Gathering at the schoolhouse

Two Supreme Court verdicts represent important victories for those who have usually found themselves on the losing end of arguments over religious freedom in public schools. The attorneys for the religious plaintiffs finally got smart. Instead of arguing the cases on the basis of religion, they argued them on the basis of free speech.

In doing so, they took the club used by the left to beat religious people into submission over "offensive" textbooks and federally funded pornographic and blasphemous "art" and beat the other side over the head with it.

Those who have contended that the First Amendment is absolute and that no speech or expression should be restricted were caught with their legal briefs down. They could hardly argue that cursing God was within the bounds of the First Amendment but that saying something nice about Him was not.

One case involved the use of a Long Island public school after hours for showing a film produced by a Christian organization, Focus on the Family. The court ruled unanimously that equal access means equal access. If the school permits some groups to meet after school, it could not exclude religious people from meeting and showing a Christian film.

In the second case, the court let stand a lower court ruling that permits student-led prayers at public school graduation ceremonies. The court ruled last year that prayers at a Rhode Island public school commencement were unconstitutional because the school invited clergy to pray, which gives the impression the school is endorsing religion.

In its decision last week, the court emphasized it was not abandoning the test it created in Lemon vs. Kurtzman in 1971. The justices ruled in that case that, for a practice to survive an establishment clause challenge, it must have a secular purpose, not advance or inhibit religion as its principal effect and not foster an excessive state entanglement with religion.

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Steven Freeman, director of legal affairs for the Anti-Defamation League, said these two court rulings "can't help but give encouragement to more religion in the public schools." Yes, and just in the nick of time, as the schools appear ready to collapse under the weight of imposed secularism and an anti-religious attitude that has encouraged young people to worship nothing higher than their glands in sex-education classes and has stripped the spiritual history of our own country from textbooks and music classes.

The Supreme Court should reconsider the views on the First Amendment by no less an authority than Justice Joseph Story, who was named to the Supreme Court in 1811 by the father of the Constitution James Madison, another noted authority on the First Amendment.

Justice Story knew the intent of the Framers because he knew the Framers. In his classic "Commentaries on the Constitution of the United States," Story wrote, "The real object of the First Amendment was not to countenance, much less advance, Mohammedanism, or Judaism or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to a hierarchy the exclusive patronage of the national government. It thus cut off the means of religious persecution (the vice and pest of former ages), and the subversion of the rights of conscience in matters of religion which had been trampled upon from the days of the Apostles to the present age."

This meant that under the American system, Congress could not establish the Catholic church or the Baptist denomination or any other faith as the official American religion. That is all the First Amendment establishment clause meant. The First Amendment was written to prevent sectarian conflict over the control of government, not to erect a so-called "wall," shutting off people of religious faith from influencing government as modern courts have misinterpreted it.

These Supreme Court rulings are welcome temporary relief, but if they were put in a civil rights context they would be nothing better than allowing blacks the right to eat at some restaurants, yet still upholding the right of Denny's to deny them service. The court still treats religion as the bastard child of free expression. It has some rights, but it has been wrongly regarded as the illegitimate progeny of another era and, as such, has been denied its proper rights of inheritance that the Framers intended for it.

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THE SUPREME COURT PONDERS RELIGION IN SCHOOLS.