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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.

Amplify your voice!

For nearly 75 years, the Baptist Joint Committee has directed traffic at the intersection of church and state — sounding the alarm when situations demand it, and other times taking our seat at the table to help protect religious liberty for all. **For you, there is no better time than now to join us in the fight and lend your voice to the cause.**

The BJC plays an important education role. Not only do we speak and preach in our nation's capital and outside the beltway, but we also educate through our media appearances, our monthly newsletter, website and social media interactions.

In September, BJC Executive Director Brent Walker explained the vital nature of religious freedom on national and international television appearances.

The BJC was also part of a successful meeting with U.S. Attorney General Eric Holder in September. We joined with other religious liberty advocates — including Muslim and Jewish groups — to secure the meeting and to ask for a statement from the Department of Justice underscoring its commitment to religious freedom. Brent Walker sat across the table from Holder and a few other leaders for an open and honest conversation about the nature of religious free-

dom in this country and what can be done to ensure its protection.

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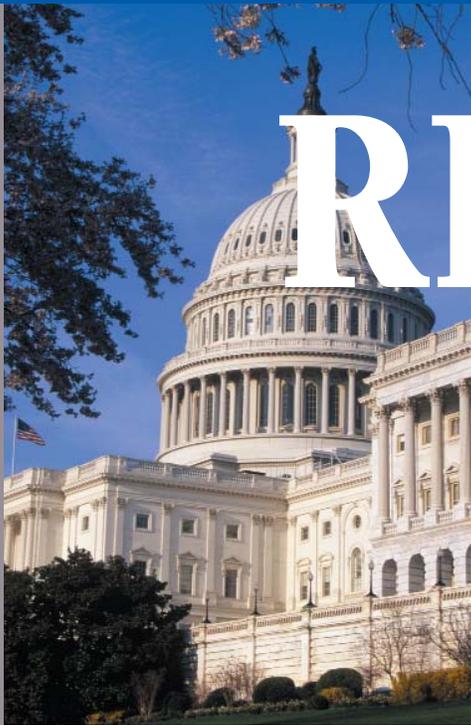
- in the national media as a Baptist witness in Washington for religious liberty;
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ing religious liberty and church-state separation;

- meeting face-to-face with national leaders to ensure religious liberty is being protected;
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REPORT from the Capital

Taxpaying citizens should have right to bring Establishment Clause suits

The right of taxpaying citizens to sue over an alleged violation of the U.S. Constitution's prohibition of a government establishment of religion should be protected, says the Baptist Joint Committee for Religious Liberty in a U.S. Supreme Court brief it joined in *Arizona Christian School Tuition Organization, et. al. v. Winn, et. al.*

The ability to bring suit in federal court (known in legal terms as "standing") has been a significant issue in Establishment Clause cases in recent years. In its 2007 decision in *Hein v. Freedom from Religion Foundation*, a case that challenged aspects of the Bush Administration's Office of Faith-based and Community Initiatives, the Court said taxpayers do not have standing to sue for alleged Establishment Clause violations when federal money is not disbursed through a specific legislative enactment. In the 2010 case of *Salazar v. Buono* (regarding the display of a cross on federal land in the Mojave National Preserve), the government advanced an argument that would restrict the right to sue in religious display cases, but the Court did not rule on the issue of standing.

Plaintiff standing will again be before the High Court in *Winn*. At issue is whether an Arizona tax credit program violates the Establishment Clause. The program allows taxpayers to receive a credit for donations to "school tuition organizations" that provide scholarships to students who attend private schools — including private religious schools. The tax credit program, first enacted in 1997, sets regulations for the participating school tuition organizations, and has continued to be revised during the course of litigation. Currently, it allows any individual to direct up to \$500 of his or her state income tax bill to a state tuition organization, which then provides private school scholarships. Plaintiffs allege that the program operates unconstitutionally primarily because many of the participating tuition



organizations award scholarships only to religious schools.

The brief, filed by Americans United for Separation of Church and State and joined by the Baptist Joint Committee, the American Jewish Committee and other organizations, asks the Court to protect the right of taxpaying citizens to bring the suit. In *Winn*, the plaintiffs are Arizona taxpayers who believe tax dollars are unconstitutional funding religion through the government program. The defendants assert that the plaintiffs do not have the taxpayer standing needed to file this suit because they claim the funds at issue are private, charitable donations disbursed through tax credits — not direct legislative expenditures. While the constitutionality of the tax credit program requires a distinct analysis incorporating several factors, the brief says that, for purposes of taxpayer standing, tax credits have the same economic impact on the government and should be treated the same as legislative expenditures.

"The argument to deny these taxpaying citizens the right to sue is completely off-base," said BJC General Counsel K. Hollyn Hollman. "A state legislature should not be able to avoid a legal challenge to a potentially unconstitutional program by simply using an alternative tax mechanism. That denies citizens the right to fight for strong protections against a governmental establishment of religion."

The Supreme Court will hear oral arguments in the case on Nov. 3.

— Staff Reports

Magazine of the Baptist Joint Committee

Vol. 65 No. 9

October 2010

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Many still waiting for action from faith-based office

WASHINGTON — Six months after advisers turned in 164 pages of recommendations to the White House's faith-based office, thorny church-state questions remain unanswered and some critics say the office has been used to push the president's health care reform legislation.

Much of the work done by the White House Office of Faith-based and Neighborhood Partnerships has been low profile, and successors to the blue-ribbon advisory panel that ended its work in March have not been named.

Outsiders say whatever progress has been made has been done too quietly and that the White House has dragged its feet on a separate promise to change Bush-era rules that allow federal grant recipients to hire and fire based on religion.

Joshua DuBois, who was tasked by President Barack Obama with overhauling and expanding the office, estimated the administration has started or finished implementing at least half of the advisory council's 64 recommendations.

DuBois said his office is making steady progress in mulling or implementing the council's suggestions, even as he conceded "we can always do more to get the word out about those efforts."

"There's a tremendous amount of work going on helping faith-based organizations serve people in need," DuBois said, citing progress in feeding hungry children in Latino communities and flood disaster relief in Tennessee.

He said the announcement of a new set of advisers, which took longer than he expected, should occur "pretty soon."

According to an internal memo obtained by Religion News Service, the office is drafting an executive order to implement recommendations on internal reforms, which advisers had hoped would address church-state concerns.

DuBois declined to specify the nature of the reforms, but said, "I think you will see the exact form of that implementation soon. We're working diligently on this."

The office's low profile has allowed it to fly below much of the political chatter in Washington, until recently when critics charged it was adopting the same practices that dogged the office under former President George W. Bush.

Critics have questioned why the office was involved in connecting faith leaders on a September conference call with the president about health care reform.

Obama told clergy they could be "validators" for the reform, according to Politico.

"If that office is doing this, what are they not doing they should be doing?" asked the Rev. Welton Gaddy, president of The Interfaith Alliance.

Added former Bush speechwriter Michael Gerson in a *Washington Post* column: "Obama has mainly employed his faith-based office to defend federal initiatives, particularly health care reform."

Some council members, however, said there was nothing inappropriate about the White House trying to reach a broader audience through religious leaders.

"When there are issues at the federal level and information that need to get out to a network, we've got a great relational network," said the Rev. Peg Chamberlin, president of the National Council of

Churches and a former advisory council member.

DuBois strongly rejected the criticism, and said such outreach would continue.

"It is reflective of an important shift from the previous office and those officials ... that really saw faith-based organizations only as recipients of dollars and cents as opposed to important partners on nonfinancial issues, like sharing health care information," he said.

Melissa Rogers, a church-state expert who chaired the advisory council, said the office has moved to implement some of the council's goals; she remains hopeful that the recommendations on "much needed reform of the church-state rules" will be acted on soon.

"The White House has been putting them through a process," she said, "and the process is near the finish line."

But the matter of whether faith-based organizations can make hiring decisions based on religion and still receive federal grants remains as it was in the Bush administration.

"It's a continuing frustration that they haven't moved to clarify this," said former council member Rabbi David Saperstein of the Religious Action Center of Reform Judaism. White House officials decided early on that that question would not be included in the panel's portfolio.

DuBois said the hiring issue is being reviewed "very closely" by the Justice Department and White House counsel but "there is no further update at this point."

— Adelle M. Banks, Religion News Service



State updates

If you have a question about a religious liberty issue in your state, the Baptist Joint Committee is a resource for you.

New York: anti-bully law protects religion

Gov. David Paterson signed the Dignity for All Students Act, designed to give school leaders tools and resources to provide a safe learning environment, especially for students targeted by bullies. The bill explicitly prohibits harassment and discrimination based on religion or religious practice among other individual traits.

North Carolina: Christian flag removed from memorial

In King, N.C., the city council voted to remove a Christian flag from a veterans memorial after the city attorney said it violated the First Amendment. King is in Forsyth County, which is appealing a federal judge's ruling that banned sectarian prayer at government meetings.

REFLECTIONS

No sabbatical for religious liberty

It's good to be back from my summer-long sabbatical. Thanks to James Dunn, Buzz Thomas, Stan Hasteley and Melissa Rogers for so ably writing this column. Thanks, too, for Holly Hollman and her good leadership serving as acting executive director. What a marvelous job she and the rest of the staff did in my absence.

I appreciate the Baptist Joint Committee Board's generosity in allowing me this time off. The mainstay of my sabbatical was three road trips — one with my wife, Nancy, one with my son, Ryan, and one alone. I logged 10,200 road miles and traversed 29 states (including Hawaii for the Baptist World Alliance meeting) while visiting 16 presidential homes, museums and libraries and 12 professional baseball parks/games. I also mixed in a visit to the Grand Canyon and a week of teaching Vacation Bible School.

The trips' basic itineraries were planned, but we were flexible enough to enjoy some serendipitous sidebars like visiting the Birmingham Civil Rights Institute in Alabama, the Cincinnati Zoo, the Louisville Slugger Museum and Factory, the Winston Churchill Memorial and Library at Westminster College in Fulton, Mo., the Colorado National Monument near Grand Junction, that "corner in Winslow, Arizona" and a lavender farm near Shawnee, Okla., to name a few.

The sabbatical was bracketed by two week-long spiritual retreats: one in Cullman, Ala., at St. Bernard's (Benedictine) Abbey and the other at Eastern Point Retreat House (Jesuit) in Gloucester, Mass.

Although I went away for the summer, threats to religious liberty and fights to protect it did not. And, upon my return, I hit the ground running.

The week leading up to September 11 each year is always a trying time. This year it was exacerbated by the controversy over the proposed Islamic Center in Lower Manhattan and the threat to burn Qurans in Gainesville, Fla. My first day back, I joined other religious leaders in a meeting with U.S. Attorney General Eric Holder. We asked the nation's chief law enforcement officer to make a strong public statement on September 11 underscoring the federal government's commitment to religious freedom and condemning crimes and other forms of harassment and discrimination against Muslim and other faith communities.

The next day I had the rare opportunity of being interviewed on Alhurra television's "Al Youm" program (called the "Today" show of that network). It broadcasts in 22 countries in the Middle East. I tried to

communicate to the viewers in other parts of the world, particularly Muslims, how those who want to burn Qurans are far out of the mainstream of public opinion and to express a voice of reason from the mainstream of American Christianity.

On September 10, I had the privilege of appearing on "Hardball with Chris Matthews." This gave me another opportunity to endorse, along with President Barack Obama and New York City Mayor Michael Bloomberg, the principle of religious liberty embodied in the proposed Islamic Center near, but certainly not on or even adjacent to, the hallowed soil of Ground Zero.

Yes, I went away for the summer, but religious liberty issues did not go away.

The following week, the First Amendment Center issued the tally of its annual State of the First Amendment Survey. (see p. 8) The results of that poll indicate why the fight for religious liberty never ends.

Although two-thirds of those responding endorsed the general idea of a clear separation of church and state under the First Amendment, an astonishing 53 percent believe that the U.S. Constitution establishes a "Christian nation." Never mind that the Constitution does not mention Christianity and refers to religion only once in Article VI to disallow a religious test for public office, and the language in the First Amendment makes absolutely clear that government is not supposed to advance religion generally or to prefer any religion.

Equally disturbing are the results of a question dealing with the free exercise of religion in which 28 percent of the respondents said freedom to worship should not apply to religious groups "most people consider fringe or extreme." I am glad this expresses a minority position, but even nearly three in 10 is way too many. The American experiment in religious liberty has been successful in large part because it has been able to assimilate and protect the religious freedom of "fringe or extreme" religions — from Baptists in colonial times to Catholics and Mormons in the 19th Century to Jehovah's Witnesses and Christian Scientists in the 20th and, I pray, Muslims in the 21st.

So, we still have a lot of work to do, not just in the courts, the Congress and the White House, but in the forum of public opinion. Education — in the media, our schools and houses of worship — about the nature and value of religious freedom is absolutely essential to its preservation.

Threats to religious liberty and efforts to protect it never take a sabbatical.



J. Brent Walker
Executive Director



Brent Walker speaks about religious freedom on Alhurra television.



K. Hollyn Hollman
General Counsel

Whether provoking or preserving: tax exemptions deserve attention

“While some churches violate IRS rules against electioneering, betting that they can maintain a favorable tax status (receiving tax-deductible donations), others are fighting mightily to preserve exemptions in the face of growing pressures from local tax authorities.”

Election season inevitably tempts some 501(c)(3) nonprofit organizations to test the boundaries of the prohibition on endorsing or opposing candidates. A carefully choreographed campaign by an interest group that claims pastors are wrongfully muzzled and offers to defend them in court exacerbates the situation. (see p. 10) Complaints will be filed, investigations will be opened, and it seems likely that eventually someone will get the test case they seek.

Such shenanigans make some question why houses of worship are treated as exempt from federal income taxes in the first place. What about property tax exemptions? How does the relationship between religious entities and taxing authorities fit into a constitutional framework that requires that the government neither advance nor inhibit religion? While these questions deserve more attention than can be presented in this space, a few facts and considerations deserve attention, not only because of questions that arise during the election season, but because of increased pressure from local authorities eager to raise revenues.

First, some tax exemptions for churches have a long historical pedigree and do not typically raise the threat of an Establishment Clause violation. Under federal law, churches are part of a broad class of nonprofit entities under Section 501(c)(3) that are treated the same, singled out neither for special advantage or disadvantage. That law is consistent with the U.S. Supreme Court decision upholding a property tax exemption for churches, noting that the exemption “creates only a minimal and remote involvement between church and state and far less than taxation of churches.” *Walz v. Tax Comm’n of the City of New York* (1970). It was in *Walz* that the Court stated that the two Religion Clauses allowed “room for play in the joints productive of a benevolent neutrality which will permit religious expression to exist without sponsorship and without interference.”

Second, churches do not tend to produce or accrue “wealth” of the kind that is generally taxed. In most cases, churches are organized as nonprofit organizations and must be operated exclusively for religious, charitable and educational purposes. They are prohibited from being used in a way that inures to private benefit. That

is not to say that religious entities have no relation to the taxing authorities. Church employees, like employees of other nonprofits and for-profit entities, are taxed on their income. And nonprofits must pay taxes on income generated by activities that are unrelated to their tax-exempt purpose, taxes known as “UBIT” or unrelated business income taxes. Some questions about church exemptions and suggestions of establishment issues are based on a failure to see the fundamental differences between the operation of churches and for-profit entities.

Third, it is important to note that while the Supreme Court’s precedents provide a basis for tax exemptions for churches without violating the constitutional ban on an establishment of religion, the Court has never held that the tax exemptions are constitutionally required. Property and many other tax laws are a matter of state and local concern and vary widely, even within a state. It is not uncommon for religious entities, including churches, to find themselves in a defensive posture when arguing for a tax exemption, often because the local government does not understand how the church operates or the policy basis for providing exemptions. In such circumstances, churches must understand not only the constitutional factors that make exemptions permissible but also the public policy justifications that make exemptions advisable.

More than 30 years ago, Dean M. Kelley, a well-respected religious liberty scholar and advocate, as well as executive for the National Council of Churches, examined a range of such policy justifications in the book, “Why Churches Should Not Pay Taxes.” Many things have changed on the religious landscape since then. Yet the importance of understanding various aspects of the topic remains timely. While some churches violate IRS rules against electioneering, betting that they can maintain a favorable tax status (receiving tax-deductible donations), others are fighting mightily to preserve exemptions in the face of growing pressures from local tax authorities. All should bear in mind that what’s constitutionally permissible may not be constitutionally required—and the future of tax exemptions and the rules that accompany them is primarily a question of policy, not constitutional law.

BJC board discusses state of liberty at meeting

WASHINGTON — Directors of the Baptist Joint Committee for Religious Liberty, meeting in Washington Oct. 4-5, discussed the tenuous state of religious freedom in America and heard an update on the organization's continuing search for property on Capitol Hill.

At their annual meeting, the advocacy group's leaders focused much of their conversation on recent flare-ups over the religious freedom of Muslims in the United States and recent surveys that show high levels of public misunderstanding about the First Amendment's religion clauses.

In his report to the board, BJC Executive Director Brent Walker noted he had just returned from a summer-long sabbatical when controversies over a proposed Islamic center in New York City and a fringe Florida pastor's plan to burn copies of the Quran on Sept. 11 exploded in the international media.

Walker emphasized that vigilantly educating the public about the BJC's broad understanding of the First Amendment's guarantee of religious freedom for all people is eternally necessary. Although constitutions and courts protect minority rights, ultimately majority beliefs can influence how governing documents are written



Baptist Joint Committee Executive Director Brent Walker gives his report to the BJC Board of Directors during its annual meeting Oct. 4-5, 2010. To view more photos, visit the BJC's Flickr website at flickr.com/photos/bjconline/

and interpreted, he said.

"In the final analysis in a democracy you've got to be able to convince a majority over time that you're right in how you understand that Constitution, that First Amendment," he said.

The board also discussed the state of a 5-year-old capital campaign to raise funds for a new BJC headquarters facility near the Capitol. The board first authorized BJC officials to begin looking for property for the center in 2007, and the search continues for a suitable location.

Following the meeting, Walker issued a statement saying that BJC's "vision for a Center for Religious Liberty on Capitol Hill remains focused and reachable" and that the organization "is grateful for the \$3.26 million in gifts and pledges" that campaign donors have made so far.

"While we have not yet reached our \$5-million goal, we are already looking at potential property sites," Walker said. "We'll continue to raise funds and view available property until the right opportunity comes along."

In other business, the directors unanimously adopted a \$1.2 million budget for 2011. The increase over this year's \$1.16 million figure represents what treasurer Gary Walker called "basically ... a flat budget with a marginal increase, reflecting the economy."

During this year's meeting, there was a special session with Barry Black, the chaplain of the U.S. Senate. Black spoke to members of the BJC Board and other supporters. During the session inside the U.S. Capitol, Black talked about his work providing counseling, Bible study and spiritual care for senators, their families and staff. He also answered questions about the chaplaincy and the First Amendment.

BJC staff and directors thanked Richard Ice for 40 years of service on the BJC board. The retired president of American Baptist Homes of the West, Ice continues to represent the American Baptist Churches USA on the BJC and serves as chair of the organization's endowment committee.

— *Associated Baptist Press and Staff Reports*



U.S. Senate Chaplain Barry Black speaks to the BJC Board of Directors inside the U.S. Capitol about his work and the role of religion in the halls of Congress.



BJC board members (left to right) Jim Hill, Pam Durso, Steve Case and Stan Hastey exit the U.S. Capitol after meeting with Senate Chaplain Barry Black.



Four BJC Directors were re-elected to second one-year terms as officers Oct. 5. They are, left to right: secretary Jim Hill, Baptist General Convention of Missouri; chair Pam Durso, Cooperative Baptist Fellowship; treasurer Gary Walker, Religious Liberty Council; and vice chair Philip Thompson, North American Baptist Conference.

Separation of Church and State: A Value Worth Preserving

BY
NATHAN WEBB

September 12, 2010, marked the 50th anniversary of John F. Kennedy's speech to the Greater Houston Ministerial Association about the relationship between his religion and his politics. The 2010 Religious Liberty Essay topic asked students to discuss whether Kennedy was correct in advocating an absolute separation of church and state. They were also asked to address the implications of his speech and how the principles he laid out are – or are not – followed by politicians and other leaders 50 years later.



Nathan Webb of Lumberton, Texas, was this year's Religious Liberty Essay Contest grand prize winner. He received a \$1,000 scholarship and a trip to Washington, D.C., to present his essay to the BJC Board of Directors. Here is his essay.

The relationship of government and religion in America has long been a controversial topic. Early colonists came to America with the hope of creating a nation in which their religion was not controlled or restricted by the government. Some colonists and most of our founders also believed the government should be free from being controlled by the church. As our society constantly changes, it is difficult to determine where the line between church and state should be drawn. In John F. Kennedy's 1960 speech to the Greater Houston Ministerial Association, he strongly advocated the absolute separation of church and state. A complete separation is good for both government and religion. Both are better served when they are free to pursue their different roles in society. The challenge of implementing this principle is as great today as it was in 1960.

Then-U.S. Senator Kennedy's speech was precipitated by criticism he received because of his religious affiliation. There had never before been a Catholic president, and there were those who implied that his religion would affect his judgment as commander-in-chief, or that other religions might somehow be diminished. This pattern repeated itself in the 2008 Presidential election, when then-Senator Barack Obama was criticized by his adversaries with the false claim that he was Muslim. They asserted that this might compromise his loyalty to America as a "Christian nation." While President

Obama clearly stated his Christian beliefs, his religion should not have been a factor in voters' judgment of his ability to govern. As President Kennedy stated, the Presidency is "a great office that must be neither humbled by making it the instrument of any religious group nor tarnished by arbitrarily withholding its occupancy from the members of any one religious group."¹ The Chief Executive must represent and uphold the ideals set forth by the Constitution for all American citizens, regardless of his or her beliefs.

A contemporary challenge to church-state separation is in dealing with a call for government aid to religious organizations in providing community assistance. In 2001, President George W. Bush launched an initiative to expand opportunities for government funding to faith-based groups that provide social services. While this sounds good on the surface, it inevitably results in one of two unacceptable outcomes. By definition, the goal of most religious organizations is to promote the acceptance of their beliefs. Since proselytizing would preclude their receiving government funding, they must renounce or dilute their mission as a church in order to ethically accept money from the government. "The state-imposed regulations and conditions inevitably dilute the faith in faith-based programs. As they say in Washington, with shekels come shackles."² The other, equally unacceptable alternative would be that the church accept state funding, and continue to promote its religious beliefs in the government-sponsored program. This practice would be in direct violation of the law

regarding church-state separation. In the first outcome, the church gains financially, but loses its stated purpose; in the second, the church fulfills its purpose, but the state is put in the unlawful position of advancing religion. Both the church and the government would be better served by simply cooperating, while keeping their efforts independent and autonomous.

Another instance where we have clearly departed from a separation of church and state is by the existence of an ambassador to the Vatican. Even as a practicing Catholic, President Kennedy opposed this arrangement. He recognized that this relationship was contradictory to a healthy understanding of church-state separation. This system has continued, although it is an obvious violation of the spirit of the First Amendment. To be consistent, perhaps the government should also appoint an ambassador to the National Council of Churches, the United Methodist Church, and the Two-Seed-in-the-Spirit-Double-Predestinarian Baptists.

We can be proud of the many ways in which America has upheld religious liberty throughout our history. Each week, millions of Americans worship in the church of their choice without fear of government interference or reprisal. Churches are able to speak truth to power because they are not compromised by dependence on government support. Parents can send their children to public schools without fear that students will be proselytized by any religious group. Because of our commitment to religious liberty, diverse groups of people in our country can live and work together without being torn apart by religious strife. It is difficult to imagine the America we know and love without this basic understanding of church-state separation.

While the First Amendment of the Constitution provides

that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof,"³ it is left to the courts to decide how these provisions are to be applied today. This is important to all Americans because when any group attains a majority, there is a temptation to blur the line of separation when it is favorable to them. However, in order to protect the free exercise of religion for all, the rights of the minority must be preserved. President Kennedy pointed this out in his speech when he said, "For while this year it may be a Catholic against whom the finger of suspicion is pointed, in other years it has been — and may someday be again — a Jew, or a Quaker, or a Unitarian, or a Baptist."⁴ President Kennedy's assertion that church and state should be absolutely separate is as essential as it is difficult to maintain. However, this separation serves as a crucial safeguard for religious liberty, a right that should be fiercely protected as a value that remains rare among the nations of the world. Justice Sandra Day O'Connor stated, "Those who would renegotiate the boundaries between church and state must answer a difficult question: Why would we trade a system that has served us so well for one that has served others so poorly."⁵

ENDNOTES

1. Kennedy, John F. Address of Senator John F. Kennedy to the Greater Houston Ministerial Association. Rice Hotel. Houston, Texas. 12 September 1960.
2. Haynes, Charles C. "Faith-based dilemma: With shekels come shackles." First Amendment Center. 15 March 2009. Web. Available online at <http://www.firstamendmentcenter.org/commentary.aspx?id=21361>
3. US Const., Amendment 1
4. Kennedy
5. *McCreary County v. A.C.L.U. of Kentucky*, 545 U.S. 844, 822 (2005) (O'Connor, J., Concurring).

ATTENTION HIGH SCHOOL JUNIORS & SENIORS!

Details for the 2011 Religious Liberty Essay Scholarship Contest will be in next month's *Report from the Capital*, but information is already available online.

Visit BJCOnline.org/contest for the topic and the entry forms.

First prize: \$1,000 and a trip to Washington, D.C.
Second prize: \$500
Third prize: \$100



Randel Everett, executive director of the Baptist General Convention of Texas and a BGCT representative on the BJC Board, congratulates fellow Texas Baptist Nathan Webb on his winning essay.

Most Americans favor more leeway for students' faith

Survey sheds light on Americans' understanding of the First Amendment

WASHINGTON — A clear majority of Americans — even those who do not practice a particular faith — say public school students should have more latitude to express their religious faith in school, according to the latest State of the First Amendment poll conducted by the First Amendment Center.

The national survey, conducted between July 28 and Aug. 6, found:

- 75 percent of those polled said students should be able to speak about their faith at public school events, with support not only from those who identified themselves with particular faiths but also from 52 percent of those who said they don't practice religion.
- 80 percent think student speakers should be allowed to offer a prayer during public school events, again with support from 59 percent of those who said they don't practice religion.

Although about two-thirds of survey respondents (66 percent) endorsed the general idea that the First Amendment requires a clear separation of church and state, the survey also found:

- 76 percent support the proclaiming of a National Day of Prayer by Congress or the president, with that endorsement strongest among Protestants and Catholics.
- 53 percent said the U.S. Constitution establishes a Christian nation, in a result similar to what was found in a 2008 survey by the First Amendment Center.

- 60 percent of Protestants said a candidate's affiliation was important in their voting choice, as compared with 44 percent of Catholics and just 17 percent of those not practicing a religion.

"Clearly most Americans want to keep government out of religion, but they don't see an expression of faith by a student at a public school event as a violation of the separation of church and state," said Ken Paulson, president of the First Amendment Center. "Public school students actually enjoy quite a bit of religious freedom on school grounds, but high-profile battles over commencement ceremonies and other schoolwide events have left the opposite impression."



STATE OF THE FIRST AMENDMENT SURVEY

THE FIRST AMENDMENT REQUIRES A CLEAR SEPARATION OF CHURCH AND STATE.

Strongly/mildly agree: **66%**
Strongly/mildly disagree: **28%**
Don't know/no answer: **7%**

DO YOU SUPPORT OR OPPOSE CONGRESS & THE PRESIDENT PROCLAIMING A NATIONAL DAY OF PRAYER?

Strongly/mildly support: **76%**
Strongly/mildly oppose: **20%**
Don't know/no answer: **5%**

THE U.S. CONSTITUTION ESTABLISHES A CHRISTIAN NATION.

Strongly/mildly agree: **53%**
Strongly/mildly disagree: **41%**
Don't know/no answer: **6%**

Data collected from nationwide telephone survey of 1,003 adults between July 28 to Aug. 6 by The Pert Group.

The survey also found that 61 percent of respondents said the freedom to worship "applies to all religious groups regardless of how extreme their views are," while 28 percent said freedom to worship never was intended to apply to groups "most people would consider fringe or extreme." The results are similar to those in a 2008 First Amendment Center survey.

"Americans clearly defend individual expression of religious views, but fewer are willing to extend the First Amendment's protection to faiths that they see as far removed from their own," said Gene Policinski, vice president of the First Amendment Center. "I'm troubled that nearly three in 10 people in a nation founded in part by ancestors who fled countries where their faiths at the time were viewed as 'fringe or extreme' are not willing to defend religious liberty for other faiths in similar circumstances today."

Charles Haynes, director of the Religious Freedom Education Project at

the Newseum, and a senior scholar at the First Amendment Center, said, "Although I'm encouraged that 66 percent of the American people agree that the First Amendment clearly separates church from state, I find it discouraging that a majority, 53 percent, mistakenly believe that the Constitution somehow 'establishes a Christian nation.' When the Framers wrote the First Amendment, 'no establishment' meant no religion — Christian or otherwise — could be established under our Constitution."

The nationwide telephone survey of 1,003 adults was conducted July 28 to Aug. 6 by the national polling firm The Pert Group, directed by Kenneth Dautrich. Surveys on the State of the First Amendment have been conducted by the First Amendment Center since 1997, and include polling throughout the year on First Amendment issues and attitudes by The Pert Group and Gallup.

— First Amendment Center

Poll finds unbelievers know the most about belief

WASHINGTON — Who can best answer questions about religion in America?

Based on a new survey released Sept. 28 by the Pew Forum on Religion & Public Life, it's your atheist or agnostic neighbor, followed by the Jew or Mormon down the street.

A significant percentage — four in 10 — of Roman Catholics did not know that their church teaches that the bread and wine used at Communion become the body and blood of Jesus during Mass.

The survey also found that graduates of private schools did better than students in public schools, but religious school graduates did not fare any better in their ability to answer questions about the Bible, world religions or the role of religion in public life.

"Our survey certainly shows that there are lots of things that Americans do know about religion — most Americans have a certain familiarity with the Bible for instance," said Greg Smith, a senior researcher at the Pew Forum. "But, at the same time, there are important things that people don't know as well."

Overall, agnostics and atheists, Jews and Mormons scored the best on a quiz of 32 questions — from citing the first book of the Bible (Genesis) to naming the day of the week when the Jewish Sabbath begins (Friday).

David Silverman, president of the group American Atheists, said he was not surprised that atheists answered more questions correctly than others, and hopes the findings will help people realize that atheists understand the religious beliefs that they reject.

"It certainly underscores the fact that atheists are not atheists due to ignorance," he said.

In fact, Smith said, eight in 10 of the atheists and agnostics polled in the survey were raised in a faith, including three-quarters who were reared as Christians.

Mormons' high levels of religious knowledge can be credited to four years of early-morning classes in the Bible, the Book of Mormon, and Mormon church history during high school, said Terry Givens, a professor of literature and religion at the University of Richmond.

Likewise, Jews have a strong emphasis on education, he said.

"I think probably as with Mormons, Jews have learned that in order to operate ... effectively within a larger dominant culture, one has to be bilingual ... in their own and the host culture," said Givens, author of several books about Mormons.

Most Americans are somewhat familiar with the Bible, Smith said, but responses to the poll's nonbiblical questions reveal a lack of knowledge on certain traditional beliefs. For example, just 16 percent correctly said that Protestants — not Catholics — have taught that salvation comes through faith alone.

The poll results were based on telephone interviews with 3,412 adults nationwide between May 19 and June 6, with a margin of error of plus or minus 2.5 percentage points.

That total includes an oversample of Mormons, Jews and

Test your religious knowledge! Here are some of the most frequently missed questions from the survey.

- | | |
|---|---|
| 1. According to rulings by the U.S. Supreme Court, is a public school teacher permitted to read from the Bible as an example of literature? a. Yes b. No | 4. Do you happen to know which religion <u>most</u> people in Indonesia consider themselves? a. Buddhist b. Hindu c. Muslim d. Christian |
| 2. Which of these preachers participated in the period of religious activity known as the First Great Awakening? a. Jonathan Edwards b. Charles Finney c. Billy Graham | 5. Which of these religious groups traditionally teaches that salvation comes through faith alone? a. Only Protestants b. Only Catholics c. Both Protestants and Catholics d. Neither Protestants nor Catholics |
| 3. Maimonides was a. Catholic b. Jewish c. Buddhist d. Mormon e. Hindu | |

Answers: 1-a; 2-a; 3-b; 4-c; 5-a.

nonbelievers. Smith said the high number of correct responses from those groups was not due to the oversample. Those additional interviews helped ensure a reliable analysis of groups that account for a small share of the overall population.

Stephen Prothero, author of *Religious Literacy: What Every American Needs to Know — And Doesn't*, said the findings reflect Americans' tenuous grasp on the world's religions, preventing them from having significant interfaith conversations.

"Yes, there is a kind of 'Jeopardy' quality to this," said Prothero, a religion professor at Boston University who consulted on the survey. "But I think these kinds of simple questions indicate the deficit that we have as a country in understanding the religions of the world and our own religions."

Although the average respondent answered just half of the answers correctly, researchers opted not to give anyone an "F" or an "A."

"It's not as if the American public has taken a semester-long religion course and are now being tested on topics with which they should be familiar," Smith said. "That's why we don't assign grades."

— Adelle M. Banks, Religion News Service

Group asks IRS to investigate Baptist church in Okla. for violating boundaries of tax law

WASHINGTON — A church-state watchdog group has called on the Internal Revenue Service to investigate a church in Oklahoma for violating a law that prohibits tax-exempt charities from endorsing political candidates.

The church is one of the latest in an organized effort to change federal tax laws to allow political endorsements from the pulpit while churches retain tax-exempt status.

Barry Lynn, executive director of Americans United for Separation of Church and State, filed an IRS complaint against Pastor Paul Blair of Fairview Baptist Church in Edmond, Okla., on Sept. 28. That was two days after Blair, who is also founder of a conservative political action group called Reclaiming Oklahoma for Christ, used his Sunday-morning message to endorse Mary Fallin, a Republican congresswoman from the state, for governor.

Blair was one of 97 pastors across the country who preached political messages Sept. 26 in an organized effort to defy a 1954 amendment to federal tax law. The provision prohibits all nonprofit entities organized under Section 501(c)(3) of the federal tax code from intervening in elections by endorsing or opposing candidates for public office. Virtually all houses of worship are tax-exempt 501(c)(3) organizations.

"I believe that it is imperative for the IRS to investigate this apparent breach of federal tax law," Lynn said in his letter to the IRS. "Failure to do so sends a message that religious and other nonprofit organizations may violate this provision of federal tax law with impunity."

The Alliance Defense Fund, a coalition of Christian attorneys behind "Pulpit Freedom Sunday," believes that if challenged in court the prohibition on preaching about candidates would be found unconstitutional.

"Pastors and churches should not live in fear of being punished or penalized by the government — in this case, the IRS," said Erik Stanley, ADF's senior legal counsel.

Other church-state experts, however, say the issue is not so cut and dried.

Holly Hollman, general counsel of the Baptist Joint Committee for Religious Liberty wrote in *The Huffington Post* that Pulpit Freedom Sunday rests on both a "false premise" and a flawed legal argument unlikely to succeed.

Hollman said religious organizations receive special treatment under Section 501(c)(3), allowing donors to deduct donations as long as the charity does not spend a substantial part of its time attempting to influence legislation and intervene in political campaigns.

She said claims that preachers are muzzled under the law are "greatly exaggerated."

"Preachers are perfectly free to interpret and apply Scripture as they see fit, speak out on the great moral and

ethical issues of the day, and urge good citizenship practices, such as registering to vote and voting," Hollman said. "The only thing they can't do — in exchange for the most-favored tax-exempt status — is to tell the faithful how to vote."

Despite claims to the contrary, Hollman said, tax exemption is not a constitutional right.

"The Supreme Court has held that tax exemption for churches, along with other nonprofits, is constitutionally permitted by the First Amendment's Establishment Clause," she contended. "The Court has never held that it is constitutionally required by the Free Speech or Free Exercise Clause."

Hollman said she doubts that even-handed enforcement of the tax code would be found to constitute a "substantial burden" on religious practice — the standard required to prevail on a First Amendment claim.

Brent Walker, executive director of the Baptist Joint Committee, called the effort to recruit pastors to endorse candidates "misguided" and "unnecessarily divisive."

"In every church I know of, it would be like setting off a bombshell in the sanctuary for the preacher to tell the congregants how to pull the lever in the voting booth," Walker said. "It would be incredibly corrosive of the church's true mission to spread the gospel and be salt and light in the culture."

"As soon as the church throws in with a particular candidate or party, its prophetic edge is blunted," Walker said. "You can't raise a prophet's fist at a candidate or party when, with the other arm, you are locked in a tight bear hug."

Hollman said the effort also raises ethical 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."

The Alliance Defense Fund says the project is not aimed at bringing politics into the pulpit, but rather getting the government out of them.

"Churches should be allowed to decide for themselves what they want to talk about," Stanley said. "The IRS should not be the one making the decision by threatening to revoke a church's tax-exempt status."

Stanley thanked pastors for participating in this year's event and expressed hope the effort "will eventually result in striking down the IRS' unconstitutional gag rule."

"As soon as the church throws in with a particular candidate or party, its prophetic edge is blunted. You can't raise a prophet's fist at a candidate or party when, with the other arm, you are locked in a tight bear hug."

— J. Brent Walker

— Bob Allen, *Associated Baptist Press*

BJC welcomes fall semester interns

The Baptist Joint Committee is pleased to welcome two fall semester interns working alongside our staff in Washington, D.C.

Brice Bongiovanni of Macon, Ga., is a 2010 graduate of the University of Georgia, where he earned a Bachelor of Arts degree in Religion. He attended First Baptist Church of Macon and is the son of Fred Bongiovanni and Margaret Dee Bratcher. Bongiovanni plans to study journalism and American religions at the graduate level.

Brittany Todd is a 2010 graduate of Samford University, earning a Bachelor of Arts degree in Journalism and Mass Communication. She is the daughter of Bill and Joy Todd of Trussville, Ala., and is a member of Christ Chapel in Pinson, Ala. After her internship with the BJC, Todd plans to work at Arsenal Communications as an account coordinator.



Bongiovanni



Todd

DOJ: Land-use disputes often involve religious minorities

Religious minorities — especially Muslims — figure prominently in religious freedom investigations by the Justice Department, a new report shows.

“Jewish synagogues and schools, African-American churches, and, increasingly, Muslim mosques and schools are particularly vulnerable to discriminatory zoning actions taken by local officials, often under community pressure,” the 14-page report stated.

The department released the report Sept. 22, the 10th anniversary of the Religious Land Use and Institutionalized Persons Act (RLUIPA). The law, which passed with bipartisan support and the advocacy of a range of faith groups, aims to protect both religious liberty in zoning matters and free exercise of religion for prisoners and residents of government-run nursing homes.

Since enactment, the Justice Department has opened about 60 investigations into RLUIPA matters and intervened in dozens of other RLUIPA cases.

The report notes that, since the 9/11 attacks, there have been 18 RLUIPA matters investigated involving possible discrimination against Muslims. Eight of those cases have been opened since May of this year.

“This fact is a sober reminder that, even in the 21st century, challenges to true religious liberty remain,” the report said.

— *Religion News Service & Staff Reports*

Judge rejects suit against religious language at Capitol Visitor Center

A federal judge dismissed a suit arguing that engravings of “In God We Trust” and the Pledge of Allegiance at the U.S. Capitol Visitor Center are unconstitutional.

The suit by the Freedom From Religion Foundation

was dismissed Sept. 29 by U.S. District Court Judge William Conley of Madison, Wis., due to lack of standing. He said the Wisconsin-based organization did not make a sufficient link between their taxpayer status and the money spent on the engravings that included the national motto and the words “under God” in the pledge.

“Any funds used by the government will necessarily result in the use of taxpayer money,” Conley wrote.

The American Center for Law and Justice, a conservative Christian organization that filed a brief on behalf of dozens of members of Congress seeking a rejection of the suit, hailed the decision.

“This challenge was another misguided attempt to alter history and purge America of religious references,” said Jay Sekulow, chief counsel of the ACLJ, in a statement.

— *Adelle M. Banks, Religion News Service*

ACLU files suit over nose ring, prisoners’ access to Bible

The American Civil Liberties Union has filed two federal lawsuits in the Carolinas, alleging religious discrimination over a teenager’s nose ring and prisoners’ lack of books other than the Bible.

In South Carolina, the Berkeley County Detention Center in Moncks Corner barred a prison law journal and all other magazines, newspapers and books from being sent to prisoners with one exception, the Bible, the ACLU said.

The ACLU filed suit on behalf of the monthly journal Prison Legal News, claiming the policy violates the inmates’ rights of free speech and free exercise of religion.

In addition to not being able to receive outside publications, the inmates do not have access to a library, The Associated Press reported.

In North Carolina, a judge ordered that a 14-year-old student at Clayton High School can return to class after being suspended for wearing a nose ring.

Freshman Ariana Iacono missed more than four weeks of school for wearing a small nose stud that violated the school dress code.

The American Civil Liberties Union filed a lawsuit on behalf of Iacono, claiming that the school was violating her right to religious freedom as a member of the Church of Body Modification, which believes rituals such as tattoos and piercings are essential to spirituality and connect followers to the divine.

“We are thrilled that Ariana can return to her studies,” said Nikki Iacono, Ariana’s mother. “She has missed 22 days of school already this year because the school has wrongfully forced her to choose between her education and our family’s religion.”

The emergency court order by U.S. District Judge Malcolm J. Howard will allow Iacono to attend school while the lawsuit continues on the constitutional questions raised by her case.

— *Whitney Jones, Religion News Service*