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RELIGION IN THE CLASSROOM*

M.G. "Pat" Robertson**

In this essay, Chancellor Robertson addresses the role religion has had in society, and in the public schools in particular. He stresses the significance religion had to the Founding Fathers and in the inception of a public school system in America. Chancellor Robertson maintains that the remnants of our country's religious heritage can still be seen today. He warns, however, of the dangers that can result, and in fact have resulted, because of the absence of religion in modern society. Chancellor Robertson argues that many Supreme Court cases have distorted the Establishment Clause, resulting in numerous violations of students' freedom of religious expression. He concludes by urging that many Americans want religion returned to the public classroom and to its place in society.

* * *

Thank you very much. I appreciate that gracious invitation and also the privilege of being here to address this distinguished group in such distinguished company, including the dean of the law school, Dean Krattenmaker, who is himself a noted constitutional expert and served as a clerk to Justice Harlan of the Supreme Court. So I feel somewhat humbled to be in the midst of such distinguished legal talent, but I hope you will bear with me.

Several years ago, the American people were horrified to learn of the gang rape of a teenage girl by a group of teenage boys that took place in a crowded pool hall in a seaport town in Massachusetts. Imagine the scene. An innocent, young woman was seized by six ruffians. She clawed desperately to free herself from their grasp. Yet, they were too strong. She screamed for help, yet the patrons looked on indifferently. Her clothes were ripped from her body, then she was pinned down on a pool table while one

* This is, in essence, the original speech given by Chancellor Robertson at the symposium on "How Much God in the Schools?", sponsored by the Student Division of the Institute of Bill of Rights Law at the Marshall-Wythe School of Law, College of William and Mary, on February 23, 1995. Some minor edits have been made for the sake of clarity, and explanative footnotes have been added to update the reader and support Chancellor Robertson's assertions. For a full and academic discussion of the points of law raised in Professor Nadine Strossen's essay, please refer to M.G. "Pat" Robertson, *Squeezing Religion out of the Public Square—The Supreme Court*, Lemon, and the Myth of the Secular Society, 4 WM. & MARY BILL RTS. J. 223 (1995).

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after another of the young men violated her body, her dignity, her very soul. They stole her self respect. They stole her hopes and dreams. They stole her trust in people. And, worst of all, they stole her virtue and her faith in God.¹

Rape is a horrible crime, but my message tonight is not about the brutal rape of a young woman. I want to tell you about a much more insidious rape, a rape that has been repeated over and over, a rape that was not directed against the virtue and self worth of a few individuals. I am talking about a rape of our entire society. A rape of our nation's religious heritage, a rape of our national morality, a rape of time-honored customs and institutions—yes, and, especially, a rape of our governing document, the United States Constitution. Who is responsible for this violation? Consider these suspects: learned Justices of the Supreme Court, joined by so-called legal scholars with multiple degrees from prestigious schools of law, and paid representatives of such benign sounding organizations as the American Civil Liberties Union.

Of course, back in 1962, some of us screamed for help as the garments of civic virtue were being ripped from our society. We cried out in anguish as each successive assault tore something precious within the viscera of our nation. But, like the bystanders in the Massachusetts pool hall, few heeded our cries.

Ladies and Gentlemen, I submit to you tonight that after forty years of repeated assaults, our nation is battered and torn asunder, and that many of our children, like the young lady in Massachusetts, have lost faith in ultimate goodness because they have lost faith in God.

Consider the facts. After a forty year assault on religious faith in our schools and public institutions, the liberal predators have given our nation the following: America leads the world in the use of illegal drugs. America leads the world in pregnancies to unwed teenagers. America leads the world in abortion. America leads the world in violent crime. America leads the world in the percentage of the population incarcerated in prisons. America leads the world in divorce. With thirty million problem drinkers, America is second only to France in the percentage incidence of alcoholism. In reading skills, America's students fall behind students from every other developed nation. Americans with serious reading disabilities (at 83,000,000) comprise almost one third of the population.²

¹ UPI, Mar. 18, 1983, *available in* LEXIS, News Library, UPI File (search for records containing "rape" and "pool").

² KEITH A. FURNIER, *A HOUSE UNITED? EVANGELICALS AND CATHOLICS TOGETHER—A WINNING ALLIANCE FOR THE 21ST CENTURY* 121 (1994); PAT ROBERTSON, *THE TURNING TIDE: THE FALL OF LIBERALISM AND THE RISE OF COMMON SENSE* 21, 192, 214 (1993); *see also* William J. Bennett, *Getting Used to Decadence: The Spirit of Democracy in Modern America*, 477 *THE HERITAGE LECTURES* 3 (1993) (Address Before the Heritage Foundation's President Club). *See generally* DAVID BARTON, *AMERI-*

What solutions do our liberal leaders offer to solve the moral dilemma they have created? Guards and metal detectors at the entrances to public schools; machines to dispense condoms in the male and female washrooms of high schools and junior high schools; one hundred thousand new policemen on the streets; 8.3 billion dollars in new appropriations for prison construction; mandatory sentences for convicted felons; life in prison for three-time criminal offenders. And, of course, many voices cry out for expanded executions of criminals by electrocution, gassing, or lethal injection.

Yet, in the midst of social and moral collapse, the American Bar Association recently warned of the danger that would come to America if little children could once again be allowed to acknowledge God in America's schools.³

I submit to you tonight that such a position is utter nonsense. I call on the ABA and each of you to heed the words of a former graduate of William and Mary, George Washington,⁴ who presided at the Constitutional Convention and then became our first President. He said the following: "Let us, with caution, indulge the supposition that morality can be maintained without religion . . . reason and experience forbid us to expect public morality in the absence of religious principle."⁵ I repeat his words for emphasis: "reason and experience forbid us to expect public morality in the absence of religious principle."⁶

To paraphrase the nation's first president, without religious principle to guide them, people will tend to be immoral and careless about marital obligations. They will, if it suits their interests, lie, cheat, steal, commit violent acts, and abuse drugs and alcohol. Guards and metal detectors, more prisons, and expanded death sentences will not deter them in the absence of religious principle.

America's second president, John Adams, another key figure in the drafting of the Constitution, believed that freedom under a democratic system of government was only possible to a people with inner moral self-restraint. I quote the remarks of Adams made shortly after the conclusion of the Constitutional Convention: "Our Constitution [is] made only for a moral

CA: TO PRAY OR NOT TO PRAY? (1994); DAVID BARTON, *THE MYTH OF SEPARATION* (1992) [hereinafter BARTON, *THE MYTH OF SEPARATION*]; WILLIAM J. BENNETT, *THE INDEX OF LEADING CULTURAL INDICATORS: FACTS AND FIGURES ON THE STATE OF AMERICAN SOCIETY* (1994).

³ Tony Mauro, *Lawyers Lodge Objection to Parts of GOP Agenda*, USA TODAY, Feb. 15, 1995, at 2A.

⁴ Technically speaking he is not a graduate, but rather a licensee. In 1749, George Washington was granted his license as a surveyor by the College of William and Mary. JOSEPH N. KANE, *FACTS ABOUT THE PRESIDENTS* 8 (4th ed., 1981).

⁵ 35 WRITINGS OF GEORGE WASHINGTON FROM THE ORIGINAL MANUSCRIPT SOURCES 1745-1799, at 229 (John C. Fitzpatrick ed., 1940).

⁶ *Id.*

and a religious people. It is wholly inadequate for the government of any other.”⁷ To put Adams’s words another way, constitutional government, as we know it, is no better than the religious faith of the people. If the religious faith of the people is eroding, constitutional freedom will be eroding along with it.

In fact, both Washington and Adams realized the truth found in the Proverbs of King Solomon, who wrote: “Where there is no vision of God, the people run amok.”⁸ Indeed, where there is no objective standard beyond the changing whims of a transitory political or judicial majority, the people can find no transcendental truths to which they can adhere. If people do not believe in eternal rewards or eternal punishments, then they readily ask, what harm can there be in hedonism (if it does not raise their cholesterol level), or lawlessness (so long as they do not get caught)?

I submit to you tonight that those who misuse the Constitution to exclude religion from the schools, the public square, and the deliberations of elected bodies are those who are the true enemies of the Constitution itself.

As we consider religion’s role in the classroom, I would call to your mind the following inescapable facts:

The birthday of the United States is considered by most of our citizens to be July 4, 1776, the date of the signing of the Declaration of Independence. The central thrust of the argument contained in that foundational document was that there is a Creator, who had established transcendent standards of morality for the conduct of human relations, and who had created men equal and had further endowed them with rights which could not be taken away by temporal government.

Thomas Jefferson, the author of the Declaration, warned the nation that our liberties could not be secure if we forgot that they were “a gift of God.”⁹ On the frieze surrounding the interior of the Jefferson Memorial in our nation’s capital, are these words: “I have sworn on the altar of God eternal enmity over every form of tyranny over the mind of man.”¹⁰

Jefferson’s offhand remark to the Danbury Baptist convention about “a wall of separation between church and state”¹¹ certainly bore no resemblance to his own passionately expressed conviction that the fire of religious faith was the sure foundation for political freedom.

⁷ 9 THE WORKS OF JOHN ADAMS—SECOND PRESIDENT OF THE UNITED STATES 229 (Charles F. Adams ed., 1969); *see also* RICHARD J. NEUHAUS, THE NAKED PUBLIC SQUARE: RELIGION AND DEMOCRACY IN AMERICA 95 (2d ed. 1988).

⁸ *Proverbs* 29:18.

⁹ SAUL K. PADOVER, THE COMPLETE JEFFERSON 677 (1943).

¹⁰ THOMAS JEFFERSON: WORD FOR WORD 4 (Maureen Harrison & Steve Gilbert eds., 1993).

¹¹ PADOVER, *supra* note 9, at 518-19 (referring to a letter from Thomas Jefferson to the members of the Danbury (Connecticut) Baptist Association, Jan. 1, 1802).

In 1789, the same year as the drafting of the First Amendment, Congress passed the Northwest Ordinance, considered one of the three foundational documents of the organization of the emerging United States.¹² In that Ordinance were these words: "religion, morality, and knowledge, being necessary to good government . . ." ¹³ With that mandate, schools were to be established with public funds to teach children religion and morality.¹⁴

Without question, any education without biblical instruction would have been unthinkable when the nation ratified the First Amendment to the Constitution. A recent University of Houston study endeavored to categorize the major influences on the Founding Fathers of this nation by an analysis of their writings.¹⁵ They found that thirty-four percent of the quotes in the Founders' writings were taken directly from the Bible, and another sixty

¹² See *Wallace v. Jaffree*, 472 U.S. 38, 100 (1985) (Rehnquist, J., dissenting). The Northwest Ordinance was passed by Congress at the same time that they were drafting the Bill of Rights. Coupled with the Declaration of Independence and the Articles of Confederation, it is considered one of the "organic documents" of the nation. See Art. 1 U.S.C.A. 1-23 (West 1987) (preface) (setting forth in print the Organic Laws: The Declaration of Independence of 1776, The Articles of Confederation of 1777, and The Ordinance of 1787: The Northwest Territorial Government). In effect, the Northwest Ordinance was a constitution for the newly acquired areas that were to become the Great Lakes states. See 28 U.S.C. §§ 1331, 1337 (1948).

¹³ Northwest Ordinance, ch. 8, 1 Stat. 52 (1789).

¹⁴ *Id.* ch. 8, cl. III ("Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."). David Barton writes:

The First Amendment was produced from June 7 through September 25, 1789; the "Northwest Ordinance" was passed from July 17 to August 7, 1789—both were passed by the same Founding Fathers, and the "Northwest Ordinance" was passed directly in the midst of their drafting of the First Amendment (which—over the last three decades—the Court has interpreted as prohibiting religious activities and teachings in public schools).

Significant in the "Northwest Ordinance" was Article III, which provided for education in the territories. Article III stipulated that for a territory to become a state, their schools *must* teach religion and morality as well as knowledge!

DAVID BARTON, *EDUCATION AND THE FOUNDING FATHERS: A BOOKLET BASED ON THE VIDEO AND AUDIO BY THE SAME TITLE* 6 (1993) [hereinafter BARTON, *EDUCATION AND THE FOUNDING FATHERS*] (footnotes omitted); see also BARTON, *THE MYTH OF SEPARATION*, *supra* note 2, at 37-38 (detailing how the wording of the Northwest Ordinance found its way into the state constitutions, especially in Ohio and others in the Northwest Territory, and as a result brought about legislation that was the foundation of what became the public schools of these states).

¹⁵ DONALD S. LUTZ, *THE ORIGINS OF AMERICAN CONSTITUTIONALISM* 141-43 (1988); see also JOHN EIDSMOE, *CHRISTIANITY AND THE CONSTITUTION* 51-53 (1987). See generally DAVID BARTON, *AMERICA'S GODLY HERITAGE: A TRANSCRIPT OF THE VIDEO AND AUDIO BY THE SAME TITLE* (1990).

percent were inspired by its teachings.¹⁶ One simply cannot understand the American experiment of ordered liberty without also understanding the role of faith in God and the tenets of Scripture in the lives of the nation's Founders.

Consider with me the birth of American institutions of education. The Massachusetts School Law of 1647 enacted the first public school system in America.¹⁷ It was expressly intended to teach children to read and write so they could understand the Scriptures. In fact, the Bible was their textbook.¹⁸ Harvard was founded in 1636. Its founding goals were to: "Let every student be plainly instructed and earnestly pressed to consider well the main end of his life and studies is to know God and Jesus which is eternal life . . . and, therefore, to lay Christ in the (beginning) as the only foundation of all sound knowledge and learning."¹⁹ The reading of the Bible was an integral part of its educational program. Yale was founded as a college for the liberal and religious education of suitable youth.²⁰ Among the many rules that were established to build character was attendance at morning and evening prayer.²¹ Why was the College of William and Mary founded here in 1693? The original charter calls for the school to pursue education that serves the cause of Christ—to train pastors, to educate the youth piously,

¹⁶ LUTZ, *supra* note 15, at 141-43.

¹⁷ THE CODE OF 1650, BEING A COMPILATION OF THE EARLIEST LAWS AND ORDERS OF THE GENERAL COURT OF CONNECTICUT 92-93 (Hartford, Silus Andrus 1822); *see also* 20 THE ANNALS OF AMERICA: GREAT ISSUES IN AMERICAN LIFE, A CONSPECTUS 364-66 (1968).

¹⁸ One can easily deduce from the wording of the law, and the social setting in which it was implemented, that the Scriptures were a primary text in the classroom. The New England Primer incorporated much Scripture into its text, as stories and vocabulary. The Bible was the main study guide, and the most common book, in the colonial period. If this is not clearly evident to the study of history, consider the testimony of Fisher Ames:

Should not the Bible regain the place it once held as a schoolbook? Its morals are pure, its examples are captivating and noble. . . . In no Book is there . . .

English, so pure and so elegant, and by teaching all the same they will speak alike, and the Bible will justly remain the standard of language as well as of faith.

WILLIAM J. FEDERER, AMERICA'S GOD AND COUNTRY ENCYCLOPEDIA OF QUOTATIONS 26 (1994). Ames "was a Congressman from Massachusetts in the First Session of the Congress of the United States, during the time the *Bill of Rights* were being formulated. It was Fisher Ames who had suggested the wording of the *First Amendment*, which was adopted by the House." *Id.*

¹⁹ PETER G. MODE, SOURCEBOOK AND BIBLIOGRAPHICAL GUIDE FOR AMERICAN CHURCH HISTORY 74-75 (1921).

²⁰ *Id.* at 109-10.

²¹ *Id.*

and to endeavor to "propagate . . . the Christian faith amongst the Western Indians."²² This threefold mission was oft repeated in the first hundred years of this institution's life.

These colleges and universities were not abnormalities. The historical record of education in America demonstrates that 123 of the first 126 colleges formed in America were incorporated with overtly Christian foundational statements.²³ Even at the turn of this century, it was very rare to find a college president who was not also an ordained clergyman. Education, morality, and religion were inseparable. This concept was as true in public school as it was in the private schools.

Vestiges of our religious history still live in the public life of America. The President swears an oath of office with his hand placed on the Bible. Both houses of Congress begin their sessions with prayers led by a chaplain whose salary is paid by public funds. The Supreme Court sits in a chamber upon whose walls are engraved the Ten Commandments. And, Court sessions begin with a prayer: "God bless this honorable Court." Witnesses giving testimony in court swear to tell the truth "so help me God."

Our national Pledge of Allegiance contains the phrase: "one nation under God." Our coins contain the words: "In God We Trust." The United States Constitution was signed and dated with a reference to Jesus Christ: "In the year of our Lord." The Constitution of every state in the United States contains some reference to God. For example, the motto of the State of South Dakota is "Under God The People Rule."²⁴ Each year, the President and Congress decree a day for thanksgiving to God. We celebrate in May of each year a National Day of Prayer. Our armed forces go into battle accompanied by chaplains paid with government funds.

Our city names bear witness to religious faith and tradition: Los Angeles, San Francisco, Los Cruces, Santa Fe, Bethlehem, Zion, Philadelphia. There is so much more that time does not permit me to enumerate.

Perhaps, the best summation of our religious history was made by a former Yale University law professor, later an Associate Supreme Court Justice, William O. Douglas, who wrote in 1952 in *Zorach v. Clausen*:²⁵

²² JAMES J. WALSH, *EDUCATION OF THE FOUNDING FATHERS OF THE REPUBLIC: SCHOLASTICISM IN THE COLONIAL COLLEGES* 104-05 (1970). In its original, the charter's text reads, "*Christian faith . . . be propagated amongst the Western Indians, to the Glory of Almighty God.*" *THE HISTORY OF THE COLLEGE OF WILLIAM AND MARY: FROM ITS FOUNDATION 1660-1874*, at 3 (Richmond, J.W. Randolph & English 1874) (available at Rare Books Dep't, Swem Library, College of William & Mary, Williamsburg, Virginia) (emphasis added).

²³ David Barton's research has led him to conclude that "106 of the first 108 colleges formed in America—and 123 of the first 126—were formed on Christian principles." BARTON, *EDUCATION AND THE FOUNDING FATHERS*, *supra* note 14, at 7.

²⁴ 12 *THE NEW ENCYCLOPEDIA BRITANNICA* 155 (15th ed. 1994)

²⁵ 343 U.S. 306 (1952).

We are a religious people whose institutions presuppose a Supreme Being . . . [W]hen the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs.²⁶

In 1913, President Woodrow Wilson warned us that “[a] nation which does not remember what it was yesterday, does not know what it is today, nor what it is trying to do. We are trying to do a futile thing if we do not know where we came from or what we have been about.”²⁷ Yet, in 1995, our Supreme Court has forgotten its past and is in danger of losing its future. Successive activist courts and judges have willfully rewritten our religious history. They have distorted the clear intention of the Framers of our Constitution. And, they have robbed our nation’s school children of the religious foundation that is the only stability possible for them in our fast-paced world of sex, drugs, and violence.

So, we come to a Symposium such as this to debate how little of the influence of Almighty God we puny mortals will tolerate in our schools and in our troubled society.

I will not enumerate the many Court cases from 1962 which did violence to our history or to the clear understanding of the “Establishment of Religion” Clause of the First Amendment to the Constitution. I protest with all my being the judicial distortions which have forbidden little children to pray or read the Bible in school; which have taken the Ten Commandments from classroom walls; which have denied a Christian teacher the right to have a Bible on his desk; which have implied that religion is a dangerous infection which must be confined, if possible, within the walls of a church; that have struck down laws of sovereign states merely because their authors may have entertained a religious motive in the drafting process of the legislation.

In 1990, it was my privilege to found the American Center for Law and Justice to fight in the courts for the religious freedom of believers. Since that time, the American Center has met such a need that its active cases in 1994 numbered one-thousand. We receive at the Center about forty calls each week which describe in detail a vendetta against people of faith by the public school system. By way of illustration, consider these shocking abuses under the rubric of “separation of church and state.”²⁸

²⁶ *Id.* at 313.

²⁷ FEDERER, *supra* note 18, at 697.

²⁸ Many of these cases are pleas for help made in the past few years to the Ameri-

In DeKalb County, Georgia, two teenage boys were suspended from school for "possession of Christian literature."²⁹ In Metropolis, Illinois, an honors student was arrested, handcuffed, and put in a police car for praying at the school flag pole at seven-thirty in the morning before the start of the school day.³⁰ In an elementary school, a fifth grader was made to stand at punishment for mentioning God and Jesus Christ during his recess period. In another school, a first grader was asked the meaning of Christmas. When she answered, "[a]nimals and a manger," her teacher snapped, "[i]t is against the law to talk about religion. Go back to your desk and put your head down."³¹ In another school, a child was asked to name her hero. She wrote, "Jesus Christ." The teacher said, "I mean live heroes." When the child said she believed Jesus was alive, she was sharply reprimanded.³² In yet another school, a high school boy brought his Bible to class one day. When his teacher saw it, she held it up and snarled, "Get this thing out of here!"³³

These examples are not aberrations.³⁴ They have become the norm, as

can Center for Law and Justice and its affiliate organizations. Because less than one percent of such cases end up in a court of public record, little documentation can be released to the general public. ACLJ archivist Steven Box has searched the records and reports finding six to twelve cases with fact patterns similar to each of the cases discussed herein. Both counselling etiquette and attorney-client privilege deny us the ability to list full disclosures on all our contacts.

²⁹ JAY SEKULOW, FROM INTIMIDATION TO VICTORY: REGAINING THE CHRISTIAN RIGHT TO SPEAK 58-59 (1990); see also ROBERTSON, *supra* note 2, at 311.

³⁰ Carolyn Bower, *Police Break Up Prayer Session Being Held at School's Flagpole*, ST. LOUIS POST-DISPATCH, Sept. 13, 1991, at 6A; see also William W. Horne, *Defending the New Civil Disobedience*, AM. LAW., 58, 61 (1991).

³¹ ROBERTSON, *supra* note 2, at 9.

³² *Id.* at 316.

³³ Cf. KEITH A. FOURNIER, RELIGIOUS CLEANSING IN THE AMERICAN REPUBLIC 12 (1993) (citing case of Clarence Harrison Musslewhite); see also ROBERTSON, *supra* note 2, at 309-11.

³⁴ On February 15, 1994, Jay Sekulow, Chief Counsel of the American Center for Law and Justice, and Keith Fournier, Executive Director of the ACLJ, petitioned the Honorable Janet Reno, Attorney General of the United States, and the Honorable Richard W. Riley, Secretary of Education, for a redress of grievances concerning patterns of continuous and ongoing violations of the Equal Access Act, 20 U.S.C. §§ 4071-4074 (1988). The goal of the submission was to move the Federal government to issue regulations requiring school districts that receive federal funding to certify that they are in compliance with the requirements of the Equal Access Act. In the cover letter, Mr. Sekulow stated that ACLJ staff attorneys are "confronted daily by situations in which local school districts flagrantly disobey the Act and, thereby, violate the civil rights of public secondary school students who have sought access to their schools' club forum in order to form a Bible club or prayer group." Letter from Jay Sekulow, Chief Counsel of the American Center for Law and Justice, to Janet Reno, Attorney General of the United States, and the Honorable Richard W. Riley, Secretary of Education 2 (Feb. 15,

ignorant or malevolent public school teachers and administrators put into effect the religious cleansing in the schools that they believe has been mandated by the courts.³⁵ Only a valiant legal effort by our American Center

1994) (on file with the Virginia Beach offices of the ACLJ and the *William & Mary Bill of Rights Journal*). Mr. Sekulow attached a lengthy appendix to his letter, vouching for its accuracy to the Attorney General and Secretary of Education with the sentence, "I have attached to this letter a chart which summarizes some eighty-five incidents that occurred in the last four months in which the Center has provided assistance to public school students." *Id.*

The 1994 response to the ACLJ petition was less than enthusiastic. James P. Turner, Acting Assistant Attorney General, Civil Rights Division, demurred, writing that "since [the Department of Justice is] without jurisdiction to prosecute, the Civil Rights Division does not investigate alleged violations of the [Equal Access Act]." Letter from James P. Turner, Acting Assistant Attorney General, Civil Rights Division, to Jay Alan Sekulow, Chief Counsel of the American Center for Law and Justice (Mar. 9, 1994) (on file with the Virginia Beach offices of the ACLJ and the *William & Mary Bill of Rights Journal*). Judith A. Winston, General Counsel for the United States Department of Education, responded that while her office shared the ACLJ's concern about compliance, "we believe that Congress intended the Act to be enforced primarily at the local level." Letter from Judith A. Winston, General Counsel for the United States Department of Education, to Jay Alan Sekulow, Chief Counsel of the American Center for Law and Justice (Mar. 30, 1994) (on file with the Virginia Beach offices of the ACLJ and the *William & Mary Bill of Rights Journal*). Like the Department of Justice, the Department of Education contended that "[t]he Equal Access Act does not assign this Department or any other Federal department or agency the responsibility to enforce its provisions. . . . Consequently, we have not issued the regulations that you suggest." *Id.*

Thus the case presented by the ACLJ in the February 15, 1994 letter was closed, until re-opened by President Clinton on July 12, 1995.

³⁵ President Clinton put this ongoing problem of school-based religious discrimination into the public spotlight in his July 12, 1995 address to the students of James Madison High School:

So what's the big fight over religion in the schools and what does it mean to us and why are people so upset about it? I think there are basically three reasons. One is, people believe that—most Americans believe that if you're religious, personally religious, you ought to be able to manifest that anywhere at any time, in a public or private place. Second, I think that most Americans are disturbed if they think that our government is becoming anti-religious, instead of adhering to the firm spirit of the First Amendment—don't establish, don't interfere with, but respect. And the third thing is people worry about our national character as manifest in the lives of our children. The crime rate is going down in almost every major area in America today, but the rate of violent random crime among very young people is still going up.

President Bill Clinton, Religious Liberty in America, Address at James Madison High School, Vienna, Virginia (July 12, 1995) (transcript *available in* LEXIS, News Library, U.S. File).

In addressing the issue of being religious in school the President stressed: "The First Amendment does not—I will say again—does not convert our schools into religion-free zones." *Id.* Turning to the issue of those who believe otherwise, President

for Law and Justice, complete with hundreds of damage suits, temporary restraining orders, or threats of litigation, has, in some measure, slowed the antireligious onslaught facing the school children of America.³⁶

I agree with the Chief Justice of the United States, William Rehnquist, who has stated that the current Establishment Clause rulings of the Supreme Court are fatally flawed because they do violence to the clear intention of the Framers of the Constitution and the historical practices of our nation.³⁷ I also agree with the brilliant Associate Justice Antonin Scalia, who has noted that the flawed three-part test of *Lemon v. Kurtzman*³⁸ is like an un-

Clinton told his student audience that “[t]here are those who do believe our schools should be value-neutral and that religion has no place inside the schools. . . . I think that wrongly interprets the idea of the wall between church and state. They are not the walls of the school.” *Id.*

Invoking as evidence what some would dub a “parade of horrors,” President Clinton listed many instances of school-based religious discrimination. *Id.* He clearly stated that he wants the religious rights of these students respected pursuant to the Constitution, and that this has not been done in many instances. “Some school officials and teachers and parents,” the President stated, “believe that the Constitution forbids any religious expression at all in public schools.” *Id.* According to the former constitutional law teacher Bill Clinton, “That is wrong.” *Id.*

³⁶ The President’s July 12, 1995 directive to the Departments of Education and Justice concerning religion in the schools reveals his depth of passion for the subject. President Clinton wrote “I share the concern and frustration that many Americans feel about situations where the protections accorded by the First Amendment are not recognized or understood.” *President’s Memorandum on Religious Expression in Schools*, N.Y. TIMES, July 13, 1995, at B10. The American Center for Law and Justice has for years received a constant barrage of calls from students, employees, and others who are facing discrimination because of their faith—discrimination at the hands of teachers, and other government agents who either misunderstand or refuse to recognize First Amendment rights. The ACLU and others had decried and minimized these discriminatory patterns, charging the ACLJ and others with fabrication of cases. Yet in his July 12, 1995 directive President Clinton himself pointed out that “[t]his problem [of religious discrimination] has manifested itself in our Nation’s public schools. It appears that some school officials, teachers and parents have assumed that religious expression of any type is either inappropriate, or forbidden altogether, in public schools.” *Id.* Like his speech on the same day, the President named many specific fact patterns of religious discrimination, and most all of them could be lifted right out of the files of the ACLJ. *Id.*

In keeping with the spirit of the civil rights movement (and in keeping with the 17 month old ACLJ request), President Clinton responded to these ongoing abuses: “I hereby direct the Secretary of Education, in consultation with the Attorney General, to use appropriate means to ensure that public school districts and school officials in the United States are informed, by the start of the coming school year, of these interpretations of the Equal Access Act.” *Id.*

³⁷ See *Wallace v. Jaffree*, 472 U.S. 38, 91 (1985) (Rehnquist, J., dissenting).

³⁸ 403 U.S. 602 (1971).

welcome “ghoul” that continues to rise from the grave, that must once and for all be put to death by driving a stake through its heart.³⁹

Surveys of the American people by the Gallup organization over the past fifteen years show each year that eighty percent of the American people want prayer returned to the public schools of the nation.⁴⁰ The people have waited patiently for judges to reverse their error, but to no avail. Now, to the liberal activist judges and their friends and allies, the people of America say very simply: you have violated us long enough. We want our history back. We want our traditions back. We want our Constitution back. And, we want God back in the schools of America.

I want to make this point clear. I am not talking about creating a theocracy in America. I am talking about safeguarding the precious liberties of all Americans and all people of faith.

I submit to you tonight that, if the people cannot obtain what they want by judicial means, they will insist that, during the life of this new Congress, there will be passed an Amendment to the Constitution—not the much discussed School Prayer Amendment—but an amendment that guarantees religious expression for young and old, in our schools, and every other public place, an amendment to restore the proper understanding of the First Amendment. Once Congress has acted, ratification by the states will be swift and certain.

I emphasize that such an amendment will be the beginning, not the end, of the long road back to moral health in this nation. For now, I pray that men and women of good will can lay aside those things that divide them in order to work for a time when this nation is once again one nation under God!

Thank you, and God bless you.

³⁹ See *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 113 S. Ct. 2141, 2149-50 (1993) (Scalia, J., concurring in judgment).

⁴⁰ Rochelle L. Stanfield, *The Amen Amendment*, NAT'L J., Jan. 7, 1995, at 22.