

Nashville, Tennessee

REPORT FROM
THE CAPITAL

Volume 54, No. 12

June 15, 1999

NewsMakers

◆ **Melanie Sandford** of Norfolk, Va., **Emilee Simmons** of Boone, N.C., and **Megan Smith** of Duluth, Ga., have begun internships at the Baptist Joint Committee. Sandford is a psychology major at the University of Richmond, Simmons is an English major at Wake Forest University in Winston-Salem, N.C., and Smith is a political science major at Furman University in Greenville, S.C.

◆ **Rep. John Lewis**, D-Ga., received a Defender of Democracy award from People For the American Way for his leadership in progressive social movements and human rights struggles. Also given Democracy awards were Peter, Paul and Mary singers **Noel Paul Stookey**, **Mary Travers** and **Peter Yarrow**. PFAW awarded Rep. **Bob Barr**, R-Ga., with the "equine posterior" award for, among other things, supporting a constitutional amendment it said would undermine church-state separation.

◆ **Pat Robertson**, founder and president of the Christian Coalition, assumed more control over the agency's operations by moving Executive Director **Randy Tate** to head its Washington office. A coalition official said Robertson wants to be more involved in the 2000 elections and was concerned that Congress has been focused more on gun control than on "pro-family" issues. Δ

Proposals on Ten Commandments, school prayer touted in House

House Republicans are seeking support for a school prayer amendment to the Constitution and a measure to grant states authority to hang the Ten Commandments in government buildings.

In the aftermath of recent school shootings, several GOP lawmakers have circulated "Dear Colleague" letters urging members to co-sponsor the measures.

Both religion measures were introduced in the 105th Congress.

The Ten Commandments Defense Act, sponsored by Rep. **Robert Aderholt**, R-Ala., would seek to strip federal courts of jurisdiction in cases that challenge the hanging of the Ten Commandments in government buildings.

The Religious Freedom Amendment, sponsored in the last Congress by Rep. **Ernest Istook**, R-Okla., would allow some forms of government-sponsored prayer and tax-financed religious activities. It fell 61 votes shy of the two-thirds needed to pass the House last year.

Rep. **Charlie Norwood**, R-Ga., called for a quick vote on school prayer.

"We took God out of our schools in 1962; now we're seeing that something else has moved in," Norwood said.

The measures are also receiving the backing of key GOP leaders.

House Majority Leader **Richard Armey**, R-Texas, sent a letter to colleagues, saying that the measures "and the debate on them — will help restore the Founders' understanding of the role and rights of religion in our public life."

He also lauded "charitable choice," a plan recently backed by Vice President **Al Gore**, to make faith-based social ministries eligible for government funds.

Critics of the charitable choice initiative, originally sponsored by Sen. **John Ashcroft**, R-Mo., say it violates church-state separation. Under the plan, perva-

sively sectarian organizations, such as churches, could use tax money to deliver social services without setting up a separate nonprofit entity.

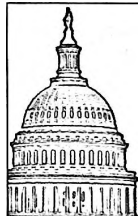
Rep. **Chet Edwards**, D-Texas, who led the opposition to the Istook amendment last

year, said he intends to take an active role in fighting the Istook amendment, the Aderholt bill and charitable choice.

"My fear is that crucial church-state issues will be hidden in the shadows of the debate over gun control and juvenile violence after Columbine," Edwards told Baptist News Service.

He said no one "has the power to take God out of the schools" and that what Istook amendment supporters "want, in effect, is government-sanctioned school prayer. I don't understand how so-called conservatives, who don't even trust the government to deliver the mail, could advocate the government getting more involved in religion."

He also said charitable choice could leave religious groups competing for tens of billions of dollars. "If I wanted to create religious dissension in America, the way I would do it would be to put money on the table and have churches compete for it," he said. Δ



A revitalized
church-state
agenda after
Littleton ?

IRS denies tax status for Christian Coalition

The Christian Coalition's long-pending request for federal tax-exempt status has been denied by the Internal Revenue Service, according to a Florida newspaper.

The *St. Petersburg Times* reported in a June 10 story that two former senior officials at the coalition had seen the letter of denial from the IRS and confirmed that the confidential ruling was delivered earlier this spring.

But the Christian Coalition quickly distributed a press release June 10 stating that it has "withdrawn its application for 501(c)(4) tax-exempt status ... and will henceforth be known as Christian Coalition International."

The press release also said the "sweeping reorganization" will rename the Christian Coalition of Texas, which currently enjoys tax-exempt status, the Christian Coalition of America. The press release said Christian Coalition International will operate in the same fashion as any business corporation.

Barry Lynn, executive director of Americans United for Separation of Church and State, said the coalition is a "hardball political machine that has been masquerading as a tax-exempt group." He said Robertson's "crusade to politicize America's churches is now almost certain to fail. I, for one, say 'amen.'" Δ

High court refuses to hear Adventist's bias claim

A former teacher at a Seventh-day Adventist school in Maryland cannot sue to get his job back under federal anti-discrimination laws, under two rulings allowed to stand by the U.S. Supreme Court.

Doing so would conflict with the First Amendment rights of the religious group that fired him, said two lower courts that previously dismissed Donald Clapper's lawsuit against Chesapeake Conference of Seventh-day Adventists.

Clapper learned in March 1993 that his teaching contract at the conference's Mount Aetna Academy in Hagerstown, Md., would not be renewed due to declining enrollment and lack of funds.

Clapper, who then was 59 and had taught at the school for 20 years, filed a lawsuit alleging discrimination based on age and gender.

In dismissing the lawsuit, a federal district court concluded Clapper held a "quasi-ministerial" role at the school, making it exempt from federal anti-discrimination laws.

The 4th U.S. Circuit Court of Appeals agreed, concluding that the primary duties of teachers at the school "consist of teaching and spreading the Seventh-day Adventist faith and supervising and participating in ritual and worship."

Clapper argued unsuccessfully that religious instruction was only one part of his job and that other duties were largely secular, entitling him to the same protections as a public school teacher. Δ

Panel cites possible ethics violation by Judge Moore

In the high-profile battle to keep the Ten Commandments displayed in his Gadsden, Ala., courtroom, Judge Roy Moore may have violated ethics laws by soliciting donations to support the campaign, a state panel has ruled.

In a unanimous ruling June 2, the Alabama Ethics Commission said Moore likely violated a state law prohibiting public officials from using their offices for private financial gain.

Ethics Commission Director Jim Sumner said that members believed Moore used "the mantle of office" to solicit funds and spent the money on more than legal bills. Sumner declined to elaborate.

The founder of the "Judge Roy Moore Fund," who is also Moore's spokesman, said the fund raised over \$100,000 two

years ago. Recent figures were not available, The Associated Press said.

Moore denied personally raising or receiving any fund money. He said his attorney manages the fund. The case now goes to Attorney General Bill Pryor, who spoke at a 1997 rally for Moore and who jointly filed a recent lawsuit supporting the Ten Commandments' display. Pryor must decide whether the case should go to a grand jury.

If Moore is brought to trial and found guilty, penalties could include 20 years in prison, a \$10,000 fine and removal from the bench.

Appeals court sets aside graduation prayer ruling

Pending its full review of the case, an appellate court has set aside a ruling that invalidated a Florida school system's policy permitting students to include prayers in graduation messages.

The full 11th U. S. Circuit Court of Appeals has agreed to rehear the case. Its decision restored to 17 Duval County high schools the option to permit student graduation messages that included prayers, The Associated Press reported.

"It looks like God has parted the Red Sea and we are going to get graduation messages for our seniors," said Linda Sparks, Duval County School Board president.

The policy permitted seniors to vote on a graduation message that would be delivered by a student. The messages, which often include prayers, cannot be censored by school officials.

A three-judge panel of the 11th Circuit ruled 2-1 in May that the school system's graduation policy violated freedom of religion, which is protected by the Constitution.

The school board appealed, requesting that the entire court hear the matter. The majority of judges voted without comment for the rehearing, which sets aside the previous decision.

"This decision is a victory for free speech," said Matthew Staver, who represented students who wished to give graduation messages. "We are optimistic about the future outcome of the case."

Staver said the decision signifies that the court probably disagreed with the panel's previous ruling banning prayer.

But Gray Thomas, a lawyer whose firm filed the suit against the Duval County School Board, said it was "nothing more than speculation how the members of the court view the case." Δ

State-sponsored prayer won't resolve problems like Littleton



Melissa Rogers
Associate General Counsel

HL. Mencken said that there's an easy solution to every human problem: neat, plausible and wrong. The "easy solution" to the tragedy of school violence is reintroducing state-sponsored prayer into the public schools.

Since Littleton, a number of politicians and pundits have suggested that God has been kicked out of the public schools. Letters currently are circulating on Capitol Hill calling for a new constitutional amendment that would "let God back in our classrooms." It is said that God — the same one who made heaven and earth and raised Lazarus from the dead — has been barred from the classroom by the ACLU.

Nonsense! Recent evidence indicates that many public schools are filled with prayer and religious expression. For example, as *Time* reported last year, roughly one out of every four public schools have student-initiated Bible clubs that meet on campus, and "in some areas the tally is much higher." Also, a reported 3 million students participated last year in the "See You at the Pole" events, in which students gather around their school flagpoles to pray before school begins.

Nonetheless, there are some who would use the occasion to reintroduce state-sponsored prayer (the kind that is led by a teacher or organized or facilitated by the school). What's the problem with this?

State-sponsored prayer comes in two basic varieties. The first is known as the "nonsectarian, nonproselytizing" prayer. This type of prayer attempts to boil every religion down to the lowest common denominator. To put it kindly, these "to whom it may concern" prayers lack inspiration. A "nonsectarian, nonproselytizing" prayer would not have prevented the Littleton tragedy.

The second type of school-sponsored prayer is the kind that purports to allow diverse, robust religious expression on a

rotating basis. In other words, the idea is that each religion represented in the school will receive equal time in which to pray. Many politicians will tell you that this can be accomplished. The teachers and students I've met beg to differ.

Teachers and students know that there are hundreds of religions represented in schools these days. Even within the "big three" religions (Christianity, Judaism and Islam), there are endless subgroups that have very different religious convictions: Catholics and members of the Church of Christ; fundamentalist and moderate Baptists; Orthodox, Conservative and Reform Jews; members of the Nation of Islam and Sunni Muslims. And, in addition to more familiar faiths, various "new age" faiths and the practice of witchcraft (which courts have found to be a religion) are now surprisingly commonplace.

There are not enough days in the week, there is not enough time in the day and there is not enough tolerance in America for state-sponsored prayer of every variety.

And, because time and tolerance for this scheme would be very limited, the "equality" approach will frequently and quickly devolve into favoritism by the state for the majority religion. It wasn't too long ago that a school in Mississippi insisted on broadcasting Christian prayers over the public address system to captive classroom audiences. When a Lutheran child objected, he was taunted relentlessly by those who favored prayers over the P.A. system. The objecting family even reported receiving a death threat.

This type of state-sponsored prayer does not unite; it divides. Using the coercive power of the state to favor majority religions over others pours salt into the wounds of our divisions. The last thing we need is to create one more way for some students to feel like outcasts in their public schools.

The problem represented by Littleton is undoubtedly complex. There are many steps that can and should be taken. Reintroducing state-sponsored prayer into the public schools, however, is not one of them. Δ

June 1999

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June 25, 1999

Annual Religious Liberty Council Luncheon

11:30 a.m. to 1:30 p.m.

Birmingham Ballroom
Sheraton Convention Center

Birmingham, Alabama

Tickets: \$20

July 1999

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July 8-10, 1999

Beyond Mere Toleration: Religious Liberty as a Basic Human Right

A symposium on religious freedom and human rights

Bloomsbury Central Baptist Church
London, England

Contact Karen McGuire for additional information about these events:

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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.

Where to draw the line between permissible and impermissible government aid to religious schools is more than a controversy among politicians debating education voucher proposals.

It is also a challenge for courts asked to decide the constitutionality of tuition vouchers and other forms of taxpayer assistance for parochial schools.

Two recent voucher decisions highlight the difficulty facing judges in these cases.

In a May 27 ruling, the 1st U.S. Circuit Court of Appeals said the state of Maine properly refused to pay parochial school tuition for students living in rural areas that lacked public schools. The First Amendment bars direct payments to sectarian schools, the appeals court said.

That same day, Ohio's top court said a pilot voucher project in Cleveland does not violate church-state separation. But it struck down the program because it was enacted as a rider to an appropriations bill rather than as a separate act.

In the Maine case, the appeals court noted that the high court's guidance in this area is "less than crystalline," but said it was unwilling to take "the quantum leap" of approving direct tuition payments to sectarian schools. Creating such a breach in the wall separating church and state is "best left for the Supreme Court to undertake," the court said.

The Ohio Supreme Court, however, concluded that the primary beneficiaries of the Cleveland voucher plan are students, not sectarian schools.

Under that plan, scholarship checks are payable to the student's parents but are mailed to the school, where the parents are required to endorse them to the school.

The Ohio court said the plan created no unconstitutional link between government and religion "primarily because funds cannot reach a sectarian school unless the par-

ents of a student decide, independently of the government, to send their child to that sectarian school."

The high court's pronouncements on parochial school aid offer ammunition for both sides of the voucher debate and leave lower courts wrestling with where to draw the line on parochial school aid.

In the past three decades, the Supreme Court has said it is permissible for government to provide secular textbooks, student transportation and a sign-language interpreter for deaf students at sectarian schools. But it has also said government cannot supply religious schools with equipment such as projectors, tape recorders and maps, or reimburse parents for parochial school tuition.

And in one case, the Supreme Court simply changed its mind. In 1985, justices said government could not provide on-site remedial education at parochial schools, but 12 years later, they reversed that finding, calling the practice permissible.

Some lower courts are critical of the Supreme Court's guidance in this area.

Last summer, the 5th U.S. Circuit Court of Appeals lamented the task of finding its way "in the vast, perplexing desert of Establishment Clause jurisprudence" as it decided the constitutionality of federally financed educational enhancement programs in New Orleans.

"When we view the deceptively simple words of the Establishment Clause through the prism of the Supreme Court cases interpreting them, the view is not crystal clear," the appeals court panel said.

"Indeed, when the Supreme Court itself admits that it 'can only dimly perceive the lines of demarcation in this extraordinarily sensitive area of constitutional law,' as a Circuit Court bound by the High Court's commandments we must proceed in fear and trembling." Δ



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