

NATION

SPECIAL REPORT

# Religious groups increasingly join battles in court

By Larry Witham  
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Since the Supreme Court ruled in 1947 that government must be neutral in religious matters, a growing number of organizations have entered the resulting legal disputes.

At first, Protestant, Roman Catholic and Jewish groups watched as suits were filed by the American Civil Liberties Union and a group called Protestants and Other Americans United for Separation of Church and State.

The latter, an organization of people wary of what they regarded as Catholic encroachment, filed its first lawsuit in 1949, two years after the group was formed.

"It was to stop a [Catholic] religious order from being given control of a public school in New Mexico," said Joseph Conn, spokesman for what is now called Americans United. It is still active in litigation.

In the late 1950s, the ACLU took the lead on prayer and Bible-reading disputes in schools. "We played a major role in Engel and Schempp," the 1962 and 1963 Supreme Court rulings that banned the practices, said a spokeswoman.

Although the U.S. Catholic bishops' National Catholic Welfare Council was founded in 1919 and defended Catholic legal rights in a 1923 parochial school case, it rarely entered the legal fray.

But lawyers for each bishop sometimes went into court. In the 1962 Engel vs. Vitale case, a lawyer known in the press as the "cardinal's lawyer" argued in support of the New York state regents' prayer for schoolchildren.

Jewish organizations started filing court papers supporting religious liberty issues in the 1920s. In the 1960s their lawyers began instigating legal action.

The late Leo Pfeffer, counsel for the American Jewish Congress from 1958 to 1985, argued 13 cases before the Supreme Court.

In 1961, Theodore Mann, later president of the Conference of Presidents of Major American Jewish Organizations, lost his effort to convince the Supreme Court that "blue

laws" forbidding business on Sunday discriminated against Jews.

The National Council of Churches and the National Association of Evangelicals did not file lawsuits but joined the debates with lobbying, public statements or endorsements of litigation.

When the U.S. Catholic Conference formed in 1967 as the policy wing of the Catholic bishops, it also shied from lawsuits.

"It's rare for us to commence litigation," said Mark Chopko, general counsel for the conference. His office mostly helps Catholics find legal services and files court papers backing lawsuits, he said.

The National Association of Evangelicals did not have an in-house lawyer until 1980. It has filed only one lawsuit since it formed in 1942 — a failed class-action challenge to the 1984 appointment of a U.S. ambassador to the Vatican.

Evangelicals, who believe the Bible counsels against litigation, formed the Christian Legal Society in 1961 to promote fellowship among Christian members of the American Bar Association.

By the mid-1970s, however, they became concerned over "equal access" of religious believers to public facilities provided to other groups. They formed the Center for Law and Religious Freedom to begin litigation on such issues.

But one member, John Whitehead, said he wanted "Christian lawyers to be aggressive and go into the courtroom." In 1982 he formed the Rutherford Institute, the closest thing then to a Christian ACLU.

The Rutherford Institute now defends a wide range of religious belief, has offices in several countries, 40 staff members, an annual \$7 million budget and 100 cases currently in court.

But the media limelight has been taken over by the American Center for Law and Justice, formed in 1990 as an offshoot of Pat Robertson's ministry and broadcast empire. Its budget this year is \$3 million, and it led an active national education campaign on student rights to religious free speech at schools.