



VOICE OF REASON

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The Newsletter of Americans for Religious Liberty

No. 37

ARL Challenges Church College Bonds

Americans for Religious Liberty and five Nashville, TN, taxpayers have joined in challenging the constitutionality of \$15 million in tax-exempt bonds for construction at a pervasively sectarian college. The suit, *Steele v. Industrial Development Board*, filed in federal district court in Nashville on May 30, charges that the tax-exempt bond issue for David Lipscomb University violates the First Amendment ban on government actions "respecting an establishment of religion."

Joseph J. Johnston, attorney for ARL and the individual plaintiffs, said the suit is analogous to the one in which the Virginia Supreme Court ruled in January 1991 that \$60 million in tax-exempt bonds for Jerry Falwell's Liberty University violated the U.S. and Virginia constitutions.

Johnston pointed out that Lipscomb University, by requiring daily Bible classes and chapel attendance and that all faculty members belong to a single denomination, the Church of Christ, is so pervasively sectarian that issuance of tax-exempt bonds for its benefit by a government agency could not avoid violating the First Amendment.

Among the five individual taxpayer plaintiffs in the suit are Presbyterian and Unitarian Universalist ministers and the president of the Humanist Association of Middle Tennessee.

(Persons wishing to make donations [tax-deductible] to help with the expenses of this lawsuit may send them to ARL, PO Box 6656, Silver Spring, MD 20916.) ■

Reproductive Freedom Set Back

Freedom of conscience on abortion, free speech, and the integrity of health care professionals were dealt a serious blow on May 23 when the U.S. Supreme Court upheld government censorship in federally funded family planning programs. The Court in *Rust v. Sullivan* upheld the Reagan administration's 1988 "gag rules" prohibiting physicians and counselors in family planning programs receiving even partial federal funding from providing accurate information about, and making medically appropriate referrals for, abortion. The Reagan "gag rules" also require that clinics physically and financially separate their (1970 Public Health Service Act) Title X programs from the provision of both abortion and abortion counseling.

The Court's ruling affects the central funding source for nearly 4,000 family planning programs across the country that serve five million low-income women annually. The ruling eliminates all protection of the reproductive rights of poor women. Unless overturned by congressional action, the ruling will reduce professional health care for a great many poor women and actually increase the rate of unintended pregnancies and abortions.

By preventing physicians and counselors from providing accurate information about alternatives to continuing problem pregnancies, health care professionals will face serious ethical problems and the possibility of malpractice suits for withholding appropriate medical information.

The 5-4 ruling was written by Chief Justice Rehnquist, joined by Justices White, Kennedy, Scalia, and Souter. They rejected plaintiffs' arguments that the Reagan regulations are inconsistent with congressional intent and violate free speech and privacy rights under the First and Fifth Amendments. The

majority also held that the government had an unfettered right to control the content of the speech of health professionals within the doctor-patient relationship, thus possibly opening the door to other manipulation and censorship of expression in other government supported programs.

Justices Blackmun, Marshall, Stevens, and O'Connor dissented. Blackmun noted that Congress could rectify the Supreme Court's misinterpretation of the family planning law by passing appropriate new legislation.

With the ruling scheduled to go into effect this summer, organizations supportive of women's rights and free speech (including ARL) are urging all concerned citizens to join the Emergency Campaign to Overturn the Gag Rules.

Two bills, S. 323, sponsored by Sen. John Chafee (R-RI), and H.R. 392, sponsored by Reps. Ron Wyden (D-OR), and John Porter (R-IL), have been introduced in Congress to accomplish that goal. Concerned citizens are urged to contact their Senators and Representatives either at their district offices or in Washington (U.S. Senate, Washington, DC 20510; U.S. House of Representatives, Washington, DC 20515) and insist that they support these bills. Two-thirds majorities in both houses of Congress are needed to make the bills veto-proof. ■

Inside . . .

Parochial Wins in Missouri . . . Media Unfair to Catholic Church? . . . Bush Parochial Plan Unveiled . . . Books . . . ARL in Action . . . Update . . .

Parochial Wins in Missouri

In another setback for church-state separation, a federal court in Missouri has held constitutional an Education Department rule allocating federal Chapter I aid to sectarian private schools. The unanimous ruling of the Eighth Circuit Court of Appeals overturned a lower court ruling holding the scheme unconstitutional. The approved plan allows states to deduct federal remedial education aid "off the top" to parochial and private schools before the funds are disbursed to public schools. Under the ruling the federal funds may be used to buy or lease portable classroom, which may then be located on church school property.

This so-called "bypass" arrangement allows federal officials to operate the remedial education (Chapter I) programs through a private contractor rather than through public schools in those states, like Missouri, whose constitutions ban government aid to religion. Similar practices are under court challenge in California, Louisiana, New York, and Kentucky.

The Missouri case, *Pulido v. Cavazos*, may have far reaching national implications. Since other federal courts have disallowed the program, this decision may be appealed to the Supreme Court.

The U.S. Education Department, packed with parochial backers, promoted the "off the top" scheme after the U.S. Supreme Court ruled in 1985 in *Aguilar v. Felton* that public schools could not send employees into church-related schools to teach Chapter I classes. Congress requires, however, that "comparable services" be given to nonpublic schools. The original district court decision in the Missouri case rejected the off-the-top rule because plaintiffs had proved that religious schools often received as much as seven times the per student assistance given to public schools.

The Eighth Circuit ruling, however, invoked a 1983 ruling, *Mueller v. Allen*, which upheld a Minnesota tax deduction program for parents whose children incurred tuition or other costs at private or public schools, even though the lion's share of deductions went to private school patrons. The Eighth Circuit ruled that "the additional cost is required to give those students comparable services."

Both Roman Catholic school officials and Education Depart-

ment spokespersons expressed satisfaction with the decision.

The Eighth Circuit also held 2-1 that mobile vans operated by private companies could be placed on church school property and still be considered "religiously neutral." One judge disagreed, saying that a more neutral site was required by previous Supreme Court rulings.

Additional rulings on this question are expected in Kentucky, San Francisco, and Chicago.

This judicial trend is certain to cause bitterness and disparity in the allocation of federal programs. In Boonville, Missouri, for example, 55% of Chapter I allocations were given to the 10% of eligible students who attend parochial schools. Currently, \$4.8 billion in federal Chapter I funds are provided to five million eligible children, fewer than 3% of which attend religious schools. No data are available, but most authorities are certain that the parochial school sector receives a disproportionate share of that bounty. ■

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Voice of Reason is the quarterly newsletter of **Americans for Religious Liberty**, P.O. Box 6656, Silver Spring, MD 20916. (Telephone: 301/598-2447.) The newsletter is sent to all contributors to ARL.

Editor: Edd Doerr

Contributing Editor: Albert J. Menendez

Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$20 for individuals, \$25 for families, \$10 for students and limited income.

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Media Unfair to Catholic Church?

A recently-released study by the Washington, DC-based Center for Media and Public Affairs concludes that the secular news media tend to portray the Roman Catholic Church as authoritarian, oppressive and irrelevant to modern life.

The study, "Media Coverage of the Catholic Church," co-authored by Linda and Robert Lichter and David Amundson, based its findings on coverage of Catholic issues appearing in *Time*, *The New York Times*, the *Washington Post*, and CBS Evening News during the years 1964-68, 1974-78, and 1984-88.

It admits at the outset, "To analyze media coverage of the Catholic Church is a daunting task, owing to the sheer magnitude and diversity of the material under consideration."

Its conclusions are important, if only because the media involved have taken note of them, and because of the far-ranging implications of the study and of those who would interpret them in such a way as to inhibit future reporting of Catholic Church events.

The report reached several conclusions. Among them: "Opinions in the media were tilted against the Church's teaching on issues involving sexual morality and authority relations within the Church, and its involvement in secular politics (aside from support for Church statements opposing war). . . . The news was certainly not all bad for the Church. The study found that members of the hierarchy were heavily cited; official teachings were frequently presented, most often without refutation by critics; and on some issues, ranging from abortion and homosexuality to ecumenism and questions of war and peace, the Church's teaching was endorsed by a majority of sources whose opinions were printed or broadcast. Overall, however, the negatives for the Church outweighed the positives. On most controversies involving Catholic teachings, the Church came out on the losing side of the issue debate reported in the media."

The study also found that the media tend to "pit a hide-bound institutional hierarchy against reformers within and without" and to emphasize the church's "conservative ideology, authoritarian forms of control and anachronistic approach to contemporary society." The study also concluded that "long-range trends in the coverage have been less than favorable to the Church" for three reasons: "the sheer volume of coverage has dropped sharply since the 1960s; official church teachings are reported less frequently and are challenged more often when they do appear; and the language used to describe the Church increasingly carries connotations of conservatism, oppressiveness and irrelevance."

In one important area, church-state relations, the study uncovered two trends. One is that "discussions of the Catholic Church's relations with various levels of government in the United States received the least coverage of any dimension in the study." The news media are simply uninterested in church-state news, which is probably why coverage of the parochial issue is often ignored, even during referendum elections. Also, the study found that "virtually every member of the clergy who was quoted (95%) upheld church teaching on issues involving church-state relations, while among the laity five out of six (84%) opposed church activities in the realm of secular politics."

This last finding is encouraging to church-state separationists and should be noted by political correspondents in the secular press.

But what of the study in general? Are its findings relevant or

useful? For one thing, the genesis of the project remains suspect because it was sponsored and funded by the Knights of Columbus and the Catholic League for Religious and Civil Rights, which both have private agendas of a right-wing sectarian nature. Both groups frequently label any criticism of church policies or institutions, however valid or fair minded, as bigotry. Both groups lobby for parochial and total bans on abortion. Both groups excoriate liberal and progressive Catholics as "not real Catholics" or "anti-Catholic Catholics."

In addition, those groups and other which have cited the study seem to have another agenda: the silencing of press criticism of all things Catholic, or the downplaying of events deemed embarrassing to the institutional church and its leaders. This is a disservice to all Americans, including Catholics, who feel that news of internal church activities should be freely reported, in an impartial and fair way, to be sure, but in a way that probes and analyzes events and trends that are important and newsworthy. This is the role of a free press, and in the long run it helps every institution, including religious groups. Cover-ups and suppressions do a disservice to democratic ideals within and without institutions of every kind as well as to society as a whole.

Doesn't criticism help the church by opening up debate and focusing on serious or neglected problems? The eminent liberal Catholic journalist John Cogley wrote around 1975 that Paul Blanshard's searing criticisms of Roman Catholic social policies in the 1940s and 1950s had helped the church face the future, had encouraged updating and democracy within the institution, and had immeasurably improved relations between religious groups in U.S. society. Wouldn't the church benefit from greater discussion about celibacy for the clergy, for example, when the U.S. Church is plagued with sexual discipline problems among the clergy? Pope Paul VI did not help matters when he forbade any public discussion of the issue more than two decades ago. These are issues the Lichter study failed to address.

Finally, the Lichter study is only part of a greater dimension in the reporting of news. One suspects that a similar study of media coverage for evangelical and fundamentalist Protestants, or atheists, would produce similar results. The press today takes its adversarial and critical role seriously. Even conservative Catholic journalist Joseph Sobran found the study unexceptional. He said that journalists see themselves as "activists, advocates and adversaries." He wrote, "By all means let's demand fair treatment for the Church, but let's avoid thinking of Catholics as victims of a media conspiracy. We're not." Everette E. Dennis, director of the Gannett Foundation Media Center at Columbia University, also cautioned, "You can take almost any institution in American life . . . and find that it is covered more negatively than positively. These are not astounding findings."

Neither the Catholic Right nor the secular media should misrepresent the findings of the Lichter study. The conclusions, such as they are, should not be used to silence or cover the press into inattention or inactivity in reporting religious news, especially as it affects the world's largest and most influential religious body. If anything, the report points up the need for better coverage of church-state news. ■

— Albert J. Menendez

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Books

Original Intent: Chief Justice Rehnquist and the Course of American Church/State Relations, by Derek Davis (Prometheus Books, 700 East Amherst St., Buffalo, NY 14215, \$24.95, 202 pp.)

Separation of church and state has abundantly proven its worth as the indispensable constitutional arrangement for guaranteeing individual religious liberty and freedom of conscience. Unfortunately, however, the U.S. Supreme Court, once the defender of that principle, has begun in recent years to move away from separation toward the position known as "accommodationism," which would allow government to tax citizens for the support of religious institutions and otherwise promote religions as long as it does so "nonpreferentially." Chief Justice William Rehnquist is the main promoter of this dangerous, revisionist way of interpreting the First Amendment.

We are much in debt to attorney Derek Davis, associate director of the J.M. Dawson Institute of Church-State Studies at Baylor University, for this thorough, perceptive, authoritative, and very readable examination of Rehnquist's thinking about the First Amendment. Although Davis bends over backwards to be fair to Rehnquist, he makes it quite clear that the Chief Justice's approach to the First Amendment is narrow, crabbed, out of sync with fifty years of Supreme Court decisions in the field, and based on a faulty understanding of the amendment's history and context.

Original Intent is must reading for anyone who thinks that the Supreme Court will always be the *deus ex machina* which rescues us from the church-state follies of legislatures and bureaucrats.

RU 486: The Pill that Could End the Abortion Wars and Why American Women Don't Have It, by Lawrence Lader (Addison-Wesley Publishing Co., 1991, \$16.95, 172 pp.)

RU 486 is the French-developed drug which is not only an easily administered and apparently safe abortifacient but also may be used in facilitating difficult births and in treating brain tumors and Cushing's syndrome. Unfortunately, however, it is not soon likely to be available to American women, physicians, and researchers. Lawrence Lader, author of the excellent 1987 book *Power, Politics, and the Church* and a founder of the National Abortion Rights Action League, tells the whole story in this important little book. He traces the development of the drug and shows how it has been adopted for use in France and other countries, and then explains how a minority faction in the U.S., led by Catholic Church and Protestant fundamentalist leaders, has teamed up with Reagan-Bush administration officials to keep the drug out of this country. Anti-choice political pressures and threats of economic boycott are apparently sufficient to intimidate both foreign and domestic pharmaceutical companies into denying American women access to a product important to their welfare and freedom. Lader concludes with suggestions as to how states with pro-choice constitutions or laws and mini-FDAs might get around administration barriers to RU 486 availability.

— Edd Doerr

Potpourri

Newsweek religion editor Kenneth L. Woodward has produced a thorough, exhaustive study of how the world's largest and most influential religion (Roman Catholicism) goes about

the process of canonizing saints in his *Making Saints* (Simon and Schuster, \$24.95). While at first glance this might seem of parochial concern to Catholics, Woodward shows why this historic and complicated process has much broader significance. Woodward concentrates on the politics and finances of canonization and reveals that Pope John Paul II has "beatified" (declared blessed, one step short of official sainthood) and canonized more individuals than all the other popes in this century. This pope seems to be using canonization as a step toward greater political influence for the Vatican in various nations. Woodward shows why the church rarely canonizes "happily married" men or women, and why it prefers celibate lay people, monks, priests and nuns, especially founders of religious orders. This is why New York's Cardinal Terence Cooke is more likely to be canonized than social activist Dorothy Day. The church is also somewhat reluctant to canonize intellectuals like Cardinal John Henry Newman, and it also tries to rewrite history, as in the recent canonizations of anti-Nazi stalwarts in Germany and Poland. Woodward expresses concern over the possible canonization of Queen Isabella of Inquisition Spain and quirky Opus Dei founder Josemaria Escriva, who are just two of the thousand or so waiting in the wings. This is a brilliant study of the "saint-makers" and their influence on religious history.

Priestly gadfly Charles E. Curran is back with a scholarly and very contemporary study, *Catholic Higher Education, Theology and Academic Freedom* (University of Notre Dame Press, \$27.95). Curran traces the history of American Catholic universities' attitudes toward academic freedom and the great progress that Catholic educators achieved during the 1960s and 1970s. The present Vatican climate has changed all that, says Curran. "Tensions between the hierarchical magisterium and Catholic theologians have continued and even worsened." Much of this book is a personal statement from this theologian, who details his three major confrontations with academic authorities

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Books, continued

at Catholic University in Washington. Curran makes several telling points: "Roman church authorities have not really understood the nature and the reality of Catholic higher education in the United States even after so many years." He adds that the proposed Vatican norms governing Catholic universities "would put in jeopardy the accreditation of and government funding for Catholic higher education." These norms "are incompatible with the American notion of academic freedom and university autonomy."

Vincent A. Lapomarda's *The Jesuits and the Third Reich* (Edwin Mellen Press, \$39.95) exhaustively studies the Jesuit order's relationship with Nazi regimes in every European country. Lapomarda concludes that the Jesuits in particular and the church in general opposed Fascism and helped the Jews more than other religious or political forces. The debate has not ended, though, and other scholars have drawn different conclusions from the historical record.

One angry Irish Catholic priest is Joseph McVeigh, who castigates the Irish hierarchy for being too pro-British and pro-middle class in his hard-hitting *A Wounded Church: Religion, Politics and Justice in Ireland* (Dufour Editions, \$11.95). It's hard to believe that a priest of the Emerald Isle would conclude: "When control over employment is added to the existing control which the Catholic hierarchy exercises over the education of Catholic children, it is clear that the social power of the hierarchy has increased enormously. Moreover, because the social and economic power which they have gained is dependent on the British government, the Catholic hierarchy has lost whatever freedom it had in the past to confront government injustice and state violence." He also charges that "given their class alignment with the middle class, it is not surprising that Catholic Church leaders generally reflect the political allegiances and the social conservatism of this class. Nor is it surprising that they have, for the most part, a paternalistic attitude toward the working class." McVeigh will never be a bishop!

As the bicentennial of the Bill of Rights approaches, we recommend three recent paperbacks published by Eerdmans at \$14.95. Edwin S. Gaustad's *Liberty of Conscience* is a superb study of Roger Williams and his influence on the development of religious freedom in America. Gaustad traces Williams's impact on those who followed him, noting that "eight years of a Madisonian presidency added to eight years of a Jeffersonian presidency worked to set the liberty of religion on as firm a foundation as possible." Williams influenced both of these early presidents. He also makes an interesting historical point about U.S. religious history: "Those denominations did best that loved the state least." Gaustad adds that even the U.S. Supreme Court invoked Williams in a footnote in the 1963 *Abington v. Schempp* ruling. Finally, Gaustad says, "In the past half-century, American society has become noisily and notoriously pluralistic. This has made Roger Williams more relevant, for he had strong opinions about what government should do about religious pluralism: leave it alone."

William R. Estep's *Revolution Within the Revolution* looks at the historical context of the First Amendment, concentrating on John Leland, Roger Williams and other early Baptist dissenters. Many scholars contribute to *An Unsettled Arena: Religion and the Bill of Rights*, edited by Ronald C. White and Albright G. Zimmerman. Robert Handy, Leo Pfeffer and Harvey Cox stand out as they interpret today's church-state issues in light of the First Amendment.

Insight into recent evangelical and Southern Baptist internal problems and external influences on U.S. society can be gleaned from a number of new books. George M. Marsden's *Understanding Fundamentalism and Evangelicalism* (Eerdmans, \$12.95) presents a historical overview of this influential sector of U.S. religion and shows why evangelicals tend to vote Republican and why they largely support "creation science." *American Evangelicals and the Mass Media* (Zonderman, \$12.95) consists of 16 essays edited by Quentin J. Schultze and aimed at explaining how conservative Protestants use the media to exploit their points of view, how they are perceived by the media and how they see themselves portrayed by generally hostile media. Journalist Wesley Pippert says that "cynicism and lack of understanding" of religion is rampant among journalists. "Most of the mass media do not grasp the nuances and subtleties of covering institutional religion and the religious experience," he writes. But he also says, "Evangelicals often view the world with hostility and suspicion" and "the evangelical media have done an exceedingly poor job of reporting their own wars." He also argues that "the secular press and not the evangelical press was the prophet in calling them to account for their sins. . . . The financial practices, the personnel policies, the decision-making process in religious institutions go unchecked. Many in the religious press impose more censorship than the worldly press ever encounters."

Two new books probe the Southern Baptist dilemma. Sociologist Nancy Ammerman's *Baptist Battles* (Rutgers University Press, \$16.95) thoroughly dissects the issues and personalities which have influenced the direction this regionally powerful denomination has taken in recent years. Historian Bill J. Leonard argues that fundamentalists and the political Right have achieved their take-over of the Southern Baptist Convention. "As a result, the direction of the denomination was irrevocably changed," he says in *God's Last and Only Hope: The Fragmentation of the Southern Baptist Convention* (Eerdmans, \$14.95).

— Albert J. Menendez

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Update

Bush Parochial Plan Unveiled

President Bush finally unveiled and sent to Congress in late May his voucher plan for federal aid to sectarian and other private schools. The \$690 million plan includes \$200 million to encourage states to adopt voucher plans for supporting nonpublic schools. *Education Week* (Feb. 13) quoted a high-ranking Bush administration official as saying: "It's a bribe to school districts to do what we want them to do."

The Bush plan would also convert the federal Chapter I remedial education program into a voucher plan to aid nonpublic schools, evidently to get around the Supreme Court's 1985 *Felton* ruling against sending Chapter I public school teachers into sectarian private schools. That program, though never fully funded for all eligible students nonetheless the most successful federal education program ever developed, would be weakened to divert aid to nonpublic schools. Bush's plan, according to an analysis by the National Education Association, would actually reduce the aid going to disadvantaged children in public schools.

Sens. Edward Kennedy (D-MA) and Claiborne Pell (D-RI) introduced Bush's plan in Congress in five separate bills in order to allow Congress to adopt what might be good in the overall Bush proposal and to allow more time for scrutiny of the controversial parts of the plan.

A coalition of educational, parents, civil liberties, religious, and other groups (including ARL) is encouraging citizens to contact their members of Congress to urge them to oppose any and all diversions of public funds to sectarian private schools. The legislation is expected to move fairly rapidly through Congress on a "fast track."

Delaware's former governor, Pierre DuPont, has a proposal before that state's legislature to provide vouchers worth \$2150 each year for private school tuition. DuPont invested heavily in the failed 1990 referendum in Oregon to provide tuition reimbursement tax credits for private schools.

In other developments, New York State Education Commissioner Thomas Sobol and the State Board of Regents have agreed to withdraw their controversial proposal to provide voucher or other tuition aid to nonpublic schools. The New York Committee for Public Education and Religious Liberty (PEARL) had generated a great deal of opposition to the plan, which had been included in the New Compact for Learning, a master plan for improving elementary and secondary education in the state. But the fight over vouchers for nonpublic schools may not be over: at least one prominent Regent is still pressing for parochial. New York State residents may care to express their opinions to the Board of Regents (Room 110, State Education Building, Albany, NY 12234) or to

Commissioner Sobol (Room 111, State Education Building, Albany, NY 12234).

Reproductive Rights

Washington State voters will have a chance in November to approve an amendment to the state constitution, Initiative 120, to protect freedom of choice on abortion. This will be the only referendum on choice in the U.S. this year. The campaign to approve the measure is led by Pro-Choice Washington (P.O. Box 31997, Seattle, WA 98103-0097, phone 206-634-4120), which is seeking donations and volunteers.

Maryland anti-choice groups are gathering petitions to bring about a referendum in November 1992 on a pro-choice law enacted this year to protect choice in the event that the Supreme Court might overturn *Roe v. Wade* and leave the state without adequate protection of freedom of conscience on abortion for women.

Louisiana Gov. Buddy Roemer on June 14 vetoed another bill designed to outlaw nearly all abortions. Sponsors of the bill immediately announced an override effort, as the bill passed the legislature by margins greater than needed for a legislative override. State Rep. Sam Theriot said their aim is to produce a law that would allow the Supreme Court to overturn the 1973 *Roe v. Wade* ruling recognizing the constitutional right to choice on abortion. The vetoed bill would have outlawed all abortions except those to save a woman's life (but not health), in cases of incest reported to police, and in case of rape if reported within five days and only if the woman was not pregnant before the rape. Physicians performing other abortions could get ten year prison terms. Gov. Roemer, who himself favors restrictions on abortion rights, vetoed two anti-choice bills in 1990 which he felt were too restrictive.

On June 3 the Supreme Court refused to hear a challenge to the policy of the Reagan and Bush administrations (the so-called "Mexico City" policy) of cutting off federal funds to any overseas family planning agency that spends any money, from whatever source, on activities related to abortion, including the mere provision of information. The challenge had been brought in court by the Planned Parenthood Federation of America in a lawsuit filed in 1987.

The House of Representatives voted 234 to 188 on June 12 to allot \$20 million in the foreign aid bill for the United Nations Population Fund. The same day the House voted 222 to 200 to overturn the Reagan-Bush "Mexico City" ban on support for family planning agencies that counsel or promote abortion. President Bush has threatened to veto any bill containing aid to the U.N. population agency.

Resources

Available from ARL, Box 6656, Silver Spring, MD 20916.

The Great Quotations on Religious Freedom, compiled by Albert J. Menendez and Edd Doerr. (\$12.95, plus \$1.50 for postage and handling.)

Abortion Rights and Fetal Personhood, edited by Edd Doerr and James W. Prescott. The *must read* resource in the struggle to preserve freedom of conscience. (\$12.95, plus \$1.50 for postage and handling.)

Religious Liberty and the Secular State, by ARL president John M. Swomley. A clearheaded, authoritative response to revisionist attempts to discredit church-state separation. (\$15.95 hardcover, \$10.95 paperback, plus \$1.50 postage and handling.)

Dear Editor, by Edd Doerr. A "how to" book on writing letters to editors, plus a wide-ranging selection of published letters on

religious liberty issues from *The New York Times*, *The Washington Post*, *National Geographic*, *Harper's*, and other periodicals. (\$2.95 plus \$1.50 for postage and handling.)

Voices for Evolution, edited by Betty McCollister. Statements and resolutions on "creationism," evolution, science, and school policy by scientific, educational, and religious organizations. (\$5 plus \$1.50 for postage and handling.)

The Supreme Court on Church and State, edited by Robert S. Alley. A comprehensive up-to-date collection of the major U.S. Supreme Court rulings on religious liberty, with commentary by a leading church-state scholar. Indispensable for lawyer and concerned layperson alike. (\$15.95 plus \$2 for postage and handling.)

James Madison on Religious Liberty, edited by Robert S. Alley. Madison's own writings plus authoritative essays analyzing their importance. (\$17.95 plus \$2 for postage and handling.)

Church Politics

The Roman Catholic hierarchy continues its pressure on Catholic politicians who refuse to tow the church's line on abortion. Massachusetts Lt. Gov. Paul Cellucci, a Republican, was barred by the Archdiocese of Boston from giving the May commencement address at his alma mater, Hudson Catholic High School. Cellucci commented, "I think the church is intolerant . . . In a secular society that is not a very good trait to have." The decision to disinvite Cellucci was made in consultation with Cardinal Bernard Law.

Graduation Prayers

In the wake of the U.S. Supreme Court's decision to review lower court rulings regarding prayer at public school graduations, (see ARL newsletter #36, p.7) the California Supreme Court ruled against the practice in May.

Writing for a "reluctant" 5 to 2 majority, Chief Justice Malcolm Lucas said the practice violated the three-prong test for "establishment" of religion enunciated in the U.S. Supreme Court's 1971 *Lemon* ruling. Lucas and another judge suggested, however, that the present Supreme Court might accept graduation prayers as a "benign recognition of religion as part of culture," and invited the nation's highest court to do just that. (The Supreme Court may choose to consider this California ruling with the *Lee v. Weisman* decision from Rhode Island, which they will hear next fall.)

Two justices okayed the prayers as acceptable "accommodation of religion," while two strongly separationist justices said that graduation prayers violated both the federal and California constitutions.

In a related case, a federal district court refused to ban graduation prayers at two Utah high schools. Meanwhile, Massachusetts schools quietly removed graduation prayers since the *Lee v. Weisman* decision of the First Circuit Court of Appeals applies to Massachusetts, Rhode Island, Maine, and New Hampshire.

A similar dispute in New Hampshire engendered some political controversy, even though the issues was a baccalaureate prayer service at Keene State College. When college officials moved the annual exercises off-campus to a nearby church, New Hampshire's Republican Governor Judd Gregg blasted college officials and called for the ouster of Judith Sturnick, the college's president. Gregg accused Sturnick and the board of trustees of "knuckling under to atheism." The college's legal adviser, Steven McAuliffe, the widower of astronaut Christa

McAuliffe, accused the governor of stirring up religious animosity to win re-election. New Hampshire has one of the poorest records on religious liberty issues of any state. It was the last state to abolish religious tests for public office (in 1946!), and it retained an official ban on non-Protestant public school teachers until 1968 (though it was not enforced for several decades).

Gideon Bibles in School

In another decision favorable to public school religion, U.S. District Judge Allen Sharp upheld an Indiana school district's policy of allowing the distribution of Gideon Bibles on public school grounds. The May 7 decision said the practice "is no more an endorsement of Christianity than allowing Little League baseball to disseminate its materials." The Rensselaer School District policy allows "all groups except Satan worshippers" access to schools and allows Gideon members to address the student body. The suit challenging the practice was brought by a parent, Allen H. Berger, a professor and assistant vice president of St. Joseph's College, a Roman Catholic school. This unusual decision is sharply different from many others which have disallowed Gideon Bible distribution, as far back as 1950 when the New Jersey Supreme Court banned it.

Bush Butters Baptists

President Bush addressed the annual convention of the Southern Baptists on June 7 in an obvious bid for political support from the nation's largest (15 million) Protestant denomination. Bush called on Congress to initiate a constitutional amendment to authorize government sponsored prayer in public schools (he used the term "voluntary prayer," ignoring the fact that truly voluntary individual prayer has always been legal) and reiterated his support for parochial aid and opposition to public funding for abortions. The Southern Baptist denomination's national machinery has been taken over by fundamentalists hostile to Baptists' long tradition of support for church-state separation. The denomination's new leadership faction has ended support for the Baptist Joint Committee on Public Affairs, which since its foundation over 50 years ago has defended church-state separation.

Creationist Lawsuit

Science teacher John Pelozo has filed a \$5 million lawsuit against the Capistrano Valley Unified School District in Orange County, CA, for reprimanding him for teaching fundamentalist creationism and promoting his religion in his biology classes. California state regulations require that evolution be taught as the only legitimate scientific theory about the development of life forms. According to press accounts, Pelozo tells students that evolution is a fraud and that the Bible is his ultimate guide to teaching. School district superintendent Jerry Thornsley says of Pelozo that "It's not his right to not teach what he's employed here to teach," referring to the state's science education guidelines.

Although the Supreme Court ruled in 1987 in *Aguillard v. Edwards* that states may not require public schools to include fundamentalist creationism in science classes, the Pelozo case appears to be an attempt by fundamentalist interests to get approval for individual teachers to do so.

Abortion Rights Candidate Wins

In a special election on June 4 to fill the congressional seat of the late Rep. Silvio Conte, a liberal Republican, Democrat John Olver defeated Republican Steven Pierce by 50% to 48%. Olver, a state senator, is strongly pro-choice on abortion, while Pierce is decidedly anti-choice. President Bush and Massachusetts Gov. William Weld had both campaigned for Pierce in western Massachusetts, which had sent only Republicans to Congress for the past 98 years.

ARL in Action

ARL president John M. Swomley and board member James E. Wood, Jr., were among the speakers at a conference on Religion in Public Life in Philadelphia May 30-June 1. The conference was sponsored by the American Bar Association, the National Council of Churches, and other groups.

ARL treasurer Ken Gjemre was the subject of a two-page laudatory profile in the *Dallas Morning News* on May 26. In addition to serving on the ARL board, Gjemre is active in the ACLU and the environmental movement, and is the founder of Half-Price Books, the largest chain of used book stores in the country.

Since our last report executive director Edd Doerr has spoken at conferences and meetings in Chicago, IL; St. Petersburg, FL; Cumberland, MD; Hollywood, FL; and appeared as a guest on radio stations in Tampa, FL, and Buffalo, NY. In May he addressed a group of Indonesian parliamentarians on religious liberty issues. In June he and President John M. Swomley conducted a workshop on church-state issues at the ACLU biennial conference in Burlington, VT.

Update, *continued*

Teaching About Religion

The *Wall Street Journal* reported in May that five states (California, Washington, Arkansas, Indiana, and West Virginia) have adopted new textbooks that promote teaching about religion in public school classrooms. State departments of education in Georgia, Nevada, Utah, and North Carolina have endorsed the controversial Williamsburg Charter curriculum for teaching about religious liberty issues in the classroom. The highly-flawed curriculum will be introduced in Georgia schools in September. Barry Lynn, legislative counsel for the ACLU, warned, "This is fraught with practical, constitutional and intellectual perils."

Good Friday Holiday

The Ninth Circuit U.S. Court of Appeals has ruled that Hawaii workers may continue to take Good Friday as a paid holiday. The 2 to 1 decision denied an ACLU claim that official Good Friday observances violate the Constitution's mandate of separation of church and state. ACLU attorney Kirk Cashmere said the decision "moves the country uncomfortably close to a state religion." He said the ruling will be appealed to the Supreme Court.

Judge Diarmuid O'Scannlain, in the majority decision, claimed that Good Friday is secular enough to pass muster since "the freed employees may enjoy virtually any leisure activity imaginable." He also labeled the holiday "an extra day of rest for a weary public labor force." Both majority judges were appointed by Ronald Reagan.

Dissenting judge Dorothy Nelson said the "equation of Good Friday" with the secular aspects of Christmas and Thanksgiving was "both distasteful to practicing Christians, who do not wish a serious day permeated by mirth and levity, and unsettling to adherents of other religions or nonreligious persons."

The decision could affect 11 other states in addition to Hawaii: Maryland, Delaware, Florida, Georgia, Indiana, Louisiana, New Jersey, New Mexico, North Dakota, Tennessee, and Wisconsin.

Falwell's Troubles

The U.S. Department of Education has delivered bad news to Jerry Falwell: it ruled that Liberty University's School of LifeLong Learning (LUSLL) is a correspondence school, not an external-degree program. So, the feds decreed, LUSLL must buy \$4 million worth of outstanding Guaranteed Student Loans from lenders and pay \$2 million in penalties. The latter includes reimbursement for Pell grants awarded to LUSLL students. Liberty officials, charging that the government has never issued definitive guidelines that distinguish correspondence courses from external-degree programs, vow to fight the decision. LUSLL uses videotaped instruction in its program. The government, however, has said that an external-degree program requires students to have "immediate, direct contact" with a teacher.

Under restructure of its relationship with Falwell's Old Time Gospel Hour, Liberty is now an independent entity owning assets valued at about \$300 million, and indebtedness has been nearly halved from \$60 million a year ago. (NIRR)

International

Warsaw: Pope John Paul II's visit to Poland in June highlights the many far-reaching changes in Polish society since the Communist regime was toppled two years ago. The most visible change is the resurgence of the Roman Catholic Church as a political power.

The sight of Polish government officials kneeling to kiss the Pope's ring on his arrival is symbolic of the enormous shift in church-state relations. In just two years Catholic chaplains now serve in the army and state-run hospitals, divorce has been restricted, government subsidies for birth control pills have been ended, religious instruction has been returned to public schools, and parliament has been engaged in a rancorous debate over abortion, which church leaders want banned.

This still fails to satisfy the bishops. In April they called for removal of separation of church and state from the Polish constitution, now being

revised. The bishops said they prefer the phrase "cooperation" between the state and the Catholic Church, which claims allegiance of 97% of the nation's 38 million people. (The bishops said nothing about the non-Catholic minorities.) In May the primate, Cardinal Joseph Glomp, told a national television audience that he would accept the word "separation" if it meant "autonomy" for both church and state, rather than a genuine division. Glomp also denounced a proposal for a national referendum on abortion, saying that "moral values are not subject to popular vote" and that "referenda create opportunities for great excitation, divisions and agitation."

National surveys now show that most Poles think the Church is the most powerful institution in society, more influential than the government, army, or the Solidarity movement. But polls also trace a rising anticlericalism, since only 58% say they "have confidence" in the church, compared to 83% a year or so ago. The church has fallen below the army and government in approval ratings. Sixty percent of Poles interviewed say they oppose banning abortion, which has been legal and widespread since 1956. Half of all pregnancies end in abortion, a rate far higher than in the U.S. Poor sex education, inadequate birth control, and overcrowded housing conditions have apparently had more influence on Polish women's actions than church teachings which label the practice "murder" and an excommunicatable offense. (Under the revised code of canon law abortion remains an automatically excommunicatable offense for all who are involved in the procedure, including pregnant women, doctors and nurses. Strangely, genocide, torture, and molestation of children are not grounds for excommunication.) Even President Lech Walesa, a devout man who celebrated the recent bicentennial of Poland's first constitution at the national shrine of the Black Madonna rather than at the parliamentary ceremonies, has said that women should have the right to make the decision on pregnancy termination.

Anger at the church's involvement in politics is rising. Sixty percent of Poles say the church "has too much power." Former Prime Minister Tadeusz Mazowiecki, a noted Catholic intellectual, recently told a political gathering that "the power of the Church . . . may become a source of fear in a democratic system which is only in the process of creation." Nascent feminist groups are warning of "a new totalitarianism that is fast replacing the old one."

While a number of parish priests echo these sentiments, church leaders seem blissfully unaware of the criticism. They continue to press demands for the restructuring of civil law. The bishops, at their recent conference, denounced all criticism as "signs of aversion to the church" and blasted Poland's lively press for allegedly giving "an artificial, disproportionate coverage to opinions hostile to the church." Finally, at a May address in Fatima, Portugal, the pope denounced "worshipping liberty, which tends to destroy the roots of Christian and human morals."

Americans for Religious Liberty

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