

Vermont Supreme Court Avoids Tripping Over the Third Rail in Cabot



photo by Doug McClure
The United Church of Cabot (UCC) is at the center of a Vermont Supreme Court case touching on issues of taxpayer standing and separation of church and state.

by Doug McClure

MONTEPELIER — The Vermont Supreme Court has issued a ruling on a months-long proceeding, which in essence says sometimes a building is just a building, regardless of its use.

Cabot residents Grant Taylor and Richard Schreiber filed a case against the Town of Cabot, The Cabot Community Association and the United Church of Cabot (UCC), arguing that a \$10,000 grant by the Town of Cabot's Community Investment Fund of Cabot (CIFC) violated the Vermont Constitution's Compelled Support Clause (Ch. 1, article 7, paragraph 1).

"...no person ought to, or of right can be compelled to attend, or contribute towards the support of any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience."

Before the Supreme Court, the Town of Cabot et al. argued that the municipal standing did not apply. The original source of said funds were a 1987 Housing and Urban Development (HUD) Urban Development Action Grant (UDAG) of \$200,000 to the town of Cabot, which funded a loan for the Cabot Family Cooperative Creamery for an expansion. The Cooperative paid the loan back in full by 2003, and the HUD agreement stipulated the town could keep the funds for uses consistent with HUD requirements and the federal Housing and Urban Development Act of 1974.

could not, then the sheriff might increase the taxes of Cabot citizens. The trial court had begun the process found the warrant describing the grant "for the purpose of repairing the steeple, steeple, and other interior sections" to be vague and failing to reserve town monies from being spent on religious areas. The trial court decided that the money was town money, the plaintiffs filed municipal taxpayer standing, and the warrant did not sufficiently identify Compelled Support.

They also cited the Vermont Supreme Court case of *Chittenden County School District v. Department of Education* (1959), in which each vague language was tantamount to unrestricted funding of religious school and the Court struck it down. For those reasons, the trial court issued a preliminary injunction.

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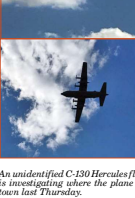
The Town of Cabot says it has kept those funds isolated from other municipal funds to create the CIFC. The CIFC's goals are to provide financial resources, through a fair and consistent process, to local individuals and groups for activities and projects that serve to strengthen the economic, cultural, educational, environmental, and social well-being of the Cabot community," according to the mission statement posted on the website.

Because those funds originally were Federal, the Town of Cabot argued, and the monies in question are isolated from other town funds, the municipal standing clause does not apply.

The Supreme Court contravened the ruling and found the municipal standing applied, citing Vermont Public Service Commissioner John Springfield in which the question is that they direct use has been caused, but that municipal actions have been improperly waived."

In part seeking the plaintiffs' lawyer, Hanne Trudeau who stated in earlier proceedings "of an unconstitutional expenditure is not a waste of monies."

The Supreme Court avoided constitutional arguments and instead issued an analogous federal precedent. It ruled that federal sourcing notwithstanding, the issue was not one of federal control. The town has over the years used the HUD proceeds over the Vermont's use of the State of the U.S. of the U.S. of the U.S.



Mystery Plane Buzzes Hardwick, Kicks off Investigation

courtesy photo
An unidentified C-130 Hercules flies low over Hardwick. The Gazette is investigating where the plane came from and why it buzzed the town last Thursday.

by Ray Smat

HARDWICK — Last Thursday, at approximately 2:15 a.m., a plane believed to be a military C-130 Hercules, circled "low and slow" over the neighborhood around Hardwick's Upper Cherry Street and then disappeared.

Calls started to come in to The Gazette almost immediately, with questions and speculation. Caller theories ranged from "I saw a plane crashing" to conjecture about illicit government surveillance. The real explanation was likely to be more prosaic, but the sighting kicked off an investigation by The Gazette.

Our first call was the Vermont National Guard, which knew nothing of the incident, but referred us to the Federal Aviation Administration (FAA).

Our first FAA contact, the national office, referred us to a regional office, which referred to us another office. Our fourth FAA contact, Public Affairs Specialist Pat Peters, however, seemed to have something relevant to our investigation: the US Forest Service (USFS) had requested a temporary flight restriction (TFR) for the area around Woodstock, New Hampshire.

The request was for a TFR for instrument for fire fighting "around the area of the Hardwick sighting. Since the USFS uses modified C-130s for fighting fire, Peters reasoned, our plane could be one of the Forest Service.

calls to several US Forest Service offices led us to Public Affairs, Legislative Affairs, and Conservation Education (PALACE) Group Leader Robert "Flea" Fishery, in the USFS's Northeastern Area office

in Durham, NH. Flea alerted us to the wildfire burning on Pillsbury near North Woodstock, NH. At this point, our working hypothesis was that the C-130 belonged to the USFS and was over the area on its way to help fight the wildfire near Woodstock, NH. Flea suggested we call the USFS White Mountain National Forest public affairs office in Campton, New Hampshire, to confirm our theory.

Flea's initial contact in the White Mountain National Forest office, Kenny was helpful, knowledgeable, and shot our working hypothesis to pieces.

The site of the Pillsbury wildfire was too small and the topography too steep for the use of a C-130 air tanker, he explained. Grey confirmed that the use of a C-130 had indeed requested a Temporary Flight Restriction (TFR) from the FAA, but that to keep out of someone's garden, the Forest Service has to immediately ground any helicopters that it might be using for dropping water or evacuating firefighting crews. A drone collision with a helicopter rotor blade would have fatal consequences.

Grey did provide a new lead, however. He said that the Air National Guard often uses the area for low-level training flights. He suggested checking with the 105th Airlift Wing based in Newburgh, NY.

A call which established that the 105th Airlift Wing does not operate any turboprop (propeller) aircraft, but their public affairs officer, Patrice

Cabot School Board Puts Forth Two Choices To Public On Possible Act 46 Options

by Will Walters

CABOT — "This is a pretty big deal for us," in his Cabot School Chair Chris Torrey started the Act 46 community forum at the Cabot School Performing Arts Center on October 5. The forum was to present to the public the two main options the board considers most viable for complying with Act 46.

The forum was the last public meeting before the board meets on October 16 to choose which of the options to propose to the state Board of Education. A survey was sent by mail to residents starting Friday and the board would like to have returns received by the end of the Friday. The survey explains the different options and asks which one the community prefers. The board wants to have the results returned before the Thursday meeting so it can incorporate public feedback into its decision.

The forum was the eighth meeting of Act 46 between a variety of groups over the past two years. The board met recently an all-candidates meeting on October 10 to whether it wants to continue discussions. The two options the meeting outlined are closing the high school and merging with the Caladonia

Cooperative Unified School District comprising Union, Barnet and Waterford districts, or keeping the high school open as a standalone district.

Torrey said that the Caladonia members have expressed an interest in having Cabot join, if it becomes a K-8 district. There is also an exploratory effort by community members to establish a Cabot Academy as a private high school in town. Torrey said that if the town tuitioned high school students, it will either pay 100 percent of whatever the support school charges, or else it will pay the maximum amount the state sets and leave the student's parents to pay the difference.

"An obstacle to merging with Caladonia is the debt that Cabot carries, as do other districts in the new Caladonia merged district so it can incorporate public feedback into its decision."

Judith Folson said the gymnasium plant maintenance obstacles at Cabot, such as the gymnasium roof and the satellite buildings.

Judith Folson said the gymnasium is an unavoidable problem, because all schools are required to have a gymnasium. Students who are tuitioned to other schools will have to apply for admission and meet the admission qualifications to attend any school they choose. Superintendent Mark Tucker said his experience at Waterford School was that some schools did not accept everyone who wanted to attend, but the number who were not accepted was very small.

Board member Roy Thibault said that the big question regarding the second option — closing the high school — is what will it do to the K-8 students. The satellite buildings which are used for the elementary school could be closed, because the main building would house the high school and accommodate all the students in the middle and elementary grades. Folson said the dark clouds of Act 46 reflect the experience in Maine, which adopted a similar program of merging school districts into larger ones and, she said, "we're not trying to bury grade schools."

Nel Larsen said Nebraska made educational changes similar to Act and that the result was a decline in the substance of the community and a lowering of property values.

Dianna said she lived in Saxtons River, Vermont, where there was no high school, yet people still moved into the town and the elementary school had to expand. She said not having a high school did not lower property values. Dianna said Act 46, Page Eight

Hardwick Crafts Fair a Big Success

by Michael Bielawski

HARDWICK — The 34th Annual Fall Crafts Fair came and went on a cool Saturday. The results were very good. Heart of Vermont Chamber of Commerce Craft Fair Coordinator Jane Johns said all sixty stalls were filled and that the event was on pace to match its usual turnout of between 750 and 1,000 attendees.

"Totally booked," for a while we were really busy," she said. She added it was especially crowded around lunchtime, when the aisles were packed to capacity.

The vendors mostly echoed the enthusiasm. Susan and Ray McGill ran the booth for Susan's Grandma's Cupboard, which sold a variety of jams and jellies.

"Most of what we make you would find at a grocery store," Ray McGill said.

They also take part in crafts fairs in Hardwick in the spring and throughout the year in Albion, Canaan, Swanton, Ferrisburgh, and Schrono Lake, New York.

Thomas Keppel, of Craftsbury Candleworks, was selling beewax candles by the pound. Keppel said this market had always been a favorite because she used to buy several boxes. "I see lots of familiar faces," she said, "always really wonderful people here."

She said some of the advantages

of using her husband's candles included no use of petroleum as that they burn slower than conventional candles.

Roy Chamberlain of Designer Woodcraft, based in Littleton, New Hampshire, has been a vendor over the years. His products include handcrafted wooden pens, pencils, pepper grinders made from turned pepper grinders made from beech bottles.

"This was a little light this year," he said. "All considered, sales were 'n' too bad."

Faulette Brodia was managing a table for AWAY, the local domestic violence victim support group. She was busy managing their large display which was intended for raising for their each year.

"She said there is always a great showing of local support. Many of our vendors from the fair donate to AWAY."

A unique vendor with a new take on granite art was Linda Boudette, of Willamston. She sold glass-wrapped natural crystals and resin molded into decorative designs.

She said she was "intensely" proud for the day.

She also met Bette O'Connor's "Greetings from Hardwick" line, managed by a family friend, in the "hardwood" shop.

"I got a little busy around lunch," she said, "but it was a pleasant crowd. Lots of nice folks coming See CRAFTS, Page Eight

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Environmental Group Challenges Proposed Rule for Great Hosmer Pond

by Doug McClure

MONTEPELIER — The Vermont Natural Resources Council (VNRC) issued a lawsuit against the Department of Environmental Conservation (DEC) opposing the DEC's proposed rule change for Great Hosmer Pond.

The proposed draft rules aimed to change the Vermont Water Pollution Rules for the pond to specifically restrict the hours when sculling is permitted.

The VNRC addressed "significant concern" over the proposed rule, based on seven grounds. The suit is filed by VNRC's Policy and Water Programs Director, Peter Gorman. Gorman is also the letter head of the Vermont Water Resources Board (WRB), which administered the LPW rules before the Vermont Legislature eliminated the WRB in 2014.

The WRB was also taken on the burden of meeting the petition requirements for proposing a VUPW rule. DEC's draft Great Hosmer Pond VUPW rule fails the most basic requirements for See HOSMER, Page Ten

Environmental Group Challenges Proposed Rule for Great Hosmer Pond

man states that "I am very concerned about the implementation of the VUPW program with the rules and the precedent set by the WRB. The proposed rule conflicts that were developed over the course of the WRB's work and the WRB was responsible for the program."

Gorman said the proposed rule change has up been reported on by the Gazette and the WRB rule did not originate from a petition, but from the VNRC. One reason for that is likely that a significant amount of information was not presented during a complete petition under Vermont law.

"By taking on the responsibility for the proposed rule, the WRB has also taken on the burden of meeting the petition requirements for proposing a VUPW rule. DEC's draft Great Hosmer Pond VUPW rule fails the most basic requirements for See HOSMER, Page Ten

Grey skies prevail ahead of approaching Tropical Storm Nate on a soggy Saturday, October 7 in the Cabot Village Cemetery.

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