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REPORT FROM
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NewsMakers

◆ **Barry Lynn**, executive director of Americans United for Separation of Church and State, said a Texas pastor may be endangering his congregation's tax-exempt status by urging members to vote "infidels" off the city council. According to AU, **Robert Jeffress** asked church members at First Baptist Church in Wichita Falls, Texas, to oust council members who refuse to ban two controversial public library books. "Vote out the infidels who would deny God and his word," AU quoted Jeffress as saying.

◆ **U.S. Rep. Douglas Bereuter**, R-Neb., recently told delegates to the Nebraska Republican convention that too many party members are using Christianity for political gain, according to The Associated Press. "Christianity is a keystone of my personal life," he told the delegates. "Yet I must tell you that I wince every time our prayers at Republican gatherings are overtly Christian and exclusionary of Jews, Muslims, Hindu or the Asian religions that are practiced by our fellow Americans."

◆ **Bob Abernethy**, host and executive editor of PBS' *Religion and Ethics Newsweekly*, wants to make the new series a "permanent part of the PBS landscape." The Lily Endowment recently committed \$6.6 million for the second season of the news program. Δ

Religious liberty developments
in China assessed by U.S. official

Religious freedom was both a public and a private message strongly delivered in China, a State Department official told religion reporters during a press briefing after President Clinton's recent trip to China.

Assistant Secretary of State **John Shattuck**, who heads the State Department's, Bureau of Democracy, Human Rights and Labor, spoke July 10 with six members of the media.

He said freedom of religion and other human rights in China "is an agenda that is now not only legitimate, but it will be at the center of what U.S. foreign policy working with other governments will seek to promote ... in China."

He said Clinton's two unprecedented live broadcasts in China were a major development for human rights issues. "The delivery of a message without censorship was a major objective of the president's trip and one that we had made very clear to the Chinese government as something very important to make this trip a success," he said.

Shattuck added that the overall situation in China is still very serious in terms of religious freedom abuses.

"But the fact that the president has now raised some of the most sensitive and challenging international issues involving human rights and religious freedom in China — publicly has appealed directly to the Chinese people over the heads of the Chinese govern-

ment without censorship — is a major development from this trip."

Shattuck met personally with **Xiaowen Ye**, director of China's bureau of religious affairs and reviewed cases of religious practitioners who had been imprisoned and some who have been recently released.

"We talked about getting beyond individual changes and the importance of systemic change in China on both issues of freedom of religion and generally on political freedoms and freedom of speech," Shattuck said.

They also discussed the possibility of a visit to China by the State Department's Advisory Committee on Religious Freedom Abroad, a 20-member group created by the administration. The visit would build on an earlier trip by three U.S. religious leaders. An invitation was also extended for Chinese religious leaders to visit the United States.

"The climate of discussion, I would say, was much more favorable on the issue of freedom of religion than it has been in the past. Religious restrictions and serious human rights violations in the whole area of freedom of religion are still very much a part of the daily life in China. There's no question about that."

"And that — we have made very clear to Chinese officials — is completely out of step with the basic principles of international human rights," he said.

He noted that Clinton and Secretary of State **Madeleine Albright** attended church services in Beijing and "delivered messages of religious freedom."

Visiting a registered church, Albright "made reference to house churches and the importance of freedom of worship in a house church context," Shattuck said. Δ



John Shattuck

Quoting

For although China's situation is unique, people in my country and around the world are also taking a fresh look at the place of religion in times of change. And I suspect the people of China, as they have for thousands of years, will come up with interesting answers.

I also want to stress that America's interest in religion and religious freedom, does not grow out of some desire to interfere in Chinese affairs or to favor one religion over others.

Rather, it comes from our belief, and our experience, that spiritual values are not Western or Eastern, capitalist or socialist, but deeply human — and that they help build and sustain the kinds of societies we all hope to live in.

— Secretary of State
Madeleine K. Albright
opening remarks at
Religious Roundtable
Shanghai, China
July 1, 1998

Conservatives differ on RLPA measure

The Religious Liberty Protection Act is drawing opposition from some conservatives, the head of a home school organization told a U.S. House of Representatives panel July 14.

Michael Farris, founder and president of the Home School Legal Defense Association, said the proposed law would denigrate religions and protect only large and powerful faith groups.

Farris found little or no support for his views from other conservatives testifying at the House Constitution Subcommittee's second hearing on RLPA.

RLPA was introduced in response to the Supreme Court's partial invalidation of the 1993 Religious Freedom Restoration Act. Like RFRA, it would seek 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. Unlike RFRA, the measure would rely heavily on the commerce and spending powers of Congress.

Farris said, "A home school run out of religious conviction will be unable to claim the protection of RLPA because the family will be unable to establish that their faith has any material effect on interstate commerce." He added, "We are left out while the big guys are protected." He said that religion is not commerce. "This reduction of worship to 'big business' is highly offensive to many people of faith. The Bible instructs that we cannot serve both God and money."

Farris, who worked with the coalition that formed to pass RFRA, said other conservatives supporting his position include figures such as Phyllis Schlafly of the Eagle Forum; Beverly LaHaye of Concerned Women for America; Adrian Rogers, pastor of Bellevue Baptist Church in Memphis, Tenn.; and Paul Pressler, former Texas appeals court judge.

Farris said alternatives to RLPA include impeaching Supreme Court justices for incorrectly interpreting the First Amendment and using former President Franklin D. Roosevelt's court packing scheme.

Other conservatives testifying disagreed with Farris about RLPA.

Patrick Nolan, president of Chuck Colson's Justice Fellowship, said, "As we all know the Bill of Rights is a floor for our rights and not a ceiling. ... While not providing protection for all religious activities, RLPA would provide protection for

the vast majority of them."

He said, "The opponents say they would prefer to use other means, but none of their alternatives are being actively pursued. So, by opposing RLPA, they would leave us with no statutory protection for our religious liberty, and leave the court's power grab unanswered."

Steven McFarland, director of the Christian Legal Society's Center for Law and Religious Freedom, said that "the scope of religious practice is not defined in terms of dollars in this bill. ... RLPA recognizes that Congress is constitutionally limited in its powers. That does not denigrate religion. It recognizes that fortunately we live in a country where Congress and the federal government is not omnipotent."

Steven Green, legal director of Americans United for Separation of Church and State, also testified in support of RLPA.

He said the diverse coalition of religious and civil liberties groups that supported RFRA and now support RLPA often disagree on the outcome of legal disputes involving religious exercise.

"What has kept them working together is the understanding that RLPA will merely apply the legal standard that existed prior to 1990 and not seek to predetermine specific outcomes, he said."

With a limited number of legislative days before members of Congress leave to campaign in their districts, lawmakers would have to act quickly to approve the legislation before the end of the session.

Jewish school district ruled unconstitutional

Once again, a New York state law creating a special school district for disabled children of a Hasidic Jewish sect has been declared unconstitutional.

A state appeals court upheld July 9 an earlier ruling that had invalidated the Kiryas Joel school district. Courts have also thrown out two earlier laws.

The Appellate Division of the state Supreme Court in New York ruled 5-0 against the law's latest version. The state legislature has tried three different times to create the special district that would include only the residents of the Hasidic enclave of Kiryas Joel. Each time, the law has been challenged on church-state separation grounds by officials at the state School Boards Association.

Nathan Lewin, an attorney for the Kiryas Joel school district, said he plans to ask the New York Court of Appeals to hear an appeal of the most recent ruling. Δ

No two ways about school choice: It's either one way or the other



James M. Dunn
Executive Director

School choices.
We have 'em.

We can:

Either welcome all sorts of charter and choicy schools from those of Heaven's Gate to Hell's Angels,

Or allow government to determine

which religions are worthy and which ones are unworthy, *religio licita* or *illicita*;

Either require chosen schools to play by the rules that all public schools must follow, providing for disabled, distant and discipline-problem children,

Or stop talking about "competition" when there's no level playing field in the education game;

Either demand total freedom for the faith-based school to evangelize, proselytize and remake kids in its own image,

Or without whimpering, accept in our church-related schools the monitoring, entanglement, snooping and meddling that must always follow government funding;

Either throw enough money into vouchers for the lowliest kids to have access to the topmost schools,

Or admit that the pilot projects and experiments are a wedge to welfare for the well-off;

Either embrace the view of 86 percent of Americans that "a good public school education" is one's "right as a citizen," not a "privilege to be earned,"*

Or proceed to rob the public schools of parental support, dollars and other resources, setting up separate and unequal, private and pauper school systems;

Either accept anecdotes about "how well little Billy's doing in a parochial school,"

Or find antidotes for the poison of self-

serving escapism from social responsibility to the common school;

Either perpetuate the fiction that without actual tax dollars (same serial numbers?) used to teach religion, there's no church-state violation,

Or confess that the influx of voucherized tax monies into church schools frees up funds for the pervasively sectarian mission of the those schools, as simple as shifting money from one pocket to another;

Either play like vouchers are rightly claimed tax rebates for parents to spend on any educational venture,

Or tell the truth that taxes taken from the public treasury are merely money laundered for non-public institutions (it's still unlawful to do indirectly what cannot be done directly);

Either assume that the courts can finally settle the matter,

Or insist that everything declared legal by a court (even the Supreme Court) is not, therefore, automatically right or good or moral or ethical or fair or just;

Either go along with those who want no separation of church and state,

Or agree with James Madison who said, "Religion and Government will both exist in greater purity, the less they are mixed together."

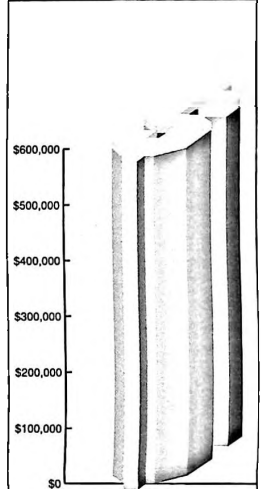
We have choices.

I'm with President John F. Kennedy when he said, "I believe in America where the separation of church and state is absolute . . . where no church or church-related school is granted any public funds or political preference."

How about you? Δ

* from the Amway "American Dream" survey reported in *Newsweek*, July 20, 1998.

Endowing the Baptist Joint Committee



Your gift is needed, too.

Thanks to a \$25,000-challenge pledge from a retired Baptist minister and your response to that challenge, gifts and pledges to the Baptist Joint Committee's \$600,000 endowment goal have reached \$586,945. The challenge announced here April 21 was met by July 21. For your support, we are grateful.

If you have not yet given to this endowment, please take a minute and join those who are investing in a continuing Baptist witness to religious liberty for all.

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- ◆ 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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Equal Treatment of Religion in a Pluralistic Society

Stephen V. Monsma and J. Christopher Soper, editors (Grand Rapids, Mich.: William B. Eerdmans Publishing Co., 1998) 216 pp.



As the end of the 20th century approaches, this book implores readers to re-examine the strict separationist principle that has traditionally guided church-state jurisprudence and consider a new paradigm known as equal treatment. With the increasing religious pluralism in the United States, expanded government involvement in health and social services and dissatisfaction with some church-state decisions in the Supreme Court, the historical "wall of separation" is challenged by the equal treatment theory.

Equal Treatment of Religion in a Pluralistic Society explores opinions of both advocates and critics of the equal treatment theory in response to recent Supreme Court rulings and its growing acceptance in Congress. Ten scholars of constitutional law and political science address the issue of equal treatment from different perspectives and ideologies and forecast its implications on school prayer jurisprudence, non-profit organizations, Jews and other minority religions, for example.

The strict separationist principle, as outlined here, holds that private expression of religion is protected in the sphere of home, family and place of worship and that government should not provide aid to or advance religion (*Lemon* test). Government achieves neutrality by treating religion unequally, supporters claim.

On the other hand, the proponents of equal treatment argue strict separationism

"confines most religious expression to a private sphere" and that denial of aid to religious groups is discrimination. They believe that government should endorse neutrality by granting equal aid to all religious and parallel secular based groups.

While the supporters of equal treatment maintain that the denial of government aid is an impediment to their religious liberty, the critics claim that it would be "impossible to distribute government monies fairly and equitably" to all. Each chapter reviews Supreme Court rulings to defend the author's opinion about equal treatment. The court has favored the equal treatment theory in recent decisions such as *Rosenberger v. University of Virginia* (1995) in which the court held that a religious magazine must be treated like other student publications without regard to religion.

The legal scholars from both the strict separationist and equal treatment perspectives present well-articulated arguments. Carl H. Esbeck and Michael W. McConnell contribute to the equal treatment theory chapters, and Derek H. Davis and Gregg Ivers defend the strict separationist point of view. The editors, Monsma and Soper, conclude that equal treatment is a better approach to government neutrality than the strict separationist perspective. But, they fail to recognize that government neutrality is sometimes best achieved, and religious liberty is often best promoted, by treating religion differently than their secular counterparts.

— Robyn Byrd
B/C Intern

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