

## 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 Schober 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 (CIFIC) violated the Vermont Constitution's Compelled Support Clause (Ch. 1, article 77) of the state constitution.

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

The plaintiffs argued that their protections under this clause were violated because town funds were issued to pay for specific exterior repairs to a church in violation of Article 3, and they had municipal property that could make either direct exposure to imminent financial harm or be indirectly exposed to such harm through increased taxes. In this case, one argument holds that if the \$10,000 grant were disallowed by the Courts and the UCC had to repay the funds, it

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 restore town money 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 such 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.

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 \$20,000 to the town of Cabot, which funded a loan for the Cabot Family Cooperative Creditary for an expansion. The Cooperative paid the loan back in full by 2003, and the HUD agreement, which the town could keep the funds for uses consistent with HUD requirements and the federal Housing and Urban Development Act of 1974.

The Town of Cabot says it has kept those funds isolated from other municipal funds to create the CIFIC. The CIFIC'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 issue and found the municipal standing applied, citing Vermont Public Service v. Town of Springfield in which the question is that they direct use has been caused, but that municipal assets have been improperly waived. In an earlier proceeding in which Vermont 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 sovereign notwithstanding, the issue was not federal since the town has over the years used the HUD proceeds over the Town's use of the



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.

## Mystery Plane Buzzes Hardwick, Kicks off Investigation

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. Callers' 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 from 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 from 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. Fish 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. Fish suggested we call the USFS's White Mountain National Forest public affairs office in Campton, New Hampshire, to confirm our theory.

After several unsuccessful calls, the Gazette reached Jeremy Grey, a visitor information officer in the White Mountain National Forest office. Kerry 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, he explained that if a drone is sighted, 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 its main Airfield Wing based in Newburgh, NY.

A call quickly established that the 105th Airfield Wing does not operate any turboprop (propeller) aircraft, but their public affairs officer suggested checking with the

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## 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," is how 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 18 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 week. The survey explains the different options and asks which one the community prefers. The board wants to have the results returned before the Tuesday 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 on an all-candidates meeting on the two schools. The Danville board agreed to respond to Cabot by October 16 or 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 18 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 leaves 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.

Students who are tuitioned to other schools will have to apply for admission and meet the admission qualifications to attend any

schools 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-5 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 turn back time."

Nels Larsen said Nebraska made educational changes similar to Act and that that resulted was a decline in the cohesion 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



photo by Vanessa Fournier  
Hardwick Elementary first grade teacher Jean Spurr displays the different tool to bekeeper uses, while showing a frame from Inside a beehive. Pictured (from left) Jean Spurr, Jean Spurr, Elise Foster and Emma Slayton. The 13 students in the class have been studying about honey bees.

## 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 and vendors were filled and that the event was on pace to match its usual turnout, with over 750 to 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 Jeanne Grandin'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 at Hardwick in the spring and throughout the year in Albion, Canaan, Swanton, Vermont, and Schrono Lake, New York.

Thomas Koppel, of Craftsbury Candleworks, was selling beewax candles by the jar and pillar. "I see lots of favorite 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.

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

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

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## Environmental Group Challenges Proposed Rule for Great Hosmer Pond

by Doug McClure

**MONTEPELIER** — The Vermont National 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 factors. The proposed rule was VNRC's Policy and Water Protection Division (WPD) and the Vermont Department of Environmental Conservation's (DEC) Governor's orders in the letter that he was executive director of the Water Resources Board (WRB), which administered the LPW rules for the Vermont. The WRB eliminated the WRB in 2004.

During the time of the VNRC's

man states that "I am very concerned about the implementation of the WVPW program and with the rules and the president of the VNRC, I have had several conflicts that were developed over the years. I am not sure if the WRB was responsible for the program."

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

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