

the Messenger

July 2002

Saving the Best for Last

By Peter Doherty

Peter Doherty is senior policy analyst at JMI. Ed Moore is on vacation.

Traditionally, the United States Supreme Court, as its annual October-to-June term draws to a close, releases the rulings in the biggest and most important cases of that year, with the biggest of all coming right at the end. In June 2002, the Court did not disappoint. On the closing day, it released a ruling that may well prove as powerful as *Brown v. Board of Education*.

The case was *Zelman v. Simmons-Harris*, the Court's vote was five to four, and the question it answered was, "Are school voucher programs constitutional?" In answer, Chief Justice Rehnquist, speaking for the Court, said in elegantly powerful language:

The State of Ohio has established a pilot program designed to provide educational choices to families with children who reside in the Cleveland City School District. The question presented is whether this program offends the Establishment Clause of the United States Constitution. We hold that it does not.

The core of the case had to do with whether public monies could be given to students in the form of educational vouchers (called scholarships), and then spent by them to obtain education at parochial or other religious schools, as well as at secular private schools. Opponents contended that to allow vouchers to be used at religiously affiliated institutions violated the Establishment Clause of the First Amendment in that to allow such expenditures was to

"aid" religion. The Court held that, since the vouchers were given to the students and the students made their own choices about schooling, and that since the Ohio voucher law left the choice of school totally open to the students, the law was therefore neutral when it came to religion. Hence it was not a violation of the constitutional prohibitions related to church and state.

Only rarely does the Supreme Court have the opportunity to truly change our society by a single decision, and when it has had that chance, it has not always risen to the occasion. However, this time it did. The implications of the *Zelman* decision are immense. For the first time, it is the clearly expressed law of the land that states may make educational vouchers available to students, provided the students are completely free to use them as they choose. It has the potential—again for the first time—of creating a truly competitive environment in education. No longer will the government, through its government schools, hold a virtual monopoly that can be avoided only by the well-to-do. This new environment cannot but benefit all of society and especially the poorest among us, whose children have been forced to attend public school whether they want to or not, and whether they are being served well there or not.

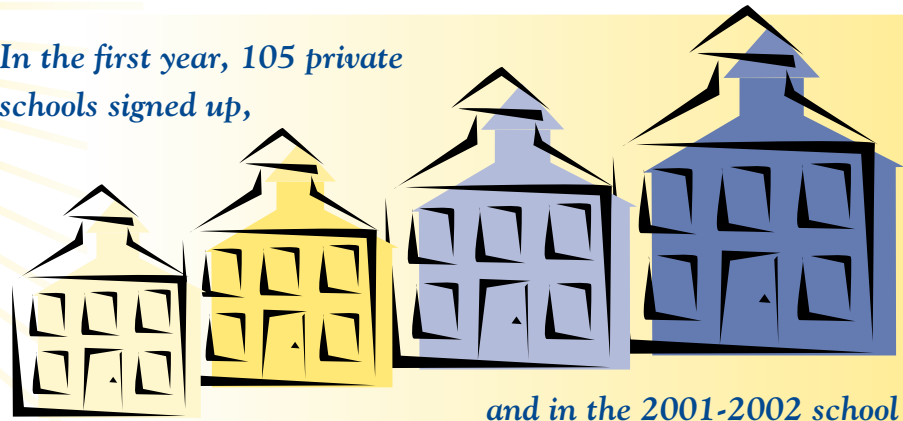
For us in Florida, the *Zelman* ruling provides a strong legal basis for continuing the voucher program that is available to students in failing schools. But that is not all it does. The ruling also presents us with a challenge, one we should respond to at

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SAVING THE BEST

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the first opportunity when the Florida legislature reconvenes in Spring 2003. When the legislature meets, it should adopt a complete voucher program that is available to every child, and that gives to each child true choice in schooling. Such a program can be fashioned quickly. After all, the high court has provided a detailed blueprint to follow.

If we take this opportunity to act and if we act effectively, we can fundamentally change education for the better. True competition will raise the standards of all educational institutions, and those higher standards will yield a better product. This, in turn, will bring us closer to the profound vision of what education ought to be that was given by Frederick Douglass when he wrote, in a passage quoted by Justice Thomas in the *Zelman* decision, “[e]ducation ... means emancipation. It means light and liberty. It means the uplifting of the soul of man into the glorious light of truth, the light by which men can only be made free.”*

Parents Support School Choice

Parental interest in school choice continues to gain momentum in Florida. The Department of Education’s Choice Office reports a 400 percent increase in the number of students participating in the John M. McKay Scholarship Program for Students with Disabilities since the program’s inception two years ago.

Following the release of the Florida Comprehensive Assessment Test (FCAT) scores in mid-May, Choice Office officials reported receiving 230 calls and letters a day from parents inquiring about the program. With the July 1 early registration deadline for the fall, 5,114 students had already enrolled by May 31. The voucher amount is based on the student’s per-pupil funding in the public school. Funding currently ranges from \$4,000 to \$20,000, depending upon the severity of the child’s

disability, with the average voucher at about \$6,000.

The only requirement for a student to become eligible for a voucher is that the parents express dissatisfaction with the child’s progress in the public school in which the student was enrolled for one year prior to transferring to a choice school. The voucher is good for a transfer to another public school in the district or to another public school in an adjacent district, or to attend a participating private school.

The number of private schools participating in the McKay Scholarships has increased dramatically as parental interest has grown. In the first year, 105 private schools signed up, and in the 2001-2002 school year just ended, more than 400 private schools offered services to students with disabilities in grades K-12.*



A Historical Perspective

Next to the right of liberty, the right of property is the most important individual right guaranteed by the Constitution and the one which, united with that of personal liberty, has contributed more to the growth of civilization than any other institution established by the human race.*

President William Howard Taft

JMI Welcomes Joyce Malone

The Institute is pleased to welcome Joyce Malone as its Director of External Affairs. She comes to JMI from the Florida Citizens for a Sound Economy.

Malone has been active in Florida politics for several years. She is a veteran of numerous local, state, and national campaigns.



A graduate of the University of Florida, Malone holds a masters of business administration from Stetson University. She will work from Orlando to build the Institute's membership. As part of her duties, she will travel the state, educating Floridians on the importance of citizen involvement while providing them with information on legislative and economic issues. Watch for her in your area!*

The Class-Size Initiative: A Costly Idea

Florida's teachers, already critical of their salaries, can all but assure themselves of no raises for some time to come if a controversial constitutional amendment is approved by voters this fall.

That's because the price tag for the initiative that would reduce class sizes is a staggering \$20.5 to \$27 billion over the eight years needed to implement this program! That could be more than half the entire \$50 billion annual state budget and almost twice the current \$14.2 billion K-12 education budget. Furthermore, once fully implemented in eight years, the program would cost in excess of an additional \$2.5 billion a year to maintain.

"Forget about pay raises for teachers," said Institute President Ed Moore. "There simply would be no money for raises. This one initiative would devour twice the

entire current education budget or to put it another way, it would consume nearly 135 percent of the current state general revenue budget. How would we fund other vital services, such as health care, prisons, and environmental protection? Are taxpayers prepared for huge increased taxes to fund this expensive initiative?" Moore asked.

Currently, Florida classrooms average 23 students per room in kindergarten through grade 5, and 26 per room in higher grades. Proponents of the initiative, who must collect the required number of signatures for the measure to appear on the November ballot, want 18 students per room in pre-K through grade 3, 22 in grades 4 through 8, and 25 in high school classrooms.

The Florida Revenue Estimating Con-

ference, which by law must determine the fiscal impact of any constitutional amendment, arrived at the price tag on the class-size initiative in late June. It also estimated that it would cost each household in Florida between \$2,800 and \$3,800 in new government spending to get the program up and running, and an additional \$330 in new expenses each year to maintain it.

"Reducing class size may sound like a good idea," Moore continued. "But when you carefully consider the cost of a good-sounding plan, a plan in which best research indicates only marginal, if any, improvement in the quality of education, the idea quickly loses its luster. Florida policymakers can find more effective and less costly ways of improving educational services."*

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