

# Everybody May Win When Court Rules On Minnesota Tuition Tax Deductions

By Jim Lackey

Washington (NC News) — Free legal advice from the highest court in the land.

That, in effect, is what supporters and opponents of tuition tax credits will get when the Supreme Court rules within the next nine

months on Minnesota's tuition tax deduction.

Though the tuition tax credit debate in Washington has centered on several issues, none has been more hotly contested than the question of the measure's constitutionality. And while there are enough differences between the proposed credit and the existing deduction to keep the two plans distinct, the Supreme Court's decision on the deduction still could go a long way toward determining the acceptability of the credits.

The issue also comes to the court at an opportune time for both sides of the debate. Opponents of tuition tax credits would like nothing better than for the court to strike down Minnesota's deduction, thus taking with it any possibility that tax credits might also be found constitutional.

But for supporters of tuition tax credits and other forms of aid to parochial school parents, the Minnesota case (Mueller vs. Allen) provides another opportunity to show that not all such aid is unconstitutional and that even when there might be incidental aid to religion a secular legislative purpose is still being served.

Under the Minnesota plan, first established in 1955, parents can deduct from their adjusted gross income on their state income tax the cost of tuition, transportation and textbooks for their primary and secondary school children. The current maximums are a \$500 deduction per child in grades K to 6, and \$700 per child in grades 7 through 12.

Therein lies a major difference between the Minnesota deductions and

the credits being debated at the federal level. A \$500 deduction might not result in any tax savings if it doesn't put the taxpayer into a lower tax bracket. The tax savings also might be negligible, particularly on a state tax return.

But a tax credit gives taxpayers a dollar-for-dollar reduction in their taxes, in effect a reimbursement for at least a portion of their expenditures for their child's tuition. Some have characterized that as a direct subsidy of religious education by the state.

That then raises a critical second issue; whether the benefit to all taxpayers is broad enough to override any alleged indirect benefit to religion. It is on this issue that the survival of the Minnesota deduction and indeed of any tuition tax credit measure could hinge.

The Minnesota deduction is being challenged partly on the ground that an overwhelming number of the parents who take the tax deduction send their children to religiously-affiliated schools. But the appeals court said that since the deductions were available to public school parents for such expenses as Montessori school tuition or other public school tuition expenses, the program had a secular legislative purpose that did not violate separation of church and state.

Two years earlier, though, the federal appeals court in Boston — ruling on a similar tax deduction plan in Rhode Island — said that although the deduction was available to all taxpayers the fact that most would use the deduction to send their children to religiously-affiliated schools helped

make the plan unconstitutional.

Where the two courts differed was that the court in the Minnesota case contended that the deduction's scope had a neutral effect toward religion, while the court in the Rhode Island case focused on the fact that a majority of those who were eligible for the deduction sent their children to religiously-affiliated schools.

Supporters of the credits already contend that their plan should pass constitutional muster because many tuition-charging schools have no religious affiliation, thus making the credits neutral in purpose. But the Supreme Court's ruling still could give tax credit supporters further insights into how they must craft their proposal to meet the high court's standards.

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## Merton Group Sets Program Of His Songs

The Thomas Merton Society will present Sister Barbara Staropoli, SSJ, singing selections from the Song Cycles, composed by John Jacob Niles, with the texts of several Merton poems, 8 p.m., Wednesday, Oct. 27, at Nazareth Arts Center.

A brief talk on the poetry of the late Trappist monk, as a background for the poems to be sung, will be given by Sister Monica Weis, SSJ, assistant professor of English at Nazareth College.

Niles, who died this year at the age of 90, was a composer, and collector of American folk songs, ballads and carols, and composed the song cycle in 1972. On tours of the U.S. and Europe, he sang these songs, accompanying them on the dulcimer. The Merton Society was founded by Msgr. William Shannon of Nazareth.

## Advent

Father John Walchurs, SJ, will lead an Advent Retreat, Dec. 3-5, on the theme of "Bethlehem: A Modern Look at Poverty," at the Cenacle Renewal Center, 693 East Ave. Further information is available by calling the Cenacle Ministry Office, (716) 271-9354 bms

## CDA Joins Effort for Tax Credits

The Catholic Daughters of the Americas has reaffirmed its commitment to obtain more than one million signatures in the drive to obtain tuition tax credits for parents of children attending non-public schools.

At a recent executive board meeting in New York City, the CDA said it is joining the Knights of Columbus and several other organizations in the legislative effort to see the proposal through both houses of Congress.

In other actions, the CDA heard a report on Action for Responsible Television, a program in which it is engaged, which monitors prime-time television programming this Fall.

It also agreed to ask each of its 1,569 courts to join the Catholic League for Religious and Civil Rights, an organization which monitors anti-Catholic activity.

In addition, the group established a vocations promotion to be used nationwide in conjunction with local bishops; and the CDA also agreed to a membership drive with an aim of increasing the numbers in the group by ten percent over the next two years.

## For the Record

A description of the diocesan Division of Education in the Oct. 13 edition of the Courier-Journal should have included:

### YOUTH MINISTRY

This department, situated at the Pastoral Center, develops, supports and coordinates programs for all youth leaders, both paid and volunteer, and for youths themselves. The director provides consultation services to parishes, schools and institutions in the area of Youth Ministry. The department also helps to facilitate cooperation between and among the other departments of the diocese to meet better the needs of youths between the ages of 13 to 18.



**Calendar**

**FALL SHOW** — Harvest Festival, 1:30 p.m., Sunday, Oct. 31, Helmer Nature Center, 154 Pinegrove Ave., West Irondequoit.

**SEMINAR** — On wood heating, 7:30 p.m., Thursday, Oct. 21, Helmer Nature Center. Free but reservations required, 342-6586.

**DANCE** — "An Evening with Edward Vilella," 8:30 p.m., Friday, Oct. 22, main auditorium, Nazareth College Arts Center. Tickets: adults, \$10; students, \$8.

**MUSIC** — Carl Dengler and his orchestra, 3 p.m., every Sunday, main auditorium, Nazareth College Arts Center. Free.

**BUSINESS COURSE** — "Increasing Your Business Efficiency," a four-session course, 7-9 p.m., Tuesdays, Nov. 2-23, St. John Fisher College. \$40. fee. For registration information contact Office of Continuing Education at Fisher, 586-4140, ext. 365.

**SENIOR MATINEE** — "Another Thin Man," starring William Powell, Myrna Loy, 1:30 p.m., Thursday, Oct. 21, George Eastman House.

**RED CROSS** — Blood drive, 2-8 p.m., Thursday, Oct. 21, Gates Community Center (Town Hall), 1605 Buffalo Road.



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