



# REPORT FROM THE CAPITAL

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## NewsMakers

◆ President Bill Clinton signed Dec. 19 a lobby reform bill that will provide the most extensive overhaul of federal lobbying laws in 50 years. The new law expands the definition of lobbyist to require more people to register as lobbyists, but exempts churches and certain religious groups. The measure took effect Jan. 1.

◆ Rabbi Abraham Hecht, the 73-year-old New York rabbi who had given a religious justification for the killing of Israeli Prime Minister Yitzhak Rabin, has been barred from entering Israel. Hecht, opposed to turning over Israeli-occupied territory to the Palestinians, said in a speech last June that the killing of those who endangered Israel was morally justified. He reportedly apologized to Rabin for the remarks in a letter sent to the prime minister just days before the assassination.

◆ Prince Charles has indicated that if he does divorce, he has no intention of remarking — a significant position for the Church of England. Experts on Anglican church law have said that a divorced king would not be a problem for the Church of England, but a divorced and remarried king could be embarrassing. If Charles becomes king of the United Kingdom, he also will become supreme governor of the Church of England.

## Hatch decides to introduce religious equality measure

The drive to add a Religious Equality Amendment to the U.S. Constitution moved one step forward in the Senate Dec. 22 when Judiciary Committee Chairman Orrin G. Hatch introduced a measure he said would restore religious freedom to "its intended and proper place in American society."

Hatch introduced an amendment identical to one proposed Nov. 15 by House Judiciary Chairman Henry Hyde, R-Ill.

The Hyde-Hatch proposal would bar government at any level from denying benefits to or discriminating against individuals or groups on account of religious expression, belief or identity.

In introducing the measure, Hatch said it is intended to rescue the First Amendment's guarantee of the free exercise of religion "from a misguided Supreme Court jurisprudence and the hostility that jurisprudence has spawned among local, state and federal governments."

Hatch said the proposed amendment would lock in place two principles.

"First, if public benefits are dispensed to private secular entities, government cannot deny such benefits to private religious entities," he said. "Second, in dispensing such benefits among private religious entities, the government may not discriminate among them based on religious beliefs."

The Utah Republican said he did not "take lightly" the prospect of amending

the Constitution but concluded after lengthy study such a step was necessary.

Hatch said statutory measures, including the Religious Freedom Restoration Act that he co-sponsored, are not wholly adequate to safeguard religious liberties.

The amendment would not bring back state-sponsored prayer or establish a national theology, he said.

"It merely seeks to require that government act neutrally among beneficiaries of general-

ly available resources."

The Hyde-Hatch proposal has the support of a number of religious organizations, including the National Association of Evangelicals and the Christian Legal Society. Other groups, including Concerned Women for America, are supporting a Religious Liberties Amendment sponsored by Rep. Ernest J. Istook Jr., R-Okla. That proposal would permit public school-sponsored religious exercises as long as they are student-sponsored.

Both proposals are drawing stiff opposition, however, from a coalition of mainline Protestant and Jewish groups.

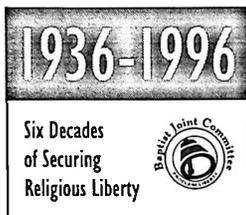
"The proposed amendments would be better named 'religious subsidy amendments,'" said Brent Walker, general counsel at the Baptist Joint Committee.

Walker said the proposals would open the door to direct government funding of religious activities and gut the First Amendment's prohibition against government establishment of religion. Δ



*"I believe that a constitutional amendment is necessary to protect the rights of believing Americans."*

— Sen. Orrin G. Hatch



Rufus W. Weaver, a key leader in the founding of the Baptist Joint Committee, was labeled pro-Communist by an employee of Sen. Joseph McCarthy's congressional investigating committee in July 1953. The staffer wrote: "The largest single group supporting the Communist apparatus in the United States today is composed of Protestant clergymen." Weaver was among the Protestant clergy listed to be subversive or Pro-Communist. J.M. Dawson, the BJC's first executive director, wrote that perhaps "no Baptist cited ... had a more pronounced anti-Communist record" than Weaver. The BJC was at the forefront of those criticizing McCarthy's tactics. The agency took particular exception to the inference that Protestantism was a hotbed of subversion. Δ

## Mississippi district raises funds for prayer defense

Mississippi's Pontotoc County School District has raised \$100,000 to defend a lawsuit challenging its practice of classroom Bible readings and recitation of prayers over the school intercom system.

The lawsuit was filed by People For the American Way and the American Civil Liberties Union on behalf of Lisa Herdahl and her children who attend school in the North Pontotoc School District.

School superintendent Jerry Horton said that "it is time for someone to stand up to them (the ACLU and PFAW)." He said the organizations have used threats of lawsuits to intimidate schools into banning any type of religious expression.

Elliot Minberg, PFAW legal director,

said Horton's involvement in the fund-raising activity "all too clearly indicates that the practices at the school are not truly voluntary. What they're crusading for is not religious liberty, but religious oppression of minority religions." Δ

## Fordham University wins religious speech dispute

The U.S. Commerce Department has modified a policy barring grants to organizations involved in religious activity. The change resolves a dispute that arose when Fordham University's public radio station was denied a grant because its round-the-clock, seven-day-a-week format included a one-hour Mass. The National Council of Churches and others supported Fordham's legal appeal. Δ

## Parry leaves BJC; Byrd accepts post

Pam Parry has resigned as associate director of communications at the Baptist Joint Committee to become editor in the communications division of the American Association of Homes and Services for the Aging in Washington, D.C.



Parry



Byrd

Kenneth Byrd, a 1995 graduate of Samford University, Birmingham, Ala., and fall-semester intern at the BJC, has been selected to fill the BJC position.

In her new position, Parry will edit publications for AAHSA, an organization representing 5,000 non-profit nursing homes, senior housing facilities, continuing care retirement communities, assisted living facilities and community service organizations for the elderly.

At the BJC, Parry has served as congressional correspondent for Baptist News Service and as associate editor of *REPORT from the CAPITAL*, the agency's biweekly newsletter.

Before joining the BJC staff in 1991, Parry served as associate editor of the *Baptist True Union*, news journal of the Baptist Convention of Maryland/Delaware, and as news writer at *Word & Way*, news journal of the Missouri Baptist

Convention. She is a graduate of the University of Missouri-Columbia School of Journalism and Midwestern Baptist Theological Seminary, Kansas City, Mo.

Byrd's responsibilities at the BJC also will include providing news coverage of Con-

gress for BNS and serving as associate editor of *REPORT from the CAPITAL*.

In 1994 Byrd served a three-month internship at United Press International in London, England.

"Pam Parry served the Baptist Joint Committee with distinction," said BJC Communications Director Larry Chesser. "She served Baptist readers by regularly providing first-rate coverage of Congress that reflected the highest journalistic standards. She will be missed both by the Baptist Joint Committee and readers of Baptist publications across the country who learned to rely on her reports from the Capitol.

"At the same time, we are excited about Kenny Byrd joining our staff," he added. "Kenny's outstanding performance during his internship here made him a consensus choice among our staff to fill this position." Δ

# Church-State Intersection

*Melissa Rogers*

Associate General Counsel



The Religious Freedom Restoration Act recently celebrated its second anniversary. Since the enactment of this landmark law,

well over 100 RFRA court cases have been reported. Those who have claimed RFRA's protections include a Christian landlord in Alaska, Khalsa Sikh students in California, a Presbyterian church in the District of Columbia, archdioceses in Colorado and Michigan, Native American prisoners in Missouri, a Christian Science nursing facility in New Jersey and Rastafarian correctional officers in New York.

We have already seen a number of RFRA "success stories." For example, when the District of Columbia attempted to use its zoning power to keep a church from feeding the homeless, the court relied on RFRA to rule for the church. When the government threatened to force employees to take loyalty oaths that violated their religious tenets, the employees successfully used RFRA to turn back the government's demands. When a former teacher in a Catholic school's theology department asked a court to order his reinstatement, the court declined, finding that RFRA supported the school's fundamental right to select teachers of its ecclesiastical doctrine.

However, certain issues critical to RFRA's integrity continue to hang in the judicial balance. Paramount among these is the issue of RFRA's constitutionality. Of the six courts that have ruled on the issue so far, four have ruled that RFRA is constitutional while two have ruled that it is not. We currently await the decision of a federal appellate court on the issue. Because this court will be the highest one yet to rule on RFRA's constitutionality, its decision will be quite significant.

Another important issue under judicial scrutiny is the kind of showing nec-

essary to meet RFRA's threshold test. As you will recall, under RFRA, a religious claimant must first show that the government has placed a substantial burden on a sincerely held religious practice. Only after such a showing is made does the court consider whether the government has a compelling interest to justify the burden. If such an interest is found, the government must then show it is advancing that interest by the least restrictive means.

Unfortunately, a number of courts have introduced a troubling new element into RFRA's threshold test: They have required the claimant to demonstrate that the religious practice at issue is "central" to the faith or "mandated" by religious doctrine. Requiring such proof is not only unnecessary, it is dangerous. RFRA was designed to restore the tradition of protecting any practice motivated by sincerely held religious belief, rather than simply those that were "mandated" by a religion or "central" to a faith. Moreover, requiring a RFRA claimant to prove to a court of law that prayers, certain garb or jewelry or any other religious practice is "compelled" by a faith in order to fall within RFRA's protections is simply a backdoor method of minimizing the guarantees at the heart of RFRA. Such a requirement also gives secular courts the power to determine the contours of our faith, threatening to turn civil judges into religious high priests.

To combat this dangerous trend, the Coalition for the Free Exercise of Religion plans to file a brief that will caution courts against transforming the substantial burden analysis into a high wall that improperly screens out many sincerely held religious claims. Likewise, the coalition will continue to file its brief supporting RFRA's constitutionality wherever it is challenged. Efforts like these are intended to ensure that RFRA fulfills its promise in the years ahead. Δ

## Quoting:

What (Pat) Robertson, (Ralph) Reed and (Newt) Gingrich find as a stumbling block — the constitutional separation of church and state

— I see as a touchstone of freedom. Over time and not without struggle, that idea has made of America "a haven for the cause of conscience."... The Constitution of the new nation would take no sides in all the religious free-for-all that liberty would make possible and human nature would make inevitable. It would neither inculcate nor inoculate against religion. For Baptists of my stripe, this separation of church and state encourages neither atheism nor animosity to religion. No American need be hostile to God to be loyal to the Constitution. Δ

— Bill Moyers



## Baptist Joint Committee Supporting Bodies

- ◆ Alliance of Baptists
- ◆ American Baptist Churches In the U.S.A.
- ◆ Baptist General Conference
- ◆ Cooperative Baptist Fellowship
- ◆ National Baptist Convention of America
- ◆ National Baptist Convention U.S.A. Inc.
- ◆ National Missionary Baptist Convention
- ◆ North American Baptist Conference
- ◆ Progressive National Baptist Convention Inc.
- ◆ Religious Liberty Council
- ◆ Seventh Day Baptist General Conference
- ◆ Southern Baptist state conventions/churches.

## REPORT FROM THE CAPITAL

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# 60-year vigil continues

What slavery tore apart in 1845 religious liberty began to restore in 1936 — a united Baptist voice. For a brief period, Baptists in the United States marched under one denominational umbrella. When the Northern and Southern regions of the country divided over slavery, Baptists followed suit. But on May 16, 1936, they entered the realm of public or government affairs and began a process that would lead them to speak as one, at least on behalf of religious liberty.

The first Baptist groups to link arms in this public affairs effort were Southern Baptists, Northern Baptists (today known as American Baptists) and the National Baptist Convention, U.S.A., the nation's largest African American Baptist denomination.

The three denominations began to work jointly to intervene when religious rights were infringed upon, either domestically or overseas. In 1939, the denominations, sporting a combined membership of 10.2 million, unanimously approved a pronouncement on religious liberty that came to be known as "The American Baptist Bill of Rights." In that statement, the denominations agreed:

Standing as we do for the principle of voluntariness in religion, grounded upon the competency of the human soul, Baptists are essentially antagonistic to every form of religious coercion or persecution.

They continued to work together as a committee until the need emerged for a permanent office in the nation's capital. The offices of the Baptist Joint Committee on Public Affairs were opened in

Washington, D.C., in 1946.

In 1996 the BJC celebrates 60 years of cooperative Baptist witness for full and robust religious liberty for all Americans. The agency, which now serves more than a dozen Baptist bodies, will note the occasion with a special celebration, scheduled Oct. 6-8 at Calvary Baptist Church in Washington, D.C. More details and registration information will be available in future issues of *REPORT from the CAPITAL*.

The BJC also plans to mark the milestone by producing a written history of the religious liberty agency. The project will not attempt to provide a comprehensive history of the agency, but rather will use the occasion of the 60th anniversary to explore the tenuous nature of religious liberty and the eternal vigilance needed to preserve it.

The history will cover :

- ◆ Baptists' historical contribution to the protections for religious liberty in the Bill of Rights;
- ◆ BJC accomplishments and failures;
- ◆ the story of the enactment of the Equal Access and Religious Freedom Restoration acts;
- ◆ recurring threats to religious liberty, such as government-sponsored prayer in schools and government aid to religious schools;
- ◆ how the agency and one of its parent denominations, the Southern Baptist Convention, parted ways after decades of working together.

Also, in observance of the anniversary, *REPORT from the CAPITAL* will feature historical vignettes during the 1996 year.

—Pam Parry  
*Associate Editor*



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