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News Analysis

Bork-For-Powell Switch Would
Mean Some Church-State Changes

By Stan Haste

WASHINGTON (BP)--If President Reagan's new choice for the U.S. Supreme Court, District of Columbia Court of Appeals Judge Robert H. Bork, is confirmed by the Senate, some changes in church-state law can be expected, especially in cases testing aid to parochial schools.

Although the 60-year-old Bork has not had to handle a single major church-state controversy during his five years on what sometimes is called "the second most important" court in the land, some evidence exists to suggest he would look favorably on federal and state laws aimed at providing financial assistance to sectarian elementary and secondary schools or to parents who send their children to such schools.

Because the man Bork would replace -- retired Justice Lewis F. Powell Jr. -- accumulated a mixed record in such cases during his nearly 16 years on the high court, a Bork-for-Powell switch likely would mean advocates of parochial aid would gain a stronger ally. And since a number of recent key cases in this field have been decided on 5-4 votes, some of which have struck down provisions for such assistance, the change could make the crucial difference.

Only two years ago, for example, Powell provided the key fifth vote in a pair of 5-4 decisions striking down programs in New York City and Grand Rapids, Mich., that sent public schoolteachers into parochial schools to provide remedial education to underprivileged students. The decision in the New York case brought an end to a 19-year practice of using federal funds in a program presumed to be constitutionally unassailable by advocates of aid to sectarian schools.

In spite of his votes in those cases, Powell on other occasions has voted to uphold parochial aid, as he did in providing the necessary fifth vote in a 1983 decision upholding a Minnesota law granting all parents of school-age children a tax deduction for expenses incurred in either public or private schools. Bork certainly could be expected to side with parochial aid advocates in virtually any kind of case testing such programs.

But in other areas of church-state law -- including religion in public schools and governmental intervention in religion -- the switch of the ideologically conservative Bork for the more centrist Powell usually would not make much difference.

While much is known about Bork's views on a number of key social issues recently before the high court -- including abortion, affirmative action, capital punishment and obscenity -- his approach to church-state issues is unclear. This is true in part, to be sure, because the D.C. Court of Appeals has dealt with no significant church-state cases during his tenure there.

Even before Reagan nominated him to that court in 1982, Bork apparently had little to say about church-state matters. The same has not been true with respect to other sensitive social issues addressed candidly by the outspoken judge in articles and speeches. His penchant for seeking forums outside the courtroom to speak to such topics -- a trait some consider injudicious for sitting judges -- perhaps is best understood by considering his long career before becoming a judge.

Between his 1953 graduation from the University of Chicago Law School and 1982 nomination to the federal bench, Bork practiced law in Chicago, taught at Yale Law School, was U.S. solicitor general under Presidents Nixon and Ford and engaged in a Washington law practice. During that period, Bork became known as one of the nation's most able exponents of judicial restraint, the view that courts should refrain from interfering with the will of the legislative and executive branches of government unless the Constitution specifically requires such intervention.

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According to White House and Justice Department sources, Bork has been at the top of Reagan's list for appointment to the high court since the president took office in 1981. Reagan has named two other justices, Sandra Day O'Connor and Antonin Scalia, both of whom were confirmed unanimously by the Senate.

Bork's nomination, however, appears headed for trouble in the Senate Judiciary Committee, where several Democratic members have pledged to fight it. In addition, a broad coalition of civil rights and civil liberties organizations are engaged in an all-out battle to defeat Bork. Their efforts are being countermanded by Reagan's personal appeal to the American people to lobby their senators for confirmation and by an equally determined effort by conservative organizations to sway the vote for Bork.

Although the Pittsburgh-born jurist may be only marginally more conservative than his former appeals court colleague Scalia -- named to the court last year -- the battle lines have been drawn because Bork stands to alter the court's ideological balance on certain key issues important to both conservatives and liberals. The two issues most often cited by both sides where the Bork-for-Powell switch would make the critical difference between victory and defeat are abortion and affirmative action.

Despite these important differences, Bork would not alter significantly the court's position on other key social issues, including the death penalty and obscenity. Powell voted consistently for capital punishment and for tighter restrictions on the flow of obscene materials, positions likely to be mirrored by Bork.

In the church-state field, Bork generally seems to be more of an advocate of preferential treatment of religion and religious institutions such as parochial schools, than was Powell.

One sign of such a view came in a September 1985 speech to a small group of religious leaders convened by the Brookings Institution in Washington. Speaking on the general subject of religion and politics, Bork made clear his view that nothing in the Constitution prevents government from providing non-preferential financial aid to religious institutions, including sectarian schools. According to participants at the meeting, he also endorsed the view espoused by Attorney General Edwin Meese III and Chief Justice William H. Rehnquist that the nation's founders intended to do no more in the establishment clause of the First Amendment than prevent establishment of a national church or preferential treatment of one religion over another.

Although Powell's votes in the multitude of important church-state cases during his tenure on the court left no doubt he did not agree with that assessment, he nevertheless took the stance that government should display a "benevolent neutrality" toward religion. He also was a strong advocate of the other religion clause of the First Amendment -- guaranteeing the free exercise of religion -- except in those cases where a governmental interest in limiting free exercise was so overriding as to set aside the individual's claim.

In 1981, for example, Powell wrote the court's 8-1 decision striking down a policy at the University of Missouri at Kansas City banning on-campus meetings by student religious groups. That same year, he joined an 8-1 majority in ordering Indiana to pay unemployment compensation to a worker fired from his job in a foundry and machinery plant for refusing on religious grounds to accept a transfer to a department that produced turrets for military tanks. Earlier, in 1978, Powell joined a unanimous court in striking down Tennessee's constitutional ban on ministers' running for public office as a violation of free exercise.

But Powell often sided with government and against individuals when he believed the governmental interest in limiting free exercise overrode the citizen's claim.

In 1977, he joined a 7-2 majority in ruling that companies are not obligated under the Constitution to provide workers with an absolute right to take off on their Sabbath, thereby discriminating against other workers who wanted off the same days. In 1981, he was one of five justices voting to uphold a policy of Minnesota state fair officials confining solicitation, even by religious groups, to fixed locations on state fairgrounds. And a year later, he joined all other justices in refusing to exempt Amish employers from paying the employer's share of the Social Security tax.

In future cases testing the limits of free exercise, Bork could be expected generally to come down on the same side as did Powell.

In the other major category of church-state cases -- those testing the unconstitutional establishment of religion -- Bork's views generally seem to square with Powell's, but with certain exceptions.

Based on his few public statements on such issues, one can conclude Bork would have agreed with Powell's 1983 vote upholding the right of Congress and the states to employ legislative chaplains and his crucial vote the following year in a 5-4 opinion that cities may include a nativity scene in Christmas displays.

But Bork probably would not have voted with Powell in a pair of highly publicized cases involving religious practices in public schools. In 1980, Powell sided with the narrow majority in a 5-4 decision striking down a Kentucky law that required the posting of the Ten Commandments in every public school classroom in the state. And in 1985, Powell was one of six justices voting to strike down an Alabama law mandating silent prayer in public schools.

In a concurring opinion in the latter case, however, Powell stated his view that "some moment-of-silence statutes may be constitutional." One of those laws, from New Jersey, will be tested at the court during its upcoming term. As Powell probably would have done, Bork -- if confirmed -- could be expected to vote to uphold it.

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Committee's Report
'Satisfies' Hobbs

By Norman Jameson

Baptist Press
7/13/87

OKLAHOMA CITY (BP)--Herschel Hobbs is satisfied with the report of the SBC Peace Committee adopted overwhelmingly at the annual convention in St. Louis.

He's not happy with it, but he's satisfied.

"Happy means you get everything you want," Hobbs said. "I don't know of anyone who was happy."

In fact, he advised members of the committee to write all their friends, because after the report was presented, they would have no friends, he said.

Hobbs, pastor emeritus of First Baptist Church of Oklahoma City is on the 22-member committee that labored two full years to find root causes and suggest solutions to solve the controversy that's been spinning Southern Baptist wheels since 1979. Hobbs has not been associated with any political movement within the denomination.

Hobbs has emerged from the obscurity imposed by retirement to become the name most quoted by those arguing the meaning of the Baptist Faith and Message statement of Scripture.

Hobbs chaired the committee that wrote the 1963 statement. Its statement on Scripture declares the Bible has "truth, without any mixture of error, for its matter."

While Peace Committee Chairman Charles Fuller admitted members occasionally disagreed, "it was never true," Hobbs said, that the committee was "divided."

The committee thought of asking the SBC Executive Committee to name a committee of five to implement its recommendations. Then members decided no one "knows more about this situation than the current committee," so it named itself.

"Our purpose is not to police anybody," Hobbs emphasized.

He said when the report listed examples of how most Southern Baptists interpreted certain biblical passages "we were not saying that we as a committee believe this and you have to believe it, too. We're just saying this is what we found," he said.

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Hobbs sees the Peace Committee, which plans to meet just once a year for three years, as a place for people to air their grievances without having to bring them before the entire convention.

Hobbs feels that differs from the trustee function in that Peace Committee members could talk informally with the agency and institution presidents about grievances. Such discussions among trustees suffer the burden and tensions of official action.

"We have entered a new era," Hobbs said. "We're going to have to learn to live in the new era. It's sort of like a child learning to walk. He needs somebody to stand there by him in case he starts to fall."

Hobbs does not claim peace will result immediately from the report, but it marks the beginning point for peace, he said.

Although the committee promised to release its report to Southern Baptists two months before the convention for consideration, messengers received the report just 12 hours before they passed it by 95 percent. The delay, Hobbs said, was due to press reports following the October 1986 prayer retreat in Glorieta.

Peace Committee members and agency leaders met at the Glorieta Conference Center for a prayer meeting and retreat. There, the six seminary presidents issued a seven-point series of commitments -- dubbed the Glorieta Statement.

The commitments promised to enforce seminary confessional statements; promised to "foster" balanced teaching; pledged "respect for the convictions of all Southern Baptists;" committed the presidents to pick teachers and speakers from across the SBC "theological spectrum;" promised to lead seminary communities in spiritual dimensions; pledged to support evangelism and missions while emphasizing doctrine and heritage; and announced three national conferences on biblical inerrancy.

"We were on shouting ground" after that meeting said Hobbs. The committee, bouyed in spirit, was ready to start drafting its report.

Then newspapers carried statements by Randall Lolley, president of Southeastern Baptist Theological Seminary, and Roy Honeycutt, president of Southern Baptist Theological Seminary, that the Glorieta Statement would change nothing at their seminaries, he said.

The Peace Committee was offended, thinking the presidents were backing away from their commitment.

The committee spent its November meeting hashing out its next steps after the apparent vacillation of the presidents. They dispatched the chairman and vice chairman to question Lolley and Honeycutt.

The presidents told them they meant they already were actively pursuing the commitments of the Glorieta Statement. That's why the statement would not change the way they do business.

The Peace Committee received that report at its December meeting and did not get started writing its own report until January, Hobbs said. And that two-month delay kept the Peace Committee from fulfilling its promise.

Teaching at the seminaries has been at the hub of the controversy. The presidents recognized that in their Glorieta Statement. Statements have been made that "the seminaries are full of liberals" and professors there "teach slop."

Peace Committee investigators found "two professors at one seminary and one at another" who were "not teaching in accord with the beliefs of the majority of Southern Baptists," Hobbs said.

He said he talked to all the seminary presidents, except Russell Dilday of Southwestern, at the convention after the Peace Committee reported. Each, he said, told him there was nothing in the report he "couldn't live with." Hobbs said he knows Dilday feels that way too.

Hobbs pictured Southern Baptists of the past decade like a summer storm. People milled around, hot and sticky, in ill humor, seeing storm clouds roll in. Then the storm came. Some people got wet but the storm cleared the air and rolled on. Thunder still rumbled, but each roar was further distant.

There will still be some thunder in the convention, he said, but the storm is receding.

Hobbs, who has been in on some of the most significant events of Southern Baptist history, has the long perspective.

"In the past when we've gone through one of these, we've come back to the center," he said. "But because of the political aspect of this one, which we've not had in previous experiences, I think we're going to end up just to the right of center, but we're not going to stay there long. We'll be coming back to the center."

He predicted the return to the center in "five years, probably less."

St. Louis, where the Peace Committee delivered the report, is a special place for Hobbs. He was elected SBC president there 26 years ago.

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T.W. Hunt Named To Launch
SBC Prayer Training Effort

Baptist Press
7/13/87

NASHVILLE (BP)--As part of a major Southern Baptist Convention effort to train church leaders in establishing and conducting comprehensive prayer ministries, T.W. Hunt has been named to a newly created position as prayer consultant in the Southern Baptist Sunday School Board's church training department.

Hunt, 57, has been a professor of church music at Southwestern Baptist Theological Seminary in Fort Worth, Texas, for 24 years. He is the author of the 1987 adult Baptist Doctrine Study textbook on prayer and a 13-week Lay Institute for Equipping course, PrayerLife, to be released in January 1988.

Roy Edgemon, director of the church training department, said the new position has been created to develop a nationwide network of prayer groups undergirding Southern Baptist efforts to share the gospel with every person in the world by the year 2000. He described Hunt as a "leading prayer warrior" in the convention.

"The Sunday School Board is making a strong statement that we really believe the Southern Baptist Convention needs prayer at the center of its focus," said Edgemon.

He said the denomination has many resources for identifying prayer needs, and Hunt's efforts will be focused on training church leaders to use the resources in conducting a comprehensive prayer ministry that would include missions, evangelism, ministry needs, intercessory prayer and other concerns.

In addition, the church training department will utilize a newsletter and Baptist Telecommunication Network programming to provide regular information to prayer groups.

Hunt said he was willing to change careers at age 57 and move to Tennessee, leaving grandchildren behind, "because God called me."

He has dedicated a room in his home to prayer and has kept since 1959 a catalog of his prayers and the answers he has received. He said he has been praying daily for the Southern Baptist Convention since 1976.

Hunt hopes to establish a formal prayer network including as many as 10,000 churches with a goal of involving 20,000 churches by 1995. He believes revival will be the result.

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"In Christian history, when a unity of prayer has been achieved, it has always resulted in revival," said Hunt. "I am hoping to get thousands of seasoned prayer warriors to pray for the same thing in the same spirit. God is faithful to his promises, and he will give us that which he has led us to ask for."

Edgemon called prayer "the key to mobilizing the laborers."

"With this new position, we will be able to provide organized suggestions on how to use prayer rooms and establish prayer ministries," he said. "We have exciting, ambitious goals for evangelizing the world and we must undergird our efforts with prayer."

Hunt will assume his new position Aug. 1.

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(BP) photos mailed to state Baptist newspapers by BSSB bureau of Baptist Press.

New Strategy Urged
For Better Evangelism

By Frank Wm. White

Baptist Press
7/13/87

GLORIETA, N.M. (BP)--Baptism statistics are declining because churches need to adjust their evangelism strategies to reach increasing numbers of adults in the population, evangelism consultant Tom Lee said.

"Churches need to realize that their situations have changed in the past 10 years but their evangelism strategies have not," said Lee, evangelism consultant for the Sunday school department of the Southern Baptist Sunday School Board.

Lee led a seminar at a Sunday School Leadership Conference at Glorieta (N.M.) Baptist Conference Center on how to increase baptisms through the Sunday school.

When two-thirds of the Sunday school enrollment was in the preschool, children and youth areas, churches focused evangelism efforts on the younger age groups with good results in baptism statistics, Lee said. However, in the past 10 years, Southern Baptist Sunday school enrollment has shifted with the nation's population, and two-thirds of the enrollment is adults rather than younger age groups, he pointed out.

"We may be baptizing more adults, but we are not baptizing adults in the same proportion as we baptized younger age groups 10 to 20 years ago," he said.

Lee cautioned that if churches continue to rely on the Sunday school and evangelism strategies they used 10 years ago, baptism statistics likely will continue to decline and churches will not understand why.

While churches must continue evangelistic approaches to children and youth, they must have new plans for reaching adults as well, he said. "Many churches don't have a strategy to reach adults even though 74 percent of the nation's population is now adult," he noted.

Also, he said: "We need to create an idea that every youth and adult class is a reaching unit as well as a teaching unit. When the class members get involved in reaching lost people and bringing them into the Sunday school, we have a chance of increasing baptisms."

Resources to train Sunday school members in evangelism are useful in teaching Sunday school members how to lead others to Christ, Lee said. Also, a basic outreach program of developing a prospect list and visiting those prospects helps increase adult evangelism.

Once the prospects are attending Sunday school, they will be easier to lead to Christ through evangelistic Sunday school teaching, Lee explained.

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