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# REPORT FROM THE CAPITAL

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## NewsMakers

♦ **Jerry L. Martin**, retired pastor of Kensington Baptist Church in Kensington, Md., is providing development assistance to the Baptist Joint Committee. Previously, he was an Army chaplain for 20 years, including five years as chaplain at the Walter Reed Army Medical Center in Washington, D.C. He and his wife, Adell, reside in Burtons-ville, Md.

♦ **Barry Lynn**, executive director of Americans United for Separation of Church and State, said that "public school officials should be teaching our children to respect religious differences, not to bully their classmates to pray their way." AU and other groups filed a friend-of-the-court brief at the U.S. Supreme Court opposing a Texas school district's policy of allowing student-led prayers at high school football games.

♦ Federal District Judge **Dickran Tevzizian** set aside a death sentence for a man convicted of murder because the jury foreman brought in extraneous evidence to deliberations, including dictionary definitions of legal terms and a copy of biblical passages on "eye for eye" retribution. Tevzizian vacated the death sentence of **Stevie Lamar Fields** who has spent the last 21 years on death row. A new penalty trial must occur within 60 days or the sentence automatically becomes life without parole. Δ

## BJC, Dawson Institute oppose football game prayer policy

School-sponsored prayer at football games violates the separation of church and state and denigrates genuine religious practice, two Baptist church-state organizations argue in a legal brief filed at the U.S. Supreme Court.

The Baptist Joint Committee and the J.M. Dawson Institute of Church-State Studies at Baylor University urged the high court to uphold a federal appeals court's invalidation of a Texas school district's policy permitting student-led prayers before football games.

The friend-of-the-court brief, drafted by Derek Davis, director of the Dawson Institute and special counsel of the BJC, was also joined by the General Conference of Seventh-day Adventists.

The 5<sup>th</sup> U.S. Circuit Court of Appeals said the Santa Fe Independent School District could sponsor student-led nonsectarian, nonproselytizing prayers at graduation ceremonies but not at football games.

The friend-of-the-court brief argues that the Santa Fe football policy violates church-state separation because it constitutes "state endorsement of religion" and coerces those attending football games to participate in religious activity.

The Santa Fe district sends a "mixed message" to students, the brief argues.

"On the one hand, its policy stands as an endorsement of prayer – a quintessential religious act," the brief states. "But on

the other hand, the school district's policy denigrates and trivializes the act of prayer by portraying an act of religious devotion as a quasi-secular ceremonial practice."

Even more dangerous, the brief argues, are the monitoring and state censorship of religion tied to the requirement that prayers be nonsectarian and nonproselytizing.

"Surely one must concede that the Establishment

Clause, if it protects anything, protects young persons from state instruction in how to compose the prayers they pray," the brief states.

Allowing students to vote on whether to have the pregame invocation/message "in no way lessens ... and in some ways increases, the coercive nature of the school district's policy," the brief argues. "Using the voting process to advance the religious views of the majority of students against the conscience of the minority violates a primary purpose of the Establishment Clause – to protect the rights of members of minority religions."

The brief further argues that the Santa Fe district's attempt to "secularize" the pregame prayers did not solve the policy's constitutional defects.

"Prayer cannot be sufficiently secularized or neutralized to change it into anything other than what it is – an act of religious devotion and supplication seeking divine intervention in human affairs," the brief states. Δ



*"The school district's policy denigrates and trivializes the act of prayer."*

– BJC brief

## Bankruptcy bill includes school voucher provision

The U.S. Senate approved a sweeping bankruptcy reform measure Feb. 2 that includes a provision making student victims of school violence eligible for tax-funded vouchers to attend private or parochial schools.

The bankruptcy measure, approved 83-14, will make it harder for people to wipe out debts. The bill was sought by credit card companies and fought by consumer advocates.

On a 50-49 vote last year, Senate lawmakers added to the bill a broad amendment that included the voucher provision. Sponsored by Sen. Orrin Hatch, R-Utah, the provision provides the vouchers to students in low-income schools who have been victims of a violent criminal offense.

The House of Representatives approved a similar bankruptcy measure last year without a voucher measure.

Joel Packer, senior professional associate for government relations at the National Education Association, predicted the voucher measure would not be in the final version of the bill and would be vetoed by President Bill Clinton if it is.

Critics say voucher plans are unconstitutional means of funding religion and will strip public schools of needed funds.

Packer said the voucher provision is a "Band-Aid" approach to the problem of school safety. ▴

## Virginia's Senate approves 'minute of silence' in schools

Virginia's Senate approved a measure Feb. 1 that would call for a minute of silence for prayer, meditation or reflection at the start of each school day.

On a 28-11 vote, senators approved the legislation that has been praised by religious and social conservatives and criticized by religious and civil liberties groups. Supporters hope it might reduce violence in schools and opponents argue that it is unconstitutional. People on both sides expect it to become law.

Gov. James S. Gilmore III told *The Washington Post* he thinks the legislation can help "instill character in the lives of young people" and will not infringe on any students' rights.

"I support separation of church and state, and I don't think this crosses that line," the Republican governor said.

Brent Walker, executive director of the Baptist Joint Committee, said that while "laws designating a truly neutral moment of silence are constitutional, those that suggest prayer as a preferred activity are not."

The U.S. Supreme Court, which ruled in the 1960s that organized school prayer is unconstitutional, decided in 1985 that an Alabama law calling for a "moment of silence" in public schools violated the principle of government neutrality toward religion. The Alabama law mentioned prayer as a preferred activity.

The justices said it was clear through the history of the Alabama law that it was designed to encourage student prayer. Their decision left open the possibility that a law that is not designed to promote religion might be considered acceptable.

About half of the states have some version of a law addressing a moment of silence. In recent months, a number of states have considered religious measures — including proposals to post the Ten Commandments — in response to killings at a Littleton, Colo., high school.

The Senate bill also deletes existing legal language that says students should "be subject to the least possible pressure from the Commonwealth either to engage in, or to refrain from, religious observation on school grounds." ▴

## Clinton says nation's strength opportunity for advancement

In his last State of the Union address Jan. 27, President Bill Clinton said the

prosperity and progress of the past decade provide the opportunity for new advances in education, health care, poverty elimination, the environment and other areas.

"All of us," said Clinton, "will be judged by the dreams and deeds we pass on to our children. And on that score, we will be held to a high standard, indeed, because our chance to do good is so great."

He saluted the role of religious organizations in dealing with the nation's social problems. "We should help faith-based organizations to do more to fight poverty and drug abuse and help people get back on the right track," Clinton said.

The White House press office said the administration's budget seeks to increase "the involvement of interfaith and community-based organizations in after school, housing, community development, criminal justice, welfare reform, teen pregnancy prevention, and juvenile justice programs consistent with the constitutional line between church and state."

Clinton also asked Congress to approve tax law changes to allow low- and middle-income citizens who don't itemize deductions to deduct charitable gifts.

"We should support Americans who tithe and contribute to charities but don't earn enough to claim a tax deduction for it," Clinton said.

The president said the United States should work to reduce the gulf between rich and poor countries.

"We cannot accept a world in which part of humanity lives on the cutting edge of a new economy and the rest live on the bare edge of survival," he said.

Clinton called on Congress to follow the appeal of religious leaders to reduce the debts of poorest countries.

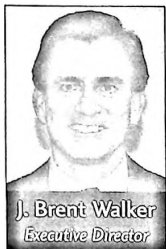
"In a world where over a billion people live on less than a dollar a day, we also have got to do our part in the global endeavor to reduce the debts of the poorest countries so they can invest in education, health care and economic growth," Clinton said.

Clinton also urged Congress and Americans to celebrate the nation's diversity.

While ethnic and religious diversity strengthens America, Clinton lamented that those differences "all too often spark hatred and division."

"This is not the American way, and we must draw the line," he added, urging Congress to pass legislation to strengthen federal hate crimes enforcement and to outlaw discrimination in hiring, firing and promotion based on sexual orientation. ▴

# Churches are key partners in witness for religious liberty



**T**he Baptist Joint Committee cannot please everyone. In fact, if we don't ruffle some feathers now and then, we are not doing our job. Defending religious liberty and championing the separation of church and state are

sometimes unpopular enterprises.

The BJC cannot please every church, either. For example, a long-time supporting church from Maryland recently dropped its \$750 annual support for the BJC. One of the given reasons – that we oppose displaying the American flag in the sanctuary – is false. We don't – though I personally wonder about prominently displaying a nationalistic symbol while preaching the universal gospel of Christ. What about people from all over the world who worship in American sanctuaries every week? To the other charges – that we are against *state-sponsored* graduation prayer and oppose attempts by the radical right to do away with church-state separation – we plead guilty.

The end came swiftly and unceremoniously. Although I have preached and taught at this church a half dozen times, I was not asked to offer a defense. BJC supporters at the church were simply voted down.

As Baptists, we believe in the autonomy of the local church. I support the right of any church to change its collective mind about the BJC. But in the face of this kind of realignment in Baptist life, it is absolutely essential that churches who believe in our cause support the BJC. This is because we serve the local church. The religious freedom of individual believers is illusory unless the churches enjoy similar freedom.

That's why Melissa Rogers and I daily help churches on issues such as zoning, historical landmarking disputes, attempts by disgruntled former employees to sue churches, often on frivolous grounds, efforts to interfere with churches' right to run their ministries autonomously in the

face of governmental encroachment – all without request for payment.

Moreover, the BJC's commitment to educating Baptists about the importance of religious liberty is most effectively done in the local church. That's why we have prepared educational materials, including a Sunday school curriculum for youth, brochures on Baptist history and material on religion in the public schools. We preach or teach in some church most every week.

Yes, we cherish our good denominational support and that of generous and caring persons. But, we simply could not do our work without faithful, freedom-fostering churches across our land.

Let me ask you to encourage your church to exercise its autonomy and do one of three things to support the BJC:

1. Include the BJC in your budget. For annual contributions of \$500 or more, we'll send you 25 copies of *Report From the Capital* every two weeks to distribute to your congregation.
2. Observe Religious Liberty Day once a year, and take a special offering to benefit the work of the BJC. We will provide Religious Liberty Day resources.
3. Invite us to speak at your church to encourage your members to get excited about religious liberty and our work. For the price of a plane ticket, we are happy to come and speak at churches supporting the BJC.

I began this column with bad news. Now, here is some good. On the same day that we were notified about the Maryland church withdrawing its support, we received a check from a Texas church that had not supported the BJC financially for the past several years! *Jehovah jireh* – the Lord does provide.

Won't you and your church join this church in supporting our effort to defend your religious freedom? Δ

## Quoting

"Your nation was built as an experiment in ordered freedom, an experiment in which the exercise of individual freedom would contribute to the common good. The American separation of Church and State as institutions was accompanied from the beginning of your Republic by the conviction that strong religious faith, and the public expression of religiously informed judgments, contribute significantly to the moral health of the body politic. Within the fabric of your national life a particular moral authority has been entrusted to you who are invested with political responsibility as representatives of the American people. ...

"... I am convinced that the epoch-making changes taking place and the challenges appearing at the dawn of this new millennium call for just such a "prophetic" function on the part of religious believers in public life."

– Written message from  
Pope John Paul II  
to 48th National Prayer  
Breakfast  
Feb. 3, 2000

## Baptist Joint Committee

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- ◆ American Baptist Churches in the U.S.A.
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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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## FCC drops controversial rules on religious programming

Pressured by religious broadcasters and members of Congress, the Federal Communications Commission voted 4-1 on Jan. 28 to vacate new guidelines critics said would discriminate against religious broadcasts.

The FCC issued the new guidelines Dec. 29 when it approved a station swap in Pittsburgh allowing Cornerstone Television Inc., a religious broadcaster, to move from Channel 40 to Channel 16, a channel reserved for noncommercial educational programming.

Since 1952, the FCC has reserved licenses for educational channels for applicants whose programming is primarily educational.

In December, the FCC added guidance requiring that more than half the programming on educational channels "primarily serve an educational, instructional or cultural purpose in the station's community."

But the FCC drew sharp criticism for stating that "programming primarily devoted to religious exhortation, proselytizing or statements of personally held religious views and beliefs generally would not qualify" as educational programming.

In the face of protests led by Rep. Michael Oxley, R-Ohio, and the National Religious Broadcasters, the FCC vacated the new guidance.

In its Jan. 28 action, the FCC said the guidance adopted last month was intended to clarify what constitutes educational programming.

"Regrettably, it has become clear that our actions have created less certainty rather than more, contrary to our intent," the FCC said.

In hindsight, the FCC added, "we see

the difficulty of minting clear definitional parameters for 'educational, instructional or cultural' programming, particularly without the benefit of broad comment."

FCC Commissioner Michael Powell, who dissented from the Dec. 29 guidance, said it "opened a Pandora's Box of problems. In today's decision, we put the lid back on that box."

In a dissenting statement, Commissioner Gloria Tristani called the reversal "a sad and shameful day for the FCC."

In vacating the new guidance, she said, "this supposedly independent agency has capitulated to an organized campaign of distortion and demagoguery."

She rejected claims that new FCC rules barred certain religious programming from reserved channels.

"Not true - the Commission simply held that not all religious programming would count toward the 'primarily educational' requirement," she said.

The problem with the new guidance was not a lack of clarity, "but that we were too clear," she added.

"What the majority really means is that they prefer a murky and unenforceable rule to a clear and enforceable one," she said.

Baptist Joint Committee General Counsel Melissa Rogers said that the FCC's new guidance was not an effort to kick religious broadcasting off the airwaves but "an attempt to deal with a sensitive issue."

She said the FCC "wisely has recognized that these issues are best dealt with in the context of broad public comment and careful review."

Oxley, who earlier advised the FCC to reverse the guidance or see it overturned legislatively or in court, called the reversal a "complete and total victory for free religious expression." Δ



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