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EDUCATION REPORTER

The School Choice Battle *Court rulings ignite controversial issue*

WASHINGTON, DC - The long-simmering school choice issue caught fire last November when the U.S. Supreme Court let stand a state court ruling in favor of Milwaukee's voucher program. The vote was 8-1. Justice Stephen Breyer cast the lone vote to review the decision.

The Wisconsin Supreme Court held last June that Milwaukee's Parental Choice Program to provide lower income children with vouchers for private and religious schools was constitutional. The state court ruled that the program "merely adds religious schools to a range of pre-existing educational choices available to Milwaukee's children." The court rejected the argument by the Milwaukee Teachers Education Association, the American Civil Liberties Union, and People for the American Way that a 1973 U.S. Supreme Court decision precludes any type of aid to private and religious schools. That decision had found a New York State aid program unconstitutional because it provided tuition grants *exclusively* to parents of children in private and religious schools.

Voucher proponents were extremely pleased with the high court's refusal to review the Milwaukee case. Clint Bolick, the litigation director of the Institute for Justice representing several voucher families in Milwaukee, told Education Week: "By declining to review the Wisconsin ruling, the Supreme Court leaves intact the most definitive court decision to date, which solidly supports the constitutionality of school choice."

Efforts to advance the school choice cause are underway across the country. In several states, tuition-tax-credit plans have either been enacted or are on the table. The Virginia legislature is considering the Virginia Children's Educational Opportunity Act of 1999, which would establish nonrefundable income tax credits for tuition and other instructional fees charged by public or private schools and for certain fees and costs associated with home schooling. Tax credits for up to 80% of the qualifying expenses incurred per child, or 100% if the taxpayer is a member of a household whose adjusted gross income does not exceed 185% of the federal poverty guideline amount, "would be provided using the state's income tax infrastructure."

In January, the Arizona Supreme Court held constitutional a state income tax credit of \$500 to support tuition scholarships for any student to any school (including religious schools). Arizona Chief Justice Thomas Zlaket stated in the majority opinion that the tax credit is not part of the state's "public funds," since it merely allows donors to receive a tax benefit for routing their own donations to private school tuition scholarships. The court rejected the argument of the plaintiffs (including the American Civil Liberties Union and the Arizona Teachers Union) that "all taxpayer income could be viewed as belonging to the state because it is subject to taxation by the Legislature."

Gary Glavin, president of "School Choice YES" in Michigan, noted in a press release: "Tax credits simply allow individuals who want to invest in education to keep more of their own private dollars in their own hands for that purpose. There's no government money involved."

Some observers caution that school choice legislation, including tax credits, will create new regulations for private and home schools. Pro-family leader Cathie Adams notes that, "in the beginning, voucher bills have few regulations, but litigation imposes more regs and teachers' unions relentlessly demand more in order to erase differences between public and private schools." She points out that the Milwaukee voucher program includes over 300 regulations.

Others fear that the school choice concept and federal vouchers will blur the distinctions between all public and private schools. Writing in *The Wanderer* last July, Llewellyn H. Rockwell, Jr., president of the Von Mises Institute in Auburn, AL, asserted: "In order to receive vouchers, religious schools will have to surrender all control of their admissions and gut any doctrinal teaching integral to their curricula. The [Wisconsin] court underscored that schools are prohibited from exercising any judgment whatsoever about the students they take in (except that they may give preference to siblings)."

The Wisconsin program also requires that students be allowed to "opt out" of religious instruction, which Rockwell says "betrays an astounding ignorance of the way many religious schools teach. The very purpose of these schools is to weave religious values into the process of learning."

While school choice supporters believe that vouchers and tax credits are a positive solution to the problem of public education, the movement has caused the teacher unions to intensify their anti-choice campaigns. Reuters news service reported that an NEA spokesman claimed that nationwide school choice programs could cost public education up to \$14 billion. Education Intelligence Agency president Mike Antonucci says that the NEA "is also asking its activists to submit charter school and privatization horror stories for dissemination around the country."

Antonucci warns that along with these tactics, the NEA and its affiliates "are taking the first tentative steps to prepare for a future in which vouchers are much more widespread than they are today." This includes recruiting efforts for private school teachers. Antonucci describes union-sponsored workshops that paint religious schools as ripe for aggressive union organizing efforts, citing low pay and benefits, strict administrative control, and summary dismissals for personal conduct unrelated to teaching.

Antonucci says that while collective bargaining has never been very popular in religious schools, vouchers and tuition tax credits could mean significant expansion in funding and new personnel. "This could lead to demands for higher wages and better working conditions, and a more promising environment for unionization than currently exists in those schools."

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EDUCATION REPORTER

NEWS & ANALYSIS

THE NEWSPAPER OF EDUCATION RIGHTS

AUGUST 1, 2000

NEA Delegates OK Dues Hike to Fight Vouchers

CHICAGO, IL - Delegates to the 2000 National Education Association's Representative Assembly (RA) held at McCormick Place over the July 4th holiday voted to impose a \$5 a year increase in each member's union dues. Sixty percent or \$6 million of the additional \$10 million raised per year will be used to combat vouchers and other related ballot initiatives. Delegates from several states, including California and Michigan, complained about the battles they face against vouchers.

In his keynote address, NEA President Bob Chase cautioned the 9,200 delegates about the importance of the upcoming elections. "Think about the federal government subsidizing vouchers," he warned. "Please keep in mind that the next President of the United States could name as many as three Justices to the Supreme Court. If these new Justices join Justice Scalia, Justice Thomas, and Chief Justice Rehnquist to form a new majority, we would see a breach in the wall separating church and state, vouchers declared constitutional, and your union and employee rights eroded." He went on to attack George Bush's education policies.

Voucher supporters contend that, while the teacher unions have been successful in stifling their efforts so far, the issue continues to gain steam. Proponents predict they'll spend a nearly equal amount of money this election year. "It's going to be a very tough battle," California entrepreneur and voucher supporter Ron Unz told the *Washington Times* (7-7-00), "but it does look like they will match the unions dollar for dollar."

Other proponents point to the fact that 34% of the convention delegates voted against the dues increase. Clint Bolick, litigation director of the Institute for Justice, a public-interest law firm that has defended voucher initiatives against lawsuits, commented in the *Times*: "Whereas we raise all of our funding from voluntary contributions, they have to force their members to contribute to the cause. I hope that a number of teachers will look for ways to recover their dues, given that a number of public-school teachers support the concept of choice."

The remaining 40% of the additional dues money will establish a media campaign fund that some speculate may be used to counter such recent NEA public relations embarrassments as the complaints filed against it by the Landmark Legal Foundation with the IRS and the FEC.

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EDUCATION REPORTER

THE NEWSPAPER OF EDUCATION FIGHTS

Teachers Union Frantic Over Voucher Decision NEA to 'tackle' Supreme Court Ruling

WASHINGTON, DC - In a 5-4 decision, the U.S. Supreme Court on June 27 ruled in favor of Cleveland, Ohio's voucher program, which awards \$2,500 each to approximately 4,000 poor children to transfer from failing public schools to private schools. The teachers unions and their allies, including the national PTA, immediately denounced the decision as trampling on the First Amendment and endangering the separation of church and state.

Both outgoing NEA President Bob Chase and AFT President Sandra Feldman vowed that their unions would continue the fight against vouchers, and Chase promised the NEA would "tackle" the Supreme Court ruling. "We anticipate voucher proponents will now work on seven to eight states," he warned. "If that happens, NEA is prepared to assist state affiliates in any way we can."

During his keynote address at the NEA's national convention on July 2, Chase called "the voucher crowd's" contention that public education has failed "the big lie." Just seconds earlier, he had described the convention's host city of Dallas as "one of 16 cities nationwide where at least half the high schools have extremely high dropout rates - 50% or worse." He complained that after tax cuts, defense spending and aid to farmers, there is "no new money left for public education and struggling schools," despite the record \$26.5 billion authorized for public education by Congress in January under the "No Child Left Behind" Act. (It was \$4 billion more than President Bush requested and \$8 billion more than the last Clinton education bill.)

Incoming NEA President Reg Weaver parroted the union hard line on vouchers when he addressed the convention on July 5, asking "what steps are we going to take to diminish the negative impact of what, to many, will be perceived as a great gift, and that is vouchers?"

Cleveland parents who have seized vouchers as lifelines for their children may well consider them "a great gift." "The parents of these children are among the happiest people in the world today," opined nationally syndicated radio host and columnist Neal Boortz on June 28. "Their children aren't going to be yanked from their private schools and forced back into the black hole of government education from which no knowledge can escape."

NEA attorney Robert Chanin, who argued against vouchers before the Supreme Court, admitted that "this legal challenge was never our first line of defense. The First Amendment argument was a means to an end. . . . Voucher programs will only worsen whatever people might think is wrong with public education."

Some voucher supporters called the ruling a "landmark" decision. Others speculated that it might be the most important education decision since school prayer was banned by *Engel v. Vitale* in 1962. "The Supreme Court upheld the Cleveland school option plan as 'a program of true private choice,' even though the majority of voucher-using parents chose religiously affiliated schools," noted constitutional lawyer and Eagle Forum President Phyllis Schlafly.

Mrs. Schlafly observed that "in watching the tantrums indulged in" by the teachers unions and other

voucher opponents, "their principal argument is not First Amendment but financial. They are squealing because school choice plans divert a tiny fraction of public funds to private schools 'that are not accountable to the public.' Public schools are currently accountable only to the political bureaucracy that the unions control. Private schools are accountable to the parents who pay the tuition and can withdraw their children if the schooling isn't satisfactory."

As Neal Boortz pointed out, "parents are going to demand of their state legislators the opportunity to use the money that has been taken from them in the form of school taxes for the actual education of their children, not just the lining of teachers union pockets. The unions know that this ruling is going to open a floodgate of voucher legislation."

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EDUCATION REPORTER

THE NEWSPAPER OF EDUCATION RIGHTS

AUGUST 2001

NEA Survey Reveals Division

An editorial in the *Wall Street Journal* (7-6-01) noted that, after NEA convention delegates gave "respectful attention" to Education Secretary Rod Paige, they "proceeded to consider the usual host of left-leaning proposals on the agenda." According to a member survey commissioned by the union last fall, however, these 9,000 delegates do not necessarily reflect the views of the 2.3 million rank-and-file members they purport to represent.

The issue of school vouchers, which the NEA has fought bitterly for years with rhetoric and millions of dues dollars, is a good example. The survey listed 10 issues for members to rank in order of importance, and vouchers came in last. Just 19% found vouchers "very important," while 39% thought the issue was "not at all important."

A report on the survey by the California-based Education Intelligence Agency (EIA) stated that, although a majority (59%) of respondents voted for Al Gore for president, only 48% identified themselves as Democrats, while 24% identified themselves as Republicans and 28% as Independents. Only 10% claimed to be "very liberal," while 31% said they were "moderate" and 22% "somewhat conservative." The survey also revealed that only 62% of Democrats, 25% of Republicans and 36% of Independents thought that NEA materials presented candidates and their positions in a fair and balanced way.

As the *Wall Street Journal* pointed out, these figures are at odds with the fact that state and national teachers unions "give more than 95% of their PAC contributions to Democrats." NEA convention delegates appear to have much more in common with union leadership than with many of their fellow members. They defeated by 80% a proposal known as Bylaw Amendment 4, which would have allowed "active NEA members to apply in writing to receive a refund of the portion of their dues allocated for 'political activity.'" (See [Briefs](#).)

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The Phyllis Schlafly Report

NEA Conventioneers Continue their Mischief

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- Public School 'Reform' Won't Help
- Why Homeschooling Takes Less Time

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AUGUST 2002

NEA Conventioneers Continue their Mischief

The National Education Association (NEA) adopted several new goals at its annual convention held in Dallas over the long Fourth of July weekend. No, they don't have anything to do with improving schoolchildren's reading, writing or calculating skills.

The NEA's first and most important goal is to fight against any voucher plan, such as the Cleveland plan which was recently upheld by the U.S. Supreme Court, and which the NEA now forecasts will be imitated in seven or eight other states. Criticizing the Court's ruling in *Zelman v. Simmons-Harris*, NEA's outgoing president Bob Chase proclaimed in his keynote address: Just because the Court said vouchers are constitutional, "that does not make it right."

What's so bad about vouchers? Two reasons, according to Chase's platform histrionics. First, "it is driven by ideologues . . . not by teachers and other educators," and second, it rests on "the big lie . . . that public education has failed."

Voucher advocates must confess to the accuracy of the first charge: their movement is not driven by teachers but by parents and taxpayers. They are no more ideologues than NEA officials.

To support his claim that it's a "lie" to assert that public schools have failed, Chase cited a *Money* magazine report that 10% of public schools are as academically outstanding as the most prestigious private schools. For those who had fuzzy math and didn't learn how to subtract, that means 90% of public schools are not as good as private schools, which is why vouchers look attractive to so many parents.

It's clear that opposition to vouchers is the litmus test for election as an NEA official. Delegates listened to 17 candidates who were each given a couple of minutes to make their case, and most of them used their time allotment to denounce vouchers.

Chase's math is just as fuzzy when he talks about funding for public schools. He shouted in indignation that the President and Congress appropriated "trillions for tax cuts, overwhelmingly for the rich," plus billions for the Pentagon, corporate bailouts and farmers, leaving "no new money left for public education." In fact, Congress authorized a record \$26.3 billion for public education in President Bush's No Child Left Behind Act, plus "such sums as may be necessary" for ten specific programs. That's \$8 billion more than the last Clinton education bill.

The NEA carries on a vicious personal counterattack against parents who oppose NEA policies or

candidates. The Convention passed New Business Item 5, which calls on the NEA to provide "ongoing strategic information to members and affiliates that increase member knowledge of the ongoing attacks designed to destroy NEA and its affiliates, limit educators' freedom of speech and their right to political participation." This information will include "identification and history of individuals and organizations that support the attacks and sources of funds that support these attack efforts," "status reports on tactics used by attack groups at the local, state, and national levels," and "status reports on responses by NEA and its affiliates to deal with the attacks." All this sounds ominously like a database on parents who object to NEA politicking or leftwing curricula.

In NEA newspeak, "attack groups" means groups of concerned parents, and "attacks designed to destroy NEA" means support for vouchers or tax credits. "Limit educators' freedom of speech" means parental efforts to opt their children out of courses promoting premarital sex, gay rights or anti-Christian multiculturalism, and limiting "their right to political participation" means objecting to teachers proselyting schoolchildren on behalf of the NEA's designated candidates, school tax increases and bond issues.

The NEA's Legislative Program for 2002 urges U.S. ratification of controversial United Nations treaties including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child. The NEA passes a resolution every year calling for the teaching of global education in the schools.

The NEA convention delegates approved their usual dozen or more resolutions promoting gay rights and feminist curricula, activities, and employment policies. The NEA's board of directors adopted a new plan to encourage school districts to develop materials for classroom discussions on homosexuality. Resolution I-39 calls on NEA members "to engage in courageous conversations in order to examine assumptions, prejudices, discriminatory practices, and their effects" as a "precursor to change."

The NEA authorized a lobbying effort to include support for a new federal law prohibiting discrimination on the basis of "sexual orientation/gender identification." The NEA awarded official observer status to gay/lesbian/bisexual/transgendered persons at NEA board and executive committee meetings. On the other hand, the NEA refused to rent an exhibit booth at its convention to PFOX (Parents and Friends Of Ex-Gays), a nonprofit Christian group that assists persons trying to leave the gay lifestyle. So much for diversity!

The NEA's principal goal, of course, is to expand jobs that produce dues for the teachers union. New Business Item 57 reveals that one of the purposes of the push for early childhood education is to "organize and represent early childhood employees" who can fill the gaps in the union's declining membership.

Jobs are also behind New Business Item 67 ordering a new NEA push for bilingual education and the development of "strategies for dealing with the English-only movement." The NEA wants to perpetuate the bilingual bureaucracy even though experience proves that the way to teach English to immigrant children is to scrap bilingual education. The NEA is continuing its opposition to the anti-bilingual initiatives passed by the voters in California and Arizona and is trying to defeat similar measures on the ballot in November in Colorado and Massachusetts.

NEA members who don't toe the officially mandated line of NEA bosses never get recognized by the chair. There was no resolution, for example, to criticize the Ninth Circuit U.S. Court of Appeal's decision declaring the Pledge of Allegiance unconstitutional in public schools. But some delegates had their moment of spontaneous rebellion. When the Convention opened with the customary recitation of the Pledge of Allegiance, a large number of delegates shouted "under God!" in their loudest voice and were warmly applauded.

New Court Decisions on Schools

The atheists overplayed their hand. After their string of victories banning prayer and the Ten Commandments, they must have thought the time was ripe to get rid of God in the Pledge of

Allegiance. But our country simply isn't going to stand for the ridiculous Ninth Circuit Court of Appeals ruling. A *Newsweek* poll found that a phenomenal 87% of Americans support "under God" in the Pledge.

Congress should not wait for the Supreme Court to reverse the Pledge decision. Congress should immediately use its Article III constitutional power to withdraw jurisdiction from the federal courts by passing a law that reads: "Judicial power may not interfere with the peaceful invocation of God." Rep. Todd Akin (R-MO) has already introduced a bill that would accomplish this.

The U.S. Supreme Court decision in the Cleveland school choice case *Zelman v. Simmons-Harris* is being heralded as a turning point in judicial policy toward religiously affiliated schools, but the Pledge of Allegiance decision may turn out to be even more influential. It may galvanize Americans to call a halt to the damage that activist judges have been inflicting for decades.

The Pledge decision came hard on the heels of a media orgy about the 30th anniversary of Watergate. The damage Richard Nixon did to the Constitution in Watergate, however, was minuscule compared to the damage he did in appointing Justice Harry Blackmun of *Roe v. Wade* (abortion) fame and Alfred T. Goodwin, the Ninth Circuit judge who achieved his Andy Warhol 15 minutes of fame with a decision that brought down the wrath of everyone from Jerry Falwell to Tom Daschle.

The judge apparently didn't remember how the Pledge of Allegiance issue helped to defeat Michael Dukakis in 1988. A typical liberal who shrank from flag-waving symbolism, Dukakis had vetoed a law to require public school teachers to lead the Pledge of Allegiance every morning, and his nose was rubbed in his own stupidity by George Bush the First.

The Supreme Court upheld the Cleveland school option plan as "a program of true private choice" even though the big majority of voucher-using parents chose (gasp, gasp) religiously affiliated schools. Some are saying that this is the most important school decision since prayer in schools was banned by *Engel v. Vitale* in 1962 or even since segregation was banned by *Brown v. Board of Education* in 1954.

The Cleveland plan is limited to poor children whose parents want to opt them out of some of the worst-rated schools in the country. It won't pay tuition for the children of rich liberal Senators who sanctimoniously orate against school choice for poor kids at the same time that they send their own children to expensive private schools.

While the ruling in the school voucher case applies only to Cleveland, it can usher in a new era of competition in education. It's a significant rupture in the monopoly that the teachers unions hold over tax-supported elementary and secondary schools.

Competition is the only reform that will improve schools. Throwing good money after bad will not help; the public schools already spend several times more money per student than the schools to which the voucher-using parents are so eager to transfer their children. Lengthening the school year or reducing class size will not help. Forcing children into schools at age 3 or 4 will not help. Teaching self-esteem to children who can't read, write or calculate won't help.

In watching the tantrums indulged in by the teachers unions and their allies, such as the National PTA, their principal argument is not First Amendment but financial. They are squealing because school choice plans divert a tiny fraction of public funds to private schools "that are not accountable to the public." But private schools are accountable to the parents who pay the tuition and can withdraw their children if the schooling isn't satisfactory. Public schools are accountable only to the political bureaucracy that the unions control.

In an argument that doesn't pass the laugh test, the teachers unions assert that private schools and their students should pass government tests to assure that their curriculum is of high quality. "High quality" like the Cleveland public schools where only 10% of students can meet the most basic levels of achievement?

In a letter to the *Economist* magazine, American Federation of Teachers president Sandra Feldman boasted that "the official state-mandated study of the Cleveland voucher program ... found that the gains of public-school students were greater than those of voucher students." That's an argument for not against a school-choice plan because it shows that competition works.

School choice plans actually save public funds because private schools consistently educate students for much less money than the public schools are spending. School choice plans may, however, cause the flow of union dues to fall, and that may be the unions' real objection. Hoover Institution scholar Thomas Sowell put his finger on the real problem: "What we are really talking about are the teachers unions wanting to keep a captive audience, for the sake of their members' jobs, and social engineers wanting to control low-income children and their parents."

Public School 'Reform' Won't Help

A teacher re-certification system, under which public school teachers take special "development" courses to boost their knowledge and teaching skills, was started in Illinois in 2000. It is part of a plan that began six years earlier amid the national push to reform education.

Investigative reporting by the *Chicago Tribune* discovered that teachers are claiming "professional development credits" for gambling at the racetrack, enrolling in Tai Chi classes, and learning to give massages. I'm not making this up; stay tuned.

On a hot July Saturday, 45 Chicago-area teachers assembled at the Arlington Park race track where they had lunch, placed bets, and cheered for their favorite horses. The afternoon of gambling was part of a two-day, 15-credit hour class called "Probabilities in Gaming." The teachers learned how to read the racing guide and calculate the payout. Before placing their bets, they discussed betting odds and how to pick a winner, such as considering the age of the horse and the days since his last race.

The final assignment was to create a math problem for their students and discuss it. When the teachers departed, however, the classroom math problem had not come up. Nevertheless, David Spangler, the professor who taught this course, claimed that a day at the race track gets teachers excited about math. "The goal is to take math out of the classroom. This is math in the real world."

The high school and middle school educators enrolled in the class said it was a beneficial professional development tool. One teacher commented, "I think it's a boost to a classroom when you have active stuff kids can do." Another teacher, however, had misgivings. He admitted that, "when I told my wife I was going to Arlington racetrack, she didn't believe I was going to a professional development class."

Other courses to earn "development" credits were held in 2001 at Illinois State University in Normal, Illinois. A masseur calling himself "Magic Fingers" taught 25 teachers the finer points of back rubs, including how to knead kinks out of necks and lower stress levels. In another course on the university campus, Tai Chi expert Al Lawrence led 30 teachers through a Tai Chi workout.

The rules for teacher re-certification specify that teachers must accumulate a prescribed number of credit hours. Other activities that can fulfill the requirement include attending workshops, serving on statewide committees, writing magazine articles, and participating in union activities. Local committees decide whether the credits claimed by the teachers should count, but the teacher unions dominate those committees and the appeals committees.

Nationwide, comprehensive school reform is taking a variety of other forms. It is estimated that more than 8,000 schools will spend \$1 billion this school year on school reform models. Reform can mean anything from tossing out almost everything a school does to implementing a "model" recommended by an outside consultant. The *St. Louis Post-Dispatch* listed ten expensive models that are used in St. Louis schools, including one that brings the school up to \$1,000 per student in extra federal dollars.