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# REPORT FROM THE CAPITAL

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## NewsMakers

◆ **Mandy Tyler** of Austin, Texas, is serving as assistant to the general counsel at the Baptist Joint Committee. She succeeds **Holly Shaver**, who is beginning law school this month at the Marshall-Wythe School of Law at the College of William and Mary in Williamsburg, Va. Tyler, a former BJC intern, will work at the BJC while finishing her final year at the School of Foreign Service at Georgetown University in Washington, D.C.

◆ **James M. Dunn**, executive director of the Baptist Joint Committee, will receive the Religious Freedom Award from Associated Baptist Press on Sept. 2. Broadcast journalist **Bill Moyers**, a long-time friend of Dunn, will present the award during ceremonies at the Freedom Forum's Media Studies Center in New York City. Dunn is the sixth recipient of the award.

◆ **Randy Johnson**, a circuit court judge in Richmond, Va., ruled that Regent University, a graduate school founded by religious broadcaster **Pat Robertson**, does not qualify for tax-exempt construction bonds because its "primary purpose is religious training." Calling the school "pervasively sectarian," Johnson thwarted the school's efforts to use \$55 million in bond proceeds for construction on its Virginia Beach campus and to develop a site in Alexandria, Va. Δ

## Ruling sparks more debate over distribution of voter guides

Following a federal court decision clearing the Christian Coalition of all but two charges of violating federal election laws, coalition officials and the organization's critics are at odds over the propriety of voter guide distribution in churches.

The Aug. 2 ruling ended a three-year dispute between the conservative Christian advocacy group and the Federal Election Commission.

Marcus Owens, director of the Internal Revenue Service's Exempt Organizations Division, said churches should not look to rulings on federal election laws for guidance on tax laws. "Election laws and tax laws are different sets of rules," he said.

Federal campaign laws bar corporations from making contributions — in cash or in kind — to candidates for federal office. But independent expenditures related to a campaign are permitted as long as they are not used to expressly advocate a candidate's election or defeat.

U.S. District Judge Joyce Hens Green ruled the FEC was entitled to a civil penalty for the coalition's "express advocacy of House Speaker Newt Gingrich's reelection in 1994 and for the coalition having provided the senatorial campaign of Oliver North with a valuable mailing list."

She ruled in favor of the coalition on all other FEC charges, saying that previous Supreme Court rulings rendered limitations on expenditures such as the coalition's "largely toothless."

"It appears that the Coalition avoided

impermissible coordination of its voter guide and (get-out-the-vote) expenditures, although not for a lack of trying," she said. It was avoided, she added, because GOP officials "chose not to respond to the coalition's implicit offers

to discuss or negotiate those plans."

Coalition officials said the decision shows that the voter guides are nonpartisan and can be distributed in churches.

A coalition statement said the ruling

"allows Christian Coalition of America and its state affiliates the continued right to distribute voter education material — voter guides — in churches and in the public square."

But Americans United for Separation of Church and State Executive Director **Barry Lynn** said, "Churches that join the coalition's partisan political machine still risk losing their tax-exempt status."

Owens said the IRS could not comment on the Christian Coalition case.

But he said that tax laws have more "teeth" than election laws. "Federal election laws are designed to regulate money in federal campaigns rather than political involvement. Tax rules are very broad and are written to focus on much more than the shifting of money."

He said, "A good rule of thumb is for churches to stand back and ask, 'Could this action — whatever it is — be reasonably interpreted as endorsing or opposing a candidate?' If that's the message that is being delivered, the church ought to be aware of the prohibitions." Δ

*"A good rule of thumb is for churches to stand back and ask, 'Could this action — whatever it is — be reasonably interpreted as endorsing or opposing a candidate?'"*

— **Marcus Owens**  
Internal Revenue Service

## Nine senators want to keep 'Commandments' provision in bill

Nine senators have sent a letter to Senate Judiciary Committee Chairman Orrin Hatch urging language allowing states to post the Ten Commandments in schools be retained in juvenile justice legislation.

Sen. Michael B. Enzi, R-Wyo., requested in the letter to the Utah Republican that legislative conferees match the Senate version with the House bill giving states the authority to allow placement of the Ten Commandments in public buildings. The Senate bill does not contain that language.

"This won't solve all of our problems. I don't presume that it will, but reinforcement that it is not OK to kill people or lie or steal is a good thing," Enzi wrote. "If this is so objectionable, maybe our society is in more trouble than we think."

Eight other senators, including Don Nickles, R-Okla., and Jesse Helms, R-N.C., also signed the letter.

The House version of the bill also forbids awarding attorney's fees in suits claiming a public school has violated the U.S. Constitution's Establishment Clause. Δ

## Alabama official updates religion-in-school guidelines

Alabama Attorney General Bill Pryor reissued guidelines to clarify public school policy on religious activities just weeks after an appeals court partially overturned a judge's ruling limiting school-sponsored prayer.

Pryor said the July 13 ruling by the U.S. Court of Appeals for the 11th Circuit "confirmed the rights of religious freedom and expression to our public school students. ... In DeKalb County and throughout Alabama, it is now clear that students can exercise their free speech rights regarding religion with the same freedom as for any other private speech."

The memorandum, jointly issued by Pryor and Education Department General Counsel Michael R. White, offers guidance to school officials. It updates guidelines issued before the 11th Circuit ordered U.S. District Court Judge Ira DeMent to rewrite part of his religion-in-school decision.

The memo reminded superintendents that the appellate court found "genuinely student-initiated religious speech" may not be restricted nor should there be limitations "on the time, place and manner of that speech which exceed those placed on students' secular speech."

Among permissible activities cited in the guidelines are voluntary participation of students in individual or group prayers during non-structural time and at school-sponsored events, including prayer before and after sports events.

Students also are allowed to participate in religious discussions at school-sponsored events and during non-instructional times, express religious beliefs in homework that "should be judged by ordinary academic standards of substance and relevance," and discuss religious topics with fellow students in the same way they might discuss political or other topics.

Secondary-school students are permitted to announce religious meetings in the same way announcements are made for other meetings, including via the public address system and school newspaper.

The Atlanta-based appeals court did not throw out DeMent's restrictions against school officials leading religious activities, including prayers. The updated guidelines include such restrictions.

"School officials (e.g. coaches) should neither encourage nor discourage individual or group prayer," the guidelines read. "Organization or direction of a prayer by a school official would not be appropriate."

The guidelines also address commencement and baccalaureate services. They state that school officials should not encourage or discourage students from attending religious baccalaureate services. They also permit student-initiated religious speech at commencement exercises, but forbid school officials from directing, encouraging or organizing such speech.

## Kansas eliminates evolution from science curriculum

The Kansas Board of Education has adopted new standards for teaching biology that critics say will virtually eliminate any consideration of evolution from the science curriculum in the state's public schools.

Republican Gov. Bill Graves called the action by the Kansas Board of Education "a terrible, tragic, embarrassing solution to a problem that didn't exist."

The action by the education board, on a 6-4 vote, is among the most far-reaching victories yet for the so-called creationist movement, which rejects the scientific concept of evolution in favor of a literal biblical view that teaches the world is only a few thousand years old and that each species was created separately by a divine being.

Although the new standards adopted by Kansas do not prevent local school boards from teaching it, evolution will not be included in the state assessment tests that evaluate students' performances in various grades. The new standards are likely to discourage school districts from spending time or money on the subject and may embolden some school districts to consider adopting creationist textbooks.

In taking the action, conservative board members said they wanted to make sure that schools teach "sound" science, arguing evolution, or natural selection, is a flawed theory that cannot be proven.

Kansas is only the most recent battleground in a war between creationists and biologists that has been going on for more than a decade following a Supreme Court ruling that public schools cannot teach creationism as a fact.

Alabama, New Mexico and Nebraska have made changes in their science teaching guidelines that challenge the pre-eminent explanation of the way the world works. Other states — Texas, Ohio, Washington, New Hampshire and Tennessee — have considered but rejected changes called for by creationists. Δ

# Presidential contenders show public square far from naked



**Melissa Rogers**  
Associate General Counsel

**W**hat topics have received serious attention from most of the major candidates for the White House in 2000? Medicare? Yes. Campaign finance reform? Of course. Education? Naturally. Personal faith and the role of religion in politics? Right again.

Listen to some of the candidates speak on faith, politics and public policy:

## Gov. George W. Bush

"I want to make this clear: We will welcome the presence of people of faith in the political process. Just as your faith helps determine how you live your life, your involvement in politics helps determine how well our democracy functions."

Bush also says: "I grew up in church, but I didn't always walk the walk. There came a point in my life when I felt something was missing." After describing how an encounter with Billy Graham later led to his recommitment of his life to Christ, Bush observes: "Christ has made a huge difference in my personal life and in my public life as well. I firmly believe in the power of intercessory prayer and know I could not do my job without it."

## Elizabeth Dole

Describing her previous obsession with her career, Dole says that she was trying to "control everything, surmount every difficulty, foresee every problem. I had God neatly compartmentalized, crammed into a crowded file drawer of my life, somewhere between 'gardening' and 'government.'"

But one day Dole says that she realized that "[i]t was time to submit my resignation as master of my own little universe — and God accepted my resignation." She learned, she said, that "dependence is a good thing," that "when I'm weak, I'm strong."

## Vice President Al Gore

In his recent address to the Progressive

National Baptist Convention, Gore identified himself as "someone who is a child of the Kingdom and a person of strong faith."

He also recently told an audience at the University of New Hampshire: "In my faith tradition, I am drawn to the story of the first murder. Cain's offering was rejected, whereas his brother Abel's was accepted. God asked him; 'Why are you angry and why has your countenance fallen? If you do well, will you not be accepted? And if you do not do well, sin is couching at the door; its desire is for you, but you must master it.'"

On the street-corners of America's cities today, we often hear the word 'disrespected.' Cain felt 'dissed' by God. Those boys at Columbine, according to all the available evidence, and despite all the privileges they had, felt disrespected. Disconnected. Not accepted. Rejected.

Sin came to their door ... They still had a duty to resist it and master it — but its desire was for them, and they were vulnerable to it because they felt disrespected.

That is why this is a battle we must wage in every American family, and in every human heart."

Are these comments evidence of a church-state violation? No! Any candidate is welcome to share his or her personal beliefs and explain how it impacts their policy decisions.

They are evidence, however, that those who claim that religion has been banished from the public arena are wrong. In 1984, Richard John Neuhaus wrote a book titled, *The Naked Public Square: Religion and Democracy in America*, in which he stated: "The naked public square is the result of political doctrine and practice that would exclude religion and religiously grounded values from the conduct of public business." Since that time, variations of this argument pop up again and again, despite overwhelming evidence to the contrary.

Clip this column and present it to the next person you hear complaining about the naked public square. Δ

## Quoting

**N**ow those religionists in America who are clamoring for government support of their sectarian institutions and for their own religious instruction in the public schools are assailing the American system under the charge that it is promoting secularism, a new kind of devil and allegedly one of the worst that ever crawled out of the pit. ... The word secular is being used as a smoke screen with which to condemn the public schools and to indict the United States Constitution.

— J.M. Dawson

*in unpublished remarks delivered in 1952*

*Dawson served as the first executive director of the Baptist Joint Committee, heading the agency from 1946-1953.*

- ◆ Baptist General Conference
- ◆ Cooperative Baptist Fellowship
- ◆ National Baptist Convention of America
- ◆ National Baptist Convention U.S.A. Inc.
- ◆ National Missionary Baptist Convention
- ◆ North American Baptist Conference
- ◆ Progressive National Baptist Convention Inc.
- ◆ Religious Liberty Council
- ◆ Seventh Day Baptist General Conference
- ◆ Southern Baptist state conventions/churches

## REPORT FROM THE CAPITAL

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Florida Gov. Jeb Bush recently signed into law a school voucher program passed by the state Legislature. At first glance the new statute, the first such statewide program in the country, seems to be a parent's dream: State money will help public school students pay tuition at private schools.

The law is aimed especially at parents whose children currently attend substandard public schools. Under the plan, Florida will contribute about \$3,000 a year to a supposedly better private school for every youngster who transfers from an inferior public school. It sounds so worthwhile.

But while the Florida voucher statute appears at first blush to be a remedy for a serious problem, it actually creates many new problems. As soon as Bush signed the bill, it was challenged in court by a coalition of religious, educational and civic groups.

Critics charge the voucher plan seriously violates the Florida Constitution, which specifically provides that "no revenue of the state ... shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution." It also says, "Income derived from the state school fund shall ... be appropriated only to the support and maintenance of free public schools."

Because the voucher money will be used for religious education and similar sectarian activities, it may violate the First Amendment of the U.S. Constitution.

To receive state money, parochial and private schools must comply with prohibitions against discrimination based on race, color, or national origin. Schools that receive voucher money must "not compel

any student ... to profess a specific ideological belief, to pray or to worship."

Interestingly, the voucher battle does not pit religion against anti-religion, nor one faith against another. While many Christians and Jews support vouchers, many equally committed Christians and Jews oppose them.

I fear that drawing precious funds away from already impoverished public schools will further weaken an educational system that desperately needs improvement. I also worry that the public schools' historic role in building national unity out of an increasingly diverse American population will be seriously eroded.

In early 1998, long before the Florida voucher program became law, 25 prominent Christian and Jewish leaders sent a letter to President Clinton expressing their strong opposition to vouchers.

While pointing out that vouchers are unconstitutional, they also warned Clinton that government entanglement with religious schools "inevitably ends in a loss of religious freedom and independence."

Some theologically conservative evangelical Christians also oppose the voucher plan. They are fearful that once the state becomes involved in parochial and private education, especially through the use of public funds, religious liberty will be severely compromised.

In many places the public schools are in bad shape, and there is genuine concern about providing quality education. But an unconstitutional voucher plan is not the solution because it drains badly needed resources away from public schools and diverts our attention from confronting the real challenges facing public education in the new century. Δ

**A. James  
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