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REPORT from the Capital

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♦ Capital Campaign Update ♦

New law allows tax-free gift to BJC

By Dick Ice
Chair, BJC Endowment

There is exciting news for persons older than 70 1/2 who desire to support the vital work of the Baptist Joint Committee. A recent law passed by Congress allows IRA tax-free rollovers of up to \$100,000 to public charities (one can roll over a 401(k) to accomplish this) but only in the tax years 2006 and 2007. Many persons do not need or use all of their IRA funds for current or anticipated expenses. Yet they are faced with mandatory annual distributions that add to their adjusted gross income (AGI) and taxes.



Ice

A qualified charitable rollover to the BJC could fulfill part or all of this minimum dis-

tribution in 2006 and 2007. This provision could help some who already contribute the 50 percent limit of their of AGI, or persons who do not itemize. For a few, a reduced AGI might lower the amount of Social Security dollars that are taxed.

One caution — state and local income taxes differ on the treatment of IRA distributions, so please consult your tax advisor.

In 2005, a similar law passed after Katrina that allowed me to make a substantial gift to the BJC. This gift to the endowment is now producing annual income. Without the IRA rollover, this gift would have remained a part of my will for years to come. I would rather see it work for the BJC in my lifetime. Call the BJC at 202-544-4226, and we will connect you with persons who can answer any questions you may have.

Our Challenge—Their Future

Securing religious liberty for our children and grandchildren



BJC leadership featured in Baptist publication

Executive Director J. Brent Walker and General Counsel K. Hollyn Hollman were featured in the October issue of the monthly publication, *Baptists Today*. *Baptists Today* is a partner with the BJC, along with Associated Baptist Press, in the First Freedoms Project. For more information about the First Freedoms Project, visit www.firstfreedoms.com. To subscribe to *Baptists Today*, visit www.baptiststoday.org.

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REPORT

from the Capital

BJC board hears progress on 70th Anniversary Capital Campaign

Directors of the Baptist Joint Committee focused on the future during their annual meeting Oct. 2-3, hearing updates on a major capital campaign and honoring the first winner of the organization's essay contest for high school students.

"In America today, religiously motivated legislation is becoming increasingly prevalent," said James Gorsuch, winner of the newly established annual contest. Gorsuch, who submitted the essay in his senior year of high school but is now a first-year student at North Carolina's Elon University, pointed to the heated debates over religion in public life in arguing that Baptists and other Christians in the United States have forgotten the examples set by their spiritual forebears. (See Gorsuch's essay on pages 4-5.)

Reginald McDonough, chairman of BJC's 70th Anniversary Capital Campaign, told board members that the three-year effort to raise \$5 million is headed into its middle phase.

"We do feel that very soon we will surpass the \$1 million mark in our pledges, which will be a very significant stepping stone in the campaign," said McDonough, retired executive director of the Baptist General Association of Virginia. The campaign is timed to coincide with the 70th anniversary of the group's 1936 founding.

Most of its funds will be designated to purchase, renovate and endow the maintenance on a permanent Washington home for the organization, which currently rents office space on Capitol Hill.

In other action, the group adopted a \$1.15 million budget for 2007, a slight increase over its 2006 budget of \$1.13 million. The board also welcomed four new members: Carmen Anderson of Tennessee, representing the Religious Liberty Council; Charles Beckett of Virginia, representing the BGAV; Dennis Dewey of Missouri, representing the North American Baptist Conference; and T. DeWitt Smith Jr. of Georgia, representing the Progressive National Baptist Convention.



Top photo: Tyrone Pitts makes a point at the annual BJC board meeting. Pitts is general secretary and T. DeWitt Smith Jr. (left) is president of the Progressive National Baptist Convention. *Right photo:* Cynthia Holmes leads a meeting of RLC representatives on the board.



Michelle McClendon (left), representing the Religious Liberty Council, addresses the board during a dialogue session. Pam Durso (right) represents the Cooperative Baptist Fellowship.

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Congress rescinds new chaplain guidelines

Congressional negotiators have nixed an effort to create a right for military chaplains to offer sectarian prayers in settings where soldiers of many faiths may be present.

However, the last-minute compromise Sept. 29 between House and Senate leaders on the provision, tucked into a military spending bill, also rescinds chaplain guidelines created in the past year by two branches of the armed services. Air Force and Navy officials had released the guidelines in the wake of accusations that some evangelical Protestant chaplains and officers at military institutions engaged in proselytizing and religious harassment.

The issue held up the National Defense Authorization Act for weeks, with House and Senate negotiators at an impasse over the provision.

In May, the House added language to the bill saying chaplains “shall have the prerogative to pray according to the dictates of the chaplain’s own conscience, except as must be limited by military necessity, with any such



limitation being imposed in the least restrictive manner feasible.”

There is no such provision in the version of the bill that passed the Senate.

Conservative Republicans, led by Rep. Walter Jones of North Carolina, pushed the amendment that made the House version, as did conservative evangelical groups like Focus on the Family.

However, the Pentagon and many religious groups — including the Baptist Joint Committee for Religious Liberty, the National Association of Evangelicals and the Anti-Defamation League — opposed the effort, saying it would cause unnecessary sectarian division in the military.

The measure would have explicitly overridden the new Air Force and Navy chaplain guidelines. Those rules — written in the wake of charges of religious harassment against non-evangelicals at the Air Force Academy in Colorado — instructed chaplains to offer “non-sectarian” prayers at events where those of multiple faiths would be present.

Military chaplains are allowed already to pray the way they choose in the chapel services they conduct or other settings where soldiers of different faiths are not compelled to be present. — Rob Marus, ABP

State Dept. releases annual list of ‘concerning’ nations

The U.S. State Department released its annual list of nations where religious freedom is threatened and immediately drew fire for changing its description of Saudi Arabia.

Despite being a key United States ally, Saudi Arabia has been listed as a “country of particular concern” regarding religious freedom since 2004. The Middle Eastern country, which provides the United States with about 15 percent of its crude oil imports, has objected to its inclusion in the report in past years.

This year, however, the State Department omitted the statement: “Religious freedom does not exist in Saudi Arabia,” which had been included in the previous eight years’ reports, said Dwight Bashir, a senior policy analyst for the U.S. Commission on International Religious Freedom. “It sends the message that there is some form of religious freedom,” in Saudi Arabia, he said, “but things have not really changed.”

While the Saudi government has talked about permitting broader freedom for religious minorities, such as Shiite Muslims, there has been little action to back up the rhetoric, according to Bashir.

Even the State Department’s report states that the Saudi government “enforces a strictly conservative interpretation of Sunni Islam and Muslims who do not adhere to it can face significant society discrimination and serious repercussions at the hands of the ... religious police.”

But the report also states that Saudi Arabia has taken steps, such as revising school textbooks “to weed out disparaging remarks towards religious groups” and curbing “harassment of religious practice.”

Israel, another United States ally, was chastised in the report for constructing a wall that “limited access to sacred sites and seriously impeded the work of religious organizations that provide humanitarian relief and social services to Palestinians.” Israel was not listed as a “country of particular concern.”

Those that were included:

— Burma, where an authoritarian military regime infiltrates and monitors the “activities of virtually all organizations.”

— China, where “the government’s respect for freedom of religion and freedom of conscience remained poor.”

— Iran, where “there was further deterioration of the extremely poor status of respect for religious freedom.”

— North Korea, where defectors “allege that they witnessed the arrests and execution of members of underground Christian churches.”

— Sudan, where the government places restrictions on Christians in the northern part of the country.

— Vietnam, where clergy and organized religious groups “at variance with State laws and policies” are restricted. —RNS

REFLECTIONS

Accommodations: Walking that fine line

Recently the *New York Times* published an above-the-fold, front page, four-part series on legal accommodation of religion and religious practice. You can read all four articles on the Baptist Joint Committee Web log (www.BJConline.org/blog). But before you wade in, let me provide a primer on when government may, and sometimes must, accommodate the exercise of religion by exempting it from otherwise applicable laws.

The First Amendment's two religion clauses (no establishment and free exercise) require government neutrality toward religion. That often requires government to treat religion differently from secular activities – sometimes imposing *constraints* to ensure against the establishment of religion (i.e. no state-sponsored prayers in the public schools, no financial aid for teaching religion) but sometimes involving *concessions* to lift burdens on the exercise of religion (i.e. tax exemption; exemption for Native Americans' use of *peyote*).

Religious exemptions generally fall into one of three categories: (1) mandatory, (2) permissible, and (3) impermissible exemptions.

Accommodations may be required when government has placed a substantial burden on the exercise of religion. These are usually dispensed by the courts where the burden violates the Free Exercise Clause or over-arching religious liberty statutes such as the Religious Freedom Restoration Act. Government can avoid this obligation only if it can show that it has a compelling governmental interest. Examples of these mandatory exemptions are demonstrated in Supreme Court cases involving excusal of Amish children from compulsory education laws, giving Seventh Day Adventists unemployment compensation benefits while refusing to work on the Sabbath, permitting religious organizations to make internal theological and ecclesiastical decisions without governmental second guessing ("church autonomy" doctrine) and affording the right to discriminate in the hiring and firing of clergy ("ministerial exemption"). All of this to say, where government regulation would violate one's free exercise rights, the courts – and sometimes legislatures – generally must provide an exemption to remove that burden.

Other cases involve situations where accommodation may not be required, but, for policy reasons, legislatures may decide to exempt religion anyway. These accommodations will lift some governmental impediment to religious practice, even though it may not be substantial enough to trigger constitutional rights. Examples of this kind of accommodation are seen throughout federal and state law. They include tax exemption generally and various other tax breaks such as the ministerial housing allowance, an exemption from annual reporting requirements for churches and special protection against governmental audits.

Another example involves an exemption in the Civil Rights Act of 1964 to allow religious organizations to discriminate on the basis of religion in hiring, even with respect to non-ministerial personnel. Religious organizations are often exempted from the nettlesome land-use regulations and zoning laws that impede a religious organization's ability to discharge its ministry and community service. Finally, the Supreme Court has ruled that states may provide financial aid for ministerial students in college or seminary, even though states are not constitutionally required to make such aid available.

Sometimes an accommodation is neither required nor permitted. These involve ones that actually advance religion, rather than accommodating it; promote religion, rather than protecting it; provide a palpable benefit, rather than lifting a burden. They often violate the Establishment Clause. For example, a Connecticut law that required employers to grant leave to workers upon request for religious observance went too far and violated the Establishment Clause in large measure because that law would prejudice the employer and burden the rights of other employees who were not seeking accommodation. The Court also has struck down attempts on the part of states to exempt religious periodicals from sales tax, because they were deemed an indirect subsidy and elevated religious speech to a higher level than comparable secular speech.

Accommodations – those required and permitted – are necessary to fully ensure religious liberty. They are nothing new. Exemptions for oath-taking, military conscription, and compulsory tithes existed even in Colonial times. But, as the *New York Times* series pointed out, today there are hundreds of accommodations in federal law alone. Many of these are necessary and well taken; some may go too far and will not withstand scrutiny when tested.

We should take away two lessons from this summary: first, this plethora of religious exemptions belies often heard cries of a "war on Christianity" or any wide-spread persecution of religion in this country. These charges are bogus, and our willingness to accommodate religion in our laws confirms that understanding. Second, it's important that exemptions not be pressed too far. The old expression that "pigs get fat but hogs get slaughtered" is apt here. Establishment Clause concerns and the rights of third parties must to be respected. Attempts on the part of some to over-reach may well prompt a political backlash that will create an atmosphere that even needed and reasonable accommodations may not be available.

In that event, the loser would be religious liberty.



J. Brent Walker
Executive Director

[A] "plethora of religious exemptions belies often heard cries of a 'war on Christianity,'" but "it's important that exemptions not be pressed too far."

The Wall of Separation: Its Distinguished Past and Questionable Future

By James Walker Gorsuch
Arden, N.C.

“Is it the duty of a deist to support that which he believes to be a cheat and imposition? Is it the duty of the Jew to support the religion of Jesus Christ, when he really believes that he was an imposter? Must the papist be forced to pay men for preaching down the supremacy of the Pope, whom they are sure is the head of the church?” argued John Leland, a leading crusader for religious liberty in America, in 1794. “Government has no more to do with the religious opinions of men than it has with the principles of mathematics.” Leland pledged his support to James Madison’s Constitution and helped to ensure that both Virginia and Massachusetts would ratify it only with the promise of a bill of rights. The first of these rights was one that this Baptist minister held as the most important, one that had been the basis

of America since the Pilgrims landed on Plymouth Rock, freedom of and from religion. What would America be like today if the First Amendment had not been included in the Bill of Rights? Would there be a government-sponsored church or a cabinet position for church leaders? At first glance these questions seem unnecessary in America because of the protections granted by the First Amendment as well as the examples set by our founding fathers, including Thomas Jefferson’s famous call for a “wall of separation” between reli-

gion and government. However, growing support of legislation supporting faith-based initiatives, parochial schools and religious agendas make these questions relevant in modern America.

Separating the government from any faith is crucial to religious liberty in America, as it has been throughout history. Throughout the last 2,000

years, state-sponsored religion has led to the persecution and death of people of every faith. Whether in Rome as Christians were butchered for entertainment in the Coliseum, during the Crusades, in Puritan settlements in Colonial America, or even in modern Islamic theocracies in the Middle East, government guided by one faith has invariably stolen the basic human right of the freedom to worship any god or to worship nothing at all. For this reason, 17th

century English Baptist Thomas Helwys demanded full religious liberty of England’s King James. He stated, “Men’s religion to God is betwixt God and themselves; the king shall not answer for it, neither may the king be judge between God and man. Let them be heretics, Turks, Jews or whatsoever, it appertains not to the earthly power to punish them in the least measure.” Although Helwys was thrown into jail for the remainder of his life for his sentiments, he is a key example of a dedicated Christian’s understanding of the importance of reli-



James Gorsuch presents his essay at the BJC board meeting, as the Rev. Charles G. Adams looks on. Adams represents the Progressive National Baptist Convention.

gious liberty.

America was envisioned by many of its founders as a place where the history of religious persecution would change, where every man would be free to worship in his own way. This is the reason the Pilgrims first came to the New World, and it is the reason that people of every faith have flocked to the United States for more than two centuries. Freedom of religion was included in the First Amendment because of the possibility that even a well-intentioned state religion could and almost certainly would result in the loss of religious freedom. Colonial America, however, often exhibited examples of state-sponsored religion that were later outlawed in the First Amendment. The Baptist pastor John Clarke arrived in Boston in 1637 with his wife, Elizabeth. Like many making the journey from England in that time period, they had come to the New World to find religious liberty. Instead they found taxes required to support ministers employed by the state and the threat of civil prosecution for anyone excommunicated from the church. This same John Clarke, in the following years, founded the second Baptist church in America and helped to found Rhode Island, the first of the colonies where religious liberty was granted to all.

Baptists and other devoted Christians throughout American history have recognized the necessity of guaranteed religious freedom if faith is to flourish. While writing the Constitution, James Madison was approached by such figures as John Marshall, who later served as chief justice of the United States, to designate Christianity as a national religion. Madison, however, disagreed with these men, arguing that religion would flourish more if not supported by the government, and that the government should not impose religion on its people. "In the Papal system, Government and Religion are in a manner consolidated, and that is found to be the worst of governments," he wrote in a letter to the Rev. Jasper Adams, who had asked him whether the country would not be better off if Christianity were acknowledged as the national religion.

In America today, religiously motivated legislation is becoming increasingly prevalent. Many believe that the government should outlaw such practices as abortion and homosexual marriage based solely on their religious beliefs. America has drifted far from the example of such wise Christians as John Leland, Thomas Helwys and John Clarke, men who understood that when a government endorses a faith, religious liberty is impossible. Christians are battling to have the Ten Commandments displayed prominently in court-houses and other government-owned buildings. The words "under God," added to the Pledge of

Allegiance during the Cold War to distinguish America from the Soviet Union, are now held by some as evidence of the government's preferred faith, and public schools include prayers as part of football games and graduation ceremonies. All of these actions show ignorance and contempt of the Constitution of the United States, which not only guarantees freedom of religion, but freedom from religion. The First Amendment to the United States Constitution says that "Congress shall make no law respecting an establishment of religion," a statement made by learned men and dedicated Christians because without the guarantee of the free exercise of faith, one of the basic principles of the founding of this great nation, religious liberty cannot exist.

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James Walker Gorsuch graduated in June from West Henderson High School in Hendersonville, N.C. He now attends Elon University in Elon, N.C., as the recipient of the Kenan Honors Fellow Scholarship. He is a member of First Baptist Church of Asheville and is the son of Jeff and Brenda Gorsuch.

For writing the winning essay, Gorsuch received a \$1,000 cash prize and a trip to Washington, D.C., in conjunction with the BJC board meeting.





K. Hollyn Hollman
General Counsel

An especially inopportune time for bill attacking Establishment Clause

With religious wars raging around the globe, it seems an especially inopportune time to take the religious freedom Americans enjoy for granted. Yet some members of Congress are doing just that. In the final legislative days before the recess for elections, the leadership of the House of Representatives made room on its calendar to debate and vote on a measure that it knew would not be taken up by the Senate, but that it bargained would gain them popularity with voters this fall.

The measure is an attack on the Establishment Clause—the provision in the First Amendment that keeps government from interfering with religion, guards against the government’s use of religion for political purposes, and ensures that government does not act in a way that prefers one religion over another. The specific legislation limits judicial remedies in Establishment Clause cases and prohibits courts from granting attorneys’ fees to those who bring successful constitutional challenges. Those who sue to vindicate other constitutional rights would continue to benefit from the federal attorneys fees statute, but suits to remedy Establishment Clause violations would be discouraged.

The bill carries the misleading name “Public Expression of Religion Act,” as if our religious freedom depended on governmental agencies promoting religion. Religious expression is not threatened by the enforcement of the Establishment Clause, but it is protected by it. The Establishment Clause, along with the companion Free Exercise Clause, promotes religious freedom for all by protecting against government sponsorship of and interference with religion. It leaves the promotion of religion to the voluntary efforts of individuals and faith communities.

The First Amendment’s protections, however, are not self-enforcing. Where a government official or public school advances religion, excludes particular religious expression, or take sides in religious matters, litigation may be necessary to ensure the protection our constitution provides. Often such cases are brought on behalf of those from minority faiths and at great personal expense. It is not uncommon to hear about plaintiffs in such cases being ostracized, mistreated, or even physically threatened. Yet without those who are willing to challenge unconstitutional acts by government, we all would enjoy much less freedom. It is patently unfair to single out those who protect certain constitutional rights for ill-treatment.

The big picture is lost on many of the bill’s proponents. By citing the cases they don’t like and some of interest groups that bring them, they inflame passions and threaten far greater damage to religious freedom than any particular case could do. During the debate, proponents of the bill repeatedly attacked the Americans Civil Liberties Union and provoked fear by claiming that such groups want to strip religion from American life, or in the words of Rep. Phil Gingrey, R-Ga., “stifle belief and self-determination of our great communities.”

Fortunately, a few members of Congress used the debate as an opportunity to defend the Establishment Clause and its role in protecting religious freedom. Rep. Chet Edwards, D-Texas, described the bill as one that would “protect the power of government to step on the individual rights of every American citizen when it comes to the exercise of their religious freedom, and it allows the government to inhibit the individual’s right to exercise his or her views of faith by using government power to force someone’s religion on someone else.” Edwards cited the writings and experiences of the Founders who “knew that government intrusion into religion is the greatest single threat to religious freedom.” He also cited letters from the BJC, the Interfaith Alliance and the American Jewish Committee in support of religious freedom and against the bill.

Rep. James McGovern, D-Mass., read from the BJC letter and entered into the record. It says: “The Establishment Clause exists to protect the freedom of conscience and to guard against government promotion of religion, leaving religion free to flourish on its own merits. This point was well-stated by former Supreme Court Justice Sandra Day O’Connor in her concurring opinion in *McCreary County, Kentucky v. ACLU* (2005). She noted, ‘Voluntary religious belief and expression may be threatened when government takes the mantle of religion upon itself as when government directly interferes with private religious practices.’ ”

While the bill passed the House, by a vote of 244-173, we were proud to help shape the debate in ways that are necessary, but not easy in these partisan times. No doubt this measure and ones like it that devalue important religious liberty protections will return. You can count on us to fight them.

Governmental officials should be encouraged to uphold constitutional values, not invited to ignore them. Yet this legislation, like the recent floor debate, would encourage government officials to put politics above principle whenever they find it politically advantageous to do so.

“It is patently unfair to single out those who protect certain constitutional rights for ill-treatment.”

If the Christian movement — splintered and acrimonious as it is — wants to make a useful contribution to the nation, it will address ideas and ideals in upcoming elections, not tactics for gaining power.

Partisan politics, as we know, is about power and doing whatever it takes to attain power. If fear wins votes, spread fear. If greed and/or economic insecurity seem rife, talk pocketbook issues. If patriotism has cachet, wave the flag. If there's a button to be pushed — race, gender, class, sexuality — partisan politicians will push them.

Religion can play that game, too. Over the past two decades, conservative Christian groups have pushed morality buttons on a narrow agenda and gained political heft with aggressive tactics. They have made parish rosters available to politicians, threatened reprisals and encouraged politicians to see themselves as true believers on a holy mission. Most recently, as the *New York Times* reported, some have even encouraged deceptive practices such as having parishioners pretend to be pollsters to gauge support within their church for a particular candidate.

We, as a country, are facing an unpopular war overseas, an escalating collision with radical Islam, a global economy demanding more nimbleness than we can muster and weak schools getting weaker. At this fragile moment in our history, we need to discuss ideas and ideals; more of the same isn't what our nation needs from us.

What kind of nation do we want to be? How do we, as faithful people, address torture, immigration, domestic spying, and basic freedoms? Can American values coexist with cultures that have markedly different values? How do we address vexing moral issues (the full range of them, not just sex)? Can we find enough common ground to continue as a civilized, democratic nation grounded in a Bill of Rights?

Politicians have no clue how to enable such a discussion. It isn't their world. Ideas, to them, are just mortars for trench warfare. Ideals are flags of convenience. They want votes, not an informed and discerning electorate discussing ideas and ideals.

It is time for religion to put aside voter-manipulation

strategies and to give up the delusion that we can further a "Christian agenda" by sleeping with Republicans or Democrats.

We need to treat citizens as intelligent enough to grapple with ideas.

We need to see our neighbors as decent and beloved, not as enemies or allies to be harvested for votes. We need to address the full range of cultural, social and religious values, not just the few that stir easy passions.

After 400 years of snarling at each other across religious lines, I doubt that we are suddenly going to hear Jesus' call to oneness. But, if nothing else, we need to accept the basic theological point that none of us can work out our salvation by voting a certain way in November.

In time of trouble, our help is in God, not in a political party or its agenda. Nothing is served when some of us, claiming to speak for all of us, baptize a partisan platform and call it "holy." God can't be purchased that cheaply. The nation is ill-served when we allow politicians to wrap themselves in a gospel that they, without hesitation, will sacrifice to their aspirations.

Our province is to grapple with ideas and ideals and to change the public dialogue to something more life-giving than red-state

vs. blue-state.

Democracy still comes down to voting, and in that we will disagree. But at least we will have talked about things that matter to God.

Tom Ehrich is a writer, consultant and leader of workshops. His book, "Just Wondering, Jesus: 100 Questions People Want to Ask," was published by Morehouse Publishing. An Episcopal priest, he lives in Durham, N.C. His Web site is www.onajourney.org.



The Debate We Should Be Having but Aren't

By TOM EHRICH