



REPORT FROM THE CAPITAL

Volume 53, No. 13

July 7, 1998

NewsMakers

◆ **Barbara Allen, Hal Bass and Jack Glasgow** have been elected to serve on the Baptist Joint Committee by the Religious Liberty Council, the membership arm of the BJC. Allen is a retired utility company executive and a member of New Hope Baptist Church in Raleigh, N.C. Bass is Moody Professor of Pre-Law Studies at Ouachita Baptist University in Arkadelphia, Ark. Glasgow is pastor of Zebulon (N.C.) Baptist Church. The RLC re-elected tri-chairs **Patsy Ayres** of Austin, Texas, **Hardy Clements** of Greenville, S.C., and **Gardner Taylor** of Brooklyn, N.Y. **Jerry Martin** of Kensington, Md., was re-elected treasurer.

◆ **Robert Seiple**, president of World Vision U.S., has been appointed adviser for international religious freedom at the U.S. State Department. Seiple, formerly president of Eastern College and Eastern Baptist Theological Seminary, will lead efforts to integrate policies that promote religious freedom into U.S. foreign policy.

◆ **Guadalupe Rojas** lost her bid to get the U.S. Supreme Court to hear her claim that exempting religious groups from federal and state unemployment laws violates the separation of church and state. Lower courts said the exemptions serve a secular purpose and do not impermissibly advance religion. Δ

Baptist leaders differ on solution to religious persecution abroad

Lawmakers and religious groups continue to debate the best way to curb religious persecution abroad.

Two different bills have emerged in Congress to address the issue and both could lead to sanctions or other penalties against countries that engage in or condone religious persecution.

The Freedom From Religious Persecution Act, approved recently by the House would put in place an officer who could automatically impose economic and other sanctions against countries that support persecution. The president would have limited ability to waive sanctions. It is sponsored by Rep. Frank Wolf, R-Va., and Sen. Arlen Specter, R-Pa.

The International Religious Persecution Act is sponsored by Sens. Don Nickles, R-Okla., and Joseph Lieberman, D-Conn. It would establish a State Department office that could identify countries engaged in religious persecution and could require that the president choose from a list of sanctions and other penalties to impose.

Some religious leaders and lawmakers are concerned that using the same unilateral sanctions for any country engaged in religious persecution would hurt the very people they seek to protect, such as U.S. missionaries.

At a June 17 hearing, Sen. Rod Grams, R-Minn., said sanctions in the Nickles-Lieberman bill could be counterproductive. "How could this club-over-the-head approach work?" he said.

Richard Land, executive director of the Southern Baptist Ethics and Religious Liberty Commission, said the Nickles-Lieberman bill "is not a club-over-the-head approach. It seems to me to be a well-stocked arsenal with numerous nuanced approaches." The ERLC also supports the Wolf-Specter bill.

William O'Brien, director of the Global Center at Samford University in Birmingham, Ala., rates the Nickles bill as better than the Wolf-Specter measure but said the Nickles bill should be considered a "work in progress."

O'Brien said using sanctions against countries could produce unintended consequences.

"Sanctions and discontinuance of aid, especially

if done unilaterally, well may evoke a reaction from authoritarian regimes that is aimed at the persecuted," he said. "Christians and/or any other persecuted religious groups could bear the brunt of the anger of totalitarians or terrorists who react to what they perceive and experience as arrogance on the part of a lone ranger superpower."

"In some societies, stringent and thoughtless measures by the United States could actually make the situation worse for believers rather than better," said John Akers, chairman of the board of East Gates Ministries International. The group, headed by the Rev. Nelson Graham, son of Baptist evangelist Billy Graham, works with both official and unofficial churches in China. Δ



William O'Brien

Clinton signs bill protecting tithes, gifts

President Clinton signed a bill into law that will protect religious and charitable contributions given in good faith by people who later go bankrupt.

The Religious Liberty and Charitable Donation Protection Act is designed to protect tithes and other charitable donations from bankruptcy laws that have been used to confiscate donations by bankrupt donors.

"It is a great loss to all of our citizens for creditors to recoup their losses in bankruptcy cases from donations made in good faith by our citizens to their churches and charitable institutions," Clinton said.

Congressional sponsors of the bill were Sen. Charles Grassley, R-Iowa, and Rep. Ron Packard, R-Calif.

The new law will protect gifts of up to 15 percent of the debtor's annual income (more if the debtor has consistently given at higher levels). The measure will also permit debtors in Chapter 13 bankruptcy to tithe during their repayment period.

"Congress and the president heard our message and have told bankruptcy judges to get their hands out of the offering plate," said Steven McFarland, director of the Christian Legal Society's Center for Law and Religious Freedom. Δ

— Marie Biggs
B/JC Intern

James' school prayer appeal rejected by Supreme Court

The U.S. Supreme Court has rejected Alabama Gov. Fob James' request for relief from a federal judge's order halting government-sponsored religious exercises in DeKalb County, Ala., public schools.

James is appealing Judge Ira DeMent's 1997 order barring school-sponsored prayer and other religious exercises in public schools to the 11th U.S. Circuit Court of Appeals. While awaiting that appeal, James asked the high court to order DeMent to dismiss the case "for lack of a federal question."

Without comment and in quick fashion, the high court denied James' request.

"Gov. James' appeal to the Supreme Court never had a prayer," said Barry Lynn, executive director of Americans United for Separation of Church and State. "It was so bizarre, the justices brushed it aside in near record time."

DeMent issued the injunction in DeKalb County after ruling unconstitutional an Alabama law authorizing "non-sectarian, non-proselytizing student-initiated voluntary prayer." Besides halting school-sponsored religious exercises, DeMent's order listed a range of constitutionally protected student religious expression.

James' petition to the high court argued that only the "people of the United States," not Supreme Court justices, "have a constitutional authority to decide the 'fundamental principles of our society.'"

The U.S. Constitution authorizes the people of each state "to make their own laws on issues of religious liberty," James argued.

"Yet, the Justices of this Court insist on disobeying the 'supreme law,' by taking for themselves an unconstitutional power to decide religious issues for the whole nation," the petition argued. Δ

Education savings measure approved; veto expected

The U.S. Senate gave final congressional approval to a bill that would provide tax breaks for parents to send children to private and religious schools, but the measure is expected to be vetoed by President Clinton.

The education savings accounts were included in a larger package of education reforms.

The 59-36 Senate vote on June 23 and a 225-197 vote earlier in the House were both short of the two-thirds majority necessary to override a veto.

The proposal, sponsored by Sen. Paul Coverdell, R-Ga., would allow families to invest up to \$2,000 per year, per child in tax-advantaged education IRAs. The accounts would earn tax-free interest and withdrawals could be used to pay education expenses from kindergarten through college at public, private and religious schools.

Current law provides a \$500 per year savings account that can be used only for higher education expenses.

During the Senate debate, Coverdell said the bill would benefit 14 million families representing more than 20 million children, about half the school population.

Backers estimate the proposal would provide about \$1.5 billion in tax breaks and lead to \$12 billion in savings earmarked for education.

"It is a plus," Coverdell said. "We are causing billions of new dollars to come to the aid of educators and education."

Opponents charged that the bill would largely benefit the well-off.

"Treasury Department analyses conclude that 70 percent of the tax benefits from this provision would go to the top 20 percent of all income earners," said Sen. Daniel Patrick Moynihan, D-N.Y.

"This bill will not result in greater opportunity for middle and lower income families to send children to private schools, as supporters contend," he said. "Instead, it will merely provide new tax breaks to families already able to afford private schools for their children." Δ

High court rejects dispute over choir's religious music

The U.S. Supreme Court declined June 26 to hear a former Utah high school student's claim that her First Amendment rights were violated by the alleged promotion of religion by her music teacher.

Left standing were two lower court decisions dismissing Rachel Bauchman's federal complaint against choir teacher Richard Torgerson and other officials at West High School in Salt Lake City.

She had argued that her First Amendment rights were violated by Torgerson's selection of Christian music for the choir to perform and the scheduling of performances at religious sites.

A federal appeals court ruled that the choir's activities did not have a primary effect of endorsing religion. The court also rejected the Jewish student's claim that being required to practice and perform Christian music violated her free exercise rights. Δ

Sensible solutions preferred to callous or unconstitutional ones



Melissa Rogers
Associate General Counsel

In the middle of class, a sixth-grade public school student asks the teacher if a classmate who recently drowned was in heaven.

Here's how the teacher could have responded to that question:

"I know you are hurting so much over your friend's death. I want you and your classmates to be able to discuss these important questions fully, so I am going to ask the principal to bring some counselors to school to speak with you. In the meantime, you may want to speak with your parents or perhaps a pastor or other adult friend about your questions. We care deeply about you and your questions and want to help you through this tough time."

The teacher might even have said that he or she personally believed that the classmate's friend was in heaven. Then the school could have invited some counselors representing different faiths and others offering non-religious perspectives to a voluntary, after-school counseling session.

Here's how the teacher actually responded:

Bronx, N.Y., teacher Mildred Rosario told the student that the dead child was in heaven, adding that "Jesus, our Savior" came to "save all the human race," according to news reports. Rosario "then proceeded to pray, although she told the class anyone who did not want to participate could read a book or work at the computer. Supposedly, she touched every student in the class on the head as she said a prayer." When she would not promise to refrain from schoolroom prayer in the future, Mrs. Rosario was fired from her job.

In a matter of days, Mrs. Rosario's case has gone from a local news story in the Bronx to a "cause celebre" on Capitol Hill. Some members of Congress recently held a press conference in support of Mrs. Rosario.

The student's question created a tough

moment. But, contrary to the suggestions of Mrs. Rosario's congressional supporters, there weren't just two simple answers to this problem: Mrs. Rosario's solution or callously telling the student that he had asked an inappropriate question and moving quickly to the next math equation.

Mrs. Rosario's answer was well-intentioned but wrong in that setting. Imagine the Jewish student held captive in that classroom — it is highly unlikely that he or she was comforted by such an experience. In fact, it was a Jehovah's Witness who complained about the incident. The offended students could have worked on the computers or read a book, but few sixth-graders are willing to break from the pack, especially when doing so might have made them seem uncaring. Indeed, none of the students in Mrs. Rosario's classroom availed themselves of this option.

Or, imagine that, instead of being an evangelical Christian, Mrs. Rosario was a Buddhist, Jew or Muslim and felt compelled to share her religious beliefs on the issue and proselytize each student in her classroom. The Christian members of Congress who were so irate about Mrs. Rosario's treatment likely would have been outraged if she had preached a less familiar faith.

There's a sensible and sensitive alternative to these two bad solutions. It looks somewhat like the answer given above. Of course, hindsight is 20/20 vision. But, with a bit of advance planning and training, teachers can give appropriate answers in these situations. Even in tough moments, teachers aren't limited to choosing between callous and unconstitutional. Δ

Quoting

The reason we're against [two congressional proposals dealing with religious persecution abroad] is because ... they try to set a rigid, formulated standard for what constitutes religious persecution and then place that goal of stopping that higher than any other goal in American foreign policy. ... There's no question that we will continue to pursue efforts to stop religious persecution where we can around the world, but to create another bill with another set of sanctions that will tie the president's hands again in another way will simply not advance the cause to stop religious persecution. ... Rigid, sledgehammer sanctions that feel good to pass in a vote often do bad when it comes time to implement them.

— James Rubin,

Assistant Secretary of State for Public Affairs, commenting on the State Department's opposition to pending congressional proposals designed to curb religious persecution abroad by using sanctions against countries that engage in persecution (See Page 1.)

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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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.

With time running out for Congress to vote on a religious liberty protection bill, lawmakers on two congressional panels held hearings on the recently introduced Religious Liberty Protection Act.

"The Bill of Rights protects principles, not constituencies," said one witness at a June 23 Senate hearing on the proposal that would make it harder for government to interfere with religious practices.

Elder Dallin Oaks, member of the Quorum of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints, said worshippers who need RLPA "are the beleaguered minorities, not the influential constituent elements of the majority."

RLPA was introduced after the Supreme Court said Congress lacked the authority to enact the Religious Freedom Restoration Act. Congress based RLPA largely on its spending and commerce powers.

Like RFRA, RLPA is designed to bar state and local officials from substantially burdening religious exercise unless they use the least restrictive means of furthering a compelling interest such as health or safety. It is sponsored by Sens. Orrin Hatch, R-Utah and Edward Kennedy, D-Mass., and Reps. Charles Canady, R-Fla., and Jerrold Nadler, D-N.Y.

A diverse coalition of religious and civil liberties groups support RLPA. Among supporters of the bill are groups such as the American Jewish Committee, Baptist Joint Committee, Christian Legal Society National Council of the Churches of Christ in the U.S.A. and the United States Catholic Conference.

Coalition representatives said the measure uses the same tools Congress used to enact the Equal Access Act, Civil Rights Act and Americans With Disabilities Act.

The June 16 hearing of the House

Constitution Subcommittee focused on the testimony of lawyers discussing RLPA's constitutionality. Among the eight lawyers testifying before the subcommittee were two lawyers who argued for and against RFRA before the Supreme Court.

Douglas Laycock, professor at the University of Texas Law School, said that "there is substantial evidence of very widespread hostility to people who take their religion more seriously than the norm." He noted that 45 percent of the American people express hostility toward minority religions and evangelicals, adding that more than 60 percent say "we don't want to live next door to one."

Laycock, who argued in support of RFRA before the Supreme Court, said the high court "has taken a cramped view that one has a right to believe a religion, and a right not to be discriminated against because of one's religion, but no right to practice one's religion."

Marci Hamilton, professor of law at Benjamin N. Cardozo School of Law, Yeshiva University, said RLPA "is no better than RFRA. In fact, it is worse." She said, "This, once again, is that kind of broad-brushed approach that RFRA suffered from."

Hamilton, who argued against RFRA before the high court, said the central question is: "Can the churches have a privilege that no one else in the community gets on an issue that involves general welfare?"

Thomas Berg, professor at Samford University's Cumberland Law School, in Birmingham, Ala., said, "I think there's a little bit of a tendency here to throw up as many objections as possible against the act — some of which are just frankly frivolous — in the hope that some of those things will stick." Δ



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