

House Judiciary Committee
Testimony of Murray G. Sagsveen on Senate Bill 2308
March 24, 2021

In 1927, North Dakota mandated the posting of the Ten Commandments in public schools (S.L. 1927, Chap. 247). That law was later amended and codified as N.D.C.C. § 15-47-10:

The school board of every school district, and the president of every institution of higher education in the state which is supported by appropriations or by tax levies, shall cause a placard containing the ten commandments of the Christian religion to be displayed in a conspicuous place in every schoolroom, classroom, or other place where classes convene for instruction. The superintendent of public instruction may cause such placards to be printed and may charge an amount therefor that will cover the cost of printing and distribution.

In 1979, Benjamin Ring and others sued the Grand Forks Public School District No. 1 seeking relief against enforcement of this law. I defended the State of North Dakota in that action.

On December 11, 1979, the U.S. District Court, Chief Judge Paul Benson presiding, conducted a hearing on pending motions. I attended that hearing. Following the hearing, the court entered an order that stated, in part: "IT IS FURTHER ORDERED judgment be entered declaring North Dakota Century Code § 15-47-10 to be a violation of the First and Fourteen Amendments to the Constitution of the United States." *Ring v. Grand Forks Public Sch. Dist. No. 1*, 483 F. Supp. 272 (D.N.D. 1980).

The following year, the U.S. Supreme Court addressed a similar Kentucky statute that required the posting of a copy of the Ten Commandments on the wall of each public classroom in the state. *Stone v. Graham*, 449 U.S. 39 (1980). Although copies of the Ten Commandments were purchased with private funds, the Court ruled that the placement of the Ten Commandments in public classrooms violated the First Amendment.

I fear, if this bill is enacted into law, that school boards will be pressured to again post the Ten Commandments in public classrooms, a school board will yield to the pressure, a school board will be sued and certainly lose, and a school district (and the North Dakota Insurance Reserve Fund) will be paying the plaintiff large legal fees and costs. The solution: kill the bill.

It is my recommendation that this committee vote a "do not pass" recommendation concerning this bill.

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