO, WVUD, and WKRC in Dayton, Ohio, KNON and KERA in Dallas, Texas, KUVU in Denver, Colo., and WAOI in San Antonio, Texas.

Doerr's new book, *Religious Liberty in Crisis*, was released in June (see review).

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ARL's Gjemre in USSR

ARL treasurer Ken Gjemre, a U.S. army veteran of the meeting of U.S. and Soviet troops at the Elbe River in 1945, was in Moscow for the Reagan-Gorbachev summit meeting. When a Soviet general proposed the building of a Soviet-American monument to the war dead, at the veterans' news conference on May 29, Gjemre said he doubted that the proposal would have much support in the U.S. Said Gjemre: "We Americans have a different attitude to war than you Soviets. We tend to forget unpleasant things. We think we should look forward, not back to the past. We need to avoid glorifying war of any kind." He added that the money would be better spent fighting famine in Africa.

Update

Con-Con Set Back

Alabama and Florida, in April and May, became the first states to withdraw their calls for a national constitutional convention, which would be the first since 1787. Congress would have to call a convention if two-thirds (34) of the state legislatures pass resolutions requesting one. Before the Alabama and Florida actions, 32 states had passed the resolutions, most of them without serious debate. Critics of the Con-Con calls have pointed out that a new convention could undermine church-state separation and other provisions of the Bill of Rights.

Parochiaid

Reagan administration efforts to derail two lawsuits against federal aid to sectarian private schools failed in April. On April 6, New York federal judge Edward Sand rejected the administration's request to deny standing to sue to the plaintiffs in *Lamont v. Shultz* (plaintiffs in the ACLU suit include Americans for Religious Liberty and five ARL officers and members). On April 8, New York federal judge Joseph McLaughlin turned down the administration's similar request in *PEARL v. Secretary of Education*, a suit challenging the provision of Chapter I federal aid to parochial school students in special mobile units parked adjacent to parochial schools. The mobile unit gimmick was adopted after PEARL won a Supreme Court ruling in 1985 in *Aguilar v. Felton* that public school teachers could not be assigned to work in parochial schools. ARL is involved in the current PEARL suit as a member organization in the New York Committee for Public Education and Religious Liberty.

Lisa Thureau, former executive secretary of New York PEARL, reports a preliminary finding in her analysis of leases the New York City Board of Education enters into with religious institutions and commercial landlords: the Board pays more per square foot to religious institutions than to commercial landlords for space and for custodial services.

Sectarian special interests in Colorado are trying to petition onto the ballot in November a proposal to provide \$1600 per year

per student to parochial and private schools under a voucher plan.

U.S. Education Secretary William J. Bennett, long an advocate of tax aid for sectarian schools, has now recommended that Catholic schools take in and educate the "worst" students in every community and then seek public funding. Bennett made his proposal to a National Catholic Educational Association conference in April.

At the same NCEA conference, however, pollster George Gallup (See "Gallup's Goofs," ARL newsletter No. 24) warned Catholic organizations that by lobbying for tax aid they risked alienating the three out of four Catholic parents who have their children in public schools.

Religion in Public Schools

The American Civil Liberties Union of Tennessee has filed two lawsuits in federal courts challenging the practice in Carter and Claiborne County public schools of permitting CBM Ministries, Inc., to conduct Bible teaching, Bible reading, group prayer, and proselytizing for fundamentalist Protestantism. The suits, *Harrell v. Claiborne County Board of Education* and *Smith v. CBM Ministries* charge that the unconstitutional practices have been conducted by persons known in the communities as "Bible ladies."

Seattle federal district court judge Walter McGovern has upheld the Renton, Wash., school board's refusal to allow a student religious group to meet in school. Although attorneys for the student group argued that the 1984 federal Equal Access legislation came down on their side, Judge McGovern held that the federal law did not override the prohibitions of the state constitution. McGovern said that the operation of the religious club on school premises "would appear to create an impermissible atmosphere of religious partisanship."

Omaha federal judge C. Arlen Beam denied a group of students at Westside High School the right to have a Bible study group in school during non-instructional time. Beam based his ruling on a Supreme Court precedent affirming a school's right to censor a school newspaper. The ruling will be appealed.

Pennsylvania federal judge Sylvia Rambo has ordered Antietam

Resources

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

Religious Liberty and the Secular State, by ARL president John M. Swomley. A clearheaded, authoritative response to the Rehnquist and other revisionist attempts to discredit church-state separation. (\$15.95 hardcover, \$10.95 paperback, plus \$1.50 postage and handling.)

Religious Liberty in Crisis, by Edd Doerr. A useful, non-technical introduction to the major church-state controversies in the U.S. today, by ARL's executive director. (\$5.95 plus \$1.50 for postage and handling.)

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.

Madison's own writings plus authoritative essays analyzing their importance. (\$20.95 plus \$2 for postage and handling.)

Religion and the State, edited by James E. Wood, Jr. A 596-page treasury of essays on every aspect of religious freedom, published as a tribute to Leo Pfeffer, dean of church-state constitutional lawyers. (\$35, plus \$2 for postage and handling.)

Crusade of the Credulous, by William J. Bennetta. A collection of articles about "creationism" and the effects of that fundamentalist movement on public education. (\$2 plus \$1 postage and handling.)

Public Funds and Private Schools, by ARL executive director Edd Doerr (50¢ each, 10 for \$4.00. Postage and handling included.)

Does Religion Belong in Our Public Schools? Reprint of Edd Doerr's September 1987 *USA Today* article on school prayer, "creationism," "secular humanism," censorship, "equal access," missionaries in public schools. (50¢ each, 10 for \$4.00. Postage and handling included.)

Junior High School in Waynesboro to allow students to hand out a religious magazine published by Student Action for Christ.

Petra, a hard-rock "Christian" band, has started a campaign to gather one million signatures on petitions to Congress in favor of a school prayer amendment.

The Assemblies of God church held a conference in Minneapolis in April to develop techniques for "invading" public schools for the purpose of proselytizing.

Lancaster, Wisc., parents have objected to the Gideons passing out Bibles in local public schools, a practice which has been ruled unconstitutional in a number of states.

Evangelist Jerry Johnston (see ARL newsletter No. 18) has lectured in 40 Atlanta area public schools in the past few years. His technique is to speak at school assemblies on drug and alcohol abuse, and then invite students to a "pizza bash" which turns out to be a revival service.

Abortion Rights

Federal courts in Massachusetts and Colorado have blocked implementation of Reagan administration regulations intended to prevent family planning clinics receiving federal funds from providing women with information about abortions. About \$140 million in federal funds under Title X of the Public Health Service Act go to more than 4,000 family planning clinics serving 4.3 million women annually, 85 percent of whom are poor. ARL has joined with other organizations in defending the Massachusetts ruling which is being appealed by the Reagan administration. (See ARL in Action column.)

In May the U.S. Supreme Court let stand an appeals court ruling that pregnant prison inmates have an Eighth Amendment right to free abortions if they cannot pay for them. In the New Jersey case, the appeals court said that denial of such services would amount to a "deliberate indifference to a serious medical need."

The California Supreme Court (with a 5-2 majority appointed by conservative Gov. George Deukmejian) refused in May to allow the state legislature to cut Medi-Cal payments for abortions for poor women. It was the tenth straight annual defeat that the state courts have handed down overturning legislative attempts to eliminate most funding of abortions for poor women.

On January 22, though the matter got little publicity, President

Letter

From time to time church-state issues arise in the Washington Metropolitan area—some purely local, others of wider importance. I think that it would be useful to have a local ARL group in this area, prepared to respond to such issues as the teaching of creationism in public schools, the use of public funds to celebrate religious holidays, and the like. If we could find enough people to form a local ARL affiliate, that would be fine. But even a small group—simply a committee that could be alert to such developments and occasionally take action—would be useful. Are there other readers or contributors who might be interested? If so, I'd like to hear from them. Please write to me c/o Voice of Reason, Box 6656, Silver Spring, MD 20906.

Stanley K. Bigman
Chevy Chase, MD

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Reagan issued a proclamation setting up "Sanctity of Human Life Sunday." At the end of the proclamation Reagan declared: "I, Ronald Reagan, President of the United States by virtue of the authority vested in me by the Constitution and laws of the United States, *do hereby proclaim and declare the unalienable personhood of every American from the moment of conception . . .*" Observers wonder how Reagan thinks he is authorized as president to make religious, philosophical, or scientific judgments.

Two Roman Catholic nuns, Sisters Barbara Ferraro and Patricia Hussey, were told by their order, the Sisters of Notre Dame de Namur, that they would not be dismissed. Ferraro and Hussey were among 24 nuns who signed a *New York Times* ad in 1984 asserting that opposition to abortion is not "the only legitimate Catholic position." The Vatican directed the women's 14 different orders to compel the nuns to recant or dismiss them.

More than 1,000 anti-choice agitators converged on the New York City area in early May to harass abortion clinics and patients. The protesters came from 35 states. Most notable among them was Joseph Scheidler, who has made a career of trying to shut down clinics. Police made 1,664 arrests of demonstrators between May 2 and 6. Among those arrested was Bishop Austin Vaughan, an auxiliary bishop to New York's Cardinal John O'Connor. However, Nassau County district attorney Denis Dillon refused to prosecute the hundreds of demonstrators arrested in his jurisdiction.

In Washington, D.C., meanwhile, anti-choice activist Christy Anne Collins was sentenced to 120 days in jail. She was sentenced because of numerous previous arrests for the same offense and because she had violated probation from an earlier unlawful entry conviction.

In Florida, anti-choice activist John Brockhoeft faces federal charges that could get him 30 years in prison. Bureau of Alcohol, Tobacco and Firearms agents arrested him in May for possessing and transporting explosives to blow up the Ladies Center, a women's health and abortion clinic in Pensacola. The Center had been bombed twice in 1984.

In February five shots were fired into a Boulder, Colo., abortion clinic that had been a target for anti-choice demonstrators.

Creationism Redux

Although the Supreme Court ruled in 1987 that the fundamentalist doctrine of "creationism" may not be taught in public

school science classes, and although scientists are virtually unanimous in accepting evolution and in rejecting "creationism," the problem is not yet behind us.

According to a report in the *May Current Anthropology*, a survey of 2,100 students on 40 college campuses showed that 38 percent believe that human life began in the "Garden of Eden," 45 percent believe that fossils come from animals that allegedly died during the biblical flood.

Michael Zimmerman of Oberlin College reports that 53 percent of Ohio school board presidents think "creation science" should be taught favorably in public schools, that a third of Ohio biology teachers were similarly inclined, and that 15 percent of the biology teachers teach creationism in a favorable light.

A 1985 survey by the American Association of School Administrators found that 42 percent of Southern schools and 30.3 percent of schools nationally had creationism taught along with evolution.

Meanwhile, Lennox, Ill., junior high teacher Ray Webster has filed suit against his school district, whose superintendent last fall ordered him to cease teaching creationism. Webster's attorneys argue that his "academic freedom" has been violated.

The Supreme Court ruled 5-3 in April that three Indian tribes in California have no constitutional right to block a planned U.S. Forest Service road near their sacred grounds. In the suit, *Lyng v. Northwest Indian Cemetery Protective Association*, the Yurok, Karok, and Tolowa Indians had argued that the road would interfere with the free exercise of their religion. The area had been used by the Indians since before it became part of the United States.

Miscellaneous

New Jersey federal district court judge Dickenson R. Debevoise ruled in May that the fees, estimated to be at least \$300,000, of the lawyers who successfully challenged the state's public school "silent prayer" law must be paid by the state. Last December 1 the Supreme Court declined to review a federal appeals court ruling against the state law.

Ten-year-old Duffey Strode was suspended from public school in Marion, N.C., for the fifth time in May for disruptive behavior and breaking school rules. It seems that Duffey, along with his younger siblings, had been preaching hellfire and damnation in the school yard when he was supposed to be in class. The boy's mini-sermons included calling teachers "whoremongers," "queers," "fornicators," and "adulterers."

An Escambia County (Florida) School District textbook storekeeper who favored teaching creationism and opposed sex education in public schools was arrested in May for showing nude photos of himself to children.

Clipping Service

We depend on our members and readers to send us clippings of news items, editorials, columns, and letters to editors, as commercial clipping services are prohibitively expensive.

When you see an item in a newspaper, magazine, or professional journal you feel is relevant, please cut it out (or photocopy it), indicate the date and source, and send it to ARL, Box 6656, Silver Spring, MD 20906.

ARL in Action, continued from page 5

ARL associate director Maury C. Abraham has left the staff to return to his graduate studies in philosophy in Boston. During his four years with ARL, Mr. Abraham organized a rally at the U.S. Capitol against President Reagan's school prayer amendment, represented ARL at numerous conferences and meetings, ran ARL's direct mail membership program, helped write this newsletter and prepare testimony for congressional hearings.

ARL joined a coalition of 33 civil rights, religious, educational, women's, labor, and other organizations in opposing Senate confirmation to the Ninth Circuit U.S. Court of Appeals of Reagan appointee Bernard Siegan. Among other things, Siegan doubts that the Fourteenth Amendment applies the First Amendment religious liberty clauses to state and local government, objects to a strong interpretation of the establishment clause ("not every establishment of religion is a violation of freedom"), and apparently opposes the *Roe v. Wade* ruling on abortion rights.

Americans for Religious Liberty

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