

# Report from the Capital

March 5, 2003

Vol. 58, No. 5

MAR 7 2003

NEWSLETTER OF THE BAPTIST JOINT COMMITTEE

## Baptist leader defends governor's Bible study

**A** Baptist governor's decision to conduct weekly Bible studies in his office does not violate the separation of church and state, according to the head of a Baptist religious liberty agency.

J. Brent Walker, executive director of the Baptist Joint Committee, defended the right of Gov. Bob Riley of Alabama to hold the Bible study classes in his state Capitol office with members of his Cabinet and senior staff on Tuesday mornings. A separate Bible study is conducted on Wednesday mornings for a larger group of the governor's general staff.

"Public officials have every right to lead this kind of Bible study even in their offices," said Walker, an attorney and Baptist minister.

But Walker cautioned that Riley, a Southern Baptist, "should avoid even the appearance of favoritism. The meetings should be strictly voluntary with not the slightest penalty for those who do not attend."

A three-term congressman before winning election last year as governor of Alabama, Riley attended various Bible studies at the U.S. Capitol and is instituting the same practice in Montgomery, Ala.

He told The Associated Press that no coercion is involved. "It's voluntary," he said. "Anyone that wants to come is more than welcome."

Walker contrasted the governor's actions with those of Alabama Chief Justice Roy Moore, who in 2001 placed a large Ten Commandments



*"Public officials have every right to lead this kind of Bible study even in their offices."*

— J. Brent Walker

monument in the State Judicial Building in Montgomery. Walker's organization filed a brief supporting a legal challenge to the Ten Commandments display as a violation of the separation of church and state. A federal appeals court ruled against Moore in the dispute, but has allowed the monument to remain in place while Moore appeals.

"There is a world of difference between these essentially private meetings in the Alabama governor's office and the public display of the Ten Commandments by Justice Moore down the street in the Alabama State Judicial Building," Walker said. "These two incidents portray clearly the difference between one public official exercising his religious faith and another trying to force it on others."

Another Washington, D.C.-based religious liberty organization agreed that the governor's Bible study sessions do not necessarily offend the First Amendment.

"The Bible studies are legal, but we are not giving the governor a complete pass," said Rob Boston of Americans United for Separation of Church and State. "He has to be careful not to give preferential treatment to those who are present and to make sure there are no penalties for staffers who choose not to attend."

Americans United was among the organizations that filed suit challenging Chief Justice Moore's display of the Ten Commandments in the State Judicial Building.

Two years ago, the BJC defended a similar Bible study practice initiated by newly installed Attorney General John Ashcroft.

Responding to criticisms aimed at Ashcroft for conducting daily Bible studies at the Justice Department, Walker said public employees do not leave their religion at home when they go to work.

"Bible studies are OK as long as they are strictly voluntary, avoid even subtle coercion and do not interfere with the discharge of the public's business," Walker said in a statement.

Walker also said Ashcroft's daily Bible studies appeared to fall within the "Guidelines on Religious Exercise and Religious Expression in the Federal Workplace" issued by the Clinton administration and embraced by the Baptist Joint Committee.

While these guidelines only relate to the federal workplace, Walker said Riley's Bible studies appear to fall within the spirit of the guidance. Δ

## NewsMakers

◆ **Rep. Barney Frank**, D-Mass., has joined fellow Reps. **John Conyers**, D-Mich., and **Jerrold Nadler**, D-N.Y., and Sen. **Russ Feingold**, D-Wis., to condemn new FBI guidelines that instruct agents to count the number of mosques in their communities as a part of some terrorism investigations. In a letter to Attorney General John Ashcroft, Frank endorsed his colleagues' opposition to the policy, saying it endangers First Amendment freedoms, including religious liberty.

◆ **Felice Gaer**, chair of the U.S. Commission on International Religious Freedom, recently wrote President Bush, urging him to appoint a high-ranking official to the American diplomatic mission in Afghanistan with the sole responsibility to promote, coordinate, monitor and report on implementation of international standards of human rights, including religious freedom, in connection with the reconstruction effort.

◆ **Dick Doerr**, executive director of Americans for Religious Liberty, expressed disappointment in a recent Supreme Court action in which justices ended a 12-year lawsuit filed by the ARL. The lawsuit challenged the use of tax-exempt bonds for David Lipscomb University, a pervasively religious organization. △

## Federal appeals court refuses to reopen 'under God' ruling

Public school teachers in nine Western states will be barred from leading their classes in the current version of the Pledge of Allegiance until the U.S. Supreme Court says otherwise. That's the effect of a decision of the 9th U.S. Circuit Court of Appeals announced Feb. 28.

The San Francisco-based court's full panel of 24 judges voted to decline a review of an earlier decision by a panel of three of the judges. In that 2-1 vote, the panel declared the words "under God" in the Pledge of Allegiance to be an unconstitutional government endorsement of religion. The opinion also outlawed recitation of the words in public school classrooms.

The June decision provoked public outrage from many Americans, earning swift condemnation from the White House, both houses of Congress and California Gov. Gray Davis.

The judges quickly put a hold on enforcement of their decision, pending the outcome of requests by the federal Department of Justice and a Sacramento-area school district that a larger panel rehear the case.

Nine of the circuit's 24 judges dissented from the most recent decision not to rehear the case. In an unusual move, six of the nine issued a vehement dissenting opinion.

"With grim insistence," they wrote, "the majority ... continues to stand by its original error — that voluntary recitation of the Pledge of Allegiance in public school violates the establishment clause [of the Constitution] because, according to the two-judge panel majority, it is 'a religious act.' Common sense would seem to dictate otherwise, as the public and political reaction should by now have made clear."

The dissent, written by Judge Diarmuid O'Scannlain, said if recitation of the pledge constituted an impermissible religious act in school, then so should the recitation of the Declaration of Independence, the Constitution and other historic national documents that contain references to God.

The case originated with an atheist father, Michael Newdow, who filed suit against the Elk Grove Unified School District. Newdow claimed the school district violated his daughter's religious liberty by forcing her to listen as her government-paid teacher led her class in recitation of the pledge.

In the June decision, the divided three-judge panel ruled that not only was recita-

tion of the pledge in public schools unconstitutional, but so was the 1954 act of Congress that added the words "under God" to the pledge in the first place. The pledge, originally written in 1892, did not contain the phrase for the first six decades of its existence.

However, the amended opinion issued Feb. 28 struck that portion of the original ruling.

Most Supreme Court observers expect the high court to accept the case next year, and Attorney General John Ashcroft has said the federal government would appeal the case. The case is *Newdow vs. U.S. Congress*. (ABP) △

## Student sues charter school over after-class Bible club

A federal lawsuit filed on behalf of a 15-year-old claims the International Academy of Flint, Mich., refused the girl's request to form and lead an after-school Bible study club.

"I feel I'm being denied my rights," said Elisha Moore, a sophomore at the charter school. "They have other clubs at the school. But they are not allowing me to have mine just because it's Christian."

International Academy attorney Gregory Meihn said the school denied the request twice in the past six months, but not because of an anti-Christian bias. He said Elisha and her mother, Donelle Moore, were demanding things other clubs didn't have.

Meihn said school officials first denied the Moores' request in September because no other clubs were allowed to meet during the school day, as the Moores sought.

In December, they were again denied after asking to get a share of the federal funding the school receives for after-school clubs. Meihn said the money cannot go to clubs with religious purposes.

Donelle Moore said the family never made such requests and only wanted the same things as other after-school clubs, such as Big Brothers Big Sisters and 4-H, of which Elisha is a member.

Meihn said Feb. 20 that he is now working with Elisha's attorneys and expects the club to be allowed to meet in the school by the end of the month.

The lawsuit filed in U.S. District Court in Flint, claims Elisha and her mother made dozens of requests to form the club since September and met with repeated delays until one school official on Jan. 22 told Elisha that the Bible club "would not happen." (RNS) △

## President's words should show understanding of religious diversity

The president's speeches and public pronouncements over the past several months — laced as they have been with evangelical religious rhetoric — have caused some to question the propriety of politicians associating their policy aims so closely with one religious point of view. From talking heads on television to radio call-in programs to the news print media, commentators and the public thoroughly aired the topic. For better or worse, it clearly belies the mistaken assertion that we have a “naked public square” when it comes to religion.

My take on it is that we must grapple with the tension created by our understanding that we have a separation of church and state in this country, but not a divorcement of religion from politics.

American politicians do not have to check their religious beliefs at the door when they enter public office. Nor should they have to mute their expression of that faith in words and conduct. I respect the faith convictions of Mr. Bush and other American politicians.

But Mr. Bush was elected to serve as a *political* leader, not a religious leader. And he is the political leader of the *whole* nation, not one segment of the religious community. His pronouncements should reflect the understanding that he is president of all the people in this religiously diverse, religious-freedom-loving nation.

In short, this should cause the president to temper his religious rhetoric and exercise more of that old-fashioned Christian virtue of humility — something he said he would do when he ran for office.

This by no means discounts the president's role as something of a “comforter-in-chief.” From the Oklahoma City bombing, to September 11, to the Columbia tragedy, presidents of both parties have led the nation in this way. And, when offered with sensitivity and a broad view, religious themes can unite and comfort the nation. However, when done to excess and from a narrow theological perspective, they are divisive and discomforting for many Americans.

It only exacerbates the problem to use

religious language without referring to it as such — to use code words to address a religious message to a particular religious community. For example, in his State of the Union Address, the president spoke of the “wonder-working power of the ... faith of the American people.” As I was sitting in the galleries that evening and heard those words roll out, the hymn I have sung a hundred times in church — “There Is Power in the Blood” — rang in my ears. I am sure millions of evangelical Protestants across the country reacted the same way. Of course, the hymn is not about the public spirit of the American people; it

is about salvation in Jesus Christ. The hymn goes on to say: “there is pow'r, pow'r, wonder-working pow'r in the blood of the Lamb.” That phrase clearly was intended to appeal to a particular political/religious constituency.

The impending war with Iraq ups the ante on all of this. Some have called it a “holy war.” To his credit the president has said the war should not be about religion. But the cumulative effect of his public theological verbiage contradicts that claim. If anything, one would think that he would go out of his way to *avoid* suggesting that God is on our side — as something of a cheerleader for American foreign policy.

Again, I'm not saying that religious beliefs should not inform the president's decisions. In many ways, it is more a question of degree, style and rhetoric. But I do believe that it is wrong to baptize one's policy aims in the sacred water of divine approval. If the policy turns out badly — and they all fail to some extent — God is left with much of the blame.

It is true, as Justice Douglas once pointed out, Americans are a “religious people.” Public discourse should reflect that fact. However, we live in a constitutional democracy, not a theocracy, with a dizzying religious diversity along with millions of citizens who are nonbelievers.

The president should appreciate that he leads all Americans, not just those with whom he goes to church. △



**J. Brent Walker**

*Executive Director*

## Supreme Court declines challenge to kosher ruling

The Supreme Court has declined to hear an appeal of a lower court ruling that declared a New York kosher-foods law a violation of the First Amendment. The court refused, without comment, to hear an appeal from the state and several Orthodox Jewish groups to a ruling last year by the 2nd U.S. Circuit Court of Appeals.

The ruling overturned an 87-year-old state law that was designed to prevent fraud in the sale of kosher foods. The law defined kosher foods as those “prepared in accordance with orthodox Hebrew religious requirements.” A New York state agency headed by a rabbi was charged with inspecting kosher-food providers to ensure their food was prepared in accordance with the religious requirements.

The owners of a Long Island meat-packing company that had repeatedly been declared in violation of the kosher laws sued the state, saying the law impermissibly involved the government in judging matters of religious doctrine and illegally valued the Orthodox Jewish interpretation of dietary laws over other Jewish traditions.

The 2nd Circuit agreed, saying: the challenged laws appeared to “excessively entangle government and religion” because they (1) take sides in a religious matter, (2) require the State to take an official position on religious doctrine; and (3) create an impermissible fusion of governmental and religious functions. (ABP) △

### BAPTIST JOINT COMMITTEE

#### Supporting Bodies

- ◆ Alliance of Baptists
- ◆ American Baptist Churches USA
- ◆ Baptist General Association of Virginia
- ◆ Baptist General Conference
- ◆ Baptist General Convention of Texas
- ◆ Baptist State Convention of North Carolina
- ◆ 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

### Report from the Capital

**J. Brent Walker**  
Executive Director  
**Larry Chesser**  
Editor  
**Jeff Huett**  
Associate Editor

REPORT from the CAPITAL (ISSN-0346-0661) is published 24 times each year by the Baptist Joint Committee. Single subscriptions, \$10 per year. Bulk subscriptions available.

### One Nation Under God

Eugene F. Hemrick. *Our Sunday Visitor: Huntington, Ind., 2001, 142 pp.*



In *One Nation Under God*, Eugene F. Hemrick provides a detailed, illustrated guide to religious imagery, quotations and allusions found in the artwork of the majestic, marble domes and great halls of America's public spaces. Specifically, Hemrick focuses on Capitol Hill and, after an inspired description of the area, walks his readers through the Capitol, the Supreme Court, the Library of Congress, the National Gallery of Art and St. Joseph on Capitol Hill Catholic Church.

The most fascinating aspect of *One Nation Under God* is Hemrick's biographical research concerning the lives of the many saints, clergy and missionaries whose busts or full-length statues grace the Capitol and Library of Congress. From the famous lawgivers, Moses and Paul, to lesser-known pioneers, such as Father Damien and Mother Joseph, Hemrick examines the contributions that garnered them a place in American art. Hemrick's careful eye for art and history also serves him well in the National Gallery where he judges depictions of Daniel, David, Saul and Samuel both as manifestations of religious thought and on the merits of artistic expression.

If Hemrick's strength is his ability to highlight history and tradition, his weakness is a tendency to ascribe religious significance to otherwise philosophical or nonreligious moral art. To support his core argument that "America's greatness is founded on its trust in God," he casts a wide net that assumes the many references to "virtue" on Capitol Hill to be innately religious. He misconstrues odes

to Reason, Bravery, Temperance and Justice as being rooted in Christianity's moral code, disregards the artists' original intent and ignores the true foundational texts of these modern American virtues (Plato's *Republic* and Aristotle's *Metaphysics*). In other words, artistic allusions to the grandeur of Greece and Rome are overlooked to present a singular depiction of religious imagery.

In his pursuit for a religious foundation for American government, Hemrick also misses some of the nuance of these monuments' moral intonations. Hemrick fails to grasp the full diversity of art around the Capitol and, at the same time, denigrates the importance of the constitutionally mandated separation of church and state that protects religious expression in the public sphere. As is made apparent by the pagan sculpture of Neptune in the fountain of the Library of Congress and the humanist abstractions in the Museum of Modern Art (a wing of the National Gallery conspicuously absent from Hemrick's guide), not all art around the Capitol ascribes to the Judeo-Christian tradition. In fact, an artist's right to express religious beliefs and/or deny the existence of God is safeguarded by the very historical separation of church and state that Hemrick implicitly denies.

Although an excellent (and perhaps only) guide to religious art in and around the Capitol, the history of "our nation and our salvation" are not so "conjoined" as Hemrick's publisher would have us believe. However, the national pride and public morality apparent in Washington's architectural wonders are testaments to Americans' trust in our governing institutions and an excellent foundation for our future.

— Andrew Brasher  
*B/C Intern*



**BAPTIST JOINT COMMITTEE**

200 Maryland Ave. N.E.  
Washington, D.C. 20002-5797  
202-544-4226  
Fax: 202-544-2094  
E-mail: [bjcpa@bjcpa.org](mailto:bjcpa@bjcpa.org)  
Website: [www.bjcpa.org](http://www.bjcpa.org)

Non-profit Org.  
U.S. Postage  
PAID  
Riverdale, MD  
Permit No. 5061

\*\*\*\*\*AUTO\*\*MIXED AADC 207 T26 P1  
BILL SUMMERS  
SOUTHERN BAPTIST HIST. LIBRARY & ARCHIVES  
901 COMMERCE ST STE 400  
NASHVILLE TN 37203-3628