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REPORT FROM THE CAPITAL



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NewsMakers

◆ **A. Roy Medley**, executive minister of the American Baptist Churches of New Jersey, was elected general secretary of American Baptist Churches USA by the denomination's general board. Medley, who succeeds former Baptist Joint Committee board member **Daniel Weiss**, will begin a four-year term on Jan. 14. Medley will join other American Baptist representatives serving on the BJC board.

◆ **David Friedman**, an attorney for the American Civil Liberties Union, commented about a lawsuit the organization filed Nov. 27 against four counties in Kentucky that have posted the Ten Commandments in courthouses. "It's not a small measure of irony that these four governments, among others, are seeking to impose their religious views on the nation at the same time the nation is fighting those overseas who would impose their religious views on others."

◆ **The Rev. Jerry Falwell** has sued the state of Virginia claiming that portions of the state constitution infringe on the rights of churches. The lawsuit, filed Nov. 9, challenges the constitution's prohibitions on churches owning more than 15 acres of property in a city or 250 acres in a county, as well as laws prohibiting incorporation of churches and requiring court oversight for their land transactions. △

Baptist Joint Committee joins brief opposing voucher plan

The Baptist Joint Committee has joined the American Jewish Committee and other religious groups in urging the nation's highest court to reject the use of tax-supported vouchers to pay tuition at religious schools.

In a legal brief to be filed Dec. 14 at the Supreme Court, the BJC and others argue that Cleveland's voucher plan is unconstitutional because "it has the primary effect of financing religious indoctrination with state money."

Enacted by the Ohio legislature in 1995, the program provides tuition vouchers of up to \$2,250 for students to attend private religious and non-religious schools in Cleveland or public schools in adjacent suburbs.

Two lower federal courts struck down the program, which has been dominated by religious schools. More than 80 percent of the schools in the voucher program are religious and 96 percent of voucher students attend religious schools. No suburban public schools opted into the plan.

Drafted by attorneys for the American Jewish Committee, the brief argues that the effect of the Ohio plan is "indistinguishable" from a New York program struck down in 1973.

Recent high court rulings allowing limited aid to religious schools did not open the door to "unrestricted state funding of pervasively religious schools," the brief contends.

Last year, in *Mitchell vs. Helms*, justices said a federal program could provide

educational materials such as books and computers to religious schools. But under that program, materials provided were required to be secular in nature, and the funds could only supplement, not replace, private funding.

In contrast, the AJC brief argues, the Ohio voucher program "contains no requirement that the aid be used only for secular purposes." In addition, the program "supplants private funds with state money by providing the religious schools with tuition money that the schools could only receive from private sources," the brief states.

The brief also refutes arguments that the Ohio plan mirrors programs upheld by the high court in which government aid reaches religious entities only because of "private choices" by individuals.

"The government should not be in the business of funding religious education."

— K. Hollyn Hollman



Unlike programs upheld by the high court, the Ohio plan is neutral toward religious and nonreligious schools "only in the most formal sense," the AJC brief said. It ensures "that religious schools will dominate the universe of options available to voucher recipients."

"The government should not be in the business of funding religious education," said K. Hollyn Hollman, general counsel at the Baptist Joint Committee.

Cleveland's public school crisis does not justify lifting the constitutional ban on government advancement of religion, she added. "While creative responses are needed to improve Cleveland's public schools, they should not include the public funding of parochial schools." △

Bush touts diversity, faith-based initiative

President Bush renewed his call for respect for America's religious diversity and touted his plan to provide federal funds to faith-based programs Dec. 4 in Orlando, Fla.

Meeting with about 4,000 displaced tourism workers in the first town hall meeting of his presidency, Bush's prepared remarks were directed at his economic stimulus package now before Congress.

But in an hour-long session that included several questions from the audience, Bush touched on a wide range of subjects including the need for charitable giving.

Responding to a question by a pastor, Bush encouraged local clergy planning a prayer summit to make an effort to include people of all faiths in the gathering.

"It sends such a strong signal," he said. "It reminds people of the greatness of America."

In touting his faith-based initiative that passed the House of Representatives and awaits Senate action, the president said: "Governments shouldn't worry about faith. We ought to welcome faith."

Bush said the government shouldn't fear programs that are based on faith, but should fear "government embracing religion." Δ

Supreme Court upholds census counting practice

The U.S. Supreme Court has upheld a Census Bureau counting method that Utah claimed discriminates against Mormon missionaries living overseas.

The Census Bureau counts Americans living abroad only if they are in military or government service. Utah claimed that discriminates against some 11,000 Mormon missionaries and cheated the state out of an additional congressional seat in the 2000 census. The new seat went instead to North Carolina. The Utah case asked the court either to include missionaries or exclude federal workers.

The suit said the counting method discriminates against people based on the kind of work they do and infringes on religious freedom because it might discourage adherents from volunteering for missionary service.

The high court refused Nov. 26 to hear an appeal on a lower-court ruling granting the Census Bureau discretion in the counting of overseas Americans. The one-sentence order in *Utah vs. Evans* offered no explanation of the court's refusal. Δ

Religious coalition urges tax incentives for charity donors

A coalition of religious and civil liberties groups that have differed over church-state matters has issued a statement urging Congress to adopt tax incentives that encourage charitable giving by low- and moderate-income Americans.

"We are united on the need for changes in the tax laws that affirm the generosity of all Americans who make charitable contributions and unleash significant new resources for America's armies of compassion," reads a statement from the Working Group on Human Needs and Faith-Based and Community Initiatives.

The statement, released Nov. 16, comes as the group prepares a more comprehensive report it plans to issue in mid-January. It was released in response to Bush's recent letter to Senate leaders seeking prompt action on his faith-based initiative by providing support for issues such as incentives for charitable giving and equal treatment of faith-based and community charities.

The group offered such recommendations as permitting nonitemizers to deduct their charitable contributions and easing limitations on charitable contributions from IRAs and similar accounts.

"The changes we recommend will be powerful symbols at a time when national unity is so important — when Americans are being asked to give from their time and treasure as never before," the statement said.

"These incentives will also generate substantial increases in revenue for crucial community-based and faith-based organizations, groups that will leverage the dollars given with the time, energy and compassion of volunteers."

The group was formed in June by former Sen. Harris Wofford, D-Pa., at the request of Sen. Rick Santorum, R-Pa., to find common ground on how to expand opportunities for needy people to get aid from faith-based and other community organizations. Δ

Robertson: China soon may ease religious restrictions

China's restrictions on Christians in the country could be easing soon, according to evangelist Pat Robertson.

"It is my understanding that a new set of regulations is going to be drafted and that Premier Zhu will head the commission which will make the official statement," Robertson said Nov. 28, two days after meeting with the Chinese leader.

Under the new regulations, unofficial churches in China would be permitted to register with the Religious Affairs Bureau instead of falling under the oversight of the official state church, which oversees Christian activity in the country, according to Reuters.

Robertson did not elaborate further, but said he did not talk about specific allegations of religious freedom violations when he met with the premier.

A representative of the Religious Affairs Bureau said he had not heard of any new regulations. An estimated 40 million Christians, including 15 million Catholics, now live in China, according to the Information Center for Human Rights and Democracy. The government has closed dozens of underground churches and held their religious leaders in detention.

Robertson said the Chinese government's decision Nov. 27 to let his Christian Broadcast Network operate as the first foreign charity authorized to raise funds in the country is a sign of progress.

"I think we're seeing extreme progress over the years," Robertson said. "The difference between the religious freedoms that exist in the year 2001 and what I saw in 1979 is amazing." Δ

For constitutional, public policy reasons, say 'no' to vouchers



Vouchers are a misguided effort to finance church schools with public funds under the guise of "choice." The question is not whether I can choose to send my kids to parochial schools; the question, rather, is whether I can choose other taxpayers to pay for it.

The Baptist Joint Committee will urge the U.S. Supreme Court to answer that question "no" in the *Zelman* case to be argued early next year.

History, constitutional law, sound public policy and Baptist principles are on our side.

No student of the original intent of the Framers could be for vouchers. James Madison's brilliant treatise on religious liberty, his *Memorial and Remonstrance Against Religious Assessments*, was directed at an attempt by Patrick Henry to fund religious education with Virginia tax dollars. Madison wrote that the measure "implies either that the Civil Magistrate is a competent Judge of Religious truth; or that he may employ religion as an engine of Civil policy. The first is an arrogant pretension falsified by the contradictory opinions of Rulers of all ages, and throughout the world. The second an unhallowed perversion of the means of salvation." The Framers disagreed on much, but they were nearly unanimous in their rejection of government-funded religion.

No respecter of Supreme Court precedent could argue for vouchers. The court has struck down virtually every form of direct financial aid to pervasively religious institutions such as parochial schools. The court has upheld aid that flows primarily to the students and with only an attenuated benefit to the religious institution. Passing vouchers through the pockets of parents does not alter the fact that a massive amount of public funds will eventually be paid directly to parochial schools.

On a policy level, vouchers have been a

non-starter, particularly in statewide referenda. What loyal liberal would choose to weaken the public schools or to widen the gap between the haves and have-nots? Most voucher plans are not generous enough to allow poor children to afford private school tuition. For them, "choice" is a cruel joke. What dedicated Democrat would support a proposal allowing private schools to pick and choose the best, the brightest and the most capable, while leaving the problem children, the learning disabled and the troublemakers to the public schools? No committed conservative would want another expensive entitlement program opening the door for government regulation of religious institutions and jeopardizing their autonomy. What real Republican would choose a proposal that cuts the cord of fiscal accountability for public expenditures resulting in what amounts to double taxation — taxes for the public schools and more taxes to pay for parochial schools?

Baptists have long opposed government funding for religious instruction: from the General Committee of Virginia Baptists who fought Patrick Henry's proposal, along with James Madison, to George W. Truett who, in 1920 on the east steps of the Capitol, reminded us that "religion needs no prop of any kind from any worldly source," to Baptist Justice Hugo Black who reminded us in 1947 that "no tax in any amount ... can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion." Even the *Baptist Faith and Message (2000)* affirms, "The state has no right to impose taxes for the support of any form of religion."

For all of these reasons, vouchers are wrong, even when couched in the attractive rubric of "choice." Our constitutional history, true religious freedom, sound public policy and Baptist principles require government to refrain from spending tax dollars to subsidize the teaching of religion, even religion with which we might agree. △

Panel urges attention to religious liberty

Religious freedom shouldn't become a casualty in America's war on terrorism, says a federal commission that monitors religious liberty around the world.

Some observers say basic human rights may be already falling by the wayside in the Middle East and Central Asia as the United States focuses on building a strong international coalition against terrorism.

The U.S. Commission on International Religious Freedom has in recent weeks asked President Bush and Secretary of State Colin Powell to heed religious freedom concerns in strategies to build both a military coalition and a new government in Afghanistan following U.S. military action.

"The commission believes strongly that the United States needs to be laying the groundwork now for a future Afghanistan that respects the rights of all persons — including the right to freedom of religion and belief — and strengthens elements of religious tolerance," the commission said in a letter to Powell.

The commission later warned both Bush and Powell against becoming too friendly with Uzbekistan, citing the nation's "abysmal treatment of religious exercise." △

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Vouchers unconstitutional, Walker tells Hill forum

School vouchers are unconstitutional, bad public policy and utterly bad for religion said voucher opponents at a Nov. 27 forum on the issue sponsored by the Congressional Black Caucus Foundation.

Baptist Joint Committee Executive Director Brent Walker expressed the religious liberty agency's constitutional objec-

tions to school vouchers, including the provisions that channel federal funds to parochial schools, thereby subsidizing religious instruction. He said Supreme Court precedent and the intent of

the Framers of the U.S. Constitution speak to the danger school vouchers pose to the separation of church and state.

"The Framers disagreed on a lot, but they achieved near unanimity in their rejection of government-funded religion," Walker said.

The Supreme Court agreed in September to decide whether school voucher programs that give parents public money to send their children to religious schools are a constitutional use of taxpayers' money. The court will hear arguments sometime early next year.

"Our constitutional history, our religious freedom and the separation of church and state, require that government refrain from sending tax dollars to subsidize the teaching of religion — even religious principles with which we might agree," Walker said.

Michael Lieberman, Washington Counsel for the Anti-Defamation League, was quick to point out that his organization's opposition to school vouchers was not an endorsement of the status quo in the nation's schools. However, he said the decision would have to be made "whether we are going to spend money to help some kids ... to get out of these difficult schools and leave the kids with less resources in that same public school system."

Voucher proponent Kaleem Caire, president of the Black Alliance for Educational Options, said that the struggle for school vouchers is a "question of power" among those who support his organi-

zation and others who support school vouchers in the African-American community.

"It's about, for the first time in history, blacks being in the forefront of creating legislation, creating school environments and creating learning communities where our children will truly benefit," Caire said. However, Walker emphasized that regardless of the merits of a proposal, "if it doesn't pass constitutional muster, it's not going to go."

"We decide most things in our political culture by majority vote," Walker said. "But we decided in the Bill of Rights that there are certain things we are going to take out of that majoritarian realm and say 'no matter what the political majority wants, one way or the other, as a matter of policy, we're not going to do it as a matter of principle.'" Δ



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