



# CONGRESSMAN'S REPORT

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## Do We Want Another Bible War?

A hundred years ago Protestant Christians and Catholic Christians fought each other in the courts -- and in the streets -- over the right of the State to compel Catholic school children to listen to readings from the King James Version of the Bible. In Massachusetts, Indiana, Iowa, Illinois, Ohio, Pennsylvania, Wisconsin and other states the use of public schools for religious instruction, usually described as "non-sectarian", was a bitter and divisive issue. In Maine a Jesuit priest was tarred and feathered. In Cincinnati the contending groups waged what came to be known as the "Cincinnati Bible War." There are those today who think we are headed for another such "Bible War." I hope they're wrong.

These old passions have been inflamed anew by two recent decisions of the U. S. Supreme Court:

\*\* In Engel v. Vitale, decided in June, 1962, the Supreme Court held that a State may not compose and prescribe a form of prayer to be recited daily in its public schools, even though students may be excused if their parents object. The Court held that this was a violation of the First Amendment, which says: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..." The prayer in question had been composed by the New York State Board of Regents and ordered recited in all public schools. The case was brought by parents who objected to this practice.

\*\* In Abington School District v. Schempp, decided in June, 1963, the Court held that the First Amendment forbids a State to require the Bible to be read and the Lord's Prayer to be recited each day in the public schools. The case was brought by parents of school children in Pennsylvania, where State law required that 10 Bible verses be read, without comment, in all school classrooms daily. Combined with this case was that of a Baltimore school boy and his mother, who objected to a local school board rule requiring Bible readings or recitation of the Lord's Prayer each day. In each case there was provision for children to be excused during these exercises if their parents objected.

On both occasions the Court spoke loud and clear with just one dissenting opinion. Speaking recently of these decisions, Arizona's Walter Craig, president of the American Bar Association, said they were "clearly predictable from prior opinion of the Court, and no other decision would have been consistent with the dictates of the First Amendment." Nevertheless, charges were made that the Court had "expelled God from school", and many conscientious citizens took the decisions as indication that the court was hostile to religion. "They went and put the Negroes in our schools," one Southern congressman said, "and now they've taken God out."

Out of this controversy has come a movement to amend the Constitution to permit such State-ordered exercises. Of about 160 resolutions introduced in Congress, nearly half contain the language of the "Becker Amendment," first introduced by Rep. Frank J. Becker of New York. Here is what the Becker Amendment says:

"Nothing in this Constitution shall be deemed to prohibit the offering, reading from, or listening to prayers or biblical Scriptures, if participation therein is on a voluntary basis, in any governmental or public school institution, or place.

"Nothing in this Constitution shall be deemed to prohibit making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place, or upon any coinage, currency, or obligation of the United States.

"Nothing in this article shall constitute an establishment of religion."

This Amendment, along with the other pending resolutions, is now the subject of lengthy hearings by the Judiciary Committee. Before it can become law it must 1) be reported favorably by the Committee, 2) pass the House of Representatives with a two-thirds majority, 3) pass the Senate by the same margin, and 4) be ratified by three-fourths of the States. If ratified, it would become the 25th Amendment to the Constitution.

Because certain church groups and other organizations have taken an intense interest in this proposal, I have been swamped by mail on the subject in recent weeks. In fact, the flow has exceeded that on any other issue arising in the last two years. The time has come for a discussion of the problem.

## RELIGION IN AMERICA -- A TRADITION WORTH PRESERVING

In some countries of Europe you can't get milk deliveries if your religion is different from the majority prevailing in your area. In spite of our many troubles, we are fortunate that religious rivalry has not reached that point in this country.

We should recall that it was for religious freedom that many of our first settlers came to America. Government-prescribed prayer, as authorized by Parliament in the Book of Common Prayer, was the very issue which prompted the Pilgrims to establish their colony in Massachusetts. Ironically some of the very groups which had opposed the established church in England proceeded to establish their own churches in the colonies and to write their own official prayers into law. In fact, by 1776 there were established churches in eight and possibly 10 of the colonies.

Because of this sad history James Madison included a "freedom of religion" amendment in his proposed Bill of Rights, introduced in the First Congress in 1789. After undergoing several revisions the amendment was ratified and made part of the Constitution in 1791. I believe it has contributed greatly to the atmosphere of religious tolerance which distinguishes this country from many other nations of the world. It has not deprived our country of religion but has drawn a rather distinct line between Church and State. I would hate to see any change in that pattern. As Madison said:

"It is proper to take alarm at the first experiment on our liberties. . . . Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects?"

## THE PUBLIC SCHOOLS -- HISTORIC BATTLEGROUND

In our early history there were few public schools as we know them today. Most schools were operated by the churches. As tax funds came to be used for public education many of the religious aspects of the old schools continued. In time this led to bitter controversy, especially as Catholics immigrated into formerly Protestant areas. In one celebrated case an 11-year-old Catholic boy in Boston was whipped with a stick for 30 minutes before consenting to recite the Protestant version of the Ten Commandments. In the Cincinnati controversy Catholics were angrily accused of "atheism" because they objected to the same "voluntary" Bible-reading rule being debated today. Out of these encounters came various conflicting court decisions, none of them reaching the U. S. Supreme Court. However, since 1940 the high court has taken jurisdiction in a number of such cases, ruling that the 14th Amendment extends the provisions of the First Amendment to acts of state and local governments. What the 14th Amendment says, in part, is this:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States .... nor deny to any person within its jurisdiction the equal protection of the laws."

As long ago as 1872 the Supreme Court of Ohio held that, "United with government, religion never rises above the merest superstition; united with religion, government never rises above the merest despotism; and all history shows that the more widely and completely they are separated, the better it is for both." Nevertheless, many of my correspondents apparently believe that until the recent decisions were handed down prayers and Bible-reading were the universal practice in public schools. The truth is that the Constitutions or courts in 10 states had long forbidden such exercises.

It may surprise my readers to know that Arizona is one of these states. (I will return to this later.) The other nine states are Illinois, Louisiana, Nebraska, Ohio, South Dakota, Washington, Wisconsin, California and Nevada. Fifteen other states have forbidden prayers and Bible reading by statute. And another 10 states generally look with disfavor on such practices.

### WHAT THE SUPREME COURT DID NOT SAY

So many words have been spoken that I think it would be well to point out what the Supreme Court did not say:

The Court did not take "In God We Trust" off our currency. It did not take "under God" out of the Pledge of Allegiance. It did not remove chaplains from the Armed Services. It did not prohibit use of the Bible as part of courses in comparative religion or literature. It did not forbid occasional prayers or Bible-reading by teachers and pupils on a voluntary, non-official basis. And obviously it did not outlaw silent prayers or acts of devotion by anyone at any time or place, public or private.

As a lawyer I do not believe any such decisions will follow. As a Congressman I would oppose them if they were rendered. The issues now before us are entirely separate.

### THE CURRENT DISPUTE

The current debate has turned more on emotion than fact. Speakers on both sides have made too much of the "extremists" on the other side. To be sure, there are some notorious racists and Supreme Court-haters (for example, Gerald L. K. Smith and the John Birch Society) campaigning for the Amendment. However, many prominent church leaders and church groups also favor the Amendment. To be sure, there are militant atheists, who frown on every reference to religion, opposing the Amendment. But the great majority of the nation's church organizations also oppose it. Here are a few typical views:

Rep. Frank J. Becker, R-New York: "Many people subscribe to no religion. Without school services millions of children would be deprived of knowing there is a God."

Rabbi Maurice N. Eisendrath, President, Union of American Hebrew Congregations: "The worst thing that could happen to the churches and synagogues would be to undermine their sacred role and their integrity by developing in the public schools an American public school religion which would consist of a set of meaningless, watered-down, nonsectarian platitudes. As Santayana said, religion in general is nothing."

Rep. Charles McC. Mathias, R-Maryland: "I think it is improper for a bunch of politicians to write a prayer and make children read it."

Gov. George C. Wallace, Alabama: "It (the Supreme Court) is a part of the deliberate design to subordinate the American people, their faith, their customs and their religious traditions to a godless state."

Baptist Joint Committee on Public Affairs: "When one thinks of prayer as sincere outreach of a human soul to the Creator, 'required prayer' becomes an absurdity."

Rt. Rev. Arthur C. Lichtenberger, Presiding Bishop of the Episcopal Church: "We are indeed a 'religious people', but our varied beliefs are embodied in institutions which are not governmental and are not dependent on majority votes."

Evangelist Billy Graham: "The Ten Commandments could be read and said every day in our schools. Protestants, Catholics and Jews all agree on the Ten Commandments."

Executive Council, Lutheran Church in America: "If the 'Lord's Prayer' were to be recited in schoolrooms only for the sake of the moral and ethical atmosphere it creates, it would be worth nothing to the practicing Christian."

America, Catholic weekly: "The weightier reason for questioning the wisdom of this move is that, if it should succeed, it would only shake the faith of the American people in the firmness of our most basic civil liberty, freedom of religion."

American Baptist Convention (resolution): "...we reaffirm our historic Baptist belief that ... prayers and religious practices should not be prescribed by law or by a teacher or public school official."

National Council of Churches: "Neither the church nor the state should use the public school to compel acceptance of any creed or conformity to any specific religious practice."

Obviously, the strong divergence of opinion, and the impact that such an Amendment might have on the Bill of Rights as it stands today, indicate the need for full and adequate debate and the most careful kind of study. Recently there was an effort

through a device known as the Discharge Petition to bring this Amendment to the House floor without any committee study. I opposed this as extremely unwise and a grave risk to the Constitution.

## ISSUES THAT NEED TO BE EXPLORED

There are a great many grave questions which need sober reflection before this country plunges into revision of the Bill of Rights. Here are some of them:

\*\* The First Amendment not only prohibits "establishment" of religion, but it protects the "free exercise" of religion. What happens if we now decide that "establishment" does not include publicly-ordered prayers and Bible reading? Opponents fear our rights under the "free exercise" clause will be impaired. Would this permit some future Gestapo to break up prayer meetings of unpopular church groups?

\*\* What scriptures would be "official?" The Catholic (Douay) Bible contains 14 Old Testament books not recognized by most Protestants and Jews. Should Protestant children be required to read passages from these books? Should Catholic and Orthodox children be required to read a version of the Bible not approved by their churches?

\*\* The Becker Amendment says, "Nothing in this article shall constitute an establishment of religion." Commenting on this the magazine Christian Century said, "In Sections 1 and 2 the proposal would destroy the First Amendment's guarantees of religious liberty and then in section 3 deny that it has done so. If adopted, the Becker amendment will imperil religious freedom in the name of religious freedom."

\*\* How can a prayer or scriptural passage be "non-sectarian" with respect to all the religions people practice? And if it is watered down enough to satisfy all religions, of what value is it?

\*\* As many church leaders have pointed out, it is absurd to suggest that a young child is free to leave the room when "voluntary" religious exercises are held. The desire to conform is exceedingly great in children; few want to be "odd balls."

\*\* If you're Protestant, how would you feel if your child recited the "Hail Mary" in school? If you're Catholic, how would you like your child reciting the prayers of Martin Luther? What happens in predominantly Mormon communities of Arizona if the school board prescribes readings from the Book of Mormon?

\*\* What agency of government will prescribe prayers and Bible passages? What language in this Amendment would stop the federal government from doing so?

\*\* I am not one who thinks the coming generation is hopelessly lost. The education and training of our youth rests on a three-legged stool: school, home, and church.

Each leg must carry a share of the load. Has there not been too much of a tendency to shove onto already burdened teachers non-academic training in manners, sex education, health and personal care -- duties which belong elsewhere?

\*\* Must we really, as Congressman Becker implies, protect America's children from the godlessness of their parents?

## ARIZONA NOT AFFECTED

Now here's the big fact overlooked by nearly all of my correspondents on this issue. The Supreme Court has not "taken the Bible from Arizona schools" because daily recitation of Bible passages and regular school prayers have never been there. When the Arizona Constitution was adopted in 1912, Article II declared: "...No public money ... shall be appropriated for or applied to any religious worship, exercise, or instruction, or to the support of any religious establishment." The First Arizona Legislature then passed this law, which is still on the books:

"A teacher who uses ... denominational books or teaches any sectarian doctrine or conducts any religious exercises in school is guilty of unprofessional conduct and his certificate shall be revoked."

Thus the Supreme Court ruling has made no change in Arizona school practices, and the same is true of 24 other states with similar provisions. But passage of the Becker Amendment might invalidate existing Arizona laws and introduce a new element of interfaith friction in our communities. I'm proud of Arizona's schools, and I'd be reluctant to experiment with a successful pattern of 52 years' standing. I see no evidence that Arizona school children are less religious or moral than those in Alabama or Kansas, and I certainly don't regard Arizona (to use Gov. Wallace's expression) as a "godless state."

## CONCLUSION

It is strange that many of the people writing in behalf of Mr. Becker's amendment have written on other occasions to denounce government interference with people's private affairs and individual freedoms. Yet they seem to believe that home and church can no longer be depended on, and that government must save religion by compulsory instruction.

America is a religious nation. Much of our strength rests on that fact. The First Amendment is at the very heart of our liberties and has successfully guaranteed our

religious freedom for 170 years. I'm not ready to tinker with this or any other part of our Bill of Rights.

I intend to listen to all arguments, pro and con, but I am inclined to agree with the Baptist Joint Committee on Public Affairs when it said:

"Whatever it is, religion on a government platter has never provided much spiritual nurture for the people nor has it given strength to the nation."

A handwritten signature in black ink, appearing to read "Mervyn Dymally". The signature is fluid and cursive, with a long horizontal stroke extending to the right.