P.S. to the NEWS
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RELEASE: MAY 4, 1979

HELMS PRAYER AMENDMENT

Senator Edward Kennedy proved his lack of competence to be chairman of the powerful Senate Judiciary Committee when he denounced the Helms Prayer Amendment as "a step that is clearly unconstitutional." It is not unconstitutional, and the chairman of the Judiciary Committee should know better than to claim it is.

The Helms Amendment would withdraw jurisdiction from the Supreme Court to review state statutes or local ordinances pertaining to voluntary prayer in public schools and public buildings. Article III, Section 2 of the U.S. Constitution specifically empowers Congress to make "exceptions" and "regulations" to the Supreme Court's appellate jurisdiction.

The genius of the great American Constitution is that it wisely provides restraints on each of the three branches of government when they exceed their authority. Removal of jurisdiction from the federal courts is a well-established, frequently-used, and fully-constitutional method of procedure to remedy judicial abuse.

In the 1930s, the liberal members of Congress concluded that the federal courts were too influenced by conservative prejudices to handle cases involving labor strikes fairly. So they passed the Norris-LaGuardia Act removing jurisdiction in this field from the federal courts.

The Congressional liberals followed the same procedure when they passed the Hiram Johnson Acts in order to remove jurisdiction over public utility rates and state tax rates from the federal courts. These laws have worked well, and no one has suggested that they be repealed.

In 1946 the Supreme Court handed down the portal-to-portal pay decision which was generally recognized to be a gigantic mistake that would have put hundreds of firms into bankruptcy. Congress solved this problem with dispatch by simply removing jurisdiction from the federal courts to handle any more such cases.

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Another celebrated example of Congress' restricting the jurisdiction of the federal courts was the Emergency Price Control Act of 1942 (OPA). In the test case, the Supreme Court held that Congress had the right and power to provide that no federal court should have jurisdiction to consider the validity of any OPA regulation.

Some people argue that Congress cannot now remove the Court's jurisdiction over prayer in public schools because the Court has already assumed jurisdiction over this issue. This argument is answered by the case of Ex parte McCardle (1869). Even though McCardle's case had gone all the way up to the Supreme Court, and the Court had already heard the arguments and had the case under advisement, Congress enacted a statute withdrawing jurisdiction from the Supreme Court -- and the Court had to dismiss the case.

Some persons make the argument that, if jurisdiction is taken away from the federal courts, then we could have up to 50 different decisions made by 50 state supreme courts. This would be a vast improvement over the present situation, and much more in tune with the tradition of local control of our schools.

Senator Edward Kennedy argued that "the question of prayers in the schools is a vitally important matter that should be addressed by a constitutional amendment" rather than by the Helms Amendment. This is the political copout of those who want to score points with the voters by talking in favor of a popular goal while not doing anything effective to reach that goal.

A constitutional amendment would take a two-thirds vote of both Houses of Congress, a clear impossibility at the present time. The Helms Amendment needed only a simple majority and passed easily by 51 to 40.

There is absolutely no reason why we should need a constitutional amendment to take action which was considered constitutional and proper for nearly 200 years from the time our country was founded until the Supreme Court anti-prayer decisions of 1962 and 1963. It is only in the last 15 years that public school children have been denied the right to have prayers and moral training in the schools -- the same period of time when violent crimes and property destruction inside public schools have made life unsafe for pupils and teachers alike.

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