

A Homeschoolers' History of Homeschooling

Part VI

1995-1997

by Cheryl Lindsey Seelhoff

*This is the sixth in a series of articles on the history of homeschooling in the United States. Chapters one through five can be obtained by ordering *Gentle Spirit* Vol. 6, No. 9, 10, 11 and Vol. 7, No. 2.*

The last issue of the old *Gentle Spirit Magazine* was published in January of 1995. In the aftermath of the struggles and discord over who would speak for the homeschooling movement, culminating in the upheaval over H.R. 6 in 1993, and in the wake of the controversy surrounding *Gentle Spirit*, conservative Christian homeschoolers closed ranks. Communication between conservative Christian homeschoolers and others, which had been steadily eroding over several years, dwindled to next to nothing. Whereas once homeschoolers from diverse backgrounds and perspectives had enjoyed animated online discussions in homeschooling forums and bulletin boards on various internet services, increasingly discussions, support groups, and friendships split along religious lines. A number of new publications for conservative Christian homeschoolers sprang up during this time, among them *Big Happy Family*, *An Encouraging Word*, *Messianic Home*, *Heart at Home*, *Heart of Homeschooling*, *Keepers of the Faith*, and later *Open Arms*. All of these publications were designed to support conservative Christian homeschoolers, particularly stay-at-home mothers. *Patriarch Magazine* and *Quit You Like Men* grew in popularity as magazines designed to support conservative Christian homeschool fathers. The lifestyle which these publications endorsed and encouraged intensified the

divisions which already existed and contributed towards the closing of the evangelical Christian ranks.

The years which followed were marked by events which evidenced a shift in direction, politically. By now homeschooling was legal in every state and the threat of government interference had lessened considerably. Increasingly, conservative Christian homeschooling leaders, organizations and individuals who had developed a sense of community over their years of working for homeschooling freedoms, and who by now were veteran grass roots activists, turned their attentions towards other activist work which would further their interests as conservative Christians. Some of this work was not directly related to homeschooling. The Home School Legal Defense Association was at the center of many of these efforts. This deepened the divisions and resentments among homeschoolers which had been developing over many years over the emerging public image of homeschooling, the lack of communication among diverse homeschooling groups, and leadership of the homeschooling movement. Many homeschoolers did not agree that homeschooling families should comprise – willingly or unwillingly, but especially without their express consent or knowledge – a power base for launching or supporting causes unrelated to homeschooling, specifically, or which were of interest only to conservative Christians. Particularly at issue was some homeschooling organizations' apparent reluctance to be candid about specific goals, agendas and actions which could impact all homeschooling families, and the failure of these organizations to

invite comment and critique of their work from those outside their own closed ranks. Specific legislation was written and introduced and congressional support obtained without consultation with homeschoolers outside of conservative Christian circles, even though they might be affected by the legislation. In 1993, such conflicts had developed over how homeschoolers and homeschooling organizations and leaders should respond to H.R. 6 (1). In the years at issue here, efforts to see the passage of three bills authored in large part by Michael Farris of HSLDA — the Religious Freedoms Restoration Act (RFRA), the Parental Rights and Responsibilities Act (PRRA), and the Restoring Local Schools Act (RLSA) — caused similar conflicts and difficulties.

The Religious Freedom Restoration Act

The only one of the three acts mentioned above to actually pass in both houses of Congress was the Religious Freedom Restoration Act, written in part by Michael Farris, who chaired the drafting committee. This bill passed both houses of Congress in 1994.

During the 1960's and 1970's, U.S. Supreme Court decisions, notably *Sherbert v. Verner* in 1963 and *Wisconsin v. Yoder* in 1972, had supported individuals' religious freedom by limiting the authority of governments to pass restrictive legislation (2). During the late 1980's, the US Supreme Court's philosophy had shifted in the direction of allowing governments to restrict religious freedom, as long as the limitations applied equally to all faiths. (3) In response to this shift,

religious organizations and civil liberties groups combined to form the *Coalition for the Free Exercise of Religion*. This group promoted the federal *Religious Freedom Restoration Act* (RFRA), which stated that governments could not burden a person's exercise of religion unless they could prove the burden was to further a "compelling governmental interest" and that they were using the "least restrictive means" of furthering government interest. The law provided that those whose religious exercise had been burdened, whether persons or organizations, could bring lawsuits and could be awarded legal fees if they prevailed. The Act was designed to restore the original balancing test set forth in previous Supreme Court decisions — *Sherbert v. Verner* (1963) and *Wisconsin v. Yoder* (1972).

Sons of RFRA: The Parental Rights and Responsibilities Act and the Restoring Local Schools Act

In the wake of the successful passage of the RFRA, Michael Farris and HSLDA turned their attention to two new bills: the Parental Rights and Responsibilities Act and the Restoring Local Schools Act. Modeled closely after the Religious Freedom Restoration Act, the PRRA stated that "the right of parents to direct the upbringing of their children" was a "fundamental right" that "includes, but is not limited to 'the right to direct or provide the education of one's children, make health care decisions for one's children, provide discipline for one's children including reasonable corporal discipline, and direct or provide the religious training of one's children'". (4) Under PRRA, parents who believed that their rights were violated by the federal, state, or local government could file a lawsuit in either federal or state courts, or in both simultaneously. A government or official could prevail in such a suit only by proving that the government actions were "essential to accomplish a compelling government interest" and "narrowly drawn or applied in a manner that is the least restrictive means of accomplishing the compelling interest." (5)

In 1995, the National Center for Home Education (NCHE) hosted a "Capitol Briefing" to plan strategy for these and other matters, including the U.N. Convention on the Rights of the Child, abolition of the federal Department of Education and the PRRA. Speakers included Michael Farris, Douglas Phillips and Scott Somerville of HSLDA; U.S. Representative Dick Armey (R-TX), former presidential candidate Patrick Buchanan, former presidential candidate and former U.S. Representative Bob Dornan (CA), U.S. Senator Charles Grassley (R-IA), former U.S. Representative Steve Stockman (TX), Paul Webster speaking on behalf of U.S. Representative Steve Largent (R-OK), and U.S. Representative Dave Weldon (R-FL). The NCHE meeting were by invitation only and were not open to nonmembers.

As with H.R. 6 and the RFRA, HSLDA then began to lobby members of Congress to support and vote for this new legislation and also sent regular mailings to specific homeschooling leaders and to its member homeschoolers across the country, urging that homeschoolers write their legislators and spread the word in homeschooling groups. Accustomed to receiving regular alerts over the years about homeschooling situations in various states, homeschoolers continued to respond as HSLDA alerts suggested, assuming the alerts indicated emerging crisis situation which required homeschooler action and support, even though, increasingly, the alerts dealt instead with the furtherance of specific, often partisan, political activities and agendas, rather than homeschooling-related actions. It was only with the advent and growth of the internet that homeschoolers outside of conservative Christian circles were able to learn of these activities in time to research the situation and offer their own public commentary and opinion.

Conflict

In 1995, an article entitled *Is Freedom Burning*, written by Cynthia Weatherly and expressing reservations about the possible effects of passing the PRRA, was

published in the *Christian Conscience Magazine*. Shortly after the article was published, Weatherly describes having received a call from Michael Farris:

"During our conversation Mr. Farris said, more than once, that the PRRA (HR 1946/S 984) was one part of a three-pronged effort to put into place 'protective' legislation. 'There are three bills that build on each other: the *Religious Freedom Restoration Act*, the *Parental Rights and Responsibilities Act*, and the *Restoring Local Schools Act*,' he emphatically stated."

As a result of this conversation with Mr. Farris, Anita Hoge, an associate of Weatherly, asked her research associate, Gen Yvette Sutton, to contact Dr. Charles Rice, an eminent legal scholar from Notre Dame Law School, seeking his opinion about the PRRA. Dr. Rice then issued an opinion letter which was widely distributed across the country, and which reached the hands of legislators on Capitol Hill. Dr. Rice's opinion was that the PRRA was seriously flawed and dangerous.

Dr. Rice was concerned that, in light of its similarities to the Religious Freedom Restoration Act, the PRRA bill should not be enacted until and unless the RFRA had been ruled upon by the Supreme Court. He did not believe it was safe to assume that the Supreme Court would ultimately uphold the RFRA. He also believed that even if the RFRA were to be upheld by the Supreme Court, it would not protect parental rights, and he feared the PRRA as it was written would "virtually exhaust the rightful authority of the state to interfere with parental rights." He feared the legislation would invite "an indeterminate expansion of state control over parental rights". Of particular interest to homeschooling families, Rice found the invocation of *Wisconsin v. Yoder* troubling in that it could be construed as possibly requiring parents to conform to states' educational standards with respect at least to "literacy and self-sufficiency." Said Rice: "The enactment of the PRRA, as federal law, could, in my opinion, raise an

indefinite threat to the integrity of private schools and home schools.”

There were many critics of the PRRA outside of homeschooling circles, as well, who believed that by overriding local consensus building and democratic governance of school districts and other state and local government programs, such legislation could create chaos in local school districts. Some feared the legislation would open the door to endless litigation, while others saw it as being a back door method to gain public funding of private and parochial schools or vouchers.

After receiving Dr. Rice's letter, Michael Farris revised the PRRA and wrote to Dr. Rice, discussing his revisions. In closing, he stated: "Your letter is being widely circulated and it is causing a great furor on Capitol Hill. I would greatly appreciate it if you could let me know if my response (and the legislative changes) has any affect on your views."

Dr. Rice then wrote back to Mr. Farris, responding favorably to the revisions, but suggesting there were still some difficulties, and for those, he proposed solutions.

Mr. Farris then sent a mailing to homeschooling leaders nationwide which included this statement:

"Dr. Charles Rice, Professor of Law at the University of Notre Dame Law School, expressed some objections to the PRRA in a recent letter. His letter became public, causing some concern by some home schoolers. Michael Farris responded to Rice's objections, and on February 20, Dr. Rice wrote Michael stating, 'Thank you very much for your letter of February 14. I appreciate your analyses. Your changes have, in my opinion, substantially improved the PRRA... Please understand this exchange as a tactical discussion... I am certain we agree on the basics.' We are thankful for this outcome."(6)

Around this time, Mr. Farris also appeared on a radio program and stated that Dr. Rice had withdrawn his objection to the Parental Rights Restoration Act and now

supported it. Dr. Rice then responded as follows:

"...neither in the February 20th letter nor in any other way, have I withdrawn my objection to the PRRA. It is absolutely untrue that I have 'withdrawn that [February 5th] letter.' Despite the improvements over the first draft, the latest version of the PRRA, dated February 14th, 1996, is still, in my opinion, imprudent and dangerous."(7)

In one of Cynthia Weatherly's articles about the PRRA, this notice appears above the text of the article:

"Cynthia Weatherly spent a considerable amount of time discussing various aspects of this article with HSLDA lawyers, Sen. Grassley's office, the U.S. Dept. of Education, attorneys and other experts. This article has generated a great deal of controversy. Although recent revisions of the PRRA have removed portions of the disturbing language, there are some excellent points about interlocking legislation and agendas that are still very relevant. *For the record, we do not agree that a scholarly review of very public federal legislation constitutes a Matthew 18 matter involving a private offense.*" (Emphasis mine.)(8)

As discussed in a prior chapter of this series, once again, evidently Matthew 18 biblical disciplinary procedures were invoked when Christian homeschoolers publicly voiced criticism of HSLDA's actions. The differing view and associated criticism was treated as a biblical "offense" – a sin against a brother. The silencing of public criticism and dissent via the invocation of disciplinary procedures which most Christians believed were appropriate only within the local church, and then only in the event of grave, irresolvable personal offenses, shocked and deeply angered homeschooling leaders, Christian and nonchristian alike, who had sought to offer alternative views to those held by HSLDA for the benefit of the homeschooling community at large.

The PRRA eventually died in committee and was not enacted into law. The third bill, the Restoring

Local Schools Act, which would have dismantled the Department of Education and which was also the focus of lobbying efforts during this time, also never became law.

The Madison Project

In 1996 homeschoolers across the nation, including me, received an advertising card deck sent out by *The Teaching Home Magazine*. Included was a card advertising "The Madison Project." On one side of the card it said, "Abolish the Department of Education? With your help, These Candidates Will." Below the text were five photos electronically altered to conceal the identities of the persons in the photos. In small print, the card said, "The Federal Government will not let us disclose the identity of endorsed candidates to non-members." On the back it said, "Urgent Response Form," then, "Yes, I want to help the Madison Project elect Congressmen who will abolish the Department of Education. My \$25 membership is enclosed." Additional donation amounts were suggested and a box was provided for those who wanted to be sent "...information on how the Madison Project plans to change Congress." HSLDA's name was not listed anywhere on the card.

The Madison Project, I learned later, was indeed an offshoot of HSLDA created in 1994 to raise financial support for first-time conservative political candidates across the United States. The following excerpts from an online discussion of the Madison Project evidences homeschoolers' divided and intense reactions:

GD: "I belong to the Madison Project and have for two years. There is nothing strange or mysterious about it... The Madison Project operates on the same principal as EMILY'S LIST which is the feminist prototype of these types of grassroots movements to raise funds for candidates who represent your views. If the Madison Project is offensive to you then so should Emily's List and maybe you should post an expose of the questionable goals of the National Organization for Women or NARAL whose members make up the foundation of Emily's List. The

Department of Education is being decreased and downsized because of the pressure being put on congress by the very men and women who were elected to office in 1994 thanks in part to the efforts of the Madison Project. As a member of Madison Project my role was to simply choose 5 candidates from a profile list of about 10 and contribute 10 or 20 dollars per candidate. Once the candidate is elected he no longer qualifies for Madison Project assistance. It is to assist new candidates only. Again this is nothing new and has been used by leftist groups for several years. I am new to this forum but I would bet ...that no one here has complained about this method being used for pro-choice feminists."

HS: "...if NARAL's, NOW's or any other such organization's advertisements, recruitment literature, propaganda, etc., started showing up in homeschooling advertising card decks sponsored by Teaching Home Magazine, if homeschoolers as a group began to be solicited by the leaders of such groups for money or political support or anything else, and if the groups, especially, failed to fully disclose their identities, goals, leadership and agendas, then you better believe there'd be complaints. The roof would definitely get raised....Homeschooling organizations theoretically exist to support homeschooling families, not to promote and raise money for lobbying groups and political organizations. That's the issue here."

DS: "If pro-choice feminists were claiming to speak for all homeschoolers, you BET people would be complaining about it."

GD: "There is ABSOLUTELY NOTHING WRONG with Mike Farris advertising The Madison Project in a packet of cards designated for home schooling families. This is the way like-minded people reach each other and organize for the purpose of making their views known to the powers that be. ...while you lament the attitude of fundamentalist Christians, you ignore the attitudes of others. No one...is free from prejudice and if anyone thinks they are, they are fooling themselves. We

all have our "thing". And while Christians can get on a high horse of moral superiority, I see many in this forum getting on a high horse of intellectual superiority. And not only disagreeing with the goals of fundamentalist Christians(which is fine), but looking down their noses at them in a very superior way. All the while patting themselves on the back for not being "closed-minded"

Increasingly during these years, online and offline exchanges between homeschoolers were marked by anger, resentment and bitterness. While some HSLDA actions, like its opposition to the U.N. Convention on the Rights of the Child, garnered widespread support in the homeschooling community across religious lines and across differences of homeschooling philosophy, many other actions gave rise to criticism, not only on the basis of the actions themselves, but because of the perception that these actions, which were often significant and had potential to affect all homeschoolers, were being taken without regard to whether or not they enjoyed the support of most homeschoolers. The differences were not always or even usually along religious lines; often, Christian homeschoolers disagreed with actions taken by HSLDA and other statement of faith, or exclusivist, conservative Christian groups and leaders.

As one writer wrote:

"Why does any question or opposition raised always seem to be characterized as 'liberal', 'stupid,' 'radical,' 'NEA-and Planned Parenthood-supporting constituencies,' and 'so-called 'Christians'? 'So-called Christians' gives the deepest cause for concern. A Christian cannot question the wisdom of the passage of this law? Does that mean that if a Christian dares to question that wisdom that that Christian is reduced in status to 'so-called'? Why? And who determines that status?"(9)

Rosenberger v. University of Virginia

Another example of an action which stirred controversy was HSLDA's involvement in a lawsuit,

Rosenberger, et. al. v. University of Virginia. The lawsuit emerged out of a situation in which a group of University of Virginia students were denied student activities funds which they were seeking in order to publish a Christian newspaper. The University refused the request, citing separation of church and state, and the students brought suit. State and appeals courts had ruled in favor of the University.

When the case came before the U. S. Supreme Court, HSLDA joined with four other groups in submitting a joint brief in support of the students' petition. HSLDA's position was that since the University had provided funding for campus Muslim and Jewish groups, as well as a gospel choir, it should also provide funds for this newspaper. The University's position was that it funded the Muslim and Jewish groups as cultural endeavors, and that it had cut its funding to the gospel choir when the choir began to include regular prayer at choir meetings. Additionally, the purpose of the proposed newspaper was, in part, campus evangelism; hence, to support it with student funds would violate separation of church and state. HSLDA's view was that if any religious organization received University funds, all should receive University funds.

Of this particular action, a homeschooling leader, not a Christian but not an unschooler, expressed the following opinion:

"Historically I have never numbered among HSLDA's critics, though I am not a member. ...Generally I salute HSLDA and the work they have done..."

"I am going to detail the case of *Rosenberger v. University of Virginia*. I find HSLDA's involvement in the case troubling for a number of reasons. First, it is an instance of the HSLDA's independent will to represent causes far afield from their stated purposes, taking the name of homeschooling with them as they venture forth. They have often been accused of allowing, maybe even encouraging, the illusion that they speak for all homeschoolers when, in truth, they represent a distinct

subgroup. In this case, however, they have strayed quite far from the immediate interests of all homeschoolers.

"Secondly, they have not informed their members about their activities. I asked members to review copies of Court Report and other communications to see if the Rosenberger v. University of Virginia case was explained to them. They told me it hasn't even been mentioned. It would seem that the people who have employed them have a right to be kept informed of their activities. In their literature, HSLDA says, "We have taken offensive action in prosecuting a number of federal civil rights actions for members at no additional charge." Perhaps they lump this recent involvement under that vague heading, but even if they do not charge extra for the service, I should think those who retain HSLDA would want to know in advance the actions which are being contemplated and performed in the name of home school legal defense and civil rights. "

The writer contacted HSLDA for their comments as to their participation in this case and says of that conversation:

I spoke to Scott Sommerville, an attorney at HSLDA. He confirmed my judgment that the Rosenberger court case has nothing to do with homeschooling. He indicated that it was one of many cases in which HSLDA has joined with a diverse group of religious interests to pursue religious rights. They are concerned to "stop government from singling out religion as the one thing to discriminate against."

The Rosenberger case, he said, wasn't an easy call for HSLDA, but they had decided ultimately to sign on to the brief because the Constitutional principle outweighed "the political calculations." I expressed my worries that Rosenberger could set a precedent for religious homeschools to expect and demand government funding, he had no direct answer. In a telling moment, Sommerville admitted, "Hopefully,

God willing, it will never have anything to do with homeschooling."

Mr. Sommerville iterated HSLDA's firm conviction that "government shouldn't be in the business of funding universities at all." He spoke of HSLDA's enthusiasm for the goal of separation of school and state. I do not see how reversing the separation of church and state, and possibly enticing schools into the mix by dangling funds before their eyes could possibly help us attain that goal. [10]

RFRA Ruled Unconstitutional

On June 25, 1997, in a landmark ruling, the U.S. Supreme Court declared the Religious Freedom Restoration Act to be unconstitutional, stating that the law gave the practice of religion more protection than the court had found to be constitutionally required. Three of the court's most conservative members (Chief Justice William Rehnquist and Justices Antonin Scalia and Clarence Thomas) for once found themselves on the same side as two of the most liberal justices (John Paul Stevens and Ruth Bader Ginsburg). Justice Anthony Kennedy prepared the majority opinion. He wrote (in part):

"RFRA is not a proper exercise of Congress'...enforcement power because it contradicts vital principles necessary to maintain separation of powers and the federal state balance...RFRA's legislative record lacks examples of any instances of generally applicable laws passed because of religious bigotry in the past 40 years.... RFRA's most serious shortcoming, however, lies in the fact that it is so out of proportion to a supposed remedial or preventive object that it cannot be understood as responsive to, or designed to prevent, unconstitutional behavior. It appears, instead, to attempt a substantive change in constitutional protections, proscribing state conduct that the Fourteenth Amendment itself does not prohibit. Its sweeping coverage ensures its intrusion at every level of government, displacing laws and prohibiting official actions of almost every description and regardless of subject matter. Its restrictions apply

to every government agency and official...and to all statutory or other law, whether adopted before or after its enactment...It has no termination date or termination mechanism. Any law is subject to challenge at any time by any individual who claims a substantial burden on his or her free exercise of religion. Such a claim will often be difficult to contest. Requiring a State to demonstrate a compelling interest and show that it has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law...All told, RFRA is a considerable congressional intrusion into the States' traditional prerogatives and general authority to regulate for the health and welfare of their citizens, and is not designed to identify and counteract state laws likely to be unconstitutional because of their treatment of religion."

In addition, Justice John Paul Stevens stated that the Act violated the principle of separation of church and state, by preferring "religion over irreligion," and giving to religious groups special privileges which "no atheist" could hope to attain.

That the RFRA was overturned by the Courts meant that the legislation modeled after and predicated upon the constitutionality of the RFRA, the PRRRA and the RSLA, would also, ultimately, have been ruled unconstitutional.

HSLDA's response to the Supreme Court's decision was intense. A media release read, in part:

Today's decision of the Supreme Court is a direct attack on two of the most fundamental principles of this nation. For some reason I cannot fathom, the conservatives on the Court are the most vicious in their attacks on the free exercise of religion. Some of these justices are the most lenient (pro-religion) on Establishment Clause cases—cases which involve religion on government property.

But today's decision involves the right of religious groups, specifically a church, to be free from intrusion by government.

The majority—primarily the conservative bloc on the Supreme Court—sided with government and against churches when churches seek the freedom to manage their own affairs unencumbered by meddling bureaucrats.

...The Supreme Court has proven itself a dangerous institution to those who believe in freedom and self-government. We need to not only remedy this decision. We need a remedy for the Supreme Court itself.”
(11)◆

To be continued.

1. For a discussion of H.R. 6, see *Gentle Spirit*, Vol. 7, No. 1.
2. For a discussion of these earlier court rulings, see *Gentle Spirit*, Vol. 6, No. 9
3. In the US Supreme Court decision in *Employment Division v. Smith* in 1990, for example, the court ruled that native religious use of peyote (a hallucinogenic drug) was not a constitutionally protected religious right, even though Natives had been using peyote in their religious rituals for millennia.
4. The full text of the PRRA can be found at thomas.loc.gov/cgi-bin/query/z?
5. An example of a “compelling government interest” would be the government’s interest in an educated citizenry. Courts have held that governments may require that citizens be educated but they may not force children into government schools. They must satisfy their interest using the “least restrictive means.”
6. Mailing From HSLDA of February 22, 1996, beginning “Dear Home School Leader,” www.christianconscience.com/prra/prra_ind.htm
7. The full text of the HSLDA mailing and the exchange of letters between Dr. Charles Rice and Michael Farris can be found at www.christianconscience.com/prra/prra_ind.htm
8. Cynthia Weatherly, *Is the Cure Worse Than the Disease*, *The Christian Conscience*, June 1996, www.christianconscience.com/prra/bad_cure.htm
9. *Ibid.*
10. Jacki Orsi, *HSLDA Intervention in Supreme Court — Case Has Disputable Value to Homeschoolers*, *The Independent Family — Issues & Ideas about Family Policy & Home Education*, March 1995; Contact theindfam@aol.com for subscription information (\$20/year).
11. June 25, 1997, *Statement by Michael Farris Regarding Boerne v. Flores Which rRDeclared RFRA Unconstitutional* www.hsllda.org/docs/news/hsllda/199706250.asp ◆