

# *What a Touchy Subject!*

**Religious Liberty  
and Church-State Separation**



**J. BRENT WALKER**

Walter B. and Kay W. Shurden Lectures  
on Religious Liberty and Separation of Church and State  
April 9-10, 2013

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# Contents

v

## Foreword

*by Walter B. Shurden*

ix

## Preface

## Lectures



3

## Introduction

*Religious Liberty and Church-State Separation:  
What a Touchy Subject!*

5

## Lecture 1

*First Principles:  
God-Given, But Government Protected*

15

## Lecture 2

*First Freedom:  
Accommodate Religion, But Don't Advance It*

27

## Lecture 3

*Religion and Politics:  
How Did We Do in 2012?*

## Appendix



39

The First Amendment to the United States Constitution

41

Frequently Asked Questions about the  
Baptist Joint Committee for Religious Liberty

45

A Brief History of the Shurden Lectures

49

A Lunch That Launched a Vital Lectureship  
*by J. Brent Walker*

53

Clearing up Misconceptions at the Church-State Intersection  
*By Jeff Huett*

59

Churches and Political Campaigns  
*By K. Hollyn Hollman*

63

Religion in Political Campaigns—  
An Interfaith Statement of Principles

## Foreword

*By Walter B. Shurden*

No Baptist leader in this country is more important to more people in this country than J. Brent Walker. Educated in both law and theology, Brent Walker is one of the most trusted voices in America on issues of religious freedom. No church-state issue in this republic evades his fair, even-handed, but scrutinizing mind. He is passionate about applying the United States Constitution and the Golden Rule to the knotty issues of the relationship of religion to government. He is my default setting for understanding how to untie these knots.

Brent is the executive director of the Baptist Joint Committee for Religious Liberty (BJC) in Washington, D.C. And the BJC is, in my opinion, one of the most important religious organizations in this country.

The “Joint” part of the name of the BJC reflects the fact that some fifteen different Baptist denominational organizations work together to support the work of the BJC.

The “Baptist” part of the name of the BJC can be terribly misleading. The BJC is no narrow sectarian denominational bureaucracy, selfishly protecting a single denomination’s interests. The BJC is enormously significant for every citizen of the United States, whether Baptist or Buddhist, Methodist or Muslim, Assembly of God or atheist, Catholic or Congregationalist, liberal or fundamentalist, Republican or Democrat.

Why is the BJC so important? Because its passionate mission “is to defend and extend God-given religious liberty for all.” ALL! 100%! EVERYONE! The BJC works long and hard and tirelessly for your freedom and the freedom of your children and grandchildren, whoever you are. And the BJC operates from the Baptist conviction that “religion must be freely exercised, neither advanced nor inhibited by government.”

The First Amendment to the Constitution of the United States asserts that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The initial statement of this amendment boldly asserts that religious freedom is the “first freedom” of the American people. The BJC stands guard, defending the first freedom of the First Amendment.

In the following chapters, Brent Walker identifies the historical and theological principles that undergird freedom of religion. In doing so, he challenges the myth that religious freedom and church-state separation are rooted *only* in the ideas of the Enlightenment. Religious persons with spiritual convictions preceded the Enlightenment years, though most Enlightenment leaders certainly embraced and advocated religious freedom.

While some persons in the contemporary debate argue that the Establishment Clause (“Congress shall make no law respecting an establishment of religion”) of the First Amendment intended only to prevent a single national church or showing preferences among faith groups, Walker passionately disagrees. The founders, he argues, utilized specific and expansive language to keep the new federal government from making laws regarding an establishment of religion generally.

Here are other significant points that Brent Walker makes in these chapters:

- The First Amendment and the entire Bill of Rights are “counter-majoritarian.” They protect minorities from majority vote.
- A proper understanding of religious freedom requires government to facilitate religion without advancing it.
- The Free Exercise Clause of the First Amendment keeps government from hurting religion, while the Establishment Clause keeps government from trying to help religion.
- Brent’s golden rule of church-state relations says, “I cannot ask government to promote my religion if I don’t want government

to promote somebody else's religion; and I cannot permit government to hinder somebody else's religion if I don't want government to hinder my religion."

- The separation of church and state does not mandate a complete segregation of religion from public life, but danger always lurks when we try to combine religion and politics.
- When religion engages political issues, it should advance the common good, not a narrow sectarian agenda.

You hold in your hand one of the best primers to church-state issues that you will ever read. And Walker's words are readable, not obscured by arcane legal or theological language.

I am delighted that these chapters were first delivered as the Walter B. and Kay W. Shurden Lectures on Religious Liberty and Separation of Church and State.

—*Walter B. Shurden*  
Minister at Large  
Mercer University

## Preface

The following presentations comprised the 2013 Walter B. and Kay W. Shurden Lectures on Religious Liberty and Separation of Church and State, delivered on the campus of Stetson University in DeLand, Florida, April 9-10. The introduction and first lecture were delivered during the same presentation, and the other two lectures were separate addresses.

The Shurdens endowed the annual event in 2004, making a \$100,000 gift to the Baptist Joint Committee for Religious Liberty. Each year, a speaker delivers the lectures at a college campus to educate, inspire, and call others to an ardent commitment to religious freedom. The previous lecturers and locations are listed in the appendix.

These annual lectures are the product of Buddy and Kay Shurden's astonishing generosity and infectious passion for preserving religious liberty. As former professors, the Shurdens know firsthand the critical importance of connecting with students and other young people in particular to make sure tomorrow's leaders appreciate the vital importance of protecting this freedom today and into the future.

I was honored to be the eighth lecturer in this series. My presentations seek to clear up common, and often controversial, misconceptions regarding church-state issues. Some citations have been added to the lectures printed in this volume, but the text remains substantially as prepared and spoken on the Stetson University campus.

—*J. Brent Walker*  
January 2014



## Introduction

### *Religious Liberty and Church-State Separation: What a Touchy Subject!*

I am reminded of a *Calvin and Hobbes* cartoon in which the first frame shows Calvin at his desk in class raising his hand frantically. After he is called on by the teacher, he says: “Miss Wormwood, I’m a fierce advocate of the separation of church and state. Nevertheless, I feel the need for spiritual guidance and comfort as I face the day’s struggles. So, I was wondering if I could strip down, smear myself with paste, and set fire to this little effigy of you in a non-denominational sort of way.” Then in the next frame you see Calvin marching off to the principal’s office saying, “Boy, what a touchy subject!”

Yes, both religious liberty and separation of church and state *are* touchy subjects. That’s because they go to matters of the heart, to our faith in God or not, and the dizzying diversity of religious expression we find in this country. They go also to what it means to be an American citizen and how we negotiate our political differences in a country nowadays that is all too either red or blue, and not sufficiently purple—not only states, but also neighborhoods, clubs, churches, and even TV shows!

Religious liberty and separation of church and state are also touchy because they are so commonly misunderstood.

I hope in these lectures to shed some light on this touchy subject and to clear up some misconceptions that exacerbate what are perceived to be great differences in our understanding and appreciation of this very important topic.

In the first lecture, titled “First Principles: God-Given, But Government Protected,” I want to explore theological and historical underpinnings to the topic. I shall talk about some generative ideas in our Baptist heritage and in American history that serve to inform our understanding of religious liberty, and the critical importance of

an institutional and functional separation between church and state to ensure that freedom's viability.

In the second lecture, titled "First Freedom: Accommodate Religion, But Don't Advance It," I shall move beyond the theological and historical realms to talk about constitutional aspects. Having discussed first *principles*, I want to talk about the first *freedom*—that is, the two religion clauses in the First Amendment that protect religious liberty are also "first" because they are listed in the first sixteen words—ahead of the all-important protections for freedom of speech, press, petition, and assembly. I plan to emphasize the importance of having a strong Free Exercise Clause and a strong Establishment Clause, the limits to the accommodation of religion by government, and then some current issues we face at the Baptist Joint Committee—both in Washington, D.C., and around our nation.

Lecture three is titled "Religion and Politics: How Did We Do in 2012?" I shall shift our focus from the First Amendment to Article VI of the Constitution and its prohibition on religious tests for public office. I plan to unpack how we go about upholding the separation of church and state and affirming the absolute relevance of religion to public life, while seeking to honor the letter and spirit of the ban on religious tests. Then, I want to see how we did in this regard in the 2012 election cycle.