



# REPORT FROM THE CAPITAL

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## NewsMakers

◆ U.S. District Judge Joseph Hood has barred the display of a six-foot granite monument inscribed with the Ten Commandments on the grounds of the Kentucky state Capitol in Frankfort. He said the monument would amount to a governmental endorsement of religion.

◆ Indiana Gov. Frank O'Bannon ordered state officials to appeal a federal court injunction halting the installation of a Ten Commandments monument on the statehouse lawn in Indianapolis. Ken Falk, legal director of the Indiana Civil Liberties Union, predicted the appeal will delay for months a ruling on the constitutionality of placing the monument on public property.

◆ Jerry Falwell told Associated Baptist Press he has high goals for his People of Faith 2000 voter registration campaign. "It is our prayer that we get a few million people to the polls Nov. 7 who were not there in '96, voting of course for George W. Bush," Falwell said during an interview on the floor of the Republican National Convention in Philadelphia.

◆ U.S. District Judge Henry Morgan Jr. of Norfolk, Va., has ordered the Internal Revenue Service to refund taxes paid by the Christian Coalition in 1990 because the IRS has conceded that the organization was tax-exempt in that year. Δ

## Congress OKs religious liberty bill; Clinton signature expected

A bill providing houses of worship with greater protection from burdensome zoning laws cleared both houses of Congress July 27 as lawmakers began a month-long recess.

The Religious Land Use and Institutionalized Persons Act (RLUIPA) also would give persons in government-run prisons, hospitals and group homes greater protection for religious exercises that sometimes conflict with broad, generally applicable rules.

The legislation was sought by a reunited coalition of more than 50 religious and civil liberties groups that formed to pass the 1993 Religious Freedom Restoration Act. Parts of RFRA failed a constitutional challenge in the Supreme Court in 1997. The religious land use bill is the second bill introduced to respond to the 1997 high court decision.

The measure cleared by unanimous consent in the Senate and was literally walked over to the House chamber where lawmakers unanimously approved the measure minutes before adjourning for the August recess.

The bill now heads to President Bill Clinton, who is expected to sign it into law. The administration has issued statements in support of the bill. It was introduced July 13 and had broad bipartisan backing. Its sponsors included Reps. Charles Canady, R-Fla., Jerrold Nadler, D-N.Y., and Chet Edwards, D-Texas, as well as Sens. Orrin Hatch, R-Utah, Edward Kennedy, D-Mass., and Tom Daschle, D-S.D.

Hatch said it is "one of the most important bills of this new century." The bill was more narrowly targeted than an earlier bill that split the Coalition for the Free Exercise of Religion. Some coalition members are supporters of gay and civil rights who feared the broader bill could threaten fair housing and civil rights laws.

Hatch said, "It is no secret that I would have preferred a broader bill than the one before us today." But recognizing the hurdles, supporters of that bill have agreed to

"move forward on this more limited, albeit critical, effort," he said.

Kennedy said religious freedom is a "bedrock principle," and noted the bill avoids civil rights concerns "by addressing two of the most obvious threats to religious liberty."

Nadler said it "is extremely important for the preservation of some of the free exercise protections of the Constitution."

Canady said the measure would protect religious freedom from unnecessary governmental interference. "While this bill does not fill the gap in the legal protections available to people of faith in every circumstance, it will provide critical protection in two important areas where the right to religious exercise is frequently infringed."

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— Melissa Rogers



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## Baptist historian William Estep dies of cancer

One of Southern Baptists' foremost church historians died July 15. William Estep, 80, who taught 40 years at Southwestern Baptist Theological Seminary before stepping down in 1994, died at his home in Fort Worth, Texas, of pancreatic cancer.

Estep, the author of 16 books, was best known for his groundbreaking study of Anabaptists in the 16th century and their influence on modern Baptists.

Baptist Joint Committee Endowment President James M. Dunn remembered Estep as a longtime supporter of religious liberty.

"W.R. Estep was, to the last day of his life, professionally and personally, my professor," Dunn said.

"Imagine how moved I was when Edna Estep told me that in the last week of Bill's life she read to him from *Soul Freedom: Baptist Battle Cry* (a new book by Dunn and Grady Cothen). He was still grading papers."

The Esteps, Dunn said, "understood baptistness. The more the Southern (so-called) Baptist Convention turned away from soul liberty and church-state separation, the more the Esteps stood by those beliefs and us. Their support for the Baptist Joint Committee is consistent, instructive, holistic and tangible." Δ

## Truett church history professor to serve as scholar-in-residence

A church history professor and former dean at George W. Truett Theological Seminary will serve this fall as a scholar-in-residence at the Baptist Joint Committee.

Brad Creed will spearhead educational activities at the religious liberty agency in Washington, D.C., and engage in speaking and writing projects on Baptist principles and religious liberty.



Brad Creed

In addition, Creed will teach a course titled "Baptist History and Identity" at The

John Leland Center for Theological Studies in Falls Church, Va.

Creed, who resigned last spring as dean of the 6-year-old seminary in Waco, Texas, is on a brief sabbatical before returning to the classroom.

"The timing couldn't have been better to have someone of Brad's caliber to serve the BJC as a scholar in residence," said BJC Executive Director Brent Walker.

"He's a first-rate church historian and a passionate advocate for religious liberty," Walker added. Δ

## Pro-creationism candidates lose Kansas school board bids

Kansas voters rejected three Board of Education candidates who support removing evolution from the state's science curriculum and replacing it with an emphasis on creationism.

In the GOP primary elections Aug. 1, two incumbent board members and one other candidate lost their races to opponents who favor removing the voluntary evolution standards passed by the board last year.

The standards, which won praise from religious conservatives and scorn from church-state watchdog groups, omit the big-bang theory of the creation of the universe and downplay the role of evolution.

Two board incumbents — Linda Holloway and Mary Douglass Brown — who supported the standards were defeated by candidates who oppose them. Bruce Wyatt, an opponent of the standards, beat conservative Brad Angell in a contest for an open seat.

Five seats on the 10-member board will be up for grabs in November. Board mem-

ber Bill Wagnon, a Democrat who opposed the standards, will face a challenge by conservative Republican candidate Patrick Hill.

The candidates who unseated Holloway and Brown in the GOP primary will face Democrats in November who also oppose the standards.

Wagnon said Tuesday's vote shows Kansans do not want teaching standards dominated by creationism.

"I think it's a foregone conclusion that we get a new set of science standards in January," Wagnon said. Δ

## ERLC radio program edits out Falwell's call for defeat of Gore

After receiving warnings from a church-state watchdog group, the Southern Baptist Ethics and Religious Liberty Commission aired a radio interview with televangelist Jerry Falwell but edited out controversial portions that called for the defeat of presidential candidate Al Gore.

Barry Lynn, executive director of Americans United for Separation of Church and State, had warned that airing Falwell's call for the defeat of Gore would jeopardize the Southern Baptist Convention's tax-exempt status.

But in a press release, ERLC President Richard Land said Lynn's warnings had no impact on the decision. An ERLC spokesman told Associated Baptist Press that Lynn had nothing to do with the decision. He said the partisan nature of Falwell's comments was one of many considerations for editing, including time constraints for the radio show. Δ

## Kentucky children's homes seeks dismissal of ACLU suit

Attorneys for Kentucky Baptist Homes for Children have filed a motion asking that a lawsuit filed in April by the American Civil Liberties Union be dismissed.

ACLU officials filed the suit in federal court on behalf of a former children's home employee fired in 1998 because she is a homosexual.

The dismissal motion challenges the ACLU's claim that the child care agency's hiring practices against homosexuals constitute religious discrimination. Such a ruling by the court would force "religious organizations to hire homosexuals while employers without a religious affiliation remain free not to do so," the response notes. Δ

# New act will push local officials to look twice at burdens on religion



In the waning hours before members of Congress recessed to engage in unbridled partisanship at their respective conventions, they passed a bipartisan bill that is actually good for religious liberty.

On July 27 both the Senate and House passed the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The act provides protection for a right that is foundational in our country — the right to worship. As the name indicates, RLUIPA addresses two areas that are the sources of the most numerous and pervasive free exercise problems in the wake of the U.S. Supreme Court's disastrous 1990 decision in *Employment Division vs. Smith*.

First, RLUIPA provides critical protection for churches and other religious assemblies from restrictive land use regulation that all too often thwarts the practice of faith. It generally will ensure that zoning boards can't burden religious practice in a substantial way without a compelling reason for doing so. It also prohibits various forms of discrimination against religious institutions in land use matters and exclusion from zoning categories.

So what does this mean in layperson's terms?

It means the next time a zoning board gives a church the run-around when it is simply trying to buy a piece of property or get a variance to use property for religious purposes, the church can do more than simply beg and plead. Now it has a way to force the government to the bargaining table and then to court if necessary.

It means that if neighborhoods permit home book clubs, they better not stand in the way of home Bible studies.

It means the next time the powers-that-be decide there just isn't room for a new house of worship because there are already enough churches in town, their judgment will not go unchecked.

It means that cities can't suddenly

decide that increased traffic justifies barring churches from meeting in rented storefronts, schools and theaters when those same places generate plenty of traffic for secular purposes.

It means that if a landmarking authority tries to retain a "consulting" role in the placement and appearance of an altar (as actually happened), he or she will be sent packing.

It is important to emphasize that RLUIPA does not provide religious institutions with immunity from land use regulation. It does provide, however, a way to challenge land use regulation when it substantially burdens religious exercise.

The second purpose of the act is to provide a remedy for persons confined in state residential facilities (such as homes for disabled and chronically ill, as well as prisons) who are inappropriately denied the right to practice their faith. Persons in these institutions are dependent on the government for every aspect of their lives, and special care needs to be taken to ensure that they can practice their faith free from unnecessary interference.

RLUIPA will ensure, for example, that Catholic priests may carry small amounts of sacramental wine into prisons and that ministers can reach prisoners to share the Gospel. The act is carefully tailored to avoid abuse, however. It is specifically subject to the Prison Litigation Reform Act, which enables courts to reject frivolous lawsuits, and it does not require prison officials to grant religious requests that would undermine prison discipline, order and security.

Lawsuits will be filed under RLUIPA, but its predominant effect will be negotiation rather than litigation. Most local authorities have had virtually no reason to take a second look at any burden being placed on a religious entity, but RLUIPA will afford religion bargaining power commensurate with the value of this fundamental human right.

RLUIPA won't solve all of our free exercise problems, but it's one giant step in the right direction. Δ

## Microsoft donates software to match gift to the BJC

The Baptist Joint Committee has received software with an estimated fair market value of more than \$13,500 from Microsoft Corp. to match a donation made in honor of a Georgia Baptist couple.

Microsoft employee Michelle Mallory triggered the software contribution through a donation to the BJC. Mallory and her fiancé, Chris Peacock, designated the gift in honor of Peacock's parents, Hugh C. Peacock Jr. and Janie Branyan Peacock of Rome, Ga.

Hugh Peacock, a former vice president of the Georgia Baptist Convention and pastor of three Georgia congregations, is director of church relations for the Morningstar Baptist Treatment Center. Janie Peacock, a recently retired middle school teacher of language arts, is past moderator of the Georgia Cooperative Baptist Fellowship.

"Matching gifts like this one allow donors to multiply the benefit of their donation to the BJC," said Todd Heifner, BJC director of development. "It is appropriate that this gift honors two people with a distinguished record of support for religious liberty and the best of Baptist principles." Δ

## Baptist Joint Committee

### Supporting Bodies

- ◆ Alliance of Baptists
- ◆ American Baptist Churches in the U.S.A.
- ◆ Baptist General Conference
- ◆ Cooperative Baptist Fellowship
- ◆ National Baptist Convention of America
- ◆ National Baptist Convention U.S.A. Inc.
- ◆ National Missionary Baptist Convention
- ◆ North American Baptist Conference
- ◆ Progressive National Baptist Convention Inc.
- ◆ Religious Liberty Council
- ◆ Seventh Day Baptist General Conference
- ◆ Southern Baptist state conventions/churches

### REPORT FROM THE CAPITAL

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of worship to shut down soup kitchens.

The bill would not exempt churches from zoning regulations, but it would require zoning officials to have a compelling reason when they substantially burden religious exercise. It also would require zoning officials to treat religious applicants at least as well as secular ones.

The Baptist Joint Committee, which chaired the coalition, issued a July 28 statement applauding the measure's passage. The coalition included groups such as the American Jewish Congress, American Jewish Committee, American Civil Liberties Union, People For the American Way and Americans United for Separation of Church and State, as well as the Family Research Council, Christian Legal Society and National Association of Evangelicals.

Melissa Rogers, BJC general counsel, said RLUIPA would protect houses of worship "from the restrictive regulation that too often chokes exercise of faith." She said it would provide "plenty of room for the robust practice of faith and sensible zoning."

"Some have said that only divine intervention could explain the alliance behind RLUIPA — everyone from the ACLU to the Family Research Council supported the bill," Rogers said. "An incredibly

diverse group of organizations put aside their differences on so many issues to pursue a cause that unites us all — robust protection for the free exercise of religion."

From the Senate floor, Hatch said at the "core" of religious freedom is the ability to assemble and worship together. "Finding a location to do so, however, can be quite difficult when faced with pervasive land use regulations," he added.

He said in congressional testimony lawmakers heard examples of discrimination, including a case where a city refused to allow a Mormon church to construct a temple "simply because it was not in the 'aesthetic' interests of the community."

Hatch also expressed thanks Sens. Strom Thurmond, R-S.C., and Harry Reid, D-Nev., who had "strong and serious concerns about portions of this bill" but were willing to accept it because of their "overriding commitment to religious free-

dom."

Reid criticized portions of the bill that applied "strict scrutiny" to restrictions placed on the religious practices of prisoners. But rather than thwart the bill's passage, Reid said Hatch had agreed to hold hearings next year on the impact of the new legislation on penal institutions and frivolous lawsuits. Δ

### Free Exercise Milestones

**1990** — U.S. Supreme Court rules that in most cases government no longer needs a compelling reason to restrict religious practice.

**1993** — Religious Freedom Restoration Act (RFRA) enacted, restoring the high level of protection for religious practice.

**1997** — U.S. Supreme Court strikes down application of RFRA to state and local governments.

**1999** — House approves Religious Liberty Protection Act, but the measure dies in the Senate.

**2000** — Congress approves the Religious Land Use and Institutionalized Persons Act.



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