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REPORT FROM THE CAPITAL

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NewsMakers

◆ In a 4-1 opinion by a New York appeals court, Justice Thomas Mercure said the state's attempt to create a special school district for disabled children in a Jewish community was unconstitutional, violating church-state separation. In 1994, the U.S. Supreme Court struck down the state's first attempt to create a special district for the village of Kiryas Joel.

◆ President Bill Clinton signed a welfare reform package that included a provision to allow federal money in the form of contracts and vouchers to fund faith-based ministries that address concerns of the poor.

◆ U.S. District Judge Owen Panner of Portland, Ore., refused to order the destruction of a jailhouse recording of a sacramental confession between a murder suspect and a priest. He acknowledged the priest's rights were violated, but said the tape's bearing on the cases of two murder suspects outweighs the Catholic Church's plea to destroy it.

◆ Former U.S. Sen. John Danforth of Missouri, a Republican, recently said religious people have the responsibility to participate in the political process and to be tolerant. "Religious people especially have the responsibility to recognize that theirs is one of many points of view, all of which are encompassed within America," he said. Δ

Americans oppose vouchers, new national survey shows

Most Americans continue to oppose taxpayer funding of private education, a new poll says.

"No matter how the question is asked, people oppose using tax money to support non-public schools," said the authors of the 28th annual Phi Delta Kappa/Gallup poll of Americans' attitudes toward public schools.

By a 61 percent to 36 percent margin, poll respondents opposed allowing students to attend a private school at public expense.

But that opposition may be softening. Foes of funding private education declined from 74 percent in the education group's 1993 survey and 65 percent in 1995.

The Gallup organization surveyed 1,329 adults in May for Phi Delta Kappa, a nonprofit education fraternity.

Respondents were also asked whether they favor the use of vouchers to let parents send their children to the public, private or church-related school of their choice. Fifty-four percent opposed the idea, the same percentage as in 1994. Only 43 percent of respondents favored the idea, down from 45 percent in 1994.

Vouchers were favored by nonpublic school parents (70 percent to 28 percent) and Roman Catholics (55 percent to 43 percent). The survey showed that Republicans and parents of public school students were evenly split on the question, while strongest opposition to vouch-

ers (60 percent or higher) came from people over 50, college graduates, Democrats and rural Americans.

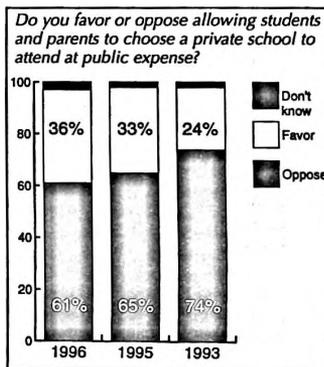
The survey also showed that by a 69 percent to 25 percent margin, Americans oppose replacing public schools with a system of private and religious schools. Of those favoring this idea, 31 percent cited better education as the reason, while 5 percent cited religious instruction.

Asked what school they would choose if given a \$3,500 voucher, 60 percent of public school parents said

they would select the same or another public school, 18 percent said a private school and 19 percent a church-related school.

Public funding of private education has become a significant election-year issue. Republican presidential nominee Bob Dole has proposed a \$2.5 billion program to provide vouchers to help parents send children to the public, private or religious school of their choice. President Clinton has supported public school choice but opposes vouchers for private and religious schools.

The GOP platform favors opportunity scholarships and vouchers "to make parental choice in education a reality for all parents." The Democratic platform calls for the expansion of public school choice, but opposes transferring tax dollars from public to private schools. Δ



1936-1996

Six Decades
of Securing
Religious Liberty



In May 1983, Baptist Joint Committee Executive Director James M. Dunn warned that President Ronald Reagan's proposed constitutional amendment would lead to prescribed rather than voluntary public school prayer and urged a Senate Judiciary panel to reject the measure.

A White House document cited by Dunn indicated that state governments and local school boards would be free under the amendment to compose their own prayer. "If groups of people are permitted to pray," the document explained, "someone must have the power to determine the content of such prayers."

When the measure reached the Senate floor for a vote in March 1984, it fell 11 votes short of the two-thirds majority needed for passage. Eighteen Republicans joined 26 Democrats in sinking the amendment. Δ

Texas church sends letter urging defeat of candidates

A Texas Baptist church has mailed over 7,000 letters to other churches calling for the defeat of candidates for public office, including President Bill Clinton, who favor abortion rights.

Leaders at Second Baptist Church in Lake Jackson, Texas, defended the mailing as educational. The mailing included graphic information about a controversial late-term abortion procedure.

In the letter was a plea to voters. "Anyone who has knowledge of what a partial-birth abortion is, and also knows that President Clinton approves of this procedure, and then votes for Mr. Clinton, is guilty before God, just as Mr. Clinton is," the letter said.

The July 20 letter also said, "Our church is leading a campaign against abortion, and it is our intention that any candidate who endorses abortion will not be elected in November."

Ronnie Whitehead, associate pastor of the Lake Jackson church, said the goal of the letter was to educate voters and encourage voters to "look at what the word of God says" before voting.

Barry Lynn, executive director of Americans United for Separation of Church and State, has asked the IRS to investigate the matter.

Phil Strickland, director of the Texas Baptist Christian Life Commission, compared the mailing to "dancing in the quicksand hoping you don't hit the soft spot." He said it "is clear that churches can't support or oppose a specific candidate and remain a tax-exempt organization."

Strickland added that it is hard to see how the letter could be interpreted in any way except opposing a particular candidate.

Church pension changes signed into law by Clinton

The package of small business reforms President Clinton recently signed into law contained far more than the bill's most publicized provision — a hike in the nation's minimum wage.

Tucked into the 183-page measure were several provisions simplifying church pension laws.

Church pension boards have long sought the pension law changes contained in the Small Business Job

Protection Act of 1996.

The law makes clear that retirement benefits from church pension plans are not subject to self-employment tax (SECA), the 15.3 percent tax collected from ministers and other self-employed individuals for Social Security purposes.

In changes that take effect Jan. 1, the new law also clarifies that chaplains and self-employed ministers can participate in church pension plans, allows direct pension contributions on behalf of foreign missionaries and permits the exemption of church pension plans from discrimination rules that apply to secular employers.

The provision allowing mission organizations to make direct pension contributions on behalf of foreign missionaries would reduce an "administrative nightmare," said David Starr, a Washington attorney who represents an umbrella organization of church pension boards. To achieve the most beneficial tax treatment under existing law, funds must be sent to missionaries who in turn contribute to a pension account.

The new law authorizes, but does not require, the Secretary of the Treasury to provide a "safe harbor" for church plans from normally applicable rules designed to ensure that pension plans don't benefit higher-paid employees at the expense of lower-paid employees. Sponsors of the bill hope the provision will allow the Treasury Department to develop non-discrimination rules more suitable for church plans.

The law also expands the options non-profit organizations have in offering tax deferred retirement plans.

Judge continues ban on religious school funds

A state judge rejected a request from Wisconsin officials to lift a court order barring tuition vouchers for private religious schools.

Dane County Circuit Judge Paul Higginbotham rejected a request that the state be allowed to begin the voucher program for religious schools before the start of the school year.

In his ruling, the judge said the Wisconsin Constitution forbids the use of state money for religious instruction even if the money is funneled to the schools through the conduit of parents.

"The state cannot do indirectly what it can't do directly," Higginbotham's ruling said. Δ

Church-State Intersection

J. Brent Walker

General Counsel



Can you believe summer is gone and it's time for another school year to begin? It used to be that Labor Day would open the season on a

new round of church/state disputes: September, "See You at the Pole" controversies; October, fights about Halloween; November, Thanksgiving and the Pilgrims; December, Christmas or "Winter Holiday" pageants, not to mention the springtime battles surrounding Easter and graduation prayers.

But this need not be. Last year things went a lot better. That's in large part because of the many helpful guidelines on Religion in the Public Schools that the Department of Education distributed to every school district last September. The guidelines were based on a document prepared by the BJC and others, titled, *Religion in Public Schools: A Joint Statement of Current Law*. The *Joint Statement* also has been widely distributed. (Copies of both the guidelines and the *Joint Statement* are available from the BJC.) I hope this year will prove to be even more conflict-free as parents, students and teachers understand more about what is permitted and learn how to work with one another to avoid these problems.

I recently read an essay by Greg Hill, a student at Orange Glen High School in California. In the September 1996 issue of *DECISION*, Greg gives testimony about how potential conflicts can be resolved and the positive role of religion in the public schools:

I first became interested in praying at school when I was in the sixth grade. I was one of about 20 students who had gathered at our school's flagpole to pray during "See You at the Pole," which takes place each September. Our principal came out and said, "I think it's great that you want to pray, but not

on campus." She asked us to go across the street to pray. [Actually the principal was wrong. It could be done on campus.]

It turned out to be a blessing, because when we moved, more people saw us and heard us pray, and many asked us why we were doing it.

When I started high school, I joined a group that prays every day on our campus. About 20 of us meet every morning at 7:30, at a tree behind the school library. In rainy weather we meet under an overhang. ...

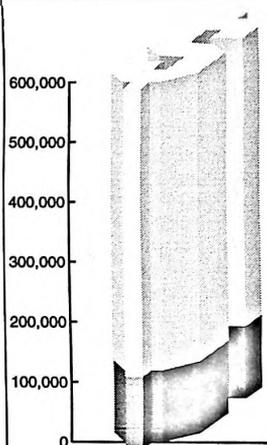
Many students on campus don't know what our group is doing, so they ask. I tell them that we are praying for students and for teachers who don't know God. Many times I have invited these inquirers to attend church or to come to our group in the mornings. Through the influence of the prayer group, some of my friends have become Christians, and others have rededicated their lives to Christ. ...

I believe that it is important to pray for the students and the staff at our school. It is one way to show that we care about them. When they find that people are praying for them every morning, that may be the start of their own quest to find the Truth.

This is the kind of gentle spirit that should pervade the exercise of religion by public school students and accompany their witness. It beats the heavy-handed proselytizing and in-your-face triumphalism that often engenders unnecessary tension and hard feelings.

As a new school year begins, we all need to do a better job of respecting each other's views and celebrating our differences, even as we rightly insist upon the protection of our own rights and freedoms. Δ

Endowing the Baptist Joint Committee



Through August,
gifts and pledges to
the Baptist Joint
Committee's
60th Anniversary
\$600,000

Endowment Drive
totaled \$1,200,000.

Fifty-nine individuals or
couples have given \$100
or more and received
the BJC's new religious
liberty video, *The
Intersection*.

Why not join them?

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REPORT FROM THE CAPITAL

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Vouchers: America's mess of beans

The tragic Old Testament character Esau may become the patron saint of a multitude of American Christians, and Baptists are prominent among them.

You remember Esau. He sold his birthright for a mess of beans. As the oldest son of Abraham's son, Isaac, Esau was first in line to inherit the lion's share of family fortune. More importantly, he was set to inherit the mantle of family leadership.

But Esau was a man of the moment, not of the future. The 25th chapter of the Book of Genesis records his undoing: One day, Esau arrived from the country and thought he was about to starve. His younger twin, Jacob, was cooking a pot of lentil stew. Esau thought it looked delicious and asked Jacob for a bowl. Jacob made the deal of a lifetime while his brother thought with his stomach. Jacob told Esau he could have the beans — and a loaf of bread to boot — in exchange for the family birthright.

So, Jacob bought Esau's birthright for beans. That's why the Hebrew people, through whom God blessed the nations with Jesus, are known as the descendants of Abraham, Isaac and Jacob, not Esau.

Now another pot is brewing. This time, sympathetic legislators are cooking up a scheme to feed private and parochial schools, many of which believe they are starving for cash.

The most recent recipe has been dubbed "Project for the American Renewal." Sen. Dan Coats, R-Ill., and Rep. John Kasich, R-Ohio, introduced the legislation in Congress this summer. The proposal would provide tax funds, in the form of vouchers, for parents to send their children to private schools, including schools operated by churches and other religious organizations.

Like Jacob's pot of beans, the voucher plan certainly must smell appetizing to partisans of parochial education. Just as Esau's hunger



was a natural biological function, so their need for finances is a natural institutional situation. And just as surely as Esau paid a price for his failure to eat elsewhere, church schools that take government money eventually will pay, too.

Vouchers and other schemes to funnel government aid to church schools are bad ideas for several reasons:

- Government controls what it supports. If the government provides funding — directly or indirectly — to church schools, rules and regulations are sure to follow. Consequently, the "beans" that feed church schools today may poison them tomorrow.

- Baptists and other free-church Christians who accept government funding — in whatever form — for church schools forsake their birthright. Early American Baptists championed religious liberty. It guaranteed freedom to practice religion and freedom from imposed religion. The union of church and state threatens that freedom, holding potential both to deny certain religious practices and to impose others.

- Special deals for education violate the public trust. First, they call upon citizens to support education twice, publicly and privately. Second, they undermine public education — arguably the most important natural resource for the nation's future — by enabling the middle class to abandon those schools, creating an educational ghetto. Jesus taught against abandoning the poor.

Parochial schools have played an important role in American life for more than a century. But just as Jacob's beans poisoned Esau's future, school vouchers would plague the future of America's public and parochial schools. Δ

Marv Knox is associate editor of The Baptist Standard, weekly newsmagazine of the Baptist General Convention of Texas.

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