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### **Senators introduce amendment to ban same-sex marriage**

By Robert Marus

WASHINGTON (ABP) -- The United States Senate has become the latest battlefield in the ongoing culture war over gay marriage. A quintet of conservative Republican senators introduced the Federal Marriage Amendment Nov. 25, shortly before senators adjourned for their holiday break.

The measure would amend the U.S. Constitution to ban marriage and "the legal incidents thereof" to same-sex couples. The move came only one week after the Massachusetts Supreme Judicial Court ordered the state's legislature to legalize gay marriage.

The proposal's initial co-sponsors are Sens. Wayne Allard (R-Colo.), Sam Brownback (R-Kan.), Jim Bunning (R-Ky.), James Inhofe (R-Okla.) and Jeff Sessions (R-Ala.).

The proposal's text reads: "Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the Constitution of any State, nor State or Federal law, shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups."

Supporters argue that the amendment's language is tailored narrowly enough simply to protect state laws that define marriage as solely a heterosexual institution. But some opponents warn its language is broad enough to deny marriage-like rights -- such as hospital visitation, inheritance and child custody -- to gay and lesbian couples that have long enjoyed them in certain states.

The Alliance for Marriage, an organization advocating the Federal Marriage Amendment, said in a Nov. 25 press release that the proposal's language simply "ensures that state legislatures -- not the courts -- will continue to decide all issues related to the allocation of marital benefits. AFM's Federal Marriage Amendment has no impact at all on the benefits offered by private businesses and corporations to their employees."

But Senate Minority Leader Tom Daschle (D-S.D.) has said he will oppose such an amendment.

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President Bush and his spokespeople have so far declined to state publicly if the White House will support the constitutional amendment.

The bill, S.J. Res. 26, was referred to the Senate Judiciary Committee. An identical proposal in the House, introduced by Rep. Marilyn Musgrave (R-Colo.) had gained 107 co-sponsors as of Dec. 1.

Congress has not successfully amended the Constitution since 1971, when 18-year-olds got the right to vote. Constitutional amendments must be ratified by three fourths of the states to be enacted. The Equal Rights Amendment, introduced in 1923 and passed by Congress in 1972, was defeated in 1982 after failing to win ratification.

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### **Supreme Court weighs arguments in crucial voucher case**

By Robert Marus

WASHINGTON (ABP) -- The Supreme Court appeared closely divided during Dec. 2 oral arguments in a case that could have enormous ramifications for the future of government funding for religious institutions.

All eyes were on Justice Sandra Day O'Connor as attorneys squared off in *Locke vs. Davey*, a case that originated in Washington state. O'Connor -- often a swing vote on difficult church-state issues -- asked penetrating questions of attorneys for both sides during the hour-long session.

In the case, Washington resident Joshua Davey applied in 1999 for the Promise Scholarship Program, which provides state-funded tuition grants, or vouchers, to disadvantaged Washington students. The scholarships may be spent at any accredited Washington college, including religious ones.

Davey elected to spend his scholarship at Northwest College, a Seattle-area Bible college affiliated with the Assemblies of God. However, the state revoked the scholarship when Davey declared a double major that included pastoral ministries.

State officials cited a provision in Washington's constitution that prohibits the state from spending any money on religious instruction. Davey then sued the state with the help of the American Center for Law and Justice, a legal-advocacy group founded by Religious Right leader Pat Robertson.

Although Davey lost his first round in court, he won in the 9th U.S. Circuit Court of Appeals. A three-judge panel of that court ruled 2-1 that the Washington constitutional provision, as well as a state statute applying it to the Promise program, violated Davey's First Amendment right to free exercise of religion.

Washington Gov. Gary Locke (D) then appealed the ruling to the U.S. Supreme Court.

Last year, the high court declared constitutional an Ohio program that provided government scholarships that could be used in private schools, including religious ones. Justices decided that case, known as *Zelman vs. Simmons-Harris*, on a contentious 5-4 vote.

So the question before the justices in *Locke vs. Davey* was not whether providing government funding to religious schools via vouchers violates the First Amendment's ban on government support for religion, but whether the government, in some cases, must fund religious education.

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O'Connor asked several questions of Washington Solicitor General Narda Pierce to determine if the program was legally similar to the one at question in the Ohio case. "Is it like a voucher program in that sense?" O'Connor inquired. "You give the money to the student and the student decides how to use it."

Pierce repeatedly attempted to steer the argument back to the question of whether denying state funding for theology studies comprises a violation of First Amendment rights to religious freedom. "This case involves application of public funds," she told the justices. "All that the State of Washington has done here is to deny funding for theology studies."

But Justice Antonin Scalia, a vocal opponent of strict church-state separation, said the question should be what he viewed as Washington's impermissible bias against theology students. "You are discriminating between religion and non-religion," Scalia contended.

The four justices who tend to support stricter interpretations of church-state separation frequently came to Pierce's aid during the arguments. Summarizing a major part of the state's case, Justice Ruth Bader Ginsburg said, "Not everything that the state could do under the establishment clause it must do under the free-exercise clause."

A decision in Davey's favor could mean significant gains for the movement to provide government-funded vouchers to religious schools and to use pervasively religious charities to perform government-funded social services -- two major domestic-policy goals of the Bush administration. In the arguments, Solicitor General Ted Olson sided with Davey on the administration's behalf.

"The Promise Scholarship program practices the plainest form of religious discrimination," Olsen told the justices, saying the exclusion of theology studies alone from the scholarship program comprises an unconstitutional "religious test" for the receipt of public services.

Jay Sekulow, executive director of the American Center for Law and Justice, argued Davey's case as a question of his religious freedom. However, several justices seemed skeptical of that point, including John Paul Stevens who asked: "How is his freedom to practice religion impaired at all" simply because Davey was denied state subsidy for his theological studies?

Pierce argued Washington's constitutional amendment banning government funding of religious education has the effect of enhancing religious freedom rather than denying it, because it protects the rights of all Washingtonians to refrain from subsidizing religious teachings they may oppose.

"The state has a somewhat different, but concurring, scheme for religious freedom" than the First Amendment's provisions, Pierce said. "It's the same principle -- it doesn't become discrimination against religion just because it extends beyond what the establishment clause requires."

At a press conference afterwards, Davey said, "This is a case about discrimination." He noted that the case had inspired him to rethink his calling to the pastoral ministry and instead to enroll in Harvard Law School, where he is a first-year student.

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### **Supreme Court case has potential to re-order church-state relations**

By Robert Marus

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WASHINGTON (ABP) -- A case the Supreme Court took up Dec. 2 has the potential to create another legal landmark in a critical time for church-state relations, according to a group of First Amendment experts.

The Supreme Court heard oral arguments Dec. 2 in *Locke vs. Davey*. The day before, the Roundtable on Religion and Social Welfare Policy released a new report analyzing the case and the current state of the law in other areas regarding government funding for religious groups.

"I can't think of another time in recent history when the constellation of issues surrounding church-state relations has been more prominent," said Richard Nathan, the Roundtable's executive director, in a press event accompanying the report's release.

The case "has the potential to be very significant," according to Ira Lupu and Robert Tuttle, George Washington University Law School professors who authored the report and serve as the Roundtable's resident legal scholars.

In *Locke vs. Davey*, the court may decide whether states must, in some circumstances, provide funding for a program of religious education if it provides funding for other sorts of programs.

In the case, Washington resident Joshua Davey received a state-funded tuition grant to attend a Seattle-area Bible college. However, the state revoked the scholarship when Davey declared a double major that included pastoral ministries, citing a provision in Washington's constitution that prohibits the state from spending any money on religious instruction.

Davey sued the state and lost, but the ruling was reversed by the 9th U.S. Circuit Court of Appeals, which said the state's decision violated Davey's right to free exercise of religion.

Washington's constitutional provision is similar to clauses of several other state constitutions, sometimes collectively referred to as "Blaine amendments" by supporters of public money for religious education.

Some such state constitutional provisions were modeled after a 19th-century amendment former Sen. James Blaine of Maine unsuccessfully proposed to the U.S. Constitution. While critics of the so-called Blaine amendments say the provisions had their origins in anti-Catholic bias rampant at the time, opponents of government funding for religious instruction say that argument is an oversimplification and that bad motivations don't necessarily make for bad laws.

The state Blaine amendments are seen by both sides as the last major legal obstacle to government funding for religious schools and other religious organizations.

Many groups that support government funding for religious institutions have filed friend-of-the-court briefs on Davey's side in the case, supporting his argument that Blaine-like state provisions unfairly violate free exercise of religion.

Lupu and Tuttle assert that a broad decision in Davey's favor on free-exercise grounds would have wide-ranging implications.

"The consequences of accepting this argument in its broadest form are sweeping," the law professors write. "States will be obliged to include religious entities that otherwise meet relevant eligibility requirements in every program -- school vouchers, or any sort of services -- in which the state includes private secular entities."

Holly Hollman, general counsel for the Baptist Joint Committee on Public Affairs, said in a Dec. 1 press release that such a decision would be a "quantum leap" for the Supreme Court to make. "It is one thing to say that indirect funding of religious education is permissible; it is quite another to say it is required."

Hollman's organization as well as several other religious and civil-rights groups that support strict church-state

separation have filed friend-of-the-court briefs arguing against a broad ruling in Davey's favor.

"Washington did not deny Davey tuition because he is religious," Hollman said. "Washington simply made the rational decision that the training of ministers was not an appropriate activity for taxpayers to subsidize."

Lupu and Tuttle also warn that such an all-encompassing decision could ultimately be a two-edged sword for religious organizations that wish to receive government funding. Accepting Davey's approach, the scholars said, "would make constitutionally suspect every state policy that treats religious activities or institutions differently from their secular counterparts."

This could lay the legal groundwork for courts to become completely neutral toward religion, Lupu warned at the Dec. 1 press conference. Such a strict "neutrality" doctrine could end up stripping religious institutions of some of the special protections they enjoy under federal law, such as for land use or tax exemption.

A decision in the case, No. 02-1315, is expected by the end of the court's session in June.

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### **T Thomas recommended to lead CBF of Oklahoma**

By ABP staff

NORMAN, Okla. (ABP) – Veteran missionary Charles "T" Thomas is expected to be hired by the Cooperating Baptist Fellowship of Oklahoma as coordinator.

Thomas, currently missions coordinator for the Cooperative Baptist Fellowship of Florida, will be recommended to the Oklahoma organization's coordinating council Dec. 6. If elected, he is expected to assume the new post Jan. 1. Both state organizations are affiliated with the Cooperative Baptist Fellowship, a nationwide network of moderate Baptists.

"There's a great deal of excitement here in Oklahoma" about Thomas' election, said Lavonn Brown, interim coordinator. "We have made him an offer and he has accepted. ... We'd have to have a train wreck for this not to happen. But it's not official until the coordinating council votes on Saturday."

Thomas, a native of Atlanta, would replace Rick McClatchy as chief executive of the CBF of Oklahoma. McClatchy recently left to become coordinator for the CBF of Texas. The Oklahoma organization has three employees.

In 1992, Thomas and his wife, Kathie, were among the first four global missionaries appointed by the Cooperative Baptist Fellowship. Previously they were missionaries assigned for the Southern Baptist Convention, serving first in France and later in Romania. The Thomases resigned from the SBC Foreign Mission Board in protest of what they termed a "hostile takeover" that resulted in the resignations of two top FMB administrators for Europe.

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### **California Baptists cut funds to SBC, re-establish resolutions committee**

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By Terry Barone and Holly Smith

SAN DIEGO (ABP) -- Adoption of a reduced 2004 budget, re-establishment of a resolutions committee and an assortment of motions highlighted the 63rd California Southern Baptist Convention annual meeting.

Held in San Diego Nov. 18-19, the convention drew 610 messengers, the smallest number since 1956.

The major difference in the \$10.7 million budget, which is \$500,000 less than 2003, is the reallocation of 3 percent from the Southern Baptist Convention to ministries of the California convention. If the budget goal is reached, the SBC will receive \$1,986,667.

In lieu of resolutions -- which were eliminated by an earlier convention -- messengers presented motions requesting the state convention's executive director and president to send letters expressing concern or support, most dealing with marriage and homosexuality. The letters were addressed to California Gov. Arnold Schwarzenegger, President George W. Bush, the Episcopal Church and the 10 largest newspapers in California.

As a result of considerable debate about wording of the letters, Ron Wilson, pastor of First Baptist Church in Thousand Oaks, made a motion to reinstate the resolutions committee. "There has been a lot of spirited debate during this convention. Much of the discussion that has gone on here could have gone on in the committee and then brought to the convention."

The motion re-establishing the resolutions committee passed.

In other business, Wayne Stockstill, pastor of First Baptist Church in Hesperia, was re-elected by acclamation to a second one-year term as convention president. Dudley Bristow of First Baptist Church of Irvine/Tustin, who was serving as second vice president, was elected first vice president. Don Conley, pastor of Encanto Southern Baptist Church in San Diego, and John Montgomery, associate pastor and minister of music at Immanuel Baptist Church in Highland, both were elected by acclamation to serve as second vice president and music director respectively.

The 2004 CSBC annual meeting is slated for Nov. 9-10 at Immanuel Baptist Church in Highland.

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### **Asian-themed VBS material draws protests of LifeWay**

By Bob Allen

NASHVILLE (ABP) -- "Far-out Far East Rickshaw Rally -- Racing to the Son is a VBS race that will have kids dashing through the streets of Tokyo, climbing Mt. Fuji, and diving for pearls," says a promotion of LifeWay Christian Resources' 2004 Vacation Bible School curriculum on the company's website.

But some Asian-Americans are taking offense at the use of stereotypes in Southern Baptist churches like rickshaw races, kimonos, chopsticks, takeout boxes and karate uniforms.

"While LifeWay's attempt at incorporating diversity into their curriculum is admirable and appreciated, the resulting product is grossly misguided and inappropriate," contends a website, "Reconsidering Rickshaw Rally," aimed at raising awareness of concerns about the curriculum.

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"It's devastating and disturbing to know that there are children in many different churches across the U.S. whose first exposure to Asian culture will be this stereotypical, racially offensive material," says the site, which lists as a contact person Soong-Chan Rah, senior pastor of Cambridge Community Fellowship Church in Cambridge, Mass.

The Baptist Convention of New England appears to agree, adopting a resolution earlier this month supporting state convention staff in their decision not to promote the "Rickshaw Rally" material.

"We believe that, however unintentional, a mistake was made with this year's theme," said Jim Wideman, the state convention's executive director, quoted in Baptist Press. "Asian-Americans in New England have found this theme focusing on the rickshaw to be insensitive and to be a poor representation of Asian culture. Some have found it highly offensive. We did not feel that we could stay sensitive to our culture and context in New England and promote this material."

Wideman said the state convention is not at odds with LifeWay and plans to promote other material produced by the Southern Baptist Convention's publishing house as an alternative. A LifeWay spokesperson expressed appreciation for that but disagreed that the material is offensive.

"We have listened carefully to every person who has expressed a concern about the curriculum and responded appropriately," said Mary Katharine Hunt, VBS division project manager, in a statement. "We simply disagree with those who make negative charges about our VBS curriculum."

For every concern raised by an Asian-American, Hunt said, "we are receiving dozens of positive responses from Asian-Americans that tell us we are fulfilling our intent to lift up another culture and share the message of hope for all people in Jesus Christ."

LifeWay has declined to recall the material or to promote alternatives, but company President Jimmy Draper pledged to review it and "enter into substantive discussion with Asian-Americans regarding the marketing and content of the VBS material," according to a Sept. 3 update on the "Reconsidering Rickshaw Rally" website.

But in another update posted Nov. 25, Rah said Draper didn't follow through with that promise and released the product with no substantive changes. When confronted, he said, Draper replied that LifeWay is "learning in the process" but "the decisions we make in this are ours to make and not yours."

He also stated, "Judge our decisions, not our hearts," Rah said.

"Apparently LifeWay has decided that the protests that have been raised are coming from a small, select group of angry Asians," Rah said. "They have chosen to ignore these concerns and have elected to proceed with business as usual."

A response letter to earlier criticism from Jerry Vogel, director of childhood ministry publishing for LifeWay, said the content of next year's VBS material was not intended to be offensive. "While producing the material, we included folks who have served in Asian countries as missionaries and have also consulted people who are native Japanese. Some of our editorial team have actually visited Japan so that we would be as true to the culture as possible. We have not included anything in our materials other than the wonderful and fun elements of the Japanese culture that we have discovered on our own or delved into through research."

But Rah said new material on the LifeWay Web site contains "even more blatantly offensive and racist material."

Among excerpts, he said, are:

-- A chorus to the theme song which goes, "Wax on, wax off, get your rickshaw ready ... to the far out, Far East."

-- Name tags in the shape of Chinese take-out food boxes, which come in a box of 20 for \$5.99.

-- The entire VBS package comes in a tin shaped like a Chinese take-out food box.

Among suggestions from LifeWay's "Idea Box:"

-- "I have found that children enjoy large decorations. Use big props, big chop stix, made out of wood."

-- "If you have a community theatre nearby, check with their wardrobe master/mistress to see if you could borrow one or two Geisha or Samurai costumes for the director or teacher."

-- "You could check in with your local rental suppliers to see if they have the sumo wrestler blow-up costumes for the children to wrestle each other in. If you have never seen this done before, it is hilarious! Pretty much whoever can stay standing wins. This could be done for recreation time or during Family Day/Night and get the parents involved!"

Another website, [angryasianman.com](http://angryasianman.com), which describes itself as attacking racism in a "half-joking" manner with exaggerated humor, targeted the LifeWay material when it was released in August. "It looks like someone's well-intentioned attempt at diversity, but it comes off stereotypical, racially insensitive material."

"While certainly not as blatantly offensive as Abercrombie's T-shirt designs or the 'Kung Fool' Halloween costume, Rickshaw Rally is still a few giant ugly leaps backward," the site continues. "Absolutely aggravating. That's racist!"

A Baptist ethicist said the theme choice is evidence that "racism has metastasized within Southern Baptist life."

"'Rickshaw Rally' represents yet another example of the moral blindness that insults a racial group and seeks to make a profit off of prejudice," said Robert Parham, executive director of the Baptist Center for Ethics.

Three years ago, Parham criticized two SBC agencies for using an image of a black man on a poster emphasizing a theme of "dispelling the darkness" to raise money for missions.

"Southern Baptists cannot address racism with easily forgotten resolutions while playing the race card to generate revenue," Parham said.

- Bob Allen is managing editor of [EthicsDaily.com](http://EthicsDaily.com), published by the Baptist Center for Ethics.

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