Christian Coalition of Washington

Educating and Activating Christians for Social, Political, and Spiritual Action

November 2005

WHAT parental RIGHTS?

The state court's creation of a new class of parents is one more example of "judge-made law" that is at the root of much societal turmoil. --Christian Coalition of Washington, 11/3/2005

There they go again! A three-judge panel for the 9th Circuit Court of Appeals ruled last week that parents should butt out when it comes to what their children are taught in school. Although Judge Stephen Reinhardt's 23-page decision is arguably bereft of common sense and tradition, the litigants probably weren't surprised—all things considered. Three years ago, Reinhardt ruled that the phrase "under God" in the Pledge of Allegiance, violates the Establishment Clause of the U. S. Constitution—a ruling repudiated by the President, virtually every member of Congress and more than 260 million Americans.

At issue are complaints from six parents in a Palmdale, California school district who believe their children were asked intrusive and inappropriate survey questions without full parental knowledge or consent. School officials, however, say a letter was mailed to parents informing them of some 79 questions that would help establish "a community baseline measure of children's exposure to early trauma." But, not mentioned in the letter, were questions rating areas such as touching their "private parts too much," not being able to stop "thinking about sex," and having "scared or upset" feelings when thinking about sex; questions the six parents believe are far too weighty for 7-year-old minds.

Demonstrating why critics view him as a man lacking wisdom and discretion, Judge Reinhardt found that "…there is no fundamental right of parents to be the exclusive provider of information regarding sexual matters to their children..." Further, in Reinhardt's opinion, "…parents have no due process or privacy right to override the determinations of public schools as to the information to which their children will be exposed while enrolled as students."

But, if a couple of federal judges moved the legal yard lines with respect to parental prerogatives in education, then most certainly their lesser brethren in the Evergreen State dug up the goal posts by redefining "family." In a lopsided 7-2 decision on Thursday, the State Supreme Court sent a strong message that, henceforth, lesbian couples will be treated no differently than married heterosexual couples when it comes to split-ups and parental rights. Said the *Seattle Post Intelligencer* on November 4, "The definition of family in Washington has changed."

The ruling stemmed from the case of a lesbian couple (a biological mother and her ex-lover) fighting over custody of "their" daughter.

Concocting a new category of parents called "de facto parents," Associate Justice Bobbe Bridge said the rights of "de facto parents" in this state are [now] on a par with biological or adoptive parents. But in a strongly worded dissent, Justice Jim Johnson blasted the majority for ignoring parental laws already established by the Legislature and creating, by judicial decree, a new method of determining parentage.

As the *Seattle Post Intelligencer* sees it, “Ruling that a child’s committed, long-term caregiver may petition for the same parental rights as a biological mother or father opened the door to step-parents, grandparents, long-time [co-habitants] and others seeking custodial rights…” Brian Krikorian, attorney for the biological parents agrees, but also warns, “This decision puts every single parent on notice: Anytime you allow another adult to assist in raising your child, you could potentially be giving that person 50-percent authority over your child.”[1]

The homosexual community perceives an even narrower focus in the decision. ACLU attorney Aaron Caplan believes that the court finally recognizes that sexual orientation of parents is irrelevant in decisions about parental rights.

Justice Bridge, the Press, and the ACLU do not call attention, however, to the fact that the defendant and the plaintiff were not in a legally recognized relationship. As it were, the couple’s living arrangements ended when the biological mother and her sperm donor fell in love and decided to get married. Clearly, it does not require the Wisdom of Solomon to determine parental rights in this case—unless there is an underlying agenda.

That there is indeed the appearance of a liberal agenda at work in the court, worries pro-family leaders as they wait for a ruling on the *Defense of Marriage Act* which could come anytime soon. Conservatives are persuaded that when judges alter the definition of family to obtain a desired outcome, they are bound to expand the definition of marriage as well. Speculation runs high that DOMA will be struck down with an order for legislators to enact new marriage laws commensurate with the court’s evolving view of family and the State Constitution.

So why not check the court with an amendment to the State Constitution that bans same-sex “marriage?” After all, signature gathering efforts in behalf of traditional marriage have been proved popular and successful in 19 other states, right? Right—except that Washington State is a little different. Voter signatures provide no hard currency here because changes to the Constitution must originate in the Legislature—as was attempted earlier this year.

A resolution calling for a constitutional amendment to protect marriage, made the rounds, but was not introduced in committee. Only 34 of 147 members in both houses—all Republicans—were willing to sponsor the proposal. It needs, however, at least 97 votes (two-thirds of the Legislature) before it can be referred to the people. Is that likely to happen with Democrats firmly in control? Not likely. The official Democrat Party position on marriage is: *...the state should not interfere with couples who choose to marry and share fully and equally in the rights, responsibilities, and commitment of civil marriage, regardless of sexual orientation or gender identity.*[2]

Next to a Republican tsunami in the 2006 legislative races, the best chance for protecting marriage in this state is for YOU and ME to make our voices heard; and do so now! We have reason to believe that several justices are unsettled due to potential political fallout. Hint: Three justices are up for reelection next year. They are: Chief Justice Gerry Alexander (360) 357.2029, Justice Tom Chambers (360) 357.2045 and Justice Susan Owens (360) 357.2041. All nine can be reached by mail at: Supreme Court, Box 40929, Olympia, WA 98504, or supreme@court.wa.gov.

More than 200 years ago Edmund Burke wrote, “All that is necessary for evil to triumph is for good men to do nothing.” So what are we waiting for?

Rick Forcier

Executive Director

[1] http://seattletimes.nwsource.com/cgi-bin/PrintStory.pl?document... 11/4/2005

[2] Washington State Democratic Party 2004 Platform, Human Rights & Civil Rights, Tacoma, 6/5/2004