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- Seventh Day Baptist General Conference

REPORT
from the *Capital*

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◆ Religious Liberty Day Report ◆

College Park Baptist Church in Orlando, Fla., spent July celebrating their Baptist heritage and religious liberty. Pastor Shaun King focused his sermon series on the freedoms identified in Walter Shurden's book *The Baptist Identity: Four Fragile Freedoms*. The freedoms are soul freedom, Bible freedom, church freedom and religious freedom. The church coordinated each worship service around the freedom of the day by incorporating specific hymns, readings and sermon topics. They also had monologues written by church member Richard Atkins (which are now available at www.BJConline.org) performed in character by members of the congregation. John Smyth, John Bunyan, Anne Hutchinson and Roger Williams all "appeared" during worship services to talk about Baptist heritage.

On Religious Freedom Day, CPBC invited BJC Executive Director Brent Walker to deliver the sermon, and church member Aubrey Ducker performed the Roger Williams monologue. Ducker had just been on a trip to Rhode Island where he learned more about Williams, so performing the monologue had special significance for him. Ducker said his personal trip to some of the first Baptist churches in Rhode Island really struck a chord

in him, and he was inspired by what he learned about the work of Roger Williams.

At the end of July, CPBC capped off the celebration with a Baptist Birthday Bash, complete with a cake that had images of Baptist heroes and heroines. And, the four characters arrived in costume to celebrate Baptist heritage and the religious liberty we enjoy today.



From left to right: Aubrey Ducker as Roger Williams, Randy Mejeur as John Smyth, Rosemary Barna as Anne Hutchinson and George Stuart as John Bunyan.

CPBC is just one of many churches finding new and innovative ways to celebrate religious liberty. If you are interested in planning a Religious Liberty Day or moment at

your church, the Baptist Joint Committee is pleased to provide resources for you. There are a variety of documents available on our Web site at www.BJConline.org. Just go to the "Resources" tab at the top of the page, click on "Documents," and select "Religious Liberty Day." There you will find bulletin inserts, hymns, responsive readings, Sunday school lessons, a sign up sheet for others who want to receive *Report from the Capital*, and many more resources and ideas.

If you plan an event or just a moment of emphasis about religious liberty, let us know! Contact Kristin Clifton at (202) 544-4226 or by e-mail at klclifton@BJConline.org to let us know you are planning a celebration or recognition of religious liberty at your church.



REPORT

from the Capital

U.S. Supreme Court gets technical in arguments over Mojave cross

WASHINGTON — Although the case of a lonely cross on federal land in California's Mojave Desert ultimately could have wide-ranging implications for the separation of church and state, justices on the U.S. Supreme Court spent much of the Oct. 7 oral arguments asking attorneys about highly technical and procedural issues.

Salazar v. Buono centers on a dispute about whether the government can maintain the cross as a monument honoring fallen soldiers or if displaying a Christian symbol is an unconstitutional establishment of religion.

Supporters of strong church-state separation feared the court might use the case to limit severely the ability of citizens to file lawsuits against the establishment of religion, but justices spent much more time debating whether the case could be decided on the narrower issue of actions by Congress attempting to preserve the cross.

The cross at the center of the case — successor to one first erected as a World War I memorial in 1934 — stands atop Sunrise Rock, next to a road in a remote part of the Mojave National Preserve.

Although several crosses erected by private groups have stood on the spot over the years, the current version was built of painted metal pipes by a local resident in 1998.

The following year the National Park Service, which oversees the land, denied an application to build a Buddhist shrine near the cross. The agency studied the history of the monument, said it did not qualify as a historic landmark and announced plans to remove it. Congress intervened with a series of amendments to spending bills that preserved the cross.

In 2001, Frank Buono, a Roman Catholic and a retired National Park



Peter Eliasberg (left) answers questions from NBC's Pete Williams (right) at a press conference following oral arguments on Oct. 7. BJC Executive Director Brent Walker is second from the left.

Service employee who once worked at the preserve, filed suit with the help of the American Civil Liberties Union. He claimed that the cross violated the First Amendment's ban on government establishment of religion.

A series of federal court decisions ruled against the cross display on government land and the attempts to preserve it. In the Oct. 7 arguments, much of the discussion turned on the procedural validity of Solicitor General Elena Kagan's assertion that the congressional action to remedy the constitutional violation was sufficient.

A few moments of argument did highlight one significant First Amendment controversy in the case: Whether such a monument on public land could serve a secular purpose. In response to an assertion that the cross honored only Christian war dead by Los Angeles attorney Peter Eliasberg, who argued Buono's side in the case, Justice Antonin Scalia asked, "The cross doesn't honor non-Christians who fought in the war?"

Eliasberg responded, "A cross is the predominant symbol of Christianity, and it signifies that Jesus is the son of God and died to redeem mankind for our sins...."

Scalia replied, "It's erected as a war

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On the Web

www.BJConline.org
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State updates

The appropriate role of religion continues to be debated in cities and states after new laws and policies are adopted. If you have a question about something happening in your state, the BJC is a resource for you.

California: Prayers at public meetings

The Freedom From Religion Foundation says the small cities of Lodi, Tracy, Turlock and Tehachapi were violating the Constitution by allowing prayers before public meetings. The cities now have various policies allowing invocations that avoid favoring one religion, but people on both sides of the issue continue to push for policy changes.

Colorado: Balancing conservation and religious liberty

A Native American who violated federal law by killing a bald eagle for a tail fan for a religious ceremony will have his fate decided by tribal courts. After the U.S. Supreme Court denied the request to hear the high-profile case, the man said he would be open to a plea agreement. A judge vacated the scheduled trial and decided that tribal courts will handle the matter.

Tennessee: RFRA debate

The state legislature passed a Religious Freedom Restoration Act in June. In September, the Tennessee Municipal League published an article saying state and local governments will “face an uphill battle in upholding laws...when someone claiming religious offense cries foul.” According to media reports, the group may discuss working for repeal or modification of the law at its October meeting.

Texas: “Religious Literature” Courses

Beginning with the 2009-2010 school year, Texas public schools must offer an elective course on religious literature or incorporate the study of it into other classes. The law passed in 2007, giving schools two years to prepare.

— Cheryl Crowe

BUONO *continued from page 1*

memorial. I assume it is erected in honor of all of the war dead.” Describing the cross as the “most common symbol of the resting place of the dead,” he asked: “What would you have them erect? A cross — some conglomerate of a cross, a Star of David, and you know, a Muslim half moon and star?”

Eliasberg retorted: “The cross is the most common symbol of the resting place of Christians. I have been in Jewish cemeteries. There is never a cross on a tombstone of a Jew.” The comment brought laughter to the courtroom.

The justices barely discussed one issue that worried church-state separationists about the case — whether Buono had legal standing to sue the government over the cross in the first place.

In court filings, attorneys for the Obama administration argued that Buono did not have a right to challenge the cross because, among other reasons, as a Christian he is not injured or offended by the sight of the cross.

A friend-of-the-court brief filed by the Baptist Joint Committee for Religious Liberty and the Interfaith Alliance said that argument, if accepted, would lead to gross violations of religious freedom.

The brief argued that Buono had every right, as a Christian, to feel injured by the government’s endorsement of his religion because such an endorsement inherently damages the faith.

“Seeing one’s faith receive preferential government treatment, while aware that no minority faith would receive that

treatment, demonstrates the government’s perversion of religion for its own ends,” the brief said. “The government is taking something that should be a symbol of voluntary religious belief and practice and using it in a way that alters its apparent symbolism by making it look like an ‘official’ faith.

“It is not surprising that devout, voluntary adherents of a religion would not want to send the signal to those who do not share in the religion of the majority that they are political outsiders. Where the government endorses one religion over all others, it weakens the sanctity of that religion and its beliefs.”

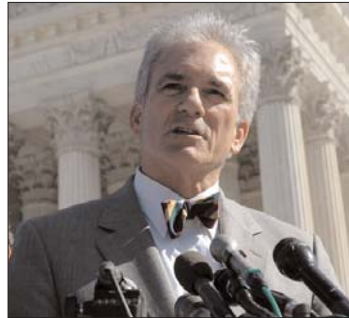
But K. Hollyn Hollman, the BJC’s general counsel and one of the authors of the brief, said she was somewhat relieved by the tenor of the oral arguments in the case.

“There were more questions about the government’s ability to raise a standing defense than about Mr. Buono’s standing.

While certainly not determinative of how the court will rule, there appeared to be less interest in limiting standing in this case than we feared,” she said.

Hollman added that one way the court could dispose of the case without doing much damage to religious liberty would be to “find that Congress took adequate steps to distance the government from the cross by selling it to a private landowner. I think there will be significant divisions among the members of the court on the specific facts that weigh for and against that conclusion.”

— Rob Marus, *Associated Baptist Press*



Brent Walker speaks to the media on the steps of the U.S. Supreme Court after the oral arguments in the *Salazar v. Buono* case.

REFLECTIONS

Prayer at the Capitol: then and now



J. Brent Walker
Executive Director

Readers of this column will immediately know the answer to this question: what significant event in Baptist history happened on the east steps of the U.S. Capitol in May 1920? Of course, it was Dr. George W. Truett's famous sermon "Baptists and Religious Liberty," delivered to an estimated crowd of 10,000 mostly Southern Baptists. Dr. Truett rallied support for robust religious liberty, not tepid toleration, and defended its constitutional corollary, the separation of church and state. (You can find his entire sermon on our Web site at www.BJConline.org.)

His words were as prophetic as they were passionate. They have inspired several generations of Baptists, laid the groundwork for the birth of the Baptist Joint Committee and educated politicians of both parties about the proper relationship between church and state.

At the end of September, something else happened on the Capitol grounds. Almost 90 years after Dr. Truett spoke on the east steps, some 3,000 Muslims assembled on the west lawn to exercise their religious freedom by praying on the sacred grounds of American civil religion — the National Mall. The crowd was much smaller than the 50,000 for which the organizers had hoped, but by all accounts the participants were respectful, reverent and orderly.

For me, this is proof that Dr. Truett's words not only reinforced the basic assumptions of our founders when they drafted the First Amendment's protection for religious freedom but also helped to perpetuate the ethos of complete religious liberty that our founders envisioned. Think about it, in a country where three out of four citizens say they are Christian, a minority of Muslims comprising a miniscule .6 percent of the American population were able to assemble and pray in the shadow of the Capitol dome. Yes, amazing! I wonder in how many predominately Muslim countries — and certainly Muslim theocracies — Christians would be able to assemble in a similarly situated public place to pray?

This rally for prayer and unity, however, did not occur without a lot of push back. It came mostly from conservative Christians, though at least one Muslim blogger criticized the event, fearing negative reaction so close in time to 9/11.

The week before the event, I got a call from a man from Texas who was upset that the Muslims were allowed to gather to pray on the Mall. He wanted to know what the Baptist Joint Committee was doing to resist it because, in his view, Islam is not only a false religion but also a violent one. I tried to explain to him that it was not our job to decide truth or falsity of reli-

gion: religious liberty means religious liberty for all, right or wrong, good or bad, popular or unpopular. Of course, nobody has the right to practice their religion in a way that harms others, but all religions have their violent fringe. And, as long as they are peaceful, the National Mall is open to all religious traditions.

A lot of people showed up to protest. According to *The Washington Post*, they brought banners and signs bearing anti-Islamic messages and a 10-foot wooden cross with two giant wooden tablets depicting the Ten Commandments. One protester exclaimed through a megaphone, "I would suggest you convert to Christ! Islam forces its dogma down your throat." (As if many forms of Christianity don't try to do the same thing.) Bearing witness to Muslims is one of the rights protected under First Amendment; boorish and disruptive behavior is not a conducive, or even Christian, strategy.

In the run up to the meeting, e-mails were sent out in the names of evangelical Christian leaders — including Shirley Dobson, Lou Engle and Tony Perkins. To their credit, the e-mails did not dispute the right of Muslims to assemble. Rather, they called for prayer — not so much prayers of thanksgiving for religious liberty or for the Muslims' well being as for their conversion. The writers also upbraided a "major Christian leader of the Emergent Church" (almost certainly referring to Brian McLaren) who prayed and fasted during Ramadan — and called on others to do so. McLaren was quick to say he was not compromising his Christian faith by daily fasts of Ramadan and that he fasted with the goal of providing a "neighborly gesture" and increasing understanding of other religious traditions. Never mind that fasting is a classical *Christian* discipline, and that more Christians nowadays ought to engage in it for physical as well as spiritual reasons.

Another Christian — the Rev. Patrick J. Mahoney, who is far more conservative than McLaren — hosted a reception for the event organizers, according to Religion News Service. Mahoney agreed all people should be able to pray in public, and he called for greater Christian-Muslim understanding.

On balance, I thought the rally represented at least a baby step forward in the progression of interfaith understanding and dialogue. It also bespeaks our willingness (at least those who heed Dr. Truett's prophetic words of religious freedom for all) to give others the right to do what we demand for ourselves.



Muslims gathered on Sept. 25 at the U.S. Capitol for the "Islam on Capitol Hill" prayer rally.

Religion News Service

Baptist Joint Committee, other groups press Attorney General to withdraw memo

Letter seeks to end religious discrimination in hiring

WASHINGTON — Supporters of the separation of church and state are urging Attorney General Eric Holder to fulfill a campaign promise by President Obama to combat religious discrimination in hiring.

The Baptist Joint Committee for Religious Liberty and the American Baptist Churches USA joined more than 50 other Christian, Jewish and secular groups in a Sept. 17 letter to Holder.

The letter asks him to rescind a 2007 memorandum, issued by then-President Bush's Justice Department, interpreting the Religious Freedom Restoration Act to allow a faith-based charity receiving government grants to discriminate on the basis of faith when hiring someone for a job — even for a job funded by federal tax dollars.

The letter said the Bush memo's legal reasoning "is erroneous and threatens core civil rights and religious freedom protections."

The Bush memo interprets the 1993 religious freedom law — known in shorthand as "RFRA" — to allow religious institutions receiving government grants to hire only people of their own faith. It applies even if the service being provided is secular in nature and the statute authorizing the program under which the grants are awarded specifically bans such discrimination.

"Having helped to spearhead the RFRA effort, I know of no one in 1993 who thought the new law would ever be applied this way," said Brent Walker, executive director of the Baptist Joint Committee. Many of the other groups that signed onto the letter to Holder were also part of the coalition that helped create RFRA and pushed to get it passed in 1993.

The employment discrimination issue is one of the most contentious left over from Bush's effort — intended to be the centerpiece of his domestic policy — to expand the government's ability to fund social services through churches and other religious charities.

The Bush initiative immediately came under significant criticism from advocates of strong church-state separation. It pushed into public discussion previously obscure constitutional questions about the First Amendment perils posed by giving taxpayer dollars directly to houses of worship and other deeply religious organizations.

The state of the law in the courts was unclear on many of the constitutional questions. Nonetheless, Bush's administration aggressively pushed for legislation that would have explicitly authorized social service

grants to churches and codified what he believed was the churches' right to discriminate on the basis of faith in hiring for federally funded positions.

Although Bush's plan was stymied in Congress, he effectively implemented much of his faith-based effort through executive orders and other administrative methods in the scores of charitable grant programs the federal government administers. The 2007 memo was one of the most far-reaching of those efforts.

Opponents of Bush's faith-based plan urged Obama to undo those changes when he took office. As a candidate, he announced a clear position on the employment discrimination issue.

"As someone who used to teach constitutional law, I believe deeply in the separation of church and state, but I don't believe this partnership will endanger that idea — so long as we follow a few

basic principles," Obama said during a July 2008 campaign speech in Zanesville, Ohio.

"First, if you get a federal grant, you can't use that grant money to proselytize ... the people you help and you can't discriminate against them — or against the people you hire — on the basis of their religion. Second, federal dollars that go directly to churches, temples and mosques can only be used on secular programs."

But Obama's administration has adopted a go-slow approach on the employment discrimination subject since taking office, saying they will review the legal issues case by case.

"What the president has decided to do, and what we believe the best approach to this is, is to fully understand this issue as issues arise out in the agencies" that administer the affected grant programs, said Joshua DuBois, the director of Obama's faith-based office, in a June appearance. "There is a role for responsible partnerships between the government and these organizations, but that word 'responsible' is key."

But the church-state watchdog groups that signed on to the Sept. 17 letter said the 2007 Bush memo is clearly irresponsible.

"The [2007] memo ... stands as one of the most notable examples of the Bush administration's attempt to impose a constitutionally questionable and unwise policy — RFRA should not be interpreted or employed as a tool for broadly overriding statutory protections against religious discrimination or to create a broad free-exercise right to receive government grants without complying with applicable regulations that protect taxpayers," the letter said.



— Rob Marus, Associated Baptist Press



Development Officer Kristin Clifton gives an update during the annual meeting of the Baptist Joint Committee Board of Directors.

BJC board gets update on property search, honors Walker

WASHINGTON — The Baptist Joint Committee for Religious Liberty will probably need to raise a little more toward its capital campaign before it can start building a proposed “Center for Religious Liberty” on Capitol Hill, the group’s directors heard Oct. 6.

The update on the status of the four-year-old, \$4 million campaign to build a permanent home for BJC came during the annual meeting of the group’s board of directors in Washington.

Although the board authorized BJC staff to begin looking for suitable properties two years ago, J. Brent Walker, BJC executive director, told directors price increases and occupancy costs in the years since the campaign was first envisioned made them re-evaluate the costs of beginning to build with only the money and commitments already in hand.

“We’ll continue to look for suitable property and raise additional funds so we can purchase it outright. It would be foolish to trade our present rent for an even larger mortgage.”

He continued, “Part of the rationale from the very beginning for doing that [owning its own building] was that we could get out of having to pay \$150,000 a year in rent here and could use that money to pay for salaries and other programming.”

Despite the longer-than-expected timetable on new quarters, BJC leaders said the group’s financial picture is strong, especially given the severity of

the last year’s economic downturn.

Walker said year-to-date receipts are actually running ahead of budget — compared to a 15 percent shortfall at the end of 2008 — and that the organization has done that despite having more staff in 2009 than the previous year.

The board also observed Walker’s 20th anniversary with the BJC, including the past 10 years as executive director. He was an attorney in Tampa, Fla., before surrendering mid-career to a call to ministry and moving to Kentucky to attend seminary. BJC board members, staff and spouses held a reception recognizing Walker and his family. It included a tribute from Rep. Chet Edwards of Texas.

Directors concluded their meeting with a White House briefing on religious liberty issues by staffers from several governmental agencies.

In other business, the board elected new leaders. Pam Durso, executive director of Baptist Women in Ministry, was elected chair. She replaces Steve Case, pastor of First Baptist Church of Mansfield, Pa. Philip Thompson, a professor at Sioux Falls Seminary in Sioux Falls, S.D., will serve as vice chair. Jim Hill, executive director of the Baptist General Convention of Missouri, will be secretary. Gary Walker, an attorney in Tampa, Fla., was tapped as treasurer.

The board adopted a \$1.16 million budget for 2010.

— ABP and staff reports

◆ New BJC officers ◆



The new BJC Board officers are (left to right): Secretary Jim Hill (Baptist General Convention of Missouri), Chair Pam Durso (Cooperative Baptist Fellowship) and Vice Chair Philip Thompson (North American Baptist Conference).

◆ White House briefing ◆



Paul Monteiro from the White House Office of Public Engagement addresses members of the BJC Board in the Eisenhower Executive Office Building. Representatives from the National Security Council, U.S. Commission on International Religious Freedom and Department of Justice gave a briefing on the latest issues concerning religious liberty.

◆ Honoring Walker ◆



Chris Chapman (left) and Matthew Hanchey talk with BJC Executive Director Brent Walker at a reception honoring his 20 years of service with the organization.

DIVERGING PATHS: A DISCUSSION OF RELIGIOUS LIBERTY

by Amy Blankenship

Two men on two separate occasions were travelling down different roads. Both men were confronted with a vision from God. Both turned from their prior ways to become zealous advocates for Christ. One had no state power before or after his decision to accept Christ. The other firmly gripped the reigns of governmental power and used that power to promote his version of Christianity. The first, who lacked the force of government, became the greatest missionary ever known, leading the Church to its greatest period of expansion. The second, who was able to use his governmental power to promote the belief, created, in the words of Roger Williams, “the most un-Christian Christendom.”¹ The first man had his encounter with the Lord on the Road to Damascus, the Apostle Paul. The latter man was on the road to Turin, the Emperor Constantine.²

John Leland once commented that experience “has informed us that the fondness of magistrates [the government] to foster Christianity has done it more harm than all the persecutions ever did.” The contrasting examples of Paul and Constantine provide ample evidence for this thesis. Indeed, the experience of the Apostle Paul demonstrates both the inability of the state to stamp out the spread of Christianity as well as the ability of the cause of Christ to flourish without the aid of the state. Paul began his religious career as a member of the Sanhedrin, the Jewish council of ruling elders. He presided over the stoning of Stephen, whose zeal for Christ could not be extinguished even by a death sentence.³ With the death of Stephen, “a great persecution broke out against the church at Jerusalem.”⁴ Paul, then known as Saul, “began to destroy the church...drag[ging] off men and women and put[ting] them in prison.”⁵ But, the persecution led to the growth of Christianity as “[t]hose who had been scattered preached the word wherever

they went.”⁶ Paul had his personal encounter with Christ on the Road to Damascus⁷ and lost the approval of the government.⁸ Paul was undeterred by governmental persecution which included imprisonment and eventually led to his execution, leading many thousands to Christ on missionary journeys than began in A.D. 47 and continued until his death in A.D. 67.⁹ Christians to this day are guided by his writings.

En route to battle Maxentius in Italy, Constantine received a vision that his forces would prevail if they fought under the banner of Christ. He ordered the Greek letters chi and rho, the first two letters of the name of Christ, to be marked on his soldiers’ shields. Constantine’s forces defeated a numerically superior force at the Battle of Milvian Bridge in A.D. 312. Constantine gave the glory for the victory to Christ. He promoted Christianity, but had no tolerance for dissenting views. He presided over the council of bishops at Nicaea in A.D. 325 to resolve theological disputes among Christians. The Council developed a statement of beliefs, known as the Creed of Nicaea.¹⁰ While Constantine’s willingness to resolve disputes by peaceful debate, as at Nicaea and later at Arelate, demonstrates one side of Constantine’s character, he was also brutal in enforcing these decisions once made.¹¹ The treasures of pagan temples were confiscated to pay for the construction of Christian churches, using the power of the Empire to promote Christianity and condemn all contrary faiths.¹² Yet, when protected by the power of the government, the cause of Christ suffered. The great promoter of religious liberty, Roger Williams, averred that “Constantine’s conversion marked the beginning of the corruption of faith...” where “the gardens of Christ’s churches turned into the wilderness of national religion...”¹³

Throughout its history, America has grappled with the seeming tension between Christian values and religious liberty. Our nation has brought forth great libertarians, such as Thomas Jefferson, James Madison, and Roger Williams. However, we have also seen great intolerance as well, as exemplified by Cotton Mather and the Salem Witch Trials, the exile of Anne Hutchinson, and the Connecticut Code of 1650 which imposed the penalty of death upon non-believers. This struggle is not simply a part of America’s past, but is a conflict that resonates today. In 2008, one presidential candidate



Essay contest winner Amy Blankenship shares her essay with the BJC Board of Directors in Washington, D.C.

Scholarship winner visits Baptist Joint Committee board meeting

More than 70 students from 13 states submitted essays for the 2009 Religious Liberty Essay Scholarship Contest sponsored by the Religious Liberty Council of the Baptist Joint Committee.

In their essays, students were asked to explain and assess a claim by colonial evangelist John Leland. In 1804, Leland said that experience "has informed us that the fondness of magistrates [the government] to foster Christianity has done it more harm than all the persecutions ever did."

This year's grand prize winner is Amy Blankenship from Erlanger, Ky. Blankenship received a \$1,000 scholarship and a trip to Washington, D.C., in conjunction with the Baptist Joint Committee board meeting in October. A 2009 graduate of Lloyd Memorial High School, Blankenship is now a freshman at the University of



BJC Executive Director Brent Walker stands with scholarship winner Amy Blankenship and her father, Randy. Amy received a \$1,000 scholarship for her essay along with a trip to Washington, D.C. to present her essay to the Board of Directors.

Kentucky. She is the daughter of Randy and Kathy Blankenship and attends Erlanger Baptist Church, which is affiliated with the Cooperative Baptist Fellowship.

ATTENTION HIGH SCHOOL JUNIORS AND SENIORS!

Details for the 2010 Religious Liberty Essay Scholarship Contest will be in the next *Report from the Capital*, but information is already available online! Visit www.BJConline.org
First prize: \$1,000 and a trip to Washington, D.C. Second prize: \$500 Third prize: \$100

was compelled to deny he was a Muslim, while another had to defend his Mormon faith. A presidential debate, of sorts, was held at Saddleback church, and some pastors at other churches flouted IRS rules by explicitly endorsing candidates from the pulpit. Both Barack Obama and John McCain were forced to defend themselves against attacks based on inflammatory statements by their pastors or spiritual advisers.¹⁴ We cannot and should not excise religion from the public square. But, likewise, we cannot and should not use the lever of government to compel belief or obedience to any particular religious code. The value of religious

liberty is not religion or even freedom from religion. The value of religious liberty is liberty.¹⁵ As one commentator has stated:

Faith and freedom are inextricably linked. It is not for priests or pastors or kings to compel belief, for to do so trespasses on each individual's God-given liberty of mind and heart. If the Lord Himself chose not to force obedience from those he created, then who are men to try?¹⁶

Endnotes

¹Meacham, Jon. *American Gospel*. 1st. New York: Random House, 2006. Page 55.

²"Constantine the Great." *The Roman Empire*. 24 Feb 2009 <<http://www.roman-empire.net/decline/constantine-index.html>>

³Acts Chapter 7. Holy Bible. 1st. Syndics of the Cambridge University Press.

⁴Acts 8:1

⁵Acts 8:2

⁶Acts 8:4

⁷Acts 9

⁸II Corinthians 11:32-33

⁹Sheen, Fulton. "Paul, Saint." *World Book*. 1973. Vol. 15, p. 178.

¹⁰*World Book*, Vol. 4, p. 797.

¹¹*The Roman Empire*.

¹²Id.

¹³Meacham, p. 54.

¹⁴Walker, J. Brent. "Top 10 Religious Freedom Stories of 2008" *Report from the Capital*, Vol. 64, No. 1 (January 2009).

¹⁵Laycock, Douglas. "Be Careful of Slipping into the 'Puritan Mistake'" *Report from the Capital*, Vol. 64, No. 2 (February 2009).

¹⁶Meacham, p. 3.

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K. Hollyn Hollman
General Counsel

Supreme highs and lows

My neck is sore — nothing serious, just a case of whiplash from being BJC general counsel on the day of oral arguments for *Salazar v. Buono*, a church-state case before the U.S. Supreme Court. In one morning, I went from observing the peak of oral advocacy in the highest court in the land to the depths of being a guest on a radio talk show where distortion and ridicule masquerade as analysis.

The day began inside the historic, marble-columned, red-carpeted Court Chamber that holds about 300 court-watchers and provides an intimate setting for arguments. The press and special guests of the justices sit in the side galleries. About half the seats facing the bench are reserved for members of the Supreme Court bar, most of whom, like me, have more than a passing interest in the case being argued. Former U.S. Solicitor General Ted Olsen was in front of me, and I was seated near several of my colleagues from other religious and civil liberties groups who had also filed briefs in the case. Behind us were seats reserved for the public who wait in line from early in the morning to see this least transparent, often misunderstood, and arguably most powerful branch of our government at work. Recent changes in the Court's composition added to the drama as the Court began its new term. Chief Justice John G. Roberts, Jr., is flanked by senior Associate Justices John Paul Stevens and Antonin Scalia. The newest associate justice, Sonia Sotomayor, occupies the customary seat at the end of the row.

The case presented two questions raised by the government. First was the question of whether the plaintiff had legal "standing to sue" in order to challenge, as he had done successfully in the lower courts, the 7 foot stand-alone cross on government land. Second, whether Congress had acted properly when it designated the cross a national memorial and attempted to transfer the land on which it stands to a veterans group in exchange for land owned by a private party

who had erected the current cross.

The advocates for the parties were top-notch. U.S. Solicitor General Elena Kagan represented the Obama administration (which inherited the case from the Bush administration) by defending the congressional action. Kagan noted that the government had two choices after a court ruled the cross display unconstitutional: either take down the cross or take appropriate measures to disassociate itself from the display, such as transferring it to a private party in order to "cure" the violation. Before Kagan could finish her point, she was peppered with questions from the bench.



BJC General Counsel Holly Hollman (top left) exits the U.S. Supreme Court building with other courtroom observers after listening to the oral arguments in *Salazar v. Buono*. She walked straight out of the courtroom to her appearance on a talk radio program.

Justice Ruth Bader Ginsburg wanted to know whether there was any other national memorial consisting of a solitary cross (no) and whether the transfer of the property would require the cross to remain (no, but Kagan acknowledged that matter was disputed). Justices Scalia and Stephen Breyer questioned the procedural posture of the case, the meaning of the injunction prohibiting the display and the effect of congressional action on it. Kagan respectfully answered each question, clarifying the facts and carefully working back to her argument.

Peter Eliasberg, managing attorney for the ACLU of Southern California, likewise defended his client, Frank Buono, with remarkable ability and care. He deftly answered questions, putting to rest concerns that a ruling in his favor

would have broad and unwarranted consequences for memorials in other settings that include religious symbols. He distinguished the cross in this case from the religious symbols displayed in Arlington National Cemetery on individual grave markers or as gifts in honor of groups of veterans. In response to Justice Scalia, Eliasberg explained why a Christian symbol did not represent Jewish war veterans. Under aggressive questioning from several other justices, he described how Congress' designation of the display as a national memorial and the conditions attached to the sale of land further complicated

Blair says religion should fuel peace, not conflict

WASHINGTON — Former British prime minister Tony Blair said Oct. 7 that Muslims and Christians working to understand each other's cultural and religious beliefs could help build a global movement for peace.

"In religion, we are told to love your God, love your neighbors as yourself," Blair said at a Georgetown University panel on the future of Muslim-Christian relations, adding that too often people view their neighbors as only those with similar beliefs.

Blair said both Christians and Muslims had been outsiders at one point in their histories, and that each had wrestled with how their own beliefs defied convention at one time.

"If we can get on, the 21st century world can get on," he said. "It's true we are different, but so were our founders."

Along with former prime ministers of Norway and Malaysia, as well as religious experts, Blair participated in the opening discussion of the A Common Word conference, which aims to foster global peace and security between Muslim and Western societies.

To promote peace among religious cultures, Blair proposed a three-prong plan, urging people to first take the time to understand each other, then use words to show respect toward each other's cultures and, ultimately, to take action to foster positive relations between cultures.

Taking action was the most essential part, Blair said. "If we show by our actions we are engaged in understanding," he said, "that's what will succeed."

As an example, Blair explained how his Tony Blair Faith Foundation has established a program connecting youth in culturally diverse schools in Europe, Asia and the Middle East. Participants communicate online to discuss differences and similarities in their cultural and religious values, dispelling common stereotypes.

Former Polish Prime Minister Kjell Magne Bondevik, also on the panel, agreed with Blair's sentiments about action, saying dialogue is key to helping people of differing faiths to understand each other.

"Policy must breach conflict rather than build differences. It requires criticism and self-criticism of all parties involved. Dialogue is the language of pluralism," Bondevik said.

Blair said panels during the rest of the two-day conference would be a positive step toward improving tolerance, but that the conversation had to go beyond the ivory tower.

"We've got to show that this isn't just a dialogue among the elites, but that we are building bridges between all people," he said.

— Michelle Minkoff, *Religion News Service*

the dispute instead of curing the violation.

I left the Court with the same concerns about the case that I had when I entered, worrying that the Court would undermine the ability of plaintiffs to bring cases to challenge violations of the Establishment Clause or further water down standards that maintain government neutrality toward religion, protecting religious liberty for all.

I hurried out of the courtroom with 15 minutes to get back to my office to join a radio talk show by phone. My role was to report on the proceedings and provide a counter-perspective to that of the host and the program's other guest, an attorney connected to an organization that said the plaintiff should not be able to sue and this case threatens veterans memorials. While I had little hope of changing the minds of those listeners who only want to reinforce their beliefs and count on the host for leading the way, I was glad to present a different way of thinking about the religious and constitutional basis for limiting government promotion of religion.

Because the host has a law degree and once clerked at the Supreme Court, I thought she would at least want to educate her listeners about the case itself, in addition to examining the interests represented by each side. Instead, she began by erroneously introducing the other guest as having just argued the case (did she really get him confused with the Solicitor General?) and me as the general counsel for "some group" ostensibly "offended" by the cross.

I explained the basis of the legal objections to the display and the BJC's religious objections to government sponsorship of religion, defended the plaintiff against some unfair attacks, and poked holes in false analogies that unsuccessfully differentiated between free exercise rights and Establishment Clause cases. I fought back throughout the program while the host mocked, insulted, and threatened to cut me off. She also made sure to let me know that she was hearing from Baptists who disagreed with me.

I was no Supreme Court master advocate, but I stood my ground, eventually earning a "most annoying guest" label from the host. A few Baptists who don't know their history heard something new, and I got to respond to my counterpart's assertion that these cases threaten religion. I refrained from ridiculing the way he referred to the solitary cross on a hill as a "cross-shaped memorial," a classic example of the damage folks are willing to do to religion while purporting to protect it. It was a tough gig, but I did my best to represent the historic Baptist perspective that has long served religious freedom well, and to do it without violating the lessons about how to treat others that I learned from my "Bible-shaped book."

Ban on religious signs at high school football games roils Georgia community

FORT OGLETHORPE, Ga. — A north Georgia community is embroiled in a controversy over Bible verses on banners that are carried onto the field during high school football games, creating new discussions about the appropriate role of religion at such events.

Cheerleaders at Lakeview-Fort Oglethorpe High School have used inspirational Bible verses like Philippians 4:13 — “I can do all things through Christ who strengthens me” — on paper banners that players burst through as they rush onto the field for years. The school is located in a bedroom community near Chattanooga, Tenn., just across the state line.

The practice ended after a resident of nearby Ringgold, Ga., called the school system about the signs. She told a local radio station that she wanted “to ensure that a federal law was not being broken by our school system who works very hard at what they do.”

After consulting their attorney, Catoosa County Public School officials determined the religious signs violated the First Amendment’s prohibition on government establishment of religion.

Superintendent Denia Reese said she personally appreciated the signs and reads the Bible daily, but she had the responsibility of protecting the school district from lawsuits. She said federal courts have ruled that religious activities at high school football games create the “inescapable conclusion” that the school unconstitutionally endorses the religion.

Supporters of the cheerleaders contend the banners are legal because they are initiated by students and not paid for with public funds. Cheerleaders prepare the signs in advance over the summer, when school is not in session.

“The cheerleaders are not trying to push a religious cause, to shove religion down someone’s throat,” Brad Scott, director of student ministries at Fairview Baptist Church, said, according to the *Chattanooga Times-Free Press*. “The cheerleaders are just using Scripture to show motivation and inspiration to the players and the fans.” Scott, who was president of the school’s graduating class in 2004, told the newspaper there was a complaint about the signs when he was a student, but the cheerleaders were allowed to keep them because they were students and, in his view, not agents of the state.

The district superintendent said the problem is not the signs but their placement. She said the cheerleaders could continue to use the banners prior to games in a designated area outside of the football stadium.

Cheerleader coach Susan Bradley told the *Chattanooga Times-Free Press* the girls would obey the superintendent and make new signs with acceptable slogans to use on the field.

But that doesn’t mean they agree. Two cheerleaders appeared in uniform on Fox News to voice their disapproval. “The majority is Christians, and it’s just not fair that we can’t spread God’s Word,” said cheerleader Courtney Born. “It’s just our football team running through motivational Bible verses. I mean it doesn’t hurt anything.”

Legally, experts say it boils down to a question of whether cheerleaders in uniform on the field at a football game speak only for themselves or if they are representing the school.

“Religious freedom is a fundamental right, and public-school students have many opportunities to express their religious views,” said Brent Walker, executive director of the Baptist Joint Committee for Religious Liberty. “Public schools, however, must refrain from sponsoring religious exercises or otherwise promoting religion.”

“School-sponsored events should not send a religious message,” Walker said. He said the Georgia school system “gets it right in saying parents should be able to trust that the public education their children are receiving does not purposely advance religious views.”

Charles Haynes, senior scholar at the Freedom Forum’s First Amendment Center, said there is no “bright legal line” between what courts see as voluntary prayer by students and a public school endorsing a religion.

“The cheerleaders were carrying out their duties as the school’s cheerleaders by holding the banners as part of their cheerleading,” Haynes said. “So I think a court would likely rule that they are sending a message of school endorsement of a religious message by putting up signs with scriptural quotes at a school-sponsored event.”

At the Oct. 2 home varsity football game, the team took the field through a banner reading “This is Big Red Country.” Players marched across the field and dropped to one knee in a circle of prayer.

Though banned from the playing field, religious messages filled the stands. Students wrote Scripture verses on their chests with body paint, wore T-shirts printed with “Warriors for Christ” and held banners like “You took him off our sign but you can’t take him out of our hearts.”

—Associated Baptist Press and Staff Reports

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.

Nathan McCoy of Crowley, Texas, is a 2008 graduate of Baylor University where he earned a B.A. degree in Journalism-Public Relations. He is the son of Joel and Sherry McCoy.



McCoy



Walton

Eva Walton of Cornelia, Ga., is a 2009 graduate of Mercer University where she earned a degree in Southern Studies. Walton plans to pursue graduate studies in Southern and African American History. She is the daughter of Greg Walton and Terry Walton.

Florida school officials acquitted on prayer charges

A Florida judge cleared two school officials on Sept. 17 of charges they broke the terms of an order that prevented faculty-led prayer at public school events. The order came out of a settlement reached by the school and the American Civil Liberties Union following charges the school had been involved in "egregious First Amendment violations."

As mentioned in last month's *Report from the Capital* cover story, Principal Frank Lay and Athletic Director Robert Freeman were facing criminal charges that could have led to a fine or six months in jail for violating the order. Both men work in the Santa Rosa County school system in northern Florida.

Mathew Staver, a lawyer who defended the men, said the case brought by the ACLU resulted in the officials being treated like criminals for blessing a meal at a luncheon off school property.

U.S. District Judge M. Case Rodgers ruled that the prayer in question was spontaneous and did not violate the order, the *Pensacola News-Journal* reported.

A third school employee, secretary Michelle Winkler, was cleared on similar charges in August; she was accused of arranging for her husband, who is not a school employee, to read a prayer she had written for an Employee of the Year banquet.

— *Religion News Service and Staff Reports*

Congress puts "In God We Trust" engraving in Capitol Visitor Center

WASHINGTON — When the U.S. Capitol Visitor Center opened in December 2008, the national motto, "In God We Trust," was nowhere to be found. But almost a year later, after complaints from members of Congress, a new engraving of the phrase was unveiled.

In July 2008, Rep. J. Randy Forbes, R-Va., founder and

chairman of the Congressional Prayer Caucus, led more than 100 members of Congress to sign a letter to the architect of the Capitol about the lack of "historical religious content" in the new Visitor Center.

Committees in the House and Senate voted to make a number of changes to the \$621 million visitor center, including plastering over references to the national motto being "E Pluribus Unum." The Latin phrase (which translates as "out of many, one") was inscribed as the motto on the Great Seal of the United States adopted by the Continental Congress in 1782.

"In God We Trust" became the national motto of the United States when the President approved a joint resolution of Congress in 1956.

Last July, the House and Senate voted to instruct the architect of the Capitol to engrave the national motto and the Pledge of Allegiance in the visitor center.

— *Religion News Service and Staff Reports*

Supreme Court declines to hear abuse case, property fight

WASHINGTON — The U.S. Supreme Court announced Oct. 5 that it will not intervene in two prominent church-state cases, one involving a Catholic diocese in Connecticut and the other a former Episcopal parish in California.

The Diocese of Bridgeport, Conn., has fought since 2002 to block the release of more than 12,000 pages of depositions and court records related to sexually abusive clergy. Four newspapers sued for access to the documents, which Connecticut courts have agreed should be open to the public.

The diocese had specifically petitioned Associate Justice Antonin Scalia, a Catholic, to keep the documents closed until the High Court had heard its appeal on the constitutionality of the release order. That appeal is still pending, but legal analysts say it now appears unlikely that the Supreme Court will take it up.

The diocese said the court order poses a risk to all churches' First Amendment rights and that "the content of the sealed documents soon to be released has already been extensively reported on."

Separately, the Supreme Court also declined to hear an appeal from St. James Anglican Church, which split from the Episcopal Church in 2004 after an openly gay man was elected bishop of New Hampshire.

The Episcopal Church argues that local churches may leave, but under denominational laws they may not take church property with them. Last January, California's Supreme Court ruled that St. James is bound by those church laws.

Representatives for St. James said they will continue their legal fight in the California courts. Similar proceedings between conservative dissidents and the Episcopal Church are ongoing in several more states.

— *Daniel Burke, Religion News Service*