



# VOICE OF REASON

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The Newsletter of Americans for Religious Liberty

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## Pennsylvania Voucher Parochiaid Plan Defeated

**B**y a 114 to 89 vote on December 11, the Pennsylvania State House of Representatives rejected a bill to provide an initial \$300 million per year to sectarian and other nonpublic schools under a voucher plan. The plan had been approved by the state Senate two weeks earlier in a 28-22 vote.

The Pennsylvania voucher parochiaid plan would have provided \$900 per year vouchers for the approximately 365,000 students in nonpublic schools in the state, about 73% of whom attend Roman Catholic schools. The voucher plan was endorsed by U.S. Education Secretary Lamar Alexander as an "irresistible plan . . . in line with what President Bush is talking about."

Cardinal Anthony Bevilacqua and the Pennsylvania Catholic Conference led the intense lobby effort to get the voucher bill enacted. Voluntary support for the Catholic church and its institutions has fallen steadily for more than twenty years, largely due to Catholic lay people's disagreement with their church hierarchy's positions on birth control, abortion, ordaining women, allowing priests to marry, etc. The church has been unable to stem the flight of students from its private schools, which declined in enrollment from 5.5 million in 1965 to about 2.5 million now. Catholic school enrollment in Pennsylvania has fallen 25% in the last 20 years and is continuing to drop.

As part of the denominational pressure on the legislature, hundreds of parochial school students were bused to the Capitol on the day the House voted on the voucher bill. Most of the 25 Philadelphia Archdiocese high schools sent at least one busload of students.

The 114-89 (69 Democrats, 45 Republicans) defeat of the voucher bill stemmed largely from the bill's clear violation of a state constitutional provision barring educational aid for sectarian purposes.

The defeat for parochiaid was a victory for the rather hastily organized Public Education Coalition to Oppose Tuition Vouchers, which included Americans for Religious Liberty, the AFL-CIO, the Pennsylvania Council of Churches, the NAACP, the PTA, the Pennsylvania State Education Association, the Pennsylvania Federation of Teachers, the League of Women Voters, the ACLU, the American Association of University Women, and other religious, civic, and education organizations.

Opponents of the voucher plan emphasized that the bill would violate the state and U.S. constitutions, either drain money away from public schools or require a tax increase (after a \$3.3 billion tax increase passed in August), subsidize the forms of discrimination found in most nonpublic schools, and be of little or no help to disadvantaged children.

Voucher proponents vowed to continue to try to pass a parochiaid bill. Cardinal Bevilacqua said, "We will . . . redouble our efforts until we achieve passage of this legislation."

State Rep. Stephen Freind, a voucher proponent who led in Pennsylvania's passage of an anti-abortion law now headed for the Supreme Court, promised to start a new drive in January to get the parochiaid bill passed. He denounced his colleagues who defeated the measure as "dumb. They haven't studied their fifth-grade civics." Freind plans to run in the Republican primary in 1992 against U.S. Sen. Arlen Specter.

Meanwhile, Philadelphia school superintendent Constance E. Clayton hailed defeat of the voucher plan and said, "This ill-conceived legislation has been soundly defeated as a result of prompt response from the public."

As we reported in our last newsletter, opinion polls in 1991 showed opposition to voucher parochiaid running 68% to 26%-28%. ■

## Unreported Victory

**C**hurch-state separation won an important victory on September 26 in a ruling by the U.S. Second Circuit Court of Appeals in New York, although the story was not reported by either the print or electronic media. The case, *Lamont v. Woods*, involved a legal challenge by Americans for Religious Liberty and the American Civil Liberties Union to the practice of the Reagan and Bush administrations of providing U.S. tax funds to sectarian schools overseas.

Since 1983 the U.S. Agency for International Development (AID) has distributed more than \$14 million to eleven Jewish schools in Israel and to nine Roman Catholic schools in the Philippines, Egypt, Jamaica, Micronesia, and South Korea.

In addition to philosopher Corliss Lamont, the plaintiffs in the case include Isaac Asimov, Rabbi Balfour Brickner, the Rev. Bruce Southworth, and church-state separation activists Florence Flast, Augusta Finkelstein, and Nina Untermeyer.

The Bush administration sought to derail the suit by claiming that the foreign parochiaid is a "political" and "foreign policy"

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## Unreported Victory

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question beyond the authority of the federal judiciary and the reach of the First Amendment.

The Second Circuit rejected the administration's arguments and sent the case back to the federal district court for trial, advising the lower court to determine "if the principal or primary effect [of the school aid] is to advance or inhibit religion and whether it creates an excessive government entanglement with religion."

(Whether a law or an action by government violates the First Amendment's establishment clause is determined by whether it has the primary purpose or effect of advancing or inhibiting religion or excessively entangling religion and government. This is the "Lemon test," first spelled out by the Supreme Court in 1971 in *Lemon v. Kurtzman*, a ruling striking down tax aid for church schools plans in Pennsylvania and Rhode Island. On November 6, in a case challenging official prayers at public school graduation ceremonies, *Lee v. Weisman*, the Bush administration formally asked the present Supreme Court to abandon the *Lemon* test in favor of a looser test guaranteed to wreck the principle of church-state separation.)

In *Lamont* the Second Circuit held that tax aid to pervasively sectarian schools is clearly at odds with the First Amendment.

Chief Judge James L. Oakes wrote that, "Where the expenditure of federal tax money is concerned, there can be no distinction between foreign religious institutions and domestic religious institutions—particularly when the former are sponsored and supported by the latter. Religions such as Catholicism and Judaism know no national boundaries, and are strengthened domestically when promoted abroad. Given the primacy of the tax factor in the minds of the Framers, we cannot but conclude that Madison, Jefferson, or any of the supporters of the Establishment Clause would have abhorred—as much as a tax for the support of Christian teachers—the use of federal tax money for the support of foreign sectarian schools."

The ruling also declared that "recent history supports the view that the religion clauses do have extraterritorial application." Furthermore, "The expenditure of tax dollars for the

support of religious institutions or activities offends the 'no taxation' principle regardless of the physical situs of those institutions or activities. Likewise, the message communicated by direct government funding of religious institutions remains the same whether those institutions are located in the United States or abroad."

The court also rejected a central argument put forth by the Bush Administration, that foreign policy matters are beyond constitutional scrutiny. "While we recognize the importance of foreign aid programs in promoting United States foreign policy, we do not believe that this warrants freeing all foreign aid programs from all constitutional constraints."

Judge John M. Walker, Jr., filed a concurring opinion, observing that "The text of the First Amendment's limitation on Congress' competency to act in regard to religion bears no construction that confines its operation to the United States."

While church-state separation should win in the lower federal courts in this suit, we cannot predict an easy win, or any win at all, when the case eventually reaches the Reorganized Supreme Court. ■

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**Voice of Reason** is the quarterly newsletter of **Americans for Religious Liberty**, P.O. Box 6656, Silver Spring, MD 20916. (Telephone: 301/598-2447.) The newsletter is sent to all contributors to ARL.

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**Americans for Religious Liberty** is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$20 for individuals, \$25 for families, \$10 for students and limited income.

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## The Bill of Rights: 200 Years and Still Counting

**B**ells should have been ringing all over this country on December 15, the 200th anniversary of the ratification of the Bill of Rights. For slowly but surely the United States has moved in the direction of the great vision of the nation's Founders, a society where individual freedoms are not only celebrated but are protected, guaranteed and enforced by all levels of government.

The existence of an enumerated Bill of Rights means that no government at any level can deny or substantially limit freedom of religion, speech, assembly, the press, privacy or a host of other liberties. It means that majorities, however large, can not trample on the rights of minorities. Certain basic, inherent, inalienable rights endure in the human spirit and are not subject to the whims of the electorate.

First and foremost, the Bill of Rights amendments to the Constitution protect the people from arbitrary actions of government. In an age when virtually all governments were capricious and arbitrary, this limitation represented a major leap forward in human history.

The Bill of Rights is also a profoundly moral document. Roger Rosenblatt, writing in *Life* magazine recently, observed, "That

jerry-built, troublesome afterthought to the Constitution did not merely guarantee a range of personal freedoms; it said in effect that Americans are free to discover their moral selves—to say and write whatever we wish, within reason, and thus to realize by the exercise of that freedom who we are and might become."

The touchstone of the Bill of Rights is the First Amendment, which limits government actions relating to religion, press, thought and assembly. Roger Rosenblatt again: "The First Amendment has always been dearest to our hearts because it allows us to see where our hearts are located. . . . Hope is what the First Amendment is based on, the hope that citizens, left to their own rafts and rivers, will behave well toward one another. The belief in potential human virtue underlies the whole idea of the Bill of Rights."

This is why the Bill of Rights has a peculiar freshness, an urgency that belies its 18th century origins and language. It is relevant today. Indeed it remains a beacon of hope to the oppressed of all nations. All of us today must pledge our efforts to preserve and extend its protections to all Americans today and in the future. ■

## Taxes, Donations, and Church Schools

**D**ecember, 1991, saw the legislative defeat of a \$300 million voucher plan in Pennsylvania. Philadelphia's Cardinal Anthony Bevilacqua and his church's hierarchy pulled out all the stops to get the bill passed. Had it done so, Catholic schools in the state would have received about 75% of the annual dole of tax funds.

Meanwhile, 1992 will see renewed church pressure on Congress to pass a national voucher plan to fund nonpublic schools. Similar efforts will be likely again in Pennsylvania and in New Jersey, Massachusetts, and possibly other states. None of this is new, of course. Since the mid-1960s strong sectarian pressures have been focussed on and off on Congress and many state legislatures for voucher, tuition tax credit, and other forms of tax aid for nonpublic schools, over 90% of which are denominational. These campaigns were virtually all failures, thanks to federal and state constitutional bans on tax aid for religious institutions and organized opposition by defenders of public education and church-state separation.

Parochial campaigns are usually closely tied to Roman Catholic schools and that church's hierarchy. When Catholic schools enjoyed their largest support, in 1965, their enrollment of 5.5 million students amounted to about 85% of all nonpublic enrollment. Today their enrollment slippage to only about 2.5 million means that they make up only half of total nonpublic school enrollment.

The reasons for the decline in Catholic school enrollment are complex, but they generally have little to do with poverty. Indeed, according to the *Wall Street Journal*, Catholics are the wealthiest Christian group in the U.S., with family incomes averaging \$31,475 per year. Studies for President Nixon's pro-parochial Commission on Nonpublic Education concluded

*(continued on page 4)*

### *ARL in Action*

Since our last report, ARL president John M. Swomley has addressed university, theological seminary, church, and synagogue audiences in Bloomington, IL, San Diego, Los Angeles, Redlands, San Luis Obispo, San Bernardino, and Santa Barbara, CA, and Tulsa, OK. He also appeared on a special broadcast of the Bill of Rights on KCUR radio in Kansas City, MO.

Executive director Edd Doerr has spoken at universities, churches, and synagogues in Washington, DC, Danbury, CT, Cumberland, MD, and Bethesda, MD. In addition, he has recently been a guest on radio talk shows in San Antonio, TX, Washington, DC, West Palm Beach, FL, Providence, RI, Danbury, CT, Dallas, TX, Denver, CO, Los Angeles, CA, and Columbus, GA.



*ARL's Edd Doerr met recently with representatives of the Indonesian government to explain the U.S. constitutional arrangement of religious liberty and church-state separation.*

## Taxes, Donations, and Church Schools

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that the shift of students from Catholic to public schools had to do mainly with changing parental preferences, especially as the public schools, thanks to wise Supreme Court rulings, were no longer seen as Protestant institutions.

In a frank article in the November 1991 *St. Anthony Messenger*, a prominent Catholic journal, writer David Scott shows that Catholic parishes and dioceses all over the country are facing money problems. He cites Seattle archdiocese development director James Burns as pointing out that Catholics contribute to their church only half as much as they did 20 years ago, and that only one-fifth of Catholic families contribute anything to their church. Scott adds that, "The growing stinginess of Catholics has cost the Church about \$65 billion over the last two decades, according to Matthew Paratore, director of the National Catholic Stewardship Council, an association of diocesan development directors." In the early 1960s, priest-sociologist Andrew Greeley found, Catholics, like Protestants, gave a little over 2% of their income to their church.

Since then Catholic giving has dropped by about half, while Protestant giving has held steady.

Greeley and others have attributed the decline in giving, church attendance, and parochial school enrollment to rank-and-file resentment of hierarchial authoritarianism and rejection of regressive church positions on birth control, women's rights, and allowing priests to marry.

It is impossible to avoid the conclusion that Cardinal Bevilacqua and his fellow church officials are demanding that government force all citizens of all faiths to contribute involuntarily, through taxes, to the support of private sectarian institutions that most Catholics do not patronize and do not choose to support through voluntary donations. As Benjamin Franklin warned two centuries ago, there is something seriously wrong when a religion turns to the government for support after its own adherents choose not to support it.

In our view, any extra money Congress and state legislatures can scrape up for education should go toward helping the millions of children not being adequately served by our increasingly strapped public schools. ■

## Money Matters

**A**s we pointed out in our last newsletter, there is a strong connection between commitment of financial resources to education and the end-product of a literate, educationally sound society. The fact that the U.S. spends a smaller percentage of its gross national product on education than most other western industrial societies goes a long way in explaining why American schools are achieving lower test scores in geography, history, science, and other academic disciplines.

At home, there is, we noted, a strong correlation between family income and family educational attainment. Numerous studies show that the higher the income, the higher the educational level of achievement.

Here is additional corroboration, derived from data published in the *World Almanac of U.S. Politics*. There is a moderately strong correlation between a state's ranking in per capita public school spending and in per capita income. In other words, rich states spend more money on education than poor states. The differences are stark, and belie the often repeated goals of educational equality of opportunity and fairness in education, which Americans say they favor.

It is notable that seven of the top ten states in educational spending are also on the top ten in per capita income. New Jersey, for example, ranks second, spending \$8,089 per public school student, and is second in per capita income. Other states in this select category include Alaska, Connecticut, Maryland, Massachusetts, New Hampshire, and New York. At the other end of the scale, seven states rank in the bottom ten in both educational spending and per capita income (Alabama, Arkansas, Louisiana, Mississippi, North Dakota, South Dakota, and Utah). States like Idaho, Kentucky, Oklahoma, and West Virginia are also near 40th in both rankings.

The vast majority of states (40 of 50) have a high similarity between educational spending and income. Some states have a commendable interest in education, spending well above what it would seem they can afford. These include New Mexico, Oregon, Vermont, Wisconsin, and Wyoming. On the other hand, five states (California, Hawaii, Nevada, Tennessee, and Virginia)

rank much lower in school spending than in income level. California, for example, is the nation's eighth wealthiest state but ranks 21st in school spending. Gambling-rich Nevada ranks 9th in income but 28th in school spending. By contrast Vermont ranks 7th in school spending but 24th in per capita income.

A look at county by county data reinforces this disparity. In Virginia three wealthy counties near Washington, DC (Fairfax, Arlington, and Falls Church), are among the nation's most prosperous and best educated. More than 80% of adults have completed high school and almost half are college graduates. At the other end of the state Buchanan County, an area of poor and largely forgotten coal miners, has a per capita income only a fraction of Fairfax, and less than 40% of its adults have completed high school.

Jonathan Kozol's new book *Savage Inequalities* documents the shocking neglect of public education in poor, largely non-white, cities in our country. In New Jersey, for example, posh Cherry Hill spends more than twice as much per pupil as neighboring Camden. The resultant patterns of educational achievement are stark and largely irreversible.

America can no longer afford this state of affairs if it wishes to remain competitive in a rapidly changing world economy and if it wishes to live up to its professed ideals of equal opportunity for all its citizens. It can no longer afford the silly nostrums and band-aid remedies by politicians who ignore reality. The present crisis in American education calls for a renewed partnership between educators, parents, and public officials who control the purse strings. A massive new effort to improve public education—and public education only—is an imperative as we approach the 21st century. ■

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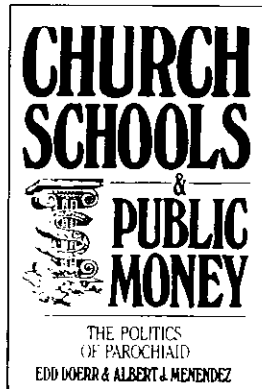
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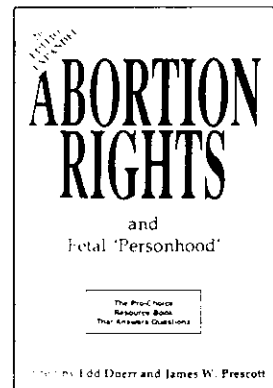
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# Update

## Abortion Rights Win in Washington State

Abortion rights won a paper-thin victory in Washington State on Nov. 5. Initiative 120, a measure to codify abortion rights into law in the state, carried by 756,812 to 752,588 votes, a margin of 4,224 votes, about a quarter of one percent. The close vote necessitated a recount of the ballots, which took until mid-December.

The victory margin was narrow because of voter confusion. Polls had indicated that Washington State voters would approve the measure by a 3 to 1 margin. Voter confusion seemed to stem from the TV ad campaigns waged by both sides. The pro-choice commercials, which your editor has viewed, were tepid, defensive, and not very punchy. On the other hand, the anti-choice ads, which your editor has also viewed, were extraordinarily well-done and professional. They even came across looking "pro-choice," as their general theme was something like this: "Choice is already well protected in Washington State; Initiative 120 is not needed and anyway it lacks 'protections'" [read "restrictions"].

Pro-choice campaigners will need to be one on the ball when the next referendum of abortion rights is on the ballot, in Maryland in November of 1992.

## Maryland Abortion Rights Referendum

Maryland will probably be the only state to have a referendum on abortion rights in November of 1992. As the anti-choice forces came close to defeating an abortion rights law in Washington State in November of 1991, the Maryland referendum will be of national importance. Opponents of freedom of conscience will likely pour resources into the state.

In early 1991 the Maryland legislature passed a law to codify into state law the protections of women's rights embodied in the 1973 *Roe v. Wade* abortion rights ruling. In the event that the Reaganized Supreme Court overturns *Roe*, Maryland women would be left with very little protection without the new law. However, as provided for under Maryland law, opponents of choice petitioned the law to a referendum in November 1992, where the law will be voted up or down.

Coordinating the freedom of conscience effort in Maryland is the Campaign to Save the Right to Choose (11231 Greenspring Ave., Lutherville, MD 21093), which is soliciting donations (not tax-deductible) for its pro-choice campaign. Americans for Religious Liberty is supporting the choice coalition.

## Federal Parochiaid Coming?

Sectarian special interests and the Bush administration are pressing Congress to enact legislation to provide tax aid through a voucher plan to nonpublic schools, over 90% of which are denominational. The bill in the House of Representatives, H.R. 3320, the Neighborhood School Improvement Act, contains a section to provide \$700 million to states for educational "reforms" which would include vouchers for nonpublic schools. An effort to get the House Education and Labor Committee to change the bill to bar any tax aid for nonpublic schools was defeated 23-17. It appears unlikely that the full House will bar parochiaid.

Observers believe that tremendous pressure must have been put on House members, as opinion polls in 1991 showed public

opposition to a voucher plan which would include nonpublic schools running 68% to 26%-28%.

The Senate version of the bill, S. 2, does not contain any provision for vouchers for nonpublic schools, but Senators Hatch (R-UT), Durenberger (R-MN), and others are expected to offer amendments to allow nonpublic school aid or experiments with voucher plans. These attempts to add parochiaid amendments to S. 2 will probably take place on Jan. 21.

The National Coalition for Public Education (a coalition of religious, educational, civic liberties, and other groups, including Americans for Religious Liberty) is calling on concerned individuals around the country to write their Senators (address: U.S. Senate, Washington, DC 20510) to urge them to oppose any and all amendments to S. 2 which could directly or indirectly provide tax aid to nonpublic schools.

## Reagan-Bush Gag Rule Stands

Women dependent on government funded family planning clinics for medical advice suffered a major defeat on Nov. 19 when President Bush vetoed the Labor, Education, and HHS \$205 billion appropriations bill because it contained a provision repealing President Reagan's "gag rule." The gag rule, issued by the Reagan administration and continued by the Bush administration, prohibits health professionals in family planning clinics which receive even partial federal funding from providing information about, and making medically appropriate referrals for, abortion. The gag rule had earlier been upheld 5-4 by the Supreme Court.

Although the appropriations bill had been passed by overwhelming majorities in both houses of Congress, the House fell 12 votes short of the two-thirds vote needed to overturn the Bush veto. On the attempted override vote, 222 Democrats, 53 Republicans, and one Independent voted to override, while 43 Democrats and 113 Republicans voted to sustain the Bush veto.

Rep. John E. Porter (R-IL), calling the gag rule "bad policy and bad politics," had urged Bush not to veto the bill.

A *New York Times*/CBS News poll had found the public opposed to the gag rule 71% to 23%. The gag rule is opposed by the American Medical Association and has been denounced by physicians as "mandated malpractice."

In the wake of the sustaining of the gag rule, Planned Parenthood, a major recipient of federal family planning grants, has indicated that it might have to forego federal funding in order to continue providing clients, most of them poor women, with complete and accurate medical advice.

Meanwhile, governors of both parties, such as Pete Wilson (R-CA), William Weld (R-MA), James Florio (D-NJ), Ann Richards (D-TX), Howard Dean (D-VT), and Mario Cuomo (D-NY), have expressed strong interest in having their states assist clinics which might be defunded by the Bush administration.

Observers are unable to explain why President Bush, who 20 years ago was a supporter of family planning, chose to capitulate to the noisy anti-choice lobby. After all, the gag rule applied to the free speech of health professionals in providing information to and answering questions of clients, and did not involve federal support of actual abortion.

## Supreme Court Hears "Rescue" Case

On October 16, the Supreme Court heard argument in *Bray v. Alexandria Women's Health Clinic*, a challenge to the use of the

federal Ku Klux Klan Act to prohibit anti-abortion demonstrators from blocking entrances to abortion clinics. Under existing case law, plaintiffs sought to demonstrate that the clinic blockades interfere with women's rights to travel (thereby avoiding the state action requirement) and that the blockades are motivated by a hatred against women. Jay Sekulow, lawyer for Operation Rescue, admitted that the 1871 Act protected women as a class, but denied that Operation Rescue's activities targeted women. Rather, Sekulow claimed, Operation Rescue seeks to prevent all activities relating to the performance of abortions. Plaintiffs' lawyer, Jack Schafer of Covington & Burling, responded that because clinic blockades target *women's* rights to choose abortion, the blockades discriminate against women as a class, and therefore meet the statute's requirements. Schafer also urged the Court to hold that Operation Rescue's blockades interfere with women's right to interstate travel since a substantial number of women come to the clinics in the D.C. area from other states.

Also arguing on behalf of Operation Rescue, Bush administration Deputy Solicitor General John Roberts relied on *Doe v. Bolton*, the companion case to *Roe v. Wade*, to support the Justice Department's view that the Klan Act is inapplicable. This prompted Justice Blackmun to point out the apparent irony in the Department's position—in recent cases, they have vigorously argued that *Roe* and *Doe* should be overruled. Several members of the Court, including Justices O'Connor, Stevens, and Scalia, drew comparisons between Operation Rescue's blockades of clinics and attempts to block integration of public schools or voting booths.

## **Pennsylvania Anti-Choice Law Upheld**

On October 21, for the first time since before 1973, a federal appeals court ruled, in *Planned Parenthood v. Casey*, that the right to choose abortion is not a fundamental right protected by the United States Constitution. Interpreting the previous Supreme Court decisions in *Webster v. Reproductive Health Services* and *Hodgson v. Minnesota*, a three-judge panel of the U.S. Court of Appeals for the Third Circuit (Philadelphia) concluded that the U.S. Supreme Court has already abandoned *Roe's* holding that abortion is a fundamental right, and therefore, that any regulations that interfere with that right must be justified by compelling governmental interests. As a result, restrictions approved by the Pennsylvania legislature in 1988 and 1989, including a mandatory 24-hour delay and state-designed doctor lectures that are intended to discourage abortions, are constitutional. In addition, the Court affirmed a requirement that a young woman have a parent come into a doctor's office to give "informed" consent or gain approval from a judge before she can obtain an abortion, as well as a narrow definition of medical emergency and onerous reporting requirements. The only measure struck down by the Court was the requirement that married women notify their husbands before obtaining an abortion. Most of these burdensome and dangerous restrictions were previously held unconstitutional under the *Roe* standard in the Supreme Court decisions *Akron v. Akron Center for Reproductive Health* and *Thornburgh v. American College of Obstetricians and Gynecologists*. Because the decision in this case, *Planned Parenthood v. Casey*, was issued by the U.S. Court of Appeals for the Third Circuit, it affects all women in Pennsylvania, New Jersey, Delaware, and the U.S. Virgin Islands.

In upholding Pennsylvania's restrictions, the Third Circuit

relied on Justice O'Connor's "undue burden" standard, first articulated in her dissenting opinions in *Thornburgh* and *Akron*. That standard stated that unless a law is "an absolute obstacle" or "severe limitation," it will be upheld as constitutional so long as it rationally relates to a legitimate state interest. However, by applying that standard to the Pennsylvania provisions, without remand for further factual development, the Third Circuit went significantly further than even O'Connor herself did in *Akron* and *Thornburgh*. Although a full trial was held in this case, all evidence was collected under the standards of *Roe*, not the "undue burden" standard.

Kathryn Kolbert, the ACLU Reproductive Freedom Project attorney who argued the case before the Third Circuit panel, responded angrily to the decision, saying, "The Liberty Bell has tolled for the last time for the women of Pennsylvania and the rest of the nation. With no federal protection, government is free to interfere with personal, private decisions and to run rampant over women's lives and health. The Court's decision has broad implications for other rights of privacy—the right to use contraception, to make decisions about marriage and family life, and to carry a pregnancy to term—for without a full constitutional right, government is free to restrict these private actions."

On the day of the Third Circuit's devastating decision, Pennsylvania pro-choice forces had sponsored a lobby day at the state capitol in Harrisburg, bringing more than 500 women from across the state to demonstrate their opposition to restrictions on the right to choose. On the following day, pro-choice legislators took the offensive and introduced legislation to repeal many of the state's abortion restrictions, including parental informed consent, husband notification, 24-hour delay, and mandatory doctor lectures, as well as a ban on state funds for low-income women's abortion services.

At a press conference on the same day, Pennsylvania Attorney

## **ARL Publishes Public School Guide**

*Religion and Public Education: Common Sense and the Law*, by ARL research director Albert J. Menendez and executive director Edd Doerr, published in December by Centerline Press, is a comprehensive guide to what public schools may and may not do with regard to religion.

The 111-page book covers such topics as prayer and Bible reading, creationism in science classes, "equal access" religious clubs, released time for religious instruction, religious holiday observances, teaching "about" religion, and values and moral education. The book covers the relevant court rulings on the subject and contains an extensive bibliography.

*Religion and Public Education* is a useful guide and reference work for educators, parents, school board members, lawmakers, and journalists.

*Religion and Public Education* may be ordered from Americans for Religious Liberty, PO Box 6656, Silver Spring, MD 20916, for \$12.95 plus \$1.50 for postage and handling.

Menendez and Doerr have both taught in public schools and are the authors or co-authors of 35 books and over 1500 articles. Their most recent book, *Church Schools and Public Money: The Politics of Parochialism*, was published in October, and their *The Great Quotations on Religious Freedom* came out during the summer.

General Ernie Preate announced that the state plans to appeal the ruling on the husband notification provision. Pennsylvania Governor Bob Casey went even further by declaring his support for new legislation that would ban all abortions in the state, except those necessary to protect a woman's life.

Plaintiffs appealed the ruling to the Supreme Court on Nov. 7. In the petition, the nine Justices were asked one—and only one—question: Has the Supreme Court overruled *Roe v. Wade*, holding that a woman's right to choose abortion is a fundamental right protected by the United States Constitution? If the Supreme Court adopts the lower court's analysis, all women will be vulnerable to a wide array of intrusive and punitive restrictions on abortion and other reproductive freedoms. Regardless of the outcome, this radical decision in *Planned Parenthood of Southeastern Pennsylvania v. Casey* will surely escalate the nation's conflict over abortion.

Pro-choice groups are hoping that the Supreme Court will hear and decide the case soon, so that if *Roe* is overturned voters will have a chance to react in the 1992 elections.

### Court Hears Grad Prayer Case

On Nov. 6 the Supreme Court heard oral argument in *Lee v. Weisman*, the Rhode Island case testing the constitutionality of formal prayers at public school graduations. The lower federal courts ruled the practice unconstitutional.

The Bush administration has urged the Court not only to reverse the lower court rulings but also to overturn the Supreme Court's precedents requiring that to be constitutional an act of government must have a primary purpose and effect that neither promotes nor inhibits religion nor excessively entangles religion and government (the *Lemon* test).

Americans for Religious Liberty filed an *amicus curiae* brief with the Court pointing out that the graduation prayers in question, which were required to be consistent with government guidelines, "compromise the integrity of religion." ARL attorney Ronald A. Lindsay points out in the brief that "the state's use of religion for ceremonial purposes degrades religion."

The National Coalition for Public Education and Religious Liberty, of which ARL is a member, presented other arguments in a separate *amicus* brief.

Copies of the ARL Supreme Court brief in *Lee v. Weisman* are available from ARL, Box 6656, Silver Spring, MD 20916, for \$3 each.

Questioning by the justices was vigorous with only new justice Clarence Thomas remaining silent.

### New Jersey's Parochial Juggernaut

New Jersey's 13 Catholic bishops have demanded substantial new public funding for their schools. A grassroots lobbying campaign was kicked off on September 23 by Newark's Archbishop Theodore E. McCarrick, who argued that the state's 481 parochial schools, which educate 139,000 students, save taxpayers \$1.6 billion annually.

McCarrick and his fellow bishops issued a pastoral letter sent to all parochial school patrons and was intended to "galvanize" parents to "fight the injustice" of "not receiving tax support" for "religious schools." The letters endorsed a voucher system and claimed that "the constitutional question of the separation of church and state has never been compelling." The bishops echoed the long-repeated claim that Catholic schools do not receive their "fair share" of public funding because they are "the

victims of widespread bias."

New Jersey is the nation's third heaviest Catholic state, with nearly half its population identified as Catholic. It ranks fourth in percentage of students (11.7%) attending Catholic schools. The Garden State already provides a number of parochial programs, including transportation, textbooks, and instructional materials, lunches, health services, and special services for handicapped students.

### California Voucher Initiative

California voters, as we reported in our last issue, may face a referendum in November 1992 on a multi-billion dollar voucher scheme for tax support of nonpublic schools. Businessman Joseph F. Olibrandi and a group calling itself the "Choice in Education League" have filed with the state attorney general's office a draft of the ballot initiative for the voucher plan. If sufficient signatures are gathered on petitions, the issue will be on the ballot in November.

The voucher plan would take money away from public schools to fund private schools which need not be accredited and need not hire trained or certified teachers. Although the voucher plan would bar discrimination by race, ethnicity, or color, it would allow discrimination by religion, gender, and physical or mental disability. Voucher schools could expel students for any reason. Employment rights enjoyed by public school teachers would be eliminated.

The plan promises to transport low-income students, but sets no standards for costs or cost control. In states such as Pennsylvania and Ohio where public school districts are required to transport nonpublic students to schools outside the districts, the transportation costs for nonpublic schools are far higher than public school transportation costs.

California educators warn that under the plan voucher schools could have as few as 25 students and thus every strange cult in the state could open indoctrination centers for children at taxpayers' expense.

### Americans Split on Evolution

Americans are almost equally divided between those who accept the scientific, evolutionary view of the development of life (49%) and those who buy into the fundamentalist "creationist" view (47%), according to a new Gallup survey. Gallup also found the way Americans view evolution related to income and educational levels, and to gender: 70.5% of college graduates accept evolution, 25% accept creationism; among those who did not graduate from high school, 65% agree with creationism, while only 27.6% accept evolution. Among Americans with incomes of \$50,000 or more (and noting that there is a fairly strong correlation between education and income), 67% accept evolution, while 29% reject it; for Americans with income under \$20,000, 59% reject evolution and 34.5% agree with it. With regard to gender, 39% of men and 53% of women accept creationism, while 55.5% of men and 42.6% of women agree with evolutionary position. Blacks are slightly more likely than whites to accept creationism.

Of the 49% of Americans who accept evolution, 4 out of 5 believe in God.

The Gallup survey results point to the weaknesses and inadequacies of public school and college science education and to the successes of fundamentalist pressures in keeping science education inadequate.



## Oregon Restores Freedom

Oregon lawmakers have enacted legislation to legalize the religious sacramental use of peyote by Native Americans, thus becoming the 24th state to do so. Oregon's previous prohibition had been upheld by the U.S. Supreme Court in 1990 in *Employment Division of Oregon v. Smith*. The Court's 5-4 majority opinion, written by Justice Scalia, held that the First Amendment free exercise clause did not protect religious majorities from majoritarian legislation. The Scalia ruling overturned a generation of free exercise precedents.

A broad coalition of groups, including ARL, is urging Congress to pass the Religious Freedom Restoration Act (H.R. 2797), which would restore federal law to its status before the *Smith* decision. Under the bill, if passed, government would once again be required to show a compelling interest before placing any restrictions on the free exercise of religion.

## Massachusetts Parochialism, Again?

Massachusetts House Speaker William Bulger wants to try again to get an amendment to the state constitution to delete or weaken the charter's strict ban on tax aid for denominational schools. If he has not done so before we go to press, Bulger will probably try to get the state legislature to go into its constitutional convention mode in 1992 to pass a parochialism amendment. Under the Massachusetts constitution, a proposed amendment must be approved by two separate legislatures, acting as conventions, and then be submitted to a popular ratification referendum.

Massachusetts had referenda on proposed parochialism amendments in 1982 and 1986. The state's voters rejected parochialism both times, by 62% to 38% in 1982, and by 70% to 30% in 1986.

## Reproductive Rights Update

In other developments on the reproductive rights issue, the Ninth U.S. Circuit Court of Appeals heard the appeal on Guam's strict anti-abortion law in Honolulu on Nov. 4. The law had been ruled unconstitutional in August of 1990 by a federal district court. Guam contends that the U.S. Constitution does not apply to Guam, even though the island is a U.S. Territory and its people are U.S. citizens. One interesting aspect of the case is that Guam's Catholic archbishop, Anthony Apuron, threatened to excommunicate any legislator who would vote against the anti-choice law, thus adding a clearcut religious liberty, church-state question to the case.

The Louisiana Supreme Court ruled on Dec. 16 that a pregnant teenager's fetus has no right to a lawyer when the young woman goes to court for permission to have an abortion.

Dr. Etienne Emile Baulieu, the French scientist who developed the abortifacient drug RU-486, told a congressional subcommittee on Dec. 5 that the anti-choice movement in the U.S. is hindering medical research on other uses of the drug in the U.S. The French company that produces the drug, Roussel-Uclaf, has chosen Canada as the site of a major study to test the effect of the drug on breast cancer. American researchers would like to study the drug not only as an abortion pill but also as a therapy for breast cancer, Cushing's syndrome, and other diseases. RU-486 has been used by about 100,000 women worldwide and was approved in 1991 for use in Britain. The Bush administration put restrictions on importation of the drug

in 1989.

New York major David N. Dinkins and 29 other mayors around the country have written to President Bush urging that the federal government allow the importation and testing of RU-486. Dinkins said that American women are being denied access to RU-486 because "a small but loud minority of anti-choice activists have scared away" the manufacturer, Roussel-Uclaf, "by threatening to boycott their products if RU-486 enters our country."

On Nov. 22 Senators Frank Lautenberg (D-NJ) and Tim Wirth (D-CO) got the Senate to approve an amendment to the Dire Emergency Supplemental Appropriations Act to allow military women and dependents to obtain abortion services in overseas military hospitals if they would pay for the procedure themselves. However, because House conference committee chair John Murtha (D-PA) opposed the measure and President Bush threatened to veto it, Sen. Lautenberg was forced to drop the amendment in committee.

A Senate Committee on Labor and Human Resources hearing on Nov. 21 dealt with a proposal to lift the Reagan-Bush ban on research on fetal tissue. Medical experts testified that fetal tissue transplants held the potential for treating a number of serious diseases.

In November anti-choice activist Joseph Scheidler delivered to Pope John Paul II a list of 27 prominent pro-choice Catholics whom he and other activists want excommunicated. The list includes House Speaker Thomas Foley (D-WA), Gov. Mario Cuomo, and Senators Edward Kennedy (D-MA), Barbara Mikulski (D-MD), and Daniel P. Moynihan (D-NY). Included in the list was Frances Kissling, president of Catholics for a Free Choice and a member of ARL's National Advisory Board.

Catholics for a Free Choice has recently released "Powerful Conceptions: A Series on Bishops and Birth Control," a number of publications that focus on the efforts of American Catholic bishops to shape public policy. This new series begins with the eight-page background booklet, "Public Perceptions: The

### State churches are bad for you

The Church of England should be disestablished . . . State religions are bad in principle, as too many countries are still attesting. In Latin America or Ireland or Iran, it needs no expert to point out the dangers and corruptions of ties between church and state.

The Church of England is not corrupt, but it has almost as black a mark against it: it is useless at the job for which it is intended, the provision of moral and spiritual guidance for its people. Last week the Archbishop of Canterbury had the nerve to lay at the government's door—by heavy implication—the blame for recent riots in Newcastle and Oxford. But where, during and before those riots, were the priests? They were nowhere, because the Church of England is rarely more than a pious club, too cosy with the powers-that-be to offer anything to the disaffected. Disestablished, it could become the social and spiritual driving force many vicars would prefer; or a pious club, but one that at least did not indulge in the ludicrous pretension of being an arm of government.

— *The Economist*

London, Sept. 28, 1991

Bishops Lobby," which profiles the National Conference of Catholic Bishops and the United States Catholic Conference. This booklet is followed by "Bishops on Birth Control: A Chronicle of Obstruction," which describes the bishops' evolving political strategy concerning access to contraceptives. For information or copies of the new publications, contact Catholics For a Free Choice, 1436 U St., NW, Suite 301, Washington, DC 20009, (202) 638-1706.

Massachusetts' Republican Gov. William Weld wrote in a *Boston Globe* op-ed piece in December that, "With its rigid anti-choice platform, the [Republican] party runs the risk of losing touch with mainstream America."

President Bush's new Attorney General, William P. Barr, told the Senate Judiciary Committee at his confirmation hearing in November that he disagreed with the Supreme Court's 1973 *Roe v. Wade* ruling, which recognized the fundamental constitutional right to choose abortion, and that *Roe* should be overturned.

## Louisiana's Elections

Significant religious factors were evident in the vote results from Louisiana's hotly contested and nationally significant governor's race in November. Race was clearly the main dividing point, as 96% of blacks favored Democratic ex-governor Edwin Edwards, while 55% of white voters supported Republican candidate David Duke, a neo-Nazi and ex-Klansman.

Still, religion, education and income were important determinants in shaping the voters' decision. Duke won his greatest support (69%) among white voters who said they were "born again Christians." This category includes much of the fundamentalist and Baptist constituencies in rural Louisiana, who favored George Wallace and Barry Goldwater in the 1960s and Ronald Reagan and George Bush in recent elections. Among all white Protestants Duke won 62%.

Duke won these votes despite the resignation of a key aide late in the campaign, who charged that Duke's claim to be born again and to have had a "new commitment to Jesus Christ" was phony. Duke later told reporters he was a member of a church which does not exist. Then he reverted to explanations that he had joined the Church of Christ at age 13, before his Nazi and Klan escapades began.

Duke also won 52% of white Catholic votes in the most Catholic state in Dixie. (36% of voters told exit polls they were Catholic and 46% said they were Protestant.) Among Cajun (French Catholic) voters, Duke won 56%. Catholics have always been somewhat more liberal than Protestants in Louisiana, but Catholic/Protestant differences narrowed to ten points this time. Duke's victory among Cajuns is somewhat surprising since Edwards is of Cajun descent and was supported by his fellow Cajuns in three previous elections.

Among whites education was a major factor. The higher one's education, the less likelihood of casting a ballot for Duke, according to the exit polls. Three-fourths of voters with advanced college degrees voted for Edwards. In the Tulane University precinct of New Orleans, where Republicans usually do well, Edwards won 91%.

Many Republican middle and upper middle class voters also deserted Duke. Fully 75% of those who had voted for moderate Republic Governor Buddy Roemer in October voted for Edwards, as did 44% of all Republicans. Edwards won 59% of the vote in Duke's home county, Jefferson Parish, a relatively high income New Orleans suburb and staunch republican stronghold

which had never liked Edwards in the past. The last Democrat to carry Jefferson Parish for president was John F. Kennedy in 1960.

In sum, Duke's main support was limited to middle and lower middle income white voters, with a moderate education, and residing in small towns and rural areas. Duke won 68% of white voters whose education stopped at high school.

Some bits of good news came out of Louisiana's elections in November, in addition to the defeat of former Klan guru David Duke, who is, incidentally, anti-choice. Pro-choice Democrat Melinda Schwegmann beat incumbent Paul Hardy to become the state's first woman lieutenant governor. Four anti-choice members of the state legislature were defeated by pro-choice women candidates.

## School Prayers Halted

Texas federal district judge Robert B. Mahoney in November ordered the Duncansville Independent School District not to "lead, encourage, promote, or participate" in prayers during school activities. In May a student sued the district after she refused to kneel at center court during basketball games and recite the Lord's Prayer with teammates. The ACLU is representing the student.

## Church and Chair

The Pennsylvania Supreme Court threw out a recent murder conviction in York County because the District Attorney told jurors that putting murderers to death was required by the Bible. The court warned prosecutors that they cannot invoke the Bible or any religious work to sway jurors to impose the death penalty.

## Unfair Exceptions

Orthodox Jews and Baptists have protested new regulations proposed by the Immigration and Naturalization Service which set up special categories for clergy who wish to immigrate to the U.S. Under government guidelines only religions that have "a recognized creed and form of worship and a formal code of doctrine and discipline" would be admitted. After complaints from Agudath Israel and the Baptist Joint Committee on Public Affairs, U.S. Commissioner Gene McNary announced that the new category would be expanded.

## Anti-Semitism Increases

Desecration of Jewish cemeteries in Yugoslavia and Rumania, as well as vandalism of synagogues and overt anti-Semitic political campaigns are rising throughout Eastern Europe. These ominous events provoked a warning from Rumania's Chief Rabbi that his country's 17,000 remaining Jews should emigrate to Israel.

Nationalist political parties in Poland, Hungary and Czechoslovakia have targeted Jews, accusing them of "bringing Communism" in the 1940s. A major conference on the problem was held in Vienna in October.

## Anti-Choice Terrorism Continues

Hundreds of arrests continue to be made around the country as anti-choice zealots seek to block clinic entrances and prevent women from exercising freedom of conscience on abortion.

In November Cincinnati police arrested anti-choice activist

Roy Lee Streicher for allegedly breaking into a clinic with a crowbar, ransacking five rooms, terrorizing clinic workers, and throwing furniture at police. He was arraigned in court on Nov. 22 and ordered held on \$100,000 bond, charged with felonious assault, vandalism, aggravated burglary, and resisting arrest. Streicher insisted that he was innocent because he was obeying "God's law."

On Dec. 3 the *Washington Post* published a feature story about anti-choice activist Michael Bray, who served 46 months in a federal prison for his role in the bombing of ten clinics and abortion rights organization offices during 1984. (Editor Edd Doerr was an observer at a clinic in Wheaton, MD in 1984 which was besieged by protesters, 50 of whom were arrested, and which was blown up two days later.) Bray told the *Post* that "it is justified to destroy the [abortion clinic] facilities." Bray and his wife Jayne link their anti-choice activism to their fundamentalist religious faith.

John M. Swomley, ARL president and professor emeritus of Christian ethics at the St. Paul School of Theology, said in the *Washington Post* piece that, "These people want to enact certain religious dogma into civil law. . . . It is not a moral regeneration movement; it is a power movement."

The Brays told the *Post* that writing fundamentalist teachings into law is the only way to save the country from a "disintegration" engendered by "religious freedom."

## International

**Madrid:** Religious freedom continues to make more progress in Spain than any other country in Europe in the 16 years since the death of dictator Francisco Franco. The Spanish Congress is now considering legislation to accord Protestants, who number only 71,000, the same privileges as Catholics. The bill would exempt Protestant churches and affiliated organizations from property and corporation taxes. Donations would also become tax-deductible. Protestant clergy would have the same legal status as Catholic priests, and would be able to serve as chaplains in the armed forces, hospitals, and schools. Both public and private schools would have to provide religious instruction to students who request it.

**Dublin:** The European Court of Justice ruled on Oct. 4 that Ireland may prohibit the entry into that country of information about abortion and advertisements for abortion services in other European countries. Not only is abortion outlawed by the Irish constitution, but Irish law also makes it illegal for Irish women to travel outside the country to have an abortion. The case was brought to the court by an Irish anti-choice group in order to block efforts by an Irish student association to advise women of the availability of abortion services in England. The court ruled that it lacked jurisdiction to overrule Ireland's gag law.

**Warsaw:** Poland's Catholic bishops tried unsuccessfully to reassert their role in the country's politics in the October parliamentary elections. A pastoral letter read at all Masses before election day urged believers to support "only those political groups that favor protection of life from the moment of conception, that respect family rights . . . and that respect tradition stemming from Christian roots."

At least five parties in Poland's checkered multiparty system supported the Church but voters did not. A poor turnout and inconclusive results have left the country deeply divided. Poland's parliament has refused to outlaw abortion, and signs of anticlericalism are increasing.

**Mexico City:** Church-state relationships are changing in

Mexico. President Carlos Salinas announced in November that his government will bestow a new legal status on the Catholic Church, which nominally claims allegiance of 90% of Mexicans despite a century of anticlericalism and strict separation between church and state.

However, Salinas warned, "Owing to past experience, the Mexican people do not want the clergy to take part in politics or to accumulate material wealth." Present Mexican law forbids churches from owning property and forbids the clergy from voting. The Mexican Conference of Bishops made a formal request for modifications in civil laws affecting religion and also encouraged renewal of diplomatic relations between Mexico and the Vatican, which were severed in 1861. (Mexico remains one of a handful of nations, including China and Israel, which do not recognize the Holy See.) Mexico has named a lower level diplomat to the Vatican, however.

Meanwhile, Catholic-Protestant relationships have deteriorated in recent months. Protestant officials charge that evangelicals have been imprisoned, beaten and in some instances killed in rural Oaxaca. Mexico's top Catholic prelate, Cardinal Ernesto Corripio said "Protestant sects are causing a serious crisis of faith," while Bishop Arturo Reyes accused American Jews and the U.S. government of financing Protestant missionary work.

**Cairo:** Sectarian strife between Muslims and Christians has caused death and destruction in Egypt and Nigeria in recent months. Fundamentalist Muslims attacked the Coptic Christian minority in the Imbaba neighborhood in Cairo on an important feast day of the Virgin Mary, burning down two churches. A Free Methodist church was also destroyed. Muslim militants claim that the 10% Christian population "control the businesses" and are attempting "to take over Egypt."

**Mexico City:** The southern Mexican state of Chiapas has legalized abortion. The law, passed in December 1990, is described by Chiapas governor Patrocinio Gonzalez Garrido as sign of "advance, modernization, and development." Anti-choice groups are actively seeking repeal of the law.

**Brasilia:** On his visit to Brazil in October, Pope John Paul II attacked the growth of birth control programs in Latin America's most populous country, with 155 million people and a creaky economy. Brazil's population growth rate has been slowing slightly because of increased use of contraceptives and the growing popularity of voluntary sterilization. Although abortion is illegal under the country's 1988 constitution, about one million are performed annually, a rate comparable to that of the U.S., where abortion is a constitutionally protected right.

**Toronto:** The Ontario provincial government has decided to fund free-standing abortion clinics, a move which could be emulated by other provinces. Since abortion has been fully legal in Canada since a 1988 Supreme Court ruling, provincial health insurance programs have paid for the procedure at hospitals.

## Where There's a Will . . .

Including a bequest to Americans for Religious Liberty in your Will is a good way to ensure that future generations will have the tools to defend our fundamental freedoms. You can always add ARL to your Will.

Please contact us if you would like further information.

Americans for Religious Liberty  
P.O. Box 6656, Silver Spring, MD 20916  
Telephone: 301-598-2447

## Books

***Visions of Liberty: The Bill of Rights for All Americans***, by Ira Glasser (Arcade Publishing, \$24.95, 288 pp.)

The Bill of Rights—we celebrated the bicentennial of its ratification on December 15—really comes to life in this handsome, readable volume. Ira Glasser, executive director of the American Civil Liberties Union since 1978, traces the rocky history of civil liberties in Britain and America, shows how our country pioneered the idea of constitutionally guaranteed fundamental rights, and explains why these rights are so important. Especially useful are the author's clearheaded demonstration of how it has taken two centuries of hard work to translate rights on paper into rights in the flesh, and his warning that our hard-won liberties are in serious jeopardy from Supreme Court justices and politicians who are less than optimally enthusiastic about the substance of our freedoms.

Glasser's treatment of religious liberty, church-state, and freedom of expression issues is thorough and solid.

This book is eminently suitable for high school and college use, and would be an excellent addition to anyone's library.

— Edd Doerr

***The New Religious Right: Piety, Patriotism and Politics***, by Walter H. Capps (University of South Carolina Press, \$12.95) concentrates on the character, personality and style of Jerry Falwell, Francis Schaeffer, Pat Robertson, Bob Jones, and Jim Bakker to develop a view of fundamentalist politics as an expression of "American civil religion that wishes to function as a revitalization movement." Capp argues that the Religious Right today "has acquired much of the character of a late twentieth-century American neo-nationalist movement." He also affirms that "democracy and religious fundamentalism have never been good candidates for partnership" because "much of its [fundamentalism's] deepest motivational energy involves instincts and impulses that run contrary, and are antithetical, to the spirit of democracy."

— Albert J. Menendez

***Savage Inequalities: Children in America's Schools***, by Jonathan Kozol (Crown Publishers, \$20, 262 pp.)

Public education is supposed to be a "great equalizer," but, as Jonathan Kozol shows in this gripping book, far too many schools in our country have broken down plumbing, leaky roofs, no libraries or inadequate libraries, science classes without equipment, outdated textbooks, etc. Kozol concludes that excessive dependence on property taxes, in view of the great disparities in wealth among school districts, is largely responsible for the "savage inequalities." The author breaks down the argument that more money for schools is not the answer and scores voucher plans as blueprints for aggravating existing inequalities. Kozol's message was stated by a taxi driver from Afghanistan who told the author, "If you don't as an American, begin to give these kids the kind of education that you give the kids of Donald Trump, you're asking for disaster."

***Culture Wars: The Struggle to Define America***, by James Davison Hunter (Basic Books, \$25.00, 416 pp.)

University of Virginia sociologist Hunter argues forcefully that America today is rent by a greater cultural division than at any time since the Civil War. He says that "orthodox" Protestants, Catholics and Jews, who all accept some kind of "external, definable and transcendent authority," are pitted against "progressives" and "humanists" in those three religions, whose

authority principles are defined by rationalism and subjectivism.

The culture war is a battle over symbols, over national identity and "the meaning of America." He says, "This culture war intersects the lives of most Americans, even those who are or would like to be totally indifferent. This is so because this conflict has an impact on virtually all of the major institutions of American society." The key areas for the battle are education, family life, the media, the arts, law, and politics.

Hunter believes that "cultural conflict is ultimately about the struggle for domination," i.e., who shall control what Americans think and believe, how they shall act in community with each other, and the parameters or playing field within which the public debate occurs.

Hunter also assesses the strengths and weaknesses of both groups but seems to conclude that it's too close to call in terms of which side will eventually triumph. The orthodox side has a monopoly on religious broadcasting, an edge in fund raising and strength among older voters and in rural and small town America. The progressives dominate the "knowledge industry," "the educational establishment" and the secular media, and are strong in large cities, "centers of cultural activism."

Hunter calls for "a principled pluralism and a principled toleration" and warns that "the establishment of a moral order requires popular comment." He also chides progressives for "ignoring" religion, and says both sides of the cultural divide have been uncivil and have engaged in provocative rhetoric.

While there is much to be commended about the author's evenhandedness, when it comes to a showdown between fundamental rights and church-state separation, on the one hand, and "moral majoritarianism" and church-state accommodationism, on the other, evenhandedness is not a virtue.

— Albert J. Menendez

***Small Differences: Irish Catholics and Irish Protestants, 1815-1922***, by Donald Harman Akenson (McGill-Queens University Press, \$19.95) analyzes whether cultural differences between Irish Catholics and Protestants should be considered central to an understanding of the divisions in Ireland today. Akenson pays particular attention and commendable attention to religious segregation in education in this excellent survey.

— Albert J. Menendez

### Americans for Religious Liberty

P.O. Box 6656, Silver Spring, MD 2016

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