

[Prayer
Amendment] Work file
Prayer Case

Memo:

To : John S.
From : Chuck Phillips
About : Supreme Ct. and other Opinion on Public School Prayers.

1. There are two recent Supreme Court decisions which have created all the fuss: They are:
 - a. Engle v. Vitale in which the Court knocked down (6-1) the New York State Regent's Prayer. (School was opened with a "non-sectarian" prayer composed by the State Board of Regents.
 - b. Abington School District v. Schempp -- again the Ct. with only 1 dissent knocked down the opening of school with Bible reading and/or use of the Lord's Prayer (actually were two cases here treated as one by Ct. and thus combining Bible and Lord's Prayer. Associated case was Murray v. School Commissioners of Baltimore.)
2. The issues:

Court said in both cases that the issue was use by State of state power to compel religious observance or participation. Practices in both cases violated

 - a. the "establishment" clause of the First Amendment
 - b. the "free exercise" clause of the First Amendment as regards religion.
3. In both cases it is fair to say that the Ct. decisions have been upheld by a substantial number of church leaders of all faiths in America.
 - a. On the Engle v. Vitale case (otherwise known as Regent's Prayer Case)

Church World (July 6, 1962) Catholic Diocesan Paper of Portland Maine--

The Regent's Prayer was a "civil usurpation of a function outside its own proper sphere."

Rev. Dean M. Kelley (Methodist Minister and Director of Dept. of Religious Liberty of National Council of Churches:

The Supreme Court decision in the Regent's Prayer case "protects the religious rights of minorities and guards against the development of 'public school religion' which is neither Christianity nor Judaism, but something less than either."

Dr. Hershel Hobbs--Pres. Southern Baptist Convention. In the Regent's Prayer Case the Supreme Court "struck one of the most powerful blows in our lifetime maybe since the Constitution was adopted, for the freedom of religion. . . "

On/ b. On Abington v. Schempp--

I cannot peg quotes today, but it is fair to say that

- - nearly all Jewish opinion supports the Court.
- - the National Council of Churches support the Court
- - important Catholic and fundamentalist leadership in bodies of the Baptist tradition support the Court.

4. From the Court's opinion:

It is worth noting that both decisions of the Court were overwhelming ones. Further, Justice Stewart, lone dissenter in both cases, in the second case, did not dispute the reasoning of the Court--what he did was to say that there was insufficient evidence presented for judgment and recommended sending cases back to the lower court to take additional evidence.

The Abington v. Schempp case had a majority opinion by Clark, and concurrent opinions by Douglas, Brennan, and Goldberg. Thus Prot.-Catholic-and Jewish religious backgrounds were represented in the majority opinion, and one, Brennan's is a long and brilliant analysis of the establishment and free exercise clauses from their inception, thru practice in all American history.

Specific quotes from Court:

From Engle-Vitale (Justice Black) "It is neither sacrilegious nor anti-religious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves."

From Abington v. Schempp:

From Justice Clark --after quoting previous legal opinion on role of state in religious freedom that "the government is neutral, and while protecting all, it prefers none, and disparages none". Clark said:

Draft " . . . the concept of neutrality . does not permit a State to require a religious exercise, even with the consent of the majority of those affected".

This does not, he went on: collide with the majority's right to the free exercise of religion". A majority cannot "use the machinery of the State to exercise its beliefs."

From Justice Brennan: "The State must be steadfastly neutral in all matters of faith, and neither favor nor inhibit religion. . . @government cannot sponsor religious exercises in the public schools without jeopardizing that neutrality."

" . . .the school exercises are not designed to provide the pupils with general opportunities for worship denied them by the legal obligation to attend school. The student's compelled presence in school for five days a week in no way renders the regular religious facilities of the community less accessible to him than they are to others"

From Justice Goldberg: "The fullest realization of true religious liberty requires that government neither engage in nor compel religious practices that it effect no favoritism among sects or between religion and non-religion, and that it work deterrence of no religious belief."

In many places in both decisions, members of the Court reiterated the words of Clark in Abington-Schempp that:

Draft "The Place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church, and the inviolable citadel of the individual heart and mind. We have come through bitter experience to ~~realize~~ recognize that it is not within the power of government to invade that citadel, whether its purpose be to aid or oppose, to advance or retard."

In short: The Supreme Court recognizes the diversity of belief in America-- a condition of "religious pluralism". It would grant freedom to all, special help to none. It does not prohibit anybody praying, as often as he wants in any way he wants. It has no objection to the Bible being used educationally. It

has affirmed the highest respect for the dignity and integrity of religion by insisting on the conditions which will keep it free.

The proposed Constitutional amendment to permit required Bible reading or prayer in public schools is a most misguided effort to further the aims of religion.

It would further weaken the powers and prerogatives and responsibilities of Church and Home--and for this reason most eminent churchmen oppose this proposed amendment.

Points in opposition to Becker Amendment

1. Whose prayer and whose Scriptures ~~are~~ will be given or read?

Jews do not recognize the New Testament as Scripture, nor do they find customary Christian forms of prayer acceptable. Likewise Jewish forms do not satisfy Christians. Within Christianity there are different accepted versions of the Bible. There are Catholic forms in prayer unacceptable to Protestants and vice versa.

There are those who do not find that either Christian or Jewish forms are meaningful to them.

2. To make participation "voluntary" when the school attendance itself is compelled is a contradiction.

- a. The fact that some pupils, or theoretically all of them, might be excused from attendance at the exercises does not mitigate the obligatory nature of them. In short--the "establishment clause" of the First Amendment is violated.
- b. Requiring an excuse to get out of the exercises requires what is tantamount in the eyes of teachers and schoolmates, to a profession of disbelief and nonconformity. Even a devout child can suffer a religious stigma because of his different religious belief. Absence of compulsion to attend reduces constraint but does not eliminate influence.

Both the "establishment" and "free exercise" clauses of the First Amendment are violated.

3. Sec. 2 of Congressman Becker's amendment is too general to be meaningful.

The Supreme Court has upheld all of this except at the points where where a practice is an "establishment" of religion or an inhibition to its "free exercise".

It has justified Chaplain's in the Armed Services, ceremonial references to Deity, and more. It has however discriminated Bible reading and/or prayer in schools as improper.

4. Sec. 3 of the proposed amendment is the point at issue.

It is either redundant (for the First Amendment to the Constitution already forbids "establishment") or it changes the meaning of the word.

88TH CONGRESS
1ST SESSION

H. J. RES. 693

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 1963

Mr. BECKER introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States.

- 1 Resolved by the Senate and House of Representatives
- 2 of the United States of America in Congress assembled (two-
- 3 thirds of each House concurring therein), That the following
- 4 article is hereby proposed as an amendment to the Con-
- 5 stitution of the United States, which shall be valid to all
- 6 intents and purposes as part of the Constitution only if
- 7 ratified by the legislatures of three-fourths of the several
- 8 States within seven years from the date of its submission
- 9 to the States by the Congress:

VI-O

88TH CONGRESS 1ST SESSION H. J. RES. 693 JOINT RESOLUTION

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of the United States.

By Mr. BECKER

SEPTEMBER 10, 1963

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2. "Voluntary" when the school attendance is itself

and the same applies, or theoretically all of them, might be excluded from attendance at the exercises does not mitigate the fact that the "establishment" is violated.

3. To get out of the exercises requires what types of teachers and schoolmates, to a child and nonconformity. Even a devout child might be stigmatized because of his different religious conviction to attend religious exercises but

4. "Establishment" and "free exercise" clauses of the first

5. Sec. 2 of Congressmen Becker's amendment is too general to be meaningful.

6. The Supreme Court has upheld all of this except at the points where there is a practice as an "establishment" of religion or an inhibition to its "free exercise".

7. It has justified Chaplain's in the Armed Services, ceremonial references to Betty, and more. It has however discriminated Bible reading and/or prayer in schools as improper.

8. Sec. 3 of the proposed amendment in the point at issue.

9. It is either redundant (for the first Amendment to the Constitution already forbids "establishment") or it changes the meaning of the word.

Points in opposition to Becker Amendment

1 "ARTICLE —

2 "SECTION 1. Nothing in this Constitution shall be
3 deemed to prohibit the offering, reading from, or listening
4 to prayers or biblical scriptures, if participation therein is on
5 a voluntary basis, in any governmental or public school,
6 institution, or place.

7 "SEC. 2. Nothing in this Constitution shall be deemed
8 to prohibit making reference to belief in, reliance upon,
9 or invoking the aid of God or a Supreme Being in any
10 governmental or public document, proceeding, activity, cere-
11 mony, school, institution, or place, or upon any coinage,
12 currency, or obligation of the United States.

13 "SEC. 3. Nothing in this article shall constitute an
14 establishment of religion.

15 "SEC. 4. This article shall be inoperative unless it shall
16 have been ratified as an amendment to the Constitution by
17 the legislatures of three-fourths of the several States within
18 seven years from the date of its submission to the States
19 by the Congress."

A P R A Y E R
FOR THE
CITY OF NEW YORK

Address by

James B. Donovan
President

Board of Education
of the
City of New York

Sunday, April 5, 1964

**A P R A Y E R
FOR THE
CITY OF NEW YORK**

Your Excellency, Bishop Roberts;
Reverend Clergy; fellow militant
Christians:

May I first express my deep appreciation to your Pastor and to you for so graciously inviting me to your divine services today. I have accepted this invitation in a profound spirit of humility. I believe that rather than my teaching your congregation, this occasion affords to me a unique opportunity to learn from fellow-Americans who in their lives have exemplified the virtue of fortitude which our Divine Master prescribed for all humanity.

Today I come to ask you, as fellow Christians, to join with me in a prayer for the future of the great City of New York. Ours is a community which has prided itself for generations on an approach to social problems which should merit the approbation of all decent, liberal, responsible people of good will, regardless of race, creed or color. In New York City, for generations, we have attempted to afford all children without discrimination the opportunity

Address delivered at
Church of St. Thomas the Apostle
Liberal Catholic Church
147 W. 144 St., New York City

to obtain a free public education through elementary and secondary schools, as well as college. We are a community never self-satisfied; we are our own most severe critics. We do not deny our sins and shortcomings, but our history does show a determined effort to overcome them.

Our history also shows that it is seldom that our native-born can complain of legal, absolute barriers to fair opportunity. We have in this city little need for the Civil Rights bill now before the Congress and the passage of which is so necessary in other areas of the United States. Our problem in this community is not one of laws deliberately designed to fasten chains upon any of our citizens. Rather is our problem one of *de facto* deprivation of large segments of our population, in terms of economic opportunity — a fair share of better housing, a fair degree of participation in our social life. Our sin has not been in law but in accepted customs and practices. Moreover, our civic difficulties in New York have been compounded for centuries, and are today, by our community's being the traditional haven in the United States for all who seek a better life with greater hope for freedom and equality, whether our welcome immigrants come from Europe, Puerto Rico, or the rural South. The very heart

of our civic life, and our spiritual purpose, is best expressed in those wonderful words engraved on the Statue of Liberty which stands in our New York City harbor:

"Give me your tired, your poor;
Your huddled masses, yearning
to breathe free;
The wretched refuse of your
teeming shore:
Send these, the homeless,
tempest-tossed, to me:
I lift my lamp beside the golden
door."

While the primary problem of all minorities today is the lack of fair opportunity in employment and housing, it would be cowardly for our educational system to avoid its responsibilities by doing nothing until the problems in those two primary areas were first eradicated. Your Board of Education, serving you without compensation, has refused to take no action. For we realize that it is, in a very real sense, the field of education in which lie all the hopes of minorities for a better future.

By militant demands that your children be afforded the finest educational opportunities which a free society can provide, you are exercising your inalienable rights as a free American. But you must always remember that every right

is accompanied by a responsibility. Just as you, as New York parents, demand fair educational opportunity for your children, so too you as parents have a responsibility to see to it that you and your children exercise such self-discipline as will enable your children to take full advantage of these opportunities. This is more than assuring a better life for the future; it also means to you, a more Christian family life today. More than one hundred years ago, a great American named Daniel Webster spoke upon the subject of education and expressed thoughts as valid today as then. Said Webster:

"Educate your children to self-control, to the habit of holding passion and prejudice and evil tendencies subject to an upright and reasoning will; and you will have done much to abolish misery from their future lives and crimes from society.

"Knowledge does not comprise all which is contained in the large term of education. The feelings are to be disciplined; the passions are to be restrained; true and worthy motives are to be inspired; a profound religious feeling is to be instilled, and pure morality inculcated under all circumstances. All this is comprised in education."

So spoke Webster, but these are principles upon which all decent men of good will should agree. In accordance with such principles, your Board of Education has been striving to overcome educational problems largely inherited from the past, from decades of indifference and neglect. For two and a half years we have devoted to the less privileged areas of this city a greater proportion of available funds than were allocated to any other sections of the community. Yet we are not satisfied. The Board of Education is dependent on such funds as the State and City governments make available to the Board. Finding that we have not received adequate funds from these governmental agencies, I am determined to launch in the immediate future a new, direct appeal to Washington for Federal funds to assist us in the proper discharge of our responsibilities. The President of the United States has declared a national war on poverty. To him I say:

"I share your faith in the ability of our nation to eliminate the large underprivileged areas which now sap our national strength and are a drain upon our national resources. But I say, Mr. President, that nowhere in the United States is a more magnificent opportunity provided to commence your war on poverty than here in our City of New York. Here you have almost no legal

barriers or social hostilities to overcome; here you have dedicated citizens of all races, creeds and colors determined to unite in destroying these blights upon our American community life. Here you have willing hands, if only your administration will provide the tools."

Meanwhile, despite furores which at times have not aided but have impeded our joint efforts to do constructive work in the name of the Lord, great strides forward have been accomplished. We all continue to labor toward the ultimate objective of a comprehensive plan and time-table for the desegregation of all public schools in the City of New York. A conscientious exploration of the most feasible means to accomplish this objective is now going forward, with contributions being made by every segment of the community. I am confident that we shall resolve, in the interests of all parents and children, the remaining issues on which we are divided. It will interest you to know that in a recent conference with various minority groups, arranged under the auspices of the Urban League of New York, there not only was agreement upon such ultimate objectives but upon the following specifics:

1. Full responsibility must be assumed by the Board of Educa-

tion to educate and indoctrinate White as well as Negro and Puerto Rican parents. The Board should also be responsible for assignment of all students into integrated schools.

2. If these or any other desegregation programs are to have measurable success, the total support of the professional school staff is essential.
3. New schools should be located in areas where appropriate and effective desegregation methods are being employed. These methods should include area pairing, the change of feeder patterns, and the use of the educational park.
4. Desegregation of schools through zoning methods must be in the highest order of priority.
5. The Board's Teacher Recruitment Unit should go directly to southern Negro colleges this Spring, conduct examinations, and recruit new and qualified teachers.
6. In order to achieve truly integrated teaching staffs, competent Negro and Puerto Rican teachers

and supervisors must be given treatment which will aid that objective.

7. Many schools in the city are classified as "hard-to-staff." The Board must see to it that more qualified, regular teachers and supervisors are assigned to the less privileged areas.
8. The Board must provide textbooks which include illustrations and facts about minority group contributions to the cultural development of the United States.
9. The Board's Human Relations Unit should increase its skilled personnel and be given authority within the Board of Education to deal directly with civil rights conflicts and social ferment in the schools.
10. There should be a re-study of the community coordinators' program, in order to assess the effectiveness of its staff members as human relations experts.

Programs to accomplish all these specific objectives are now going forward.

It is important to realize that in New York City there is an extraordinary

reservoir of good will among the overwhelming majority of all parents and children. The specifics I have enumerated would be supported, in my belief, by most of those White parents who recently demonstrated against our Board's proposed plans for "better education through integration." Why then did these parents and taxpayers demonstrate? It was not, in my opinion, because they did not wish the finest education for every minority child in this city or because they were opposed to integration. Rather, they wish us to take no step which will hamper the educational opportunities of their own children. We on the Board believe that by providing special services and strengthened school programs, we can reassure such parents. Reduced class size; a full day of school; remedial reading for those requiring it; guidance counsellors; a teaching staff composed of devoted pedagogues who not only teach children but love them; all these will assist in allaying any fears that one child is being sacrificed to advance another.

Meanwhile, there open great vistas for the educational future of the children of the White community. We White parents must realize that in the world of today it is senseless to try to keep running from reality. Many who fled to the suburbs

now realize the truth of what I say. The emerging nations in Africa and Asia, the shrinking of global concepts because of man's conquest of space and the nuclear age, every reality of the present, demands that the children of our most fortunate families must be educationally prepared to live in a world in which all humans without discrimination have a fair opportunity to share in the material goods and opportunities for learning which have been so bountifully made available by Our Lord.

These are the common ideals and aspirations of all people of good will in New York City. I pray with you today that together we continue to strive toward the attainment of these goals, with, as an immortal once said, "malice toward none and charity toward all." Do not heed those who advocate the senseless roads of hate, racial bias and violence. In New York City such preachments do not advance the cause of a minority, but serve only to alienate tens of thousands of the majority who otherwise would extend warm sympathy and meaningful support to enable the minority to fulfill their leaders' dreams for their people. The simple truths of the Christian dogma, which have prevailed over our human failings for two thousand years, will always triumph.

In pleading for your militant advocacy of sound Christian principles, and your demand for the immediate fulfillment of the moral obligations of the majority in this community, I leave with you a few simple words spoken more than seven centuries ago by a simple, humble man named Francis, who lived in the little town of Assisi in Italy. The simplicity of his words has struck so universal a chord throughout the world, regardless of faith or denomination, that the late Eleanor Roosevelt directed that this be the only prayer recited at her funeral services:

"Lord, make me an instrument of Thy peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

"O, Divine Master, grant that I may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life."

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