Important Court Decisions On Schools

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The atheists overplayed their hand. After their string of victories banning prayer and the Ten Commandments, they must have thought the time was ripe to get rid of God in the Pledge of Allegiance. But our country simply isn't going to stand for the ridiculous Ninth Circuit Court of Appeals ruling. A Newsweek poll found that a phenomenal 87 percent of Americans support "under God" in the Pledge.

Congress should not wait for the Supreme Court to reverse the Pledge decision. Congress should immediately use its Article III constitutional power to withdraw jurisdiction from the federal courts by passing a law that reads: "Judicial power may not interfere with the peaceful invocation of God."

The U.S. Supreme Court decision in the Cleveland school choice case the same week is being heralded as a turning point in judicial policy toward religiously affiliated schools, but the Pledge of Allegiance decision may turn out to be even more influential. It may galvanize Americans to call a halt to the damage that activist judges have been inflicting for decades.

The Pledge decision came hard on the heels of a media orgy about the 30th anniversary of Watergate. The damage Richard Nixon did to the Constitution in Watergate, however, was minuscule compared to the damage he did in appointing Justice Harry Blackmun of Roe v. Wade (abortion) fame and Alfred T. Goodwin, the Ninth Circuit judge who achieved his Andy Warhol 15 minutes of fame with a decision that brought down the wrath of everyone from Jerry Falwell to Tom Daschle.

The judge apparently didn't remember how the Pledge of Allegiance issue helped to defeat Michael Dukakis in 1988. A typical liberal who shrank from flag-waving symbolism, Dukakis had vetoed a law to require public school teachers to lead the Pledge of Allegiance every morning, and his nose was rubbed in his own stupidity by George Bush the First.

The Supreme Court upheld the Cleveland school option plan as "a program of true private choice" even though the big majority of voucher-using parents chose (gasp, gasp) religiously affiliated schools. Some are saying that this is the most important school decision since prayer in schools was banned by Engel v. Vitale in 1962 or even since segregation was banned by Brown v. Board of Education in 1954.

The Cleveland plan is limited to poor children whose parents want to opt them out of some of the worst-rated schools in the country. It won't pay tuition for the children of rich liberal Senators who sanctimoniously orate against school choice for poor kids at the same time that they send their own children to expensive private schools.

While the ruling in the school voucher case applies only to Cleveland, it can usher in a new era of competition in education. It's a significant rupture in the monopoly that the teachers unions hold over tax-supported elementary and secondary schools.

Competition is the only reform that will improve schools. Throwing good money after bad will not help; the public schools already spend several times more money per student than the schools to which the voucher-using parents are so eager to transfer their children.

Lengthening the school year or reducing class size will not help. Forcing children into schools at age 3 or 4 will not help. Teaching self-esteem to children who can't read, write or calculate won't help.

In watching the tantrums indulged in by the teachers unions and their allies, such as the National PTA, their principal argument is not First Amendment but financial. They are squealing because school choice plans divert a tiny fraction of public funds to private schools "that are not accountable to the public."

Public schools are currently accountable only to the political bureaucracy that the unions control. Private schools are accountable to the parents who pay the tuition and can withdraw their children if the schooling isn't satisfactory.

In an argument that doesn't pass the laugh test, the teachers unions assert that private schools and their students should pass government tests to assure that their curriculum is of high quality. "High quality" like the Cleveland public schools where only 10 percent of students can meet the most basic levels of achievement?

In a letter to the Economist magazine, American Federation of Teachers president Sandra Feldman boasted that "the official state-mandated study of the Cleveland voucher program ... found that the gains of public-school students were greater than those of voucher students." That's an argument FOR not against a school-choice plan because it shows that competition works.

School choice plans actually save public funds because private schools consistently educate students for much less money than the public schools are spending. School choice plans may, however, cause the flow of union dues to fall, and that may be the unions' real objection.