

CHRISTMAS AND THE COURTS

Is it ever constitutionally permissible to have Christmas carols, religious plays and religious symbols in the public schools? According to the latest U.S. District Court ruling, the answer is "yes."

The question is scarcely new. Communities were wrestling with such questions before any persons now alive entered their first classroom. Some of these questions have never been clarified by the courts.

In this case, a school district in Sioux Falls, South Dakota had put on a Christmas Assembly, including a responsive discourse in which the teacher asked: "Of whom did the heavenly angels sing?" And the class responded as a unit: "Jesus."

That sort of thing struck some of the parents as more than a bit out of line. Yes, there are Jews in Sioux Falls. In response to the complaints, the school board adopted a "Policy" on the subject, with these points among others:

"No religious belief should be promoted by the school district ... In that spirit of tolerance, students and staff members should be excused from participating in practices which are contrary to their religious beliefs ...(!) the several religious holidays which have a religious *and* secular basis may be observed ... music, art, literature and drama having religious themes are permitted if presented in a prudent and objective manner ... the use of religious symbols such as a cross, menorah, crescent, Star of David, creche is permitted as a teaching aid provided such symbols are displayed as an example of the cultural and religious heritage ..."

Some parents, with the aid of the American Civil Liberties Union, asked the courts to rule such a "Policy" unconstitutional, since it did in fact permit the promotion of religion.

The U.S. District Court ruled that while the original responsive reading had indeed been unconstitutional, the "Policy" was not. It leaned on a Supreme Court ruling that government could get involved in religion-related matters only if 1) there was a *secular* purpose; 2) the *primary* effect would not be to advance religion; 3) there was no *excessive* government entanglement with religion.

In this case, the District Court felt that these three tests were met by the Sioux Falls "Policy." Thus, Good Friday could not be observed in the public schools, but Christmas could be, because it had a "secular significance" as well as a religious one: e.g., in the case of Christmas carols, "to involve the student in the full spectrum of our western musical tradition."

This decision is going to be appealed. Perhaps some day, the Supreme Court will provide a blueprint on what Christmas practices are constitutionally impermissible in the public schools. On the other hand, legal blueprints may never be forthcoming, and perhaps may not be the answer.

The school district of Novato just adopted some guidelines which include the prescription to "avoid all activities which emphasize the adorational or devotional aspects of religious holidays, or which present a religious message, or which place stress on customs associated with one religion." These guidelines are not just based on the Constitution, but heavily on good educational practices, and the sensitivities of parents and children.

The Novato guidelines are also subject to specific interpretation, but they push in a different direction than those of Sioux Falls. Evangelistic forces are currently attacking the Novato guidelines for "taking God out of the classroom."

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Within *any* guidelines or court rulings, there may always be a problem of interpreting the difference between a cultural expression and a religious expression in any given case. In fact some court rulings, because of their general language, may undermine some local efforts to have school boards recognize student and parent sensitivities in this matter.

Some problems may be too complex for the courts.

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