

# SOUTHEAST LAW INSTITUTE™

**A. ERIC JOHNSTON**  
President  
General Counsel

1200 Corporate Drive, Suite 107  
Highway 280 - Meadow Brook Corporate Park  
Birmingham, Alabama 35242  
E-mail: [AEJ@SoutheastLawInstitute.org](mailto:AEJ@SoutheastLawInstitute.org)  
[www.southeastlawinstitute.org](http://www.southeastlawinstitute.org)

**HARRY O. YATES**  
Executive Director  
Associate Counsel

Telephone: (205) 408-8893

Facsimile: (205) 408-8894

January 2003

Dear SLI Supporter:

Issues are already beginning to heat up for this year's legislative session. As usual, education issues are moving to the front. Dr. Paul Hubbard, A.E.A. President, recently held an education summit. Education was an issue in the political races and is always a budgetary issue in the legislature. While the education issues usually focus on public schools, SLI has primary concern with how these issues affect non-public schools. Some of our most important cases have dealt with religious freedom in public schools. These always attract the most attention. However, the ongoing struggle in education involves parental choice, accreditation of non-public schools, and the quality of education for all students.

With the United States Supreme Court's finding laws ruling school vouchers constitutional, many new opportunities arise. The opportunities concern whether or what type of vouchers will the State of Alabama offer. The essence of school vouchers is that parents can choose public or non-public education and receive some form of financial assistance for their choice. In other words, the student need not go only to the public school where he is zoned, but may choose a non-public school and receive financial assistance to payment of tuition. The assistance is not direct, such as the governments' direct pay to a church school, but giving a voucher to the parent to take to a school of choice or giving a tax credit for personal funds spent on tuition. This concept is particularly helpful to low-income families. There will be much discussion on this issue in the future. SLI expects to be involved.

Governor-elect Bob Riley has proposed a Constitutional Commission to review the Alabama Constitution. Over the last several years there has been a constant drumbeat for rewriting the Alabama Constitution. As SLI has explained in the past, we are concerned with the wholesale revision of such an important document. On the other hand, there are many changes which need to be made. We expect the status of the Alabama Constitution itself to be a significant issue and to incorporate a number of separate issues.

This month's educational update is a brief analysis of this year's elections. It may assist you in making your own analysis of what to expect this year. We are optimistic that on the national level good things will be done, but on the local level we have some concern on the status of many issues which are important to you.

Please begin your year with a significant contribution to SLI. We have much work to do. The greater our funds, the more work we can do. We always appreciate your support.

Yours Very Truly,

A. Eric Johnston

**AN EDUCATIONAL UPDATE FROM  
THE SOUTHEAST LAW INSTITUTE™, INC.**

**To:** SLI Supporters  
**Date:** January 2003  
**From:** A. Eric Johnston  
**Re:** Analysis of National and Local Elections

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## Introduction

SLI is not a political organization or a political activist. However, an analysis of elections is helpful to our work in public policy, legal advice and legislation drafting. Many times legal issues and lawsuits arise from legislative enactments. Our analysis is neither Democrat nor Republican, although at a national level, the policies of Democrats seem antithetical to our philosophy. On the state level, Democrat and Republican conservatives make up a strong contingent, though some in leadership are problematical.

## The National Elections

The national arena was a referendum on President George W. Bush's policies. Americans voted in a majority of races for candidates who are pro-life, religious, traditional-thinking Americans. For the first time in 68 years a President gained seats in a mid-term election.

Also, the vote was on the policies of Democrats, the party of abortion and adultery, says columnist Ann Coulter, relating to leaders like Bill Clinton, Ted Kennedy and Gary Hart. Arkansas Republicans rejected their incumbent Senator Tim Hutchinson, who left his wife for a staffer and was the only Republican senator to lose. Similarly, referendums in the several states on legalizing pot, forbidding gay marriage, banning smoking in public places, and similar initiatives, were appropriately passed or rejected. Yet, even after this, Democrats elected Nancy Pelosi (d-CA) as House Minority Leader. This is a first for women (which is good), but she has an American Conservative Union rating of 2% (which is bad).

The United States Senate and House of Representatives are now controlled by Republicans. There is a Senate majority of 51 to 48. The conservative political newspaper, *Human Events*, analyzed that the change in the House was a net gain of 8 conservatives and four center right with a loss of 3 liberals.

For the Senate, this means federal judges will be appointed. They will be strict constructionists who will interpret and apply law, rather than imagine and manipulate law. Legislation such as the Partial Birth Abortion Ban is expected to pass. Working with the President, strong moral and fiscal measures will pass.

## The Alabama State Elections

While conservatives rejoice on the national level, there is not as much reason to rejoice on the Alabama state level. While we regret the loss of such conservative leaders as Senators Armistead and Lipscomb, we have new passionate leaders like Senator-elect Hank Erwin, and there are many conservatives re-elected, both Republican and Democrat. The distressing thing is the balance of power has not changed.

If there was true conservative Republican leadership and control in the Senate and House of Representatives, Alabama would be much like the U.S. Congress. But, the key in Alabama is not so much party as philosophy. In both the Senate and the House, there are a significant number of conservatives, regardless of party. The most significant problem is in the Senate where the leadership are liberal Democrats. In the chair is a new inexperienced Lieutenant Governor, Democrat Lucy Baxley. With greater power, is the Senate President Pro Tem, Democrat Lowell Barron.

With the power to control the important committees, liberal senators will hold the key to whether bills will even be considered at the lowest level, *viz.*, in committee. For example, the Woman's Right to Know Bill languished for years in the Senate Judiciary Committee because Senator Roger Smitherman used his singular power as Chairman to not permit even his committee to consider the bill.

We expect conservative senators and representatives to ban together and try to move good bills. The reality may be four years of keeping bad legislation from passing. This may be helped by the election of Governor-elect Bob Riley. He will give much needed relief at the top. Much will depend on his ability to build working coalitions with conservative legislators, Republican and Democrat. We expect him to put forward a conservative agenda. However, we expect problems. For example, Senator Barron has already suggested a conservative coalition is not necessary and that Governor-elect, Bob Riley's legislation will get a fair hearing. We doubt that.

SLI will assist on bills for further abortion regulation, protection of parental rights, educational choice, religious freedom and other important issues. However, we expect the real fight will be conservatives' constant opposition to bills which legalize gambling and alcohol sales, regulate church schools, establish homosexual rights, and other pet projects of the liberal mind. We do not expect the lottery to be an issue he supports; in fact, it is doubtful anyone will ever introduce a lottery bill. We will be extremely concerned with expected efforts to re-write the Alabama Constitution which may diminish recognized fundamental rights, such as religious freedom, or repeal protections, such as the gambling prohibition.

### **Conclusion**

SLI is not partisan. We must operate within the existing environment of law, public policy and politics. While national forums will offer opportunity for positive laws and developments, local forums will create fear of serious impairment of the wholesome family traditional domicile we call Alabama.