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REPORT from the Capital

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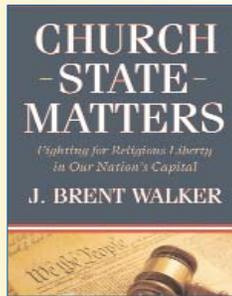


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Church-State Matters: Fighting for Religious Liberty in Our Nation's Capital



For nearly two decades, J. Brent Walker has fought to defend and extend religious liberty for all and uphold the wall of separation between church and state in our nation's capital.

In his new book, he articulates a cogent Baptist understanding of the importance of the First Amendment's religion clauses in protecting our God-given religious liberty. This collection of essays, speeches, sermons and congressional testimony provides a living history of the modern era the life of the Baptist Joint Committee, now in its eighth decade.

The book is available through Mercer University Press at www.MUPress.org, Amazon.com and most other online retailers.

What others are saying...

"No topic is as old for Baptists as religious liberty. No topic is as new for Baptists as religious liberty. It was relevant at the beginning and every step along the way. Brent Walker has done Baptists yet another service by compiling many of his articles, speeches and testimonies between covers in Church-State Matters. The collection is valuable for the general reader as well as for ministers and teachers who need illustrations on the subject. It should be on every Baptist's bookshelf."

—Fred Anderson, executive director of The Center for Baptist Heritage & Studies

"At a time when strident voices seek to monopolize public debate and hold themselves out as the only truly authentic 'Christian' voice, I can only say amen to Brent Walker. Brent reminds us that when religious groups speak to power, they should insist that government uphold the constitutional guarantees for all Americans. Church-State Matters is a powerful credo that will speak to many Americans."

—Rev. Barry Lynn, executive director of Americans United for Separation of Church and State

"This book is a superb compilation of great stuff. Interesting facts, illuminating history, and insightful analysis (with which I happen to agree) all rolled into one. This is a great contribution to the country's constitutional and religious trove."

— Oliver "Buzz" Thomas, executive director of the Niswonger Foundation and former Baptist Joint Committee General Counsel

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REPORT

from the Capital

Florida Supreme Court rejects challenge to religious funding ban

The Florida Supreme Court ruled Sept. 3 that a state commission acted improperly in placing two constitutional amendments harmful to religious liberty on the November ballot. A lower court had upheld the initiatives in an Aug. 4 decision.

Taken together, these constitutional amendments (Nos. 7 and 9) would have deleted Florida's "No-Aid" provision from its constitution and added language that would severely weaken the strong religious liberty protection that Floridians enjoy. In essence, the proposals would allow public funding of private schools, including religious schools. These proposed amendments were to appear on the general election ballot this November by order of the Florida Taxation and Budget Reform Commission, a 25-member body appointed by the governor, the speaker of the Florida House of Representatives, and the Florida Senate President.

The role of the Commission, which meets once every 20 years, is "to recommend statutory and constitutional changes dealing with taxation and the state budgetary process," and it typically confines itself to such budget and taxation matters that are legitimately within its jurisdiction.

By directing that Amendments 7 and 9 appear on the ballot, the Commission exceeded its authority because these two amendments had, at best, only a tangential connection to "taxation and the state budgetary process," and in reality were a Trojan horse vehicle for radically weakening the separation of church and state in Florida. Several Florida citizens filed a lawsuit making this argument in June, and on Sept. 3 the Florida Supreme Court ruled in their favor.

K. Hollyn Hollman, general counsel for the Baptist Joint Committee, said the Court's decision keeps in place safeguards that pro-

tect the vitality and independence of religious entities.

"The religious freedom we enjoy depends on strong legal protections for the institutional separation of religion and government," Hollman said. "With this ruling, the Court has rejected an attempt to blur the line between church and state and has protected the religious liberty of all Floridians."

Not everyone hailed the Court's decision. Supporters of the initiatives assert that the constitutional restrictions were fueled by the anti-Catholic sentiment prevalent in the late 19th century. The Florida Catholic Conference and Catholic Charities of the Archdiocese of Miami were among the religious organizations that intervened in the suit.

In an interview with the Religion News Service, Gary McCaleb, senior counsel for the Alliance Defense Fund, which provided financial assistance for the case, called the state's current policy "obnoxious."

"Floridians should have had the right to vote on the matter, and obviously it's very sad when advocacy groups step in and silence citizens from voting," McCaleb said.

Many states have strong religious liberty provisions (protecting both free exercise and no establishment principles) that provide more explicit protections than in the First Amendment to the U.S. Constitution. For example, numerous state constitutions, including Florida's, have "No-Aid" provisions that prohibit the expenditure of public funds in aid of or to support religious institutions, including parochial schools. These "No-Aid" provisions, and other state constitutional provisions that bar funding of religious institutions, are part of the broad, multi-faceted legal tradition in this country that protects religious freedom.



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Is voting a Christian rite or right?

Jason Ford, 29, of Murfreesboro, Tenn., will be spending Election Day at home this year.

A self-identified evangelical Christian, Ford cast his vote for President Bush in 2004, but says he and his wife plan to stay away from the polls Nov. 4, rather than vote for Sen. John McCain.

"I'm not going to be able to vote for anyone who doesn't take a 100-percent stand against abortion," said Ford, "so right now I'm in a dilemma."

Ford is concerned by McCain's support for embryonic stem cell research, as well as by reports that the Arizona senator may choose a running mate who supports abortion rights, such as Sen. Joe Lieberman of Connecticut. [Note: McCain has since selected Gov. Sarah Palin of Alaska as his running mate.]

"If he's OK with that, then I'm not," Ford said.

Ford is not alone. Lou Engle, founder of the evangelical youth movement, TheCall, says he may sit out the election if McCain selects a pro-choice running mate. Meanwhile, Focus on the Family founder James Dobson, a leading conservative Christian voice, publicly vowed never to support McCain in February. He softened his stance recently.

But while some remain less than enthusiastic about their options this fall, conscientious abstention raises another ethical question: Do Christians have an obligation to vote?

Of the multitude of Christian denominations in the United States, few have a history of deliberate non-voting. Jehovah's Witnesses, who demand full separation of church and state, may be the largest and most prominent example, along with some Anabaptist sects, such as the Hutterite Brethren.

Even in Anabaptist circles, however, the record is mixed. The Amish, uniquely situated in the ultra-competitive battleground states of Ohio and Pennsylvania, were targeted by President Bush's re-election campaign in 2004. In Lancaster County, Pa., where Bush paid a visit, a record 13 percent of them voted that year.

Among evangelicals, Catholics and mainline Protestants, where civil participation is encouraged, debate centers around voting itself, a hard-won freedom that some say makes it a rite as well as a right.

According to Martin Marty, a professor emeritus at the University of Chicago Divinity School, the obligation to vote can be traced back to biblical times.

"I think most churches would say there's a great moral suasion behind it," Marty said. "In Christianity, for example, as nervous as they might be about any particular civil order, the New Testament does say government was created by God. Most churches would say: Yes, get out Tuesday; get out and vote."

Brian McLaren, a progressive evangelical leader, echoes

Marty's assertion, arguing that politics — and life — is a compromise between the lesser of two evils, or as he puts it, "the better of two less-than-perfects."

Asked about the ethics of voting, former Arkansas governor and Republican presidential candidate Mike Huckabee quoted the Gospel of Matthew: "Render unto God the things that are God's, and render unto Caesar the things that are Caesar's."

"Part of being a citizen in a society like ours, where we have the privilege of voting, is the responsibility to exercise that privilege," Huckabee said. "To not do so is to sort of forgo that part of what it means to be in a free society, and I think it would be unfortunate."

Still, dissenters say there are reasons for staying home.

Todd Whitmore, a professor of theology at the University of Notre Dame and a contributor to the new book, *Electing Not To Vote*, argues that while Christians are obligated to participate in civil society, the electoral system has been reconfigured to the point where voting is not always an appropriate or efficient means of participation.

"If you don't allow for situations like (abstaining), then you basically make the earthly political order into a kind of God. The earthly political order is a good," Whitmore said, "but it's not the ultimate good."

The motive behind not voting can be as significant as the act itself. A supporter of Sen. Hillary Clinton would not be justified in staying home rather than supporting Obama, according to Whitmore, because that would be "a kind of political blackmail" rather than a moral stand.

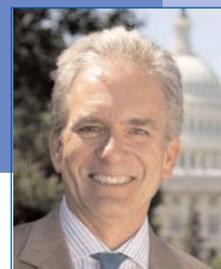
Shane Claiborne, a young evangelical leader of the "emergent church" movement, offers a counter-culture antidote to the get-out-the-vote drives that fuel America's civil religion. Claiborne, along with his friend Chris Haw, embarked on a nationwide "Jesus for President" tour this summer, reminding Christians that their primary allegiance is not to a partisan agenda but to Jesus and his teachings.

Regardless of the merits of voting or not voting, however, conscientious abstainers make up just a small fraction of the electorate. According to John C. Green, a senior fellow at the Pew Forum on Religion & Public Life, there is no historical precedent for large groups of religious voters deliberately staying home and little evidence to suggest that will change in the fall.

"I think the bigger problem is not so much that folks abstain out of principle or to punish their party, but they just don't have the same level of enthusiasm," Green said. "Lots of people, whether they're religious or not, need a lot of stimulus to get out and vote."

— Tim Murphy, RNS





J. Brent Walker
Executive Director

Saddleback Forum: civil but not without concern

Last month, in this column, I looked ahead to the presidential candidates' civil forum sponsored by Saddleback Church and hosted by the Rev. Rick Warren. I hoped that the forum would be a civil conversation about how Sens. McCain and Obama's faith influences their position on a variety of issues.

My hopes for the event were only partially realized. It was certainly a civil discussion on the part of both candidates. Many issues were discussed: from the Supreme Court, to education, to foreign policy, to the faith-based initiative — in addition to abortion, gay rights and stem cell research. I was delighted to hear a prominent, evangelical leader embrace the separation principle and say, as the BJC has over the years, that the separation of church and state does not separate faith and politics.

But there were disappointments. I thought the question about the candidates' faith in Jesus Christ and what it means for them to trust Jesus went too far. It was a purely theological question that was insufficiently connected to how that faith affirmation would influence the candidates' ability to lead or their position on issues. This kind of invasive question violates the spirit of the no religion test clause in Article VI of the Constitution and does not promote the common good.

I was less troubled by Warren's question about whether evil exists and what we should do about it. Yes, "evil" is a term pregnant with theological significance. But, unlike the "testimony" question, this one was directly tied to how the candidates would deal with evil acts and actors as president.

Moreover, it is unfortunate that, despite Warren's support for the separation of church and state, the one question directly related to the topic was framed in a leading and biased manner that brushed aside serious religious liberty concerns. Warren asked: "The Civil Rights Act of 1964 says that faith-based organizations have a right to hire people who believe like they do. Would you insist that faith-based organizations forfeit that right to access federal funds?"

Federal law does permit faith-based organizations, when using their own funds, to engage in preferential hiring practices for fellow adherents of their faith. But historically we have not permitted faith-based organizations to do so in programs subsidized with federal money. Until recently, this was not a controversial principle: receipt of federal tax dollars obligates the recipient to administer a

nondiscriminatory hiring process in the projects so funded. If a church wants to promote religion in its social service programs, it should use its own money. If it does not want to (and, therefore, qualify for federal funding), why does it need to impose a religious test in hiring? Simply stated, tax dollars should not be used to subsidize religious discrimination. Real proponents of church-state separation walk the walk, not just talk the talk.

On balance, I thought the event well served our democracy. It certainly avoided the worst excesses of last spring's CNN Compassion Forum, during which questions concentrated too much on purely theological issues without the all-important "so what?" follow up question.

Now, the candidates should focus on the great issues of the day: war, the economy, health care, civil liberties and poverty. And, yes, difficult cultural issues as well. To be sure, to the degree religious convictions naturally inform or bear upon how the candidates address these issues, religion can and ought to be a part of the debate. But they should avoid resorting to divisive religious language suggesting that God blesses their own position or that the other candidate's view is ungodly.

We all, in the Apostle Paul's words, see through a glass darkly. The candidates should express their religious views with humility, respect and restraint without presuming to know the mind of God or claiming divine endorsement.

This goes for their supporters and surrogates, too, all the more.

"If a church wants to promote religion in its social service programs, it should use its own money. If it does not want to (and, therefore, qualify for federal funding), why does it need to impose a religious test in hiring?"

Get Connected!

The Baptist Joint Committee wants you to learn about church-state developments as they happen. The best way to do this is to sign up for the BJC's e-mail updates.

E-mail bjc@BJCOnline.org to do so or to update your contact information. We want to hear from you. Also, send us an e-mail about any new church-state developments in your hometown or state and feel free to suggest ways we may assist you.

Poll: Most Americans think churches should avoid politics

A slim majority of Americans, including rising numbers of conservatives, say churches should stay out of politics, according to a survey released Aug. 21 by the Pew Research Center for the People & the Press.

Fifty-two percent of Americans say they think houses of worship should not express their opinions about political and social matters, while 45 percent say they approve of such expression.

The center said this marks the first time since it started asking the question in 1996 that respondents who want churches to stay out of politics outnumber those with the opposite view.

Conservatives, especially, have reconsidered the issue, with 50 percent saying congregations should stay out of politics. Only 30 voiced that opinion in 2004.

The survey also showed a slight increase in the percentage of Americans who say they are bothered by politicians'

discussing their religion. Forty-six percent now say they are uncomfortable with that kind of religious talk, compared to 40 percent in 2004.

Researchers found a sharper increase in the number of respondents who view the Democratic Party as friendly toward religion, from 26 percent in 2006 to 38 percent two years later. More than half — 52 percent — view the Republican Party as religion friendly, compared to 47 percent in 2006.

The study, conducted by the Pew Research Center and the Pew Forum on Religion & Public Life, was based on telephone interviews from July 31-Aug. 10 with a national sample of 2,905

adults. The margin of error for the total sample is plus or minus 2 percentage points.

— RNS



Sens. John McCain and Barack Obama appeared with the Rev. Rick Warren (c) at his Saddleback Forum on Aug. 18 to explain how faith informs their politics.

—RNS photo

'Ugly' and 'bunker-like' D.C. church files lawsuit

WASHINGTON — A Christian Science church that some have called the city's ugliest church has filed a federal lawsuit challenging the historic landmark designation on the windowless 37-year-old building.

Leaders of the Third Church of Christ, Scientist on Aug. 7 called the current structure "bunker-like" and "unwelcoming," and reiterated their desire to replace the stark concrete building with a new church on the same location.

"Little is more representative of a church's religious exercise than its architecture, and we do not feel this architecture properly represents us to our community," said Darrow Kirkpatrick, a former lay leader at the church.

The city's Historic Preservation Review Board contends that the building, located three blocks from the White House, offers a unique example of modernist architectural style known as "Brutalism."

"Third Church is a rare Modernist church in the city and the complex possesses amazingly high integrity ... down to the original carpeting and seat upholstery in the church auditorium," said David Maloney, the state historic preservation officer for the District of Columbia, in a statement.

The lawsuit alleges that the designation ignores two federal statutes that protect religious groups' freedom of exercise.

Anita Hairston, chief of staff for the city's office of planning, said the department does not comment on litigation that is pending or under way.

Araldo Cossutta, an associate of the famed architect I.M. Pei, designed the building, which was completed in 1971. Shortly thereafter, Kirkpatrick said, church members began to complain about their new house of worship.

Kirkpatrick said the building's interior design forces the church to spend as much as \$8,000 per year on scaffolding to replace light bulbs, and drives up heating and air conditioning expenses.

The board granted the building landmark status last December over the protests of church members; on July 24, a church application to demolish the building was denied. Under city law, members now have a right to a hearing with a third party from the mayor's office. Kirkpatrick said a positive ruling from the mayor's agent could cause him to reconsider the lawsuit.

— RNS

Religious Liberty: A freedom that belongs to all Americans

I hang onto the hope that we are making progress in our thinking as Baptists and yes, as Americans, but reality sometimes bursts my bubble.

This week, the *San Angelo Standard Times*, my local paper, published a letter to the editor that sent shivers up my spine.

It told of the “horror” experienced by the writer upon hearing a political candidate state, “We are no longer a Christian nation” and acknowledge the diversity of faiths held by Americans today.

The writer went on to encourage everyone to show their support for “America as a Christian Nation” by contacting various TV network news organizations. Then she ended her letter by appealing to the readers to use their votes to demonstrate “that we are, indeed, still a Christian nation.”

No, the “shivers up my spine” weren’t the same as the writer’s “horror.” What gave me shivers was that her “horror” was based on a total misunderstanding of the founding and history of America.

America is not now and never has been a Christian nation, and all of us should get down on our knees every night to thank God that it isn’t. America was founded as a totally secular nation to protect the religious freedom of all of its citizens. Remember — we Baptists were oppressed in other countries when our numbers were small. So is it right for us, now that we are in a country that has large numbers of Christians, to oppress others? What happened to the Golden Rule?

Regardless of what you hear, most wars are not about oil — they are mostly about religion. In most cases, one religious group tries to use political and military power to impose its religion on another country or group of people. Thanks to the First Amendment, America has never fought a war over religion. In America, all religions and beliefs enjoy total and complete religious liberty. Thank God.

How did religious liberty in America come about? Well, before the First Amendment was adopted, several colonies made a habit of putting our Baptist forefathers in jail — just for preaching the Gospel or, in some cases, specifically for preaching believer’s baptism. Baptist leaders — for a start, go look up the name of John Leland — persuaded James Madison to insist on a constitutional provision securing religious liberty. So the First Amendment was born, containing 16 precious words: “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”

The founders of this nation understood that religious persecution ALWAYS resulted from the joining of government and religion. Let me illustrate with a few quotes

By David R. Currie

from Thomas Jefferson:

“History, I believe, furnishes no example of a priest-ridden people maintaining a free civil government. This marks the lowest grade of ignorance of which their civil as well as religious leaders will always avail themselves for their own purposes.” —

Thomas Jefferson to Alexander von Humboldt, 1813

“In every country and in every age, the priest has been hostile to liberty. He is always in alliance with the despot, abetting his abuses in return for protection to his own.” — *Thomas Jefferson to Horatio G. Spafford, 1814*

“Our civil rights have no dependence upon our religious opinions more than our opinions in physics or geometry.” — *Thomas Jefferson: Statute for Religious Freedom, 1779*

I have said this over and over through the years but feel compelled to say it again. America is a nation that has many Christians precisely because America has NOT made Christianity an official government-sponsored and government-sanctioned religion. We are a free nation that has many Christians, but we are not now and have never been a “Christian nation.”

I thank God for this freedom — we are free to worship a God who desires our devotion given freely, not coerced by the state. On the other hand, those who do not wish to worship God as we do are free to follow their beliefs as well. This freedom is given by God — thank God that we live in a country that acknowledges that God-given freedom. I wish every single nation in the world had this religious freedom. If they did, then our missionaries could freely share Jesus without fear of punishment by any government.

So I encourage you to thank God every day for this freedom — for you and for your neighbors. Then go out and exercise it by worshipping and praising Him — and sharing Jesus as you go.



David R. Currie, a BJC board member, is executive director of Texas Baptists Committed. This article originally appeared in his column “A Rancher’s Rumblings.”



K. Hollyn Hollman
General Counsel

Controversies continue over legislative prayers

Whenever I explain First Amendment principles about the relationship between religion and government, inevitably someone asks what rule governs legislative chaplains and legislative prayer. It is not too difficult to understand government-sponsored chaplaincies in the military and prisons — in those contexts religious freedom is otherwise restricted—but what justifies official prayers in legislative sessions?

The answer is not particularly satisfying given the constitutional ban on laws respecting an establishment of religion, but it is well-established. More than two decades ago, the Supreme Court upheld the Nebraska legislature's practice of opening with a

prayer offered by a state-employed chaplain. Rejecting an Establishment Clause challenge, the Court based its decision on the historical record of prayer in public legislatures that showed such prayer was "deeply embedded in the history and tradition of this country." *Marsh v. Chambers* (1983).

Devoid of analysis under the applicable legal standard at the time (*Lemon*), the majority's decision has always seemed tenuous. The practice escaped a finding of "establishment" because it was a longstanding tradition at the time of the First Amendment's passage, the prayers were "nonsectarian," and the context was less threatening than

government prayers in a public school classroom. In the words of *Marsh*, such prayers are "simply a tolerable acknowledgement of beliefs widely held among the people of this country."

For many religious liberty advocates, however, the practice of official prayers at governmental meetings remains awkward at best, illustrating the point that just because something is constitutional does not make it right. It is no wonder that some legislative bodies eschew the practice entirely or opt for a moment of silence. Others enact and follow guidelines to stay squarely within *Marsh*. Some employ a system of speaker rotation among the elected officials or from local clergy to avoid the appearance of a denominational preference.

Still, legislative prayers continue to pose difficulties. For those who are most watchful about separating the responsibilities of the government from the religious practices of the citizens it serves, the practice is something to be avoided or strictly constrained. For those who bristle at constraints on prayer, it is an offensive interference. These difficulties are evident in recent cases working their way through the federal

courts that may eventually lead to a reconsideration of the constitutional status quo.

In a case before the 11th U.S. Circuit Court of Appeals, the ACLU represents citizens who challenged legislative prayers in Cobb County, Georgia. The prayers were given by invited guests, a strong majority of whom made specific references to Jesus, pushing beyond the facts and rule in *Marsh*. Though the governmental defendant admitted the prayers could not be used to disparage or proselytize, they maintained that it would be wrong to place any restrictions on specific language to ensure prayers were more inclusive. Reports from the recent oral arguments in the case cited some judges aggressively questioning whether they could determine when a prayer crossed the constitutional line set in *Marsh*.

Meanwhile, the 4th U.S. Circuit Court of Appeals rejected a recent challenge by a councilman for Fredericksburg, Va., who claimed that the constitution affirmatively protected his right to pray in the name of Jesus Christ at the beginning of legislative meetings. The Fredericksburg City Council begins its meetings with a prayer by one of its members, followed by the Pledge of Allegiance. According to its policies, the offered prayers must be nondenominational. The councilman sued when the mayor refused to call on him because of his noncompliance with the policy.

Analysis of these cases begins with a determination of whether the speech at issue is attributable to the government. After all, if the councilman at issue was praying in his church (he is also a Baptist pastor) or in a host of other venues, there would be no question that he could pray precisely as he chose. The government has no business in prayers outside official business meetings. Next, courts analyze whether the prayer is akin to the inclusive practice approved in *Marsh* and its progeny.

The first question is the key. Legislative prayers, by elected officials or invited guests, inevitably are found to be government speech — part of an agenda called by officials, typically focusing on the work of the legislative body, and given according to its policy. The government is constitutionally restricted in matters of religion. While it is true that the Supreme Court has warned against government parsing prayers, the warning underscores the problem; it does not suggest the solution.

Our lawmakers no doubt need our prayers. The government, however, will always provide a limited opportunity for pursuing them.

"While it is true that the Supreme Court has warned against government parsing prayers, the warning underscores the problem; it does not suggest the solution."

**Former
Intern
Spotlight**

Summer 2003 intern is church-state scholar

Meredith Holladay was an intern at the Baptist Joint Committee during the summer of 2003. Following her internship, Holladay attended Princeton Theological Seminary.



Holladay

In 2006, upon earning her Master of Divinity from Princeton, she followed her passion for church-state issues to Baylor University's Dawson Institute for Church-State studies, where she is a third-year doctoral student in Religion, Politics, and Society program. Holladay is book reviews coordinator for the Institute's *Journal of Church and State*. She served as a co-editor for the Spring 2008 issue on church and state in the 2008 presidential election.

Court tosses challenge to Veteran Affairs 'spiritual assessments'

A federal appeals court in Chicago has ruled that an atheist organization lacks standing to challenge a Department of Veterans Affairs policy that incorporates "spiritual assessments" into its treatment programs.

The Wisconsin-based Freedom from Religion Foundation argued that the program violates the First Amendment of the Constitution by asking patients to answer questions about their faith.

The Aug. 5 ruling from the 7th U.S. Circuit Court of Appeals nullified a lower court ruling, which had upheld the VA policy, by saying the atheist group does not have legal standing to challenge the policy.

The ruling was the latest in a series of defeats for critics of taxpayer-financed federal programs. Judge Kenneth F. Ripple cited "*Hein vs. Freedom from Religion Foundation*," a 2007 Supreme Court decision that insulated President Bush's faith-based initiative from taxpayer legal challenges.

"Allowing taxpayer standing under these circumstances would subvert the delicate equilibrium and separation of powers that the Founders envisioned and that the Supreme Court has found to inform the standing inquiry," Ripple wrote for the three-judge panel.

In a statement released two days later, the foundation said it intends to launch another challenge with new plaintiffs.

"The courts are rapidly moving to the position that government can fund religious activities, and endorse religion, without restraint," said Richard Bolton, an attorney for the foundation.

The group took issue with recent changes in VA policy that expanded a chaplaincy program to include outpatient veterans and administered questionnaires to determine patients' spiritual health. Patients were asked questions such as "How often do you attend religious services during the year?" and "How often do you read the Bible or other religious literature?"

Last year, a federal judge in Madison, Wis., ruled in favor of the voluntary VA program, concluding that it does not have "the principal or primary effect of advancing religion."

— RNS

Court: University of California can reject Christian school classes

A California federal judge has ruled that the University of California had a "rational basis" for rejecting science and history courses taught at Christian high schools.

Calvary Chapel Christian School in Murrieta, Calif., and the Association of Christian Schools International had charged that the university had an unconstitutional admissions process because it refused to certify courses that taught creationism and other beliefs.

Private school students are required to meet certain high-school requirements before they can be eligible to apply to one of the undergraduate campuses of the University of California.

U.S. District Court Judge S. James Otero ruled Aug. 8 that concerns about a course whose primary text was called "Biology: God's Living Creation" was deemed by UC experts to have failed at teaching critical thinking or the theory of evolution in an adequate manner.

The judge also said UC reviewers found that a text published by Bob Jones University titled "United States History for Christian Schools" taught that "the Bible is the unerring source for analysis of historical events" and did not include modern methods for historical analysis.

In these cases, and in reviews of English and government texts, Otero said the Christian school defendants did not adequately refute the findings of UC's reviewers. The judge also found that the university system did not reject the courses out of animosity.

— RNS

Church-state group, Hindus and Jews protest highway crosses

A church-state watchdog group has joined Hindu and Jewish organizations in arguing that a Utah court erred in ruling that a highway cross memorializing a fallen state trooper is a "secular symbol of death."

A friend-of-the-court brief was filed Aug. 6 in the 10th U.S. Circuit Court of Appeals in Denver by Americans United for Separation of Church and State and several other groups, including the Anti-Defamation League, the Union for Reform Judaism and the Hindu American Foundation.

"When used as a burial marker, the cross does not signify death in the abstract," they argued. "Instead it connotes the deceased's Christian faith."

Last November ruling, U.S. District Judge David Sam ruled that the Utah Highway Patrol Association could continue to erect 12-foot crosses, as it has for 14 troopers.

"The cross is the pre-eminent symbol of Christianity," said the Rev. Barry W. Lynn, executive director of the Washington-based Americans United. "For the government to claim that the cross is a secular symbol is deeply offensive and betrays a poor understanding of religion and our Constitution."

The groups that filed the brief said they understood the "noble" impulse to honor troopers but argued it does not "justify sacrificing the Establishment Clause and its animating principle — that the political and the religious are both better served when kept separate."

— RNS