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87-94

High Court Rules Churches May Continue Hiring Discrimination

By Stan Hastey

WASHINGTON (BP)—The Supreme Court ruled June 24 that Congress did not violate the Constitution 15 years ago when it exempted churches from complying with a federal ban on job discrimination based on religion, even when the contested job is non-religious in nature.

In a unanimous judgment, the high court held Congress strengthened separation of church and state by enacting the 1972 exemption and did not violate the constitutional ban on an establishment of religion.

Writing for five of the nine members of the court, Justice Byron R. White quoted from another church-state decision earlier in the current term, "This Court has long recognized that the government may (and sometimes must) accommodate religious practices and that it may do so without violating the Establishment Clause." (The First Amendment to the Constitution opens with the declaration, "Congress shall make no law respecting an establishment of religion," a clause the high court has interpreted to require separation of church and state.)

The high court decision overturned an earlier ruling by a federal district court striking down the 1972 exemption, one of numerous amendments passed that year to the historic Civil Rights Act of 1964. Under the 1964 law, religious employers could restrict employment to "individuals of a particular religion to perform work connected with ... (their) religious activities." But in 1972, Congress deleted the single word "religious" from the exemption, thus enabling churches to discriminate on the basis of religion in hiring for any job, religious or not.

Many religious groups, including the Baptist Joint Committee on Public Affairs, had asked the court to uphold the 1972 exemption. BJC General Counsel Oliver S. Thomas praised the court's ruling.

"This decision is a strong endorsement of the concept of church-state separation," Thomas said. "We sometimes forget that without separation the state is free not only to advance religion but to interfere with it as well. The court wisely has recognized that it is perfectly proper for Congress to pass laws that protect religious institutions from governmental interference with or entanglement in their internal affairs."

He added: "There was no promotion of religion by the state in the 1972 amendment, no support, no sponsorship, no government funding. Rather, Congress simply said that federal judges have no business trying to decide which church activities are religious and which are not. In effect, Congress increased — rather than decreased — the distance between church and state."

The legal challenge to the 1972 amendment came in the form of a lawsuit by several former employees of organizations owned by the Church of Jesus Christ of Latter-day Saints, commonly known as the Mormon Church. The workers were fired when they failed to qualify for a "temple recommend," a term that refers to a special status within the Mormon Church achieved by meeting certain religious demands, including regular church attendance, tithing and abstinence from alcohol, tobacco, coffee and tea. Achieving the status means a faithful Mormon is entitled to attend the church's temples, where certain secret rites are performed.

One of the fired workers, Frank Mayson, persuaded the lower court to declare the 1972 exemption unconstitutional and to award back wages, fringe benefits and pension contributions. The court also ordered Mayson reinstated in his old job as building engineer at the Deseret Gymnasium in Salt Lake City. The non-profit facility, which is open to the public, is owned and operated by the Mormon Church.

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Justice White, citing a three-part test designed by the court in 1971 for use in establishment clause cases, acknowledged the clash of rights claimed both by Mayson and the church. But the church's claim to be free from governmental intrusion carried the day over the fired worker's argument the 1972 amendment had a religious purpose, White ruled.

The court's three-part test holds that a law must have a secular purpose, must have the primary effect of neither advancing nor inhibiting religion and must not excessively entangle church and state.

As to the purpose of its 1972 amendment, Congress may "alleviate significant governmental interference with the ability of religious organizations to define and carry out their religious missions," White wrote. If Congress had not amended the law so as to allow religious organizations to discriminate in filling all jobs, he added, such groups might not be able "to predict which of its activities a secular court will consider religious." A church therefore "might understandably be concerned that a judge would not understand its religious tenets and sense of mission."

On the question of the amendment's primary effect, White wrote, "A law is not unconstitutional simply because it allows churches to advance religion, which is their very purpose." And, he added, "It cannot be seriously contended that (the amendment) impermissibly entangles church and state. ..."

Among four of the justices filing separate, concurring opinions, senior Justice William J. Brennan Jr. underscored the court's determination to re-enforce its position against excessive church-state entanglement. Making the kind of distinction between secular and religious jobs sought by Mayson is difficult, Brennan said, when "the character of an activity is not self-evident."

Because of that difficulty, he wrote, "determining whether an activity is religious or secular requires a searching case-by-case analysis. This results in considerable ongoing government entanglement in religious affairs. Furthermore, this prospect of government intrusion raises concern that a religious organization may be chilled in its Free Exercise activity."

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Mexican Sentenced
In Philpot Killing

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MEXICO CITY (BP)—A Mexican man has been sentenced to 12 years in prison for the 1985 killing of Southern Baptist representative James Philpot.

Luis Alfredo Gutierrez Jimenez was originally sentenced to a 25-year prison term for shooting Philpot, according to the American Embassy in Mexico City. But the term was reduced to 12 years on appeal.

An American Embassy official informed Southern Baptist workers June 15 of the conviction and sentencing. Southern Baptists have relied on the embassy for most of the scant information available on the murder investigation and trial.

Philpot, an Arkansas native who had worked in Mexico since 1967, was killed Oct. 11, 1985. He was driving in Mexico City that afternoon when his car was struck by another car emerging from a side street. According to witnesses, one of the two men in the other car jumped out and shot Philpot in the head. He died at the scene. Abel Hernandez Figueroa, a Mexican in the car with Philpot, was shot several times in the stomach but survived.

The killer and his companion escaped, but police reported the arrest of two suspects Oct. 14. A witness took down the license plate number of the car speeding away from the shooting scene, which led to the arrests, according to police.

From that point on, Baptists and American embassy officials learned very little about the investigation. Investigators took official statements on several occasions from Southern Baptist workers and a Mexican Baptist. But none was called to testify at the trial, which reportedly began in the spring of 1986. Southern Baptist representatives were not officially told if a motive for killing was established during the trial, or what that motive might have been.

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Philpot's wife, Jurhee, left Mexico after the killing, but has since returned to do evangelistic work in Mexico City.

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'Chicken Preachers' Blamed
For America's Many Problems

By Terry Barone

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ST. LOUIS (BP)—America's problem is "chicken preachers," "weenie men" and "lily-livered congressmen," Bailey Smith told participants at the Conference of Southern Baptist Evangelists June 17 in St. Louis.

Smith, vocational evangelist from Del City, Okla., urged more than 2,000 evangelists not to "compromise" their message of repentance through Jesus Christ: "I'm tired of trying to get a meeting if I have to apologize to a backslidden pastor. If they (pastors) want me to compromise my message of repentance ... they can get someone else. I'm not for sale."

Pastors should preach repentance without fear of "committees, deacons or the WMU (Woman's Missionary Union)," the former Southern Baptist Convention president said. He blamed "x-rated movies, four-letter words on television, abortions and an increase in homosexuality" on pastors who have compromised their messages of repentance.

Many pastors today are "chicken preachers" because they "don't preach the unadulterated, unmitigated word of God," Smith said.

He received a standing ovation when he said he did not compromise by saying, "God does not hear the prayer of a Jew" while he was SBC president in 1980. "A lot of friends came to me saying what I had said was true but telling me I shouldn't have said it. If the Bible says it, it is true, and you should tell it," he said. He added he loves the Jewish people but noted, "Unless they repent and get born again, they are in trouble."

Reflecting on moral issues, Smith particularly spoke on homosexuality and abortion.

He recalled how he had been criticized for asking Anita Bryant to speak to the SBC Pastors' Conference after she had been outspoken against homosexuality. "A woman would not have had to take the lead," he said, if there were not "so many weenie men."

And of abortion, he said, "Every Supreme Court justice, lily-livered congressman and liberal preacher will stand before God Almighty and answer for" babies who have "been murdered" in America.

In other messages:

— Jerry Johnston, evangelist from Overland Park, Kan., encouraged his peers to "shut off the television and get on your knees and repent. We might see more results."

— Lewis A. Drummond, evangelism professor at Southern Baptist Theological Seminary in Louisville, Ky., told evangelists "not to be ashamed of the gospel," that it is the "power of God unto salvation."

— Larry Taylor, evangelist from Bandera, Texas, said, "Boys can take their Rolls Royces, Mercedes Benzes and gold faucets, but just give me Jesus."

— Howard Baldwin, media evangelist from Richmond, Va., who uses art to minister to deaf people, urged evangelists to use as many avenues as possible to tell the gospel story.

— Randall Miller, evangelist from Euless, Texas, said he seeks racial equality in the SBC, looking toward the day when people will not be referred to as "Black, Mexican, Italian but as children of God."

In a business session, new evangelists' conference President Howard Linginfelter of Alcoa, Tenn., said Southern Baptist evangelists should "lick the boots of men like Adrian Rogers and Bailey Smith for helping to swing the SBC back to a conservative mood."

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Linginfelter said Smith and current SBC President Rogers have helped bring "a new day in the Southern Baptist Convention." Praising the SBC Committee on Order of Business for including evangelists on the SBC annual meeting program June 16-18, he said: "Who would have thought 10 years ago that evangelists would be on the SBC program? It is truly a miracle of God."

Later, at the close of the SBC annual meeting, Rogers responded: "I don't want anybody to lick my boots. I'd rather wash your feet."

In their business session, the evangelists:

— Affirmed 15 statements taken from Billy Graham's book, "A Biblical Standard for Evangelists," that deal with integrity. The affirmation came in the wake of the Jim and Tammy Bakker and Oral Roberts controversies.

— Passed a resolution calling on the SBC Home Mission Board to give greater consideration to the needs of vocational evangelists and singers in planning for convention-wide simultaneous revivals in 1990.

— Elected officers. In addition to Linginfelter, 1988 officers include Jay Strack, Fort Myers, Fla., vice president; Bob Kendig, Memphis, Tenn., secretary-treasurer; Jerry Swimmer, Iuka, Miss., music director; John Bos, Orlando, Fla., assistant music director; Delton Dees, St. Louis, parliamentarian; Dwight (Ike) Rieghard, Fayetteville, Ga., pastor-adviser; and Tom McEachin, Home Mission Board liaison staff member.

— Recognized Melvin Wise of Atlanta for 27 years of service and Leonard Sanderson of Pineville, La., for 31 years of service.

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'Bloom Where Planted'
Ministers' Wives Told

By Sherri Brown

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ST. LOUIS (BP)—Bloom where you are planted, even when you resent the transplant, Susan Baker, wife of James Baker, director of United States Department of Treasury, told 500 wives of Southern Baptist ministers June 16 at their annual luncheon in St. Louis.

Baker admitted to repressing the pain of a missing husband and resentment at raising their eight children alone.

"But I thought good Christian wives shouldn't feel the feelings I had," she said. "I was wrong. God created emotions. They're good, creative and healthy. We can't bloom unless we let God work through our emotions."

Finally deciding to "turn it all over to God, I began to change. Gradually, I realized I was putting too much pressure on my man. I required too much from him. I would never have chosen to be planted in this centrifuge of power, but I'm learning God wants me to be here."

In an award ceremony, psychologist and educator Dorothy Sample of Flint, Mich., received the Mrs. J.M. Dawson Award as the outstanding minister's wife. Sample is a former national president of the Southern Baptist Woman's Missionary Union.

In a business session, the ministers' wives elected officers to serve in 1989. They included Joy (Mrs. James) Yates, Yazoo City, Miss., president; Beverly (Mrs. L.J.) McLeroy, Las Vegas, Nev., vice president; June (Mrs. Ernie) Myers, Reno, Nev., recording secretary-treasurer; and Mary Ann (Mrs. David) Drumel, Memphis, Tenn., corresponding secretary.

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Blackmun Examines
Religion Clauses

By Kathy Palen

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WASHINGTON (BP)—Reconciling the tension between the First Amendment's two religion clauses complicates the already difficult task of properly interpreting them, said Supreme Court Justice Harry A. Blackmun.

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Blackmun, in a rare public address, spoke about the First Amendment and its religion clauses as part of a series of programs sponsored by the National Archives in celebration of the 200th anniversary of the signing of the U.S. Constitution.

"At first glance, it all seems so clear," the justice said in reference to the two religion clauses. "We shall not have a specific religion formally established by government. Indeed, we shall have the very opposite — each of us shall be free to exercise his own religion if he cares to profess one. "But is it really so clear? Is there not tension between the two clauses in their application?"

The First Amendment begins, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"

Blackmun, who has served on the nation's highest court for 17 years, said the tension can be seen in the exemption of church property from local real estate taxes. While the exemption could be interpreted as assisting the congregation in its exercise of religion, it also could be understood as placing the state in the business of establishing religion, he explained.

He added the nation's public life is "replete with examples of an ambiguous religion," saying: "We pledge allegiance to a nation 'under God.' We have a National Prayer Day mandated by federal statute. Our nation's motto is 'In God We Trust.'

"There is a host of practices, texts and symbols readily classifiable in both political and religious terms. We accord them some legitimacy. Is this wrong? Should we do away with practices of this kind? Or can we live with them, be strengthened by them, and be legally and constitutionally principled about it?"

The justice said the historical record of the religion clauses also is ambiguous. He said there were at least three distinct approaches that influenced the framers of the Bill of Rights.

The evangelical view — associated with Roger Williams — saw the separation of church and state as a means of protecting religious groups from the state, while the view espoused by Thomas Jefferson saw separation as a means of protecting the state from religion. James Madison's view, he added, reflected the belief that both religion and government could best achieve their respective purposes if each was left free from the other.

"The free exercise clause, at the very least, was designed to guarantee freedom of conscience by prohibiting any degree of compulsion in matters of belief," he said. "It was offended by a burden on one's religion.

"The establishment clause can be understood as designed in part to ensure that the advancement of religion comes only from the voluntary efforts of its proponents and not from support by the state. Religious groups are to prosper or perish on the intrinsic merit and attraction of their beliefs and practices."

Blackmun said although there is still belief in Jefferson's idea of a wall of separation between church and state, there are signs that wall "has been crumbling a little of late — some would say it has crumbled a lot." He pointed to exceptions to complete separation, such as legislative prayer, creches on public ground and certain forms of aid to parochial schools.

He also mentioned "an increasing tendency" in current political thought to bring religion into government. He specifically raised a question about the effect of "the growing power of the religious right" in politics.

"The religion clauses are constantly in litigation," Blackmun said. "There is nothing quiescent about them. We have a long way to go and a lot to settle before a level of quiet and stability is attained."

In offering suggestions on being a "contributing American," the justice encouraged the audience to realize that Americans are a diverse, multiple people.

"We must have a belief, indeed a conviction, that there is room for all to live under the Constitution and its amendments," he said. "What less than this is there for the religion clauses to stand for and to assure?"