

Historical Commission, SBC  
Nashville, Tennessee



# REPORT FROM THE CAPITAL

Volume 52, No. 3

February 11, 1997

## NewsMakers

◆ **Roy S. Moore**, Etowah County (Ala.) circuit judge, vowed to defy a ruling prohibiting prayer in his courtroom. Circuit Judge **Charles Price** upheld Moore's right to display the Ten Commandments in his courtroom but said courtroom prayers violate the First Amendment.

◆ **Contantia Angelaki**, a Greek judge, has ruled that an Athens-based Scientology group is illegal and must disband. Angelaki said the group obtained its license under false pretenses and that its true purpose is to make a profit from members.

◆ **Attorney General Janet Reno** sent a letter to the Senate legal counsel saying that the Justice Department will not defend a federal law that allows Medicare and Medicaid payments to Christian Science care-givers because current legal precedent does not permit the government to provide "special benefits" to one religious group.

◆ **Jim Wallis**, a convener of The Call to Renewal, recently said that churches must offer moral leadership to overcome poverty. "What government and churches can do together is a fundamental question. ... A public policy that empowers and funds the successful strategies of both religious and secular nonprofits while respecting the separation of church and state is critical," Wallis said. Δ

## Education, welfare reform, community renewal top agenda



**P**resident Clinton's State of the Union address and the GOP response previewed issues atop the nation's agenda, including education and welfare reform, community

revitalization and a balanced budget.

"We face no imminent threat, but we do have an enemy. The enemy of our time is inaction," Clinton said.

Addressing an early battleground between Congress and the administration, Clinton opposed the idea of a constitutional amendment to balance the budget. "We do not need a constitutional amendment. We need action."

In the Republican response to the president's speech, Rep. J.C. Watts, R-Okla., called for a constitutional amendment to balance the budget.

Both Clinton and Watts urged communities to help implement new welfare policies that have turned over much of the welfare responsibility to states.

Clinton said there is a moral obligation to make sure that people who must work, can work. "I challenge every religious congregation, every community nonprofit and every business to hire someone off welfare." He has repeatedly noted that the new law allows private employers, including churches, to use welfare checks for employment and training subsidies for people hired off welfare.

He also addressed critics of the old welfare system. "You cannot blame that old system anymore. We have torn it down. Now do your part. Give someone on welfare the chance to go to work."

Watts touted the American Communi-

ty Renewal legislation that would provide vouchers for faith-based drug programs and religious schools and create tax incentives to invest and live in low-income communities. Similar proposals were introduced in the last Congress.

Watts said the bill would "help rebuild low-income communities through their own moral renewal and by giving them economic opportunity. It also recognizes that faith-based institutions contribute to the healing of our nation's problems."

Republican House and Senate leaders recently formed the "Renewal Alliance" to promote proposals that empower charities, families, churches and community organizations to participate in solving human problems.

"We must be a people who dare to take responsibility for our hatred and fears and ask God to heal us within. And we must be a people of prayer. A people who pray as if the strength of our nation depends on it, because it does," Watts said.

The proposals to channel government funds through churches and religious organizations are expected to trigger a new round of debate over church-state relations. A Baptist church-state specialist warned against the danger to religion posed by funneling government support to faith-based programs.

"Faith-based programs work because they are voluntary and vital. Vouchers are always followed by regulations," said Baptist Joint Committee Executive Director James M. Dunn.

He added, "Those who scream for a smaller and less intrusive government role should lead the fight against voucherized meddling in religion." Δ

New curriculum  
on  
religious  
liberty  
for  
youth



**B**aptist history and lessons in religious liberty are almost lost components in the nature of our youth. *Citizens of Two Kingdoms* can be used as a Bible-based curriculum resource in Sunday School, Discipleship Training or other suitable setting to 'train up' our youth in Christian citizenship."

— Mike Harton  
Director  
Division of Sunday School  
& Discipleship Development  
Baptist General Association  
of Virginia

Available for \$5  
including shipping  
from the  
Baptist Joint  
Committee.

## Federal appeals court OKs religious freedom law

A 1993 law expanding protection for religious practice is constitutional, and it safeguards the confidentiality of religious confessionals involving prisoners, a federal appeals court ruled Jan. 27.

The 9th U.S. Circuit Court of Appeals rejected prosecutor Doug Harclerod's contention that the Religious Freedom Restoration Act is unconstitutional.

The ruling written by Judge John T. Noonan said Oregon officials' secret taping of a sacramental confession involving murder suspect Conan Wayne Hale and the Rev. Timothy Mockaitis, a Catholic priest, violated RFRA and the Fourth Amendment's protection of the right to privacy.

Mockaitis and Archbishop Francis E. George of Portland filed a lawsuit seeking destruction of the tape and its transcript and an order prohibiting law enforcement officials from taping future confessionals at the Lane County Jail.

Destruction of the tape was opposed by Harclerod and Hale, who said that destroying the tape, in which he allegedly acknowledged participation in burglaries but not in the murders, would impair his defense.

Noonan rejected Harclerod's argument that by exempting religion from generally applicable laws, Congress unconstitutionally advanced religion.

The appeals court called that argument "a challenge deadly in its implications" for religious liberty.

"Of course the statutory protection of the free exercise of religion is good for religion," Noonan wrote. "Neither the benefit nor the means are contrary to the first liberty assured by the First Amendment and made concrete by RFRA."

Noonan said the prosecutor's actions were not justified by a law that allows officials to monitor inmate conversations. A religious confessional is expected to be confidential unless the penitent chooses to reveal it, the ruling noted.

"When the prosecutor asserts the right to tape the sacrament he not only intrudes upon the confession taped but threatens the security of any participation in the sacrament by penitents in the jail," Noonan wrote.

Noonan instructed a lower court to issue an order against recording "confidential communications from inmates of

the Lane County Jail to any member of the clergy in the member's professional character."

But Noonan refused the request by Mockaitis and George to immediately destroy the tape, citing Hale's decision to make the contents public.

In October, the Baptist Joint Committee and other religious groups joined the U.S. Catholic Conference in asking the 9th Circuit to protect the confidentiality of clergy-penitent communications.

The 9th Circuit is the fourth federal appeals court to reject challenges to the constitutionality of RFRA.

"This is a double-barreled victory," said Brent Walker, general counsel at the BJC. "It says 'no' to overzealous prosecutors who would violate the sanctity of the confessional as a shortcut to proper police investigation. It also supplies yet another federal court decision upholding RFRA."

The law's constitutionality is expected to be settled by the U.S. Supreme Court this year. Justices will hear arguments about RFRA's constitutionality Feb. 19 in a dispute involving the refusal by Boerne, Texas, officials to permit St. Peter Catholic Church to expand a sanctuary located in an historic preservation district.

## Christian Coalition unveils agenda to address poverty

The Christian Coalition is asking the 105th Congress to address issues such as drug addiction, gangs, education and poverty through "faith-based" solutions.

Christian Coalition Executive Director Ralph Reed unveiled the coalition's legislative agenda titled "The Samaritan Project." The proposal includes a tax credit for charitable giving, tax relief for low-income communities and a call for a national program to provide low-income children with vouchers to attend private and parochial schools.

The Christian Coalition proposals drew quick criticism. Carole Shields, president of People for the American Way, said the group's real agenda is tax dollars for sectarian causes. "The problem with vouchers is the children we leave behind," Shields said.

She questioned the coalition's record on helping low-income families. "At every critical moment in the public policy debate in the last session of Congress, the Christian Coalition turned its back on the nation's poor," she said. Δ

# Church-State Intersection

**J. Brent Walker**

General Counsel



Controversy is the constant companion of the wall separating church and state. A provision of the newly enacted welfare reform law. Debate is raging not only over the new law's impact

on the poor but also about its effect on the wall separating church and state. A provision of the law would permit federal funds to go to pervasively sectarian organizations, as well as to religiously affiliated welfare providers. While the law's supporters claim that this so-called "charitable choice" provision is good for religion, it actually violates the constitution and jeopardizes the healthy neutrality between government and religion.

Any attempt by government to provide tax dollars to pervasively sectarian religious organizations is plainly unconstitutional, even if designated for secular purposes. Money is interchangeable and secular functions cannot easily be separated from sacred activities. The Supreme Court has rightly held that such financial aid runs afoul of the Establishment Clause. It violates the religious liberty of citizens whose taxes are used to pay for the advancement of someone else's religion. Thomas Jefferson called this kind of aid "sinful and tyrannical."

The charitable choice provision is also unwise. First, it is bad for religion even though it appears to benefit religion. It opens the door for invasive governmental regulation of and unwholesome entanglement with religion. An immutable law of American politics is that what government pays for, government regulates.

Second, when religion dines at the public trough, it becomes lazy and compliant. It must maintain its prophetic edge if it is going to call government to account. Religion, like anything else, is not inclined to bite the hand that feeds it.

Third, a governmental freebie causes people of faith to shirk their own stew-

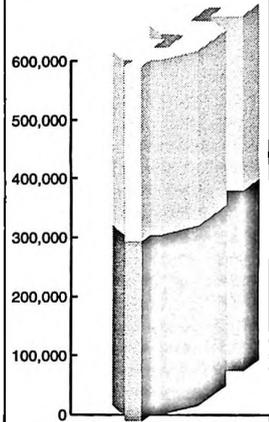
ardship of giving. President Carter, in his new book, *Living Faith*, reminds us: "Separation of church and state ... is a positive good, encouraging Americans to support hundreds of varied and active religious denominations." He goes on to say that, "[b]eing called upon for financial support is part of this involvement ... [and] forgoing our own financial responsibility and depending on government support would sap the vigor of the church."

Finally, government funding would engender denominational conflict of the worst sort. Tim Lamer, an evangelical scholar, recently wrote, "there's no better way to start a religious war in America than to coerce the faithful ... into subsidizing a false religion." Is this an overstatement? I think not. The same divisions that have resulted in civil wars in other countries would at least prompt very uncivil competition here in the United States. No, when government takes sides in matters of religion — favoring one denomination over another or religion over irreligion — only mischief results.

Moreover, the charitable choice provision in the welfare law is unnecessary. Religiously affiliated organizations (i.e., those that are not "pervasively sectarian") may receive government aid if it is not used to advance religion. Such agencies, like Catholic Charities and Lutheran Social Ministries, routinely receive public money to feed the hungry, nurse the infirm, care for the elderly and relocate refugees. But they are not supposed to proselytize, discriminate or teach religion. The charitable choice provision does not respect this time-honored distinction between pervasively sectarian religious organizations and those that operate primarily to deliver social services. That's a big mistake.

The charitable choice provision in the new welfare law is unnecessary, unwise and unconstitutional. Other than that, I guess it's okay. Δ

## Endowing the Baptist Joint Committee



### Gifts honor Baptists, secure religious liberty

Gifts and pledges to the Baptist Joint Committee's endowment drive now total \$304,000.

William E. Neptune of Eufaula, Okla., made a contribution in honor of the grandparents of BJC staffer Quentin (Skip) Lockwood III. With his gift, Mr. Neptune wrote: "This year I'd like to dedicate it to Rev. Quentin and Alene Lockwood. He was my first supervisor in the Rural/Urban Missions Department of the Home Mission Board. They are great and genuine Baptists and enthusiastic supporters of the BJC."

## 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

**James M. Dunn**  
*Executive Director*  
**Larry Chessor**  
*Editor*  
**Kenny Byrd**  
*Associate Editor*  
**J. Brent Walker**  
*Book Reviews*

REPORT (ISSN-0346-0661) is published 24 times each year by the Baptist Joint Committee. Single subscriptions, \$10 per year. Bulk subscriptions available.



200 Maryland Ave. N.E.  
Washington, D.C. 20002  
202-544-4226  
Fax: 202-544-2094  
CompuServe: 70420,54  
Internet E-mail:  
BJCPA@erols.com  
World Wide Web site:  
www.erols.com/bjcpa

# Book Review

## Why America Needs Religion: Secular Modernity and Its Discontents

*Guenter Lewy, William B Eerdmans Publishing Co., Grand Rapids, Mich., 160 pp.*



**G**uenter Lewy, a professor emeritus of political science at the University of Massachusetts and a professed agnostic, intended to write *Why America Needs*

*Religion* as a defense of secular humanism and ethical relativism. But, after closer examination, Lewy found the answers to difficult moral questions offered by secular thinkers ambiguous and unsupported. Lewy instead pursues the question: "What role does or can religion play in identifying, confirming, and supporting moral beliefs and values?" His answer: a call for all persons to look to their religious traditions and replenish the social values that have been abandoned in favor of rampant individualism.

Lewy asserts that society is not experiencing a rise in secularism, but a crisis in morality. He attributes the crisis to the family's attenuated role in educating children on traditional moral values. To support his assertion, Lewy cites growing problems with adolescent violence, gang membership, teen pregnancy and divorce. He cites these as evidence that the traditional values of commitment, fidelity and sacrifice for others have been replaced with a philosophy of radical individualism that stresses the importance of personal autonomy, self-expression and sexual freedom.

The secular philosophy of "if it feels good, do it" will not answer the many social problems that face the American

family, Lewy contends. The answer must begin with the traditional moral values that are embodied in all religious traditions. Specifically, he proposes more extensive moral education in public schools and an increased role of the church to transform America's values from a secular relativism to those grounded in religious foundations.

The author anticipates and answers potential church-state criticism by declaring, "Public schools cannot and should not promote a particular religion, but they can and should accurately portray the role of religion in history (which is not something they now do)." He proposes that public schools teach values that are generally accepted because they are "part of our common heritage, not because they are of a particular religious tradition." This moral education does not involve intrusive sectarian teaching, but a broad-based civil virtue that comports with the Constitution's prohibition on the establishment of religion.

Lewy's thoughtful analysis tells us that, although religious principles cannot be legislated, they can inform the values important to preserving American society. Evangelical theologian Carl F.H. Henry said it best: Government's job is to determine "what is unlawful, not what is sinful." Religious traditions have played an undeniable role in shaping society throughout American history. Lewy's book presents a convincing case for maintaining the influence of religious traditions in American culture because they provide the best resource for teaching traditional moral values. Δ

— Jonathan Converse  
*BJC Intern*

Non-profit Org.  
U.S. Postage  
PAID  
Riverdale, MD  
Permit No. 5061

.....3-DIGIT 372

BILL SUMMERS  
SOUTHERN BAPTIST HIST LIBRARY & ARCHIVES  
901 COMMERCE ST STE 400  
NASHVILLE TN 37203-3628

