

Nashville, Tennessee



REPORT FROM THE CAPITAL

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NewsMakers

◆ **David Saperstein**, chair of the U.S. Commission on International Religious Freedom, expressed regret over the House vote to grant China Permanent Normal Trade Relations (PNTR) status without requiring China to show "substantial improvement" on religious freedom. "There is a risk that the PNTR vote will be misinterpreted in China as a sign of American indifference to violations of religious freedom there," he said.

◆ **U.S. District Judge Jennifer Coffman** ruled that a display of the Ten Commandments should be removed from a Kentucky county courthouse. Coffman reaffirmed her earlier ruling that the display should be removed from the McCreary County Courthouse until a lawsuit challenging its constitutionality is resolved. She said no "reasonable observer" could conclude that the display is not religious in nature.

◆ **Bill Lann Lee**, the acting U.S. assistant attorney general for civil rights, defended the Justice Department's decision to file a lawsuit which charged that the Newark, N.J., police department's policy prohibiting beards discriminates against Muslims. "Employers have a duty to accommodate reasonably the religious observances, practices and beliefs of employees," Lee said. Δ

N.Y. church's loss of tax-exempt status upheld by appeals court

A federal appeals court has upheld a first-time ruling by the Internal Revenue Service revoking the tax-exempt status of a church that in 1992 urged Christians to vote against then-presidential candidate Bill Clinton.

A three-judge panel of the U.S. Court of Appeals for the District of Columbia unanimously upheld the IRS action May 12. The 1995 IRS decision was based on full-page ads placed in *USA Today* and the *Washington Times* by the Church at Pierce Creek, a New York church operated by Branch Ministries Inc.

The judges — who were all appointed to the bench by President Ronald Reagan — ruled that the "revocation of the church's tax-exempt status neither violated the Constitution nor exceeded the IRS's statutory authority."

The decision, written by Judge James Buckley, rejected the church's claims that the IRS violated its right to the free exercise of religion guaranteed by the First Amendment and the 1993 Religious Freedom Restoration Act. The court also rejected the church's charges that it was the victim of selective prosecution and that the IRS acted beyond its authority.

Buckley noted that the church has "an avenue available to it" to participate in political campaigns by forming a separate 501(c)(4) organization and then setting up a political action committee for that purpose.

To do so, however, the church would have to incorporate the organization separately and keep records to verify that no tax-deductible contributions to the church go to activities of its political arm, Buckley said.

Attorney Jay Sekulow of the American Center for Law and Justice, which represented the church, gave the decision a mixed review. "While we are disappointed with the appellate court's decision concerning the case involving the Church at Pierce Creek, we

are encouraged that this court appears to provide a blueprint for churches to express their beliefs in a political context," Sekulow said.

The ACLJ told Associated Baptist Press that it has not decided whether it will appeal the May 12 ruling.

ACLJ attorney Mark Troobnick said the road map for churches to set up a PAC "did not exist for churches prior to this decision."

However, Rob Boston, a spokesman for Americans United for Separation of Church and State, said the decision stated nothing new. "It's not like churches suddenly have some new right, thanks to the effort of the ACLJ," he said. "Lots of non-church tax-exempt groups have created (c)(4) organizations and then spun off PACs from them. Churches could have done the same, but very few have a desire to get that deep into partisan politics." Δ

Excerpts from church's ad

"Christian beware. Do not put the economy ahead of the Ten Commandments. ... The Bible warns us not to follow another man in his sin, nor help him promote sin — lest God chasten us. ... How then can we vote for Bill Clinton?"

UCC joins religious bodies in opposing voucher plan

The United Church of Christ has joined a chorus of religious groups opposing the school voucher program in Cleveland, which a judge ruled in December violates the First Amendment's separation of church and state.

The Cleveland-based church filed an amicus brief with the 6th U.S. Circuit Court of Appeals, which is hearing an appeal of the case from a lower court. The UCC joined the American Jewish Committee, the Baptist Joint Committee and the National Council of Churches in opposing the program.

According to the brief, the church hopes to "affirm the use of public funds to support and improve the Cleveland municipal schools ... to oppose vouchers which benefit a tiny minority of children and direct public funds away from already underfunded schools, and to speak emphatically to protect the separation of church and state guaranteed by the First Amendment."

The Cleveland voucher program was one of the first pilot programs in the nation to use tax dollars to allow underprivileged children to attend private schools. According to court documents, more than 82 percent of the schools in the program are religious-based schools. Δ

Byrd named D.C. bureau chief for Associated Baptist Press

Kenny Byrd, congressional correspondent for Baptist News Service and associate director of communications at the Baptist Joint Committee since 1996, has been named Washington bureau chief for Associated Baptist Press.

Byrd, 27, a native of Nashville, Tenn., and a graduate of Samford University in Birmingham, Ala., became ABP's first bureau chief May 1. ABP is a national, independent news service based in Jacksonville, Fla.



While there are no formal ties between the two organizations, BNS functioned as a Washington desk for ABP in a partnership that dates back nearly to the founding of the subscription-based news service.

ABP directors voted in April to open the Washington bureau after BNS was denied congressional press credentials because of its affiliation with the religious liberty advocacy agency. ABP has applied for credentials for its Washington bureau.

ABP Executive Editor Greg Warner said Byrd is a natural choice to fill the new position. "Having someone with Kenny's experience who can hit the ground running will give us a tremendous advantage," Warner said. "We are delighted that his services are available to us."

BJC Communications Director Larry Chesser applauded ABP's decision to name Byrd to head its Washington bureau. "Readers of Baptist and other publications will continue to benefit from the first-rate skills and journalistic persistence Kenny has shown as a reporter," he said. Δ

Renewal legislation would fund faith-based drug programs

In an effort to help impoverished communities, President Bill Clinton and congressional leaders have agreed to back a bill that would include a controversial provision to fund faith-based drug rehabilitation programs.

Clinton was joined at the White House May 23 by House Speaker Dennis Hastert, R-Ill., and a bipartisan group of lawmakers to endorse the American Community Renewal Act. The measure was first introduced several years ago by Reps. J.C. Watts, R-Okla., and Jim Talent, R-Mo.

Sponsors hope to steer the bill through the House by the end of June. The measure would identify 40 impoverished "renewal communities," which would become eligible for tax incentives and homeownership opportunities.

But the faith-based initiative, popularly known in other legislation as "charitable choice," has raised church-state concerns about the bill and the White House agreement has angered some congressional Democrats.

Language and details of the agreement are still being hammered out, but earlier versions of the act would allow faith-based substance abuse treatment programs to receive federal assistance without altering the religious character of their programs.

Critics say the faith-based initiative could open the door for lawsuits against churches that accept funds.

In a lawsuit filed in April, the Kentucky Baptist Homes for Children, which receives nearly two-thirds of its budget from state funds, was sued by civil liberties groups after KBHC fired a lesbian employee.

Rep. Bobby Scott, D-Va. blasted the White House-congressional agreement. "I oppose funding religious bigotry with federal money," he said.

He expressed his concerns to the White House. "Under this plan — while receiving federal dollars — you could tell a job applicant to his face that we don't hire your kind because of your religion. That is now illegal in this country but under this provision it will be legal, and I'm against it," Scott said.

A White House press release noted that both the president and vice president believe that faith-based organizations play an important role.

"At the same time, the Administration has been clear that the 'charitable choice provisions' included in this agreement and in other legislation the President has signed can and must be construed and implemented consistent with the constitutional line between church and state," the press release stated.

Melissa Rogers, general counsel of the Baptist Joint Committee, said the Supreme Court has "generally held that pervasively sectarian organizations, like churches, cannot receive government money even for secular purposes." Rogers said that view "actually supports religious liberty. That rule is not one of discrimination. It recognizes that religion is unique and is best protected by a healthy degree of separation." Δ

Recent ruling offers guidance to churches on partisan activity



J. Brent Walker
Executive Director

As the fall elections approach, it is good to review the dos and don'ts of political activity by churches. The rule of thumb is this: Churches may take positions on public policy issues with near impunity, but

they may not support or oppose candidates for public office — sometimes called "electioneering" — without jeopardizing their tax-exempt status.

The recent decision of the U. S. Court of Appeals for the District of Columbia, in *Branch Ministries vs. Rossotti*, provides guidance on how to avoid problems. (See Page 1 story.) The result was rather predictable. For a church to take out a full-page advertisement in a national newspaper to suggest that it is a sin to vote for one of the candidates running for president is to stick its chin out. Then to have the audacity to solicit tax-deductible gifts at the bottom of the ad is to invite a knockout punch. So it was no surprise when three conservative judges upheld the lower court's decision supporting the position of the IRS revoking the church's tax exemption.

The significance of the decision goes beyond the particulars of the case. These are the general lessons that the opinion teaches:

(1) The IRS does have the authority to discipline churches when they violate the prohibition on electioneering in the tax laws. The church argued that since Section 501(c)(3) of the tax code uses the words "religious organizations" and not "churches," the prohibition does not apply to it. The court characterized that argument as "more creative than persuasive." Since a "church" is a type of "religious organization," churches are clearly subject to the prohibitions on electioneering in Section 501(c)(3).

(2) Of course, as a matter of free speech, there is nothing to prevent the church from endorsing a candidate. But, if it does, it may forfeit its tax exemption. Since the loss of tax exemption would

only decrease the amount of money available to the church for religious purposes, the court ruled such a burden is not enough to allow the church to claim a violation of its free exercise rights or the federal Religious Freedom Restoration Act.

(3) The church has other avenues available to it — both to become involved in the election and to keep its exemption, too. The church may form an affiliated organization (under Section 501(c)(4), I.R.C.). This so-called "social welfare" organization is tax exempt, but donations to it are not tax deductible. Although a Section 501(c)(4) organization is not permitted unlimited intervention in political campaigns, it may form a political action committee ("PAC"). The church must respect the distinction between it and the companion corporation, and it must maintain careful records to show that tax-deductible contributions to the church are not used to support the political activities conducted by the Section 501(c)(4) organization and its PAC.

In addition, although the court did not specifically address them, the church itself can be involved in a variety of different activities.

(1) Churches can distribute the voting records of candidates and the results of candidate questionnaires if they include a wide variety of subjects and provided the form and content of the distributed material are unbiased and accurate.

(2) Churches may sponsor nonpartisan forums or debates if all *bona fide* candidates are invited to participate. The moderator should be neutral, and the exempt organization should state clearly its non-endorsement of any candidate.

(3) Ministers and employees of churches, of course, may become involved in politics as *individuals*. If they do, it should be made clear that they are not representing the church.

(The decision of the D.C. Circuit, while highly persuasive, is not binding in other states. Also, this summary of a complicated body of law is not intended to be legal advice. Check with your personal lawyer when in doubt.) Δ

Wisconsin judge rules against wall around statue

A federal judge in Wisconsin has ruled that the city of Marshfield should place a wrought-iron fence around a statue of Jesus to indicate that it sits on private, rather than public, land.

The 15-foot-high statue has been in the park since 1959 but has been a source of dispute since the Madison-based Freedom From Religion Foundation sued to get it removed because its members believed it violated the First Amendment.

The city sold the statue to a private landowner, prompting dismissal of the suit in December 1998. An appellate court ruled in February the sale was appropriate but told the city to differentiate between the public property of the park and the private property on which the statue stands.

The city proposed the 4-foot-high fence and a sign indicating the statue was on private property. The Freedom From Religion Foundation requested the statue be enclosed behind a 10-foot high concrete wall.

U.S. District Court Judge John Shabaz ruled May 9 that a "visual separation" of the statue from the rest of the park was not required. He accepted the city's proposal for the fence. The city also will display a sign that says "Private Park." Δ

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Does the Bible Tell Me How to Vote?

National Ministries Office of Governmental Relations, American Baptist Churches USA, 16 pp.



Pick up a newspaper these days, and you are likely to read headlines such as the three listed below:

"Religious Right: Peaking in Iowa."

— *The Washington Post*
Jan. 25, 2000

"Senator Risking Key Constituency: Religious Right Crucial to GOP Coalition."

— *The Washington Post*
Feb. 29, 2000

"The 2000 Campaign: The Religious Conservatives."

The New York Times
March 3, 2000

The media often assume Christians vote in unison for one particular political party. The Christian Right is watched closely because of the influence it has in elections. But do Christians vote alike? And what should be taken into account when considering the candidates competing in an election? In short, how should Christians vote?

Curtis Ramsey-Lucas addresses these questions in a helpful Bible study titled *Does the Bible Tell Me How to Vote?* The study is not designed to activate Christians into one political party or another. The author recognizes "that Christians will not be of one mind in the conclusions

reached and the subsequent choices made." Rather this study urges Christians to look at their political life in the light of Biblical principles and then act accordingly.

The Bible study is arranged in three lessons, each set up to encourage small group discussion and further individual contemplation. The first study looks at Jesus' admonition about rendering under Caesar and unto God. The second study focuses on trust in God, rather than in principalities. The last study asks readers to re-evaluate their loyalties as citizens, reminding them that Christians are first citizens of heaven and then citizens of America. This Bible study helps to clarify what to look for in political candidates, as well as to define the roles of Christians as citizens and as people of faith.

As the political season heats up and the candidates continue to cater to demographic segments, this study helps to refocus Christians on what is important. It is an excellent reminder that our political decisions should reflect Christ, rather than the latest trend or media's interpretation of a demographic group or candidate.

— **Susanna Pearce**
BJC Intern

To Order

Copies of *Does the Bible tell Me How to Vote* are available for \$1.50 each by calling 1-800-ABC-3USA, Ext. 2464, or by writing:

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