

# Report from the Capital

NEWSLETTER OF THE BAPTIST JOINT COMMITTEE

## Bush targets Iraq, touts faith-based initiative

Amid talk of international armed wars, President Bush spent much of his second State of the Union speech touting domestic positions that likely will lead to a few home-grown ideological conflicts.

Addressing a packed House of Representatives chamber Jan. 28, Bush recited a litany of causes he believes justify an attack on Iraqi president Saddam Hussein, made glancing references to the ongoing war on terrorism and argued for tax-cut proposals and an expansion of his faith-based initiative — two items that already face strong opposition from congressional Democrats.

While Bush spent much of the second half of his speech laying out his case against Iraq, he devoted much of the first half to issues on what White House officials call his “compassion agenda.” Bush said he wants “to apply the compassion of America to the deepest problems of America. For so many in our country — the homeless, the fatherless, the addicted — the need is great.”

Bush alluded to a 19th-century hymn well-known to Baptists: “Yet there is power, wonder-working power, in the goodness and idealism and faith of the American people.”

Bush again urged Congress to pass his “faith-based initiative” — a plan that includes expanding the ability of government agencies to give taxpayer money to churches and other thoroughly religious institutions to perform social services.

“Americans are doing the work of compassion every day — visiting prisoners, providing shelter to battered women, bringing companionship to lonely seniors,” Bush said.



“These good works deserve our praise. They deserve our personal support. And, when appropriate, they deserve the assistance of our government.”

Faith-based legislation stalled in Congress last year, due in part to objections from religious liberty and other civil rights advocates. Opponents contend that providing government money to churches and other houses of worship violates the First Amendment’s ban on government support of religion. They also contend that it is wrong to provide government funding to organizations that can legally discriminate in their hiring on bases such as race, religion and sexual orientation.

However, Bush used an executive order in December to circumvent Congress and implement many of the controversial aspects of the faith-based initiative. Now he is asking Congress to pass legislation so that his changes cannot be revoked by executive orders of future administrations.

Interviewed after the president’s speech, Rep. Jerrold Nadler, D-N.Y., said Bush’s proposal violates the goals

of the framers of the First Amendment because it ultimately will lead to divisiveness and competition among religious groups. Nadler is the ranking minority member of the House Judiciary Committee’s Subcommittee on the Constitution.

“When you start giving money to the al-Qaida Mosque ... or to the black Muslims, or to the Wiccans ... some more people will be against this,” Nadler said. “It is important to have a strong separation of church and state when talking about appropriations because the Founding Fathers knew it could tear people apart. Appropriations is already a vicious enough process but when the fight [over appropriations] is between the Baptists and the Presbyterians every year, it will get really ugly.”

Bush also opened a new legal front for the faith-based initiative in his address. He proposed a new \$600 million plan that would allow those being treated for drug or alcohol addiction to receive government “vouchers” that they could use at the treatment program of their choice, including religious programs that involve conversion.

The Supreme Court has not ruled on the constitutionality of social service voucher programs that include religious groups, although last year the Court did approve an Ohio school-voucher program that includes religious schools. A lower federal court recently upheld a similar voucher drug-treatment program in Wisconsin.

Ira “Chip” Lupu, a George Washington University law professor and

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## NewsMakers

◆ **Andrew Brasher** of Suwanee, Ga., and **Sara Olive** of New Market, Tenn., are serving spring semester internships at the Baptist Joint Committee. Brasher is a recent graduate of Samford University in Birmingham, Ala., where he majored in international relations and French literature. Olive is a junior at Carson-Newman College in Jefferson City, Tenn., where she is majoring in philosophy and political science.

◆ **Will Harrell**, executive director of the ACLU of Texas, is concerned a bill proposed in the Texas House to give students the opportunity to engage in a minute of silence could reintroduce organized prayer in the public schools. "That may not be the intent of the authors of the legislation, but the question will be how it will be handled in any school across the state on any given day," Harrell said. "The way it is handled may be unconstitutional if students are encouraged to use that time to pray a certain way or to a particular god." Harrell was quoted by the *Corpus Christi Caller-Times*.

◆ **Felice D. Gaer** recently led a top-level religious freedom delegation from Washington on a weeklong fact-finding trip to Russia. Gaer, a human rights expert with the American Jewish Committee and head of the U.S. Commission on International Religious Freedom, expressed concern for the plight of religious minorities in Russia. "I must say the situation is a fragile one," Gaer said. △

## Heifner leaves BJC position to join staff at Passport

Todd Heifner of Birmingham, Ala., has joined the staff of Passport as the organization's first director of development.

Heifner will work with individual donors, churches, foundations and denominational groups to develop a permanent funding base for the Birmingham-based Christian camp ministry.

Heifner has been director of development for the Baptist Joint Committee in Washington, D.C., for the past two and a half years. Previously he was a development officer at Samford University in Birmingham.

"I still believe wholeheartedly in the Baptist Joint Committee, and I believe that there is no more important agency in mainstream Baptist life," Heifner said. "Kit and I personally will continue to be strong advocates for the BJC, but this was a good decision for our family at this time for me to be based in Birmingham and have fewer travel commitments."

"Firing Todd Heifner marks a new day within our organization," said Passport President David Burroughs. "Todd will allow us to expand our foundation while extending our ministry."

BJC Executive Director J. Brent Walker said Heifner's work over the past three years allowed the agency "to establish a solid financial foundation and continue to grow and expand."

"We wish Todd every success as he lends his considerable talents to Passport's worthy ministry."

Heifner graduated from Samford University with a degree in public administration and has graduate degrees from Samford and Vanderbilt University. His wife, Kit, is a systems analyst with Blue Cross Blue Shield of Alabama. The Heifners have two sons and are members of Baptist Church of the Covenant in Birmingham. (ABP) △



Todd Heifner

## Virginia committee rejects school voucher proposal

A committee of Virginia's state legislature has rejected an attempt to amend the state's constitution to allow for state funding of private religious schools. The Vir-

ginia House Committee on Privileges and Elections rejected, by a bipartisan 13-7 margin, a measure that would have begun a process to amend the constitution.

Supporters of government scholarships to students for use in private schools — commonly called vouchers — won a victory last year in the U.S. Supreme Court. That ruling said a Cleveland program that offered vouchers did not violate the Constitution's ban on government support of religion, even though many of the vouchers were used in parochial schools. However, the constitutions of many states — including Virginia — have language that specifically prevents direct or indirect public funding for religious schools.

Voucher opponents say vouchers are both unconstitutional and bad educational policy. But voucher supporters argue that they may be the only solution for some students trapped in under-performing public schools. (ABP) △

## Federal court declines Ten Commandments case

A federal judge has added to the confusion in Ten Commandments jurisprudence by dismissing a lawsuit against a Kentucky county that posted the Ten Commandments in its courthouse.

On Jan. 22, U.S. District Judge Karl Forester dismissed the suit, brought by the American Civil Liberties Union against Mercer County officials. Foster said the Ten Commandments display had a legitimate secular purpose in educating about the influence of historical documents on American law.

The display reportedly includes the Declaration of Independence, the Bill of Rights and other historical legal documents in an exhibit titled, "Foundations of American Law and Government." Previous federal court rulings have suggested such broad historical displays are not in violation of the First Amendment's ban on government endorsement of religion.

However, other recent federal rulings out of Alabama and elsewhere have suggested that government display of the Ten Commandments does not pass constitutional muster if the religious document is given more prominence than the other texts displayed.

ACLU officials have vowed to appeal the ruling. Because of the discrepancies among federal courts, the U.S. Supreme Court could soon decide to take up the issue. (ABP) △

## When on the wrong path, the best course is to turn back

One of the most powerful arguments for the separation of church and state is the need to keep religion free from government regulation. While religious people differ in their level of commitment to church-state separation, the desire to minimize government intrusion in the affairs of religious institutions appeals to all. For this reason, we all should carefully consider the likely consequences of recent proposals to expand government funding of religious organizations.

The fact that government regulates what it funds is hardly surprising. It is true that "he who pays the fiddler calls the tune." But opposition to regulation threatens to compromise democratic accountability. Would it make sense to exempt religious organizations from standards that we require of others who provide government services? This fundamental dilemma is not easily avoided or resolved, as two recent developments in the Bush administration's "faith-based" initiative reveal.

First, the Bush administration proposed a new rule for the Department of Housing and Urban Development that would allow religious organizations to receive funding for building projects. The proposal would allow the use of federal dollars to buy, rehabilitate or build structures used for religious and nonreligious functions. The government funds could be used for any part of the building dedicated to approved nonreligious activities, such as a soup kitchen or a counseling center. Private funding would be required to pay for the areas used for worship, such as a chapel or sanctuary.

In addition to being at odds with Supreme Court rulings on funding of buildings at religious colleges, this proposal would inevitably lead to one of two problems. Either the rule against funding of religious uses would not be enforced, making a mockery of the Constitution, or its enforcement would compromise the autonomy of religious institutions. Can you imagine government officials making church visits to determine if a room paid

for with tax dollars was illegally being used to house a Bible study? Rep. Barney Frank, D-Mass., was quick to ask, "Are we going to start sending in the inspector general to charge people with committing a bar mitzvah?"

Second, perhaps in reaction to criticism of proposals that expand direct government funding to religious organizations, the administration's recent "faith-based" focus has been on vouchers. During the State of the Union speech, President Bush announced plans to expand his initiative in the area of drug and alcohol rehabilitation.

His honored guests were representatives of groups that address addiction through spiritual transformation, as opposed to medical treatment. Because such groups rely on Christian beliefs, prayer and scripture readings, direct government funding of such programs necessarily would involve government indoctrination of religion in violation of the Establishment Clause. The president's advisers contend that the legal issue is avoided because the vouchers are given to individuals who in turn choose where to seek treatment.

The application of the Supreme Court's *Zelman* case in this context is suspect. The constitutionality of the Cleveland program hinged on recipients having a wide range of educational choices that included religious and nonreligious ones. The fact that public schools do not turn away students was significant. The availability of choices in the drug and alcohol treatment arena is less certain; wait lists at secular drug treatment programs are often lengthy.

Even if found to be constitutional, new voucher programs would invite public scrutiny of religious social service providers. Again, one of two problems would arise. Either religious providers would be subject to potentially burdensome licensing requirements or the government would indirectly fund certain programs that fail to meet basic standards. These paths lead to two unappealing alternatives. The only safe course is to turn back. △



**K. Hollyn Hollman**

*General Counsel*

## HUD rule would allow funds for buildings, including religious activities

The Department of Housing and Urban Development has proposed a new rule that would permit federal funds to be used for the construction of buildings that include "inherently religious activities" as well as eligible social service programs.

The proposal, outlined in the Federal Register in January, is being welcomed and criticized by observers of President Bush's faith-based initiative.

The eight-page proposal lists several instances where, for the first time, future construction of facilities using HUD funds might involve faith-based groups.

"Where a structure is used for both eligible and inherently religious activities, HUD funds may not exceed the cost of those portions of the acquisition, construction or rehabilitation that are attributable to eligible activities," the proposed rule reads.

It also says HUD funds cannot be used for buildings that are solely for religious activities, including "worship, religious instruction or prayer."

The proposal's language concerning construction will be open for public comment until March 7.

Its provisions affect a variety of initiatives by HUD, which offered a total of \$7.7 billion in grants last year. The language applies to community development block grants as well as programs related to owning single-family homes, housing persons with AIDS and providing emergency shelter. △ (RNS)

### BAPTIST JOINT COMMITTEE

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- ◆ Seventh Day Baptist General Conference

co-leader of a legal research project for the Roundtable on Religion and Social Welfare Policy, said he believes a voucher-style "faith-based" program could survive constitutional review.

"They [White House officials] are being very shrewd constitutionally, because a direct financing program that would include faith-intensive drug treatment organizations such as Teen Challenge ... would be unconstitutional under the current law," Lupu said. He and colleague Robert Tuttle predicted several months ago that the Supreme Court's decision on school vouchers would open the next legal frontier for religious social-service agencies that wanted to receive government funding.

But Rep. John Lewis, D-Ga., a Baptist and veteran of the civil rights movement of the 1950s and 1960s, said he is still suspicious of the White House plan because, even through vouchers, government funds organizations that are allowed to discriminate in hiring and provision of services. "I want it to be free of discrimination based on religion, based on race," Lewis said. "I think whatever we can do in a proper and appropriate way to combat drugs we should do ... but we must maintain a strong and solid wall between church and state."

To the cheers of Republicans lawmakers — and the silence of many Democrats — Bush set a unilateral tone in his pronouncements on Iraq. "All free nations have a stake in preventing sudden and catastrophic attack. We are asking them to join us, and many are doing so. Yet the course of this nation does not depend on the decisions of others," he said. "Whatever action is required, whenever action is necessary, I will defend the freedom and security of the American people."

Accusing Iraq of numerous violations

of United Nations resolutions, Bush provided no hard evidence that Iraq was hiding chemical or biological weapons. Recounting the Iraqi regime's numerous egregious violations of human rights, Bush said, "If this is not evil, then evil has no meaning."

Calling freedom "not America's gift to the world" but "God's gift to humanity," Bush said the U.S. will lead a coalition to bring freedom to Iraq.

Bob Edgar, National Council of Churches president, said Bush still had not made an adequate case for attacking Iraq in Christian terms. "We should all be concerned about the tone of the president's war rhetoric," Edgar said.

Noting the World Health Organization's estimate that an American war on Iraq right now could kill as many as 500,000 Iraqis, Edgar said, "Americans are right to be uneasy about the morality of a pre-emptive American invasion that, even with extreme care on our part, could kill a staggering number of innocent civilians."

Bush also reiterated his support for additional tax cuts, drawing applause mostly from his Republican supporters in the House chamber. He also proposed a program to combat AIDS in Africa. Noting that about 30 million Africans live with AIDS, while only 50,000 receive the kinds of life-extending drug treatments available to Westerners who have the HIV virus, Bush proposed what he called "the Emergency Plan for AIDS Relief." He asked Congress to commit nearly \$10 billion in new funds for building AIDS clinics in several African nations, funding health-care professionals to treat the disease and providing HIV-prevention education as well as antiretroviral drugs to those already infected. △

— Robert Marus  
Associated Baptist Press

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