

ACLU 3-25-94 defends kirpans

Lawsuit threatened over school knives

By GARTH STAPLEY

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LIVINGSTON — The American Civil Liberties Union has threatened to sue the Livingston Union School District on behalf of Sikh children prohibited from wearing sacred knives to school, the ACLU reported Thursday.

The local conflict could become an important national test case pitting freedom of religion against school safety.

If the matter goes to court, it would be the first such case to be tried in the United States, according to the ACLU.

San Francisco attorney Stephen Bomse, who is taking the case for the ACLU, said he is waiting for a reply from the school district before filing a lawsuit. He will do so in the near future if the district does not back down, he said.

Incoming Livingston Union School District Superintendent Henry Escobar was out of town and could not be reached for comment Thursday.

Vernon Boyd, president of the Livingston school board, said trustees expected a lawsuit to come out of their decision, but they will not back down under threats by the ACLU.

"It's not my intention to have a problem, but I would rather err on the side of caution than to have somebody get injured and have to try to explain why," Boyd said.

The Livingston district, which operates elementary and middle schools, is the only known school district in the United States to prevent children from wearing kirpans, the small cere-

KIRPANS: Canadian Sikhs won almost identical lawsuit

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monial knives worn by all baptized Sikhs. Trustees ruled March 8 that the state Penal Code and district policy prohibit weapons, including kirpans, on campus.

Bomse said First Amendment rights guaranteeing religious freedom supersede state law.

Baptized Sikhs, who make up from 5 percent to 10 percent of all Sikhs, enter into a covenant to always wear certain sacred symbols, including the kirpan. The knives, normally between 6 and 10 inches long, symbolize Sikhs' promise to protect the weak and the innocent.

Three Livingston pupils have not attended school since January, after they were told to leave their kirpans at home.

Although there is no legal precedent in the United States, the Sikhs won an almost identical case in Canada. In that case, the Peel board of education, which governs a school system on the outskirts of Toronto, spent about \$300,000 and nearly four years on the legal battle before bowing to a provincial appellate ruling in 1991. The case did not go to the Canadian Supreme Court.

Alan Shefman of the Ontario Human Rights Commission, which represented the Sikh community in its case against the Peel school board, said he was extremely pleased with the outcome.

"It addressed a religious need, not as a matter of interest or liking to do something, but as a matter of absolute need to wear the kirpan," Shefman said.

Since then, the Peel school board and several others in Canada have adopted policies allowing the knives. None of the districts has reported any violence involving kirpans.

Elsewhere in Canada, the North York board of education adopted its policy allowing kirpans even before the Peel decision.

"It's a reflection of the appreciation we have as a multicultural community, that we want to respect as much as possible those religions and faiths," said Brian Jamieson, communications director for North York schools. He said North York students speak 75 languages.

Meanwhile, in the United States, districts have been wrangling individually with the issue without the benefit of a precedent. In California, Live Oak and Yuba City school districts have adopted policies allowing kirpans, and a district in Selma has allowed them without establishing a firm policy.

Yuba City Unified School District Superintendent Lee Brittenham said Sikhs who have demonstrated an intense com-

mitment to their religion by being baptized "would never be a threat."

"I'm here to tell you, the threat of suits wasn't what drove our thinking and dialogue," Brittenham said. "If there is a way to accommodate two very important interests, thinking, responsible people ought to find a way to do it."

Boyd, president of the Livingston school board, said he would have agreed to allow kirpans in district schools if Sikh leaders had proposed restrictions similar to those imposed in districts such as Yuba City. They require that kirpans be blunted and impossible to remove from sheaths.

Kirpans normally are not visible because they are strapped to the body and worn under clothing.

Ram Singh said his kirpan proposal for Livingston is identical to Yuba City's.

In a letter sent Tuesday to the Livingston school administration, Bomse wrote that the ACLU would not seek monetary damages if the district would allow the three kirpan-wearing Sikh pupils to attend school pending a court decision.

"Our goal here is not to get people's money, but to get children back in school," Bomse said. "Why they feel the need to keep three children out is simply beyond me. It seems they are seeking to punish the children for wanting to exercise their firmly held religious beliefs."

Bomse said he and the ACLU will not be paid by the Sikh community for their work, although they expect to recover attorney's fees if the case goes to court, and if the ACLU is successful.

Cathrine Campbell, a member of the Peel board of education in Canada, said the only possible route to resolving the issue there was in the courts, because both sides had become firmly entrenched. The issue flared after the board approved a strict weapons policy in 1987, and trustees said kirpans resembled weapons.

Campbell predicted that the issue in Livingston will turn ugly if a compromise is not reached.

"You'll hear stuff that will be very offensive," Campbell said. "You'll get every redneck out, and every hard-line Sikh on the other side. Then you'll get people willing to talk."

Canadian citizens now are watching a case involving the right of a Sikh Canadian Mountie to wear a turban. Final arguments are expected April 21.

Attorney Shirish Chotalia, who wrote a book on the Canadian Civil Rights Act and is representing the mountie, applauded the ACLU's move to defend minority rights in Livingston.

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