

SOUTHERN BAPTIST HISTORICAL
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Associated Baptist Press

November 18, 2003 Volume: 03-104

NOV 19 2003

IN THIS ISSUE:

- Massachusetts court legalizes gay marriage but stops short of issuing marriage licenses
- Gay marriage won't necessarily spread from Massachusetts, experts predict
- Virginia Baptists withhold Averett money over gay dispute, elect pro-SBC president
- Louisiana Baptists elect officers unopposed, sell retirement home
- Tampa-area pastor re-elected at peaceful Florida Baptist meeting
- S.C. Baptists hold line on budget, approve South Asia partnership

**Massachusetts court legalizes gay marriage
but stops short of issuing marriage licenses**

By Robert Marus

[UPDATED]

WASHINGTON (ABP) -- The first shoe dropped in America's legal debate over gay-marriage when a closely divided Massachusetts court ruled Nov. 18 that a state agency could not deny same-sex couples the right to marry.

The Massachusetts Supreme Judicial Court's 4-3 decision stopped short of issuing marriage licenses immediately to the gay and lesbian couples who were the case's plaintiffs. The justices gave the state's legislature 180 days to enact statutes creating same-sex marriage.

The decision, unless overruled by a state constitutional amendment, will make Massachusetts the first legal jurisdiction in the United States to sanction same-sex marriage. Neighboring Vermont has a civil-union law that offers same-sex couples most of the legal rights of marriage while reserving the term "marriage" for opposite-sex couples.

In the court's opinion, authored by Chief Justice Margaret Marshall, the majority said the decision was a simple matter of interpretation of the state constitution. "The question before us is whether, consistent with the Massachusetts Constitution, the Commonwealth may deny the protections, benefits and obligations conferred by civil marriage to two individuals of the same sex who wish to marry," Marshall wrote. "We conclude that it may not."

Marshall noted that the commonwealth's attorneys had "failed to identify any constitutionally adequate reason for denying civil marriage to same-sex couples" in state law.

She also took care to point out that the court's decision did not extend to religious opinions or sanction of marriage. Noting that civil marriage has been defined in secular terms in the state's law since colonial days, Marshall and her colleagues said their decision was based on secular reasoning as well.

"Many people hold deep-seated religious, moral and ethical convictions that marriage should be limited to the union of

11/19/2003

one man and one woman, and that homosexual conduct is immoral," she wrote, adding that other people support gay marriage based on religious grounds. "Neither view answers the question before us. Our concern is with the Massachusetts Constitution as a charter of governance for every person properly within its reach."

Marshall also referred to the U.S. Supreme Court's June decision, in *Lawrence vs. Texas*, to overturn state laws banning same-sex intimacy.

"There, the court affirmed that the core concept of common human dignity protected by the fourteenth amendment to the United States Constitution precludes government intrusion into the deeply personal realms of consensual adult expressions of intimacy and one's choice of an intimate partner," Marshall wrote. "The court also reaffirmed the central role that decisions whether to marry or have children bear in shaping one's identity."

"The Massachusetts Constitution is, if anything, more protective of individual liberty and equality than the Federal Constitution; it may demand broader protection for fundamental rights; and it is less tolerant of government intrusion into the protected spheres of private life."

The case, *Goodridge vs. Massachusetts Department of Health*, began when seven gay and lesbian couples from five different Massachusetts counties applied for marriage licenses in their respective jurisdictions. All were denied licenses. They then filed suit against the state in 2001.

Their attorney, Mary Bonauto, hailed the decision. "This is a very good day for gay and lesbian families in Massachusetts and throughout the country," she said, according to the Associated Press.

However, Justice Robert Cordy, in one of three dissenting opinions that accompanied the ruling, said the court had overstepped its bounds. "[T]his case is not about government intrusions into matters of personal liberty. It is not about the rights of same-sex couples to choose to live together, or to be intimate with each other, or to adopt and raise children together," Cordy wrote.

"It is about whether the state must endorse and support their choices by changing the institution of civil marriage to make its benefits, obligations and responsibilities applicable to them. While the courageous efforts of many have resulted in increased dignity, rights and respect for gay and lesbian members of our community, the issue presented here is a profound one, deeply rooted in social policy, that must, for now, be the subject of legislative not judicial action."

Massachusetts Gov. Mitt Romney -- a moderate Republican and a Mormon -- reportedly criticized the ruling and announced his support for a proposed anti-gay-marriage amendment to the state constitution. However, Romney also has said he endorses the granting of some marriage-like benefits to same-sex couples.

A more restrictive amendment that would ban marriage and all its "legal incidents" for same-sex couples is currently before the U.S. House of Representatives.

President Bush, calling marriage "a sacred institution between a man and a woman," said, "Today's decision of the Massachusetts Supreme Judicial Court violates this important principle. I will work with congressional leaders and others to do what is legally necessary to defend the sanctity of marriage."

The specter of legalized gay marriage has raised especially dire warnings among supporters of the Religious Right. Tony Perkins, president of the Washington-based Family Research Council, released a statement shortly after the decision saying the decision was "the wake-up call for both the American public and our elected officials."

Perkins continued: "If we do not amend the Massachusetts State Constitution so that it explicitly protects marriage as the union of one man and one woman, and if we do not amend the U.S. Constitution with a federal marriage amendment that will protect marriage on the federal level, we will lose marriage in this nation."

11/19/2003

However, a new study, released the day of the Massachusetts decision, suggests support for the Federal Marriage Amendment may not be as strong as conservatives hope.

The survey on Americans' attitudes toward religion and homosexuality, taken by the Pew Forum on Religion and Public Life nearly a month before the Massachusetts decision, showed 59 percent of the respondents oppose gay marriage. But only 10 percent said they believe the Constitution should be amended to prohibit it, saying normal legislative means would be enough.

Attempts to reach representatives of the Association of Welcoming and Affirming Baptists, a pro-gay-rights group, were unsuccessful by press time.

In addition to the Vermont civil-union law, courts in Hawaii and Alaska have previously ruled that the states did not have a right to deny marriage to gay couples. In those two states, the decisions were followed by the adoption of state constitutional amendments limiting marriage to heterosexual couples. No American court has ordered the issuance of a marriage license to same-sex couples.

-30-

Gay marriage won't necessarily spread from Massachusetts, experts predict

By Robert Marus

WASHINGTON (ABP) -- Will the Massachusetts Supreme Judicial Court's decision to legalize same-sex marriage cause the first collapse in a house of cards that will ultimately lead to gay marriage in all 50 states?

Although many on both sides of the gay-marriage issue have predicted that the long-expected Massachusetts decision will mean that gay marriage will be forced on the rest of the states, that outcome is by no means clear, according to two legal experts.

Some activists have long insisted that one state's decision to legalize same-sex marriage would end up applying to the other states because of a part of the U.S. Constitution called the "full faith and credit clause." That clause requires states to recognize the legal decisions of other states.

That would seem to make it pretty simple for a gay couple legally married in Massachusetts to move to, for instance, Alabama, and demand legal recognition of their union. However, according to a legal scholar at a conservative Washington think tank, full-faith-and-credit-clause law is a bit more complicated than that.

"The full faith and credit clause does not apply automatically for two reasons," Todd Gaziano, director of the Heritage Foundation's Center for Legal and Judicial Studies, said in an interview in the weeks prior to the decision.

The first reason, Gaziano said, is because the clause applies to judgments or court orders of the states -- "and a marriage isn't a final judgment in a lawsuit, or a court order in a lawsuit."

The second reason the clause may not apply to same-sex marriages, Gaziano noted, is because "Congress has the authority -- and the states themselves have full authority -- to take things outside the scope of full faith and credit clause."

For instance, Congress has already passed a measure -- signed into law by former President Clinton -- that bans gay

11/19/2003

marriage at the federal level. The federal Defense of Marriage Act also became the model for similar same-sex-marriage bans on the state level. As of Nov. 18, the date of the Massachusetts decision, 37 states had their own state DOMA laws.

That could mean, according to Gaziano, that gay marriage "offends the public policy" of those states. If the courts agreed, then previous case law suggests that such a state would not have to recognize a gay marriage performed in another state.

"Even without the federal legislation, the area of marriage recognition is one where the states have been able to reserve certain issues with respect [to] public policy," Gaziano added. For example, he said, some states allow first cousins to marry, while such a union would explicitly contradict the public policy of other states.

"We don't have to recognize those marriages," Gaziano said.

A supporter of same-sex-marriage rights agreed that the issue isn't entirely clear. Paul Cates of the American Civil Liberties Union's Gay and Lesbian Rights Project said gay-rights activists may have to rely on arguments other than the full-faith-and-credit one.

Referring to the U.S. Supreme Court's June decision in *Lawrence vs. Texas* overturning state bans on gay sex, Cates said, "while the court said in *Lawrence* that lesbian and gay people [were welcomed] into the American family and said that our relationships should be protected, they specifically said it didn't affect marriage."

Both Cates and Gaziano said an argument leading to legalized same-sex marriage in all 50 states may have to hinge on the due-process and equal-protection clauses of the Constitution.

However, one thing the Massachusetts decision almost certainly will do in the legal realm is provide gay couples, for the first time, with legal standing to challenge the federal Defense of Marriage Act in court.

"By operation of law, all married couples should be extended the more than 1,000 federal protections and responsibilities administered at the federal level," the Human Rights Campaign, a gay-rights organization, said in a Nov. 18 press release.

"However, the so-called Defense of Marriage Act purports to discriminate against same-sex married couples and deny them these protections. Because no state has recognized civil marriage for same-sex couples in the past, this law has not yet been challenged in court."

-30-

Virginia Baptists withhold Averett money over gay dispute, elect pro-SBC president

By Robert Dilday

RICHMOND, Va. (ABP) -- Virginia Baptists have taken action that may end their 144-year-old tie to Averett University unless a conflict over homosexuality and biblical authority is resolved.

Meeting Nov. 13-14 in Richmond, Va., messengers to the annual meeting of the Baptist General Association of Virginia escrowed more than \$350,000 they would have contributed to the Danville, Va., school next year.

11/19/2003

But messengers enhanced their relationship with the John Leland Center for Theological Studies, a five-year-old seminary based in Falls Church, Va., increasing their allocation by 300 percent and moving it from a world-missions budget to the Virginia portion of the budget.

Messengers also cut by 40 percent funds to the Center for Baptist Heritage and Studies, created four years ago when the BGAV ended its ties to the University of Richmond.

The \$14.3 million BGAV budget adopted for 2004 is \$700,000 less than the current \$15 million budget.

For the first time in more than a decade, messengers elected as president a pastor whose church contributes to national mission causes primarily through the Southern Baptist Convention. Don Davidson, pastor of Mount Hermon Baptist Church in Danville, was elected without opposition.

Since BGAV officers have been successfully nominated for many years by a network of moderate pastors, the election was widely seen as a signal that churches sympathetic to the SBC are welcome in BGAV life.

The vote to escrow Averett's allocation was recommended by the BGAV budget committee and passed decisively.

In the proposed 2004 budget unveiled Oct. 7, Averett would have received between \$321,513 and \$350,741. According to the Virginia Baptist Annual, during the 2002-2003 fiscal year the school received \$449,804 from Virginia Baptists, much of it used for scholarships for students from BGAV churches.

But the university attracted the ire of some Virginia Baptists last August when John Laughlin, chair of its religion department, wrote an article in a Danville newspaper endorsing the recent action of the Episcopal Church to ordain an openly homosexual bishop and criticizing a literal method of interpreting the Bible.

Also, in September, John Shelby Spong, a controversial retired Episcopal bishop, lectured on Averett's campus, reportedly saying that the God who is revealed in a literal reading of Scripture is "immoral" and "unbelievable."

In response, the Virginia Baptist Mission Board's executive committee on Sept. 9 expressed its "strong dismay and disagreement."

In early November the budget committee recommended withholding Averett's allocation in the 2004 proposed budget "until such time as the [BGAV] covenant committee .. can reach an agreement with the university as to its future relationship" with the BGAV. If no agreement is reached, the budget committee would propose at the BGAV annual meeting in November 2004 a reallocation of the money.

While the escrow vote passed overwhelmingly, there was some dissent from messengers, who dealt with the Averett recommendation before considering the entire budget.

"This will initiate a process which historically we have rejected," said Don Retzer of Community of Grace Church in Richmond. "I think we can resolve this conflict without escrowing funds."

One student from Averett warned the action will "hurt the university" and "punish its students."

Averett president Richard Pfau read portions of a resolution adopted Oct. 24 by the school's board of trustees, expressing regret at "any perception that Averett University has diverged from its commitment to being Virginia's flagship Christian university," and adding, "The board continues to feel strongly that the individual views of any single member of the academic community are the views of that individual alone and neither speak for nor reflect the views and values of the faculty, administration, board of trustees or Averett University."

John Hamrick, pastor of Fishersville Baptist Church in Fishersville, who frequently articulates conservative views, said, "If we're voting on this based on principle, then we're acting unfairly to Averett by singling them out. But if we're reacting because we're worried about losing churches, then shame on the BGAV."

During discussion on the budget, several attempts were made to reduce the proposed allocation to the John Leland Center, which increased from \$30,000 to \$132,000. The budget committee also moved the school's line item from the World Mission 2 giving track to the Virginia portion of the budget.

Cecil Sherman of River Road Church, Baptist, in Richmond, proposed that Leland's allocation remain at the 2003 level, that it be left in the Virginia portion, that the incoming BGAV president name a study committee to recommend how the school should relate to Virginia Baptists and that the additional money be held in escrow until the recommendation is approved.

Sherman, who is an adjunctive professor at Baptist Theological Seminary at Richmond, said the issue was one of fairness and proportionality. Most seminaries use a widely accepted formula referred to as "full-time equivalences," or FTEs, to determine the number of students for funding purposes. Since student class loads vary from school to school, FTEs offer a way of comparison that simple enrollment figures do not.

Sherman said that according to the Association of Theological Schools, Leland has 23 FTEs, while the Richmond seminary, which also receives BGAV funding, has 163. The 2004 budget would fund Leland at \$6,190 per FTE, but BTSR at only \$920, he said. "There must be some reason for such an enormous discrimination," he said.

But budget committee chair Walter Harrow of Zoar, Va., said it's unfair to compare the costs of a new school like Leland with a more established institution like BTSR. "Start-up costs are much higher," he said.

Harrow also said the budget committee took into account Leland's strategy, which he said is to offer theological education to ministers who are unable to travel long distances for classes. Leland is opening centers around the state.

"We have a crisis of pastoral leadership," he said, referring to the number of BGAV churches with ministerial staff vacancies. "What we need is help with the crisis."

In response to a messenger who asked why Leland was being moved to the Virginia portion of the budget, while BTSR remained in the World Mission 2 giving track, John Compton, pastor of First Baptist Church in Alexandria, Va., and a budget committee member, said Leland did not receive funding from a national denominational body. BTSR receives money from the Cooperative Baptist Fellowship, and the SBC funds the six traditional seminaries.

"Leland is in Virginia and funded exclusively by Virginia," said Compton.

Other efforts to amend the budget would have restored some of the recommended reduction to the allocation for the Center for Baptist Heritage and Studies, which shrank from \$240,000 to \$141,000.

Four years ago, in a dispute with the University of Richmond over including homosexuality in its nondiscrimination policy, the BGAV redirected money traditionally allocated to the university to create the Center for Baptist Heritage and Studies. The BGAV agreed to transfer the funds in increasing amounts over a four-year period until the center received the full amount previously given to the university.

In this final year of the arrangement, the budget committee recommended a 40 percent reduction in the center's funding. Several messengers claimed that violated the BGAV's commitment. But budget committee chair Harrow said since the BGAV had reached the end of a four-year commitment, "we had to make some hard choices."

Harrow described the 2004 budget of \$14.3 million, which is 4.9 percent less than the current year's, as a "reality

budget." As in previous years, the churches may contribute to the budget through three world mission tracks or may create their own.

Don Davidson, who had been serving as BGAV first vice president, was elected president without opposition. His election follows a well-established but unwritten precedent: that the one-term presidency alternate between a layperson and a minister. It also confirms a more recent, but also unwritten, practice: that the first vice president be elected president.

Other officers, also elected without opposition, are Richard Smith, an attorney and member of Columbia Baptist Church in Falls Church, as first vice president; Virginia Carroll, a business owner and member of Louisa Baptist Church in Louisa, as second vice president; and Fred Anderson, executive director of the Virginia Baptist Historical Society, as clerk.

-30-

Louisiana Baptists elect officers unopposed, sell retirement home

By Lacy Thompson and Brian Blackwell

LAFAYETTE, La. (ABP) -- Louisiana Baptists, meeting Nov. 10-11 in Lafayette, approved the sale of the state's retirement center and elected, with no opposition, a slate of officers endorsed by conservatives during the annual meeting of the Louisiana Baptist Convention.

Messengers also affirmed resolutions opposing homosexuality, child abuse and video poker. Other resolutions affirmed Christian marriage and the Louisiana Moral and Civic Foundation.

The decision to sell the Baptist Retirement Center in Arcadia passed easily on a show-of-ballots vote. It ended months of struggle by the Louisiana Baptist facility to address pressing financial needs.

The retirement center has been experiencing considerable financial pressures and trustees announced plans earlier this year to try to return it to solid footing. However, by August pressure had increased and the center's trustees voted to sell the facility instead.

A tentative sales agreement for \$5 million was signed with Danny Prince of Paramount Healthcare. Prince is a member of First Baptist Church of Ruston. The LBC executive board approved the sales agreement in October. However, the agreement had to be finalized by convention messengers last week as well.

"This decision did not come easily," said center trustee chair Bobby Dye, pastor at Central Baptist Church in Bossier City. "The unanimous vote of the board, however, indicated it was the right thing to do."

Messengers also elected a trio of convention officers, all by acclamation.

Philip Roberston, pastor of Philadelphia Baptist Church in Deville and a former president of the LBC executive board, was chosen as convention president to succeed Steve James of Lake Charles. George Bannister, pastor of First Baptist Church in Scott, was elected first vice president and Bendel Johnson, a member at Summer Grove Baptist Church in Shreveport, was elected second vice president.

All three were endorsed by the Louisiana Inerrancy Fellowship, which distributed newsletters urging election of the trio

during last week's convention.

Meanwhile, the election of Robertson by acclamation broke with a long-standing tradition. Usually, once a president has completed his second one-year term, there is a contest to name a successor. Since the mid-1980s, those "open year" elections have been hotly contested, the closest decided by four votes in 1989.

This year, however, Robertson was the only candidate nominated. While there was some speculation about a last-minute opponent, nothing materialized. Instead, the convention saw a rarity -- all three officers were elected by unanimous ballot.

In other action, messengers overwhelmingly rejected a motion that would have allowed local associations to select their own representatives to the convention's executive board. Currently, members of that board are proposed by the committee on nominations and elected by messengers. Messengers voted 755 to 199 not to change the current practice.

In other convention business, the 1,235 messengers approved a reduced state Cooperative Program budget for 2004. It totals \$22 million, which represents a reduction of \$1.9 million from the current mark. The reduction comes as giving for this year continues to fall well behind budget and lag behind last year's record pace as well. The Southern Baptist Convention will receive 35.25 percent of receipts, up from 35.0 percent.

-30-

Tampa-area pastor re-elected at peaceful Florida Baptist meeting

By Barbara Denman

TAMPA, Fla. (ABP) -- Florida Baptists experienced a harmonious meeting and re-elected Tampa-area pastor Tommy Green to an uncontested second term as president during the annual Florida Baptist State Convention meeting Nov. 10-11 at the Sun Dome in Tampa.

The election represented the first time in recent history that a person was re-elected to a second term as president. The re-election was allowed by a 2002 revision in the convention's constitution that permits the outgoing president to serve a second consecutive term.

The meeting, under the theme "Pursue Christ," drew 2,177 in attendance, including 1,260 messengers. Gary Crawford, State Board of Missions president, pointed to the state convention's missions giving as further evidence of the cooperative spirit of Florida Baptists. While other state conventions are experiencing budget deficits in 2003, said Crawford, Florida Baptists have given more than a half million dollars above budget.

The convention recognized John Sullivan's leadership as executive director-treasurer with a reception in honor of his 15th anniversary.

Green, pastor of the 5,000-member First Baptist Church of Brandon, east of Tampa, since 1996, was nominated as president by Tom Biles, director of missions for the Tampa Bay Baptist Association.

Biles commended the Brandon pastor for his leadership during the past year, noting that he had visited over 30 Florida Baptist churches, "representing us with experience, knowledge and grace."

Green served as State Board of Missions president from 2000-2002 and has served on various associational and state

11/19/2003

convention committees. He serves as a trustee of Southern Baptist Theological Seminary.

Messengers re-elected Richard Ledgister, pastor of Sierra Norwood Calvary Baptist Church in Miami, to a second term as first vice president. His congregation is composed primarily of persons from the Caribbean Islands and South America. Ledgister is a native of Kingston, Jamaica.

Jacksonville businessman Jim Tatum, a member of First Baptist Church, was elected second vice president. Ron Hobbs, minister of music/business administrator of College Road Baptist Church in Ocala, was re-elected recording secretary. All of the elections were uncontested.

Messengers approved a \$35 million Cooperative Program budget for 2004, representing a one quarter percent increase over the 2003 budget. The budget will send 40 percent of receipts to the Southern Baptist Convention.

No resolutions from the floor were presented during the meeting.

Several approved recommendations dealt with the trusteeship of the Florida Baptist Witness, increasing the number of board members from 9 to 15; and changing their titles from commissioners to directors.

The 2004 Florida Baptist State Convention will celebrate its 150th anniversary when it meets Nov. 8-9, 2004, in Jacksonville.

-30-

S.C. Baptists hold line on budget, approve South Asia partnership

By Todd Deaton

COLUMBIA, S.C. (ABP) -- The 1,230 registered messengers attending the 183rd annual meeting of the South Carolina Baptist Convention adopted a \$32.15 million budget for 2004, approved a three-year missions partnership with South Asia, and elected a Boiling Springs pastor as president.

The convention also passed resolutions that endorsed the proposed Federal Marriage Amendment and Christian displays in public places and suggested that churches that don't require immersion as the only acceptable form of baptism are not eligible to belong to the convention.

The convention's 2004 budget goal of \$32.15 million is the same as this year's budget. The Executive Board did not recommend an increase because Cooperative Program receipts from churches for the year are lagging behind budget needs.

Forty percent of the \$32.15 million budget, or \$12,755,000, will go to support the work of the Southern Baptist Convention, while 60 percent, or \$19,395,000, will undergird missions and ministries of the South Carolina Baptist Convention.

Messengers approved entering a three-year missions partnership with the International Mission Board's South Asia region, beginning in 2005. The partnership reportedly is the first between a state convention and an entire region, rather than a country. The state convention's current partnership with Taiwan ends this year.

Executive Board chairman Marshall Blalock of Charleston noted 25 percent of the world's lost population lives in

South Asia. "Within this region, you can find a country with the largest percentage of Muslim conversions in the world," he added.

Wayne Dickard, pastor of Northbrook Church in Boiling Springs, was elected president by acclamation. A former director of missions for North Spartan Association and pastor of churches in Greer and Anderson, Dickard has served as first and second vice president and as parliamentarian for the convention.

Other convention officers for 2004 include Danny Burnley, pastor of West Gantt First Church in Greenville, first vice president; and James Merritt, member of Rock Springs Church in Easley, second vice president.

All officers were elected without opposition except Merritt, who ran against Chuck Everett, pastor of Trinity Church, Lugoff. Merritt received 288 votes to Everett's 197.

Through resolutions, the messengers voiced:

- Opposition to laws and judicial decrees that ban the display of Christian symbols and biblical words in public places, and support of all private citizens and government officials who have taken a stand for the right to display them;
- Vigorous opposition to gambling in all forms and encouragement to contact federal and state officials, asking them to refuse to pursue federal legislation that would pave the way for a high-stakes electronic bingo operation by the Catawba Indians near Santee;
- Support for the Federal Marriage Amendment and any legislative efforts to define marriage as the God-ordained relationship between one man and one woman;
- Encouragement to pray for elected government officials; and
- Affirmation of baptism by immersion as the only biblical, historical and proper mode of Christian baptism.

The baptism statement noted churches that no longer require baptism by immersion for membership have chosen not to be in good standing with the convention. Because it is a resolution, however, the statement apparently lacks any enforcement power.

A motion to study increasing the percentage of Cooperative Program receipts forwarded to the Southern Baptist Convention failed. Messengers approved the second reading of a bylaw revision granting one additional messenger to churches for each \$1,000 contributed annually to state convention work.

A highlight of this year's annual meeting, which had as its theme "Experiencing Kingdom Growth," was a Tuesday evening performance of "Experiencing God, the Musical" by several church choirs from across the state. The 70-minute musical, based on Henry Blackaby's popular study course, "Experiencing God," was directed by Gary Rhodes, composer of the musical.

Before his address, convention president Hal Lane, an electric guitarist, and the other members of Soul Revival performed remakes of popular beach music tunes with Christian lyrics. The performance served as an illustration for Lane's message in which he stressed the importance of upholding the essential doctrines of the gospel, but maintained that there was not an essential style of evangelism.

"Pursue any method so we can get a hearing for the word of God," Lane urged. "Evangelism is not about you and how you like to be communicated with," he added. "It's about how you are going to get out there and reach those people for Jesus."

-30-