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NewsMakers

◆ U.S. District Judge Ira DeMent struck down a 1993 Alabama school prayer law, saying it wrongly coerced students to participate in religious activities. The law "creates excessive entanglement between religion and the state by forcing school officials to continually monitor both the content of prayer and the conduct of dissenting students," DeMent said.

◆ Chief Justice William Rehnquist rejected a request from American Muslims to remove an image of the Prophet Mohammed from a marble frieze in the Supreme Court. Rehnquist said altering the depiction "would impair the artistic integrity" of the frieze and would violate a law protecting the court's architectural features.

◆ Rastafarians Brian Harvey and Juvaughan Sampson were excused from Bermuda's part-time army after their religious practices, including hair worn in long, matted "dreadlocks," was held incompatible with military life.

◆ Sen. Orrin Hatch, R-Utah, said at a recent hearing on juvenile crime that "our limited federal resources" should go to private and religious groups that have a proven track record on youth issues. He wants to allow religious entities to compete for federal funds "on equal footing" with other programs targeted at youths. Δ

Keys to battling persecution seen in Soviet Jewry efforts

Lessons from the 30-year-campaign to save Soviet Jews from repression are being viewed as strategies to address Christian persecution today.

Those lessons were the focus of a March 18 seminar sponsored by the Center for Jewish and Christian Values. Center Director Chris Gersten said that the "campaign to save Soviet Jewry is the only example of a religious community re-directing American foreign policy on behalf of oppressed co-religionists overseas." He added that "unless the American Christian community launches a similar effort, the plight of persecuted Christians will only worsen."

A spokesman for the conference said that Christians are the most widely persecuted religious group today.

The conference featured input from Jewish leaders on ways to battle religious persecution. Rabbi David Saperstein, director of the Religious Action Center of Reform Judaism, said one lesson to be learned from the efforts to aid Soviet Jews is that the Jewish community spoke with one voice.

"It is true that we had people with different strategies within the communities ... but on the whole the community got together and made the compromises ... and spoke with one voice," Saperstein said.

He said lessons also can be learned from efforts to assist Jews in Syria, Cuba, Ethiopia and elsewhere. "We used different strategies in different settings, depending on the nation," he said.

Saperstein advised seminar partici-

pants to pick winnable battles early on and warned against overemphasizing the right to proselytize.

Proselytization is a fundamental right recognized by international human rights accords, he said. But making it the primary

focus would harm efforts to build a movement to thwart persecution. He added that "people will still stand up, but there will be a queasiness" concerning the group's agenda.

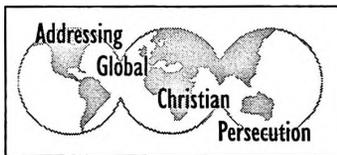
"I will stand there with you and make the point about the fundamental right, but tactically it will be a disservice to your cause if you allow that to be too large," Saperstein said.

He said that several Christians "who didn't wait to be asked" helped the American effort to save the Soviet Jewry.

He recommended that churches adopt a Christian political prisoner or adopt a Christian family whose religious practices are restricted. Such actions will make people aware of persecution and will humanize the issue, he said.

He also suggested that the religious community to work to change American immigration policy. "Getting the INS to recognize — not just in theory but in function — religious persecution as grounds for asylum" would send a powerful message, Saperstein said.

Jess Hordes, Washington representative of the Anti-Defamation League, told seminar participants that while the Soviet Jewry movement is considered a great success, "we tend to forget it was a very long and difficult road." Δ



Who has a stake in the future of religious liberty?

Students & Secretaries
Doctors & Deacons
Pastors & Politicians
Lawyers & Landscapers
Carpenters & Caseworkers
Poets & Police Officers
Artists & Airplane Pilots
Firefighters & Farmers
Teachers & Truck Drivers
Buddhists & Baptists

That's far from an exhaustive list, but enough to make the point: All of us have a stake in religious liberty. And now there's a way for individuals to "plug in" to efforts to ensure that America's First Freedom thrives in the next century.

In the next edition of *Report from the Capital* readers will receive the first issue of *First Freedom*, a quarterly newsletter for advocates of religious liberty. *First Freedom* will include information about joining the **Religious Liberty Council** — an organization for individuals committed to advancing religious liberty.

Supreme Court turns away church-state disputes

The U.S. Supreme Court declined March 17 to disturb a pair of lower court rulings that enforced church-state separation requirements of the federal and California constitutions.

The high court refused to halt a lawsuit against a New York prosecutor who agreed to dismiss sex-abuse charges against a suspect only if she agreed to swear to her innocence on the Bible in her home church. Orange County, N.Y., prosecutor Gerald D'Amelia argued that he was entitled to immunity from the civil suit, but a federal appeals court disagreed.

In a second case, the Supreme Court also turned away arguments that San Francisco should be allowed to keep a 103-foot-tall Latin cross in a park owned by the city. A federal appeals court ruled that the cross, built with public funds in 1934, violates the California Constitution's no-preference-to-religion clause.

In the New York dispute, a suspect identified in court records as Jane Doe was charged with sexual abuse based on allegations by her 14-year-old son, Nicholas. The complaint was prompted by John Doe, Nicholas' father and the estranged husband of Jane Doe.

D'Amelia later doubted the credibility of the accusations and whether the evidence would support a conviction.

He then agreed to a proposal from John Doe that the charges be dropped if Jane Doe would swear on the Bible at an Orange County Roman Catholic Church that she had not sexually abused her son. Jane Doe accepted the proposal, but later filed suit alleging that the prosecutor had coerced religious practice in violation of the First Amendment's ban on governmental establishment of religion.

D'Amelia sought to have the lawsuit dismissed, contending he is immune from claims arising from the performance of his duties as a prosecutor.

But a federal district court and the 2nd U.S. Circuit Court of Appeals disagreed.

Conditioning the dismissal of charges on Jane Doe's willingness to swear to her innocence in a church "was manifestly beyond (D'Amelia's) authority," the appeals court said.

By conducting the church event, D'Amelia "performed acts that not only are patently forbidden of government

officials by the Constitution but also are distinctly outside the realm of a prosecutor," the appeals court said.

In the California case, a group of local religious leaders and residents complained in a lawsuit that the city-owned cross violated both the federal and state constitutions.

A federal district court sided with the city, finding that the cross atop Mount Davidson is not near a city-owned building and is not visible or only partially visible from most San Francisco locations. The court also noted that the city does not promote the cross in its literature and that the cross can be seen as a cultural landmark and one of many works in the city's extensive and varied public art collection.

But the 9th U.S. Circuit Court of Appeals reversed that ruling, finding that the Mount Davidson cross "carries great religious significance" and that it is visible to a substantial number of people.

The appeals court concluded that the presence of the cross on public land violates the California Constitution and did not address whether it is permissible under the federal Constitution.

Lawmakers seek funds for religious groups in bill

A bipartisan group of congressional lawmakers has introduced legislation that would establish "renewal communities" eligible for tax benefits and business incentives.

The proposal also would provide public money for faith-based drug programs and require eligible communities to participate in a plan to provide vouchers for low-income students to attend public, private or parochial schools.

The measure is largely identical to legislation introduced by GOP lawmakers last year. The new measure, however, has bipartisan support with Sen. Joe Lieberman, D-Conn., and Rep. Floyd Flake, D-N.Y., co-sponsoring the bill.

"We have a lot less to fear from a former drug addict who's broken his habit because he got faith from a faith-based organization than we have to fear from a drug addict who has not been to a faith-based organization and continues to be drug addicted," Lieberman said.

Republican sponsors include Sen. Spencer Abraham of Michigan and Reps. J.C. Watts of Oklahoma and Jim Talent of Missouri.

Church-State Intersection

Melissa Rogers

Associate General Counsel



Just when you've almost lost the ability to be surprised by the church-state mischief proposed by some on Capitol Hill, along comes something like the "American Community Renewal Act" (H.R. 1031) to make your jaw drop. The act was recently introduced by Reps. J.C. Watts, R-Okla., Jim Talent, R-Mo., and Floyd Flake, D-N.Y. Its Senate sponsors are Spencer Abraham, R-Mich., and Joe Lieberman, D-Conn.

The proposal calls for the establishment of "renewal communities" in low income areas which would be entitled to receive tax benefits and other government assistance. The goal of assisting low-income communities is certainly a laudable one. The bill, however, goes much further than simply proposing secular solutions to social problems. Instead, the legislation would engineer a massive merger of church and state.

First, the bill requires each "renewal community" to provide vouchers that would allow tax money to flow to parochial schools. The bill also makes churches, temples and other pervasively sectarian groups that provide substance abuse prevention and treatment services eligible for federal grants. But wait. There's more. Under the bill, such religious groups also would be able to require people receiving these services "to actively participate in religious practice, worship and instruction" and "to follow rules of behavior devised by the organizations that are religious in content or origin." So, for example, this legislation could permit the use of governmental power to force someone to listen to a sermon ("actively," of course), sing "Amazing Grace," study the Koran, recite the kaddish, observe the Sabbath, or refrain from eating pork. And these are just some of many problems with the bill.

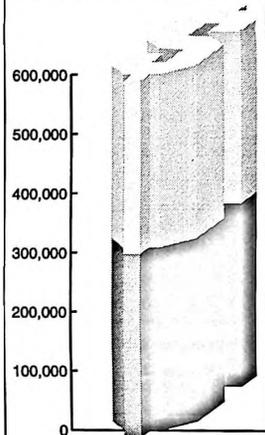
The bill does give beneficiaries of federal assistance the right to object to a program because of its religious nature. But the legislation does not require that beneficiaries be notified of this right to opt out. And in most cases the remedy provided when a beneficiary objects to a religious program is that the religious organization, not a neutral party, has the power to arrange for an alternate service provider. A beneficiary who felt uncomfortable with the religious group in the first place, however, is not likely to feel too comfortable with the same religious organization making a reassignment.

The bill's sponsors claim that the act will end pernicious discrimination against religious organizations that want to provide state-funded social services. What they do not mention is that religious organizations can already deliver social services with public funds by spinning off separately incorporated affiliates that do not engage in religious education, proselytizing or discrimination.

Current law **does** prohibit funneling tax money to thoroughly religious entities but it does so to protect religion, not to punish it. The law recognizes that, because religion so pervades institutions such as churches, funding any part would advance religion itself. Not only does using public money to advance religion violate taxpayers' consciences, it undermines religion's theological purity and independence from government. With government funds, come government regulations. Moreover, allowing government to pick and choose which religions get limited tax money will trigger unhealthy competition among faith groups and enmesh legislators in incredibly divisive decisions.

Ignoring all this, the "American Community Renewal Act" would try to use the power of the government to push us through the church house door. Wouldn't it be nicer if we went to church simply because we wanted to? Δ

Endowing the Baptist Joint Committee



Invest for today and the future

Gifts to the Baptist Joint Committee's endowment campaign will yield religious liberty dividends for the years ahead.

Gifts and pledges to date total \$309,000.

Please remember to invest in religious liberty for today and for future generations.

Baptist Joint Committee

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Church-state lessons from a Jewish lawyer

In light of the recent Southern Baptist Convention resolution singling out Jews for evangelization, now might be a good time to consider what we Baptists can learn from our Jewish friends with regard to religious liberty and the separation of church and state.

Perhaps the most influential figure of this century on American church-state relations was Leo Pfeffer. For over 40 years, Pfeffer served as a lawyer, scholar and advocate in the field of church-state relations. On behalf of the American Jewish Congress, the National Coalition for Public Education and Religious Liberty, the American Civil Liberties Union and other organizations, Pfeffer argued more landmark church-state cases before the U.S. Supreme Court than any one else in history.

Foremost in Pfeffer's thinking about church and state was the idea that religious freedom and church-state separation were a unitary guarantee. They were "two sides of the same coin," he often declared. "Separation guarantees freedom and freedom requires separation." This unitary guarantee he understood to be embodied in the First Amendment's ban against laws respecting an establishment of religion (the separation guarantee) and laws prohibiting the free exercise of religion (the freedom guarantee).

Pfeffer believed the ideological roots of the First Amendment could be traced to both "pietist" and "deist" influences. He argued that pietists, such as Roger Williams, Jonathan Edwards and George Whitfield, provided a theological justification for the separation of church and



**J. David
Holcomb**

state by holding religion to be outside of the realm of government. Likewise, deists, such as Thomas Jefferson and Thomas

Paine, maintained that matters of conscience were inalienable rights beyond the jurisdiction of a limited government.

Of the pietists, Pfeffer gave great credit to the Baptists for their contributions to the unitary guarantee. The names of Williams, Backus and Leland were frequently invoked by Pfeffer as examples that the unitary guarantee was espoused first and foremost by devoutly Christian leaders. "The Baptists were by far, but by no means the only conventional religious group," Pfeffer once pro-

claimed "that could claim credit for the exclusion of religion and man's relationship to God from the jurisdiction of government." Baptists who in their history faced persecution at the hands of established churches know all too well the mutual interdependence of religious freedom and church-state separation.

Today, when many Baptists are tempted by those who would subsume the Establishment Clause to the Free Exercise Clause to gain greater recognition and support for religion from the state, it is important we remember the unitary guarantee which, in the words of Leo Pfeffer, "is best for church and best for state and secures freedom for both." Δ

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