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# Report from the Capital

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NEWSLETTER OF THE BAPTIST JOINT COMMITTEE

After September 11

## Church-state separation faces new challenges

Six months ago, "God Bless America" captured the spirit of renewed patriotism and religious fervor in a forever-changed United States.

But did another famous motto — the "separation of church and state" — suffer post-Sept. 11?

Some observers think so.

From proposed school prayer amendments to the Constitution to county commissions voting to post the Ten Commandments in their chambers, church-state activists describe an alarming increase in challenges to the First Amendment's Establishment Clause.

"The September 11 tragedy and the atrocities of the Taliban provide an extreme example of what can happen when religious zeal is combined with coercive power," said Brent Walker, executive director of the Washington-based Baptist Joint Committee. "Americans now should be even more insistent upon upholding the wall of separation that has served us so well."

The words "separation of church and state" aren't in the Constitution. Instead, they were introduced in a letter written by one of its framers describing his views about what the First Amendment implies.

Thomas Jefferson wrote a letter Jan. 1, 1802, to a Baptist association in Danbury, Conn. It read in part: "I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibit-

ing the free exercise thereof,' thus building a wall of separation between church and State."

Baptists historically supported the separation of church and state on religious grounds, and the concept has been upheld in courts. More recently, however, some have challenged a

in the United States should set aside a sufficient period of time to allow children to pray for, or quietly reflect on behalf of, the Nation during this time of struggle against the forces of international terrorism."

◆ Dozens of municipalities across the country have voted to display the Christian version of the Ten Commandments in civic buildings, such as city halls and courthouses. One of the largest was the Knox County Commission in Knoxville, Tenn.

◆ In January, Rep. Ernest Istook, R-Okla., for the third time in the past four years, introduced a proposed amendment that would, for the first time, insert a reference to God

into the Constitution. Critics say it would encourage government-sanctioned school prayer and endorsement of religious documents.

◆ A public school bus driver in Carroll County, Md., was removed from her route after refusing to stop her practice of leading the students in morning prayers. She told *The Washington Times* she began doing it because of President Bush's call to pray for the nation after the Sept. 11 attacks. She is suing the school district for alleged violation of her constitutional rights.

◆ Most recently, on March 7, U.S. Rep. Robert Aderholt, R-Ala., introduced his "Ten Commandments Defense Act." It would allow government religious displays and instruct



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— Brent Walker

strict separationist view, claiming the First Amendment allows more latitude for accommodation of religion. Such voices have stepped up efforts since Sept. 11:

◆ Weeks after the terrorist attacks, the U.S. House of Representatives passed a resolution encouraging the display of the words "God bless America" in public schools.

◆ Religious right leaders Jerry Falwell and Pat Robertson said the attacks indicated that God was punishing America for supporting the principle of church-state separation, as well as tolerating homosexuality and abortion. Falwell later apologized to gays and abortion-rights supporters, but not to church-state separationists.

◆ In November, the House passed another resolution that said "schools

## NewsMakers

◆ **Billy Graham** issued a written apology March 1 for statements about a Jewish "stranglehold" on the American media that he reportedly made to President Richard Nixon in a taped White House discussion in 1972. "This stranglehold has got to be broken or the country's going down the drain," the evangelist told Nixon. "My remarks did not reflect my love for the Jewish people," Graham said in a statement.

◆ **Anatoly Pchelintsev**, an attorney for the Salvation Army, said the Moscow branch of the organization has won a landmark court decision allowing it to continue serving thousands of poor in the Russian capital. The decision also benefits up to 3,000 other religious groups threatened with closure, he said. The three-year legal battle pitted the Salvation Army against city officials who had denied the Protestant organization legal registration on procedural grounds.

◆ **Bishop Mark Santer**, one of the Church of England's most senior prelates, has called for the church to dissolve its ties with the state and with the monarchy. Santer called into question the role of the British prime minister in appointing bishops, the control of ecclesiastical legislation by Parliament, the presence of bishops in the House of Lords, and the role of the monarch as governor of the Church of England. △

## Judge: Commandments OK shown with other monuments

A district judge has ruled that an Indiana city can keep its Ten Commandments monument at city hall if it adds four other historical monuments nearby.

The city of Elkhart had recommended adding the four markers next to the monument to resolve a dispute of more than three years, *The Associated Press* reported. The Indiana Civil Liberties Union had sued to get the monument removed, and an appeals court ruled that its current display violated the Constitution's Establishment Clause.

U.S. District Judge Allen Sharp, whose original decision in the case was overturned by the appeals court, ruled March 11 in favor of the city.

The Ten Commandments monument was given to the city in 1958 by the Fraternal Order of Eagles. City officials suggested adding memorials for four other documents that were considered influential in the country's legal system — the Bill of Rights, the Preamble to the U.S. Constitution, the Declaration of Independence and the Magna Carta.

Mayor Dave Miller said he hopes to pay for the additional monuments with private contributions.

Ken Falk, an attorney with the Indiana Civil Liberties Union, said his group opposed the remedy.

However, Francis J. Manion, a lawyer who represented the city of Elkhart, cheered the judge's decision. △

## Federal, state agencies quietly foster faith-based initiatives

Even as President Bush's faith-based bill languishes in Congress, the effort to partner religious groups with government has quietly made progress where it may matter more — in federal, state and local government agencies.

At Bush's command, five Cabinet-level agencies are identifying and removing barriers that prevent religious groups from receiving government grants to help fight social problems.

And a soon-to-be-published study of 15 states found governments are already contracting nearly \$124 million worth of social services work to 726 faith-based organizations. Of those, about half had not had a previous financial relationship with government.

"People are sort of judging the prognosis of the faith-based initiative on a reading

of the political tea leaves inside the Beltway. But that's not the entire story. You have to look outside Washington, and if you do, you find the faith-based initiative is alive and well," said the study's author, Amy Sherman, a longtime researcher of faith-based programs and a senior fellow at the conservative Hudson Institute.

When he took office, Bush made federal funding of poverty-fighting religious groups one of his top priorities, immediately creating a White House Office of Faith-Based and Community Initiatives. Bush's bill to implement his initiative passed the House but has been stuck in the Senate.

While government funds have flowed to large religiously affiliated nonprofits for years — the Salvation Army has received money since 1902 — Bush wanted smaller faith groups — even houses of worship — to be able to deliver government-funded social services.

In the five Cabinet departments targeted by Bush — Health and Human Services, Housing and Urban Development, Education, Labor and Justice — bureaucrats are making it easier for religious groups to get government funding, according to a different study of how Bush's faith-based office has changed the country in its first year.

"In the long run, the most profound impact will lie in the rewriting of hundred of regulations that would shift the flow of federal funds to religious groups," wrote the study's author, Kathryn Dunn Tempas, a guest scholar at the moderate Brookings Institution.

In states and counties across the country, government agencies are making it easier — under existing rules — for religious groups to get government funding.

Sherman of the Hudson Institute found many partnerships in the 15 states that she studied — Arkansas, California, Colorado, Florida, Illinois, Indiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Oklahoma, Texas, Virginia and Wisconsin.

Mark Chaves, a University of Arizona sociologist who has questioned Bush's faith-based plan, has not seen Sherman's study, but agrees that Bush has engineered a "cultural shift" in how government bureaucracies perceive religious groups.

An August White House report titled "Uneven Playing Field" identified some of what the administration saw as "widespread bias" against faith-based groups seeking federal money for social services.

Since then, the five Cabinet depart-

# House bill would make churches appendages of political parties

The so-called "House of Worship Political Speech Protection Act" (H.R. 2357) sounds good, but it's one of the worst bills pending in the 107th Congress. It would pervert, not protect, houses of worship.

Introduced by Rep. Walter Jones, R.-N.C., this bill would allow houses of worship explicitly to endorse or oppose candidates for public office and even contribute money and resources (perhaps as much as 15 percent to 20 percent of their budgets) to candidates and political parties — while maintaining their tax-exempt status.



**J. Brent Walker**

Executive Director

Proponents of the bill (including an unbelievable 112 cosponsors!) claim that this measure is necessary to allow churches to speak out on the great social and political issues of the day. Not so! Let's look at what churches can do now.

1. Preachers can speak out with impunity, even from the pulpit, on any *issue* and churches may engage in some lobbying to advocate moral/ethical positions.

2. Churches may encourage good citizenship among its members by launching voter registration and education projects, conducting a nonpartisan forum for the candidates and distributing the answers to candidate questionnaires.

3. Pastors and other church leaders, as *individuals*, can participate in the electoral political process as much as they wish.

But churches and other nonprofits cannot support or oppose candidates for office — sometimes called "electioneering" — without jeopardizing their tax-exempt status under Section 501(c)(3).

So what is so bad about a church formally endorsing a candidate or giving money to a political party? Plenty!

1. Electioneering by churches would be highly divisive. Baptists in the pew agree on very little, and politics is no exception. For church leaders to seek to endorse and contribute money to candidates on behalf of the entire church would be to detonate a bomb in the middle of the sanctuary. Why would anyone who understands the splits and controversies in Baptist life

occasioned by disagreement over doctrine want to dump politics into the mix and give us one more thing to fight over? No, whether to give money to political parties and for whom to vote are decisions that each citizen must make. We don't need religious leaders telling us how to vote or funneling tithes to the coffers of political parties.

2. Electioneering by churches would compromise their prophetic witness. When a church throws in with a particular candidate or political party it becomes nearly impossible to maintain a prophetic edge. The Jones bill is not needed to preserve the churches' prophetic voice as some claim; ironically, it would put in motion forces that surely will weaken it.

Indeed, columnist Cal Thomas recently wrote: "When churches become 'accepted' and appendages of political parties and politicians, they tend to depart from their primary obligations and opportunities and become identified with earthly causes and political kingdom-building." And, Ed Young, a Southern Baptist pastor from Houston, recently confessed to *The New York Times*: "I just think the religious entities of America need to keep their prophetic voice. And you lose that if you send money to politicians or openly support them during an election season."

3. Finally, churches could be turned into virtual political action committees. Gifts to churches are deductible; contributions to candidates and parties are not. The Jones bill would provide an irresistible loophole for some to deduct *political* contributions by funneling them through churches. This would be a step backward in the quest for campaign finance reform and raise the stakes for politicians to exploit the good name and resources of churches.

The Jones bill would do churches no favor. It would compromise their autonomy, turn pulpit prophets into political puppets and politicize our houses of worship.

No thank you, Mr. Jones. We don't need that kind of "protection." Δ

## Court says inmates allowed wine with Communion

A federal appeals court said March 8 that a lower court erred in its decision that prison inmates do not have a right to receive wine with Holy Communion.

The unanimous decision by the three-judge panel in Washington may mean a Florida inmate, Daniel J. Levitan, and other Roman Catholic inmates will be able to receive wine with Holy Communion. The case now must be reconsidered by the district judge who ruled against Levitan.

Until 1997, inmates were allowed to take Holy Communion with bread and wine, according to Catholic tradition. But in 1998, new rules restricted the wine to priests because consumption of wine was not "essential" to the rite, according to *The Washington Post*.

Levitan filed a complaint accusing the government of violating his First Amendment rights to free exercise of religion. "The practice of consuming a minuscule amount of wine at Holy Communion is a long-standing practice of my faith, and the government has now seen fit to take this practice of my faith away," he wrote in his original complaint. Δ

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### Report from the Capital

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federal courts to find such displays constitutional. Aderholt attempted to pass a similar piece of legislation in 1998, but failed.

◆ Several states have passed laws allowing or encouraging schools to post the words "In God We Trust" — the U.S. national motto. When Melissa Killingbeck, a teacher at Central Elementary School in Flushing, Mich., decided to post the words in her classroom, she told *The Flint Journal* that she didn't feel the stating of the words were unconstitutional because, "It was even upheld in court that this is not a religious symbol."

Despite his concerns about such activity, Walker said some positive aspects of America's commitment to religious liberty have also emerged in the wake of Sept. 11. "I think we've done a pretty good job here too, post 9-11," Walker said. "Many — including President Bush — have stepped forward to defend the rights of American Muslims so much that the president has been attacked by some on the far right as being too sympathetic to Islam."

Indeed, Christian expressions are not the only ones that critics say have crossed the church-state line in recent months.

Last month, a school district in California came under fire from Americans United for Separation of Church and State over a seventh-grade course on understanding Islam that required students to wear Muslim garb and adopt Islamic names.

But challenges to church-state separation coming from Christians continue to be the most frequent post-Sept. 11 worry of separationist groups. In the January issue of Americans United's magazine, *Church and State*, an article examined the history of Jefferson's letter to the Danbury Baptists and the use of his phrase in American history.

Robert O'Neil, head of the Jefferson

Center at the University of Virginia and a legal expert on church-state issues, told the magazine he thinks attacking church-state separation is the wrong response to terrorist attacks.

"One of the things that has troubled me in recent weeks," O'Neil said, "is that we haven't made enough of the extraordinary fact that Osama bin Laden and others like him hate us so much and are so angry in part because we are a secular state."

"There are apparently a number of grievances from these individuals," continued O'Neil. "But clearly one of them — and they've said it — is that we are a secular state, church and state are separate and religion does not drive government. Insofar as that is seen as one of the things they despise and find alienating about us, I think we should pick up on that. I am very disappointed that we have not. We have always been and will remain a secular state." △

— Robert Marus  
*Associated Baptist Press*

### Agencies (Continued from Page 2)

ments targeted by Bush have been busy making adjustments.

For example, Health and Human Services informed states in a Feb. 26 directive that state welfare plans would have to include a strategy on how they will include faith-based organizations. In addition, that agency is encouraging states to consider church-trained counselors, not just counselors with psychological and medical credentials, when granting federal money to fight drug and alcohol abuse.

"We don't want to present the same medical model over and over as if that's the definitive measure," said Elizabeth Seale-Scott, director of faith-based efforts at the department. △



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