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*Published in
The Washington Times, Dec. 13, '82*

Court stripping or Constitution stripping ?
by HERMINE HERTA MEYER, Attorney-at-Law.

Toward the end of the 97th Congress, the Nation was treated to a spectacle in the U.S. Senate, where Senators, who call themselves "liberal" (I call them pseudo-liberal), filibustered to death a bill which had been drafted in the hope that it might give the people in the States, who wished to have their children say a little prayer in their public schools, some protection from interference by the federal courts.

The bill provided that the Supreme Court shall not have appellate jurisdiction, and the district courts shall not have jurisdiction, in State cases relating to voluntary prayers in public schools and public buildings, and it contained a definition that "voluntary prayer" shall not include any prayer composed by a State official.

The bill was obviously a political concession for the purpose of facilitating its passage. It would have permitted the federal courts an excuse for taking jurisdiction whenever a plaintiff alleged that a school prayer was not voluntary, usually because of "peer pressure", meaning that plaintiff's children did not want to be separated from their class mates. The school prayers which the Supreme Court had declared "unconstitutional" had all been voluntary prayers.

Nevertheless, the filibustering Senators said they objected to "stripping" the federal courts of their jurisdiction over "constitutional" issues. But what these Senators were really doing, was supporting the Supreme Court's stripping the Constitution of its most important features of self-government, namely of the power of the people to make their own laws.

2.

Even if the bill had not contained the word "voluntary" and the definition, but had simply prohibited the federal courts from taking jurisdiction over cases relating to prayers in State public schools, it would have "stripped" the federal courts of nothing to which the U.S. Constitution has entitled them. It would merely have prevented them from taking jurisdiction over cases over which the U.S. Constitution has not granted any federal judicial power. No constitutional issue was involved, because the power to legislate respecting religion has been retained by the States. That means that it did not become part of the Constitution.

As a special protection of these powers retained by the States, the Tenth Amendment was added to the Constitution which declares: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," meaning, of course, to the people of the several States. A power retained by the States can legally be made a part of the U.S. Constitution, and thereby subject to federal control, only by a constitutional amendment in accordance with Art.V of the Constitution, that is with the consent of two-thirds of Congress and of the legislatures or conventions of three-fourths of the States.

Therefore, when the Supreme Court decided to take jurisdiction over religion in order to force its ideas of separation of State and church on the entire Nation, it could not legally change the Constitution. But armed with contempt of court powers and helped by federal marshals and an inactive Congress, the Supreme Court could prevent the people in the States from making their own laws respecting religion and strip them of the protection of the Tenth Amendment ~~to~~ the Constitution.

The school prayer situation offers a good example how the Supreme Court managed to do this in the guise of "constitutional interpretation."

In 1962 and 1963 the Supreme Court decreed for the first time that prayers and bible reading in State public schools violated the "establishment clause" of the First Amendment's religion clause, and that it had been made applicable to the States by the due process clause of the Fourteenth Amendment.

First: the Supreme Court declared that the First Amendment's religion clause required a complete separation of State and church, although there is no such requirement.

That clause reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

We know from the debates of the First Congress, which drafted the first ten amendments, that the religion clause had been requested by several State conventions because they feared that the new Congress might misuse a provision of the new Constitution to establish^a nationwide church or religion to which everyone would be compelled to conform. "Establishment of religion" was the expression of the time for an official church. The States wanted to make sure that they would remain free from federal interference in matters of religion. The religion clause was intended to be a special restriction on the federal government only, not to apply to the States.

Second: There were six attempts in Congress to initiate a constitutional amendment to make the First Amendment's religion clause applicable to the States. They all failed. But the Supreme Court, obviously determined to force the First Amendment on the States, decreed that the due process clause of the Fourteenth Amendment had made it applicable to the States.

That clause provides that no State shall deprive any person of life (sentence him to death), or of his liberty (sentence him to ~~imprisonment~~ imprisonment), or of his property (sentence him to forfeiture of property) without due process of law, that is without first having given him access to a proof procedure, today called trial, where he could ~~was~~/defend himself against the charges. It cannot possibly have made the provisions of the First Amendment applicable to the States, and for almost 100 years the Supreme Court so held. These decisions are absolutely incompatible with the decisions of the Supreme Court that the Fourteenth Amendment's due process clause did make the First Amendment applicable to the States, and in Ferguson v. Skrupa the Supreme Court itself has practically admitted that in such cases it did not really interpret the due process clause but used it as a constitutional cover-up, so to speak, to transfer a power retained by the States into the Fourteenth Amendment whenever the Court disagreed with a state law and decided to replace it with its own beliefs. In this way, the Supreme Court fabricated a constitutional issue to serve the Court as a justification for taking jurisdiction and strip the people in the States of their protection of the Tenth Amendment.

It soon became apparent that the Supreme Court's Constitution stripping did not reach only into school prayers, but into the Judeo-Christian foundation of the Constitution. This was pointed out by District Judge Hand in the Alabama school prayer case. He said:

"The background of this country and its laws is one based upon the Judeo-Christian ethic. It is apparant from a reading of the decisions that the courts acknowledge that Christianity is the religion to be proscribed.... The religions of atheism, materialism, agnosticism, communism and

5.

socialism have escaped the scrutiny of the courts throughout the years."

They can be freely taught in American public schools.

The forces which have attacked the school prayers were in reality attacking the foundation of American culture, and the highest court of the land was helping them.

This became painfully clear when, in 1981, the Supreme Court, without briefs on the merits and without oral arguments, declared unconstitutional a Kentucky statute requiring the posting of a copy of the Ten Commandments, purchased with private contributions, on the wall of each public class room in the State. The statute had stressed the secular application of the Ten Commandments in its adoption as the fundamental legal code of Western civilization. But the Supreme Court found that the Ten Commandments were religious in nature and that their posted copies will have the effect "to induce the school children to read, meditate upon, perhaps venerate and obey, the Commandments."

It is a historical fact that after the suppression of prayers in public schools practically all values disappeared from them; ~~schools~~ discipline deteriorated, often to a point that teaching became impossible; vandalism and violence developed as well as the use of drugs and sexual promiscuity among teen agers with pregnancies as young as twelve years old.

Why should anybody be surprised that many people attribute this to the disappearance of prayers in the public schools? These people cannot believe that a Constitution under whose protection school children had prayed in their class rooms for 174 years could suddenly have made this practice unconstitutional, and they have begun

to ask: "Why can these judges make the laws for us? We have not elected them."

The people complained to Congress because they had learned that the Constitution had given Congress the authority to protect them from the usurpations of the federal courts by using its power over their jurisdiction. It was in response to such complaints that bills were introduced in the 97th Congress to protect school prayers from interference of the federal courts.

There is no controversy that Congress has complete control of the jurisdiction of the lower federal courts, because the Constitution has given Congress full discretion to create and abolish them.

The Supreme Court, however, has been created by Art.III of the Constitution which also has prescribed in what cases the Supreme Court shall have original jurisdiction. The same article provides that in all other cases to which federal power extends, the Supreme Court shall have appellate jurisdiction "with such Exceptions, and under such Regulations as the Congress shall make."

The opponents to the proposed legislation seized on the word "exceptions" in order to "prove" that the Constitution did not intend to give Congress full power over the appellate jurisdiction of the Supreme Court.

We have the best possible evidence that this was indeed the intent of the framers, namely by one of the framers himself, Oliver Ellsworth, who, as Chief Justice of the United States, said in the first Supreme Court case in which the power of Congress over the Supreme Court's appellate jurisdiction was in issue, namely in Wiscart v. Dauchy:

"Here then, is the ground, and the only ground on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it."

This is the rule which prevails in all democracies operating under the separation of powers principle: the jurisdiction of the courts is determined by legislation, and legislation belongs to the legislative department.

The power of Congress over the appellate jurisdiction of the Supreme Court is the most important check which the Constitution has provided for the control of the usurpations of the Supreme Court. Alexander Hamilton, also one of the framers of the Constitution, mentioned it three times in Nos. 80 and 81 of the Federalist Papers. When fears were expressed that "the errors and usurpations of the Supreme Court will be uncontrollable and remediless," Hamilton tried to assuage those fears by pointing out that the Supreme Court would have original jurisdiction only in classes of cases rarely to occur. In all other cases of federal cognizance Congress had ample authority to use its power over the Supreme Court's appellate jurisdiction to obviate or remove any "partial inconveniences" which may occur.

What has been caused by the Supreme Court's usurpations and congressional inaction, are not just "inconveniences," but a gradual replacement of a Constitution based on the democratic principles of sovereignty and self-government of the people by an undemocratic, unconstitutional government of unelected life-tenured judges who, in the guise of "constitutional interpretation," have arrogated to themselves the power to dictate to the people what laws they may or may not have. The Constitution has given Congress

~~Congress~~ the power to check this anti-constitutional development. Every member of Congress is solemnly committed by oath taken pursuant to Article VI, clause 3 of the Constitution, "to support this Constitution," that is the Constitution as written and intended by the framers and as legally amended. This imposes ~~an~~ a duty on Congress to re-establish constitutional conditions which the Supreme Court has disturbed .

It is ardently to be desired that the 98th Congress will introduce and pass a simple bill to prevent the U.S. district courts from taking jurisdiction, and the U.S. Supreme Court from taking appellate jurisdiction, in State cases relating to school prayers in order to free the people in the States from the Constitution stripping by the Supreme Court, so that the people will again be able to make their own laws in matters of school prayers. One such law might go far in encouraging the people in the States to again exercise their retained rights to legislate with respect to schools, family and religion, and might even discourage the federal courts from further Constitution stripping.

Hermine Herta Meyer
Attorney at Law
4701 Willard Ave.
Chevy Chase, Md. 20815
Tel. (301) 654-1438

THE WHITE HOUSE

WASHINGTON

May 27, 1982

Mr. William J. Murray
Faith Foundation, Inc.
17625 El Camino Real, Suite 405
Houston, Texas 77058

Dear Mr. Murray:

You are correct that the 1963 Murray vs. Curlett ruling was one of the major blows which the Supreme Court dealt to the concept of prayer in schools.

The President's proposed Voluntary School Prayer Amendment would once more make it legal for public school jurisdictions to permit students to organize themselves for voluntary prayer in schools.

The aim of the amendment is to restore the status quo before the 1962 and 1963 decisions. Thus jurisdictions would be permitted great freedom to set their own standards regarding prayer in schools. Some might opt for a period of silent prayer; others might prefer consciously non-denominational prayers; others may wish to allow students of different faiths to lead prayers for those willing to participate, and so on.

It was a great pleasure to meet you both on the occasion of your visit with Cecil Todd and later at the Rose Garden on the National Day of Prayer. I greatly appreciate your support of voluntary school prayer and know that your intention to play an active role in the consideration of the amendment will produce noteworthy results.

Cordially,



Morton C. Blackwell
Special Assistant to the President
for Public Liaison



William J. Murray
Faith Foundation, Inc.
17625 El Camino Real, Suite 405
Houston, Texas 77058 (713) 480-2519

May 7, 1982

Mr. Morton Blackwell
Assistant to the President
The White House
Washington, D.C. 20500

Dear Mr. Blackwell:

It may well take me years to repair the damage done to my image and that of this organization at the hands of the Administration yesterday.

Perhaps the most creditable tool to restore prayers to the schools was that the individual responsible for their removal wanted them back in. Both voluntary prayers and Bible use in the schools was found unconstitutional June 17, 1963 by the Supreme Court in ruling on Murray vs. Curlett and Abington School District vs. Schempp. Both simultaneously.

In the Engel vs. Vitale decision, a state authored mandatory prayer, cited by the Administration, was at issue. In that case only the mandatory use of a state authored prayers was found un-constitutional.

Somehow, I believe that the size and scope of what this organization is involved in has been grossly underestimated by the establishment. The 1982 budget of the William J. Murray Faith Foundation, Inc. surpasses that of the Religious Roundtable and is second only to the Moral Majority for its type of organization. We now use a computer with a 128 megabyte storage to contain our mailing list and financial records.

So far this calendar year I have spoken to 65 gatherings with a total attendance of 82,200 in support of a return of prayers in our schools.

Page 2 BLACKWELL

Morton, I point this out as a means of showing you the damage done by citing the wrong case. The Administration has destroyed my credibility on a national basis.

Sincerely,


William J. Murray,
President
FAITH FOUNDATION, INC.

WJM:cc
Enclosure

P. S. As to the President's comment that those persons behind the school ban had good intentions, please see the enclosed.

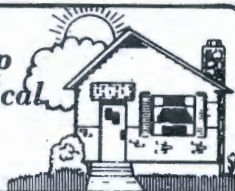
Ex-atheist
describes
conversion

Community, Page A3



Housing help
sparks political
squabbles

Nation, Page A2



Phone (713) 480-2519

William J. Murray
President



William J. Murray, Faith Foundation, Inc.
17625 El Camino Real, Suite 605, Houston, TX 77058

5



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CENTRAL ILLINOIS, THURSDAY, APRIL 22, 1982

25 CENTS



Photos by Doug Gaumon

William Murray told a packed house at a Clinton church Wednesday of his part in the lawsuit that eventually brought a Supreme Court decision banning school prayer.

'Born-again' Murray hopes to undo prayer ban

By NORM LEWIS

Herald & Review Bureau Chief

CLINTON — William Murray never really wanted to go to school anyway. He tended to get into fights, and his grades weren't the best.

So when his mother pulled him from the Woodburne Junior High School in Baltimore, Md., he didn't mind the two-week vacation. Besides, he preferred not to say prayers in school.

Now, William Murray says he prays daily that his mother, Madalyn Murray O'Hair, will find salvation in God.

Murray packed the Clinton Assembly of God Church Wednesday night to tell 600 people the story of his life. He will speak at 7 p.m. today in Decatur's Maranatha Assembly of God, 946 S. Jasper St.

It was Murray, then 14, who was the plaintiff in the lawsuit against the Baltimore school board that led to the 1963 U.S. Supreme Court decision banning compulsory prayer in public schools.

The suit was brought by his mother, whom he portrayed Wednesday night as a frustrated social revolutionary who happened upon the school prayer issue as an avenue for her energies.

Wearing a light three-piece suit and spit-shined boots characteristic of Houston, where he now makes his home, Murray described his family's life in 1960 shortly before they gained national attention.

In September, his mother, who was divorced, gathered William Jr. and his brother, Garth, on a ship from New York to France "to what Mom thought would be

a new life."

They stopped in Paris and she presented immigration papers to the Soviet Embassy for citizenship into the Soviet Union. She could hold jobs for only a few months before she would get fired "because of her superior intellect," as Murray recalled her saying.

She had been active in Socialist and Communist parties in the United States but was thwarted in her attempts to gain leadership she craved for, Murray said. That made Russia look attractive.

But the Murphys were denied entry into the country. After a delay of several days, an embassy official explained that in a work-or-starve atmosphere, Mrs. Murray's record indicated she would have a hard time keeping a job.

"My mom was heartbroken and so was I," he said. "I was looking forward to being a commissar."

Murray though believes that the application went to Nikita Khrushchev's desk. "He probably said, 'We need these people (in the United States). Send them back.'"

When they returned to Baltimore, he had already missed five weeks of school. Mrs. Murray took him to be registered, and he recalled walking down the hallway at 7:50 a.m. seeing some classes praying and others reading from the Old Testament.

"My mother turned purple," he said. She told the school counselor they objected to saying prayers in school and wanted her children to be freethinkers, un-

like what she believed Americans to be.

"Mom always said that America was a slave labor camp operated by a handful of Jews in New York. 'If we can't leave this country, we'll have to change it,' she said."

It was then that young Murray became the focal point of a national debate that still rages. He described how he and television evangelist Cecil Todd, who appeared with him Wednesday night, deposited the signatures of 1 million people who want school prayers reinstated at the White House during a rally over Easter weekend.

In 1960, the opposition to Mrs. Murray's efforts were just as strong. But what surprised them, Murray said, was the number of people who sent letters of support with donations of \$5,000 or more.

"Mom looked at all these letters," recalling her inability to get leadership roles in local Socialist and Communist organizations. "And now the people have come to me," she declared.

Together they opened the first official Communist Party of America bookstore outside of New York. Murray became involved in Students for a Democratic Society and the Young Communists League while his mother chaired the Free Play for Cuba Committee.

Murray married when he was 17, but the relationship didn't last long: Soon he was involved in the airline industry and became a manager for Braniff and other airlines.

During those years, he said he learned new lessons, "that you could vote for a man and he could win. My mom had never voted for a man who'd won before. Of course, she always went in there and wrote in her own name."

Meanwhile, his mother's atheist organization was in trouble and he agreed to her plea to come to Austin, Texas, to help.

He took a shabby office with a "secretary who couldn't type," and in 18 months put the organization in a \$500,000 office building with 12 full-time workers, a video studio and a printing press.

A heavy user by then of tranquilizers and alcohol, Murray said he "came to love my country" and realized that "no matter what I did for my family it destroyed the country."

It was while he was in San Francisco, working again for an airline, that his personal problems prompted him to search for answers, Murray said. "I knew now there was a God but I did not know his nature."

He studied Buddhism and other Eastern religions. "I even went to a Unitarian Church and shared my problems with him, but the minister told me not worry about it. There probably wasn't a God anyway, he told me."

"I'll never forget getting off the plane in San Francisco and hearing that the City Council had just voted to require that 10 percent of the recruits for the police force be homosexuals."

And then I said to myself, 'What have we done in the name of freedom?' It was

my responsibility."

At 2 a.m. in his hotel room, the answer came.

"I awoke with a sudden awareness of where the truth was. I knew it was in a book I had never had in my home."

He went to the wharf to an all-night department store and found a Bible. He almost wrecked his car reading Luke and the description of Jesus' life.

"By the time I got to the hotel, I had found the truth, that Jesus Christ can set men free ... that he came to Earth and died on a cross so the sins of Bill Murray could be washed away."

He fell to his knees and repented, Murray recalled, and was cured of his three-pack-a-day smoking habit and of his desire to drink.

"The miracle that change lives is available tonight," he added.

Murray said after his speech that since his conversion he announced two years ago, he has spoken across the country in churches and football field meetings.

He has formed the William J. Murray Faith Foundation, and during the last year has taken to the road full-time to tell his story, sometimes with Cecil Todd. A book, "My Life Without God," is scheduled to be released in June.

He said he has not returned to the origins of his story, where his former junior high school is now something like a vocational school. Now, he said, he is working and praying that prayers can again be said in those schools.

And his mother won't speak to him.

WM J MURRAY FAITH FOUNDATION INC
17625 EL CAMINO REAL SUITE 405
HOUSTON TX 77058

 **Mailgram**
western union



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7139961981 MGM TDBN HOUSTON TX 146 05-06 1124P EST

MR M BLACKWELL, ASST TO THE PRESIDENT
WHITE HOUSE
WASHINGTON DC 20500

*You are
correct?*

DEAR MR BLACKWELL:

IT WAS A PLEASURE MEETING WITH YOU AGAIN TODAY.

I REGRET TO INFORM YOU THAT THE ADMINISTRATION HAS CITED THE WRONG
SUPREME CT DECISION WITH REGARD TO SCHOOL PRAYER.

THE 1962 NY CASE INVOLVED A STATE AUTHORED MANDATORY PRAYER, AS A
RESULT NON-STATE AUTHORED PRAYERS AND BIBLE READING CONTINUED UNTIL
1963.

ON JUNE 17, 1963 THE CT IN MURRAY VS CURLETT RULED VOLUNTARY PRAYER
AND BIBLE READING ALSO UNCONSTITUTIONAL RESULTING IN THE NATIONWIDE
BAN ON PRAYER IN SCHOOLS.

I AM AWARE OF HOW MUCH THE MEDIA AND TO A DEGREE THE ADMINISTRATION
WOULD PREFER TO WRITE ME OUT OF HISTORY AND THEREFORE OUT OF PUBLIC
VIEW.

WHAT I CANNOT FIGURE OUT IS THE REASON WHY I WAS INVITED TO THE WHITE
HOUSE TODAY. GOD BLESS OUR PRESIDENT.

SINCERELY,
WM J MURRAY

23133 EST

MGMCOMP

dictated
69 phone

School
Prayer

TO: Morton C. Blackwell

FROM: Professor Grover Rees, University of Texas Law School

SUBJECT: Changes in Prayer Amendment Proposed by Christian Voice

1. "Non-sectarian"

This keeps the federal courts in the business of judging which prayers are permissible and which are not. Ultimately, somebody has got to chose any prayers that will be set in schools. The decision can be left to state and local governments, as it was for roughly 175 years after the adoption of the Constitution and prior to the Supreme Court's decision abolishing school prayer; or it can be given to the federal courts. I agree truly sectarian prayers should not be said in public schools, and I will so advise my school board if the amendment passes. If the power is given to the federal courts instead, they will find traces of "sectarian" influence in every prayer.

2. "Nor shall the Executive or Legislative branch of any state have the authority to draft or influence the content of prayer in public schools."

There are three problems with this proposal.

First, it would give the federal courts the power to decide whether the state legislature or the executive had somehow "influence" decisions by local governmental bodies. Since local government has always been regarded as a mere creature of the state whose actions are state actions, the tendency to find such influence would probably be quite strong.

Second, the proposal does not really answer the objection it is designed to answer. As I understand the objection to "governments writing prayer," it goes not to the level of government, but to the prospect of any government involvement in the drafting (and, in some versions of the complaint, even in the selection) of prayers. Frankly, I don't think that the people who make this argument understand the nature of the problem. If government does not select prayers, the only alternative is to allow all individual students the power to select whatever prayers they like. This effectively makes group prayer unconstitutional, and would also require "equal time" in the public schools for anyone who wishes to inflict on his classmates a prayer to Reason, to Haile Selassie, or to Satan. Whoever drafted this proposal obviously understands this problem, but he has not dealt with it. The proposal not only allows local governments to select prayers; it also contemplates that they will write them. Incidentally, the only thing that makes it at all likely that a government body would want to commission a new prayer is the

desire for "non-sectarianism."

Finally, the sentence would probably harm the chances of the amendment by giving opponents something new to make fun of. It would be an unprecedented establishment of "local government sovereignty" in the constitution. Opponents of school prayer would argue that this contravenes the principle of federalism, under which state governments can decide how to allocate authority among political subdivisions and other state agencies.

Those of us who worked on the drafting of the Reagan language were aware of the political problems that might result from the omission of the word "non-sectarian" and also from the objection that government at some level might be involved in the drafting of prayers. I emphasize that these two objections are contradictory. The only existing "non-sectarian" prayer I know is "Now I lay me down to sleep," and I am not sure Justice Brennan couldn't find some impermissible Judeo-Christian dogmatism lurking even there. The best of a number of politically unattractive solutions is to emphasize that the Reagan amendment is that someone might have to listen to a prayer with which he disagrees. Nobody can be forced to participate.

3. The last sentence.

I have no objection to this, although I think its result is already implicit in the Reagan amendment. If school prayer could no longer be regarded as an establishment of religion, then school boards would not have "compelling interest" necessary to justify an abridgement of free exercise, or a content-based discrimination against some kinds of speech.

THE WHITE HOUSE

WASHINGTON

September 17, 1982

MEMORANDUM FOR ELIZABETH H. DOLE

THRU: DIANA LOZANO
FROM: MORTON C. BLACKWELL *MB*
SUBJECT: Draft Presidential Radio Speech on Prayer

This is a fine statement except for the second full paragraph on page 3. Here there are two problems.

The second sentence should be changed to read: "In one case a court ruled against the right of children to say grace in their own school cafeteria before they ate." This is a better statement of the facts. In this case the principal had ruled against the right of children to say grace. Parents contested the principal's decision. The court refused to uphold the children's right to voluntary prayer.

The last sentence of this same paragraph should be changed to read: "Some people are now in federal court objecting to prayers being said in the Congress." It is stronger to point out that there is a pending court case. As a matter of fact, it is a Madelyn Murray O'Hair court case, and she won an initial round and was given by the courts standing to sue against prayer in the House of Representatives.

This statement will have a good political impact.

WHITE HOUSE STAFFING MEMORANDUM

SEP 16 1982

DATE: Sept. 16, 1982 ACTION/CONCURRENCE/COMMENT DUE BY: 10:00 a.m. Friday
September 17, 1982SUBJECT: Draft Presidential Radio Speech on Prayer

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	FULLER	☒	☐
MEESE	☐	☒	GERGEN	☒	☐
BAKER	☐	☒	HARPER	☒	☐
DEAVER	☐	☒	JENKINS	☐	☐
STOCKMAN	☒	☐	MURPHY	☒	☐
CLARK	☒	☐	ROLLINS	☒	☐
DARMAN	☐ P	☒ SS	WILLIAMSON	☒	☐
DOLE →	☒	☐	VON DAMM	☐	☐
DUBERSTEIN	☒	☐	BRADY/SPEAKES	☐	☒
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING	☒	☐	<u>Bakshian</u>	☐	☒

Remarks:

Please forward your comments directly to Aram Bakshian, with a copy to my office, by 10:00 tomorrow morning.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:

(Bakshian)
September 16, 1982
5:40 p.m.

PRESIDENTIAL RADIO SPEECH ON PRAYER
SEPTEMBER 18, 1982

My fellow Americans:

Today is a special day for our citizens of Jewish faith. It is Rosh Hashanah, the Jewish New Year, marking the beginning of the year 5743 on the Hebrew Calendar. So, to all of our friends and neighbors observing this holiday -- and speaking for all Americans -- I want to wish a happy, peaceful and prosperous New Year.

Rosh Hashanah also reminds us of the rich and varied religious heritage we Americans are blessed with. More than any other nation, ours draws inspiration from the creeds of many peoples from many parts of the world. They came to our shores from different ports of origin at different times in our history, but all of them -- from the men and women who celebrated the first Thanksgiving more than 3½ centuries ago to the boat people of Southeast Asia -- came here with prayers on their lips and faith in their hearts. It is because of this shared faith that we have become, in the words of the Pledge of Allegiance, "one nation, under God, with liberty and justice for all."

At every crucial turning point in our history, Americans have faced and overcome great odds, strengthened by spiritual faith. The Plymouth settlers triumphed over hunger, disease and a cruel northern wilderness because, in the words of William Bradford, "They knew they were pilgrims . . . so they committed themselves to the will of God and resolved to proceed."

George Washington knelt in prayer at Valley Forge and, in the darkest days of our struggle for independence, wrote that, "The fate of unborn millions will now depend, under God, on the courage and conduct of this army." Thomas Jefferson, perhaps the wisest of our Founding Fathers, had no doubt about the source from which our cause was derived. "The God who gave us life," he declared, "gave us liberty."

And nearly a century later, in the midst of a tragic and at times seemingly hopeless Civil War, Abraham Lincoln vowed that, "This nation, under God, shall have a new birth of freedom."

They say that prayer can move mountains. It has certainly moved the hearts and minds of Americans in their times of trial, and helped them to achieve a society that, for all its imperfections, is still the envy of the world and the last, best hope of mankind.

And just as prayer has helped us as a nation, it helps us as individuals. In nearly all our lives, there are moments when our prayers, and the prayers of our friends and loved ones, help to see us through and keep us on the right path. In fact, prayer is one of the few things in this world that hurt no one and sustain the spirits of millions.

I have always believed that this blessed land of ours was set apart in a special way -- that some divine plan placed this great continent here between the oceans to be found by people from every corner of the earth who had a special love for freedom and the courage to uproot themselves, leave homeland and friends to come to a strange land and create something that is new in all

the history of mankind -- a land where man is not beholden to government, government is beholden to man. A land where people are free to worship as they choose, seek the truth and live in peace with their neighbors and their God.

The Founding Fathers felt this so strongly that they enshrined the principle of freedom of religion in the First Amendment of the Constitution. The purpose of that amendment was to protect religion from the interference of government, and to guarantee, in its own words, "the free exercise" of religion.

Yet today we are told that to protect the First Amendment, we must suppress prayer and expel God from our children's classrooms. In one case, a court ruled ^{against} ~~that children cannot even~~ say grace in their own school cafeteria before they eat. A group of children who sought, on their own initiative and with their parents' approval, to begin the school day with a 1-minute prayer meditation have been forbidden to do so. And some students who wanted to join in prayer or religious study on school property even outside of regular class hours have been banned from doing so. ^{Some are now in a religious objection} ~~A few people have even objected~~ to prayers being said in the Congress.

That is just plain wrong. The Constitution was never meant to prevent people from praying. Its declared purpose was to protect their freedom to pray.

The time has come for this Congress to give a majority of American families what they want for their children, a constitutional amendment that will make it unequivocally clear that children can hold voluntary prayers in their schools, just

as the Congress itself begins each of its daily sessions with an opening prayer. With this in mind, last May I proposed to the Congress a constitutional amendment that declares, for once and all, that nothing in the Constitution prohibits prayer in public schools or institutions. It also states that no person shall be required by government to participate in prayer who does not want to. So everyone's rights -- believers and non-believers alike -- are protected by our voluntary prayer amendment.

I'm sorry to say that, so far, the Congress has failed to vote on it.

Today, on one of the holiest days of one of our great religious faiths, I urge the Members of the Congress to set aside their differences and act on this simple, fair and long-overdue measure to help make us "one nation, under God," again.

Thank you, God bless you, and God bless America.

THE WHITE HOUSE

WASHINGTON

MEMORANDUM

9/22/82

TO: ELIZABETH DOLE *****

FROM: WILLIAM K. ^WSADLEIR

SUBJ: APPROVED PRESIDENTIAL ACTIVITY

PLEASE IMPLEMENT THE FOLLOWING AND NOTIFY AND CLEAR ALL PARTICIPANTS. THE BRIEFING PAPER AND REMARKS SHOULD BE SUBMITTED TO RICHARD DARMAN BY 3 P.M. OF THE PRECEDING DAY.

NOTE: AS PROJECT OFFICER FOR THIS ACTIVITY, YOU ARE RESPONSIBLE TO SUBMIT A COMPLETE, CONFIRMED LIST OF STAFF AND ATTENDEES, IDENTIFIED BY TITLE, TO THE OFFICE OF PRESIDENTIAL APPOINTMENTS AND SCHEDULING WITHIN 5 DAYS AFTER THE EVENT.

MEETING: Candlelight Ceremony for ^{SCHOOL} ~~National~~ Prayer Day

DATE: September 25, 1982

TIME: 12:30 pm

DURATION: 15 minutes

LOCATION: State Dining Room

REMARKS REQUIRED: Yes

MEDIA COVERAGE: Coordinate with Press Office

FIRST LADY

PARTICIPATION: Yes

***** Coordinate with James Rosebush

cc: A. Bakshian	E. Rollins
M. Brandon	C. Romero
R. Darman	J. Rosebush
R. DeProspero	B. Shaddix
K. Duberstein	W. Sittmann
D. Fischer	L. Speakes
C. Fuller	WHCA Audio/Visual
R. Gubitosi	WHCA Operations
W. Henkel	R. Williamson
E. Hickey	A. Wrobleski
M. McManus	

This letter was also sent to:

Charles McC. Mathias
Orrin G. Hatch
Robert Dole
Alan K. Simpson
John East
Charles E. Grassley
Jeremiah Denton
Arlen Specter
Joseph R. Biden
Edward M. Kennedy
Robert C. Byrd
H.W. Metzenbaum
Dennis DeConcini
Patrick J. Leahy
Max Baucus
Howell Heflin *af/cor*

August 2, 1982

The Hon. Paul Laxalt
United States Senate
Washington, D.C. 20510

Dear Senator Laxalt:

We would like to bring to your attention a development with respect to the President's Voluntary School Prayer Amendment which you, as a member of the Senate Judiciary Committee, may find significant.

Proponents of the proposed amendment were asked at the July 29 hearing if they objected to state-composed prayer, which would be permitted under the President's proposal. Only Gary Jarmin of Christian Voice expressed no objection. Ed McAteer of the Religious Roundtable, Rabbi Seymour Siegel of the Jewish Theological Seminary of America, John Murphy of the Knights of Columbus, and Robert P. Dugan, Jr. of the National Association of Evangelicals were all opposed to any such state-mandated prayer. Moreover, Senate Judiciary Committee Chairman Strom Thurmond, in his opening statement, seemed to take a similar position in stating that the prayer permitted under the proposed amendment "could be accomplished without the involvement of the faculty, [or] school administrators, ***."

Under these circumstances, we urge your consideration of the change we suggested in the language of the proposed amendment as presently drafted (page 4 of our testimony, copy attached). Our suggested change would prohibit the states from influencing the form or content of any prayer or other religious activity. A second change we suggest would expand the amendment to encompass "other religious activity," a change sorely needed if meaningful religious expression is to be permitted in the public schools. Our testimony discusses the reasons underpinning these suggested changes.

We think it noteworthy that of all the witnesses testifying in opposition to the proposed amendment, only Senator Hatfield acknowledged the deplorable situation resulting from the Brandon and Lubbock cases. We welcome the remarks of Senator Hatfield in calling for legislative relief to redress court decisions which unduly restrict rights of free speech and free exercise of religion.

Don't hesitate to call us if you or your staff have any questions about our proposal. We are ready to help.

Sincerely,

Forest D. Montgomery
Counsel

FDM:jdk

Mr. Reagan
had best leave
prayer to the parents
and churches - He is
going to have a
"tiger by its tail"
w/ all the
regulations and
rules set forth in the
update!

THE WHITE HOUSE

WASHINGTON

September 15, 1982

Mrs. John Cowell Fosgate
106 S. Interlachen, Apt. 619
Winter Park, Florida 32789

Dear Mrs. Fosgate:

Thank you for your letter of August 27 relating to the President's proposed voluntary prayer amendment.

There is much in your letter that I agree with, but I think there are excellent reasons to support the President's proposed amendment.

You say that "we may pray in secret every hour of the day wherever we are." One tragic result of the series of anti-prayer decisions by the Federal courts is that prayer in school has been reduced to the status of pornography, liquor, and other drugs. That is, prayer is so "dangerous" that school authorities must prevent any public expression of prayer.

Did you know that one Federal court upheld a principal's ruling that kindergarten children could not say grace before a meal? A Federal court has also ruled that public school children may not assemble voluntarily to pray on school premises before or after class.

Last June I delivered a commencement address at a public high school in Manassas, Virginia, and the principal apologized to me for "breaking the law" by having a Baptist minister offer an invocation. This is not neutrality; this is not freedom of religion; this is surely not what the founders of our country intended by the First Amendment.

This is a difficult problem, and honorable people can disagree as to what should be done about it. Enclosed is a copy of a White House Issue Update which discusses the matter in more detail.

I hope this information is of interest to you.

Sincerely,

Morton C. Blackwell

Morton C. Blackwell

Special Assistant to the President
for Public Liaison

Know the power of sincere
unselfish, reverent prayer -
It is such a serious
issue that we must
all go to our closets, shut
the door and
pray and
pray that
God will
step in and
show us
what is
His will.
No other
will do -
Ask Him
will you?
Ask Him
to show us
tell you
what He thinks.
Don't listen
to me or
Reagan.



White House Office of Policy Information

ISSUE UPDATE

Washington, D.C.

July 22, 1982

On May 17, 1982 the President sent to Congress a proposed amendment to the Constitution which would restore the freedom of our citizens to pray in public schools. This paper, prepared by the White House Office of Policy Information, explains the fundamental policy considerations behind the proposal.

Constitutional Amendment to Restore School Prayer

The President's goal

The President wants to restore Americans' right to participate in voluntary school prayer, a right which is now prohibited by Supreme Court interpretations of the U.S. Constitution. He believes that individuals should be allowed to decide for themselves whether to join in such prayers.

As the President has stated, "The First Amendment was written not to protect the people and their laws from religious values but to protect those values from government tyranny."

Judicial rulings restricting prayer,

The Supreme Court did not see it this way. Its 1962 and 1963 rulings have prohibited prayer in our nation's public schools for nearly two decades on the premise that allowing such prayer violates the Constitutional separation between Church and State.

In writing the Constitution, the Founding Fathers were anxious to ensure that freedom of religion would be guaranteed, thus avoiding the religious persecution that had led a large number of American colonists to leave their European homelands. At the same time they sought to prevent the establishment of a "State religion" -- as existed in many European countries during the 1700s -- which could compel non-adherents to worship or contribute to a religion not of their own choosing.

For a century and three-quarters, the American judicial system maintained this careful balance between "freedom to worship" and "freedom from (compulsory) worship." However,

who will "police" each classroom to be sure a child was not made to join in. I know the determination of some teachers.

the 1962 and 1963 Supreme Court rulings tilted sharply toward concerns about "freedom from," going well beyond the Founding Fathers' intent to protect citizens from establishment of a State religion.

In the process, the Supreme Court severely restricted Americans' freedom to worship by denying public school students the right to join in prayer. The Court reasoned that even voluntary prayer in the public schools subjected students who did not wish to pray to intolerable peer pressure, and thus constituted government compulsion to pray.

Subsequently, judicial rulings based on these principles removed virtually all forms of voluntary worship from our nation's public schools. In one case, for example, the courts went so far as to uphold a school principal's order forbidding kindergarten students from saying grace -- on their own initiative -- before meals. The Supreme Court also approved a lower court decision which barred students -- from participating -- upon their own request and with their parents' consent, in a one-minute prayer meditation at the start of the school day.

The courts further forbade the accommodation of students' desire to join in prayer or religious study on school property even outside regular class hours. For instance, one court held that permitting students to conduct voluntary meetings for "educational, religious, moral or ethical purposes" under these conditions violated the Constitution. Likewise, a State court prohibited the reading of prayers from the Congressional Record in a high school gymnasium before the beginning of school.

Despite these and other decisions, some vestiges of the right to pray do survive in scattered public school systems throughout the nation, but these remnants of voluntary prayer continue to be under systematic and successful attack in the courts.

The trend thus established by these decisions directly contradicts the intent of the framers of the First Amendment, and places a discriminatory restriction on students in the exercise of their religious beliefs. For as long as the government requires its citizens to attend school, then schools should not be prohibited from accommodating those citizens' freedom to worship as they please. The President's proposed amendment would affirm and guarantee State and local authorities' ability to honor the place of prayer in people's lives.

Our nation's history

Freedom of expression is a cherished American tradition, and religious expression has especially deep roots in America's heritage. Since the birth of the United States, public prayer and the acknowledgement of a Supreme Being have been an important part of American life.

True, but we did not have the cults hanging around the school. They were not.

you seem to think of prayer as Japanese and like words. No way can a child be kept from thanking and praising God in their hearts. God sees to that!

But more important it should guarantee that they are not forced into worshipping that they do not wish. The youth.

Numerous examples demonstrate the religious nature of the American people. Our Declaration of Independence states that "all men...are endowed by their Creator with certain unalienable rights..." Our national pledge of allegiance proclaims us as "one nation, under God." Our coins are inscribed with the words "In God We Trust." In fact, even the Supreme Court, in an earlier day, observed that "We are a religious people whose institutions presuppose a Supreme Being."

Prayer also remains an integral part of many government functions and institutions. Sessions of Congress and many of the State legislatures open with prayer. Each of the branches of the U.S. military retains chaplains, and maintains chapels and hymnbooks for use by servicemen and women. The President, as well as governors and mayors of many of our States and cities, preside over annual prayer breakfasts. The President-elect takes the oath of office with his hand upon the Bible. The standard form for oaths for sworn testimony in U.S. courts contains the phrase "so help me God." And each new session of the Supreme Court opens with the declaration "God save the United States and this honorable Court."

By banning school prayer, the government is thus not only inconsistent with American religious heritage and practices, but is actually promoting a new orthodoxy contrary to the nation's history by tilting in favor of an "official line" that voluntary expression of religious belief is somehow unacceptable and illegal. The government thereby places school prayer on the same level as drinking, smoking or using illicit drugs on public school grounds -- all forbidden activities.

Yes, this is O.K. There are grown people involved who could see through any wrong use of prayers. Little children cannot.

In the end, however, the historical case for the school prayer amendment transcends even these religious issues, for prayer is but one of many forms of public expression. In singling out public school prayer for prohibition, the Court rulings of 1962 and 1963 departed from America's tradition of making no distinctions on the basis of the content of its citizens' speech. Moreover, the ban on school prayer is a glaring contradiction in a society which allows freedom of expression in political and philosophical discussion in public schools, but not in its religious forms.

Why we need an amendment

Under these circumstances, a constitutional amendment is needed to reaffirm America's heritage of allowing those who wish to worship to be able to do so, while simultaneously preserving the freedom of those who do not wish to pray. In contrast to the current ban on voluntary school prayer, which relegates the right to pray to the status of a "second-class freedom," not to be countenanced

in public institutions, the proposed constitutional amendment would afford voluntary school prayer the highest constitutional legitimacy.

As in any case where constitutional changes are contemplated, legislative remedies would be the preferred solution. But since legislation intended to re-establish the right to pray in public schools has been consistently struck down by the courts as unconstitutional, it is now apparent that only a clearly-worded constitutional amendment will unquestionably restore the right to pray.

A second requirement for protecting this right is to return decision-making on school prayer issues, as the amendment would do, to the States and localities. For more than 170 years the public decisions regarding school prayer reflected, as they should have, the desires and beliefs of the parents and children who were directly affected. This is far more appropriate than having rules imposed on a nationwide basis with little regard for differing local desires.

Analysis of the proposed amendment

The President's proposed constitutional amendment states that:

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer."

This language makes clear that the First Amendment cannot be construed to permit the courts to ban individual or group prayer in public schools. Thus, school authorities would be allowed to accommodate individual or group prayer at appropriate times, such as prior to class or before meals.

Furthermore, while the amendment does not require school authorities to conduct or lead prayer, it permits them to choose. Moreover, the selection of the particular circumstances for prayer would be left to the judgment of local communities based on a consideration of such factors as the preferences of parents, students, teachers, as well as other community interests.

The amendment does not limit the types of prayers that are constitutionally permissible. In particular, the amendment is not limited to "non-denominational prayer." Such a limitation might be construed by the Federal courts to rule out virtually any prayer except one practically devoid of religious content. Given current court decisions, any reference to God or a Supreme Being could be viewed as "denominational." The President wants to avoid that possibility.

This is a new day, my dear. I grew up in no cult territory!

Group prayers?

Dividing children & parents & teachers. - Who is to make the "final" choice of words?

many Antelope Oregon - Rajneesh of these Glencaster Mass - Moonies in evidence Saracoda & St Piter - Moonies Scientologists?

*Bad
What about
a moonie
teacher!
we will
have all
problems
trouble*

The amendment would also prevent the establishment of a uniform national rule on the conduct of voluntary prayer. It would instead allow State and local authorities to decide the appropriate manner in which school prayer should be conducted.

The second sentence of the proposed amendment assures that no one need make any expression of religious beliefs which he or she does not hold, and that no person would be required, by any State or the Federal government, to participate in prayer. The right not to pray is thus protected as well.

At the same time, the presence of one or more students who do not wish to participate in prayer would no longer deny the remainder of the students the right to pray. The freedom to pray -- even in public places -- is one of America's most essential and revered liberties. Where there is no constitutionally overriding harm from the exercise of this particular freedom -- as there clearly is not in this case -- the freedom to pray must not be categorically forbidden.

Concerns about the amendment

Opponents to a constitutional amendment allowing voluntary school prayer often claim that voluntary prayer is available to students at any time during the school day. But these critics fail to recognize that many of the world's great religions consider prayer at times a communal activity. To exercise their religion fully, many persons believe they should join in prayer. Opposing this right is itself a form of intolerance, relegating children to surreptitious private expressions of faith instead of accomodating their legitimate religious interest in joining together in prayer.

What these critics are really saying is that voluntary school prayer must be hidden and in silence. But this right to prayer, which American school children now have, is similar to the freedom Soviet school children have: They can pray as long as they are not caught at it. Surely public expressions of prayer should have more legitimacy in the United States than that which exists in an officially atheistic and totalitarian country.

Opponents also claim that the amendment will impose "government-sponsored prayers," but past experience has shown that this claim is unwarranted. Local school authorities are far more likely to allow one or more of the following expressions of prayer: Permitting a brief period of silent prayer at the start of the school day; permitting students to say their prayers before lunch; or allowing students to organize prayer groups which could meet at school before or after classes or during recess.

All of these activities are voluntary, and in no way infringe upon the rights of those who do not wish to participate; yet each of these activities has been forbidden as a result of the Supreme Court decisions.

Although it is true that some local authorities might draft prayers, as some did before the 1962 Supreme Court decision, such action would not violate the rights of others, because the proposed amendment protects all persons from being required to participate in prayer.

The status of the amendment

In order to become part of the Constitution, the amendment must first go to the House and Senate Judiciary Committees, and then be approved by two thirds of the members of both houses.

The two Senate sponsors of the amendment (S.J. Res. 199) are Strom Thurmond, chairman of the Senate Judiciary Committee, and Orrin Hatch, a member of that committee. Hearings before the committee are scheduled for the last week in July, with mark-up and a final vote tentatively planned for August. If that schedule is adhered to, it is possible that the amendment could come to a vote in the full Senate by this fall.

In the House, the prime sponsor of the amendment (H.J. Res. 493) is Rep. Tom Kindness, who has secured 35 co-sponsors for the amendment. The chairman of the House Judiciary Committee -- Rep. Peter Rodino -- has failed to schedule any hearings or mark-ups, and apparently intends to block the amendment from even coming to a vote in the Committee.

The only way to circumvent the House Judiciary Committee is to secure 218 signatures of House members on what is called a "discharge petition" which Rep. Kindness plans to file. If successful, the petition would bring the amendment to the House floor, where a vote could then be taken.

The final stage in the ratification process is for three-quarters of the State legislatures to approve the amendment, at which time it would become part of the Constitution.

Unlike other legislation, constitutional amendments, once passed by Congress, do not come to the President for his signature. However, President Reagan wants the Congress to approve the amendment expeditiously.

Conclusion

In the President's May 17 letter to Congress introducing the school prayer amendment, the President said: "The amendment will allow...individuals to decide for themselves whether they wish to participate in prayer."

Thus, the fundamental issue is whether or not a free people, under their Constitution, will be entitled to exercise the freedom to express their religious faith in the form of prayer. This long cherished liberty.-- so deeply imbedded in the history and traditions of the United States -- is one which the President is committed to restoring.

#



FOB JAMES
GOVERNOR

STATE OF ALABAMA

WASHINGTON OFFICE

*School
Prayer*

July 28, 1982

Mr. Norman Blackwell
THE WHITE HOUSE
Washington, D. C. 20000

Dear Norman:

The enclosed is self-explanatory and for your review.

Please call at your convenience.

Sincerely,

Charles S. Snider
Director

CSS/apw
Enclosure

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2 NORTH ROYAL STREET

P. O. BOX 2727

MOBILE, ALABAMA

36652

SAM W. PIPES
B. SAGE LYONS
AUGUSTINE MEASER, III
WESLEY PIPES
NORTON W. BROOKER, JR.
COOPER C. THURBER
MACK B. SINION
MARION A. QUINA, JR.
THOMAS F. GARTH
VICTOR H. LOTT, JR.
WALTER M. COOK, JR.
J. P. COURTNEY, III
THOMAS O. BEAR
DANIEL E. DRENNEN, II
POB JAMES, II

WALTER M. COOK
ARTHUR J. KEARLEY
OF COUNSEL

JOSEPH M. LYONS (1900-1987)

TELEPHONE 432-4481
AREA CODE 205

July 23, 1982

Honorable William French Smith
Attorney General
United States of America
Washington, D.C.

Dear Mr. Smith:

Please find enclosed a draft of Alabama's brief in support of its motion to dismiss a complaint challenging the constitutionality of its new prayer law, which allows teachers and students to pray to God as they wish. The bottom line of this brief is that the First Amendment requires the Federal government to stay out of state religious matters. Therefore, the basis of our motion to dismiss is jurisdictional.

In our opinion, the only proper involvement in state religious matters by the Federal Judiciary is to insure that each individual's right not to participate in public prayer or other religious matters shall remain inviolate. In this lawsuit, the plaintiff has explicitly alleged his right to be free from the religion of prayers of others in public.

We think that the historical meaning of the First Amendment conclusively supports our position. The Federal government simply does not have subject matter jurisdiction over the prayers of the American people to God. To construe the Constitution to silence such prayer nullifies the First Amendment and does a great injustice to the people of this country, as well as to the people of Alabama.

Our prayer law is totally consistent with President Reagan's proposed Constitutional Amendment relating to prayer in public places. Our law makes available a prayer which affirms Alabama's dependence on God, but does not limit the content of prayers by teachers and students.

Intervention by the Justice Department in this case in order to vindicate the historical meaning of the Constitution would be proper. Even if John Marshall was right that the Supreme Court ought to have the final say on what is constitutional, it does not follow that the other branches of the Federal government should not strongly express their own opinions on important matters.

LYONS, PIPES & COOK

July 23, 1982
Page Two

We believe very strongly that the Supreme Court's extension of a secularist mandate to public institutions and laws across this country is extremely dangerous. On the face of it, what business does the Federal government have in silencing the teachers and students who want to pray to God while in the schools.

On behalf of the Governor of Alabama, I appreciate your consideration of our request.

Very truly yours,

LYONS, PIPES & COOK

Fob James, III

FJ, III/mes
enclosure

THE WHITE HOUSE
WASHINGTON

Copies
to PMW J.
Sara Walker J.
Sally Reed J.
Dana Rohrabacher J.
of
~~others~~
at ceremony

June 1981

THE WHITE HOUSE

WASHINGTON

September 28, 1982

F.Y.I.

From: Morton C. Blackwell

I clipped this Sunday from the New Orleans "Times-Picayune."

Reagan expresses support of prayer by lighting candles

WASHINGTON (AP) — President Reagan on Saturday decried the "drive to eliminate God" from the classroom and then lit three candles in support of voluntary prayer in public schools.

"No one is suggesting that others should be forced into any religious activity," said Reagan, urging the Senate to act on a constitutional amendment to allow prayer in schools.

"But to prevent those who believe in God from expressing their belief is an outrage. And the relentless drive to eliminate God from our schools can and should be stopped," he told about 50 people gathered in the State Dining Room.

"If the president of the United States can pray with others in the Oval Office — and I have on a number of occasions — then let's make certain that our children have the same right as they go about preparing for their futures and the future of this country," he said.

Asked when Reagan prays in the Oval Office, deputy White House press secretary Larry Speakes said he thought the president once prayed with an anti-abortion group that visited him. Reagan rarely attends Sunday church services.

The candles that Reagan lit were to be used Saturday during a rally near the Capitol for School Prayer Day.

After he finished speaking, the president and his wife, Nancy, spent several minutes shaking hands and chatting with the audience, which included singer Pat Boone, former football player Rosie Orier, Sen. Jesse Helms, R-N.C., Sen. Strom Thurmond, R-S.C., and the Rev. Jerry Falwell, head of the Moral Majority.

Helms led a long but unsuccessful Senate fight on school prayer legislation.

Reagan, who pledged Friday to stick with the New Right in its crusade for anti-abortion and prayer legislation, said the school prayer issue is "as vital to the future of this country as any we face."

The president turned aside arguments that allowing prayer in public schools would violate the rights of those who do not wish to pray.

Instead, he said, it "infringes on the freedom of those who choose to pray, a freedom taken for granted since the time of our founding fathers."

Bellevue

BAPTIST CHURCH

70 NORTH BELLEVUE BOULEVARD
MEMPHIS, TENNESSEE 38104

*File Voluntary
Prayer*

ADRIAN ROGERS
PASTOR

January 12, 1983

Mr. Morton Blackwell
The White House
Washington, D.C. 20500

Dear friend Morton:

Thank you for sending me a copy of the resolution
from the Tennessee Baptist Convention.

Reading the resolution, you can see that it is
carefully worded and aimed so as to appear to be
against the President's proposed amendment, but
it is so skillfully written that what it literally
says is that we are against government scheduled
and government directed prayers in public schools.
Of course, we are, but that is not the point. The
President's amendment deals with voluntary prayer
as we all know.

This was an attempt by a certain man to muddy the
water. It was passed late in our program when no
one was there to speak against or to clarify it.
This is for your information and it needs no response.

Thank you for your friendship.

In Jesus' Name,

Adrian Rogers
Adrian Rogers

lg

dictated but not read

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 9, 1982

FOR: MORTON BLACKWELL
FROM: STEPHEN H. GALEBACH *SG*
SUBJECT: School Prayer Amendment

The American Studies Program of the Christian College Coalition would like to have someone from the Administration talk to 41 college students/interns and 3 faculty members, concerning the President's school prayer amendment, on September 20 or a later date.

They would like to bring the students in to the Indian Treaty Room if possible (they did it once before); otherwise, they would have the meeting at their place on Capitol Hill. They asked me to speak, but you might want to handle this, and I'm not sure whether I could do it.

The contact person for the group is Jerry Herbert, at 546-3086, who called me yesterday. Do you think we should provide them a speaker?

*Prof. Jerry Herbert
235 Second St
NE
WASH
20002*

*Bring College students
1 Semester Interns
LOCAL SERVICES*

*4100
9/20*

LWTC Jennifer

*4-5:30
Room
258*



**NATIONAL ASSOCIATION OF
EVANGELICALS**

OFFICE OF PUBLIC AFFAIRS/1430 K STREET NW/WASHINGTON DC 20005/(202) 628-7911

July 29, 1982 Testimony Presented by

ROBERT P. DUGAN, JR.

Director, Office of Public Affairs

to the

SENATE JUDICIARY COMMITTEE

re:

S.J. Res. 199

Proposing an amendment to the Constitution of the United States.

The National Association of Evangelicals appreciates this opportunity to testify in support of S.J. Res. 199. NAE is an association of some 36,000 churches included within forty member denominations and an additional thirty-five nonmember denominations. We serve a constituency of 10-15 million people through our commissions and affiliates, such as World Relief and National Religious Broadcasters.

On behalf of the National Association of Evangelicals, I want to applaud the President for initiating the effort to restore religious freedoms which have been eroded by the courts. My testimony will (1) focus on the need for a constitutional amendment to return to the original meaning of the First Amendment by restoring a balance between the Establishment and Free Exercise Clauses, (2) support the basic concept of S.J. Res. 199, and (3) offer for the consideration of this Committee a suggested change in language to strengthen the proposed amendment. Before proceeding to the body of my testimony, I would like to associate my remarks with the excellent legal analysis of the amendment prepared by the Justice Department's Office of Legal Policy dated May 14, 1982.

I

Americans are generally united on the subject of school prayer. By majorities of 75% and more, they endorse the concept of voluntary group prayer in the nation's public schools. Why?

In Engel v. Vitale, 370 U.S. 421 (1962) and Abington School District v. Schempp, 374 U.S. 203 (1963), the Supreme Court banned from public schools as unconstitutional both government-sponsored prayers and the devotional reading of the Bible. If interpreted narrowly, those decisions would not necessarily have proven harmful, but in practice the lower courts and school administrators have carried the spirit of those decisions further than was warranted. Those who categorically oppose prayer in schools have been successful in virtually eradicating any kind of religious reference in many public schools.

Let me cite just a few examples. In Lubbock Civil Liberties Union v. Lubbock Independent School District, 669 F. 2d 1038 (5th Cir. 1982), the court held that a school system's permission for students to conduct voluntary meetings for educational, religious, moral, or ethical purposes on school property before or after regular class hours violated the Establishment Clause. See also Brandon v. Board of Education, 635 F.2d 971 (2d Cir. 1980), cert. denied, 102 S. Ct. 970 (1981). In another case, a school district's decision to allow student initiated prayer at voluntary school assemblies unsupervised by teachers was struck down on Establishment Clause grounds. Collins v. Chandler Unified School District, 644 F.2d 759 (9th Cir.), cert. denied, 102 S. Ct. 322 (1981). And in Stein v. Oshinsky, 348 F.2d 999 (2d Cir.), cert. denied, 382 U.S. 957 (1965), a school principal's order forbidding kindergarten students from saying grace before meals on their own initiative was upheld.

These cases, as well as a host of others, reveal a propensity of the courts to view every form of religious activity solely in Establishment Clause terms. The President's proposed amendment recognizes the urgent need to return to the original meaning of the First Amendment by restoring more of a balance between the Establishment and Free Exercise Clauses.

Opponents of the President's initiative have been quick to observe that the responsibility for religious training rests with the home and the church. We couldn't agree more. But their truncated analysis fails to address the problem of millions of school-age young people who, for lack of any meaningful acknowledgment of God in the public schools, are left to conclude that the state recognizes no power higher than its own. Creation of such an impression is not in keeping with the religious heritage bequeathed us by our Founding Fathers, with longstanding national tradition, and with the desire of the great majority of our citizens today.

This Committee faces a grave responsibility to respond to the wishes of the American people, who in their inherent wisdom realize the need for change.

II

S.J. Res. 199 would constructively amend the Constitution by adding an Article reading as follows:

Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer.

This amendment steers a wise course by not conferring an affirmative right to prayer in the public schools. It would simply remove any constitutional obstacle to voluntary prayer. In doing so it would meet the problem we have indicated — the need to shift the focus from the Establishment Clause to the Free Exercise Clause in order that the public schools be permitted to accommodate the free exercise of religion.

In an effort to live up to the severe constraints of court-imposed "neutrality," our public schools have avoided even acknowledging the existence of God. This public school environment, which in effect makes God irrelevant, is weighted with unspoken values. It subtly makes man the measure of all things — the very definition of secular humanism. The distressing irony is that the Supreme Court has

recognized Secular Humanism as one of the nontheistic religions. Torcaso v. Watkins, 367 U.S. 488, 495 (1961). If we are to avoid establishing humanism in the public schools, there has to be some opportunity for opposing views to be heard. Today government "neutrality" is a myth.

Justice Stewart has proven to be a prophet. As he said in his powerful dissent in Abington School District v. Schempp, 374 U.S. at 313:

[A] compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism, ***.

Opponents of the proposed amendment, in asserting that religion belongs only in the home and church, overlook this reality. The proposed amendment would redress the present lack of neutrality by permitting voluntary prayer in our public schools.

III

While endorsing the proposed amendment, we would like to submit for the Committee's consideration some language we believe would strengthen it. The substance of the changes we suggest is indicated by underscoring in the following version of the amendment:

Nothing in this Constitution shall be construed to prohibit prayer or other religious activity in public schools or other public institutions. Neither the United States nor any State shall require any person to participate in prayer or other religious activity, or influence the form or content of any prayer or other religious activity.

This version of the proposed amendment would expand its scope by permitting a variety of voluntary religious activity — prayer, Bible reading, religious clubs, religious instruction, and so forth. But it would restrict the potential operation of the President's amendment by prohibiting government influence on the form or content of any prayer or other religious activity.

Let me elaborate on our reasons for these changes.

The 22 word prayer struck down as a violation of the Establishment Clause in Engle v. Vitale, 370 U.S. 421, 422 (1962), reads as follows: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country."

That kind of prayer, routinely repeated every school day, is far removed from the kind of meaningful religious expression that should be permitted in the public schools. Hence our expansion in the proposed amendment to include "other religious activity."

Our version of the amendment would (1) treat persons of every belief or unbelief equally by prohibiting the government from influencing the form or content of the religious activity, and (2) overrule McCollum v. Board of Education, 333 U.S. 203 (1948), to the extent that case was based on the physical location of the program of released time religious instruction in the public schools.

I would like to expand on these two points in terms of Zorach v. Clauson, 343 U.S. 306 (1952) and the McCollum case, supra.

In Zorach, released time programs of religious instruction off the school premises were held constitutional. The only factual difference of any consequence between Zorach and McCollum, which struck down a released time program of religious instruction in the public schools, is the physical location of the religious instruction. The location of such activity should not be the conclusive determinant of constitutionality. Yet, as interpreted by the Supreme Court, that is the law of the land. It needs to be changed.

The mere physical use of a public school building is not the functional equivalent of state sponsorship or entanglement. (Many public schools are presently being used as meeting places for churches or synagogues on weekends.) Physical proximity does not automatically make church and state one. The use of public school buildings for religious activity should be permitted as an accommodation to the free exercise of religion.

The First Amendment does not bar cooperation between church and state. Of course the state must do no more than cooperate in making its physical facilities available for the religious activity on the same basis as it would for any other activity, including any arrangement for financial reimbursement. Such a lack of entanglement would be constitutionally guaranteed by the language that we suggest be added to the proposed amendment, for it would prohibit the states from influencing the form or content of any prayer or other religious activity.

We have used the word "influence," rather than "prescribe," in order to make it clear that the state cannot, directly or indirectly, have anything to do with the form or content of the religious activity. This would not preclude school authorities from scheduling the school day as they see fit and from assuring that such matters as fire regulations are observed. However, it would permit our public schools, at the discretion of the school authorities, to cooperate with the people of the community in making the school building available for religious activity.

What we propose here today is nothing less than a new birth of freedom in this religiously pluralistic society. Our proposal would assure persons of every faith — as well as those who do not believe — the opportunity to participate in a variety of activity using the facilities of the public schools. There could be Bible study, prayer, religious instruction, panel presentations, or debates, according to the wishes of the local community.

Students would be free to attend whatever activity they wished. They could go to meetings of their own faith, or attend with friends at sessions of another faith. The appeal of the program, not the influence of the state, would dictate

attendance. This is what religious freedom — in truth, academic freedom — is all about. Our approach, to a great extent, reflects the free speech rational of the Supreme Court in Widmar v. Vincent, 102 S. Ct. 269 (1981), which held that religious speech is entitled to the same constitutional protection as any other form of speech on a state university campus.

Far from being divisive, such a free and diverse program would promote understanding and tolerance of others' beliefs. That to us would be a far healthier situation than the present state of affairs in the public schools where there is often intolerance of religious belief.

We are encouraged by the potential of a constitutional amendment which would restore a balance between the Establishment Clause and the Free Exercise Clause. We see no good reason why the states, if they choose, should not be permitted to cooperate with the people in allowing religious expression — uninfluenced by the state — in our public schools. It is time that our public schools cease to be the only public institution where a meaningful acknowledgment of God is forbidden.