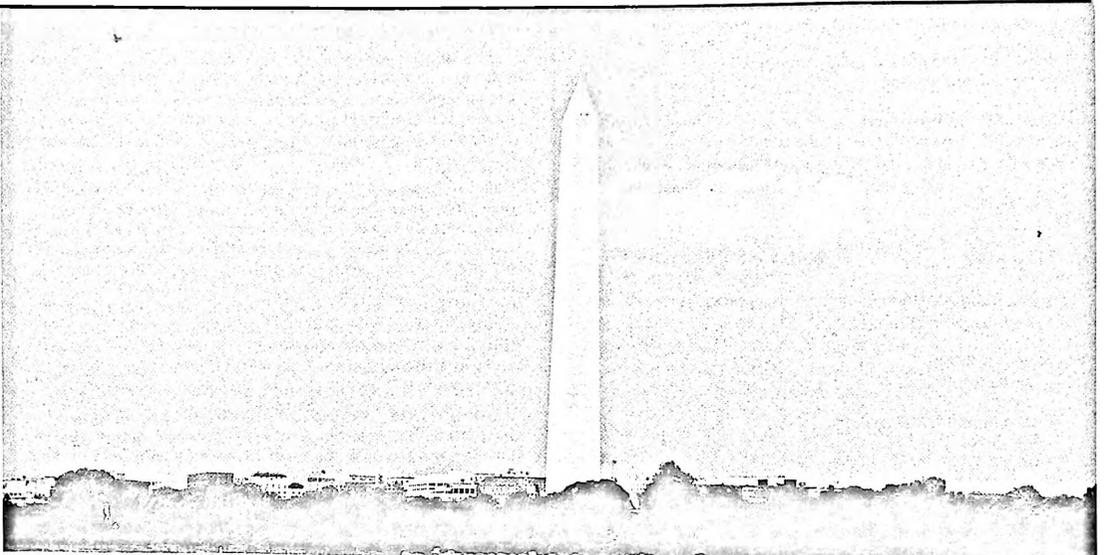


# REPORT from the CAPITAL



SOUTHERN BAPTIST HISTORICAL  
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Nashville, Tennessee

*"It is said no man that voluntarily is spoken of as if it was by the  
interference of one class of people, that another enjoyed the exercise  
of their inherent natural rights. It is the duty of the government of the  
United States, which gives to every citizen the right of free  
speech, to persecution no  
assistance, requires only that those who live under its protection  
should treat themselves as good citizens. In giving it to all  
men, it is the duty of the government to receive their effectual support. ...  
May the children of the stock  
of Abraham, who dwell in this land, continue to merit and enjoy the  
good will of the other inhabitants, until every one shall sit in safety  
under his own vine and fig-tree and there shall be none to make him  
afraid."*

President Washington, August 1790

# REPORT from the CAPITAL

"... a civil state 'with full liberty in religious concerns' "

Vol. 45, No. 7

July-August 1990

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**Cover:** Two hundred years ago, August 1790, President Washington responded to the concerns of America's first Jewish synagogue, established in Newport, Rhode Island. (Don Rutledge Photo)

Executive Director: James M. Dunn  
Editor: Victor Tupitza

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BAPTIST JOINT COMMITTEE ON PUBLIC AFFAIRS  
200 Maryland Avenue, N.E., Washington, D. C. 20002

## No end in sight

**A**dd the issue of religion in the public schools to religion and politics as topics that are sure to heat discussions and perhaps lead to frayed tempers. The fact that only recently the U.S. Supreme Court (in the *Mergens* case) upheld the right of high school students to meet for prayer or Bible study as part of an activities program that schools already were conducting tells us that the whole question is open-ended.

The Baptist Joint Committee, which took a leading role on Equal Access, is also active among other concerned organizations to help resolve questions related to religious holidays and religion in the public school curriculum. But more is on the horizon.

The article by Christopher Page, "Teaching about Religion," provides a perspective from Canada, where only this year the Supreme Court of Ontario ruled unanimously against the teaching of a single religious tradition, specifically Judeo-Christian, as the exclusive means of fostering moral values. The values issue has been brought into the news in June by a group of U.S. Jewish and Roman Catholic leaders, whose report called for a broad-based campaign to instill traditional and fundamental moral values in the youth attending the nation's public schools. (See Washington Observations).

Brent Walker reminds us that the Supreme Court supported the teaching *about* religion while disapproving the practice of religious exercises in public schools. The use of the Bible, Koran, Torah and other holy books is appropriate as an educational instrument in classrooms. Individual students alone, when the practice is not disruptive, may use religious literature and prayer as personal, devotional practices.

Baptist tradition began with conscientious objection—Christians in confrontation with religious and civil authorities over the institutionalization of religion. Historian William Estep's latest book, *Revolution within the Revolution*, is welcomed as both encouragement and caution at a time of slippage among Baptists. Bill Moyers wrote the forward to that volume, and quotes Estep, who warns of civil religion: such a "'web of religious beliefs can only reduce the Almighty to a national icon ... [and make Christianity] little more than cheap nationalism.'" Baptists had problems with state-sanctioned religion and as a result experienced coercion of mind and body where it was practiced. Estep evokes the past to call attention to the presence of erosive opinion being taught today as Baptist tradition. Faith comes not by government mandate.

James Dunn obviously has had much to reflect upon in past months while anticipating action before the Southern Baptist Convention relative to a proposed reduction both of the BJC's funding and representation in its behalf. According to Dunn, there is no question but that the Baptist Joint Committee will remain constant in support of religious liberty and church-state separation. □

Victor Tupitza



● **A FEDERAL APPEALS** court has struck down a North Carolina law that exempted Bibles from the state sales tax on the ground it favored the Christian religion over others.

The ruling by the Fourth Circuit Court of Appeals said the 50-year-old law "forces the state to discriminate on the basis of the contents of a book, text, or other published work, which is intolerable under the First Amendment." (RNS)

● **AN ATHEIST GROUP** has demanded that an underwater statue of Jesus be removed from the National Marine Sanctuary, which is maintained in Key Largo, Florida, by the National Oceanic and Atmospheric Administration.

The statue, which was donated to the Underwater Society of America by an Italian industrialist, is known as Christ of the Deep. It was placed in its present location in 1965, and a boundary change later included it in the federal sanctuary.

A spokesman for the National Oceanic and Atmospheric Administration said "although we view the statue as an historic artifact rather than a religious icon, we do take the issue brought up by the atheists seriously. We are researching whether or not it is proper for the statue to be in a federal park." (RNS)

● **AMERICAN PARENTS NEED** "all the help they can get," warns a group of Jewish and Catholic leaders in a joint report calling for a broad-based campaign to instill traditional and fundamental moral values in the youth attending the nation's public schools.

Warning that America is on the verge of losing a generation of its children, the report calls for mobilizing parents with government, religious, and educational leaders to spearhead the effort.

Public schools "feel inhibited" about teaching such common moral values as honesty, compassion, tolerance, and loyalty that weave together both the religious and civic fabric of American society, charges the report, "A Lesson of Value: A Joint Statement of Moral Education in the Public Schools."

The document was released by the Interre-

ligious Affairs Committee of the Synagogue Council of America and the Committee for Ecumenical and Interreligious Affairs of the National Conference of Catholic Bishops. (RNS)

● **THE UNIVERSITY OF** California Medical Center has been ordered to pay \$500,000 to a Jehovah's Witness family for performing a blood transfusion on a three-year-old boy after assuring the family the procedure would not be necessary.

A San Francisco jury determined the hospital committed fraud and misrepresentation by performing the procedure after assuring the child's family it would not be necessary. Attorneys for the family said physicians kept them in the dark about their intent to obtain a court order allowing the transfusion. (RNS)

● **A FEDERAL JUDGE** has ruled a husband and wife are not protected from prosecution under vice laws by asserting they were promoting prostitution for religious reasons.

The couple had filed a lawsuit against Los Angeles officials maintaining their Church of the Most High Goddess is based on the worship of Isis, the ancient Egyptian goddess of fertility. They charged the city was wrong to give them jail sentences and fines on prostitution charges. (RNS)

● **THE HOUSE OF** Representatives has passed legislation that would extend broad anti-discrimination protections to the estimated 43 million Americans who have physical and mental disabilities.

The House approved the Americans with Disabilities Act by a vote of 403-20. The Senate passed a similar measure 76-8.

The act -- which would give the disabled the same civil rights protections provided to women and minorities under the 1964 Civil Rights Act -- includes exemptions that would allow religious organizations to exercise religious preference in hiring and exclude "religious institutions or entities controlled by religious organizations, including places of worship" from requirements for public accommodations.

# Teaching about Religion

**R**eligious education belongs in the public schools of Canada. The students of this country need an education that informs them about the significant role of religion in personal life, the development of society, and global affairs. To do any less is to withhold from our students the benefits of a comprehensive education.

The teaching of religion in the public schools of Canada has a long and complex history. While most of my experience has been in Ontario, I do know that the education systems in Canada range from the publicly funded, fully denominational system of Newfoundland, through the public and separate school systems of Ontario, to the unitary, secular system which existed in British Columbia prior to 1977.

The variety of approaches we now see in the provinces of Canada arise from the British North America Act of 1867. This legislation declared that education was to come under the jurisdiction of the provinces. There were, however, four provisos which protected the rights and privileges enjoyed by people belonging to certain denominations at the time of Confederation.

Since before Confederation, the teaching of religion and specifically the teaching of Christianity, was a significant part of the pupils' education. In Ontario, the Education Act (until this year) stated that it was the duty of the teacher to inculcate Judeo-Christian morality into public school children. With the progressive secularization of public education and the loss of a common religious base in our society, the teaching of religion has been neglected.

In January this year the Supreme Court of Ontario brought down a decision regarding the kind of religious

education that is consistent with the Canadian Charter of Rights and Freedoms. The court ruled unanimously that it is inconsistent with the Charter to teach a single religious tradition as if it were the exclusive means by which to develop moral thinking and behavior.

Where does this leave religious education in our public schools and specifically in Ontario? Is the teaching of religion now "banned" in Ontario? No. The Court of Appeal clearly stated that it would not breach the charter to teach *about religion* [ed. emphasis] and to foster moral values as long as there is no indoctrination in a particular religious faith. Public education should not be designed to convert children to any particular religion. In essence the only grounds for teaching religion in our public schools are pedagogical and educational.

Can we as Baptists support this decision? I believe we can. However, it will require us to think creatively. We must develop an approach to the study of religion in the public schools that presents as authentic our religious traditions and also the religious traditions of our neighbors. The principles of religious freedom have a long history in the Baptist tradition. Therefore, we must now consider how this principle can be practiced in the teaching of religion in our public schools.

## Christian Nurture and Teaching

Many teachers believe that for a child to have a comprehensive education he or she must learn about the vital role religion plays in human life. A student is unable to understand his or her culture as it is expressed through art, architecture, music, literature, history and philosophy without a grounding in the study of religion. Religion is one of the great unbroken threads of human experience, tracing its roots back to the dawn of history. It is therefore a necessary element in a child's education. If students are to understand that spirituality is a fundamental part of being human, they

**In essence the only grounds for teaching religion in our public schools are pedagogical and educational.**

must have an opportunity to study what it means to be religious.

Many have argued that the public school is a secular place and therefore there is no place for religion. Some would suggest that the family and the church are the appropriate places for teaching religion. It is important to separate faith nurture, which is the responsibility of parents and churches, from education about religion, which is a necessary part of any comprehensive education. While the goal of Christian nurture is mature disciples in Christ, most would agree that the goal of public schooling is to send students out into the world with the skills and attitudes they need to live worthwhile lives within society.

As Baptists we believe that nurture in the Christian faith is essential for our children to grow up and take a responsible part in the realm of God. Therefore, we endeavor to establish strong Christian education programs in our churches and families. The type of religious education we need in our children's schooling is teaching about religion. Canada is a multi-cultural society. We need only turn on our television sets or pick up our newspapers to be confronted with the diversity of ethnic and religious groups that make up our community. For our children to have an educated perspective on local and global issues, they must understand how religious beliefs and doctrines affect the actions of religious believers and non-believers.

I believe that Christian nurture and teaching about religion complement each other. In learning to treat as authentic the faith experiences of other individuals and cultures, students learn to appreciate their own tradition. This need not reduce religions to the lowest common

Christopher Page pastors MacNeill Baptist Church in Hamilton, Ontario. He is currently completing a doctorate in education at the Ontario Institute for Studies in Education in the study of religion in public schools. This article appeared in the *Canadian Baptist* magazine.

denominator, nor present a "smorgasbord" of religious diversity. Rather, in an educational context, students can be led to consider the meaning of religion in the lives of those who practice it and to develop ways of understanding their own experiences of religion.

Good religious education in the school attempts both to develop children's understanding of religion and to help them in the search for answers to those fundamental questions with which religion deals. It does not seek to erode religious faith but rather gives students the opportunity to explore and reflect on religious ideas and activities in an educational context. By ignoring the role of religion in personal experience and societal affairs, the school can give students the mistaken impression that religion is unimportant in human life. This robs our children of the opportunity to explore the richness of human culture. It relegates religion to the private and personal, thus weakening our efforts to bring the discussion of religious and spiritual matters into the public arena.

A religious education program in the public school benefits the personal development of the student and strengthens understanding and communication in the school and society. Openness and tolerance are fostered when there is an awareness of the student's own religious heritage and the religious heritage of others in the classroom. Students today need the ability to recognize religious and spiritual issues so that they are able to talk about these matters with their friends and fellow students. Unfortunately our schools seldom give students the skills and attitudes necessary for religious discussion.

Religious education makes social as well as personal contributions. Through the discussion of religious world views and their impact on global events, the student will deepen his or her commitment to social justice and human rights.

#### Can Baptists Support the Teaching About Religion in the Public School?

In 1988, a group of 14 religious and non-religious organizations jointly sponsored a call for the teaching about religion in the public schools of the USA. The group included the Baptist Joint Committee on Public Affairs. They were concerned that American school textbooks largely ignore the role of religion in history and society.

Our situation in Canada is different and therefore we must respond authentically to our cultural situation. The students of our public schools deserve the best education our society can provide.

Continued on page 14

## Free Exercise without Establishment

By J. Brent Walker

Ever since the Supreme Court rendered its decisions striking state-sponsored school prayer and devotional Bible reading, *Engel v. Vitale* (1962), *Abington Township v. Schempp* (1963), a great myth has been accepted by many that "God has been thrown out of the public schools." Some, including many school officials, have sought to purge every vestige of religion from the school system. Others, usually conservative Christians, bemoan religion's elimination and blame every social ill and cultural dysfunction that has arisen over the last thirty years on the demise of ceremonial civil religion in the public schools.

Both sides have it wrong! It is true that it is nowise the role of government to compose or encourage prayers. Teachers have no business leading children in devotional exercises. Ministers are conspicuously out of place preaching or proselytizing in the public schools. But to assert that any civil authority has the power to throw almighty God out of the classroom is theological heresy, and to claim that this ouster has been accomplished is simply ludicrous.

The God of the Universe (if not the puny god of civil religion) has a perfect attendance record. It has always been permissible for students to engage in "individual free exercise of religion" in school. No Supreme Court decision prevents students from reading Bibles silently during study hall, saying a personal blessing before lunch, praying for athletic safety and success, or even witnessing to their fellow students, assuming they do not disrupt the pedagogical process. It is only state-sponsored religious speech and exercise, not student-initiated religious practice, that the Supreme Court has condemned.

Similarly, although the state may not and should not provide religious indoctrination in school, it has been permissible—at least since 1952—to release students for voluntary religious instruction and devotion off campus at a church or synagogue. *Zorach v. Clauson* (1952).

Finally, schools can and should teach students about religion and the role that it has played in our history and culture. The very opinion that outlawed state-sponsored devotional Bible reading expressly approved the study of religion. Writing for an eight member majority, Justice Tom Clark opined:

[I]t might well be said that one's

education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing that we have said here indicates that such study of the Bible or of religion, when presented objectively as a part of a secular program of education, may not be effected consistently with the First Amendment. *Abington Township v. Schempp, supra*.

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**This decision, authored by Justice O'Conner (Equal Access Law) restored a proper balance between the separation of church and state and the constitutional guarantees of free speech and free exercise of religion.**

Now, in addition to these always allowable (but in some cases rarely utilized) avenues of religious speech and exercise, students can do even more. In 1984, Congress passed the Equal Access Act. Supported and encouraged by the Baptist Joint Committee, this law was designed mainly to end discrimination against student religious groups. It permits students to engage in corporate religious exercises at school, along with private devotion and classroom study about religion.

When a public secondary school allows "noncurriculum related" groups to meet (such as the chess club, Interact club and the like), before or after school, it also has to permit religious clubs to do the same. If the school allows only "curriculum related" groups (like the French Club or athletic teams), it need not allow religious clubs on campus. Meetings under the Equal Access Act have to be voluntary, student-initiated and student-led, not sponsored by the school, and outside people cannot control or even regularly attend the group meetings. Within these parameters, the religious meetings need not be formal, academic

Continued on page 14

## VIEWS OF THE WALL

Oliver S. Thomas  
General Counsel



**A** Baptist pastor solicits gifts from her congregants for a needy refugee family. A wealthy deacon responds with a check made payable to the family for \$1,000.

A short-term missionary is asked by his denomination to help raise his support for the coming year. The young man raises \$5,000 in individual contributions.

A guest minister is leading a three-day spiritual renewal at a local church. At the concluding worship service, a "love offering" is solicited for the guest minister in lieu of an honorarium. Several hundred dollars in cash and in checks made payable to the minister are collected. The minister does not have a separate evangelistic organization that qualifies for tax-exempt status.

Can the donors in each of these cases deduct their gifts as charitable contributions on their federal income tax returns? Probably not according to a recent decision of the United States Supreme Court.

On May 21, the Supreme Court ruled that parents who provide direct financial support to their missionary children may not deduct these gifts as charitable contributions for federal income tax purposes. The case, *Davis v. United States*, involved a Mormon couple who provided financial support for their two missionary sons.

Apparently it is common practice within the Mormon Church for parents to support their children during the children's period of missionary service. If parents are unable to provide this support, the church will solicit donors from other congregations or use monies from the church's general mission fund. Most importantly, the church asks that individual donors send their contributions *directly* to the missionary in order to "foster the church doctrine of sacrifice and consecration in the lives of its people," as well as to reduce the administrative and bookkeeping burden on the church.

Although Mormon missionaries have general control over their funds, the church does provide them with some supervision. For example, the missionary handbook states that "the money you receive for your support is sacred and should be spent wisely and only for missionary work. Keep expenses at a minimum. . . . Keep a financial record of all expenditures." Missionaries are required to submit weekly reports to

their supervisor concerning their total expenditures for the week and month to date, according to the Court's opinion. If a missionary begins to accumulate surplus funds, he is expected to notify his supervisor in order that the amount of donations sent to him may be reduced. Missionaries are *not* required, however, to obtain advance approval for each expenditure from their personal checking accounts.

Section 170 of the Internal Revenue Code provides that a taxpayer may claim a deduction for a charitable contribution only if the contribution is made "to or for the use of" a qualified organization. Based on the legislative history of §170, the Supreme Court concluded that the language "for the use of" refers to donations made or placed in a trust or in a similar binding legal arrangement. The critical element of such an arrangement is that the beneficiary organization has legal power to enforce the trustees' [here the missionaries'] duty to comply with the terms of the trust. Because the missionaries in this case were under no legal obligation to use their financial support in accordance with church guidelines and because the church had no legal recourse if the missionaries failed to perform their agreed-upon obligations, the arrangement in this case failed to satisfy the requirements of §170. To recognize

eager to exploit."

Obviously, *Davis* has implications beyond the support of field missionaries. Returning to the three hypotheticals that began this article, one message comes through loud and clear. Any person who wishes to support these worthy causes and who also wishes to claim a deduction from his or her taxable income should make the contribution through the local church or the appropriate denominational agency. No contribution should be made directly to the individual(s) involved. Even this arrangement does not guarantee that the church or denominational agency has sufficient control over the monies contributed to satisfy the requirements of §170; but, by making the contribution directly to the church or agency, the likelihood that the deductibility of the contribution will be challenged by the IRS is minimal.

As noted, donors should not assume that every gift made payable to a church is tax deductible. Only if the church, or a person acting on its behalf, solicits the contribution or initiates the project being supported will the gift satisfy the requirements of §170. Unsolicited gifts to a needy individual deemed worthy of support by the donor are not made tax deductible simply because they are passed through the church.

The deductibility of charitable contributions is an important public policy that has served our nation well. It provides a substantial incentive for charitable giving and stimulates benevolent enterprises in the private sector—thus saving government from having to provide many essential social services.

Don't miss out on this important tax benefit by failing to observe the simple rule set forth in this recent decision.\*

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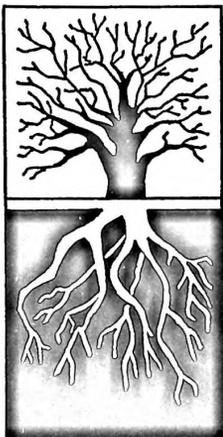
### Donors should not assume that every gift made payable to a church is tax deductible.

such an informal arrangement would burden the Internal Revenue Service with "insurmountable administrative difficulties in verifying that any particular expenditure benefited a qualified donee (i.e., church or other charitable organization)." While the court acknowledged that there was no evidence of the funds being misused in this case, recognizing such an arrangement as a charitable contribution would create an "opportunity for tax evasion that others might be

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\*This article is designed to provide accurate information concerning the subject of deductibility of charitable contributions. It is provided with the understanding that the author is not engaged in rendering legal or other professional services. If the reader has specific legal questions, the services of a qualified attorney should be sought.

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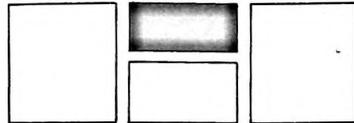
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# News in Brief



## High court upholds Equal Access Act

WASHINGTON

Students in public secondary schools who wish to form religious clubs may have the same "equal access" to school facilities and privileges as students in other non-curriculum related activities, the U.S. Supreme Court has ruled.

In an 8-1 decision, the high court upheld the constitutionality of the Equal Access Act, a 1984 law that prohibits public secondary schools that receive federal funds and maintain a "limited open forum" from denying equal access to students who wish to meet within the forum on the basis of the content of the speech at such meetings. The statute prohibits discrimination based on the "religious, political, philosophical, or other content" of the speech.

Under the law, a limited open forum exists whenever a public secondary school allows one or more "non-curriculum related" student groups to meet on school property during non-instructional time.

In writing for the court in *Westside Community Schools v. Mergens*, Justice Sandra Day O'Connor said the term "non-curriculum related" is best interpreted broadly to mean any student group that does not relate directly to the body of courses offered by the school.

"In our view, a student group directly relates to a school's curriculum if the subject matter of the group is actually taught, or will soon be taught, in a regularly offered course; if the subject matter of the group concerns the body of courses as a whole; if participation in the group is required for a particular course; or if participation in the group results in academic credit," O'Connor wrote. "We think this limited definition of groups that directly relate to the curriculum is a common-sense interpretation of the act that is consistent with Congress' intent to provide a low threshold for triggering the act's requirements."

Such a reading of the Equal Access Act allows schools and school districts to retain a significant level of authority over the type of officially recognized activities in which their students participate, O'Connor said.

Schools and school districts, she explained, have the authority to deter-

mine appropriate subjects of instruction; prohibit meetings that would interfere with the orderly conduct of educational activities; and assure that student attendance at meetings is voluntary. They also may escape equal access obligations by refusing federal financial assistance, she added.

"Congress clearly sought to prohibit schools from discriminating on the basis of the content of a student group's speech," O'Connor wrote, "and that obligation is the price a federally funded school must pay if it opens its facilities to non-curriculum related student groups."

A school or school district may not define as "curriculum related" anything remotely related to abstract educational goals, O'Connor wrote. "To define curriculum related in a way that results in almost no schools having limited open fora," she said, "or in a way that permits schools to evade the act by strategically describing existing student groups, would render the act merely hortatory."

The court's definition of non-curriculum related activities "looks to a school's actual practice rather than its stated policy," she said.

O'Connor wrote for herself and three other members of the court—Chief Justice William H. Rehnquist and Justices Harry A. Blackmun and Byron R. White—on whether the Equal Access Act violates the First Amendment's establishment clause.

The high court's logic in *Widmar v. Vincent*—which applied the three-part test from *Lemon v. Kurtzman* to hold that an equal access policy at the state university level does not violate the establishment clause—applies with equal force to the Equal Access Act, O'Connor wrote.

"There is a crucial difference between government speech endorsing religion, which the establishment clause forbids, and private speech endorsing religion, which the free speech and free exercise clauses protect," O'Connor said. "We think that secondary school students are mature enough and are likely to understand that a school does not endorse or support student speech that it merely permits on a non-discriminatory basis."

In addition, the statute limits school officials' participation at meetings of student religious groups and requires that such meetings be held during non-instructional time, she said. Although the possibility of student peer pressure remains, she said, there is "little if any

risk of official state endorsement or coercion where no formal classroom activities are involved and no school officials actively participate."

A school that permits a student-initiated and student-led religious club to meet after school—just as it allows any other student group to do—does not convey a message of state approval or endorsement of the particular religion, O'Connor said.

Nor does the school run the risk of excessive entanglement between government and religion, she said. In fact, she added, a "denial of equal access to religious speech might well create greater entanglement problems in the form of invasive monitoring to prevent religious speech at meetings at which such speech might occur."

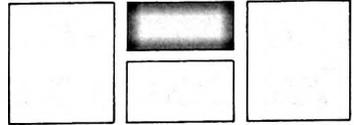
In a concurring opinion, Justice Thurgood Marshall—joined by Justice William J. Brennan, Jr.—warned that the statute's low threshold for triggering equal access raises "serious establishment clause concerns where secondary schools with fora that differ substantially from the forum in *Widmar* are required to grant access to student religious groups."

Unless such secondary schools take steps to disassociate themselves from religious clubs' speech, Marshall wrote, they could appear to endorse that speech.

"The crucial question is how the act affects each school," Marshall said. "If a school already houses numerous ideological organizations, then the addition of a religion club will most likely not violate the establishment clause because the risk that students will erroneously attribute the views of the religion club to the school is minimal."

"But if the religion club is the sole advocacy-oriented group in the forum, or one of a very limited number, and the school continues to promote its student-club program as instrumental to citizenship, then the school's failure to disassociate itself from the religious activity will reasonably be understood as an endorsement of that activity."

But Justice Anthony M. Kennedy, writing for himself and Justice Antonin Scalia, argued against the application of an "endorsement" test. Rather, Kennedy said, the court simply should determine whether the statute gives direct benefits to religion to such a degree that it establishes a state religion or religious faith or



allows government to coerce any student to participate in a religious activity.

The lone dissenting vote in the case was cast by Justice John Paul Stevens.

Under the Equal Access Law, he contended, an extracurricular student organization should be considered non-curriculum related if it has as its purpose the "advocacy of partisan theological, political, or ethical views."

"A school that admits at least one such club has apparently made the judgment that students are better off if the student community is permitted to, and perhaps even encouraged to, compete along ideological lines," Stevens wrote. "This pedagogical strategy may be defensible or even desirable."

"But it is wrong to presume that Congress endorsed that strategy—and dictated its nationwide adoption—simply because it approved the application of *Widmar* to high schools."

Four religious groups that were instrumental in the passage of the Equal Access Act have praised the court's decision on the law.

The Supreme Court's decision in *Mergens* vindicates Congress' judgment that discrimination against student religious groups in public secondary school could be stopped without violating church-state separation, according to a statement issued by the Baptist Joint Committee on Public Affairs, Christian Legal Society, National Association of Evangelicals, and National Council of Churches.

"For years confusion has existed on the issue of religion in the public schools," the statement continued. "An almost paranoid fear of faith has been created by overreactions to and misinterpretations of the Supreme Court's prayer decisions. Some school districts have gone so far as to single out student religious groups for discriminatory treatment by telling them that they alone cannot hold on-campus meetings before or after school.

"The *Mergens* decision makes clear that such a policy of unequal access to public school facilities violates federal law. This decision restores a proper balance between the separation of church and state and the constitutional guarantees of free speech and free exercise of religion. The court recognized the critical distinction between school-sponsored and student-sponsored religion: the for-

mer is unconstitutional; the latter is not."

Calling equal access "our best hope for resolving the school prayer debate," the groups said they are recommitted to facilitating the law's proper implementation.

"Millions of American students are the real winners in this case," the statement concluded. "They now can claim the right of equal access for their religious, political, and philosophical speech."

In a related action, the Supreme Court instructed a federal appeals court to reconsider its ruling in another equal access case in light of the *Mergens* decision.

The high court remanded the second equal access case—*Garnett v. Renton School District*—to the Ninth Circuit Court of Appeals.

The Ninth Circuit held that although Lindbergh High School in Renton, Washington, had at least 15 other non-academic student clubs—including a bowling club, dance squad, and ski club—no limited forum had been created and thus a student religious club could not meet on campus.

The appeals court also ruled equal access would violate the Washington state constitution and neither the free speech clause nor the free exercise clause of the U.S. Constitution required the recognition of a religious club. □

## Court denies request to rehear peyote case

WASHINGTON

The Supreme Court has refused to reconsider its recent decision in a case involving the religious use of the drug peyote.

In a one-line order, the court denied a petition for rehearing in *Employment Division of Oregon v. Smith*.

A diverse coalition of religious and civil liberties organizations, along with 55 constitutional law scholars, had joined the petition asking the court to reconsider its *Smith* decision, in which the court held a state not only can prohibit the religious use of peyote but also can deny unemployment compensation to individuals dismissed from their jobs for using the drug.

The decision also limits application of the "compelling state interest" test to a narrow range of cases involving the free exercise of religion. The test, which was

set forth in a 1963 Supreme Court decision, requires that governmental actions that substantially burden a religious practice must be justified by a compelling state interest.

"The denial of our petition for rehearing was disappointing, but it does not mean the battle is over," said Oliver S. Thomas, general counsel for the Baptist Joint Committee. "We're already talking with a number of members of Congress and constitutional experts about a possible legislative solution to many of the problems caused by the *Smith* decision. And, frankly, with the broad coalition that has developed around this case, I think we have a reasonable chance of success." □

## Religion-related cases rejected by high court

WASHINGTON

The Supreme Court recently rejected appeals in three religion-related cases.

In *Eanes v. Maryland*, the high court refused to review a dispute over whether a Maryland law prohibiting "loud and unseemly noises" could be used to stop an individual from preaching in front of an abortion clinic.

Jerry Wayne Eanes, a Maryland resident, was found guilty of violating the state law after he preached, read the Bible, and handed out religious tracts on a sidewalk near an abortion clinic in downtown Hagerstown, Maryland.

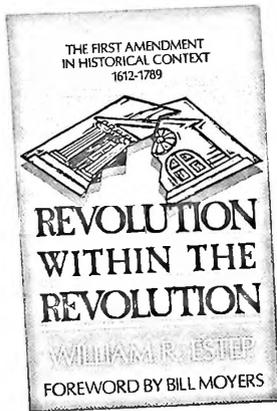
In *North Valley Baptist Church v. McMahon*, the justices refused to hear a case involving state licensing of church day-care centers.

The California congregation challenged the constitutionality of that state's day-care licensing mechanism. Although conceding California has a compelling interest in regulating child-care providers, the church argued licensure is not the least restrictive means of accomplishing that interest.

In *Kirkland v. Northside Independent School District*, the Supreme Court turned down an appeal by a public school teacher who claimed he was fired unjustly.

Timothy Kirkland, who taught history, said the Texas school district's decision to dismiss him was influenced in part by a group of religiously fundamentalist parents who objected to the extra-credit reading list he assigned his classes. □

# The Bible and the First Amendment: Overcoming the fear of freedom



**R**ecently, I broadcast on public television a documentary called "The Battle for the Bible," detailing the efforts by one faction within the Southern Baptist Convention—America's largest Protestant denomination—to establish the inerrancy of the Bible as a theological litmus test for membership in the faith. Biblical inerrancy has been defined as "a creed of compulsory affirmation that the Bible is always perfectly clear and is true in every detail, whether the detail is a matter of history, science or religion."

Its adherents have waged a decade-long crusade to take over the agencies, schools, and seminaries and enforce acceptance of their doctrine. Not the Bible itself but beliefs about the Bible would become the source of Baptist theology—that has been the avowed goal. The ultimate aim, however, has been not theological but political. Through an intricate network of public and private alliances, the leaders of the inerrancy faction have committed themselves to a partisan strategy of collusion between church and state that also makes a mockery of the historic Baptist principles of religious liberty.

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Bill Moyers, as one reared in the Baptist tradition, understands Baptists. He is a producer of television documentaries on a variety of themes, including religion. The following is his forward to the book *Revolution Within the Revolution* (William B. Eerdmans) by Baptist historian William Estep.

It is an astonishing development largely untold by the mainstream press. Religious folk have long pressed their moral values on the body politic, but this new hierarchy of Southern Baptists has gone beyond advocacy and persuasion to seek a privileged relationship with the government. While others—Catholics, Lutherans, and Anglicans, for instance—have through the centuries sought the status of an established religion, this is a radical departure for Baptists. Just as revolutionary is the attempt by these leaders to keep the laity generally unaware of what is being done in their name or to their principles. Historically Baptist ministers have been primarily preachers and pastors, accountable to the democratic polity of their local congregations; they have not sought a priestly role or served as precinct captains. But in recent years, certain Baptist clergy and certain politically ambitious laymen have been making back-room deals with right-wing politicians, permitting White House operatives to draft resolutions which have then been submitted—their origin unidentified—to official Baptist assemblies, and waging guerrilla war against their own brothers and sisters in the faith.

In the course of reporting for the documentary, my colleagues and I uncovered direct links between the principal movers of the inerrantist faction and right-wing organizers, funders, and strategists, with patronage plums being handed out in return for favors rendered. The chief architect of the crusade was himself scheduled for a top presidential appointment until the required background check turned up allegations of behavior that would have been embarrassing at his Senate confirmation hearings, and the proposed nomination was dropped. This individual remains close to the White House, however, and continues to dominate the inner circle of men who now control the Southern Baptist Convention. Under their influence, the role of the clergy has taken an increasingly authoritarian turn, and notions of theocracy have been sounded where once they would have shocked.

For many of us who were raised in the tradition, these developments betray our heritage in at least two ways. First, Baptists have prided themselves on their belief that the individual believer has a personal and dynamic relationship with God, one that does not need the intermediary of a clergy or a hierarchy or, least of all, an official interpretation of Scripture. Ever since the Baptists of England pleaded with James I for freedom of conscience, Baptist historical struggles against established churches have been not so much against particular beliefs as against imposed ways of believing. Foremost among Baptist convictions—the reason for so much of the dissent that has marked Baptist history—is the right of the individual to follow the dictates of his or her conscience, free from the oppression of an overarching authority, secular or ecclesiastical. Furthermore, every Baptist church is a self-governing democracy; mandates on matters of politics and morals do not come down to local congregations. What has happened over the past decade amounts to no less than the hijacking of this tradition. The leaders of the inerrancy faction have erected a gate through which must pass all those who call themselves Baptists. The gatekeepers will then certify everyone who passes muster, and reject those who do not. An ecclesiastical politburo has staged a coup of the Baptist faith and has declared heretical any who challenge the new orthodoxy of conformity.

Second, by marrying the Republican right, the inerrancy faction has declared war on Baptists' unique contribution to the American idea. Historically, Baptists have abhorred the mere hint of theocracy. It was a Baptist, after all, who founded the civil commonwealth called the Providence Plantations. Roger Williams had been hounded from the colony of Massachusetts for his espousal of conscience. Under his inspiration—and then the leadership of Dr. John Clarke, pastor of the Baptist Church of Newport—Rhode Island became the first colony with a civil government through which full religious liberty was guaranteed to all its inhabitants. Baptists then

helped to shape the struggle of the colonies for independence and the spiritual foundations of the new republic with their insistence that Caesar's coin corrupts. They knew it would lead to increased sectarian strife, purchased favoritism, and entangling alliances—all at the expense of the freedom of the soul. Experience taught them these lessons, for in the colony of Virginia alone, between 1767 and 1778, over 40 Baptist ministers were slapped in jail for defying the established church, which was backed by the coercive power of the state.

William Estep's book, *Revolution Within the Revolution*, is a timely reminder of such things. Estep has steeped his adult life in Baptist history and Baptist principles. I was one of his students many years ago at Southwestern Baptist Theological Seminary. His scholarly passion in the classroom echoes in these pages. So does that deep love for liberty which is the bedrock of Baptist belief in the separation of church and state.

The core of Dr. Estep's argument is this: "In an increasingly intolerant age, it is well for us to retrace the painful steps of those who first discovered in the gospel the demand for an uncoerced faith and articulated this insight with incredible courage." He sets this history against an analysis which sees many Baptists today confused by events in the modern world and within their own ranks, so that, knowingly or not, they often repudiate their own heritage. (He cites one prominent Southern Baptist minister, to wit: "I believe the notion of the separation of church and state was the figment of some infidel's imagination.") The task he sets himself is to retell the Baptist story with such clarity that the confusion will be routed and Baptists will recover the sharp edge of their witness to liberty.

But his book is not just a primer for Baptists. As Dr. Estep points out, the collusion between the new Southern Baptist hierarchy and partisan political power also threatens the First Amend-

ment, for it undermines the notion that individuals are to be defended against the deprivations of such collusion. The desire to create a civil religion, a state-sanctioned web of religious beliefs, can only, in his words, "reduce the Almighty to a national icon ... [and make Christianity] little more than cheap nationalism."

Again, early Baptists foresaw this danger. Dr. Estep reminds us, for example, that the First Amendment had no advocate more ardent than John Leland, the Baptist minister who, with other lovers of liberty, pressured James Madison for a constitutional amendment on religious liberty. They had scrutinized the proposed Constitution and found it wanting. The First Amendment was their asking price for supporting the new charter. As Leland and others agreed, a government which arrogated to itself the task of compelling the faith of its citizens would inevitably impose an orthodoxy on people that would stifle their consciences and cause rebellion. In the same way, a religion which relied on the state to discipline the behavior of believers would soon corrupt its own beliefs and encourage hypocrisy. Only if church and state were true to their own unique natures could they govern their proper worlds well: "actions only and not opinions" for government, as Jefferson wrote, and the "priesthood of the individual believer" for religion.

Thus, 200 years later, the takeover of the Southern Baptist Convention by absolutists seeking privilege from the state is no intramural dispute, no little cloud on the periphery of public affairs. The battle for the Bible is a test of our democracy's commitment to its basic guarantees of freedom. In such an hour, we need a strong reminder and an accurate record of the tradition that is endangered and of the consequences should it be lost. William Estep courageously has provided us both reminder and record, and we are in his debt. □

## Justice Kennedy's views inimical to free church

By Oliver S. Thomas

Justice Anthony Kennedy, at age 53, is the most recent addition to the United States Supreme Court. Replacing Justice Lewis Powell, the Court's critical swing vote on many church-state issues decided in the 1980's, Justice Kennedy is occupying a critical seat on the high court. Although Kennedy's views on religious liberty and the separation of church and state were somewhat of an enigma during his tenure on the federal court of appeals, a clear picture of his church-state jurisprudence is now beginning to emerge.

With regard to cases arising under the establishment clause, Justice Kennedy appears extremely lax in his attitude toward government programs that have the purpose or effect of advancing religion. For example, in *Bowen v. Kendrick* (1988), Kennedy voted to uphold a grant program providing government funds for church-run sex education programs that were designed to discourage abortion. Even Chief Justice William Rehnquist felt that such subsidies should not be provided to churches, synagogues and other "pervasively sectarian" institutions. More recently, Kennedy dissented from the Court's decision to prohibit erecting in the center of the Allegheny County Courthouse a free standing nativity scene which included a banner proclaiming "Glory to God for the Birth of the Savior Jesus Christ."

With regard to cases arising under the free exercise clause, again Kennedy's views constitute a dramatic departure from established legal precedent. In the recent "peyote" decision, Kennedy joined his conservative colleague Antonin Scalia in maintaining that a law restricting religious practices could not be challenged under the free exercise clause unless it singled out religion for discriminatory treatment or infringed upon another constitutional right such as freedom of speech. According to Kennedy, a law prohibiting all Sunday driving would be constitutionally permissible even though millions of Americans were thereby denied access to their houses of worship.

Taken together, Kennedy's views on both the establishment and free exercise clauses should be troubling to Baptists. His high degree of deference to legislative bodies (whether they choose to advance or inhibit religion) smacks of a

Continued on page 14

# INTERNATIONAL DATELINE



## Gorbachev still to face 'awakening' Soviet Asia

If Mikhail Gorbachev thinks he has problems with independence-minded little Lithuania, wait until Soviet Central Asia awakens.

The giant already is stirring, with separatist violence in Azerbaijan, Muslim riots in Tadzhikistan, nationalist unrest in Kazakhstan, and demonstrations and deaths in Uzbekistan. But these are only the beginnings of the birth pangs, according to Soviet experts.

The Soviet Union, or "Disunion" as some now call it, sprawls over 15 republics with 289 million people, some 150 languages, and scores of ethnic nationalities stretched over 8.6 million square miles and 11 time zones. But now the ethnic and political patchwork—stitched together over the centuries by warlords, regional monarchs, the czars, and finally the communists—is beginning to unravel.

Gorbachev's own reforms—along with emerging nationalism in the republics, renewed ethnic identities and the decline of communism—are contributing to the collapse of the monolithic Soviet state. But the religious forces Josef Stalin tried so hard to stamp out are also playing a role. Christianity is the major faith to be reckoned with in Russia itself, the Baltic states, the Ukraine and other European Soviet republics.

Orthodox believers, Roman Catholics and Protestants, long persecuted by the communists, are exercising their new freedoms and asking for more. But Soviet Central Asia is a different world, an Islamic world. Along with Azerbaijan, the five Central Asian republics—Turkmenistan, Uzbekistan, Tadzhikistan, Kirgizia and Kazakhstan—remain Muslim despite seven decades of religious oppression and the influx of masses of ethnic Russians. And Soviet reforms are allowing Muslims, now growing at five times the pace of the rest of the Soviet population, to rediscover their identity and power.

"They're very different from the Russian people," said a researcher on the Soviet Union. "They have a different heritage, different values, different ethics. The ideal was that the Soviet Union would produce the 'Soviet Man'"—socialist, atheist and committed to the Soviet state.

"But indications are it's going in the opposite direction," he said. "The Russian Slavs are carrying on a European civilization. Central Asian civilization is much more nomadic, and even when it's sedentary it's not urban or technological. It's very Islamic." Some Uzbeks and Tadzhiks talk of establishing independent Islamic republics.

"Islam has suffered more persecution than Christianity has in the Soviet Union," claimed one mission specialist, citing systematic efforts to suppress the faith even into the 1980s. "And yet it's proven to be perhaps even more resilient than Christianity." The persecution produced an underground network of mosques that continue to thrive, far outnumbering the 450 or so "official" mosques now in operation.

Many Soviet Muslims are hostile to Christianity, which they still see as a legacy of Russian colonial culture despite official Soviet atheism. That view poses a challenge to Christian missions, whether or not the Central Asian republics remain a part of the Soviet Union.

"This is the heart of the unevangelized

work," said one Christian observer, referring to the swath of countries stretching from north Africa across Asia containing most of the world's major unevangelized people groups.

Christians in Soviet Central Asia, mostly ethnics from other parts of the Union, reportedly are working to spread the gospel in the area. Christians elsewhere, experts say, need to pray for the peoples of the region, support Bible translations and Christian broadcasts, and send trained professionals to share their faith while meeting needs in education, business, technology and other areas.

Government officials in the Asian republics reportedly are eager for such foreign assistance. As one Christian researcher noted: "The opportunities for relationships and involvement of Christians in these republics are unprecedented in modern times. Not since the earliest Muslim traders carried their faith with them into Central Asia have there been such clear openings for a new infusion of people, trade and ideas." Erich Bridges (BP)

## Converted, ex-Red Guard heads aid to Chinese youth

A former Red Guard who converted to Christianity says he believes his faith can help his countrymen understand some of what happened at Tiananmen Square last year.

Joshua Zhong had been in the United States for two years when pro-democracy demonstrations in the Square captured the attention of the world early in 1989. "I was pessimistic at first, but by the end of May I got excited," Zhong said.

As a teenager he joined the Young Pioneers and the Red Guard and became chairman of the elite Youth League Committee. As a Red Guard, he said, "I inspected neighbors and communities and made sure people did political study."

But late one night at a library at his university, Zhong found a room piled with dusty books that were to be thrown out because of their subversive contents. He picked up a volume and found it was a Bible—a book damned by the government because of its "bad teachings."

When he started to read out of curiosity, Zhong was surprised to discover

that he couldn't find any bad teachings. Instead, he recalled, "every page talked about love, forgiveness and mercy. I began to doubt the government."

He converted to Christianity after meeting a Christian woman, who helped him understand what the gospel is about. Today, Mr. Zhong is coordinator of an emergency fund for Chinese students who fled their country and are living in the United States. □

## Albania's new law will allow religious speech, travel

TIRANA, Albania

Radical changes in Albania's Penal Code introduced at a session of the People's Assembly in Tirana will repeal a law banning religious propaganda.

The nation's Deputy Premier Manush Myftiu told Parliament that a new law permitting Albanians to hold passports for travel was also being drafted. This would enable persons to travel abroad individually or in organized tour groups.

Myftiu explained that lifting the ban on religious propaganda brings the law into line with official practice "because such acts have never been penally pros-



## NEWS-SCAN

ecuted until now."

"In our country," he continued, "the state is separated from religion and the question of religious belief is a matter of conscience for every individual."

He made it clear, however, that this did not mean an end to atheist propaganda, nor would it lead to the immediate reopening of mosques or churches.

"We are unflinchingly convinced that this contributes to the consolidation of patriotism and national consciousness," he said.

In another report, Keston College, a research center on religion in Eastern Europe, reported the United Nations secretary general as indicating that Albanian is considering the reopening of the country's closed mosques and churches.

Speaking in Tirana, Albania, Perez de Cuellar said the government "had shown great flexibility on the question of human rights" and that it was not intending to retreat from the reform process. (KNS)

### Nepal amnesties Christians

In the wake of mounting pressure from around the world, Nepal's King Birendra announced that the government has granted amnesty to all religious prisoners in the Hindu kingdom.

A spokesman for the Home Ministry said 29 Nepalese Christians will benefit from the amnesty. There are no religious prisoners of other faiths in Nepal, the world's only Hindu kingdom.

A resolution in the U.S. Congress urges the government in Nepal to ensure that no citizen is punished for exercising rights guaranteed by the Universal Declaration of Human Rights. □

### Church leaders in Taiwan view reform with caution

TAIWAN  
The government here decided to resurrect its "Law to Protect Religions" at a time when "things were starting to show signs of serious reform," according to some religious leaders.

Since 1978, the government has raised the possibility of a "Religious Law" several times, and each time it has been greeted by a barrage of criticism from church leadership.

While professing to protect religious

freedom and the rights of different groups, the law, according to spokespersons of many different faiths, would put all religious organizations under the scrutiny and control of the state.

Any religious group would be required to have its charter approved by the government before being considered a legitimate organization, and would have to abide by the law's vague and ill-defined 25 provisions. (PCT)

### Poll shows most Russians agree on rights for Jews

MOSCOW

Some 85 percent of the Russian population here and in the greater Moscow region consider most Russians to be "not anti-Semitic," according to a poll conducted by the Institute of Open Research in conjunction with political scientists from the University of Houston.

Only 14.9 percent think that all Russians are anti-Semites, while 3.2 percent of the respondents denied the existence of anti-Jewish sentiments altogether. Still, 71 percent of those polled insisted that "such sentiments are an obvious fact of our life today."

The overwhelming majority of respondents considered natural and lawful the right of Jews to live and work in the USSR. More than 80 percent did not consider subversive those who want to emigrate; 88.33 percent think that Jews should be free to choose whether to go or stay.

A total of 85.3 percent insisted that the rights of Jews to receive an education anywhere in the country and in any field must be better protected than it is today. As for employment, 85.4 percent think that the government must do its utmost to rule out discrimination against Jews.

Many people consider that anti-Semitism has increased because of the articles in newspapers and magazines (that have proliferated under glasnost) about manifestations of anti-Semitism; their hitherto vague suspicions have thus been confirmed. Among major magazines cited as openly advocating anti-Semitism were Literaturnaya Rossiya and Molodaya Gvardia. (MN)

Pentecostals in the Russian Republic of the USSR held a conference in Moscow, their first officially sanctioned gathering since 1929. Outlawed in 1930 as a separation denomination, in 1949 they were forced to amalgamate with Baptists. Early last spring, Pentecostal leaders decided to form their own union and separated shortly after. ... A letter by Lenin targeting the church for repression, declared, "The more representatives of the reactionary bourgeoisie and the reactionary clergy that we manage to shoot the better." The excesses that decimated religion in the USSR generally are attributed to Stalin. ... K. D. Tu Lum of Lashio, Myanmar (formerly Burma), has become the first student from that country to have enrolled and earned the Master of Theology degree from the Baptist Seminary, Ruschlikon. Tu Lum upon his return home will become general secretary and education director of the Kachin Baptist Association. ... The Seventh-day Adventist Church in the USSR has been given permission to establish a publishing house in Zaoksky, near Tula. While other literature will be printed, initially its press will be used to produce Bibles. ... The head of the Department for Churches in Czechoslovakia welcomed demands for the return of property confiscated under the communist regime as "moderate and realistic." The 21 registered religious denominations in the country needed the property to function properly, now that restrictions on their activity have been lifted. ... Four of the five Baptist candidates running in the May 6 elections in the GDR were among the victorious. Jorg Svoboda, director of the Buchow Baptist Theological Seminary, was elected president of the city council. ... East German Baptists voted in Berlin to become one with Western Germany during the annual assembly of the East German Baptist Union. (At this writing, West Germans are expected to echo that action.) Plans call for the two bodies to work together until 1992 when they will unify. ... Member churches of the Polish Ecumenical Council, consisting of most Protestants, the Orthodox Church, and the two Old Catholic churches, have expressed "great scepticism" about introducing religious instruction into the nation's schools. The minority churches fear that non-Catholic children may face discrimination and that already cool ecumenical relations could worsen. □

They need accurate information about the Christian faith and its important role in the development of our country. They also need information about religious factors that often influence global affairs. Our students are receiving a second-rate education if they are denied the wisdom that the religions of the world have taught for thousands of years. A student who is unable to understand the Bible is unable to enter into the richness of Western literature.

If it seems that I am giving too much weight to the intellectual development of the student, let me reiterate that good education provides students with commitment to the spiritual values that underpin our lives. There are many stories in the Bible and other religious literature that illustrate the values we all hold in common. By keeping religion out of the schools we are closing the door to a wealth of spiritual wisdom. We are

keeping from students a vital element in their quest to discover life's meaning and purpose. Education can be public and still guide students to base their lives on transcendent spiritual values. □

Kennedy, from page 11

majoritarianism that should be inimical to those in the free church tradition. By subjecting fundamental constitutional rights to the vagaries of the political process, we risk alienating large numbers of Americans whose religious views may not be shared by the majority. In the words of the late Justice Robert Jackson, as quoted by Justice O'Connor in *Employment Division v. Smith*:

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections. □

Free Exercise, from page 5

or objective; they rather may involve unabashedly sectarian Bible study, worship, and prayer.

Although many clubs successfully operated under this law since 1984, its constitutionality was always in some question. In June, in an 8-1 decision in *Westside Community Schools v. Mergens*, the Supreme Court upheld the act—again at the express urging of the Baptist Joint Committee in a "friend of the Court" brief. And, equally important, the decision rendered an expansive interpretation of "noncurriculum related," thus tending to ensure the Act's broad application.

This decision, authored by Justice O'Connor, also restored a proper balance between the separation of church and state and the constitutional guarantees of free speech and free exercise of religion. The Court recognized the critical distinction between state-encouraged religious speech and student-initiated religious exercise. The former is condemned by the no establishment clause, but the latter is not.

We at the Baptist Joint Committee believe that government should neither advance nor inhibit religion. The state should leave religion alone. It should maintain a posture of neutrality—allowing religious speech and free exercise to

## Critic assails USSR law

After having disappeared from view for the best part of a year, the long-awaited law on freedom of conscience came under discussion in the USSR's Commission for Nationalities Policy of the Supreme Soviet.

The Moscow Radio report of the discussion gives little indication of the law's content, other than to suggest that it will simplify procedures for registering religious communities.

Yuri Rozenbaum, of the Institute of State and Law in his criticism said that most of the 28 clauses were devoted to the regulation of religious organizations. He suggests it means continued control of religion. □

## Quoting

K. M. Kharchev  
*Ogonyok*

About the registration of churches. At present it has a permissive character. Founders of a community submit a request to the state organizations and have no way of knowing how they will respond.

If you and your comrades want to get together and sing songs, you are in no danger. But if you want to worship together without having obtained special permission, you can expect trouble.

The principle of registration for permission is a pernicious principle and should be abandoned. A religious community forms without any prior formalities and its registration is only a form of official recognition and record keeping—that is a truly democratic solution to the problem. The institution of the Council for Religious Affairs would no longer be needed. □

flourish or flounder without endorsing religion in general or any particular faith. This is particularly important in our increasingly pluralistic public schools.

Equal access allows this to happen. By opening their ears to students' religious speech, and by treating such speech the same as political and philosophical dialogue, the schools are simply maintaining a posture of neutrality—neither promoting nor discouraging religion. In so doing, they allow the individual free exercise which has always been permissible to be expressed corporately, without running afoul of the no establishment clause of the First Amendment. This eliminates any artificial and discriminatory barrier to robust, full-bodied discourse. As a result, the schools, no less than the students, are beneficiaries of this law and supporting decision. □

## RESOURCES

### Life with Liberty Series

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The very reason for the BJC's existence is defense of the free conscience, the explication of dissent. Religious liberty defies coercion *within* and *without* church life.

## REFLECTIONS

James M. Dunn  
Executive Director



**B**eware, theologians, lest you "succumb to the temptation of dissent," warned the Vatican in a report released the last week of June 1990. The 28-page document, "Instruction on the Ecclesial Vocation of the Theologian," says that dissent "allow[s] the leaven of infidelity to the Holy Spirit to start to work."

What a strange sound to Baptist ears. What a jarring thought, that differences arising in private interpretation of Scripture automatically produce infidels. How foreign to the free church view of faith: dissent denounced.

Baptists are by definition dissenters. It is still a tag more or less proudly borne by brothers and sisters in Great Britain. Differences over the merits of dissent involve an individual's challenging authority, seeking to understand, withholding assent, facing doubts, demanding answers, and thinking for himself or herself. Part of the great gulf between an authoritarian religion and an experiential faith is created by the outrageous biblical notion that every believer comes to God personally.

"The just shall live by faith." That spiritual personalism recklessly thrusts upon every disciple the mantle of "theologian." The priesthood of all believers calls every Christian to a do-it-yourself religion. Theologizing by proxy is strictly limited among us amateurs.

The contrasting understandings of faith, the freedom of conscience, and the necessity of asking questions are at the heart of two very different approaches to Christianity. One emphasizes a common content of accepted beliefs. The other focuses on a shared experience of faith in Christ. One points to what we believe. The other clings to freedom.

The Baptist essence, even today, is dissent. We dissent from creedalism, from majoritarianism, from so-called "Christian reconstructionism." We will not stunt growth, deny the Spirit's work, or foreclose future faith leaps by locking into a crude creedal formulation. We will not impute any righteousness to "what most Baptists believe." So what that most Baptists believe anything? The 382-year history of people called Baptists reveals the transmission of vitality, integrity, and continuity through minority opinions. We will not settle for a civil religion that with other rascals takes refuge in pious patriotism or goes along with popular idolatries.

My design is to offer a glimmer of insight into Baptist cussedness, a hint of historical perspective on Baptist battles, and a modest orientation to the way Baptists do business. Baptists in all our manifestations are a weird and wonderful lot. Non-Baptists, semi-Baptists, and pseudo-Baptists need to understand that though denying dissent may play a consistent part in other religious traditions, that denial is itself heresy in Baptist life.

I also propose to depart from the usual practice on this page to bring any reader who cares up to date on Baptist doin's regarding the BJC.

Forty thousand Southern Baptists met in the Superdome in New Orleans in June to discuss business. When Southern Baptists do business the transaction cannot be contained in a little room like that.

Southern Baptists are so diverse, so big, so democratic, in so many autonomous units that any sort of shared policy decisions range from awkward to impossible. A decade of

Southern Baptist debate about the Baptist Joint Committee took a turn at this year's meeting. On June 12, 1990, the particular Southern Baptist Convention meeting in New Orleans voted to turn away from other Baptist bodies, to do most of its church-state relations through the exclusively Southern Baptist Christian Life Commission. With that decision went most of the Convention's funding for the joint venture behind this magazine. Baptist Joint Committee funds from the SBC were cut from \$391,000 to \$50,000.

The very reason for the BJC's existence is defense of the free conscience, the explication of dissent. Religious liberty defies coercion *within* and *without* church life. In fact, dissent evidences a vital faith worth practicing and fuels a powerful witness against all tyranny.

That's only part of the story. Southern Baptists are not the Southern Baptist Convention. In fact, even with more than 38,000 "messengers," only one-fourth of one percent of Southern Baptists was involved in the Convention. This vote was one of 30 votes in the national and state conventions over the last six years that bear directly upon the work of this 54-year-old agency. Six of those votes have been taken at the national meetings, twenty-four at state conventions.

All this Baptist debate and discussion have made several things clear.

1. Baptists believe deeply and heatedly in religious liberty and its essential corollary, the separation of church and state.
2. Southern Baptists affirm and support the work of the Baptist Joint Committee as it has been conducted.
3. Southern Baptists will continue to support the Baptist Joint Committee through state conventions, local churches, and individual dissenters.

What does this mean for the Baptist Joint Committee?

1. A broader funding base.
2. A restructured board that gives those Southern Baptists who support the BJC a voice in making policy.
3. A staff shuffle with more emphasis on denominational relations, education, and constituency service.
4. A new freedom to represent those who honor the Baptist distinctive of dissent.

While the euphemisms do not constitute the announcement of a fund-raising drive, support from most state conventions and local church budgets will not be realized before January 1, 1991. A hint to the wise is sufficient. Many faithful readers already have responded without appeal or solicitation.

We know that the BJC has never been more needed, more busy, more directly related to the thought leaders of this nation. The BJC has never been better equipped, better known, or better positioned to bear a strong, clear witness for freedom.

We dissenters at the BJC will not be going along with the party line of either party. We'll not be defensively denominational. We'll not be looking for government aid, support, or blessing. We will be affirming, in historical continuity with Isaac Backus of the first Baptist joint committee, *both* separation of church and state *and* the free exercise of religion.

Alas, we have "succumbed to the temptation of dissent." □

# REVIEWS



## SHOULD THE CHILDREN PRAY?

Lynda Beck Fenwick, Waco, Texas: Baylor University (Markham Press Fund) Press, 1989, 249pp. Cloth, \$29.95.

Lynda Beck Fenwick, a former school teacher and now practicing trial attorney, explores the controversial church-state issue of prayer in the public schools. The book does not attempt to answer the question, "Should the children pray?" Instead, it supplies the arguments and evidence and allows readers to form their own opinion.

The subtitle, "A Historical, Judicial and Political Examination of Public School Prayer," suggests the three major parts. The author concentrates extensively on the historical development of religious freedom in the early colonies throughout the first eleven chapters. Important in this analysis is the history of religious freedom in the colony of Virginia. Authored by George Mason in 1776, The Virginia Declaration of Rights stated that "religion can be directed only by reason and conviction, not by force or violence ..." James Madison's "Memorial and Remonstrance" of 1785 propounded 15 points opposing support for teachers of the Christian Religion in Virginia. Finally, Jefferson's Act for Religious Freedom in 1786 disestablished the state church in Virginia and laid the ground work for true religious liberty, with profound implications on the national level.

The author continues her historical narrative through the adoption of the First Amendment and the Bill of Rights. The original Constitution, as ratified by the States, did not have a Bill of Rights, and it fell to the first Continental Congress to address this issue. The battle between Federalists and Anti-Federalists gives the reader a sense of the political process at work even in that early day. James Madison's powerful rhetoric, keen political sense and unwavering commitment to religious freedom was vital in ensuring passage of the First Amendment: "Congress shall make no law respecting an establishment of religion, not prohibiting the free exercise thereof."

The discussion on the judicial elements begins with the Supreme Court, helping the reader to realize the influence of the Court in the lives of the

American people. The Court's interpretation of the Constitution historically has sought to adapt an inspired document to an ever-changing society. At times that task can prove onerous, as it did in 1962.

Ruling that short, non-denominational prayers in a New York public school were unconstitutional, the Court opened for discussion and interpretation the very heart of the First Amendment. Justice Black, writing for the majority, began with these words: "We think that by using its public school to encourage recitation of the Regent's prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause." Continuing, "... the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

The justices came under extreme attack from the media and various Christian groups. Many schools vowed to defy the Court. In fact, this negative public reaction to the ruling in *Engel v. Vitale* continues until today.

In developing the political side, the author recounts the stimulating debates in the United States Senate on the Constitutional amendment regarding prayer in the public schools. She quotes extensively from the *Congressional Record* to shed light on arguments from both sides, both personal and objective. Floor debate began on March 5, 1984, with the reading of the proposed amendment. "Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools."

Public opinion polls showed a vast

majority of voters favoring an amendment. Opposing senators had to explain and defend their personal beliefs at great expense. Political rhetoric, personal experiences, and powerful symbols were all an integral part of the debates. In the end, however, those who favored the amendment failed to gather a two-thirds majority, and the constitutional amendment was defeated.

Mrs. Fenwick states that "[t]here are two things to be discovered from this book ... first, that devoutly religious people may differ on the issue of group school prayer, and second, that intelligent people have interpreted the lessons of history differently." Through the account of the Senate floor debates these purposes are achieved in an effective manner. Senators disagreed on the issue, both from deeply held beliefs, and from differing interpretations of the history of religious liberty.

The book's historical analysis of the issue is strong, and provides an in-depth look at the development of religious liberty and the first amendment. The judicial aspects are explored adequately, with good documentation and discussion of all relevant cases including Bible reading, silent prayer and Equal Access. Lacking development, however, are the political implications. The author barely touches on the political side of the Court, and fails to deal with the political character of the senators and founding fathers. The politics of prayer in the public schools, i.e., lobbying efforts, public relations campaigns, and insider "horse-trading," go largely undiscussed.

Written on a very timely issue, the book serves well for the casual reader and the history-minded student. It provides primary sources for quotes and views, and does not bog down in too much detail. As this issue continues to be of importance to church-state realities, one would hope that the recent Supreme Court ruling upholding the constitutionality of the Equal Access Act might begin to provide some resolution to this highly controversial issue. □

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