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REPORT from the Capital

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Report from the Capital (ISSN-0346-0661) is published 10 times each year by the Baptist Joint Committee. For subscription information, please contact the Baptist Joint Committee.



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REPORT from the Capital

BJC begins assessing properties for religious freedom center

WASHINGTON — As the Baptist Joint Committee for Religious Liberty continues to raise funds for a Center for Religious Liberty on Capitol Hill, it has begun assessing specific properties available near the U.S. Capitol, Supreme Court and congressional office buildings.

On Oct. 6, directors heard a report from Reginald McDonough, chair of the Capital Campaign Steering Committee, on the status of the effort. McDonough reported that more than \$2.8 million of the \$5 million goal had been pledged to the campaign, \$2.1 million of which had already been collected.

McDonough also mentioned a dollar-for-dollar matching challenge offered by BJC supporter Patsy Ayres running through Oct. 31. Since July, he reported, more than \$119,000 had been pledged or collected for that match.

The campaign, launched in 2006 on the BJC's 70th anniversary, is raising funds to purchase and renovate a Capitol Hill property that will provide a state-of-the-art training facility, serve as a nerve center for religious liberty advocates, provide a visible presence near the Capitol and Supreme Court and facilitate expanded partnerships with like-minded organizations, churches, colleges and seminaries.

In other news, directors received status reports from Executive Director Brent Walker and General Counsel Holly Hollman, as well as Communications Director Jeff Huett and Development Office Kristin Clifton.

In his report, Walker referenced the First Amendment Center's annual "State of the First Amendment National Survey," the results which, in part, suggested a deterioration in the public's appreciation for the freedoms guaranteed in the first 16 words of the Bill of Rights.

"This year only 15 percent could iden-



Members of the Baptist Joint Committee Board listen to a report from Chairman Steve Case. The board met Oct. 6-7 at the BJC's office in Washington.

tify religious liberty as one of the rights protected by the First Amendment," Walker said. "Our work continues to be cut out for us."

Directors approved a \$1.18 million budget for 2009, a slight decrease from the 2008 budget of \$1.2 million. They also welcomed new members, including Michael Gillen, a Richmond, Va., pastor, and David Robinson, a Hampton, Va., pastor, both representing the Baptist General Association of Virginia. New members also included Rob McClelland of Oroville, Calif., who serves as the executive director of the North American Baptist Conference; Joey Kennedy of Birmingham, Ala., where he works for the editorial department of *The Birmingham News*; Beverly McNally of Princeton, N.J., the former president of New Jersey Council of Churches; Terri Phelps, an environmental attorney in Louisville, Ky.; and Mitch Randall, pastor of NorthHaven Church, Norman, Okla.

Newsletter of the Baptist Joint Committee

Vol. 63 No. 9

October 2008

INSIDE:

- Guest View3
- Chinese Visit4
- Hollman Report . . .10
- News11

Challenge to ban on church politics may not excite Americans, polls say

WASHINGTON — While just 33 churches signed up to participate in a conservative Christian group's "Pulpit Freedom Sunday" Sept. 28, planners viewed it as a success.

That is, organizers said, because its stated purpose was not to inject politics into the pulpit, but rather civil disobedience aimed at prompting a legal battle over an Internal Revenue Service restriction against churches endorsing candidates as a condition of their tax exemption.

However, new polls show that Americans are increasingly uncomfortable with the idea of injecting partisan politics into the pulpit.

Attorneys with the Alliance Defense Fund said they are prepared to defend any pastor targeted by the IRS for endorsing a candidate Sept. 28 based on the First Amendment guarantee of the right to free speech.

Meanwhile, Americans United for Separation of Church and State filed complaints with the IRS against six churches for violating federal law by endorsing candidates from the pulpit.

In his Pulpit Freedom Sunday sermon, Curtis Parker, pastor of the independent First Baptist Church of Avoca, N.Y., compared voting records of McCain and Obama on four issues: abortion, stem-cell research, homosexuality and marriage.

"As we evaluate the candidates' stand on these issues, we can make our decisions easy," Parker said. "We can kind of do away with the rock-star personality, with the generation of excitement that comes along with individual candidates and kind of cut right to what's important.

"After everything you've heard about Barack Obama and Joe Biden, is it possible that, as a believer [in Christ], you can cast your vote in their favor?" Parker asked. "I would say no."

At Bethlehem Baptist Church in Bethlehem, Ga., Pastor Jody Hice endorsed John McCain for president, telling worshipers the Republican candidate has a more biblical worldview than Obama when it comes to issues of abortion and gay marriage. "These are not political issues," the *Atlanta Journal-Constitution* quoted the Southern Baptist pastor and local talk-radio host as saying. "These are moral issues."

"According to my Bible and in my opinion, there is no way in the world a Christian can vote for Barack Hussein Obama," said Wiley Drake, pastor of First Southern Baptist Church in Buena Park, Calif. He used Obama's middle name, which is a common Arabic name. Allusions to it have fed unfounded rumors that Obama is a Muslim. He is a practicing Christian.

Instead of endorsing McCain, however, according to the *Los Angeles Times*, Drake suggested that his parishioners vote for a different presidential candidate — himself. A past vice president of the Southern Baptist Convention, Drake is on the ballot in California as running mate of American Independent Party presidential candidate Alan Keyes.

The pulpit initiative comes at a time when many Americans are growing increasingly wary of politics in the pulpit.

A recent survey by the Pew Research Center for People and the Press found that for the first time since the question was

first included in its poll 10 years ago, a majority of Americans said churches should stay out of politics instead of expressing their views on social and political concerns.

Another poll, conducted by the Southern Baptist Convention's publishing arm, found that 59 percent of Americans disagreed with the statement: "I believe it is appropriate for churches to publicly endorse candidates for public office."

"We saw a very strong response that Americans don't want churches to be actively campaigning for political candidates," commented Ed Stetzer, president of the research arm of the Southern Baptist Convention publisher LifeWay Christian Resources.

Brent Walker, executive director of the Baptist Joint Committee for Religious Liberty, said that's because the ADF initiative was "misguided" and a "brazen attempt to blend the worship of God with electoral politics."

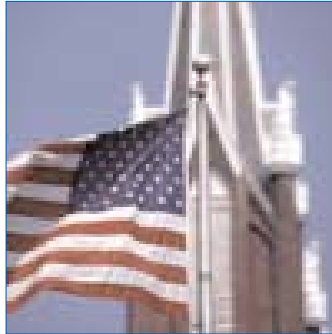
"This initiative certainly will politicize churches more than it will Christianize politics," Walker wrote in an opinion article prior to the event. "It will assuredly turn our pulpit prophets into political puppets. It will, no doubt, convert our churches into virtual political action committees — where candidates will line up at the church door to seek endorsement, especially those that are on television."

None of that fazed Eric Stanley, senior legal counsel for the Alliance Defense Fund. "The issue is not necessarily whether a pastor should or should not endorse or oppose a candidate from the pulpit," Stanley told CBN News. "The issue is who gets to regulate that," Stanley said.

Stanley believes that if challenged, the Johnson amendment — inserted into the federal tax code in 1954 — would be ruled unconstitutional. Championed by then-senator Lyndon Johnson, D-Texas, it instituted the ban on partisan political endorsements by churches and other nonprofit organizations.

Americans United's Executive Director Barry Lynn is not so sure. He says tax exemption is a privilege granted by the government, not a right.

— ABP





Dr. William
O'Brien

Chinese delegation visit a chance to 'peel layers'

A high level summit on religion last month between multi-faith religious leaders from China and the United States is a meeting that could have far-reaching effects in both nations. The delegation was led by Deputy Director Wang Zuo'an, the second highest-ranking member in China's State Administration for Religious Affairs, and included six of China's most well-known religious leaders.

The goals, according to one U.S. organizer, were to increase understanding of the role of religion in each society and to seek dialogue on religious freedom, practice and tolerance.

Those are lofty goals, for certain. And if both sides truly are committed to them, the September meetings in Atlanta and Washington, which included interchanges with religious leaders, members of Congress and President Carter, offered a golden opportunity for mutual cooperation and understanding.

The meetings came as China commands global attention. The world was amazed by the stunning display of Chinese history, art, performance and technology at the opening of the Olympics in Beijing. It truly reflected China's powerful and promising future. Yet hovering in the background is religion — a major issue for this nation of 1.3 billion, or 20 percent of the world's population.

Projections on the number of Christians in China range from 20 million to 100 million. Officially registered churches would include the lower number. The majority of believers worship in house churches that have refused to register with the government, as is required. While many of the house churches remain unfettered in their worship, that is not the case in every situation. Crackdowns and arrests of house church leaders before the Olympics made national news, and human rights groups report continuing harassment, detention and torture of Christians.

China has a troubling recent history with other religions, as well. Conflicts with Muslims among the Uighur people of far west China coincided with the beginning of the Olympics. And issues with Tibet and Buddhist minorities will not go away.

Yet on the other hand there appears to be progress, at least on paper. In December, President Hu Jintao called a high level government meeting to discuss the future of religion in building a "harmonious society." In March, powerful Politburo member, Jia Quiglin said China should "fully follow the policy on freedom of religious belief, implement the regulations on religious affairs, and conduct thorough research on important and difficult issues related to religion."

So what to believe? Is the Chinese government truly taking bold steps forward? If so, why continue to harshly punish people of any faith?

The dialogue provides a golden opportunity for those who are willing to peel the onion, layer by layer, to ascertain if China is really serious about religious freedom, or if terms like "stability and harmony" are just double-speak for control.

This was a rare chance for open and frank dialogue on religion. And dialogue is at its best when approached with a total commitment to one's faith, allowing those involved to be vulnerable, humble and open-minded.

Dialogue between religions is more important in the 21st Century than ever before. The compression of time and space, marked by connectivity, puts everyone in faceless encounters simultaneously. Faceless encounters can ignore or deny the existence of those who are different. Such denials lay the stepping stones to wars of words, if not weapons.

Noted South African mission statesman, David Bosch, said that the first perspective dialogue calls for is to accept the coexistence of different faiths and to do so willingly and ungrudgingly. Bosch reminds us that religions are a world in themselves, facing different directions and asking different questions.

Some of those questions relate to the missionary nature of Islam and Christianity. Trying to work through restrictions on the freedom to share one's faith should not keep any one from being willing to work together on humanity-wide issues. Before any of us is Muslim, Christian, Buddhist or Taoist, we are fellow human beings created in the image of God.

Chinese Catholics, Protestants, Buddhists, Muslims and Taoists, with their American counterparts, can make a positive contribution to China in its search for a solution to its religious "problem."

We could hope the American participants have turned a mirror on ourselves and have taken an honest look at our own questions about the role of religion in the United States.

William R. O'Brien is director of BellMitra Associates in Frisco, Texas. His e-mail is bellmitra@sbcglobal.net.

"This was a rare chance for open and frank dialogue on religion. And dialogue is at its best when approached with a total commitment to one's faith, allowing those involved to be vulnerable, humble and open-minded."

BJC hosts Chinese religious leaders in D.C.

A delegation of Chinese religious leaders and their American counterparts met Sept. 9-14 in Washington, D.C., as part of a 10-day, two-city multi-faith exchange to increase understanding about religion in the two countries.

The delegation's visit was sponsored by the Baptist Joint Committee for Religious Liberty, the Cooperative Baptist Fellowship and Forest Hills Baptist Church in Raleigh, N.C. Goals of the visit included exploring from a multi-faith perspective the contribution organized religion offers and discovering new directions and opportunities for dialogue on religious freedom, practice and tolerance in China and the United States.

The Chinese leaders, who represent the five government-recognized religions in China: Buddhism, Catholicism, Islam, Protestantism and Taoism, met with national and local representatives of each respective religion, as well as business, education and civil leaders. While in the nation's capital, the delegation met with Rep. David Price, Undersecretary Paula Dobriansky and Ambassador John Hanford of the U.S. State Department. The delegation also took part in two forums with the staffs of Senate and House of Representatives members; attended a reception at the Chinese Embassy and participated in a forum and panel discussion at the Brookings Institution. Prior to its visit to Washington, D.C., the delegation met with President Jimmy Carter and two members of the Georgia Legislature in Atlanta.

BJC Executive Director J. Brent Walker said, to his knowledge, this was the first time such a group has come to this country. "Our conversation was the first word, not the final word," Walker said.

"The United States has been working for three centuries to provide religious liberty for all; China has been at it for only three decades," Walker said. "We may not agree with all that goes on in China, but we can help China change through gentle persuasion, personal relationships and setting an example. I look forward to visiting China sometime soon to resume the conversation."

A Sept. 9 breakfast and forum sponsored by the Faith and Politics Institute centered on the intersection of religion and government in the United States. George Mason University public policy professor Mark J. Rozell provided an overview of the American version of religious liberty.

"Americans have a strong sense of belief in constitutionalism," Rozell said. "Very often Americans will set aside their own personal view on an issue to align their preference with what they believe the Constitution requires."

While the Chinese delegation gained insight on religious liberty in America, the educational experience flowed both ways.

Dee Froeber, minister to internationals at Forest Hills Baptist Church, who spearheaded the delegation's visit, stressed the importance of dialogue for the longterm strength of religious freedom in China.

"China's religious leaders were afforded a first-hand look at the positive role religion has played in the development of a stable Western society," Froeber said. "At the same time, they observed a model where religion and government do not infringe upon each other's rights."

"The government leaders of China are wrestling with how to integrate religion into society while still supporting a Communist Party worldview. The future



(Above) The Rev. Dr. Jeffrey Haggray (right) makes a point during a Sept. 9 small-group discussion with Chinese religious leaders on religious freedom in the two countries. To the right of Haggray is Baptist Joint Committee Executive Director J. Brent Walker. Also pictured are (left to right) an unidentified participant, Rev. John Chen Shujie, Rev. Gao Feng, and Pei Yong.

(Right) Participants gathered for a group photo after a Sept. 11 forum at The Brookings Institution in Washington, D.C.

of religion and government in China may not follow a First Amendment view of separation of church and state; however, the future may see more distance between the two."

On Sept. 11, Ambassador Jeffrey Bader of The Brookings Institution hosted a forum where representatives of the China Christian Council, State Administration for Religious Affairs and numerous other Chinese religious leaders spoke of their experiences practicing their faith in China.

Deputy Administrator for the State Administration for Religious Affairs, Wang Zuo'an, provided an overview of religious policy in China, and the general secretary of the China Christian Council, Kan Baoping gave an overview of Christianity in China, including the influence, major challenges and trends of Christianity in the country.



State Dept. blasts China on freedom

WASHINGTON — The U.S. State Department, in its annual report on international religious freedom issued on Sept. 19, admonished several Asian nations, including China, for severely repressing religion.

Listing “countries of particular concern” that engage in or tolerate “particularly severe violations of religious freedom,” the report highlights everything from government persecution to patriotic education campaigns designed to extirpate religion.

The eight countries of particular concern are: Myanmar (formerly Burma), China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan and Uzbekistan.

Compiled by diplomats and human rights activists every year since 1999, the 800-page report covers 198 countries and territories and is mandated by federal law.

“In exposing injustice, this report lights a candle — and 800-page candle — that we trust will encourage justice and greater respect for the rights of religious believers across the globe,” said John V. Hanford, U.S. ambassador at large for religious freedom.

Despite sanctions and diplomacy, China’s repression of religious freedom intensified in the last year, especially in the run up to the Olympic Games, the report says.

Churches were closed, foreigners detained, Falon Gong practitioners arrested and possibly killed, Muslims prohibited from taking the hajj to Saudi Arabia, and Buddhist monks were forced to undergo “patriotic education” campaigns, according to the report.

Hanford said the harsh treatment of Buddhist monks in Tibet were a “major factor” in the March riots in the Himalayan region, during which dozens were killed.

The “patriotic education” campaigns, which force monks and nuns to study communist texts and denounce the Dalai Lama “need to cease,” Hanford said. And the government must not interfere in naming Buddhist lamas, or leading teachers, the ambassador said.

“This should be the prerogative of religious leaders, not of a government,” Hanford said. —RNS



Representatives from the China Islamic Association, China Catholic Patriotic Association, China Taoist Association and Buddhist Association of China also spoke.

In written remarks, Zuo’an noted that “Registration is required for the sites for religious activities, not for individual believers.” After issuing this clarification, he asserted that “since the beginning of reform and openness and after the restoration and revival period, all religions in China have entered into a period of steady growth. With the increase of its social influence and the growth of its believers, religion has become a social force not to be ignored, and it remains of much influence on people’s real life.”

Froeber said the 10-day trip was a positive first step in taking the Sino-U.S. dialogue on religion in a new direction.

“Direct and open communication between the religious leaders of China themselves and interested parties here in the U.S. is vital,” he said. “Before now, this dialogue has largely been limited to politicians on both sides with a focus, though needed, only upon human and religious rights abuses in China.

“More face-to-face encounters and conversation will unearth deeply hidden values-in-conflict and misperceptions that have been blocking the road to bilateral understanding and progress on religious issues for years.”

A SUPREME CONTEST

'08 election could determine shape of the High Court

BY J. BRENT WALKER

One of the most important, but least discussed, issues in the presidential election is its impact on the U.S. Supreme Court — especially with reference to church-state matters.

Recent decisions in church-state cases have often been decided 5-4 or 6-3, with Justice Anthony Kennedy and sometimes Justice Stephen Breyer providing the swing vote after the retirement of Justice Sandra Day O'Connor.

Court watchers expect that Justice John Paul Stevens will be the next justice to retire. What would a nomination by a President McCain and a President Obama to fill Justice Stevens' seat look like? How would they differ?

Justice Stevens' church-state jurisprudence is unusual, sometimes even a little quirky. Other sitting justices generally interpret both of the First Amendment's religion clauses consistently. That is, they tend to interpret both either expansively or narrowly. Justice Stevens is unique in that he favors a strong Establishment Clause and a weak Free Exercise Clause. Over the past two decades he has been the justice most likely to find Establishment Clause problems with legislative accommodations of religion, such as the Religious Freedom Restoration Act (1993). At the same time, he joined Court conservatives to reduce the protections afforded by the Free Exercise Clause in the Native American peyote case in 1990.

Sens. McCain and Obama have different understandings of the Constitution in general and the role of judicial interpretation in particular.

Sen. McCain favors strict construction of the Constitution and decries judicial activism. He has said he will nominate justices in the mold of Chief Justice Roberts, Justice Alito and the late Chief Justice Rehnquist. He has been critical of Justice Stevens, along with Justices Ginsburg, Breyer and Souter.

While acknowledging the relevance of the founders' intent, Sen. Obama affirms the rele-

vance of the contemporary context to inform a judicial decision. He views the Constitution as more of a living document. He has spoken favorably of the jurisprudence of Justices Breyer, Ginsburg and Souter, and disapprovingly of Justices Scalia and Thomas. He voted against the nominations of Chief Justice Roberts and Justice Alito.

The candidates differ in their church-state philosophy, too. Although both Sens. McCain and Obama have indicated strong sympathy for accommodating religious practice and respecting religious speech in the public square, they part company with regard to the Establishment Clause. Sen. McCain's support for vouchers and the government funding religious activities lead one to conclude Sen. McCain is less sympathetic to Establishment Clause values. Sen. Obama, on the other hand, has written of the importance of a strong Establishment Clause to ensure individual religious liberty and defend religious organizations against invasive governmental meddling.

Accordingly, the election of either would mean Justice Stevens' successor may well support a robust interpretation of the Free Exercise Clause. An Obama appointment would probably continue Justice Stevens' strong Establishment Clause position, whereas a McCain appointment would likely tend to vitiate it.

Of course, these predictions are dicey at best. Church and state is only one of many considerations going into the mix of an appointment. Moreover, to the degree Democrats increase their majority in the Senate, McCain would be less able to get his first choice through the nominating process. That would argue for a more centrist nominee. The same would be true for Obama should Republicans regain control of the Senate.

In either case, this nomination, as well as others during the next four years, will be critical in influencing judicial interpretation, and therefore our nation, for generations to come.



Q&A

Should faith-based organizations that receive public funding have the right to base employment decisions on religion? Why or why not?

By K. HOLLYN HOLLMAN

As applied to employees who provide government-funded services, the answer is “no.”

The religious freedom individuals and religious entities enjoy in this country is fundamental. The First Amendment creates a separation between the institutions of religion and government and prohibits government sponsorship of religion. Any government funding of faith-based organizations must be carefully structured to protect religious freedom in accordance with this constitutional imperative. Allowing faith-based organizations to discriminate in government-funded positions strains the purpose of such funding (the provision of non-religious social services) and undermines civil rights.

The competing principles at issue are evident in Title VII of the Civil Rights Act of 1964, a federal statute that protects against employment discrimination based on race, color,

religion, sex and national origin. This law applies to employers with 15 or more employees, but it exempts religious organizations (a broader category than churches) from the ban on religious discrimination. It is one of many nondiscrimination laws at the federal, state and local levels that protect categories of employees who historically have been the victims of discrimination. The importance of federal antidiscrimination policy is evidenced by decades-old executive orders, including those governing federal contracts, as well as the very existence of the federal Equal Employment Opportunity Commission. Courts strictly scrutinize alleged discrimination by covered employers, and the government has a special responsibility as a model equal opportunity employer.

Title VII's exemption for religious organizations, which the U.S.

Supreme Court has upheld in the context of a privately funded entity, is quite broad. It applies to all employees of qualifying entities, not just those with religious duties. And it allows a Baptist organization not only to hire just Baptists, but to hire just those Baptists who embrace specific beliefs and practices, allowing employment decisions based on even minor theological differences. As a matter of religious autonomy, it makes sense to safeguard institutional religious liberty by allowing a Baptist entity to hire only those whose beliefs and practices it approves. The exemption is a permissible legislative accommodation (not a constitutional right) created in the context of privately funded religious organizations, a context in which it enjoys wide support.

In positions funded by tax dollars, however, all taxpayers should have an opportunity for employment without having to endorse





specific religious teachings. Surely individuals from a wide variety of religious perspectives, as well as those who claim no religious affiliation, can be equally dedicated to providing services to those in need. Extending the exemption to government-funded positions breaks sharply with past practice, stretching it beyond the context in which it was originally enacted and seriously undermining civil rights protections.

To deny the significant impact of government funding on faith-based organizations is to ignore threats to religious liberty and civil rights. Some argue, for instance, that Title VII's exemption for religious organizations is analogous to an environmental group's ability to reject those who are not committed to environmental protection. The analogy is inapt and disingenuous. Religion is different, singled out for special protection in the First Amendment.

While the government may freely choose to support environmentalism as a matter of policy, the Establishment Clause prohibits government from supporting religion. Moreover, our employment laws prohibit discrimination against only certain protected categories, such as religion, race, gender and disability. Congress has extended no such protection to anti-environmentalists. Allowing a government-funded program to announce "no Catholics or Jews need apply" is categorically different from the Sierra Club refusing to hire proponents of strip-mining or, in another common example, Planned Parenthood refusing to hire abstinence-only activists. It is of no legal consequence if such non-religious organizations receive federal funds while hiring on the basis of ideology. By contrast, faith-based organizations are constitutionally barred from promoting religion in government-funded programs. While faith-based organizations certainly may refuse to hire individuals who do not believe in helping those in need of social services, they should not be allowed to impose a religious test with tax dollars.

The issue, no doubt, becomes more complex when applied to faith-based organizations that hire according to religion and provide both government-funded social services and privately funded religious services. While religiously affiliated groups may have good reasons — such as preserving relationships with denominational entities, honoring historical commitments, or ensuring continuity of purpose — to fill some positions exclusively with members of their own faith community, acceptance of tax dollars creates competing policy concerns that require line-drawing. The law should do so by distinguishing between those who are regularly engaged in providing government-funded services and those who oversee a variety of programs or are solely engaged in religious services.

Difficult line-drawing should not be surprising or offputting. Constitutional protections and compliance with policies that attach to government funding deserve to be upheld. Despite the wishes of some advocates, there is no easy way to reconcile the twin objectives of protecting the religious character of thoroughly religious organizations and upholding the constitutional ban on government funding of religion. The tension between equal employment opportunity and the autonomy of religious organizations is just one example of the complexities inherent when the government funds faith-based organizations.

There are many ways for the faith community and government to work together to serve the needy. Indeed, there is a laudable and long-standing tradition of such cooperation without threatening our nation's commitment to nondiscrimination. There should be no question that privately funded religious organizations may rely upon Title VII's exemption. Likewise, there should be no question that in government-funded programs, we should take care to protect against constitutional violations and the erosion of civil rights. Religious organizations that fear a potential weakening of their religious witness if required to hire those who share a commitment to social services but not the details of their faith should re-evaluate their decision to accept government money. If the ultimate objective is to provide social services and not to promote religion, there is no justification for employment discrimination based on religion in government-funded positions.

This piece appeared originally as one of three policy perspectives by church-state experts on the topic on the Web site of the Roundtable on Religion & Social Welfare Policy, www.religionandsocialpolicy.org.



K. Hollyn Hollman
General Counsel

Campaign for politics in the pulpit is flawed

In the past few election cycles, the IRS has stepped up its education and enforcement efforts to protect the integrity of nonprofit organizations designated under Section 501(c)(3) of the Internal Revenue Code, including churches. According to the Code, such organizations are allowed to receive tax-deductible contributions. They may not “participate in or intervene in any political campaign on behalf of any candidate for public office.” Of course, individual ministers can endorse candidates and churches may be

involved in various educational and civic activities. The organizations, however, cannot be used to tell people for whom to vote. A whole other body of law governs entities that are engaged in promoting political candidates.

Despite IRS efforts, some preachers continue to tell congregants for whom to vote, including some who proclaim that a political party or particular candidate is the choice of God. The issue has grabbed a larger spotlight in recent weeks based on a campaign, coordinated by a consortium of attorneys known as the Alliance Defense Fund (ADF), designed to get pulpit endorsements on September 28 and provoke a fight with the IRS. While it will take more time to assess the results of

this effort (33 churches ultimately participated), the flaws of this campaign are readily apparent.

Factually, the campaign rests on a false premise. ADF greatly exaggerates the impact of the current rule, claiming ministers are muzzled. Preachers are perfectly free to interpret and apply Scripture as they see fit, speak out on moral and ethical issues of the day, and urge good citizenship practices, such as registering voters and encouraging them to vote. In exchange for the most favored tax exempt status, they just can’t tell the faithful for whom to vote.

Legally, the campaign relies on a flawed theory that is unlikely to succeed. Despite claims to the contrary, tax exemption is not a constitutional right but a reasonable regulation. The Supreme Court has held that tax exemption for churches, along with other nonprofits, is constitutionally permitted by the First Amendment’s Establishment Clause. The Court has never held that it is constitutionally required by the Free Speech or Free Exercise Clause. Reasonable and evenhanded taxation simply is not a “substantial

burden.”

Historically, the campaign incorrectly frames the issue as one of regulatory overreach. Though critics of the IRS rule say it dates back to an effort by then-Sen. Lyndon B. Johnson to quiet his opponents in the nonprofit sphere and was not intended to target churches, it is not clear that churches had long been engaged in the partisan fights that are prohibited. The idea that churches, in order to be able to perform their prophetic role, must remain independent from political parties and capable of holding the government accountable has been around for much longer.

Ethically, the campaign raises a number of concerns. Should pastors be writing sermons with a purpose of provoking a legal challenge? Should lawyers sworn to uphold the law be organizing a campaign to get ministers to break it? Surely churches, no more than other entities that are organized for religious and charitable purposes, should not act as political committees without complying with laws that govern those entities.

Practically, the campaign urges unwanted change. Recent polls show that a large majority of those surveyed do not want their churches to endorse candidates. In fact, avoiding even the appearance of partisanship has been a major theme for many churches that are active in the public square. Many evangelical leaders have recently decried the politicization of faith and emphasized the need to avoid equating religious ideas with political labels.

With all these problems and an asserted interest in promoting religious freedom, it seems a consortium of Christian lawyers could find a greater cause to serve. On the day of the ADF campaign, I spoke to a church gathering in Vienna, Va., about the historic Baptist commitment to religious liberty. The Sunday before, I did the same thing at a church in St. Louis, Mo. In fact, on any given day, some member of the BJC staff is likely to be engaged in efforts to educate and advocate on behalf of God-given religious freedom and the legal tradition of church-state separation that protects it. For us, it is a matter of conscience and conviction. It is a matter of preserving the legacy of our forebears and protecting the vital role of religion in our society. That freedom is not served but may be jeopardized by using religious institutions to promote political campaigns.

Should pastors be writing sermons with a purpose of provoking a legal challenge? Should lawyers sworn to uphold the law be organizing a campaign to get ministers to break it?”

Moyers scholar, fall intern begin work at the Baptist Joint Committee

The Baptist Joint Committee has welcomed John Carter and Nathan Fort as its fall interns.

John Carter, an Owen County, Ken., native, is a 2008 Bill and Judith Moyers scholar pursuing an M. Div. at the Wake Forest University Divinity School in Winston-Salem, N.C.



Carter



Fort

Carter graduated from Samford University in Birmingham, Ala., with a degree in English and earned a JD from the Duke University School of Law.

Nathan Fort, a Louisville, Ken., native, graduated from the University of Kentucky in 2008 with a Bachelor of Arts degree in political science and history. Fort will enter law school in the fall of 2009.

He is the son of Hilton and Sherri Fort.

Court declines case on Bible reading in jury room

The Supreme Court on Oct. 6 refused to hear an appeal from a death row inmate who says a jury foreman improperly read the Bible to fellow jurors during deliberations.

The justices declined to comment on the appeal, letting stand the death sentence of Jimmie Lucero of Amarillo, Texas, who was convicted of murdering three neighbors in 2003.

During the penalty phase of Lucero's trial in 2005, the jury foreman read a passage from Romans 13, in which St. Paul writes that a servant of God is "an agent of wrath to bring punishment on the wrongdoer."

Lucero's lawyers argued that the Bible reading violated his Sixth Amendment right to a fair trial.

The Texas Court of Criminal Appeals called the Bible reading a "harmless error."

Lower courts have been split on whether introducing the Bible into jury deliberations violates a defendant's constitutional rights. — RNS

Amish farmers join in case against agriculture departments

Six Michigan farmers, including two Amish men, say a state-required livestock numbering system infringes on their religious beliefs and are suing the U.S. and Michigan departments of agriculture to stop the program.

The electronic numbering and tagging procedure is designed to trace sick animals and protect public health.

But Robert Alexander and Glen Mast, both members of the Old Order Amish community, believe that "God and the Bible authorize (them) with dominion over all the animals on the planet."

Moreover, they argue in a suit filed Sept. 8 in federal court in Washington, D.C., that "use of a numbering system ... consti-

tutes some form of a 'mark of the beast.'"

The Bible's book of Revelation warns that the Antichrist will force everyone to receive the "number of the beast" during the end times.

The Amish men are joined in the suit by two ministers, Robert Keyworth, a Pentecostal pastor, and Rev. Roseanne Wyant, who is identified as "an ordained Reverend of the Christian faith."

All six plaintiffs contend the tagging requirements violate their religious beliefs, which are outlined in numerous Bible verses, according to the suit.

"Plaintiffs' religion pervades and determines virtually their entire way of life, regulating it from diet through the strictly enforced rules of their respective church communities," the suit says.

In addition, the ID program forces the Amish farmers to "violate tenets of their Old Order Amish beliefs ... they are forced to use technology they would not ordinarily use." — RNS

Bill would protect mezuzahs in housing laws

Ten weeks after a federal appeals court ruled that fair-housing laws do not protect the rights of a Jewish resident to nail a mezuzah to a door frame, legislators have proposed changing the law.

The Freedom of Religious Expression in the Home Act, introduced in the House on Sept. 17, would amend the Fair Housing Act to protect the freedom to display religious symbols or objects on the exterior of homes.

The news was applauded by the Union of Orthodox Jewish Congregations of America, which was outraged when the 7th U.S. Circuit Court of Appeals ruled in July that federal laws did not prevent condominium or homeowners associations from banning exterior displays, including those required by a person's religious beliefs.

Mezuzahs are small encased biblical scrolls nailed to door frames. Observant Jews touch the case with their fingers, then kiss their fingers, as they pass through a doorway.

The court ruling stemmed from the Bloch family's lawsuit against the Shoreline Towers condominium association in Chicago, which repeatedly removed the family's mezuzah to comply with a 2004 policy that banned doormats, shoes, signs and other materials in the hallways.

Shoreline Towers has since adopted a religious exception to the rule; Chicago and Illinois have also adopted laws guaranteeing tenants' rights to affix religious symbols to their doors.

But in light of the appeals court ruling, federal protections are needed to prevent similar bans in other parts of the country, Orthodox officials said.

"We are encouraged that these members of Congress, and other friends of religious freedom, have responded so rapidly to our request to correct the court decision," said Nathan J. Diament, Orthodox Union spokesman. "With support from the Baptist Joint Committee, an amendment was introduced by two Republicans and two Democrats in the House; a companion bill is expected to be introduced in the Senate, Diament said.

— RNS and staff