



VOICE OF REASON

The Newsletter of Americans for Religious Liberty

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Supreme Court Hears Parochial Aid Case

On December 1 the U.S. Supreme Court heard oral argument in *Mitchell v. Helms*, a Louisiana case in which Catholic and Baptist plaintiffs are challenging federal aid to sectarian schools in the form of such educational equipment as computers, computer software, slide projectors, TVs, maps, globes, etc. The case against the federal aid was argued by veteran church-state attorney Lee Boothby. A federal appeals court had earlier ruled the aid unconstitutional.

Boothby argued that "at stake is our historic commitment to the principle that taxpayers must not be compelled to subsidize religious education in sectarian schools." He added that there is no way to eliminate the prospect that computers and other equipment would serve the schools' religious mission because de denominational schools "do not compartmentalize, and should not."

The U.S. Fifth Circuit ruled in 1998 that the computers and other items challenged in *Helms* are similar to the equipment forbidden by the Supreme Court in *Meek v. Pittenger* in 1975 and in *Wolman v. Walter* in 1977.

ARL and the National Committee for Public Education and

Religious Liberty (PEARL) filed an *amicus* brief in the case, arguing that the federal program unconstitutionally provides direct aid to religious schools, but even if the aid is held to be indirect it is not safeguarded against use for religious teaching.

ARL's Al Menendez was involved in setting up the *Helms* case in the 1980s. ARL president John Swomley is one of a number of experts in an *amicus* brief in the case filed by the Interfaith Religious Liberty Foundation, a brief that cites among its authorities two books produced by ARL, *The Case Against School Vouchers* and *Church Schools and Public Money*.

An *amicus* brief by Baptist Joint Committee general counsel Melissa Rogers addressed the historical issues, arguing that the First Amendment was intended to bar "any aid to religion, not simply 'favoritism' of certain religions over others. Madison and others took this position not to harm religion, but to protect it."

A ruling is not expected in *Helms* until June or July and could have a bearing on the constitutionality of school vouchers.

Victory in Maine

On November 2, in a referendum of great national importance that nonetheless received little national notice, 45% of Maine voters, an unusually high turnout of eligible voters in an off-year election, defeated by 55% to 45% a ballot initiative aimed at banning a particular abortion procedure, called by the non-medical term "partial-birth abortion" by anti-choicers but referred to by physicians as "intact dilation and extraction" (D & X). The procedure is discussed by ethicist and ARL president John Swomley in his new book, *Compulsory Pregnancy: The War Against American Women*, available from ARL for \$12.95.

The Maine referendum is important because it marks the third voter defeat of such an attempted ban in one year. In November of 1998 voters in Colorado and Washington State defeated similar proposals, despite massive propaganda campaigns by the Religious Right and opinion polls supposedly showing majority support for such bans. The Republican dominated congress, catering to the Religious Right, has repeatedly passed such bans, only to have them vetoed by President Clinton for failing to include an exception for physician-determined medical necessity. The Senate has been unable to cobble together the two-thirds vote needed to override a veto.

The Maine vote was a defeat for Pat Robertson's Christian Coalition, the Roman Catholic Diocese of Portland, and the Christian Civic League of Maine (an "Old Right" group that supports prohibition and censorship and which succeeded in 1998 in defeating a state gay rights law in a referendum that

pulled in only 30% of eligible voters). The anti-choice side failed to attract the state's considerable French Catholic vote, a phenomenon perhaps related to the implosion of the Catholic Church in neighboring Quebec. Portland pollster Patrick Murphy said, "I knew of a few priests who did not plan to send the yes message to their congregations."

Maine's pro- and anti-choice sides each spent an estimated million dollars on their campaigns, a lot of money for a small state. Americans for Religious Liberty supported the No on 1 Campaign.

Political scientist Richard Maiman wrote in the *Portland Press Herald* on November 3 that "the [pro-choice] No on 1

continued on page 7

Inside:

House Chaplaincy Flap . . . Bible and School . . .
Supreme Court Hesitant on Church-State Issues
. . . Bush Acceptable to Religious Right . . . A
Candidate Beyond Reform . . . Unholy Row in
the Holy Land . . . The 'Government Schools'
Smear . . . Catholic Bishops' Directive on
Politics . . . ARL in Action . . . Update . . . Books

EDITORIALS

House Chaplaincy Flap

A major political stink has arisen over the choice of a new chaplain for the U.S. House of Representatives. A balanced bipartisan House panel examined a number of candidates for the post and recommended three names to House Speaker Dennis Hastert (R-IL). The panel's first choice was Catholic priest Tim O'Brien. Hastert and Majority Leader Dick Armey (R-TX), however, opted instead for Presbyterian minister Charles Wright, the panel's third ranked candidate. The full House will vote on the appointment in 2000.

Minority Leader Dick Gephardt (D-MO) supported O'Brien and Democrats generally criticized the Hastert-Armeiy ignoring of the panel's first choice. A prominent House Republican attributed the switch to anti-Catholic prejudice. Catholic priest/sociologist/novelist Andrew Greeley ascribed the Hastert-Armeiy decision to "redneck fundamentalist bigotry." If the Republican-dominated House confirms Wright, the Hastert-Armeiy blunder could cost the Republicans control of the House in the Y2K elections.

We agree with James Madison that congressional chaplaincies are inconsistent with the church-state separation principle. Members of Congress can surely seek spiritual guidance, if needed, from clergy of their own faiths either in Washington or in their home communities. A well-paid congressional chaplain is not needed.

Our next newsletter will examine the issue in greater detail.

Bible and School

"The Bible & Public Schools: A First Amendment Guide" is the title of a pamphlet released on November 11 by the Freedom Forum's First Amendment Center and the National Bible Association and endorsed by 18 religious and educational organizations. The guide is primarily the work of Freedom Forum's

Charles Haynes, the sparkplug of similar guides issued in recent years on religious issues in public education.

Haynes declared at a press conference that the guide is "an historic breakthrough," adding that "After more than 150 years of bitter conflicts, we finally have a broad consensus on the constitutional and educational place of the Bible in public schools."

The guidelines state that "Any study of religion in a public school must be educational, not devotional"; that teachers for a "Bible class" must be selected in the same way as other teachers; that "the Bible may be used as a primary text, but preferably not the only text for a course"; that "Supernatural occurrences and divine action described in the Bible may not be taught as historical fact"; and that "Students should be exposed to a variety of religious and secular biblical interpretations and translations."

As far as they go the guidelines are not bad. But they do not propose adequate safeguards to insure balance, fairness, objectivity, and inclusiveness. Nor do they provide educators with the tools to prevent "Bible classes" from being merely Pollyannaish fluff or low-key indoctrination. Educators are not helped to deal with the stormy controversies over the evolution of the Bible in its assorted variations. And placing the Bible itself at the center of what ought to be taught "about" religion is itself seriously out of balance, in that the guidelines do not mention other religious literature or other, perhaps even more appropriate, ways to teach about religion.

Yes, public schools ought to do more to alleviate ignorance about religion, but it must not be done unless it is done in a completely balanced, fair, objective, and inclusive way, warts and all.

Haynes and Co. have not shown that they can do this, as we have pointed out previously. Further, while Haynes has stated that all "stakeholders" should be heard from in the shaping of policy on religion in public schools, once again he has demonstrated hypocrisy by purposely ignoring many of the organizations having an interest in this subject. And while Haynes can cite the religious and educational organizations that have endorsed the guidelines, this fact does not translate into anything resembling wide public demand for balanced, objective, fair, academic study of religion in public schools.

continued on page 6

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 \$25 for individuals, \$30 for families, \$10 for students and limited income.

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Supreme Court Hesitant on Church-State Issues

At the beginning of the fall 1999 term, the U.S. Supreme Court dismissed a number of potential church-state cases from its docket. This reticence leaves a number of appellate court rulings in place. The details:

- Without comment the High Court declined to review a pair of cases from Maine, where both the Maine Supreme Judicial Court and the U.S. First Circuit Court of Appeals upheld rulings denying state payment of tuition to parents for parochial school attendance. A Maine law gives school districts the option of not building a public high school but instead paying tuition for parents to send their children to nearby public or nonsectarian private schools. Two groups of parents with children in Roman Catholic schools challenged the law, claiming that it discriminates against religion. Both courts held that government is prohibited from providing direct subsidy to religious schools. The cases, *Bagley v. Raymond School Department* and *Strout v. Albanese*, are regarded favorably by church-state separationists and by voucher opponents. On December 13, the Supreme Court declined to review a Vermont Supreme Court ruling that school vouchers violate the state constitutional provision that public funds may not be used to "support any place of worship" (*Andrews v. Chittenden Town School District*).

- On the other hand, the Court let stand an Arizona Supreme Court ruling allowing tax credits to people who make donations to religious schools. The state program allows taxpayers credits up to \$500 for contributions to private tuition funds that provide scholarships for children to attend private or religious schools. It is more indirect than a voucher program but its opponents, who hoped for a Supreme Court review, maintain that a tax credit is "a thinly disguised use of the tax code as a means of transferring public funds to the coffers of private — mostly sectarian — schools." The case, *Kotterman v. Killian*, bears some similarities to a Milwaukee voucher program that was upheld by the Wisconsin Supreme Court and was not reviewed by the U.S. Supreme Court.

- The Hassidic Jewish Kiryas Joel school district in New York also lost its appeal. For the third time, the U.S. Supreme Court refused to hear an appeal to court rulings striking down a wholly sectarian school district in Orange County. The village of 15,000 is almost entirely populated by adherents of the ultra-Orthodox sect. For a decade state authorities and courts have battled over laws designed to advance the religious character of the schools. State legislatures and governors of both parties have caved in to the sectarian demands, but public school authorities and civil libertarians have resisted and prevailed, apparently for the final time, in the judiciary.

- The Court turned down an appeal from Pennsylvania of a decision barring the state from giving a sales tax exemption for Bibles and religious publications sold by religious groups (*Pennsylvania v. Newman*). The state supreme court had held that such selective exemptions violated the constitutional requirement of separation of church and state, echoing a U.S. Supreme Court decision applying to Texas in the 1980s.

Other courts around the country have also been busy monitoring church-state disputes. In Arizona, a U.S. district judge dismissed a suit challenging the proclamation of Bible Week in the town of Gilbert, on the grounds that the plaintiffs had no legal standing to sue. Judge Roslyn Silver held that the plaintiffs had not proved that they suffered legal injury. Judge Silver side-stepped the constitutional argument concerning church-state separation, saying that this decision "should be the responsibility

ity of the political branches of government subject to majority rule." Mayor Cynthia Dunham implied that she would issue a similar proclamation in November but denied that her proclamation "promoted one religion over another." The National Bible Association, based in New York, has called upon political leaders to proclaim a "Bible Week" every November since 1941.

The Fourth U.S. Circuit Court of Appeals ruled in October that Fairfax County, Virginia, authorities cannot bar religious or political activists from erecting religious or other displays at the county's government center. The unusual 9-3 *en banc* ruling reversed a three-judge panel's earlier decision that the county had not violated the First Amendment when it barred nonresidents from using an area in front of the government center in Fairfax City for public displays. The issue goes back a number of years when a feisty Italian immigrant, Rita Warren, began her annual erection of a Christmas creche and an Easter cross at the county center. The "Creche Lady," as she is known, used to erect her religious display at the U.S. Capitol and has long been known as a gadfly to Washington area residents. The ACLU supported her action on First Amendment grounds.

In Washington County, Maryland, Administrative Law Judge Georgia Brady exonerated the Hagerstown Suns baseball team of charges of discrimination because it has offered a \$2 per ticket discount to churchgoing families who bring a church bulletin to special promotion games. Judge Brady denied an appeal from Pennsylvania freethinker Carl Silverman, who charged that the team's practice differentiated between religious and nonreligious citizens. The Maryland Commission on Human Relations supported Silverman's lawsuit. An appeal is possible, according to the Maryland affiliate of the ACLU.

New from ARL

COMPUSORY PREGNANCY: The War Against American Women

John M. Swomley

Ethicist, political scientist, civil libertarian and ARL president John Swomley's far-ranging articles on abortion rights.

"John Swomley's . . . writings on reproductive choice have exposed the hypocrisies of conservative religious traditions that relegate women to second-class citizenship."

— Rev. Carleton W. Veazey, President,
Religious Coalition for Reproductive
Choice

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Bush Acceptable to Religious Right

Texas Governor George W. Bush, still well ahead of his rivals for the GOP presidential nomination in the polls and in fundraising, is proving himself more and more acceptable to the Religious Right voting bloc.

Bush told *Christianity Today* interviewers in October that he would shift government funds to "faith-based organizations because they change hearts" and "convince a person to turn their life over to Christ." Bush said he had quit drinking "because I accepted Jesus Christ into my life in 1986." Bush also said that if religious-based organizations are not included in government programs, "We lose the capacity of a nation under God."

Bush's narrow, sectarian appeal is further expanded with his comment that "government should always seek faith-based or private institutions" to provide social services to the needy. He added, "Government bureaucrats must welcome, not intimidate or threaten, faith-based institutions being involved in changing people's lives."

Bush fails to understand how taxpayers of different traditions, or those who choose not to affiliate with any organized religion, would object to being taxed to promote one religion's conversion efforts. Bush is also apparently unaware of studies showing that religious-based charities that seek and receive public funds become increasingly accountable to public policy and gradually lose their religious distinctiveness. He insisted that he favors "funding the program managed by a religious institution, not religion."

Bush has proposed that religious organizations be able to compete for welfare funds and for all social service programs. He has pledged to set aside \$8 billion — or 10% of the non-social security budget surplus — to provide new tax incentives for supplementing charities, which are primarily religious.

Meanwhile, "W" has willingly submitted to an evangelical inquisition, a six-man committee of far right religious authoritarians calling themselves "The Madison Project." All GOP candidates except John McCain have met with Home Schooling advocate Michael Farris, fundamentalist author and preacher Tim LaHaye, Texas Judge Paul Pressler, an architect of the right-wing takeover of the Southern Baptist Convention, firebrand preacher D. James Kennedy, former Colorado Senator William Armstrong and one-time Moral Majority guru Paul Weyrich. The Gang of Six are questioning Republican candidates to see if their personal religious faith and their promised public policies will meet with favor with evangelical and fundamentalist voters.

Bush apparently passed the test. Promising to appoint only "strict constructionists" to federal judgeships and to let the home schooling movement go its own way without government regulations won him an acceptable rating from The Madison Project, according to columnist Cal Thomas, a former aide to Jerry Falwell in his Moral Majority days. Wrote Thomas, "Social conservatives want to win the next election, so they are willing to abandon the candidates who might more clearly articulate their beliefs but can't attract the vast middle necessary for any political victory. Increasingly, they are lining up behind the Texas governor."

Senator Armstrong pronounced Bush's religious faith "genuine." (Apparently the Gang of Six has some special ability to judge the quality of other people's religious convictions.) Bush promised the group that he would not "knowingly" appoint a "practicing homosexual" as ambassador or department head,

but he would not dismiss anyone later revealed to be gay. While this did not satisfy the group, they indicated that they could live with that. Judge Pressler told Thomas that "social conservatives have nothing to fear from a George W Bush presidency." Thomas added that Bush's "non-threatening demeanor" might help him with the general electorate.

Bush's speech to the annual Christian Coalition bash in Washington drew mixed reviews. *Newsweek* reporter Evan Thomas said he "managed to win plaudits without pandering on hot-button issues like abortion or school prayer." But right-wing zealot Steve Myers called it "a dreary, disconnected and lackluster speech." Myers said, "He sounded like a third-rate actor spitting out lines he didn't write and didn't really believe. He was received with a mixture of polite applause and quiet despair."

ARL in Action

Americans for Religious Liberty and the National Committee for Public Education and Religious Liberty (PEARL, of which ARL's Edd Doerr is a founding board member) filed an *amicus curiae* brief in the Supreme Court in the Louisiana parochial school aid case, *Mitchell v. Helms*, heard by the Supreme Court on December 1 (see page 1 for details). The brief was prepared by Marshall Beil and other New York attorneys.

ARL and other organizations filed an *amicus* brief with U.S. Eighth Circuit Court of Appeals, prepared by Joanne C. Brant of the Ohio Northern University College of Law, in *Children's Health Care is a Legal Duty (CHILD) v. Vladeck*, a case challenging the constitutionality of the 1997 federal Medicare and Medicaid amendments creating and defining "religious nonmedical health care institutions." The ARL *et al* brief holds that "These provisions enable Christian Science Sanatoria to obtain government funds to provide distinctly religious services in lieu of medical treatment, without regulatory oversight. . . . The provisions as currently drafted have the clear effect of benefiting one sect exclusively, and this amounts to religious preferentialism, which offends the core proscription of the establishment clause. . . . The Constitution simply does not oblige the government to fund an individual's constitutionally protected right to obtain spiritual treatment."

In other developments, ARL president John Swomley and executive director Edd Doerr have been elected to the board of directors of the Religious Coalition for Reproductive Choice. Doerr was a founding board member of the coalition in 1973.

In recent weeks Swomley spoke to eight student, labor, educator, church, and other audiences in Minnesota's Twin Cities, and was a featured speaker at a Kansas conference responding to the Kansas state school board's August action removing evolution from the teaching requirements for high school science.

Associate director Al Menendez' article, "A Candidate Beyond Reform," reprinted in this issue, was featured in the *Washington Post* on October 3.

Doerr addressed student and church audiences in Maryland and Virginia, and was a guest on radio talk shows in Buffalo, NY, Youngstown, OH, Manhattan, KS, and Metairie, LA.

A Candidate Beyond Reform

By Albert J. Menendez

When Minnesota's colorful governor, Jesse Ventura, said recently that Pat Buchanan and the Reform Party are not a good fit, he was right on target. Pat Buchanan has nothing in common with the millions of Americans who voted for Ross Perot in the 1992 and 1996 presidential elections. What motivates most Perot voters are issues such as balanced budgets, reduced deficits, campaign finance reform and term limits to restrain the power of a permanent political class. What does not interest them are divisive social and cultural issues.

In contrast to Buchanan's followers, Perot voters are centrists ideologically. The counties carried by Perot have rejected politicians perceived as too conservative or too liberal, opposing Barry Goldwater in 1964 and George McGovern in 1972. Buchanan's brand of politics — his reputation for "populism" not withstanding — will play no better with the Perot crowd.

Buchanan may try to run a campaign based on the economic issues dear to Perot backers, but his support for school prayer, public funds for religious private schools, and the abolition and criminalization of abortion should make him anathema to most Perot voters. Exit polling from 1992 and 1996 suggests that Perot voters were among the most secular of those who went to the polls. Compared with Republicans and Democrats, they said they attended church and participated in religious activities less often. Perot drew significant support from Protestants and Catholics who called themselves moderates in terms of religious practice, and from voters who described themselves as having no religious affiliation.

Reform Party supporters tend to be secular voters in the sense that Thomas Jefferson was. Generally, they do not want government dominated by sectarian religious agendas or the political system corroded by religious conflict. Nor do they want government to interfere with religious activity. Perhaps this is why Ventura was the only governor who refused to proclaim a National Day of Prayer in May, saying that it was not the responsibility of government to tell its citizens when and how to engage in religious activities.

It should be noted, also, that Perot and Ventura support abortion rights as a matter of personal conscience and moral autonomy, oppose required religious activities in public schools, and do not favor government aid to private religious schools. Those stances square with the views of most Reform Party supporters, but not with the views of Buchanan's traditional base.

If Buchanan takes a hard look at past voting patterns, he might begin to rethink his interest in the Reform Party nomination. For example, the towns Perot carried in Colorado voted 70% against tuition tax credits for private and religious schools in a 1998 referendum. They overwhelmingly opposed vouchers in a 1992 referendum in the same state. They also supported gay rights that same year. The towns Perot carried in California, Oregon and Washington State overwhelmingly opposed private school aid in several referendums during the 1990s, and the Perot towns in Washington also rejected a 1998 referendum that would have banned late-term abortions. In Massachusetts, the strongest Perot towns voted 78% against removing a provision from the state constitution that bars public funds for parochial and private schools and 62% in favor of abortion rights during two hotly contested referendum elections in 1986.

Quotations from Chairman Jesse

On Abortion: "I think it would be a mistake to make them illegal again. Prohibition doesn't mean something is going away. What criminalization will do is force women into garages and back alleys."

On Education: "I believe strongly that government should be encouraging parents to get involved in public schools, instead of giving them vouchers or tax credits so that they can send their kids to private schools. I think we should view our public schools as a good system that's in need of reform, rather than as a broken-down system that we should avoid."

On the Republican Party: "The Republicans are just going to shoot themselves in the feet again, coming in with that far-right agenda. Americans don't want the government telling them how to live their lives."

— From *I Ain't Got Time to Bleed*, by Jesse Ventura (Villard Books, 1999).

There can be no doubt that Perot and Buchanan appeal to fundamentally different constituencies. This is dramatically illustrated by the returns from the precinct that includes Bob Jones University, the fundamentalist Christian school in Greenville, S.C. The precinct's conservative electorate supported Buchanan in the 1996 presidential primaries, giving him 49% of its votes. In the November general election, only 2% voted for Perot.

Buchanan may be able to impose his will on the Reform Party because of its fluid, almost anarchic, nomination process. Under its procedures, prospective presidential candidates must join the Reform Party and then secure ballot access in the 30 states where the party is not yet certified. If a candidate passes that hurdle, he or she is eligible to be included on the party's national ballot. The party's open balloting procedures — one doesn't even need to be a party member to cast a vote — make it possible for a candidate with highly committed followers to win the nomination. It would be ironic if Buchanan were the nominee of a party whose members disagree so vigorously with him.

The Reform Party has the potential to change America's political culture. Buchanan may need a new home for his political views and his presidential campaign now that he wants to bolt the Republican Party, but his nomination could destroy the Reform Party as a viable, credible reformist movement. Previous America First-type movements have divided the electorate and left wounds that took years to heal. If the Reform Party wants to survive and protect the country from discord, its members should send Buchanan a clear and convincing message: Thanks, but no thanks.

This article originally appeared in The Washington Post on October 3, 1999.

controversy in Kansas.

First, the bad news: In Kentucky the state education department has replaced the word "evolution" with "change over time" in state guidelines. Ken Rosenbaum, head of the Kentucky Science Teachers Association, said that the school officials "chose the less scientifically correct term and went with a more politically feasible term." Helen Mountjoy, chair of the state Board of Education, said the change would make no real difference. "We teach evolution and we test evolution in Kentucky," she said. "There is no change in the way we expect teachers to approach this subject."

The Oklahoma State Textbook Committee, which must approve all textbooks, voted in November to require a disclaimer in biology textbooks that describes evolution as a "controversial theory."

The good news: The New Mexico Board of Education voted 14 to 1 in October to dump the requirement that teachers give equal treatment to creationism in biology classes. School board president Flora M. Sanchez said the board had received a "lot of negative input" from scientists and teachers about the old requirement. It voted to limit the science curriculum to evolution only.

In September the National Science Teachers Association, the National Research Council, and the American Association for the Advancement of Science denied Kansas permission to use wording from their copyrighted science-education documents, on the ground that the state's new evolutionless standards are "contrary to modern science."

Meanwhile, *USA Weekend*, a Sunday supplement magazine, reported on October 22 that its unscientific poll of more than 20,000 readers showed them opposed, 73% to 27%, to allowing school boards to exclude evolution from the curriculum.

House Rejects Vouchers

Led by the defection of 52 Republicans, the House of Representatives soundly rejected a \$100 million school voucher amendment proposed by House Majority Leader Dick Armey (R-TX). The 257 to 166 defeat on October 21, with almost all Democrats opposing it, was a major defeat for the House Republican leadership and for their Religious Right allies. Another amendment to allow voucher "experiments" in 10 states was defeated 271 to 153, with 66 Republicans joining the 205 Democrats and one Independent in opposition.

Right-wing Republicans were bitter in their denunciation of the vote. Colorado's Tom Tancredo blamed "teachers' unions and the education establishment" for the amendment's defeat.

Reproductive Rights

On December 1 President Clinton set aside a gag rule on overseas family planning programs imposed by congressional Republicans. Clinton said he would try to eliminate the gag rule in future appropriations bills, saying that "I do not believe it is appropriate to limit foreign NGOs' use of their own money, or their ability to participate in the democratic process in their own countries." As part of the deal to get Congress to pay the U.S.' back dues to the UN, Clinton had to accept, subject to waiver, a Republican condition that no family planning funds could go to groups that perform abortions or lobby for abortion law liberalization in their countries.

In other action, the Senate voted 51-47 on October 21 to :p- prove a nonbinding resolution declaring that *Roe v. Wade* af-

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firmed "an important constitutional right" that should not be overturned. All but two Democrats voted for the measure, joined by eight Republicans. Sen. Barbara Boxer (D-CA) said "This is going to be an absolutely huge issue next year. Now we see the extremists in the United States Senate."

Illinois Tax Credits Challenged

Illinois' newly enacted tuition tax credit law, which will provide up to \$500 tax credits to certain families, was challenged by civil liberties, taxpayers and educational groups in a state court on November 4. Unfortunately, the court dismissed the case, *Griffith v. Bower*, on December 7.

The tax credit law was cited as a violation of the Illinois Constitution's provisions separating church and state and prohibiting public funds for religious institutions. Nearly 89% of all private school children in Illinois are enrolled in church-related schools. The plaintiffs, including the People for the American Way Foundation and the National Education Association, explained, "This means that the vast majority of the benefits of the law will be used to support the instructional programs that inculcate religious beliefs and advance the religious purposes of these sectarian schools and the religious institutions that sponsor them."

Critics also argue that 40% of Illinois families are excluded from the law because their taxable income is less than \$20,667. "This tax credit law is nothing but welfare for the haves," comments People for the American Way legal director Elliot Minberg. Dr. Floyd Davis, a plaintiff and pastor of Pilgrim Baptist Church in Chicago, said, "This is a fundamentally unfair law that discriminates against poor families and misuses the tax laws in violation of our constitution."

Churches Prevail in Alabama Election

Old-fashioned political muscle flexed by Alabama's Protestant churches resulted in a stunning defeat for a state lottery plan aimed at improving the state's ailing education system. The 54% to 46% October 12 vote showed the political power of the pulpits.

Democratic governor Donald Siegelman had proposed a state-run lottery that would have raised \$150 million a year for education, similar to a highly workable and popular plan in next-door Georgia. Georgia's plan guarantees pre-school training and two years of junior college for every eligible student, financed through a lottery. Alabama, which spends less per capita on education than any other state, looked to the Georgia plan as a way to remedy the state's widely criticized educational defi-

ciencies.

But the preachers would have none of it. They spearheaded the opposition and were joined by state affiliates of the national Religious Right lobbies, the Christian Coalition and the American Family Association. Resistance of Alabama voters to tax reform and to higher spending on education may also have contributed to the referendum's defeat. Still, the religious factor in this heavily Baptist state was paramount. Said Auburn University history professor Wayne Flint, "The religious groups are outraged by private sins, but they don't seem as concerned about social sins, like a third of the kids in Alabama's public schools being poor."

Of Alabama's religious population, 47% are white Baptists, 14% African-American Baptists, 12% United Methodists, 6% African-American Methodists, and 4% belong to the fundamentalist Church of Christ. Fewer than 7% are Catholics, Jews, Episcopalians or Lutherans — groups historically uninterested in anti-gambling crusades.

Federal Court Upholds Separation

The 9th U.S. Circuit Court of Appeals ruled 2-1 on November 15 that an Oregon public school district did not violate a disabled student's religious liberty by refusing to provide certain health care services on the premises of a religious school. The decision overruled a federal district court, which held in 1998 that the district violated the student's free exercise rights. Oregon law stipulates that special education services must be provided in a "religiously neutral" setting. The student in question transferred from a public school to a Baptist school. The public school district continued to supply him with Braille readers and computers, but required the vision specialist to provide his services at a fire station down the street from the church-related school (*KDM v. Reedsport School District*).

Georgia on my Mind

Georgia Attorney General Thurbert E. Baker has formally advised the Georgia State Board of Education to be cautious about a proposed Bible curriculum for public schools. The curriculum is being promoted by a secretive outfit calling itself the National Council on Bible Curriculum in Public Schools (NCBCPS), which lost an important case on the matter in Florida in 1998.

In 1995 NCBCPS director Elizabeth Ridenour declared on a radio show that "We're just trying to expose the kids to the biblical Christian worldview." Religious Right leader D. James Kennedy has been a member of NCBCPS' board. NCBCPS' manual refers to church-state separation as a "myth." NCBCPS has claimed that its curriculum has been adopted in as many as 300 school districts, but no one really knows and NCBCPS won't reveal the information.

Attorney General Baker advised that "courses that include reference to the Bible may survive First Amendment scrutiny only if their content is determined to be secular and they are taught in a secular, objective manner." He added that "the use of public funds to teach the Bible courses in question may be held to constitute [forbidden] 'aid' to a particular religion, i.e., Christianity, if appropriate instruction regarding other religions is not included or if the instruction is not offered in a neutral and objective manner."

Thou Shalt Not

The Val Verde school board in Riverside County, California, voted in November to reverse earlier votes to place the Ten Commandments in school offices, thus heading off an ACLU lawsuit. But the Harrisburg, Illinois, school board voted 4-3 in October to continue displaying the Commandments in school offices despite threats of an ACLU legal challenge. Meanwhile, the ACLU has filed suits against the practice in several counties.

In 1980 the Supreme Court ruled in *Stone v. Graham*, a Kentucky case, that Commandments displays violate the First Amendment.

Writing in the *Montgomery (Md.) Journal* in November, ARL's Edd Doerr asked "If posting the Ten Commandments for public viewing is such a wonderful idea . . . then why don't our many thousands of houses of worship post them on interior walls and in front of their buildings? And why don't millions of citizens display them in front of their homes and on their car bumpers? . . . Do the [members of Congress and sectarian special interests campaigning for displays in schools] really believe that religion is so weak that it must be propped up by government?"

Red Mass Politics

The annual (since 1952) Red Mass held at Washington's St. Matthew's Cathedral on the Sunday preceding the opening of the Supreme Court's new year has been traditionally seen as an occasion for Roman Catholic Church leaders to promote or plead for their special views on law. This year was no different. Bishop Raymond J. Boland of Kansas told his audience, which included several justices, that both religion clauses of the First Amendment were designed as "protection for religion and not protection from religion." He added that Jefferson's "famous 'wall of separation' metaphor may have suffered an overextension, something not supported by a complete examination of his legal philosophy nor of the Constitution itself." Boland made a special plea for "cooperation" between church and state and warned that "the devotees of secularism are more equal [before the law] than those who are proud of the faith they profess." If there is "overlapping between church and state," he said, "the dialogue must be marked by technical competency, civil intelligibility and political courtesy." Boland's sermon was a classic exposition of the "accommodationist" view of church-state relations.

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Religious Freedom Affects U.S. Foreign Policy

Nations that violate religious liberty are likely to be hit by U.S. sanctions, reduction in foreign aid or at least by severe public criticism. The new U.S. Commission on International Religious Freedom urged President Clinton in October to take action against China and Sudan. The Commission's chairperson, Rabbi David Saperstein, said these countries had the worst record of repression of religious freedom. The Commission urged the president to apply sanctions against Sudan's oil pipeline. The northeast African nation dominated by militant Islam has been repressing its Christian and animist minorities for decades.

China, recently engaged in crackdowns on all kinds of religious activities, has been labeled "a country of particular concern," though specific policies aimed at the populous nation were not spelled out in detail. Russia was also criticized for "regressive trends toward violations of religious freedom." The Commission said "the link between religious persecution and extreme nationalism" should be a factor in the development of future U.S. policies toward that troubled nation. Burma and Iran were also cited for religious liberty violations against minorities.

The International Religious Freedom Act requires the president to take action against cited nations within 90 days or to notify Congress if no penalty is to be imposed. Robert A. Seiple serves as U.S. ambassador at large for international religious freedom and is assigned a staff at the State Department. His office issues a comprehensive annual report on global religious freedom trends every September. The Saperstein-led Commission issues its own report each May.

Robertson Group Sued

Televangelist Pat Robertson's Christian Coalition had a suit for \$400,000 filed against it in November by Stephen Winchell & Associates, a fundraising firm that helped the group raise \$7 million but says it has not been paid since last spring. Robertson conceded that the coalition is in "quite a mess."

In another development, the Liberian government has granted a 20-year concession to Freedom Gold, a U.S. mining company that plans to invest \$10 million in mining for gold. The chairman of Freedom Gold is Pat Robertson.

International

Ottawa: The United Nations Human Rights Committee ruled on November 5 that Ontario, and by implication much of Canada, violates an international agreement by using public funds to support Roman Catholic but no other denominational schools. The province could either confine public funding to public schools or expand it to include all sectarian schools. . . . Meanwhile, polls conducted through 45 newspapers in Ontario by Civil Rights in Public Education have shown that 79% of over 7500 respondents favor limiting tax support to public schools. In 1997 Newfoundland citizens voted 72% to 28% to do just that in the maritime province.

Athens: Leaders of the Greek Orthodox Church, the established religion of Greece, refused to give permission for Pope John Paul II to visit Athens until the Roman Catholic leader "asks for forgiveness and does penance for the interventions by the church in the Orthodox world from the epoch of the Crusades until today," said Metropolitan Kallinikos, spokesman

for the Holy Synod. Orthodox leaders said "the pope can come to Greece as a head of state but not as a religious leader." Greek Prime Minister Costas Simitis said the pope "will be welcome in Greece like every head of state." The Orthodox ruling shows the immense power wielded by the very conservative Orthodox Church in Greek legal and political life.

Germany: Despite its constitutional guarantees of "freedom of faith and conscience," the German government "fosters the growth of a climate of intolerance in society that ends up being directed against all minorities," charged Derek Davis, director of the J.M. Dawson Institute of Church-State Studies at Baylor University. Davis, who just returned from a visit to Germany, declared at a November 3 conference at the Waco, Texas, school that "Religious minorities in Germany continue to face state-sponsored harassment." Some religious minorities are denied jobs in the state and private sectors, and their children have been barred from attending school. The Labor Department has set up "sect commissioners" to monitor unpopular religious groups. Davis said that Mormons, Pentecostals, Muslims, Scientologists and Jews are disadvantaged in a nation which has a "dual establishment" of Lutherans and Catholics. He added, "These are not isolated incidents perpetrated by biased individuals, but are the result of official policies."

New Delhi: Pope John Paul II's visit to India came amid bitter religious partisanship and bickering. The nation's powerful Hindu majority organized weeks of protests against the papal visit, accusing Christians in general of trying to convert the poor and illiterate to Christianity. The government dismissed the charges and welcomed the pope on his second visit to the populous nation. Only 3% of India's one billion people are Christian.

In his address, the pope said, "Religious freedom constitutes the very heart of human rights. Its inviolability is such that individuals must be recognized as having the right even to change their religion, if their conscience so demands." Meeting with Buddhist, Sikh, Jain and Hindu leaders, the pope called for peaceful coexistence among all religions but pointedly reminded Catholics of their obligation to evangelize and convert others. Prime Minister Vajpayee of the Hindu Nationalist Party (BJP) told the pope, "India is a land of religious freedom but we have some intolerant fringes."

Pristina: Dozens of churches and mosques have been destroyed in the ethnic violence between Kosovar Albanian Muslims and Serbian Orthodox Christians. Many are centuries-old cultural monuments of Kosovo's past. According to Islamic community sources, 187 mosques were destroyed or damaged between March 1998 and June 1999, when Serb forces withdrew from the region under NATO attack. Since then, the Orthodox Church says more than 40 churches and monasteries have been destroyed. Among the razed and gutted religious shrines are the 15th century Qarshise mosque in Pec, where all 34 mosques were burned to the ground, and the Orthodox Church of the Holy Virgin, built in 1315. These shrines survived five centuries, Turkish rule and two world wars, but could not withstand the ethnic hatreds unleashed during the 1990s.

More than 30 Muslim clergy and religious leaders are among the recent dead, while others are missing or in Serbian prisons. Two Orthodox priests have also disappeared and are presumed dead. Each side blames the other for targeting religious facilities and places of worship as NATO forces try to keep an uneasy peace.

Vatican City: On October 30, Pope John Paul II sounded like a political wardheeler at a boisterous rally for parochial

school aid held at St. Peter's Basilica. Thousands of Catholic school children and teachers cheered the pope's call for the Italian government to provide equal funding for Catholic schools. Italy's bishops have pressed Italian authorities to provide more financial help to Catholic schools but the recent moves were "unfortunately not enough," according to the pope. Italy's center-left government is divided on the issue of public funding for church schools.

Books

Hitler's Pope: The Secret History of Pius XII, John Cornwell, Viking Press, 430 pp., \$29.95.

This scathing indictment of the papacy of Pius XII (Eugenio Pacelli) is receiving justifiable national and international attention. While little of its material is wholly new, it has organized and summarized a critical view of Pacelli's policies toward Nazi Germany and in particular its attempt to wipe out world Jewry.

Cornwell, an English journalist and author a decade ago of a book debunking rumors that Pope John Paul I had been murdered in 1978, had access to much unpublished documentation in numerous archives. While he does not solve the perplexing case of why Pius XII did little to mitigate the suffering of Europe's Jews – or even of his fellow Catholics in Poland and elsewhere who opposed Hitler – he does offer a number of reasonable suppositions.

Cornwell's research is particularly strong in dealing with Pacelli's early career as a canon lawyer and a Vatican diplomat in Weimar Germany. Pacelli worked ceaselessly to craft a concordat with Germany that would guarantee the rights of the church hierarchy over its members, particularly in matters of education and family life. Cornwell argues that both Hitler, Germany's führer when the concordat was finalized, and the Vatican got most of what they wanted. The Vatican strengthened its control over the German Catholic bishops and people while Hitler received respectability and was assured of the loyalty of Catholics to his regime, even though most Catholics had voted against him in the 1932 elections.

Cornwell writes that the Vatican favored centralization over conciliarity in its relationship to local hierarchies. Church officials preferred to deal with high state officials to achieve their objectives. The Vatican also showed little or no interest in the religious freedom of Protestants, Anglicans, Jews or Orthodox Christians.

According to Cornwell, the concordat with Germany gave the Vatican unprecedented control over German Catholic life. It also led to the enfeeblement of Catholic political life and limited the possibilities of Catholic dissent toward Hitler's policies, even though courageous individual Catholic laity and clergy continued to oppose Hitler. But he says that a "Vatican policy of compliance" virtually ignored Hitler's crackdown on Catholic schools and institutions.

Cornwell charges that the Vatican ignored the centrist and moderately progressive Catholic political parties in Italy (the Popular Party) and Germany (the Center Party), preferring right-wing Catholic parties in Austria, Spain, Portugal and elsewhere.

From the outset of his reign, Pacelli tried flattery and appeasement of Hitler, according to Cornwell. He refused to publish a denunciatory encyclical prepared by his predecessor, Pius XI, and did not recall the papal nuncio from Berlin.

Why now? Why has Cornwell waded into a controversy that had already been addressed for three decades by respected

scholars, including Guenther Lewy, Saul Friedlander, and Carlo Falcone? Cornwell clearly has an agenda of his own. He has produced a literary version of "the devil's advocate," a one-time Vatican official whose role, until abolished in 1983, was to argue against canonization of individuals being considered for sainthood.

For thirty-five years, Vatican officials charged with implementing the complex, arcane procedures surrounding canonization have been moving Pius XII's case forward. The first step, beatification, is said to be near. Cornwell, a former Catholic seminarian, is clearly trying to undercut the effort, feeling that elevating Pius XII to sainthood would be a disastrous setback to Catholic progressives and to the ecumenical movement.

One question could be asked: Do non-Catholics care which individuals are elevated to sainthood? The answer is a surprising yes. Canonization clearly has political, economic, geographical and theological implications. It represents a seal of approval, of sorts, over certain lifestyles, values and principles. Individuals who are canonized are said to be exemplars to believers. Cornwell writes, "The beatification process for Pacelli is fraught with political significance, both within and outside the Church. If it succeeds, Pacelli's policies will be dramatically confirmed – endorsing the modern ideology of papal power and justifying Pacelli's wartime record."

Cornwell argues that canonizing Pacelli will send the wrong message to world Catholicism because "Papal autocracy, carried to the extreme, can only demoralize and weaken Christian communities." He adds, "In many parts of the world, the Catholic Church enjoys the benefits of a pluralism widely undervalued by its traditionalists. In an era largely hospitable to religious freedom it is difficult to assess the full extent of the moral and social enfeeblement of the local churches. It has been the urgent thesis of this book that when the papacy waxes strong at the expense of the people of God, the Catholic Church declines in moral and spiritual influence to the detriment of us all."

Cornwell's eloquent and provocative study ends on this note, "I am convinced that the cumulative verdict of history shows him to be not a saintly exemplar for future generations, but a deeply flawed human being from whom Catholics, and our relations with other religions, can best profit by expressing our sincere regret."

Cornwell makes his case effectively, but there remain areas of interpretation that many scholars of this period will challenge. It is perhaps a bit naïve to affirm, for example, that "Had Catholics protested, specifically, Kristallnacht and the rise of anti-Semitism, the fate of the Jews in Nazi Germany and indeed throughout Europe might have been different." The monstrous policies of Hitler and his allies, coupled with his growing military might, required comparable challenges from other nations. Dictators rarely listen to the pleadings of individual citizens, or ecclesiastical entities. (Cornwell cites the somewhat effective Catholic opposition to German euthanasia of the mentally and physically infirm and the removal of crucifixes from classrooms in 1941.)

Cornwell also argues that Pius XII had a grand design for Catholic evangelization in Eastern Europe, to bring about eventual reunion between Eastern Orthodoxy and Rome. Thus, he refused to protest the atrocities committed by a fanatically Catholic government in Croatia – which Cornwell says the Vatican knew about relatively early. Without additional historical evidence to substantiate this charge, it must remain in the realm of speculation.

— Al Menendez

Spiritual Marketplace: Baby Boomers and the Remaking of American Religion, Wade Clark Roof, Princeton University Press, 367 pp., \$24.95.

Unlike the simplistic Gallup polls, which seem to record a constantly increasing percentage of voters calling themselves born again Christians, this survey analysis by a renowned religious sociologist and UC-Santa Barbara professor probes beneath the superficialities of data. Based on an extensive national survey and fleshed-out by interviews, Roof charts the religious changes experienced by "baby boomers" during the past decade.

Change, experimentation and diversity are dominant trends. Denominationalism is being superceded by the emergence of five religious subcultures: dogmatists, mainstream believers, "born again Christians," metaphysical seekers and secularists.

One stunning finding is that "conservative Protestants," which roughly corresponds to evangelicals and fundamentalists, are declining. In this survey, 29% of respondents said they were brought up as conservative Protestants but only 18% now identify with that tradition. Those who were raised in no religion or "other" than Christian or Jewish categories increased, from 4% to 13%. Surprisingly, "liberal Protestants," who are supposed to be near extinct, have increased from 23% to 29%. Catholics, Jews and black Protestants have remained about the same in percentage of those who identify with those traditions. Roof provides new data on which to generalize about the state of American religion today.

— Al Menendez

Passing the Keys: Modern Cardinals, Conclaves and the Election of the Next Pope, Francis A. Burkle-Young, Madison Books, 522 pp., \$35.00.

This extraordinary history of papal elections, called conclaves, is essential reading for an understanding of the politics of the Catholic Church. As the author notes, "No pope has any role in the choice of his successor, but he does have methods by which he can signal the college [of cardinals] about men he considers worthy or appropriate."

This is certainly true of John Paul II, the longest reigning pope of the 20th century. Writes Burkle-Young, "Because John Paul II has coordinated the government of the church from the right of the ecclesial spectrum, he has pushed the cardinalate, as well as the rest of the hierarchy, much further towards the conservative side than might have been expected in a reign that came so soon after the close of the Second Vatican Council." The author dashes the hopes of progressive Catholics when he affirms that the College of Cardinals, which elects the pope, is more conservative than at any time since the death of Pius X in 1914. This conservatism on doctrinal and theological questions apparently transcends regional or national voting blocs. Ideology is now king. By the author's count, 40 cardinals are "strong conservatives," 30 are "moderate conservatives" who will join together to keep the church on its present course. Only about 25 are "pragmatists" and 20 are "conciliarists," who together seek a more democratic, progressive, tolerant and ecumenically-inclined church.

The author sees the critical issues of the future as vocations, contraception and abortion, the role of women in the church, collegiality, pluralism and finances. The appendix to this excellent work includes the three official documents regulating papal elections.

— Al Menendez

The Fracture Zone, Simon Winchester, Harper-Collins, 255 pp., \$24.95.

British journalist Winchester surveys Turkey and most of the Balkan nations, finding that religious and ethnic tensions are so pervasive that peace may never really come to the region. Religious antagonisms are central, since the Balkans are the historic "fault line" between Christianity and Islam, and between Roman Catholicism and Eastern Orthodoxy. Albania, he discovered, has high church and mosque attendance, even after 30 years of state-imposed atheism. Montenegro has two rival claimants for religious power, the established Serbian Orthodox Church (backed by the Patriarch of Constantinople), and an insurgent Montenegrin Orthodox Church. Winchester is also highly critical of the papal decision to beatify Croatia's controversial wartime Cardinal Stepinac, whose ambivalence in the face of fascist atrocities is well known.

— Al Menendez

Southern Politics in the 1990s, Alexander P. Lamis (editor), Louisiana State University Press, 490 pp., \$39.95.

Case Western Reserve professor Lamis has assembled a superb anthology of essays by leading political scientists and journalists on the voting patterns of the eleven Southern states during the 1990s. The South, which became politically competitive in the 1960s, now rivals the Midwest and Rocky Mountain states as the nation's most Republican region. Religion, race, a changing economy and population migrations are responsible for this transformation.

In his summary chapter, Lamis writes, "Everywhere in Dixie the advancing Republican Party is divided between adherents who are motivated primarily by economic conservatism and those who are more interested in an array of social and cultural issues. Despite the tensions, the Religious Right has contributed significant organizational might to the GOP." This clout is a mixed blessing, however. "Regardless of the cohesiveness of the Religious Right, as the GOP continues to grow in the south, management of this intra-GOP factional split poses a serious challenge for the party." The Religious Right is strongest in South Carolina and weakest in Tennessee, but its overall influence has pushed the GOP to the right in every state of the Old Confederacy.

— Al Menendez

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