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News Service of the Southern Baptist Convention

NATIONAL OFFICE

SBC Executive Committee
901 Commerce #750
Nashville, Tennessee 37203
(615) 244-2355
Wilmer C. Fields, Director
Dan Martin, News Editor
Craig Bird, Feature Editor

BUREAUS

ATLANTA Jim Newton, Chief, 1350 Spring St., N.W. Atlanta, Ga. 30367, Telephone (404) 873-4041
DALLAS Thomas J. Brannon, Chief, 511 N. Akard, Dallas, Texas 75201-3355, Telephone (214) 720-0550
NASHVILLE (Baptist Sunday School Board) Lloyd T. Householder, Chief, 127 Ninth Ave., N., Nashville, Tenn. 37234, Telephone (615) 251-2300
RICHMOND (Foreign) Robert L. Stanley, Chief, 3806 Monument Ave., Richmond, Va. 23230, Telephone (804) 353-0151
WASHINGTON Stan L. Haste, Chief, 200 Maryland Ave., N.E., Washington, D.C. 20002, Telephone (202) 544-4226

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85-153

Crowders File Suit
In Federal Court

By Dan Martin

ATLANTA (BP)—A Birmingham, Ala., couple and a retired Navy chief from Windsor, Mo., filed suit Dec. 5 against the Southern Baptist Convention and its Executive Committee in federal district court in Atlanta.

The suit, filed by Robert S. Crowder and his wife, Julia, and Henry C. Cooper, claims the plaintiffs were "irreparably harmed" by rulings and events at the annual meeting of the Southern Baptist Convention in Dallas, June 12, 1985, concerning election of the SBC Committee on Boards, Commissions and Standing Committees.

The suit seeks to have the election of the SBC Committee on Boards declared illegal and to prevent the 52 persons elected at the Dallas convention from serving. It also asked "relief...to prevent the defendants from violating the legal rights of the plaintiffs during the 1986 annual meeting, June 10-12, in Atlanta.

The Committee on Boards nominates persons to serve as trustees of the national agencies of the SBC, including the six seminaries. They are elected at one convention and bring their report to the subsequent convention.

The committee is expected to meet in March in order to complete its work in time for presentation at the 1986 annual meeting.

The petition claims SBC President Charles F. Stanley, pastor of First Baptist Church of Atlanta, made "erroneous rulings" which "violated the rights" of the plaintiffs and "deprived" them "of the opportunity...to vote" on matters related to election of the Committee on Boards.

"The actions of Dr. Stanley violated the integrity of the bylaws of the Southern Baptist Convention, were in excess of his authority as the presiding officer...and deprived the plaintiffs and other messengers to the Southern Baptist Convention of the protection of fair and unbiased procedures which is guaranteed by the bylaws of the Southern Baptist Convention," the petition says.

The cause of action stems from events at the Dallas convention June 12, in which the SBC Committee on Committees nominated the 52-member Committee on Boards, Commissions and Standing Committees.

An attempt was made to amend the Committee on Committee's report. Stanley ruled the report could not be amended by an alternate slate, but only one-by-one. Messengers rejected Stanley's ruling. Subsequently, on the advice of parliamentarian Wayne Allen, pastor of Briarcrest Baptist Church in Memphis, Tenn., Stanley ruled the report could not be amended at all.

The Crowders' petition says: "Following this erroneous ruling, Dr. Stanley refused to allow the...motion to be voted on...and refused to recognize any calls for a point of order from numerous messengers who attempted to appeal his ruling...."

"Plaintiffs were present on the floor of the convention...and attempted unsuccessfully to be recognized for the purpose of appealing (the) ruling by a point of order...."

The petition claims the nomination of the Committee on Boards "was not lawfully adopted" and members "were not lawfully elected and are without authority in that capacity."

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The suit also claims there is "every likelihood that Dr. Stanley and the defendants will violate the rights of the plaintiffs and other messengers" at the 1986 annual meeting of the convention in Atlanta.

The suit seeks the court to declare:

--Bylaw 16 "permits any registered messenger to propose amendments to the report of the Committee on Committees from the floor...to nominate any individual or a slate of individuals and have the amendment voted on...."

--Bylaw 32 "reserves to the convention the right to amend the body of any report...."

--Bylaw 35 "requires that all propositions, decisions and choices, including appeals on points or questions of order or any other challenges to parliamentary rulings, shall be decided by a majority vote of the registered messengers present and voting...and that the chair is bound by and required to obey the decisions of a majority of the messengers...."

--the actions of Stanley in the controversial rulings and proceedings "were and are invalid...."

--the election of members of the Committee on Boards "was illegal and further declaring that members purportedly elected...are without authority to serve in that capacity."

The suit seeks to permanently enjoin "the defendants (and their respective officers, Executive Committee members, employees or agents) from violating the declaratory judgments" or "permitting the members of the Committee on Boards...who were illegally elected at the Dallas Convention to continue to serve."

The Crowders and Cooper also seek to "recover...their costs, attorneys' fees and related expenses in bringing this suit."

According to a spokesperson in the U.S. District Court Clerk's office in Atlanta, the case has been assigned to Judge Robert H. Hall, 64, who was appointed to the federal bench in 1979. Previously, he was a justice on the Georgia Supreme Court and the Court of Appeals of Georgia.

Jane F. Vehko, an attorney with the Atlanta lawfirm of Bondurant, Mixson and Elmore, attorneys for the Crowders and Cooper, said the plaintiffs "obviously would like to have the matter resolved before the next convention," but added it would be "very premature at this time to make any predictions" about the case.

Vehko also said Cooper "is the only other plaintiff named at this time" with the Crowders, but said "we have had interest from others and there is the real possibility other plaintiffs will be added" to the lawsuit.

She said the suit names only the SBC and the Executive Committee, and does not specifically name President Stanley or Parliamentarian Allen. "We have the two corporate entities named and in a judgment the others would be bound. Naming the individuals was not necessary," she said.

Cooper, a member and deacon at First Baptist Church of Windsor, Mo., told Baptist Press he attended the Dallas meeting of the SBC and was "contacted by Bob (Crowder) and asked if I would be a plaintiff." The Missourian said he has not met Crowder and has had contact about the suit only by telephone, mail and "Federal Express."

Cooper said he retired both from the Navy, with the rank of chief petty officer, and also from a civil service position with the Department of Defense.

Melvin (Pete) Hill Jr., pastor of the Windsor church, described Cooper as an "active member...who regularly attends conventions of the SBC and the Missouri Baptist Convention."

Hill, a leader of the moderate forces in Missouri said he is "not involved in the lawsuit in any way," added: "I've tried to play down the Crowder thing. I feel for the Crowders but I don't see it as a win situation. Nobody can win in a lawsuit."

Tax Measure Would Restore
Clergy Housing Benefits

By Kathy Palen

WASHINGTON (BP)—A new tax reform plan drafted by the House Ways and Means Committee would reinstate a clergy housing policy allowing ministers to claim mortgage interest and real estate tax deductions as well as tax-exempt housing allowances.

The Tax Reform Act of 1985, which is expected to go to the House floor within days, would amend current tax law by exempting a person receiving a parsonage allowance from being denied a deduction "for interest on a mortgage on, or real property taxes on" his home.

In 1983, the Internal Revenue Service ruled to reverse a 20-year-old policy and disallow mortgage interest and property tax deductions for ministers to the extent the deductions were attributable to a tax-exempt housing allowance. A subsequent IRS ruling delayed the effective date of Rev. Rul. 83-3 from June 1983 until Jan. 1, 1985, for ministers who occupied their residence or had a contract to purchase one by Jan. 1, 1983.

Since that time, Congress twice has delayed the effective date of the ruling. The latter delay extends through tax year 1986.

The Ways and Means Committee's tax reform package also would make the revocation of 83-3 retroactive, meaning that ministers unable to claim mortgage interest and property tax deductions for tax years 1983 and 1984 may file amended returns.

"We are extremely pleased," commented Darold H. Morgan, president of the Southern Baptist Convention Annuity Board. "Pastors of all denominations are most concerned about this issue. Congress has finally heard us in our appeal for equity with the military." The IRS ruling singled out ministers from a provision that also covered military personnel who receive tax-exempt housing allowances.

Another section of the tax reform proposal would allow churches that elected to claim exemption from paying Social Security taxes for their non-ministerial employees to revoke that election.

A 1983 change in Social Security laws forced churches—as well as all non-profit organizations—to participate in the nation's retirement system. Under the 1983 Social Security Amendments, churches were responsible for paying the employer's share of Social Security taxes and withholding the employee's portion for all non-ministerial employees.

Congress, however, approved a compromise in 1984 that permitted churches—including conventions, associations, church schools and church-controlled organizations—a one-time election not to participate in Social Security on behalf of their non-ministerial employees. In order to make the election, the church or organization was required to state that it was "opposed for religious reasons" to payment of Social Security taxes.

By law, ministers have and will continue to participate in Social Security as self-employed persons.

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Tax Reform Bill Threatens
Annuity Board Tax Exemption

By Stan Hasteley

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WASHINGTON (BP)—A proposed tax reform bill endorsed by the tax-writing House Ways and Means Committee and currently awaiting floor action would strip the Annuity Board of the Southern Baptist Convention and other church pension groups of their federal tax-exempt status.

Annuity Board President Darold H. Morgan, who also is chairman of the multi-denominational Church Alliance—an organization of church pension organizations—declined immediate comment, telling Baptist Press he was trying to sort out circumstances that led to inclusion of the provision stripping tax exemption. Morgan and other church pension board executives were meeting in Indianapolis, Ind., to assess provisions of the bill impacting their organizations and to plan strategy for seeking changes in the measure.

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But Baptist Joint Committee on Public Affairs Executive Director James M. Dunn, expressing concern about the church-state implications of the proposal, warned: "The taxing of church pension boards engaged properly in insuring their ministers and denominational employees is tantamount to taxing the churches themselves.

"This legislative tinkering with time-tested principles of church-state separation flies in the face of the First Amendment and signals an abandonment of the basic American concept that the church should not be required to support the state."

Dunn added: "It is amazing that those producing the tax reform package have demonstrated such incredible insensitivity. The American people will not stand for it."

The bill's language repeals tax exemption for a non-profit organization if a "substantial part of its activities consists of providing commercial-type insurance," adding such insurance "shall be treated as an unrelated trade or business." Specifically exempted from the definition of "commercial-type insurance" is property or casualty insurance provided by churches or conventions or associations of churches.

But the measure specifies further that "annuity contracts shall be treated as providing insurance."

If passed by both houses of Congress and signed into law by President Reagan, groups such as the SBC Annuity Board would lose their tax exemptions Dec. 31, 1985.

Aside from the threat to tax exemption, other provisions in the bill drew swift reaction from Annuity Board officials, including general counsel Gary S. Nash, who was particularly critical of the powerful Ways and Means committee for not holding public hearings before voting out the measure for action by the full House of Representatives.

Among provisions drawing fire is one that would penalize a participant who designates a portion of his salary as a "catch-up" device for years in which he was able to put little or nothing into a retirement plan. This provision would forbid participants in a regular retirement plan from investing also in Individual Retirement Accounts.

According to Nash, another negative feature of the proposal would reduce contribution limits for amounts that can be contributed to denominational retirement plans.

Yet another would impose what Nash described as "regressive tax penalties" on distributions--or funds withdrawn--from retirement plans before age 59, other than for death, disability or "life-based" annuity payments. The bill would also impose new minimum distribution rules and a 50 percent tax on those retirement funds not withdrawn at the time of eligibility.

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Nashville, Tennessee 37203

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NASHVILLE, TN 37203

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