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Fellowship wants to expand
missions program for 1993

By Greg Warner

ATLANTA (ABP) -- Early success of the Cooperative Baptist Fellowship's mission program has prompted mission leaders to expand their plans for 1993.

The Fellowship's missions committee, meeting July 23-24 in Atlanta, approved several new projects -- including a half-million-dollar outreach into Albania -- and set a goal and theme for the Fellowship's first missions offering.

Already this year, the Fellowship has raised enough money to fully fund its 1992 missions projects, estimated at \$1 million, according to CBF coordinator Cecil Sherman. Mission strategists now are planning to expand the \$2.5 million missions budget established for 1993.

"The sad thing and the joyous thing is we didn't budget high enough," Sherman said. "We will correct that next year."

Sherman described Baptist response to the Fellowship's mission effort as "more gratifying, more generous than we had hoped." Currently 653 Baptist churches are channeling money through the Fellowship, Sherman said, and the roll increases by about 36 churches a month.

Sherman said many more people have sought appointment by the Fellowship than the organization can afford to hire now. "Getting money to employ them is the great engine that drives us," he said. Almost all are Southern Baptist missionaries dissatisfied with the current direction of their Foreign Mission Board.

Six missionaries, or "missioners" as termed by the Fellowship, already are under appointment by the organization, and CBF leaders say a total of 20 will be on the payroll by early 1993. Expansion of the missions program likely will increase that number.

To fund the expansion, the Fellowship will sponsor a national missions offering beginning this fall. The twice-annual offering will be promoted in the spring and fall.

Sherman conceded the Fellowship's offering will compete with the much larger offerings already conducted by the two Southern Baptist mission boards. "In that one dollar cannot be spent in two places, it is competitive," he said.

But, he added, the Fellowship offering "is not designed to diminish" the traditional Southern Baptist offerings -- the Annie Armstrong Easter Offering for home missions and the Lottie Moon Christmas Offering for foreign missions. "I suspect most of those people who give to us will also give to the other two," Sherman said.

The Fellowship's 1992 offering, arranged around the theme "Keeping the Promise," has a goal of \$2 million. The bulk of the proceeds -- \$1.2 million -- will support Fellowship's missionaries.

The offering also earmarks \$345,000 for the Baptist Theological Seminary at Ruschlikon, Switzerland, which was defunded by the Southern Baptist Foreign Mission Board last year, and \$455,000 for "the hurting, hungry and homeless."

The Fellowship hopes to send four new missionaries to Albania, which only recently opened to Western mission workers. Keith Parker, the Fellowship's missions coordinator for Europe, took a fact-finding trip to the country in July.

Following Parker's trip, members of the Fellowship's global missions ministry group approved plans to spend \$452,000 on the Albania project -- \$240,000 on personnel, \$200,000 on support programs, and \$12,000 to help Russian Baptists establish their own mission in Albania. The Albanian project is being coordinated with the European Baptist Federation.

Other overseas projects approved by the CBF's global missions group in July include:

- A partnership with European Baptists to help the former Soviet republics employ church starters -- \$100,000.

- Funds for hunger and emergency relief in Europe, distributed through the European Baptist Federation -- \$100,000.

- Funds for an EBF project to aid the children of Chernobyl.

- Support for a mission to aborigines through the Aboriginal and Islander Baptist Council of Australia -- \$50,000.

Unlike the Southern Baptist Convention, which has separate agencies to conduct foreign and home missions, the Fellowship handles both overseas and stateside missions through one body, its global missions ministry group, which is co-chaired by Jimmy Allen of Atlanta and Jean Bond of Starkville, Miss.

During its July meeting, the global missions group approved stateside projects that target internationals and urban dwellers.

Funding was approved for international ministries sponsored by three churches: University Baptist Church in Getzville, N.Y., \$24,000 for 1993; Mountain View Baptist Church in Boise, Idaho, \$13,100 for one year; and College Park Baptist Church in Orlando, Fla., \$79,000 for 1992-95.

The missions group approved two urban ministry projects for 1993 -- one in the United States and one in Eastern Europe. No dollar figure was set.

The group decided to consider participating in former president Jimmy Carter's Atlanta Project, designed to improve the quality of life in urban neighborhoods.

The group also agreed to study ways in which the CBF can start new congregations that will "be affiliated with or support the work of the Fellowship."

A five-member personnel committee was formed from among group members to evaluate and recommend prospective missionaries.

The Cooperative Baptist Fellowship was established last year by Southern Baptist moderate-conservatives displeased with the current leadership of the Southern Baptist Convention and its agencies.

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American Christians giving less,
churches keeping more, study finds

CHAMPAIGN, Ill. (ABP) -- American Christians continue to give an ever smaller percentage of their income to churches, and a decreasing percentage of what they give goes beyond the church to benevolent and missions causes.

That's the finding of John and Sylvia Ronsvalle, co-authors of a new independent report, "The State of Church Giving through 1990."

With a grant from the Lilly Endowment, the Ronsvalles have tracked giving patterns from 1968 to 1990 in 31 U.S. denominations, including the Southern Baptist Convention.

In 1990, giving as a percentage of income reached a 23-year low among these 30 million church members, they found.

This indicator has been sliding slowly downward since 1968, when church members on average gave 3.05 percent of their income to their churches. By 1990, that had decreased to 2.60 percent of income.

Further, the rate of this 23-year decrease accelerated between 1985 and 1990, they found. The percentage of income donated declined 0.19 percent in that five-year period, compared to a 0.26 percent decrease in the preceding 17-year period of 1968 to 1985.

But as Christians have been giving smaller percentages to churches, their own personal wealth has been increasing, the Ronsvalles point out. For example, U.S. per capita disposable personal income increased 11 percent from 1985 to 1990, but per capita giving increased only 3 percent.

Figured in current dollars, total contributions to churches have increased somewhat every year since 1968. But figured in constant 1982 dollars to adjust for inflation, contributions decreased in 1990 for the first time since 1975.

Contributions to benevolences -- defined in this study as any money that passes beyond the local church to mission boards or other denominational causes -- also have increased annually in current dollars. But figured in constant 1982 dollars, contributions to benevolences have declined in nine of the past 13 years.

This trend climaxed in 1990, the only year in which total contributions and benevolence contributions (measured in constant dollars) decreased but contributions to congregational finances increased.

That means churches nationwide collected less in constant dollars but claimed more of that money for themselves, while sending less out for benevolent causes such as missions.

This is especially significant, Sylvia Ronsvalle explained, because it is a national trend that cuts across denominational lines and cannot be explained by internal denominational conflicts.

"While the per-member contribution to benevolences during the 23-year period increased, it was by such a slight amount that one might say support for benevolences was virtually the same in 1990 as it was in 1968," the report notes.

Figured in 1982 constant dollars, the average per capita contribution

to benevolences was \$53.08 in 1968 and \$53.13 in 1990 -- a 5-cent difference.

The Ronsvalles' study also examines the effects of economic recession on church giving. They conclude that there is no clear pattern to equate the beginning of a recession with a decrease in church giving.

However, they warn that decreasing financial stewardship among church members could be a contributing factor to America's current social condition.

"If the church has been a guardian of basic values that benefit any society -- such values as 'love, joy, peace, patience, kindness, generosity, faithfulness, gentleness and self-control' -- and if the level of support the church receives from its members has been declining, then it might not be unreasonable to conclude that there would be negative consequences experienced in...American society," they state in the report.

And that, in turn, could feed the increasing trouble churches have paying their own bills, they add: "Given that caring for others has been an organizing principle of the church from the beginning, the church may have to consider whether it will ever be able to pay its bills if it has no challenging vision around which to organize.

"The answer to that question could be part of the solution to church giving patterns, and may even be part of the solution to the current social anxiety that seems to be affecting American society," they conclude.

A copy of the Ronsvalles' study may be purchased for \$10 by writing them at empty tomb inc., Box 2404, Champaign, Ill. 61825-2404.

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-- By Mark Wingfield

House rejects educational choice;
bill faces likely presidential veto

WASHINGTON (ABP) -- The U.S. House of Representatives has rejected attempts to include President George Bush's plan to channel tax dollars to private and religious schools in a major education-reform bill.

The Neighborhood Schools Improvement Act (H.R. 4323), approved 279-124 Aug. 12, faces a near certain veto because the measure rejects the administration's school-choice proposal. Educational choice would provide federal funds for parents to send their children to the private or public school of their choosing.

Earlier this year, the Senate approved an education bill (S. 2) that would allow only public school choice. A conference committee will have to iron out the differences between the House and Senate versions.

Before approving its bill Aug. 12, the House rejected two school-choice amendments. One would have required choice while the other simply would have permitted it.

Rep. Richard Arme, R-Texas, proposed a requirement that 25 percent of the federal grants be used for choice programs. His amendment was defeated 80 to 328.

Rep. William Goodling, R-Pa., offered an amendment that would allow choice -- even for private schools -- if state laws permit it. It was defeated 140 to 267.

A Baptist church-state specialist applauded the House's rejection of school choice, which the Baptist Joint Committee has opposed on church-state grounds.

James Dunn, BJC executive director, said, "It's incredible to me that

advocates of public education, like Congressman Goodling, could actually support an amendment so destructive to public schools. The Congress has once again reflected fairly and honestly the public will: public monies should be used only for public purposes."

The Southern Baptist Christian Life Commission has not taken a position on school choice, according to Jim Smith, CLC director of governmental relations, because "there is not a consensus" among Southern Baptists on the issue.

"We perceive that Southern Baptists are deeply divided over the educational-choice concept, with a large number holding the view that it is unconstitutional and bad public policy," Smith said. "There is another large number of individuals who believe it's not unconstitutional and indeed is good public policy because the educational establishment needs to be reformed."

The House bill would provide federal funds as incentives for public school districts to undertake reform in all parts of the education system.

Another education bill that would channel tax dollars to private and religious schools was introduced July 22 in both houses of Congress. The GI Bill for Children (S. 3010, H.R. 5664) would provide \$500 million in fiscal year 1993 for \$1,000 scholarships to help low- and middle-income families send their children to public, private and religious schools.

Because of opposition to the original choice proposals, administration officials concede Congress probably will not approve the "GI Bill" this year.

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-- By Pam Parry

Israeli prime minister
offers hope for peace

By Pam Parry

WASHINGTON (ABP) -- Israeli Prime Minister Yitzhak Rabin lauded America's example of separation of church and state as a "unique phenomenon" and offered hope for peace in his region of the world at the National Press Club here Aug. 12.

Rabin said that few Western civilized countries have anything like the American concept of separation of church and state. However, in his country the concept would be difficult to employ because Israel is a Jewish state, he said.

Rabin, the newly elected prime minister, met with President George Bush, top cabinet members and congressional leaders while in the United States. He told National Press Club members that those meetings with U.S. officials "brought about a beginning for change, more confidence, more trust" between the two nations.

"I believe that the basis for good relationships between the United States and Israel is, first and foremost, to build trust," Rabin said.

Rabin said he and U.S. leaders were able to talk frankly about areas in which they could agree and disagree. Rabin and Bush came to an agreement for \$10 billion in U.S. loan guarantees to Israel; the U.S. Congress must approve the proposal.

Rabin emphasized to the group that the U.S. aid was in the form of loans, not grants, and that Israel always has paid its debts.

Israel's policy under the new government is to negotiate peace, Rabin said, adding that the country is changing the order of its national

priorities to focus on its economy and society.

Rabin said Israel is negotiating for a permanent solution to its long history of strife with the Palestinians -- autonomy in the West Bank and Gaza Strip. A solution will take time, he added.

"We will try to be more forthcoming in negotiations without endangering Israel's security," he said. "And hopefully we will start a new chapter in the long, tragic story of the relationship between the Palestinians and Israel.

"Tomorrow I go back to Israel...with good feelings. Something has moved in the right direction in the relationship between the United States and Israel. I hope that the results will prove...for the benefit of Israel, for the benefit of the Middle East, and for the benefit also of the interests of the United States in the region.

"Therefore I look forward with great hope that the future will be brighter than...the past."

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Wife of retired president
of Wake Forest dies

WINSTON-SALEM, N.C. (ABP) -- Elizabeth Ann Randel Scales, one of the first American women to teach constitutional history, died Aug. 11 in Winston-Salem, N.C., at 74.

The wife of James Ralph Scales, president emeritus of Wake Forest University, she lived in Winston-Salem since his election to the Baptist school in 1967 and was active in community and university life.

"In the many years that she was part of the university and Winston-Salem, Mrs. Scales gave her intellect and energy to family, friends and community," said Wake Forest President Thomas Hearn Jr.

Born May 15, 1918, in Pawhuska, Okla, Scales was the first woman to earn a master's degree in politics from Oklahoma University. She taught constitutional history at Oklahoma Baptist University until 1965.

She earned a bachelor's degree in history in 1939 from Oklahoma Baptist, where she met her husband-to-be. The couple was married in 1944. After graduate study at the University of Colorado, she received her master's degree in international relations from Oklahoma University.

She is survived by her husband and a daughter, Ann, professor of law at the University of New Mexico at Albuquerque.

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EDITOR'S NOTE: The following articles conclude a series on religious liberty. Previous stories were distributed Aug. 11.

'Christian nation' preaches well
but not true, experts say

By Mark Wingfield

(ABP) -- "America was founded as a Christian nation."

It's a popular theme among radio and television preachers and still gets a hearty round of applause in some Baptist meetings. But Baptist religious-liberty experts who will endorse that concept are hard to find.

The slogan might play well in certain places, but it just isn't true, according to Baptists with otherwise different views of religious liberty.

"America was not founded as a Christian nation," said Richard Land, a self-described conservative who is executive director of the Southern Baptist Christian Life Commission.

That's a rare point where Land finds total agreement with James Dunn, executive director of the Baptist Joint Committee, a religious liberty coalition often at odds with the CLC's position on church-state issues.

"There is no such thing as a Christian state, though all those people in it may call themselves Christian," Dunn said. "It is impossible for the government to accept the Lord Jesus Christ as its personal Savior. It's an oxymoron."

With that point made, a more subtle parting of the ways comes between Baptists on how to understand America's founding.

Land and other more conservative Baptists like to emphasize the spiritual mindset of America's founders. Dunn and other less conservative Baptists caution that idea can get pushed too far.

"America was founded as a nation that was largely based on Judeo-Christian principles," Land explained. "Most of the founding fathers were people of at least moderate religious conviction. And even those who weren't, like Thomas Jefferson, were operating out of a Christian memory."

Just as America wasn't founded as a "Christian" nation, it wasn't founded as a secular state either, Land said. "We were not founded as a state that would make a dues-paying member of the ACLU happy."

But Dunn puts less credence on claims that America's founders were devout Christians. The majority were not what modern Baptists would consider "traditional Christians," he said, nor were they members of any church.

"The idea comes from the folklore of American culture in which it is legitimate and true that we have bought biblical values to a degree that no other nation in modern times has done," Dunn explained. "It also comes from the political fueling that has tried to appeal to religion and the always-incestuous marriage of secular politics and religious pietism for political purposes."

Robert Snyder, chairman of the political science department at Kentucky's Georgetown College, expresses a view between those two poles.

While a majority of America's founders may have been Christian, they drafted a Constitution that would be more of a practical document than a Christian ideology, said Snyder, a Southern Baptist. "Their concern was, 'How can we live together without destroying each other?'"

Oliver Thomas, general counsel for the Baptist Joint Committee, said that rather than a Christian nation, America was founded as a "chartered pluralism."

That means the nation is "a free marketplace of ideas, where religion would be free to flourish on the strength of its own teaching and truth," he said. "It's the approach I think Jesus took to evangelism: nobody gets coerced to do anything."

On the other hand, "the Bible does say that blessed is the nation whose God is the Lord," noted Michael Whitehead, general counsel for the CLC. That means a person's faith ought to make a difference both in private and public decisions, he said.

Founders intent found to be
whatever suits the cause

By Mark Wingfield

(ABP) -- Just what did America's founders envision when they drafted the First Amendment to the Constitution?

The "original intent" of the founders often gets cited as the rationale for a variety of opinions in the church-state field.

But anyone who's heard more than a few sermons or speeches about religious liberty knows not every expert agrees on what the founders meant. Some build a case for the founders as strict separationists; others say they obviously intended a nation built around Christian principles.

The intent of the founders even was cited by Justice David Souter in his opinion on this year's Lee vs. Weisman case that struck down public school commencement prayers.

One of the issues in the Weisman case was whether government may engage in "non-preferential" promotion of religion. The court was asked to rule that the First Amendment's establishment clause does not prohibit government from lending its support to all religions on an equal basis.

Souter traces the history of Congress' debates over the wording of the First Amendment and declares the framers' intent to prohibit even non-preferential aid to religion.

Souter's opinion was music to the ears of James Dunn, executive director of the Baptist Joint Committee, a Baptist coalition for religious-liberty issues.

"We have been sold a bill of goods by the Reagan-Bush team that the founding fathers didn't intend separation," Dunn said. "Souter's opinion nailed that down."

But others disagree.

Souter's opinion is a "good historical analysis, but there are many good historians on the other side...who draw different conclusions," noted Michael Whitehead, general counsel for the Southern Baptist Christian Life Commission.

While Souter charts the paper trail of how Congress voted on the wording of the amendment, he does not take into account the true intent of the framers, some critics charge.

And other historical evidence backs this side. For example, even though James Madison was one of the strongest early defenders of church-state separation, as president he issued a proclamation of thanksgiving and prayer for the nation.

And George Washington's first act as president was to lead the nation in prayer, noted Richard Land, executive director of the Christian Life Commission. "John Adams did the same thing. He said our government is made for a religious people, and it will not work for any other."

The one thing most students of religious liberty will concede at this point is that the framers often took actions that appear contrary to what they passed as legislation.

"Before the ink was dry on the paper, they started violating it," explained Oliver Thomas, general counsel for the Baptist Joint Committee. "We frequently do not live up to our principles. George Washington, Thomas Jefferson, James Madison -- they all fell short of the goals they set for themselves. But that doesn't mean we shouldn't strive for the ideal."

So, faced with this contradictory evidence, what did the founders actually intend for America?

Again, it depends on perspective.

"I think it's clear that their intent was that there should be no organized, institutional relationship between the national government and the institution of denominations or an individual church," the CLC's Land said.

To properly understand what the founders meant, one must properly understand their era, Whitehead added. America at the time was overwhelmingly Protestant.

"Many who voted to ratify the First Amendment favored state establishments of religion but did not want a federal religion," he said. "They didn't want one denomination to be favored by the national government."

"At the time the First Amendment was ratified, nine of the original 13 states had institutional, official state churches," Land noted. "That became unconstitutional in 1867 with the passage of the 13th and 14th amendments."

But those state churches were "multiple establishments," Thomas countered. "By 1790, we no longer had these exclusive one-denomination establishments.... The five remaining establishments were generic, multiple establishments where various churches received support from the government."

That distinction is significant, Thomas said, because of the current argument advanced by Chief Justice Rehnquist that the establishment clause was not intended to prohibit government promotion of religion, just government promotion of one particular religion.

"The framers not only considered this non-preferential aid when they spoke of an establishment of religion, it was exactly what they were talking about," Thomas said. "The only establishments of religion at the time were the kind that provided non-preferential aid."

Thomas agrees that the debate over original intent can get out of hand. Although the record is "somewhat ambiguous," a study of the founders' prior experiences with religious persecution in Virginia is significant, he said.

"If you look at the Virginia experience,...you have to conclude that the framers intended for government to be neutral in matters of religion, to neither promote nor inhibit religious faith."

The Virginia Statute for Religious Freedom, passed in 1786, became the model for the nation's First Amendment.

But ultimately, the question relates not to history as much as to contemporary interpretation, the CLC's Whitehead said. "Among Baptists, we basically agree on the statement of principles our Baptist forebears held regarding the relationship of religion and public life.

"Where we disagree today is on how to apply those 200-year-old principles to modern American pluralism," he said.

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What the First Amendment
might have been

"The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed."

-- The original proposal submitted to the First Congress by James Madison

"No religion shall be established by law, nor shall the equal rights of conscience be infringed."

-- Madison's proposal as amended by a select committee of the House but rejected by the full body.

"Congress shall make no laws touching religion, or infringing the rights of conscience."

-- A version written by Samuel Livermore of New Hampshire as a substitute for Madison's amended version

"Congress shall make no law establishing religion, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed."

-- The version finally sent from the House to the Senate.

"Congress shall make no law establishing one religious sect or society in preference to others, nor shall the rights of conscience be infringed."

-- One of the first amendments of the House version considered and rejected by the Senate

"Congress shall make no law establishing the articles of faith or a mode of worship, or prohibiting the free exercise of religion."

-- The version sent from the Senate back to the House

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...."

-- The final wording adopted by Congress in 1789 after work by a joint conference committee

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Some key church-state cases
decided by U.S. Supreme Court

1947: *Everson vs. Board of Education of Ewing*. This case established the precedent that has driven many subsequent cases, that the First Amendment forbids aiding one religion over another, or religion in general over no religion.

1961: *Torcaso vs. Watkins*. The court struck down a provision of Maryland's constitution requiring public officials to declare a "belief in the existence of God," with the explanation such a requirement would "aid all religions as against non-believers."

1962: *Engel vs. Vitale*. The court ruled state-written prayer in public schools unconstitutional.

1963: *Abington vs. Schempp*. The court ruled school-sponsored Bible reading and school-sponsored prayer unconstitutional in public schools.

1968: *Epperson vs. Arkansas*. The court struck down a law that barred the teaching of Darwin's theory of evolution, ruling the statute had been enacted strictly for a religious purpose.

1971: *Lemon vs. Kurtzman*. The court struck down teacher salary supplements and public financing for instructional materials in parochial schools. This case established the "Lemon test," which has been used by the court in determining subsequent church-state cases. The test requires government practices to have a secular purpose, that they neither advance nor inhibit religion, and that they avoid excessive entanglement between government and religion.

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1985: Wallace vs. Jaffree. The court struck down a state law requiring a moment of silence in public-school classrooms because the practice "convey(ed) a message of state approval of prayer activities in the public schools."

1989: Allegheny County vs. American Civil Liberties Union. The court forbade the prominent display of a nativity scene on public property, ruling such a display constitutes a state endorsement of Christianity.

1989: Texas Monthly vs. Bullock. The court struck down a state tax exemption benefiting only religious periodicals, explaining such preferential treatment "effectively endorses religious belief."

1990: Employment Division vs. Smith. The court ruled that government no longer needs to have a compelling reason for justifying restrictions on religious practice. In this case, the court virtually abandoned the longstanding standard by which free-exercise cases were determined.

1990: Board of Education vs. Mergens. The court declared student religious groups must be guaranteed equal access to public-school facilities.

1992: Lee vs. Weisman. The court declared unconstitutional prayers by clergy at public school commencement ceremonies, ruling such prayers amounted to "state-sponsored and state-directed religious exercise in a public school."

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Baptist churches deemed vulnerable
without religious-freedom bill

By Pam Parry

WASHINGTON (ABP) -- Every Baptist church remains vulnerable unless the Religious Freedom Restoration Act is approved by the U.S. Congress, according to a Baptist church-state specialist.

Oliver Thomas, general counsel of the Baptist Joint Committee, said the bill (H.R. 2797, S. 2969) would protect local churches and their members by restoring a legal standard lost two years ago.

RFRA, backed by a 51-member coalition of religious and civil liberties organizations, would restore the strict "compelling interest" standard the U.S. Supreme Court formerly required government to meet before restricting religious practice. Under the standard, government could restrict religious practice only to protect an interest of the highest order, such as safety or health interests, and if the least restrictive means of safeguarding those interests had been used.

The standard was first articulated by the court in 1963 in *Sherbert vs. Verner* and was reaffirmed in 1972 in *Wisconsin vs. Yoder*. When the high court struck down the test in its 1990 *Employment Division vs. Smith* decision, it virtually abandoned a judicial standard that took more than 100 years to formulate.

The court first addressed the free-exercise clause of the First Amendment in 1879. The case, *Reynolds vs. United States*, involved a Mormon who claimed a religious duty to practice polygamy even though it was illegal.

In formulating its opinion, the court said religious belief is absolute but religious practice is not. The court established a weak standard empowering Congress to determine which actions were legitimate and which actions disturbed social order.

The court continued to refine its free-exercise principle,

strengthening it in 1940. In *Cantwell vs. Connecticut*, the court said the free-exercise clause was applicable to the states. The court also recognized regulation of religion should not unduly infringe upon it.

The court continued to strengthen free-exercise protections in a series of cases. The 1963 compelling-interest standard is the highest protection afforded religion in the nation's history, but it never assured religious claimants they would win.

In *Smith*, the court rejected the free-exercise principle that it had developed over the century. Since *Smith*, churches cannot even be assured of a fighting chance in free-exercise claims, Thomas said, adding that is why RFRA is so important.

Both the Baptist Joint Committee and the Southern Baptist Christian Life Commission have urged Congress to pass the Religious Freedom Restoration Act.

Without RFRA, Thomas said, churches will face zoning, tax and anti-discrimination problems.

"Churches have no more zoning protection after *Smith* than do adult bookstores," said Thomas, pointing to the case of *Cornerstone Bible Church vs. City of Hastings*.

In that case, a church sued the City of Hastings, Minn., because it claimed a zoning ordinance excluded churches from commercial and industrial zones. Citing *Smith*, the court ruled for the city, comparing the church's rights to those of adult movie theaters.

Thomas also said *Smith* could pose tax problems for churches. In *Smith*, the court held that generally applicable laws that do not target religion are constitutional. Since virtually all tax provisions are generally applicable laws that do not target religion, Thomas said property, income, sales and use taxes would seem to be constitutionally permissible as applied to religious organizations.

Anti-discrimination laws also will apply to religious organizations because of *Smith*, he added.

For example, a recent Hawaii law prohibiting discrimination on the basis of sexual orientation has been interpreted by the state's attorney general as applying to churches. According to the attorney general's interpretation, the law does not apply to the selection of ministers but would apply to other staff members. Under this interpretation, a local church could not refuse to hire a potential church secretary or janitor on the basis of sexual orientation.

Another important anti-discrimination case is pending in California. John and Agnes Donahue, devout Catholics, believe sexual intercourse outside of marriage is a mortal sin, Thomas said. Out of that religious conviction, they refused to rent an apartment to a young, unmarried couple.

The couple sued, and the Donahues were ordered to rent to the couple and pay damages. With the compelling interest struck down by the high court, the California Court of Appeals reversed the lower court ruling by using its state constitution. The court concluded that California did not have a compelling reason for forcing the Donahues to violate their religion.

The California Supreme Court has not yet ruled on the case.

"RFRA does not guarantee a favorable result in any of these cases, but it does increase the chances significantly," Thomas said. "In each instance the government would have to satisfy both prongs of the compelling-interest test and, as demonstrated by *Donahue*, religion often wins."

RFRA has been approved by a House subcommittee and awaits action by the full House Judiciary Committee. The bill was introduced July 2 in the Senate.

***** END. *****