



VOICE OF REASON

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ARL, Scientists Advise Supreme Court on Abortion Rights

On April 26 the U.S. Supreme Court heard oral argument in *Webster v. Reproductive Health Services*, a case challenging a Missouri law, held unconstitutional by lower federal courts, which bars all public funding of abortions, bans privately paid for abortions in public hospitals, prohibits publicly paid health professionals and counselors from providing information on abortion to clients, even upon request, and defines "human life" as beginning at conception.

The Court is expected to rule in the case by the end of June, though no one can predict whether it will agree with the lower courts that the state law is unconstitutional, uphold some of its provisions, or, as the Bush administration has asked it to do, overturn the 1973 *Roe v. Wade* ruling and allow state legislatures to inhibit or prohibit abortion at will. The latter two courses of action would result in a crazy quilt of state laws, leaving women with wildly varying reproductive rights in each of the 50 states.

Most states would probably make most abortions either illegal or hard to obtain, despite the fact that opinion polls show that most Americans believe that government should not interfere with individual freedom of conscience on abortion.

Americans for Religious Liberty, meanwhile, filed an *amicus curiae* (friend of the court) brief with the Supreme Court in the *Webster* case on behalf of 167 distinguished scientists, including eleven Nobel laureates in science.

The ARL scientists' brief makes three main points: that there is no scientific consensus on when a human life begins, that *Roe v. Wade* has not been rendered obsolete by subsequent scientific advances, and that the organic capacity for human thought is absent until some time after 28 weeks of gestation.

On the first point, the scientists' brief points out that the anti-choice contention that science supports the view that person-

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Child Care Bills Raise Church-State Issues

While there is an acknowledged need for more publicly funded child care programs, bills now before Congress raise substantial and troubling church-state issues. The bills in question are S. 5 in the Senate and H.R. 3 in the House.

The Senate bill, S. 5, would provide substantial federal aid to child care programs run by or in religious institutions. At least a third of the "child care provider" beneficiaries would be institutions the courts would regard as pervasively sectarian. While supporters of the bill are trying to portray child care as merely custodial, Barry Lynn, legislative counsel for the ACLU and a member of ARL's National Advisory Board, makes the point that child care has a significant educational component. Lynn points out that "the human interaction and institutional goals of most 'child care' programs for four-year-old children in a religious setting would be indistinguishable from the specifically 'educational' program for a five-year-old in kindergarten in the same facility."

Child care in sectarian institutions inevitably involves religious training. Therefore S. 5 clashes with Supreme Court rulings barring tax aid for religious educational institutions.

Further, Senators Ford and Durenberger are seeking to amend S. 5 to allow sectarian child care providers to include religious instruction and worship activities in the publicly funded programs.

S. 5 would also permit a certain amount of religious discrimination in child care institutions partly publicly funded.

The House bill, H.R. 3, is an improvement over the Senate bill. It would expand funding for Head Start programs, even though many of these are operated in religious institutions, though these are required to have independent governing bodies. H.R. 3 would also provide substantial funding for school based programs in public schools, which raises no constitutional problems. However, the bill would require public agencies to support some child care programs in private and religious facilities.

H.R. 3 originally provided for care for toddlers up to three years of age in private institutions, but the bill has been amended to allow the aid in private facilities for children up to the minimum compulsory school attendance age, which again raises the problem of tax aid for religious instruction.

H.R. 3, commendably, contains language barring hiring discrimination along religious, racial, political, and gender lines.

Since the amount of funding for child care programs is unlikely to be adequate to meet all the need, it would be reasonable for Congress to avoid unnecessary church-state battles by confining public funding for child care to public and other religiously neutral agencies. Congress could also encourage employers to expand workplace child care programs, as more than 3,300 firms already do.

Congress could also encourage employers to provide or expand parental leave, flextime, and job sharing plans so that parents could spend more time with their children and demand for formal child care could be reduced somewhat.

Comment

The New Reign in Spain

Fifty years ago General Francisco Franco, with the help of Hitler, Mussolini, Portuguese dictator Salazar, and the Vatican, completed his rebellion against the Republican government elected in 1936 and snuffed out the religious liberty developed by the Republic since 1931. Since Franco's death in the mid-70s, Spaniards have restored democratic government and gone far in separating church and state, legalizing divorce, birth control and abortion, and secularizing public education. Ironically, while Spain was implementing the Jeffersonian vision of church-state separation, the Reagan administration and sectarian special interests in the U.S. were going all out to dismantle separation.

How far Spain has come is shown in the results of a check-off on the Spanish national income tax form. In a manner similar to the presidential campaign fund check-off on U.S. income tax forms, the Spanish form contains two check-off boxes. Checking the first box designates one-half of one percent of the taxpayer's income tax for the support of the Roman Catholic Church (90% of Spaniards are baptized as Catholics). Checking the second box designates the same percentage for an assortment of secular charities. The form then states that if the taxpayer checks neither box, it will be assumed that he or she intended to check box two.

On the most recent tax forms, only 35% of Spaniards opted to designate a portion of their taxes to the Catholic Church. Clearly, then, two-thirds of the Spanish people support church-state separation.

Meanwhile, U.S. federal and state taxpayers shell out at least one billion dollars annually for the support of sectarian private schools, and we are not allowed to opt out of that support as Spaniards are.

Our Canadian Neighbors

Our Canadian friends and neighbors share some of the same church-state problems that bedevil their American cousins. One of these is school prayer.

Lacking a clear and unequivocal constitutional ban on "acts respecting an establishment of religion," and having a federal system that allows great leeway in civil liberties matters to the provincial governments, Canadians still find some local church-state entanglements difficult to solve. (Even with a different constitutional system citizens of the United States also find local violations of explicitly-guaranteed civil and religious rights).

Take the mandatory school prayer law in Manitoba, one of Canada's prairie provinces. The only province that still requires daily recitation of the Lord's Prayer in the classrooms, Manitoba faces a legal challenge. That challenge results from a wave of terror that afflicted one family in the small town of McGregor, deep in the heart of the fundamentalist Protestant Bible Belt.

In January 1986 Chris Tait, a senior at MacGregor Collegiate School, was expelled for a week for refusing to stand for the Lord's Prayer. He invoked the provisions of Canada's newly-approved Charter of Rights and Freedoms.

Even when he returned to classes, he was a victim of harassment and persecution. His valadictorian status was withdrawn. He was ostracized and even kidnapped and beaten on the evening of his high school graduation. His family's farm was vandalized. Death threats were common. A black cross was painted on the highway outside the Tait home.

His complaints to the Manitoba Human Rights Commission have resulted in a cash settlement to him and to the drafting of a new "voluntary" prayer law.

Still, the Tait family feels their lives remain endangered by community hatred. And the so-called voluntary prayer policy has not been publicized.

The Manitoba situation shows that all citizens of a free democracy should work to secure iron-clad guarantees of religious liberty.

"The strength of the Constitution lies entirely in the determination of each citizen to defend it. Only if every single citizen feels duty bound to do his share in this defense are the constitutional rights secure."

Albert Einstein

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Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$20 for individuals, \$25 for families, \$10 for students and limited income.

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Books

Several recently published books impact on church-state issues. Kathryn C. Montgomery's *Target: Prime Time* (Oxford University Press, \$22.50) is the first systematic study of how religious, political, ethnic and other advocacy groups have tried to shape or control network television's entertainment programming. Excellent chapters probe the Religious Right's pressure groups and the Catholic Church's modestly successful effort against "Maude's" abortion in 1972, which resulted in cancellations by many sponsors and a decision by 40 local affiliates to drop the offending episode. One result of that battle, says the author, is a reluctance to deal with the abortion issue during the past decade.

South Carolina political scientist Charles W. Dunn has edited a sprightly volume of 14 essays by scholars and political scientists who tackle the perennial subject of *Religion in American Politics* (Congressional Quarterly Press, \$13.95). These specialists tackle such topics as pluralism, interfaith tension, the role of Jesse Jackson, religious lobbies in Washington, and the Catholic bishops as political leaders. Recommended!

Kent Greenawalt's *Religious Convictions and Political Choice* (Oxford University Press, \$29.95) is a weighty inquiry into the proper and improper ways that public officials may render decisions with an informed religious conscience. Unfortunately, Greenawalt is willing to allow more religion-based decision-making than most defenders of church-state separation would prefer. He believes it is "improper in a liberal democracy to forbid behavior because it offends religious notions of wrong" and says "people should not try to implement in the political process positions derived from religious beliefs." But he argues that "it is proper to rely on religious convictions to define which entities deserve protection and to resolve difficult questions involving uncertain facts and conflicts of values." He also argues that a public official may rely on religious convictions "only when he or she remains open to the force of publicly accessible reasons." This is all too murky and unclear and really does not offer many clear-cut parameters for the perplexed.

An outstanding volume that deserves careful reading is Penny

Lernoux's *People of God: The Struggle for World Catholicism* (Viking, \$19.95). Lernoux argues forcefully that the Catholic Church has "become a force for democracy, justice and peace" in the Third World in the past quarter-century. But a reactionary Vatican, increasingly intent on restoring an authoritarian Eurocentric church that ignore the wishes of the vast majority of its constituents, is creating a crisis throughout the church, a crisis which will affect the entire world. This is a brilliant study of the "politics of Catholicism."

Lernoux maintains that "the Roman winter is part of a worldwide resurgence of religious fundamentalism, a recurrent phenomenon in history, particularly in times of cultural stress when traditional values are challenged by political, economic and social changes."

The author gives a grand sweep of conditions throughout the globe in a wide-ranging, carefully documented volume. She includes a devastating portrait of the resurgence of the Right, the increasing ties of the Vatican Curia to Opus Dei, Communion and Liberation, the Knights of Malta, and other groups bent on restoring papal power. The prognosis is gloomy, she says. The Vatican's reassertion of control by appointing only loyal yes-men as bishops, and its ties to conservative Republican administrations in the U.S.A. are the latest signs that progressive Catholics are losing. Ironically, many Catholic defections are going to belligerent, obscurantist Protestant fundamentalism, whose preference for militaristic or fascist governments poses an even greater threat to democracy.

Lernoux is clearly disillusioned. Sadly she writes, "John Paul's Vatican longs for the past; the pope wishes to restore an authoritarian church model based on that of the Middle Ages. . . . [T]he pope, being politically astute, appeals to modern concerns in his speeches on human rights, social justice and religious liberty, but the Vatican's failure to live up to his brave words has robbed them of substance."

— Albert J. Menendez

Albert J. Menendez is the author of Religion at the Polls and other books on church-state problems.

(continued on page 8)

The NEW Pro-Choice Book You Must Read!

Abortion Rights and Fetal 'Personhood'

Edited by Edd Doerr and James W. Prescott

"A brilliant, concentrated analysis of abortion rights that must be read by anyone who wants to think and argue intelligently about this critical issue."

— **Lawrence Lader**, Author, *Politics, Power and The Church*

"... a valuable resource for all who struggle with the complex issues surrounding abortion."

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"Here at last is a book designed to put the matter of abortion into clear perspective."

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ARL, Scientists Advise Supreme Court on Abortion Rights, *continued from page 1*

hood begins at conception is "an attempt to distort the teachings of science to fit preconceived conclusions based upon values that science alone does not and cannot dictate. The question of when a human life begins cannot be answered with reference to a scientific law or principle, such as the empirically-testable propositions with which we predict planetary movement." Science can, the brief adds, "offer to this controversy concrete information concerning the physiology of prenatal development —particularly, scientific observations about viability and brain development."

The scientists' brief characterized the assertion of the State of Missouri and the Bush administration that scientific advances have moved the stage of viability closer to conception as "flatly contradictory to the scientific evidence. Although advances in technology have improved the chances of survival for premature birth *within* the range of 24 to 28 weeks, the *outer limit* of viability at 24 weeks [recognized in *Roe v. Wade*] has not significantly changed," for the simple reason that "critical organs, particularly the lungs and kidneys, do not mature before that time."

Finally, the ARL science brief advised the Court, "It is not until sometime after 28 weeks of gestation that the fetal brain has the capacity to carry on the same range of neurological activity as the brain of a full-term newborn . . . The neurological data indicate that the fetus lacks the physical capacity for the neurological activities we associate with human thought until sometime after 28 weeks of gestation."

The ARL science brief was based in part on ARL's new book, *Abortion Rights and Fetal Personhood*. Copies of the brief are available from ARL for \$5 (includes postage). The brief was prepared by Jay Kelly Wright, David T. Cohen, and David A. Wollin of the Washington, D.C. law firm of Arnold & Porter.

As the ARL science brief addressed only science issues, ARL also joined a brief to the Supreme Court on the religious liberty and freedom of conscience concerns filed by the Religious Coalition for Abortion Rights on behalf of a large number of Christian, Jewish, and Humanist denominations and groups.

More *amicus* briefs were filed in the *Webster* case than in any case in history, testimony to the importance of the issue. On the pro-choice side, 31 briefs were filed on behalf of more than 340 organizations and of 140 members of the U.S. Senate and House of Representatives, 608 state legislators from 32 states, 896 law professors, 281 historians, 57 bioethicists, 6 medical school deans, 37 chairs of medical school OBGYN departments, several dozen Protestant, Catholic, Jewish, and Humanist groups, the state attorneys general of California, Colorado, Massachusetts, New York, Texas, and Vermont, 2,887 individual women who have had abortions, and civil liberties, civil rights, women's, education, labor, and other organizations.

The briefs, a shelf six inches wide, approached the abortion rights case from every angle. Physicians and nurses said that the Missouri law would interfere with sound medical practice, disrupt the health care professional/patient relationship, and endanger the health of many women. The historians showed that legal restrictions on abortion were but a brief episode in U.S. history, and one that had mainly to do with safe medical practice before the development of antibiotics. Catholic, Protestant, Jewish, and Humanist groups made it clear that restrictions on abortion would violate constitutionally guaranteed conscience and religious liberty rights. Most of the briefs made the point that

there is no legal, medical, or social policy reason to tamper with *Roe v. Wade*.

At the April 26 Supreme Court oral argument, the Missouri law was defended by state attorney general William L. Webster, while St. Louis attorney Frank Susman represented the Reproductive Health Services clinic. The Bush administration was represented by former Reagan administration Solicitor General Charles Fried.

Fried urged the Court "to reconsider and overrule its decision in *Roe v. Wade* . . . we are not asking the Court to unravel the fabric of unenumerated and privacy rights which this Court has woven in cases like *Meyer* and *Pierce* and *Moore* and *Griswold*. Rather, we are asking the Court to pull this one thread."

Under questioning Fried evaded answering Justice O'Connor's questions about whether there is a "fundamental right to decide whether to have a child or not," and whether the Constitution protects "a right to procreate." Fried concluded that the Supreme Court should allow state legislatures to restrict abortion rights as they see fit.

When his turn to argue came, Susman said that Fried "is somewhat disingenuous when he suggests to this Court that he does not seek to unravel the whole cloth of procreational rights, but merely to pull a thread. It has always been my personal experience that when I pull a thread, my sleeve falls off. There is no stopping."

In answer to a question by Justice Scalia about separating the birth control and abortion issues, Susman said that a number of common forms of contraception act as abortifacients, thereby erasing whatever "bright line" may once have existed between birth control and abortion. "That's why I suggest to this Court that we need to deal with one right, the right to procreate. We are no longer talking about two rights" [birth control versus abortion].

Webster will be decided by the end of June. How it will be decided cannot be predicted. What can be predicted is that if the Court's 1973 *Roe v. Wade* ruling is weakened, many states will quickly pass legislation restricting reproductive rights. Some states, such as Arkansas, already have laws on the books to prohibit abortion in case the Supreme Court reverses *Roe*. It is abundantly clear that a ruling weakening *Roe* would be the most significant reversal of the development of civil liberties and religious liberty in our country's history.

ARL in Action

Since our last report, ARL executive director Edd Doerr has been a guest on radio talk shows in San Diego and Anaheim, CA, Cleveland and Cincinnati, OH, Bridgeport, CT, Oklahoma City, OK, Houston and Dallas, TX, Baltimore, MD, and the National Radio Network. He also spoke at conferences and church services in California, Texas, and Maryland.

ARL president John M. Swomley and Doerr will present a workshop on church-state issue at the ACLU biennial convention in Madison, WI, in June.

ARL was a co-sponsor of the April 9 March for Women's Lives in Washington.

Update

Supreme Court Victories

Two major victories for church-state separation have come from the U.S. Supreme Court this term. One strengthens the ban on establishment of religion, while the other substantially widens the definition of religious free exercise. Both cases are pleasant surprises from a Court many feel is drifting toward accommodationism in church-state law.

In the establishment case, *Texas Monthly v. Bullock*, the High Court, by a 6 to 3 margin, struck down a Texas law that granted sales tax exemptions to religious books, magazines and newspapers. The February 21 decision held that these exemptions provided a state preference to religion, thus running afoul of the First Amendment. Justice William Brennan, writing for the majority, concluded that the Texas statute's "narrow exemption" amounted to "state sponsorship of religious belief." Furthermore, Brennan observed, "In proscribing all laws 'respecting an establishment of religion,' the Constitution prohibits, at the very least, legislation that constitutes an endorsement of one or another set of religious beliefs or of religion generally."

The case began in 1985 when publishers of the *Texas Monthly* challenged the state's policy of taxing subscription sales on all magazines except religious ones. The magazine claimed it had paid \$150,000 in taxes that a comparable religious journal would not have paid. The Texas Baptist Convention's weekly newspaper received the biggest tax breaks. A district court agreed with the magazine but a state court of appeals overturned that decision.

The decision is important because 15 states have laws exempting religious books or publications from state sales tax. This includes 63% of the Southern states and half of the New England states.

As expected, the dissenters were Chief Justice Rehnquist and Reagan appointees Antonin Scalia and Anthony Kennedy. (Another Reagan appointee, Sandra O'Connor, joined the majority, a good sign for the future, according to some court-watchers.)

A second case strengthened the Free Exercise clause. On March 29, the High Court ruled that states cannot discriminate against individuals who refuse to work on Sunday because of sincere religious convictions. The issue was whether Illinois could refuse unemployment benefits to a man whose religious beliefs required him to abstain from working on Sunday.

In a rare unanimous decision, the Court held that all beliefs that were "sincere" and "of a religious nature" were equally protected by the "free exercise" clause of the First Amendment.

The Court has thus continued a twenty-five year trend that extends legal protection to all believers, not just those who are members of an organized group. In the Illinois case, *Frazee v. Illinois Employment Security*, William Frazee refused to take a job that required Sunday work even though he was not a member of a church that required such action. Describing himself simply as "a Christian," Frazee said it was wrong to work on Sunday, even though the Presbyterian Church, which he attends does not require abstinence from Sunday work. The Illinois courts had ruled against him because he was not a *member* of a church (like the Seventh-day Adventists or Worldwide Church of God) which *forbid* Sabbath work.

Writing for all nine members, Justice Byron White said, "We reject the notion that to claim the protection of the free-exercise clause, one must be responding to the commands of a particular religious organization."

In a related case the High Court let stand, without comment, an appeals court ruling that banned private businesses from forcing workers to attend company-sponsored religious services. In 1982 a Florida-based mining equipment company tried to force all employees in its Arizona branch to attend a weekly devotional service. One employee objected and was fired in 1984. The Equal Employment Opportunity Commission sued the company for religious discrimination in 1986. Two federal courts held the company in violation of the Constitution. The Bush Administration had also urged the High Court to affirm the rulings against the company, which is run by fundamentalists.

Finally, the Supreme Court refused to bar public hospitals from hiring chaplains. Without comment the Justices let stand an 8th Circuit Court of Appeals ruling that an Iowa hospital's policy of providing a chaplain served a secular purpose.

Reproductive Rights

The April 9 pro-choice March for Women's Lives in Washington was far more successful than its sponsors and organizers dared hope. More than 600,000 women, men and children (one out of every 400 people in the country) gathered at the Washington Monument and marched to the Capitol for a huge rally. The march was sponsored by the National Organization for Women and hundreds of women's, civil liberties, civil rights, religious, and other groups. (Much of the media accepted the Bush administration's crowd estimate of 300,000, a figure obviously given out for political reasons.)

Surgeon General C. Everett Koop's report on abortion urged more public education about sexual responsibility and birth control, more research on contraceptives, and more aid for women facing unwanted pregnancy. Koop's report also concluded that abortion is a medically safe procedure and does not increase risk of infertility, miscarriage, or premature births. Anti-choice activists are upset by Koop's integrity, as they had counted on him originally as an ally.

New York State Assemblyman John C. Dearie has bowed to pressure from the Catholic Church (he was barred from speaking in Catholic churches for two and a half years) and changed his position on Medicaid funding for abortions for poor women.

Norma McCorvey, the "Jane Roe" of *Roe v. Wade*, had her car and her home damaged by gunfire in early April.

On Monday evening, May 15, NBC-TV presented a two-hour film dramatizing the *Roe v. Wade* case from its inception to the historic 1973 Supreme Court ruling. The well-scripted, well-acted film, starring Holly Hunter as "Jane Roe" and Amy Madigan as attorney Sarah Weddington, was accurate and fair to all the protagonists.

So-called "Operation Rescue" attempts to shut down medical facilities which provide abortions, along with other services, are continuing. In April an estimated 2,600 people were arrested trying to shut down clinics in 32 states. In the past year well over 20,000 "rescuers" have been arrested.

In April expert advisers to the National Institutes of Health recommended formally ending the Reagan administration ban on transplant research using aborted fetal tissue.

On Monday, May 1, a jury in Corpus Christi, TX, awarded Dr. Eduardo Aquino \$810,000 in damages after ruling that nine anti-choice activists had harassed his wife and children. Aquino, a gynecologist who puts in three hours a week at an abortion clinic, said his life had been threatened and his office picketed since 1982.

Reagan Regs Ruled Unconstitutional

On May 8 the First Circuit U.S. Court of Appeals in Boston ruled unconstitutional the Reagan administration's regulations forbidding federally funded family planning agencies from mentioning abortion as a medical option for dealing with a problem pregnancy. The 2-1 ruling held that the Reagan regulations violated constitutional guarantees of

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When you see an item in a newspaper, magazine, or professional journal you feel is relevant, please cut it out (or photocopy it), indicate the date and source, and send it to ARL, Box 6656, Sliver Spring, MD 20906.

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privacy and free speech. The regulations, adopted in 1988, applied to some 4,000 clinics nationwide which receive about \$135 million annually in federal funds. The clinics serve more than four million women each year. The new ruling applies to about 90% of the clinics in the country, but not to those in New York, where a court challenge to the regulations failed.

The court held that the regulations had "gone beyond a mere refusal to fund [clinics] and has interfered with the decisional process by dictating what information a woman may receive and by intruding into her relationship with her physician. . . . We find that the prohibition in the regulations against counseling or referral with respect to abortion imposes restraints upon a woman's freedom to make reproductive decisions."

Bush administration officials are waiting for the Supreme Court's ruling in *Webster* before deciding whether to appeal the Boston ruling.

School Prayer Surfaces Again

In a surprise move on May 9, the U.S. House of Representatives voted to require public schools to permit so-called "voluntary prayer." The vote came on a last minute amendment to H.R. 7, a bill to reauthorize spending for vocational education. Since individual students have never lost the right to engage in silent, personal voluntary prayer, the amendment to H.R. 7 can only be intended to promote state sponsored or state regimented prayer; the only thing "voluntary" about it would presumably be the right of students to opt out of the imposed prayer in the face of possible peer pressure. Senate action on the bill is not expected until summer.

Persons opposed to government sponsored or regimented prayer in public schools should urge their state's senators to block the rider in the Senate (letters may be sent to your senators c/o U.S. Senate, Washington, D.C. 20510).

So-called "voluntary prayer" measures in Congress represent Radical Right efforts to weaken church-state separation.

Parochial and the Real George Bush

On March 29 President George Bush told a group of students invited to the White House that he opposed tax breaks for parents who pay tuition to private schools (90% of which are sectarian). On April 18, however, Bush met with officials of the National Association of Evangelicals and assured them that he still supports the tuition tax credit plan for federal aid for sectarian schools.

In other action, lawmakers in Illinois and Texas have introduced bills to provide tax aid for sectarian private schools under voucher plans. The Illinois bill, H.B. 0890, would provide about \$60 each to two million students in public and nonpublic schools under a Rube Goldberg scheme requiring enormous administrative expenses. The

MOVING?

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plan in financially strapped Texas would provide vouchers worth \$2500 each to nonpublic school students, which is more than the state pays per pupil for public school students.

The Howard County, Maryland, Human Rights Commission voted 6-0 in April to ask the state Human Relations Commission to investigate the county's practice of providing transportation service for five sectarian schools for 600 students, at a per capita cost double that paid for public school students.

The Massachusetts ACLU filed suit in federal court in May to block the Bridgewater school district from holding classes in space leased in a Catholic school. The case began when two families objected to having their children exposed to religious symbols and a religious atmosphere against their will.

White House Science Manipulation

A White House spokesman admitted on May 8 that the Bush administration had tampered with congressional testimony on global warming by Dr. James T. Hansen, director of NASA's Goddard Institute for Space Studies. The tampering was evidently intended to weaken Hansen's conclusion that atmospheric pollution from human activity is leading to a global "greenhouse effect" which would likely cause catastrophic climatic changes. One motive for the tampering would appear to be the Reagan-Bush administrations' acceptance of the Vatican line that acknowledgement of the global pollution problem would necessitate reversal of the Reagan-Bush policy of discouraging population planning and birth control.

Reagan Population Policy Hit

World population, now 5.2 billion, is likely to double to 10 billion by 2025 unless birth control use increases dramatically, according to a report released in May by the United Nations Population Fund. Overpopulation is putting excessive strain on limited resources, while pollution of the environment poses other threats to life and health. The U.S. government cut off support for the UN Population Fund in 1985 because anti-abortion groups objected to the agency's helping China's population planning program, which included some forced abortions and sterilizations.

New Poll Backs ARL Positions

A March telephone poll of over 1000 registered voters by Peter D. Hart Research Associates (commissioned by the ACLU) found that 78% agreed that government has no right to deny women freedom of choice on abortion, and that 59% opposed required prayer in public schools.

Adios "Anno Domini"

New Jersey's Supreme Court in March revised the state's lawyer licenses to remove the phrase "in the year of our Lord." Attorneys Adam Jacobs, Arn Sorrel, and Charles Novins, licensed in 1987, had objected to the phrase on First Amendment grounds. The trio is now seeking to have the phrase deleted from area federal court licenses.

New Vatican Envoy

President Bush is planning to name his new ambassador to the Holy See, headquarters of the Roman Catholic Church, Thomas P. Melady, a former envoy to Uganda and Burundi. Melady was "knighted" by Pope Paul VI in 1968 and by Pope John Paul II in 1983. Americans for Religious Liberty and other groups have opposed any U.S. diplomatic recognition to any church as a violation of the First Amendment. President Reagan began the practice of formal recognition, though several previous presidents (Roosevelt, Truman, Nixon, Ford, and

Carter) had maintained "personal presidential envoys" to the Holy See (not, it must be noted, the "sovereign" 108-acre Vatican micro-state).

Mecham's 'Kooks'

Ousted Arizona Gov. Evan Mecham, impeached and removed from office last year, and followers of Pat Robertson have taken control of the Arizona Republican Party. At this winter's state GOP convention they got the party to pass resolutions declaring that the U.S. "is a Christian nation" and that the U.S. Constitution set up "a republic based upon the absolute laws of the bible, not a democracy." Former Senator Barry Goldwater complained that his party had been taken over by a "bunch of kooks." All five Republican congressmen from Arizona demanded that the resolutions be rescinded, and the embarrassed national GOP leadership cancelled plans for a national party meeting this spring in the state.

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- Synagogues
- Radio talk shows
- TV talk shows
- Etc.

Write or phone:

Americans for Religious Liberty
P.O. Box 6656
Silver Spring, MD 20906
(301) 598-2447

Overheard . . .

. . . on the Washington subway: "Dan Quayle thinks that *Roe v. Wade* refers to alternative ways of crossing the Potomac."

Smithsonian Imbalance

The Smithsonian Institution, our national museum, has gotten itself involved in promoting the Radical Right agenda of weakening church-state separation. Between February 7 and April 4 the Smithsonian's Resident Associate Program hosted a nine-week series of lectures on "Religion in American Life." Instead of being a balanced program, however, the series was put together by Richard John Neuhaus, an outspoken critic of church-state separation. Nearly all of the speakers were closely identified with the anti-separation position: Neuhaus, director of the ultraconservative Rockford Institute's Center on Religion and Society; Brookings Institution fellow James Reichley, whose book *Religion in American Life* was reviewed unfavorably in our Summer 1986 issue; William Ball, an attorney long identified with the parochial lobby; Edward Dobson, former editor of Jerry Falwell's *Fundamentalist Journal*; American Enterprise Institute's Michael Novak; Kent Hill, CEO of the Radical Right Institute on Religion and Democracy. (Hill, a Ph.D. in history, actually confused the Constitution and the Declaration of Independence in his lecture!)

ARL executive director Edd Doerr attended the series and complained to Smithsonian officials that the series was seriously out of balance, representing only the "moral majoritarian" and sectarian special interest side of the church-state controversy. Doerr pointed out that, as a tax-supported public institution, the Smithsonian "is under a constitutional obligation in dealing with religious controversy to see that all sides are presented." To date the Smithsonian has expressed no interest in presenting a balancing set of lectures. Whether the Smithsonian knew what it was doing or whether it was taken in and used by Mr. Neuhaus is not known.

Smithsonian police barred protesters from handing out literature on the public sidewalk until the ACLU pointed out to their counsel that the ban violated the Constitution.

Resources

Available from ARL, Box 6656, Silver Spring, MD 20906.

Religious Liberty and the Secular State, by ARL president John M. Swomley. A clearheaded, authoritative response to the Rehnquist and other revisionist attempts to discredit church-state separation. (\$15.95 hardcover, \$10.95 paperback, plus \$1.50 postage and handling.)

Religious Liberty in Crisis, by Edd Doerr. A useful, non-technical introduction to the major church-state controversies in the U.S. today, by ARL's executive director. (\$5.95 plus \$1.50 for postage and handling.)

Dear Editor, by Edd Doerr. A "how to" book on writing letters to editors, plus a wide-ranging selection of the author's published letters on religious liberty issues from *The New York Times*, *The Washington Post*, *National Geographic*, *Harper's*, and other periodicals. (\$5.95 plus \$1.50 for postage and handling.)

Religion, the State and the Burger Court, by Leo Pfeffer. A comprehensive up-to-date examination of the whole range of church-state issues by the dean of constitutional authorities on religious liberty. An indispensable resource for layperson and lawyer alike. (\$22.95 plus \$2 for postage and handling.)

James Madison on Religious Liberty, edited by Robert S. Alley. Madison's own writings plus authoritative essays analyzing their importance. (\$20.95 plus \$2 for postage and handling.)

Religion and the State, edited by James E. Wood, Jr. A 596-page treasury of essays on every aspect of religious freedom, published as a tribute to Leo Pfeffer, dean of church-state constitutional lawyers. (\$35, plus \$2 for postage and handling.)

The Supreme Court on Church and State, edited by Robert S. Alley. A comprehensive up-to-date collection of the major U.S. Supreme Court rulings on religious liberty, with commentary by a leading church-state scholar. Indispensable for lawyer and concerned layperson alike. (\$15.95 plus \$2 for postage and handling.)

Crusade of the Credulous, by William J. Bennetta. A collection of articles about "creationism" and the effects of the fundamentalist movement on public education. (\$2 plus \$1 postage and handling.)

Public Funds and Private Schools, by ARL executive director Edd Doerr (50¢ each, 10 for \$4.00. Postage and handling included.)

Science and Earth History: The Evolution/Creation Controversy, by Arthur N. Strahler (Prometheus Books, 1987, 552 pp., hardback, \$39.95). This comprehensive work by an eminent geologist is a useful and readable guide to the technical issues raised in current debates between scientists and religious fundamentalists. Teachers and others who find themselves in the position of defending the need to present science rather than pseudoscience in courses in biology, geology, and astronomy will find it valuable. Like some other critics of creationism, the author has also been provoked into undertaking a careful scrutiny of the foundations and methods of science, so as to base its defense on reason rather than authority. One interesting result of this scrutiny is the realization that the use of the *predictiveness* criterion to define science (and to denigrate evolutionary theory) is based on a "monumental misunderstanding" of confusing usages of the word "prediction." But such insights can hardly compensate for the enormous damage done to public understanding of science by the creationist movement.

— Stephen G. Brush

Dr. Brush is vice-president of the History of Science Society and professor in both the Department of History and the Institute for Physical Science and Technology at the University of Maryland.

Science and the Unborn, by Clifford Grobstein (Basic Books, New York, 1988, 207 pp., \$18.95), surveys human development prior to birth. Grobstein, Professor Emeritus of Biological Science and Public Policy at the University of California in San Diego, makes it quite clear that the opponents of reproductive choice are wrong in insisting that human "personhood" could begin during the first six months of gestation, before neural and neocortical maturation makes sentience even possible. This book by a distinguished scientist is a useful resource for all concerned with abortion rights and women's rights issues.

If the book has a deficiency, it is its failure to discuss women's rights as they might possibly conflict with public policy concerns late in pregnancy, but the author evidently regarded that issue as beyond the scope of his work.

— Edd Doerr

Nazis and Abortion

Clark Kissinger of Refuse & Resist calls our attention to Adolf Hitler's anti-choice legislation in 1930s Germany:

"On May 26, 1933, two pieces of penal legislation . . . prohibit[ed] the availability of abortion facilities and services. More important was the stricter handling of the old antiabortion law, resulting in a 65 percent increase in yearly convictions between 1932 and 1938, when their number reached almost 7,000. From 1935 on, doctors and midwives were obliged to notify the regional State Health Office of every miscarriage. Women's names and addresses were then handed over to the police, who investigated the cases suspected of actually being abortions. In 1936 Heinrich Himmler, head of all police forces and the SS, established the Reich's Central Agency for the Struggle Against Homosexuality and Abortion, and in 1943, after three years of preparation by the Ministries of the Interior and of Justice, the law entitled Protection of Marriage, Family, Motherhood called for the death penalty in 'extreme cases.'" (From *When Biology Became Destiny*, edited by Attina Grossman, Marion Kaplan, and Renate Bridenthal.)

The *amicus curiae* brief filed by Americans for Religious Liberty on behalf of 167 distinguished scientists, including eleven Nobel laureates in science, is available from ARL for \$5 (includes postage). The brief was prepared by Jay Kelly Wright, David T. Cohen, and David A. Wollin of the Washington, D.C. law firm of Arnold & Porter.

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