
A S S O C I A T E D B A P T I S T P R E S S

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Rejection of Louisiana abortion law
may produce showdown on Roe v. Wade

By Lacy Thompson

ALEXANDRIA, La. (ABP) -- A federal judge declared Louisiana's strict abortion law unconstitutional Aug. 7, setting in motion a long-awaited appeals process that is expected to reach the U.S. Supreme Court.

In striking down what some have termed the nation's strictest abortion law, U.S. District Judge Adrian Duplantier also canceled a scheduled trial on the matter set for next week. The judge said such a trial could not change the ruling required by Roe v. Wade, the 1973 U.S. Supreme Court decision which legalized abortion in this country and which still stands as law.

The ruling on the abortion law was not unexpected, since anti-abortion advocates had pushed the law in hopes it would provide a test case for overturning Roe v. Wade.

In an Associated Press news report, the director of the Louisiana chapter of the American Civil Liberties Union acknowledged that fact. "The intent of the (Louisiana) legislature's action was to get a test case challenging Roe v. Wade," Shirley Pender explained. "The only relevant ruling is the one coming down from the United States Supreme Court."

Louisiana Attorney General William Guste responded to the Aug. 7 decision by announcing plans to file immediate appeals. Guste said he will ask the Fifth U.S. Circuit Court of Appeals to reverse the ruling, as well as ask the U.S. Supreme Court to bypass that level and take up the matter itself.

Depending on the success of Guste's moves, the high court could act on the appeal as early as this fall.

James Smith, director of government relations for the Christian Life Commission, called the defeat of Louisiana's tough abortion law "disappointing" but predicted it may bring the reversal of Roe v. Wade.

Given the current make-up of the Supreme Court, Smith said, "the votes are there at least to uphold the Louisiana law, and in doing so Roe will be overturned."

In addition to the Louisiana law, other challenges to abortion rights are expected to come from Pennsylvania, Utah and Guam, each of which has passed restrictive abortion measures. "There is a matter of debate if this (Louisiana law) will get to the Supreme Court before others," Smith said.

But with so many challenges headed for the high court, Smith predicted "the days of the so-called constitutional right to

abortion...are numbered."

The Louisiana law prohibits abortion except to save the life of the mother and in cases of rape and incest. Pregnancies resulting from incest may be terminated within the first 13 weeks, provided the crime was reported to police. Pregnancies from rape also may be terminated in the first 13 weeks, provided the crime was reported to police within seven days and the victim was examined by a doctor within five days of the rape to determine whether she was pregnant prior to the incident. The law stipulates the doctor who conducts that examination cannot be the same one who performs the abortion.

The Louisiana law sets stiff penalties for physicians who perform abortions in other instances -- one-to-10 years in jail and/or a fine of \$10,000 to \$100,000. There are no penalties for a woman who receives an abortion.

Louisiana legislators passed the abortion law in mid-June, only to see it vetoed by Gov. Buddy Roemer, who insisted it was unfair to women, showed a distrust of physicians and "unduly" burdened victims of rape. State legislators then overrode Roemer's veto -- the first time this century and perhaps the first time in state history a Louisiana governor's veto was reversed.

At the time of passage, observers noted it would be difficult for the Supreme Court to consider the Louisiana law without addressing *Roe v. Wade*.

The recent ruling and the start of the appeals process marks another step in what has been a determined, sometimes raucous two-year process for Louisiana.

That process began in July 1989, when the Supreme Court ruled states could take more control in regulating abortions. A move was made immediately to reinstate existing Louisiana laws that prohibited abortion but which had been ruled unconstitutional in 1976. However, the courts declined to reinstate those measures, throwing the issue into the legislative arena.

In 1990 the state legislature twice passed bills restricting abortion, only to have both vetoed by Roemer. Lawmakers were able to override Roemer's veto of a third bill -- the current legislation -- this summer, setting the stage for the federal judge's Aug. 7 reversal.

Even as that legislation begins its journey through federal courts, however, a state-court hearing on the Louisiana abortion law remains set for Aug. 29. Pro-abortion advocates are seeking to overturn the law at the state level also, arguing the Louisiana Constitution includes a right-to-privacy clause that prohibits such abortion legislation.

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Court decision spawns
First Amendment debate

By Pam Parry

WASHINGTON (ABP) -- How far can government go in restricting constitutional freedoms in federally funded enterprises?

Members of the Senate Judiciary Subcommittee on the Constitution recently explored that question in the wake of the U.S. Supreme Court's controversial decision in *Rust v. Sullivan*. In a 5-4 decision

in May, the high court upheld a ban on abortion counseling at family-planning clinics that receive federal Title X funds.

The Rust decision has spawned much debate in both houses of Congress, which are considering legislation to overturn the ban. While abortion has been the battleground, ban opponents say the First Amendment implications of Rust are much broader than abortion.

"The implications of the stone that is dropped in the lake in Rust v. Sullivan sends ripples far beyond abortion," said subcommittee chairman Paul Simon, D-Ill.

Simon introduced witnesses, representing various viewpoints, to testify before the hearing.

Defending the government's right to control use of the funds was Leslie Southwick, deputy assistant attorney general at the U.S. Department of Justice. "The First Amendment does not require Congress to write blank checks," he said.

Southwick said the Rust decision continues on "a path well trod by previous Supreme Court decisions." The high court held that when a recipient of federal funds uses those dollars to speak on a certain topic, Southwick said, "the government retains the authority to establish limits on the use of those funds."

The department "has no doubt that Rust reaches the correct and indeed inevitable conclusion," Southwick said. "The government need not fund viewpoints with which it disagrees; it simply may not interfere with privately funded expression.

"In a sense, when the government funds a certain view, the government itself is speaking," he continued. "It therefore may constitutionally determine what is to be said."

Simon took exception to Southwick's assessment that government can determine speech if funding is involved.

Southwick said Rust does not allow government to act as censor. "The decision merely recognizes that when the government sponsors speech for certain purposes, it has the right to regulate the content of the government-funded portion of the message," he said.

Taking the decision outside the realm of Title X and applying it to libraries that receive federal assistance, Simon asked Southwick if Rust allows the government to dictate what books those institutions may put on their shelves.

Rust would not permit the government to tell libraries what books they may have on their shelves, but it could dictate what books they may purchase with federal dollars, Southwick said.

For the federal government to say what books a library may have is suppression of free speech and freedom of the press, Simon responded. "I admonish the Justice Department about where we are going in Rust," Simon added.

Judith Krug, director of the American Library Association's Office for Intellectual Freedom, said there have been unverified reports of librarians being pressured to remove all materials mentioning abortion because of the Rust ruling.

"If this should ever come to pass," she said, "it would only be a matter of time before libraries are pressured to remove and, of course, not to acquire, material containing that day's unspeakable idea.

"The crack in the dike would rapidly widen to allow the torrent of hates to sweep away ideas and points of view with which the most powerful or the most vocal disagree."

Floyd Abrams, a New York attorney, told the subcommittee the decision will "require as a price tag for the acceptance of public

funds nothing less than a forfeiture of First Amendment rights. In a manner unprecedented in our history, the court affirmed in Rust the suppression of speech solely because of its content simply because of the presence of government funding.

"And suppression it is."

Lee Bollinger, dean of the University of Michigan Law School, said the decision is "constitutionally unwise and unlikely to survive over the long run of constitutional interpretation. It is not unusual in a new area of First Amendment jurisprudence for a case to take a wrong turn, and that is what I believe has happened with this decision."

Rust "has at its core a perspective on the First Amendment that is at war with the established jurisprudence," he continued. "It is one of the most deeply held principles of the First Amendment that the government not discriminate on the basis of viewpoint."

Other witnesses raised First Amendment issues related to funding of arts and non-profit organizations.

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Richmond seminary unveils
unique confession of faith

By Robert Dilday

RICHMOND, Va. (ABP) -- A unique confessional statement recently formulated by the Baptist Theological Seminary at Richmond is a "dramatically important" event in Baptist life, says seminary President Thomas Graves.

Graves and other faculty members of the moderate-conservative school unveiled the statement at an Aug. 1 press conference, held in their new quarters on the campus of the Presbyterian School of Christian Education on Richmond's north side.

The seminary, founded by the Southern Baptist Alliance, moved last week from Northminster Baptist Church in Richmond, where it had been located since May 1990.

Preparing a confessional statement detailing its doctrinal stance has been considered an important step in soliciting additional support for the seminary, which begins its first classes Sept. 11.

However, Graves said BTSR's statement is different from those adopted by seminaries affiliated with the Southern Baptist Convention.

"What we're doing is very important for Baptist life," he said. "In the past few years (the SBC) has been torn apart by a narrow interpretation of creedal statements. ... We want to say who we are in a non-creedal way."

Graves said BTSR has done that through a "covenant" developed and endorsed by faculty members. Attached to the covenant are "personal confessions of faith," or testimonies, from the school's full-time faculty members describing their understanding of the Christian faith.

Future faculty members will "affirm the covenant" and then "announce their own understanding of the faith" by adding to it their own testimony, said Graves.

This "thoroughly Baptist" procedure is a new way of clarifying doctrinal stances of seminary professors, he said.

"I hope it will move not only seminaries but Baptists in this

entire region away from a strict, narrow interpretation of creeds," the president said.

"This is a dramatically important turn in Baptist life from what has gotten us in trouble (in the past)."

Southern Baptist confessions of faith (like the "Baptist Faith and Message" statement and the Abstract of Principles used by Southern and Southeastern Baptist Theological seminaries) traditionally begin by affirming the authority of Scripture. The first "pledge" in BTSR's covenant, however, is to Jesus Christ as "the center of this institution as well as of our individual lives."

Graves said the faculty's motive was "not to diminish the role of Scripture" but to "point toward Christ."

The covenant describes the Bible as "sure and certain authority for understanding the nature of God, God's work in the world, and our role as servant in the Kingdom of God." It affirms Scripture as "standing over all theories, interpretations, creeds, and confessions."

The covenant also commits the seminary to:

- Foster personal spiritual development.
- Support the ministry of the local church.
- Further the "evangelistic and mission enterprise of the Christian faith."
- "Regard all persons as children of God regardless of age, or sex, or race, and to develop a community that honors God's call to ministry of any person, whether male or female, lay or clergy."
- "Preserve and nourish the Baptist traditions of freedom: the freedom of the individual under God; the freedom of the local church as it is led by Christ; the freedom of the church to exercise its prophetic role while avoiding entangling relationships with the state; and the freedom of the state as it performs its duties without interference in the affairs of the church."

The covenant adds: "While upholding the distinctives of Baptist life, we will seek to cooperate with persons of other denominations in the work of Christ's kingdom."

The seminary's move to the Presbyterian School of Christian Education, across the street from Union Theological Seminary, will provide more spacious quarters for BTSR. Administrative and faculty offices and classes will be located in portions of four buildings leased from the school.

In addition to Graves, other full-time faculty members are Linda McKinnish Bridges, assistant professor of New Testament, and Thomas Halbrooks, dean of the faculty and professor of church history.

Adjunctive and visiting faculty include James Luther Mays and Jerome Creach, Old Testament; Robert Dale, practical theology; and Chevis Horne, preaching.

Staff members are Frank Goare, director of development; Beth Harris McMahan, director of communications and student services; and Nell Summerlin, director of administrative services.

In other news, the seminary announced that 271 persons have accepted invitations to become honorary alums, a role which Graves said is open to any friend of the seminary.

Some of the honorary alums are graduates of Southeastern Baptist Theological Seminary, who were encouraged in a June letter from former Southeastern president Randall Lolley to support the new school.

Saying Southeastern "now embraces an alien vision," Lolley encouraged "estranged" Southeastern alums to share their allegiance with the new seminary. "We need a school, and they need alumni; it is

that simple," Lolley wrote.

Plans call for the group to elect officers and to be active in recruiting and others areas of development, according to Graves, a former professor at Southeastern.

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Bailey Smith resigns Jacksonville church

JACKSONVILLE, Fla. (ABP) -- Saying "a broken engagement is better than a bad marriage," Bailey Smith resigned from North Jacksonville Baptist Church in Jacksonville, Fla., just three days before he was to assume the pastorate.

Smith, an Atlanta-based evangelist and former president of the Southern Baptist Convention, will return to full-time evangelism, his vocation since 1985.

"We are as shocked as anyone else," said Chris Coram, business administrator for the 5,000-member church, Jacksonville's second largest.

In a letter to the church, Smith cited four reasons for the change of heart: his health, his lack of "peace" about the decision, a "rediscovered" call to evangelism, and the Bible's confirmation of the role of the evangelist.

Smith said he regrets any hurt or embarrassment caused the church. "I have not one negative thought about the church or those people," he said. "I loved those people. And I think that was my biggest problem," noting his concern for the church's members prevented him from seeing God's will clearly.

Smith, 52, accepted the Jacksonville pastorate June 16. He had preached at the church several times since and was already involved in church decision-making. He was in the process of closing down his evangelism association's office in Atlanta and was to start his work at the church officially Aug. 5.

"We tried and tried and tried to make it work, but there just was no peace," he told Associated Baptist Press Aug. 2, the day after he notified the church of his decision.

Coram said he knew of no unstated reason for Smith's reversal. "Our church had done everything Dr. Smith had requested," he said.

Smith denied that a dispute over the minister of music, who was terminated at Smith's request, influenced his decision. "That had nothing to do with it at all," he said. "The pulpit committee had made it clear to me they expected me get my own staff."

Smith offered the music position to an Oklahoman, who already had quit his job when the evangelist made his surprise announcement. The outgoing minister of music has since taken another position.

Other factors had clouded the evangelist's arrival in Jacksonville. The North Jacksonville church is laboring under a heavy debt, which has forced spending restrictions at the church. And the largest-ever church bond default, at Smith's former pastorate in Del City, Okla., had attracted publicity both in the national press and a Jacksonville newspaper.

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--By Greg Warner

Chafin to retire,
focus on writing

LOUISVILLE, Ky. (ABP) -- Kenneth L. Chafin, pastor of Walnut Street Baptist Church in Louisville, Ky., will retire on his 65th birthday, Nov. 18.

Chafin has been pastor of the 6,400-member congregation since April 1988. The former seminary professor has been a leader in the moderate-conservative movement in the Southern Baptist Convention during the past decade.

Chafin, who has written four books, said in retirement he wants to focus on writing, both for adults and children. The pastor, who had heart bypass surgery in 1989, said health is not a factor in his retirement decision.

"I'm feeling great, but there are things I want to do," he explained. "The energy that being in better health has brought me has renewed a sense of stewardship of the things I've learned in 45 years of preaching and teaching."

Chafin taught at Southern Baptist Theological Seminary in Louisville twice: as the Billy Graham professor of evangelism, 1965-69, and as the Carl Bates professor of Christian preaching, 1984-88.

He was a professor at Southwestern Baptist Theological Seminary, 1957-65; evangelism director for the Southern Baptist Home Mission Board, 1969-72; and pastor of South Main Baptist Church in Houston, 1972-84. He had student pastorates in Oklahoma, New Mexico and Texas.

He is a graduate of the University of New Mexico as well as Southwestern Seminary, which he later served as trustee chairman.

Chafin said he and his wife, Barbara Ann, will remain in Louisville and will maintain their membership at Walnut Street.

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EDITOR'S NOTE: ABP is working on another late-breaking story that will be of interest to many of you. CompuServe users please check your E-mail box Monday at about 10:30. All others may call the ABP office Monday.

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